



# **Auditors Panel Handbook**

## **Retailer Reliability Obligation**

April 2021

© Commonwealth of Australia 2021

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications,  
Australian Competition and Consumer Commission,  
GPO Box 3131,  
Canberra ACT 2601  
or [publishing.unit@acc.gov.au](mailto:publishing.unit@acc.gov.au).

Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Tel: 1300 585165

Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

AER Reference: AER201834

#### Amendment Record

Version	Date	Pages
1	30 August 2019	10
2	14 April 2021	15

# Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
<b>2</b>	<b>Appointment to the Auditors Panel.....</b>	<b>3</b>
	2.1. Criteria for appointment.....	3
	2.2. Applications for Auditors Panel Membership .....	3
	2.2.1 Form and content of application .....	3
	2.3. Submitting an application .....	6
	2.4. Processing Applications .....	6
	2.5. Date from which appointment takes effect.....	6
<b>3</b>	<b>Information to be provided to the AER for its oversight of the Auditors Panel .....</b>	<b>8</b>
<b>4</b>	<b>Withdrawal from the Auditors Panel .....</b>	<b>9</b>
<b>5</b>	<b>Auditors Panel Membership .....</b>	<b>10</b>
	5.1. Reviewing the composition of the Auditors Panel.....	10
	5.2. Removal from the Auditors Panel .....	10

# 1 Introduction

The Retailer Reliability Obligation (RRO) requires liable entities (relevant market customers and registered opt-in customers) to report their net contract position for a forecast reliability gap period to the AER. Reports must be submitted in accordance with the National Electricity Rules (Rules), and lodged in accordance with, and in the form specified by, the AER's Contracts and Firmness Guidelines (Guidelines).

Contracts are adjusted based on their relative 'firmness'. Standard qualifying contracts are to be adjusted using a default firmness methodology, and non-standard qualifying contracts are to be adjusted using a bespoke firmness methodology developed by the liable entity.

Liable entities are required to have all bespoke firmness methodologies and firmness factors, and their application in a net contract position report, approved by an independent auditor.<sup>1</sup> The Rules require the AER to establish and maintain an Auditors Panel, from which a liable entity's independent auditor must be appointed.<sup>2</sup>

Information about standard and non-standard qualifying contracts, the development and application of firmness methodologies, and the content of an independent auditor's report and approval for the purposes of net contract position reports are set out in the Guidelines.

This handbook specifies arrangements for appointments to, and the AER's oversight of, the Auditors Panel:<sup>3</sup>

- It sets out the requirements for an application to join the Auditor's Panel.
- It sets out information that independent auditors should provide to the AER for the purposes of the AER's monitoring and oversight role in relation to the Auditors Panel.
- It identifies factors relevant to our review of the composition of the Auditors Panel, which we must complete at least every four years
- It identifies factors that may be taken into account by the AER in considering whether to remove an independent auditor from the Auditors Panel.
- It sets out processes for withdrawal or removal of an independent auditor from the Auditors Panel.

Commercial contracts for engagement of independent auditors are between the independent auditor and the liable entity engaging them. The costs of engagement are borne by the liable entity.<sup>4</sup>

---

<sup>1</sup> NER, cl. 4A.E.5(b)

<sup>2</sup> NER, cl. 4A.E.5(a), (b).

<sup>3</sup> NER, cl. 4A.E.5(d).

<sup>4</sup> NER, cl. 4A.E.5(c).

This handbook supplements the Contracts and Firmness Guidelines (Guidelines). It is intended as a guide only and is not a substitute for the National Electricity Law (Law), Rules or the Guidelines.

## 2 Appointment to the Auditors Panel

### 2.1 Criteria for appointment

In establishing an Auditors Panel, the AER must have regard to:<sup>5</sup>

- the need for a person to have sufficient experience and expertise in energy derivatives and energy contracts to carry out the functions of the independent auditor, and
- whether the person is an independent person, and
- any other criteria set out in the Contracts and Firmness Guidelines, which currently include:<sup>6</sup>
  - the person's knowledge of the RRO and the Contracts and Firmness Guidelines
  - relevant qualifications and affiliations
  - written references citing relevant experience and expertise from industry peers, clients and professional bodies.

### 2.2 Applications for Auditors Panel Membership

Applicants should follow the guidance set out below in preparing an application to the AER to join the Auditors Panel.

Collection and disclosure of information received from applicants and their referees will be managed in accordance with the *ACCC and AER information policy: collection and disclosure of information*.

#### 2.2.1 Form and content of application

Applications must be submitted in writing, and in addressing the criteria for appointment must include at least the following information.

##### 2.2.1.1 Applicant details

Applications must include:

- Name of Applicant
- Current employer
- Position/Role held at current employer.
- Address
- Contact details (telephone and email)

---

<sup>5</sup> NER cl. 4A.E.5(a)

<sup>6</sup> AER, Contracts and Firmness Guidelines, June 2021, section 6.1.

Applications can be made by an individual or a by a firm. Applications made by a firm must:

- nominate and provide details of each employee of the firm who will be involved in the provision of services as an independent auditor,
- specify the role each nominated employee will play in the provision of those services, including the individual(s) who will provide final approval as independent auditor
- include the information in sections 2.2.1.2 to 2.2.1.5 of this Handbook for each nominated employee. References under sections 2.2.1.6 can be provided for and on behalf of the team, respectively.

### 2.2.1.2 Experience and expertise

Applicants should demonstrate their level of experience and expertise in, and understanding of, each of the following areas:

- valuing, buying, selling or advising on energy derivatives and energy contracts;
- forecasting electricity demand and/or generation;
- electricity market operations;
- performing audits or equivalent quality assurance processes, particularly in relation to *liable entities* and/or involving energy derivatives and energy contracts;
- any other relevant experience.

An application should set out relevant current and prior roles in each of the areas above, including without limitation:

- The length of experience in each of the areas above and currency of any qualifications
- Sufficient detail to provide the AER with an understanding of relevant work completed by the applicant, and
- The level of authority held by the applicant (e.g. whether the applicant was a team member, manager, or project leader)

### 2.2.1.3 Independence

Liable entities must appoint an independent auditor who is independent from the liable entity. In establishing the Auditors Panel, the AER must have regard to whether the person is an 'Independent Person', which is a person who:

- is not a member, employee or member of staff of the AER or the AEMC;
- is not a director or employee of AEMO;
- is not a director or employee of, or partner in, a Registered Participant;
- does not have a direct or indirect financial interest (whether as shareholder, partner or other equity participant) in any Registered Participant or a related body corporate of any Registered Participant, other than an interest of less than 0.1% of the net shareholder's funds of that entity (as determined at the date the relevant person is appointed to carry out a function under the Rules); or

- is not a director or employee of a related body corporate of any Registered Participant.<sup>7</sup>

The AER will also consider potential conflicts of personal or professional interest arising from other work undertaken, or planned to be undertaken, by a prospective independent auditor for a liable entity.

Applications must be accompanied by a register disclosing:

- any liable entities for which the applicant is aware that it may not be independent of at the time of application.
- any other actual or perceived conflicts of interest that the applicant is aware of at the time of the application, and detail how these conflicts will be managed in auditing *liable entities*.

#### **2.2.1.4 Knowledge of RRO**

Applicants must have knowledge and understanding of:

- The RRO, including Chapter 2A and Part 3, Division 1C of the National Electricity Law and Chapter 4A of the National Electricity Rules (Rules); and
- The RRO Guidelines<sup>8</sup> including the Contracts and Firmness Guidelines.

An application must include:

- A statement confirming that the relevant provisions of the Electricity Law and Rules and RRO Guidelines, in particular the Contracts and Firmness Guidelines, have been read and understood.
- Details of any other experience or training that would demonstrate knowledge of the RRO and RRO Guidelines.

#### **2.2.1.5 Relevant qualifications and affiliations**

The AER will consider any tertiary qualifications that in the AER's opinion are relevant to functions performed by an independent auditor under the Guidelines. Applications should include details of:

- relevant Bachelor's, Master's or Doctoral degree (or equivalent) from a university or equivalent institution of higher learning
- relevant professional accreditations, certifications or memberships.

---

<sup>7</sup> Chapter 10 Glossary, National Electricity Rules

<sup>8</sup> The RRO Guidelines consist of AER Opt-in Guidelines under rule 4A.D.13, Contracts and Firmness Guidelines under rule 4A.E.8, Forecasting Best Practice Guidelines under rule 4A.B.5, MLO Guidelines under rule 4A.G.25, Reliability Compliance Procedures and Guidelines under the National Electricity Law and the Reliability Instrument Guidelines under rule 4A.C.12.



### 2.2.1.6 References

An application must be accompanied by at least two written and signed references verifying expertise and experience submitted in the application. Referees can include industry peers, past clients and professional bodies.

The AER may also choose to contact the provider of a written reference to seek additional information about the applicant.

For each referee, the application must include:

- Referee's Name
- Relationship to applicant
- Contact details
- The applicant's consent for the AER to contact the referee directly.

## 2.3 Submitting an application

Applications to join the Auditors Panel can be submitted at any time to [rro@aer.gov.au](mailto:rro@aer.gov.au).

No application fees apply.

Applicants should direct any questions about the application process to [rro@aer.gov.au](mailto:rro@aer.gov.au).

AER staff will respond to any questions as soon as possible, and will endeavour to do so within five business days.

## 2.4 Processing Applications

The AER may contact the applicant or nominated referees to seek further information or documents required in order to assess the application.

The AER will endeavour to make its decision on an application within 30 business days of receipt of all required information.

## 2.5 Date from which appointment takes effect

An appointment to the Auditors Panel will take effect from the date the applicant is notified of the AER's decision to add the independent auditor to the Auditors Panel.

Applicants will be notified of the AER's decision in writing, and the name and contact details of the independent auditor published on the AER website.

Independent auditors and liable entities are reminded that:

- an independent auditor should be approved as a member of the panel **before** commencing any engagement with a liable entity for the purposes of reviewing and approving a bespoke firmness methodology and firmness factor for a liable entity's net contract position report under the Guidelines.

- An independent auditor's report must be submitted with a liable entity's net contract position report, on the relevant contract reporting day.

An independent auditor's report will not be accepted on a provisional basis while the auditor's application for appointment to the Auditors Panel remains open.

Reliance by a liable entity on an auditor who is not on the Auditors Panel, including one whose application has been submitted but not yet approved by the AER, will not meet the liable entity's reporting requirements under the Electricity Law and Rules and Contracts and Firmness Guidelines.

### 3 Information to be provided to the AER for its oversight of the Auditors Panel

On appointment to the Auditors Panel, it is the responsibility of an independent auditor to:

- Provide and keep up to date:
  - Contact details for use by the AER, for the purposes communications and of monitoring the composition and performance of the Auditors Panel
  - Contact details for use by liable entities wishing to contact the independent auditor with a view to appointment (which will be published on the AER's website).
- Promptly inform the AER of any material change to information relied upon by the AER in appointing an independent auditor to the panel (e.g. a change to employment)
- If an application was made by a firm, the addition or loss of specified personnel from the team nominated and relied upon by the AER in approving the application)
- Maintain and regularly update the register of interests provided to the AER as part of its application under section 2.2.1.3, recording:
  - any liable entities for which it may not be an independent person, and
  - any other actual or potential conflicts of interest, and how these conflicts will be managed in audit appointments by affected liable entities.
- Maintain—for five years from the end of the year in which the independent auditor's report for a Net Contract Report was submitted to the AER—records sufficient to verify and substantiate any completed assessments and approvals of a bespoke firmness methodology or firmness factor relied upon by a liable entity in a Net Contract Position Report, and provide those records on request by the AER or in cooperation with a compliance audit required or carried out by the AER under section 18ZE or 18ZF of the Electricity Law. These records should provide an understanding of how the audit was conducted, what procedures were performed and how the conclusion was reached, including, at a minimum:
  - Summary and record of procedures undertaken
  - Data used to verify the firmness methodology
  - Reasons for reaching audit opinion
  - Evidence of testing calculations, assumptions and inputs of the firmness methodology and firmness factor
  - Any relevant additional detailed information of the procedures performed
  - Errors and corrections made to firmness methodologies and calculations of firmness

## 4 Withdrawal from the Auditors Panel

An independent auditor may, of its own volition, withdraw from the Auditors Panel at any time.

It is the responsibility of the independent auditor to advise all liable entities with whom it has a current engagement that it is no longer a member of the Auditors Panel, and that its approval of bespoke firmness methodologies or resultant firmness factors for the purposes of any net contract position report will not be accepted by the AER in satisfaction of the Electricity Rules.

The independent auditor must confirm in writing to the AER that it has done so, attaching a list of all liable entities that have been so advised.

The AER strongly advises both independent auditors and liable entities to make provision for an independent auditor's potential withdrawal from the Auditors Panel while an engagement is on foot, to minimise any resultant compliance risk to the liable entity if a new independent auditor needs to be engaged prior to submission of a Net Contract Position Report.

An independent auditor that has withdrawn from the panel must maintain—for five years from the end of the year in which an auditor's report was submitted in support of a liable entity's Net Contract Report—records sufficient to verify and substantiate any completed assessments and approvals of a bespoke firmness methodology or firmness factor relied upon by a liable entity in a Net Contract Position Report. Former members of the Auditors Panel may still be called on to provide those records on request by the AER or in cooperation with a compliance audit required or carried out by the AER under section 18ZE or 18ZF of the Electricity Law.

## 5 Auditors Panel Membership

The AER may review the composition of the Auditors Panel at any time, and must do so at least every four years.<sup>9</sup>

### 5.1 Reviewing the composition of the Auditors Panel

In reviewing the composition of the Auditors Panel, the AER may have regard to:

- The criteria for appointment of an independent auditor to the Auditors Panel under the Electricity Rules and the Contracts and Firmness Guidelines
- The depth and diversity of panel membership, and its ongoing suitability (e.g. following a change to the Law or Rules governing the RRO)
- Feedback (including but not limited to complaints) received from liable entities or other members of the Auditors Panel in relation to the performance of the Auditors Panel
- Any other matters that the AER considers relevant to the ongoing composition of the Auditors Panel.

Between reviews the AER may add new members to the Panel or remove an independent auditor from the Auditors Panel, at its discretion.<sup>10</sup>

At the conclusion of any review of the composition of the Auditors Panel, the AER will advise (affected) members of the current panel that:

- Their ongoing appointment to the Auditors Panel has been confirmed; or
- That Auditors Panel membership will be re-opened and applications confirming continued interest in panel membership will be called for.

### 5.2 Removal from the Auditors Panel

The AER may at any time remove an independent auditor from the Auditors Panel, at its discretion.<sup>11</sup> In considering whether it may be appropriate to remove an independent auditor from the Auditors Panel, the AER may consider (without limitation):

- Whether information relied upon by the AER in appointing the independent auditor to the panel (in an application or reference provided in support of that application) remains current, or was false or misleading in a material way.
- Whether the independent auditor has maintained the required knowledge and understanding of:
  - energy derivatives and energy contracts, including emerging products and contract models that may be relied upon by a liable entity under the Guidelines

---

<sup>9</sup> NER, cl. 4A.E.5(d)

<sup>10</sup> NER, cl. 4A.E.5(d)

<sup>11</sup> NER, cl. 4A.E.5(d)

- the RRO, including Chapter 2A and Part 3, Division 1C of the National Electricity Law and Chapter 4A of the National Electricity Rules (Rules), the Contracts and Firmness Guidelines, and any subsequent amendments to the Electricity Law, Rules or Guidelines relevant to the role of the independent auditor
- Whether a report provided by the independent auditor to a liable entity for the purposes of its Net Contract Position Report was fraudulent, or included manifest error(s)
- Whether reports provided by the independent auditor have adequately demonstrated consideration of, and adherence to requirements under, the Contracts and Firmness Guidelines
- Whether the independent auditor has, through its own acts or omissions, failed to provide a compliant independent auditors report to a liable entity in time for its inclusion in a Net Contract Position Report
- Whether the independent auditor has knowingly accepted or maintained appointments by a liable entity in respect of which:
  - it is not (or is no longer) an independent person for the purposes of the Electricity Rules, or
  - it has an undisclosed conflict of interest for which it has submitted a conflict management plan to the AER.

such that an independent auditors report submitted to the AER by the liable entity is not from an independent person.

- Feedback (including but not limited to complaints) received from liable entities or other members of the Auditors Panel in relation to the conduct or performance of the independent auditor
- Whether the independent auditor has provided the information required in section 3, above
- Any other conduct that the AER considers inconsistent with the requirements of an independent auditor on the Auditors Panel.

If the AER considers an independent auditor should be removed from the Auditors Panel, the following process will generally apply:

1. The independent auditor will be notified that the AER is considering whether the independent auditor should be removed from the Auditors Panel, and the nature of the AER's concerns.
2. The independent auditor will be given an opportunity to respond to the AER's notice, and to demonstrate that it has, or can, address those concerns.
3. The AER will consider the response provided by the independent auditor and:
  - (a) if it is satisfied that its concerns have been addressed, will confirm this in writing to the independent auditor; or
  - (b) if it is not satisfied that all of its concerns have been addressed, will provide reasons for this and confirm in writing that the independent auditor will be removed from the Auditors Panel.

An independent auditor should not accept any new appointment by a liable entity after receiving notice from the AER that the AER considers it has reason to remove the independent auditor from the Auditors Panel, until it receives confirmation in writing from the AER that the matter has been resolved and the independent auditor will remain on the Auditors Panel.

If an independent auditor is removed from the Auditors Panel it must, within one business day:

- Advise all liable entities by which it has been appointed that it is no longer a member of the Auditors Panel, and that its approval of bespoke firmness methodologies or resultant firmness factors for the purposes of any net contract position report can no longer be accepted by the AER in satisfaction of the Electricity Rules.
- Confirm in writing to the AER that it has done so, attaching a list of all liable entities that have been so advised.

The AER will update the Auditors Panel information on its website at the conclusion of the business day following its decision.

It is the responsibility of an independent auditor and any liable entity engaging that independent auditor to ensure that the terms of its appointment by a liable entity make adequate provision for termination of that appointment in the event that the independent auditor withdraws, or is removed by the AER from, the Auditors Panel.