

Terms of Reference

The Australian Energy Regulator

Terms of reference

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1. Introduction

The Australian Energy Regulator (AER) is the economic regulator of electricity and gas networks in all states and territories except Western Australia. We regulate 31 network businesses with a combined asset base of around \$135 billion.

The National Electricity Law (NEL) and National Electricity Rules (NER) provide the regulatory framework under which we determine the revenues and prices that apply to electricity and gas network businesses.¹

Through our regulatory determinations, we aim to ensure consumers pay no more than necessary for safe, secure and reliable energy, while promoting the efficient supply and use of energy. We also consider targets for reducing Australia's greenhouse gas emissions.²

We expect network businesses to develop and submit high-quality regulatory proposals. Meaningful consumer engagement is a key input, helping businesses shape proposals that reflect long-term interest of consumers.

Our regulatory determinations are informed by rigorous analysis of the regulatory proposals submitted by electricity and gas network businesses, along with submissions made by consumers and other stakeholders through the public consultation process.

The purpose of the Consumer Challenge Panel (CCP) is to help ensure we make regulatory determinations that are in the long-term interests of consumers. The objective, roles and activities of the CCP outline how the CCP achieves its purpose.

2. Objective of the CCP

The CCP:

- provides independent and expert advice on issues important to consumers in regulatory proposals by network businesses; and
- constructively challenges the AER so that regulatory determinations are made in the long-term interests of consumers.

3. Roles of the CCP

The CCP achieves its objective by:

- informing the AER of key issues and areas of contention as it relates to a network businesses' consumer engagement and regulatory proposal.
- providing advice to the AER on whether consumer views are appropriately reflected in regulatory proposals, including the extent to which key issues and resulting expenditure proposals have been presented to consumers in a balanced and comprehensive way.

¹ The AER also has an economic regulation role under the NSW Electricity Infrastructure Investment Act 2020. In this role we make revenue determinations for network operators who are selected to develop, own and operate network infrastructure projects that support NSW's Renewable Energy Zones. Our role is based on a modified version of Chapter 6A of the NER.

² As required under the [National Energy Objectives](#).

- challenging the AER to ensure that consumer interests have been assessed and given due consideration in its regulatory determinations.
- providing bespoke advice as requested by the AER.

4. Activities of the CCP

In performing these roles, some examples of the services the CCP may provide include:

- consider materials associated with a regulatory determination process, including network businesses' proposals, stakeholder submissions and materials prepared by the AER.
- where directed by the AER, observe a selection of meetings between network businesses, consumers and other stakeholders.
- meet with AER staff to discuss key issues related to a regulatory determination and engagement process. Review and provide comment on key issues as the AER develops its positions.
- provide independent advice to the AER Board via meetings or presentations on key issues related to a regulatory determination.
- provide the AER with written advice on key consumer issues that can be considered in making a regulatory determination. This can include challenge to the AER.
- participate at public forums to provide insights on key consumer interest issues and facilitate discussion of consumer views.

In delivering on its role, it is expected the CCP will:

- quickly acquire an understanding of consumer issues in relation to the network proposal being considered
- apply their knowledge and expertise to independently advise the AER
- engage respectfully with a range of stakeholders including consumers, network businesses, the AER, and other CCP members.

5. The AER's use of CCP members and its advice

The CCP Secretariat will manage the recruitment and day-to-day operation of the CCP. It is managed by the Executive Director, Reset Coordination and Strategy, with support from the broader team.

The CCP Secretariat will draw on CCP members to undertake work related to providing advice and challenge on regulatory determinations. The commissioning of work will be directed by the CCP Secretariat on an annual basis and would set out the issues CCP members will focus on, and the activities they will undertake, in order to deliver on the work.

The use of CCP members for a regulatory determination process will depend on a needs analysis by the AER. The CCP would be assigned to regulatory determination processes that are expected to be particularly complex, that would significantly affect end-consumers, or where additional consumer perspectives might be required.

The regulatory determination process will have different requirements for a CCP, and the timeframe in which a CCP is needed. The CCP Secretariat will provide CCP members with guidance as to the timing and milestones for each phase of the determination. Table 1 outlines the ways the AER will look to engage the CCP on regulatory determinations.

On receiving advice from the CCP, the AER is not obliged to act on the views of the CCP, but will give due weight and consideration to the advice provided.

Table 1: CCP engagement approaches in regulatory determinations

	Full engagement	Targeted scope	Staged scope	Thematic scope
Nature of involvement	CCP engaged broadly across pre- and post-lodgement phases.	CCP engaged selectively on pre-lodgement and focused on advice and challenge post-lodgement.	CCP engaged intensively at nominated stages only.	CCP engaged on priority or emerging consumer issues across multiple determinations.

6. Appointment and time commitment

All CCP members will be appointed for a term of 3 years with an option to extend for another 2 years if required. However, it may be that not all CCP members will have an active work program for the entire term of appointment.

Requests for CCP advice will not be procured for every network regulatory determination process and the amount of work required for network determinations will depend on the circumstances of the determinations, the number of businesses involved and the timeframes in which the process must be conducted.

7. Payment for Consumer Challenge Panel members' services

The following fees will be payable to the CCP member following receipt of correctly rendered invoices:

- (a) \$260 (GST inclusive) per hour up to a daily maximum of \$1,950 (GST inclusive) per day, for a maximum of 7.5 hours work.
- (b) The fees will be capped for each regulatory proposal on which a CCP member is advising.
- (c) The AER will not be liable for payment for any work undertaken by the CCP member beyond the specified timeframe for the provision of advice.
- (d) The AER will reimburse the CCP member for reasonable travel and accommodation costs following receipt of proof of expenditure, provided that the AER pre-approved the nature and level of expenditure incurred.
- (e) The AER is not required to make any superannuation contributions in connection with this Agreement

8. CCP member conduct

To engage in respectful working relationships with relevant stakeholders, CCP members are required to uphold the APS Values contained in section 10 of the *Public Service Act 1998 (Cth)* (the Public Service Act) which require that you are: committed to service (of the Australian community and the government), ethical, respectful, accountable and impartial. More information on the APS Values can be found [here](#).

CCP members must also observe the Code of Conduct contained in [section 13 of the Public Service Act](#). More information can be found [here](#).

9. Conflict of interest

The CCP member undertakes that, at the commencement of this Agreement, to the best of their knowledge after making diligent inquiry, the CCP member has declared all actual, potential and perceived Conflicts of Interest with the AER's interests (**Conflicts**).

If at any time during the Term a Conflict arises or appears likely to arise, the CCP member must notify the AER, providing full disclosure of the Conflict, and take any steps which the AER reasonably requires to resolve or otherwise deal with the Conflict. All Conflicts will be added to the AER's register.

The AER has published a [Conflict of Interest Guideline](#) to provide guidance to CCP members on how to manage conflicts of interest that arise. The guideline:

- presents high level principles to identify potential conflicts;
- provides guidance on managing conflicts on interest; and
- and includes case studies to provide practical examples of how the principles would apply.

When a conflict of interest is raised, the CCP will be asked to conduct an assessment to determine how significant the conflict of interest and to propose how the conflict of interest could be assessed.

On receiving the assessment, the AER will make a decision on whether the conflict of interest can be managed, and if so, how it should be managed. In making this decision the AER applies the principles in the Conflict of Interest Guideline.