

Episode 33: Summary

Episode name: A shock to the system: How renewables are changing the energy regulation landscape

Guest(s): Catriona Webster

What area(s) of law does this episode consider? Energy market in Australia.

Why is this topic relevant? Everyone uses and relies on electricity in just about every aspect of their lives, so isn't it nice to know how it gets to us? This episode includes information about the consumer law aspects of energy regulation, but also substantive law content suitable for lawyers who are new to working in the energy law space, whether for electricity generators, distributors, retailers, or clients investing in, lending to or regulating those energy market participants.

What legislation is considered in this episode? *Australian Energy Market Commission Establishment Act 2004 (SA)*
National Electricity (South Australia) Act 1996 (SA). The National Electricity Law (NEL) is the schedule to this Act and contains provisions on the governance, enforcement and key obligations within the national electricity market (being incorporated into the laws of other states through enabling legislation). The National Electricity (South Australia) Regulations can also be found under this Act.

What are the main points?

- There are three principal regulators in the national energy market:
 - The Australian Energy Regulator (AER) is a Commonwealth body that operates under the Australian Competition and Consumer Commission (ACCC) and regulates the economic activities of energy providers and gas pipeline companies. The AER also oversees the compliance and enforcement of the national energy laws and rules across gas and retail markets.
 - The Australian Energy Market Commission (AEMC) is an independent South Australian statutory authority set up by the Council of Australian Governments (COAG) that is conferred powers under the Australian Energy Market Commission Establishment Act 2004 (SA). The role of the AEMC is to make and amend rules for the National Electricity Market and provide policy advice to COAG. They also sub delegate further to AEMO the terms on which participants can enter the energy market.
 - The Australian Energy Market Operator (AEMO) is a public company limited by guarantee, of which the Commonwealth Government owns 60%, and whose role is to manage electricity systems and markets across Australia. In particular, the AEMO is concerned with secure and reliable energy supply and covers general operational activities.
- States have the right to govern themselves in relation to energy and electricity, meaning their incentives and emissions targets differ.
- The 2016 state-wide blackout in South Australia prompted the Finkel Review, led by chief scientist Alan Finkel, which gave the government a renewed focus

on the security and reliability of power systems. The Finkel Review made a recommendation that a national framework be adopted to ensure consistency and make compliance for market actors easier, but this has not yet been achieved.

- The Retailer Reliability Obligation (RRO) commenced 1 July 2019 under the guidance of the AER and aims to provide stronger incentives to market participants to ensure reliability.
- The biggest challenges the industry currently faces is in relation to renewable energy sources, storage, reliability and issues with weather dependent generation.
- The bidding process in the wholesale energy market works by generators submitting their offers to the AEMO of how much they can produce and at what price. Next, the AEMO determines how much generation is required to meet that forecasted demand, and instructs generators to dispatch energy based on bids from least to most expensive. The average price within the 30-minute trading period then becomes the 'spot' or 'clearing' price and is the price all customers (including retailers and large customers) must pay for the electricity they consume. The AEMC has decided, however, that the time basis will be shortened to 5 minutes starting July 2021.
- The market price cap is the maximum 'clearing' price set by the National Electricity Rules annually. It is currently \$15,000 per megawatt.
- To avoid the volatility of the spot market that naturally fluctuates due to variations in demand, generators and retailers can enter into fixed price contracts.

What are the practical takeaways?

Show notes

[AEMC 'How the spot market works Fact Sheet'](#)

[Department of the Environment and Energy 'Retailer Reliability Obligation Fact Sheet'](#)

[Energy Security Board 'Post 2025 Market Design Consultation Paper' September 2020](#)

[Australian Energy Regulator 'Wholesale electricity market performance report' December 2020](#)