

Candidate Information Pack

**Australian Energy Regulator
Chair and Board Members
5th April 2019**

THE AUSTRALIAN ENERGY REGULATOR

- **Full-time Chair and Board Members**
- **Contribute to AER's expanding role**
- **Call for expressions of interest**



The COAG Energy Council is seeking expressions of interest for full-time Chair and Board Member roles. The continuing transition in the energy sector means that the AER is also changing, and the number of board members is planned to increase, reflecting the breadth and depth of the AER's evolving role.

The AER works to make sure all Australia's energy consumers are better off, now and in the future. The AER is the independent regulator and enforcement body for the National Energy Market, established under the *Competition and Consumer Act 2010*. It is responsible for the economic regulation of electricity transmission and distribution network businesses and for gas transmission and distribution pipelines, in all jurisdictions except WA. It enforces the laws for the National Electricity Market and spot gas markets in southern and eastern Australia. The AER also protects the interests of household and small business consumers by enforcing the Retail Law in NSW, SA, TAS, ACT and QLD.

We are particularly encouraging expressions of interest from experts in one or more of the following areas:

- Economic regulation of network utilities
- Complex markets monitoring and analysis (competition, market power and market manipulation)
- Development and/or utilisation of enforcement and compliance approaches
- Consumer policy and consumer behavioural insight in a regulatory context.

These appointments will be made by the COAG Energy Council. The AER head office is in Melbourne and board meetings are conducted by video conference, so the location of board members is flexible.

The AER's Board provides strategic leadership for the AER and in a very significant sector of the economy. These are rare opportunities to make a lasting, positive impact during a time of transformation in the energy sector:

For a copy of the information pack and to express your interest, please go to www.derwentsearch.com.au and search "AER" or email your request to AER@derwentsearch.com.au. Your expression of interest should include a cover letter and a current resume. For a confidential discussion, please contact Jason Scoble or Andrew McEncroe of Derwent on 02 9223 1855.

Closing date: 28th April 2019

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Background

The AER's purpose and functions

The national energy markets are crucial components of the Australian economy – driving economic growth and providing essential services for the community. They are complex, with the responsibility for proper functioning shared across state, territory and commonwealth governments. Energy is provided through both competitive and monopoly services – all of which operate within detailed regulatory frameworks. The application of these frameworks and the operation of the energy markets affects all Australians on a daily basis.

The Australian Energy Regulator (AER) is the independent regulator and enforcement body for the National Energy Market and is part of the Australian Competition and Consumer Commission (ACCC). The AER is established under the *Competition and Consumer Act 2010*.

The AER works to make sure all Australia's energy consumers are better off, now and in the future. Its strategic objectives are attached at Appendix A.

It is responsible for the economic regulation of electricity transmission and distribution network businesses and for gas transmission and distribution pipelines, in all jurisdictions except Western Australia. It sets the amount of revenue that network businesses can recover from customers for using these networks.

It enforces the laws for the National Electricity Market and spot gas markets in southern and eastern Australia. It monitors and reports on the conduct of market participants and the effectiveness of competition.

The AER protects the interests of household and small business consumers by enforcing the Retail Law. Its retail energy market functions cover New South Wales, South Australia, Tasmania, the ACT and Queensland. It operates the Energy Made Easy website, the Australian government's primary tool to provide reliable and trusted information on a range of comparable energy offers to customers.

Context for the AER's work

In June 2017, Dr Alan Finkel concluded in his Independent Review into the Future Security of the National Electricity Market that 'Australia's electricity system is in transition. There is no going back from the massive industrial, technological and economic changes facing our electricity system.' This degree of change and uncertainty is reflected in the evolving roles of AER Board members and the complexity of the decisions they have to make.

There are exceptional levels of parliamentary and community interest in the energy sector and how it is regulated. The AER's Board members are expected to provide strategic leadership not just within the AER but in a very significant sector of the Australian economy during a time of transformation and uncertainty.

A number of major reform initiatives in the energy sector have recently impacted the AER. These include the Finkel review recommendations, the ACCC retail electricity price inquiry, the removal of Limited Merits Review from AER revenue determinations, improving access to gas pipelines through supported negotiations for users and reforms to retail markets to improve consumer choice and confidence. These all evidence the confidence and reliance by the Australian Government and Council of Australian Governments' Energy Council (COAG EC) on the AER to help deliver major policy reforms. As well as increasing the scope and scale of the AER work program, they have driven changes in stakeholder expectations.

The AER as an organisation

The AER Board is an independent entity, currently comprising three members (expected to increase soon to five). They are appointed under the *Competition and Consumer Act 2010*, following a process outlined in the Australian Energy Market Agreement Act.

The AER's Board members are responsible for the overall strategy, oversight and risk management of the AER work program to ensure timely and effective delivery of the decisions and other required products. They are not responsible for the day to day management of the AER. This is the responsibility of the AER CEO and senior management team.

The office of the AER, led by chief executive Michelle Groves, is responsible for providing timely, quality advice to the Board to support its decision-making responsibilities. In consultation with the Board, the office is responsible within the ACCC accountability and governance framework for governance and efficient management of resources. The AER has grown significantly in recent years and currently has approaching 300 people based in five locations around Australia. All staff are employed through the ACCC.

The AER's organisational structure is attached at Appendix B.

Current Board operating model

The AER board has a full time Chair and two full-time members, one of whom is also a full-time ACCC Commissioner. The Chair and the other member are also associate commissioners of the ACCC.

The AER makes decisions under the powers of the *National Electricity Law*, *National Electricity Rules*, *National Gas Law*, *National Gas Rules*, *the National Energy Retail Law* and *national Energy Retail Rules*.

Currently under the CCA, the AER Board is required to make unanimous decisions. This requirement affects how the Board operates.

The AER Board operates as a decision-making body and makes a significant number of decisions in accordance with its statutory and other requirements. The AER Board meets weekly. In addition to the weekly Board meetings, the Board may also come together, with staff, for up to two additional sessions per week. These can be necessary to allow for proper consideration by all Board members of the extensive work program.

The Board meeting is where the Board makes final statutory decisions on matters or decisions that allow staff to progress the work program. At the meeting, the Board also considers work in progress and is updated on significant projects, policy matters and major activities of the AER over the past week or scheduled in the near future.

Quite frequently it is necessary to have additional sessions with Board and the staff. One session is to allow for broad discussion and understanding of complex policy and development work. The Board is then able to provide direction to staff on how to progress important projects and to identify and mitigate risks for complex projects. This session is also used by the Board to hear directly from network businesses and consumer representatives in the context of its network revenue determination decisions.

Another session allows the Board to rigorously examine the subject matter of particularly large or complex technical decision processes, for example network revenue determinations or complex wholesale market investigations.

The AER Board members also sit as part of the AER and ACCC Corporate Governance Board. This is to ensure the effective oversight of the impact of statutory decision making on the human and monetary resources of the combined agencies. This is the pinnacle of the two organisations' governance framework and meets monthly.

Future Board operating model

In October 2018, COAG EC agreed to expand the number of AER Board members from three to five.

Three of the Board members will be selected by the relevant State and Territory governments and two board members will be selected by the Australian Government. All relevant COAG EC governments will vote on the Chair and the new Deputy Chair position¹. There will be no shared member with the ACCC – the two Commonwealth members will both be stand-alone AER Board members. Quorum and voting provisions will be amended accordingly. The Australian Government plans to amend the CCA in 2019 to give effect to this decision.

The expanded Board numbers will allow the AER to operate with a committee structure – akin to how the ACCC and other regulators operate – and reflecting the breadth and depth of the AER's evolving role. If the Board was to operate this way, individual Board members would be responsible for chairing committees and, with the other committee members, for ensuring the more detailed examination of matters within that committee's remit. It is likely there would need to be at least three committees supporting the work of the full AER Board, with each Board member sitting on at least two committees.

¹ It is intended that the new Deputy Chair position will be responsible for taking on the Chair's duties when she is not available. They will not have other roles additional to the normal Board members.

Current members

The AER Board currently has three members:

Chair - Paula Conboy

Paula was appointed as the full-time state/territory member and AER Chair for a five-year period from 1 October 2014. She has over 20 years' experience in public utility regulation in Australia and Canada. She was a full-time member of the Ontario Energy Board in Canada in 2010-14. She has decided to step down when her term ends on 30 September 2019.

Board member – Jim Cox

Jim Cox was appointed as a full-time state/territory member of the AER Board, initially in an acting capacity, in September 2013 and confirmed in the role for three years from June 2014. He was reappointed in May 2017, with his term due to end on 25 June 2020.

Jim has held positions with the Reserve Bank of Australia, the Department of Prime Minister and Cabinet and the Social Welfare Policy Secretariat of the Department of Social Security. He was a Principal Economist at the Office of EPAC between 1986 and 1989, and between 1989 and 1992 was a consultant to the New South Wales Cabinet Office. Jim was Principal Adviser to the Government Pricing Tribunal of New South Wales from 1992 and was a Member of the Tribunal since January 1996. He was Acting Chairman of IPART during 2004, 2009/10 and 2011 and a visiting fellow at Monash University during 1985.

Board Member - Cristina Cifuentes

Cristina was appointed as a Commissioner of the ACCC and full-time Commonwealth member of the AER Board in 2013. Cristina serves as an AER Board member concurrently with her ACCC appointment.

Cristina was previously appointed as the part-time member of the AER from October 2010. She was a member of the NSW Independent Pricing and Regulatory Tribunal between 1997 and 2006. Cristina has also held a number of directorships including with the Hunter Water Corporation and First State Super Trustee Corporation.

When the new arrangements for the five-person AER Board are implemented, the Commonwealth member will no longer be an ACCC commissioner and Cristina will not be an AER Board member – she will continue as an ACCC Commissioner.

Position details

The vacant positions are for a Chair and three Board members (in anticipation of the expanded Board reforms occurring). The location of these roles is flexible. AER head office is in Melbourne, with other offices in Adelaide, Brisbane, Canberra and Sydney. Most Board meetings are conducted by videoconference, although Board members typically travel regularly within Australia and occasionally also overseas. The position descriptions for the Chair and Board members are attached at Appendices C and D respectively.

Appointments will be made to ensure the appropriate overall mix of skills and experience on the Board. This is particularly important at this time, with four out of the five Board member positions (including the Chair) being filled by new appointments. In identifying suitable candidates for appointment to the Board, consideration is given not just to each individual's qualities in isolation but also to how these fit in with other current and prospective members, so that the Board can be a highly effective unit. This is a matter of skills and experience, and also personal style.

All members must have knowledge or experience in industry, commerce, law, public administration or consumer protection – this is a statutory requirement. For this current recruitment process, there is particular interest in people with substantial expertise in one or more of the following areas:

- Experience in, or detailed understanding of, economic regulation of network utilities
- Complex markets monitoring and analysis - competition, market power and market manipulation
- Development and/or utilisation of enforcement and compliance approaches
- Consumer policy and consumer / behavioural insight in a regulatory context.

The priority focus on these particular areas of expertise is necessary to ensure the very significant expertise and experience of the current Chair and Commonwealth member is replaced as well as bringing in expertise necessary for the Board to function well with its expanded roles, responsibilities and stakeholder expectations.

The AER's mission is to make all Australian energy consumers better off now and in the future, and so Board members should have a good appreciation of the diversity of the communities they serve and the extent to which this may differ from members' own direct experiences.

Appendix A: AER purpose and strategic objectives

The AER Strategic Statement² (2017) sets out its purpose and strategic objectives:

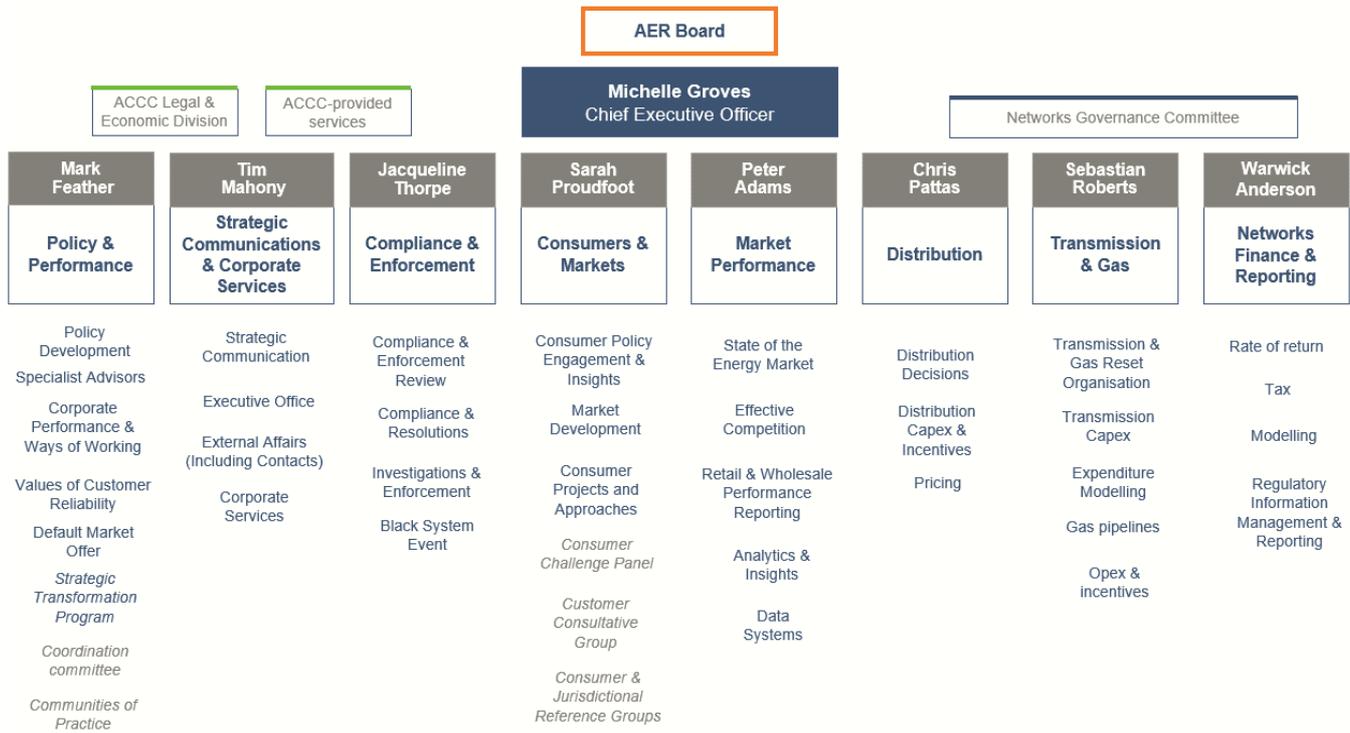
AER purpose: The Australian Energy Regulator (AER) works to make all Australian energy consumers better off, now and in the future

AER strategic objectives:

1. *Drive effective competition where it is feasible*
 - We increase competitive pressures by empowering consumers to choose the products, services and suppliers they want.
 - We look for opportunities to open up markets to competition—we don't assume all network services must stay as regulated monopolies.
 - We shine a spotlight on the effectiveness of competition in the wholesale market and enforce compliance with the rules, so that bills are no higher than they need to be.
2. *Provide effective regulation where competition is not feasible*
 - We drive the network businesses, through our 'reset' processes and ongoing oversight, to deliver good long-term outcomes for consumers in terms of price, quality, safety, reliability and security of supply.
 - We encourage and enable innovation by network businesses and show the same spirit of innovation in our own work.
 - We use our insight and expertise to improve the ways networks are regulated, by both developing our own approaches and proposing changes to rules and policies.
3. *Equip consumers to participate effectively, and protect those who are unable to safeguard their own interests*
 - We give consumers confidence that individual energy businesses are operating properly and that they will be protected if things go wrong. We take action against businesses that don't play by the rules, to address non-compliance and improve future behaviour.
 - We encourage consumers to engage in the market and assist them to make the best choice for their circumstances.
 - We help consumers to play a growing role as participants, not just recipients, in the energy system.
 - We work to protect households in vulnerable situations, focusing on those who are less able to help themselves and/or might suffer more harm as a result of vulnerability
4. *Use our expertise to inform debate about Australia's energy future, the long-term interests of consumers and the regulatory landscape*
 - We provide an independent, expert view to government and other policy-makers, based on our in-depth, practical experience of how the market is working now and how well-placed it is to deal with long-term challenges.
 - We have effective relationships with the COAG Energy Council, the Energy Security Board and our partners—the other market bodies, state-based regulators, Energy Consumers Australia and energy ombudsmen schemes—on emerging issues and regulatory strategies.
 - We assess and comment on industry performance and how this affects both competition and the consumer experience, to inform regulatory decision-making and improve long-term outcomes.
5. *Take a long-term perspective while also considering the impact on consumers today*
 - We make hard decisions about the long term—some of our decisions will have an impact for the next 50 years or more. In doing this, we look beyond the immediate implications of current issues.
 - We want to foster confidence among households and businesses that the energy system is working well for them, as levels of public trust now can have a long-term impact on consumer engagement and the effectiveness of competition.
 - We are an authoritative and trusted source of information about energy markets

² <https://www.aer.gov.au/publications/corporate-documents/aer-strategic-statement>

Appendix B: Organisational structure



Appendix C:

AER Chairperson

Position Details

Position: Full-time

Location: Flexible. The AER head office is in Melbourne, with other offices in Adelaide, Brisbane, Canberra and Sydney. Most Board meetings are conducted by videoconference.

Reporting to: COAG Energy Council

Primary Purpose

The Chair leads the AER in fulfilling the statutory functions of the AER and setting the strategic direction of the organisation. The Chair also leads the AER in developing effective relationships with COAG Energy Council, the COAG EC's Senior Committee of Officials (SCO), the Energy Security Board, the ACCC, AEMC, AEMO and other key stakeholders.

The AER may make decisions in relation to its functions under the National Electricity Law, National Gas Law and National Retail Law. The AER can seek an order from the Federal Court that a person is in breach of a relevant energy law.

Decisions of the AER are subject to judicial review by the Federal Court of Australia.

The Chair works with other Members of the AER to ensure that Members understand their role, responsibilities and accountabilities and to ensure they make an effective contribution.

Term

Subsection 44AP (2) of the CCA provides that a State/Territory Member will hold office for the period specified in the instrument of appointment, which must not exceed 5 years.

Remuneration

According to Section 44AT of the CCA, a State/Territory Member is to be paid remuneration as determined by the Remuneration Tribunal. If there is no Tribunal determination in operation, the Member is to be paid the remuneration that is prescribed.

The current remuneration for the Chair is: \$543,350.00.

Reporting Relationships

Key relationships include:

- COAG EC – the powers conferred on the AER have been granted with the agreement of COAG EC
- state and territory governments – to understand jurisdictions' expectations and impacts of government policy on local industry, stakeholders and consumers
- the Energy Security Board, of which the AER chair is a member – for implementation of the Finkel reforms, collaboration and strategy development
- the ACCC and the other energy market bodies (the AEMC, AEMO and Energy Consumers Australia) – for collaboration
- industry, consumer and stakeholder groups – to discuss industry and regulatory issues and encourage improved industry practice and compliance
- individual energy market participants – in relation to regulatory and compliance issues
- the CEO and senior management team of the AER – to promote strategic advice and support in the operations of the AER and the achievement of the strategic plan.

The AER has entered into an MOU with the ACCC and AEMC, endorsed by the COAG EC, which addresses amongst other matters: consultation, cooperation, information sharing and staffing arrangements. Additional MOUs cover the AER's relationship with a range of bodies including AEMO, energy industry ombudsman schemes and state regulators.

Roles & Obligations

The Chair and other AER members are responsible for key statutory decisions associated with its regulatory functions. These include regulatory decisions on revenue and price caps, and access arrangement approvals; decisions and guidance on enforcement and compliance. The AER members are also responsible for approval of the AER strategic plan, annual work plan and annual report; and oversight of delegations. Members of the AER oversee the organisation's activities and are responsible for its outputs.

All members are expected to:

- discharge their duties ethically, in good faith and honestly in the performance of AER business with the level of skill and care expected by the community of holders of such offices;
- use the powers of office for proper purposes in carrying out the business of the AER as a whole;
- not make representations or agreements with any stakeholders unless specifically delegated by the AER through a decision of the AER;
- avoid conflicts of interest;
- where actual or potential conflicts exist or where it might be perceived that a conflict exists, declare the matter as soon as it comes to the attention of the Member;
- not make improper use of information or the public office of Member;
- not allow personal interest, or the interest of any associated person, to conflict with the business of the AER;
- make reasonable enquiries to ensure the AER is operating efficiently, effectively and within the intent of the law towards carrying out its statutory functions;
- keep confidential all AER deliberations; and
- comply with the spirit and intent of the law and relevant governance policy.

At meetings and other proceedings, Members are expected to:

- be forthright in carrying out their duty to question, seek information, raise issues, fully canvas issues and reach their own decision on matters;
- be respectful towards others, allowing opportunity for other views to be articulated and considered; and
- support the letter and spirit of decisions once they have been made, inside and outside the organisation.

Eligibility

Subsection 44AP (3) of the CCA provides that a person is not eligible for appointment as a State/Territory Member unless the person, being a person who has knowledge of, or experience in industry, commerce, economics, law, consumer protection or public administration, has been nominated for appointment in accordance with the AEMA.

Clause 7.3 of the AEMA requires that the State/Territory Member be recommended for appointment by agreement of at least five of the MCE Ministers representing each of the States and Territories that have elected to be subject to the jurisdiction of the AER. Clause 7.6 further provides that appointment as Chair requires the approval of the Commonwealth MCE Minister and a simple majority of MCE Ministers representing parties that are subject to the jurisdiction of the AER.

Selection criteria

The AER Board has two key functions: to take decisions in exercise of its various statutory functions, on behalf of the community; and to provide strategic direction to and stewardship of the AER as an organisation, so that the staff team supports the Board effectively and is held to account for its work.

The powers of the Board are exercised collectively – indeed the current governance arrangements require unanimity in decision-making – but each Board member may bring a different set of skills and experience to the discussion.

This need for diversity of experience and expertise is reflected in the relevant legislation (Competition and Consumer Act s44AP), which requires that State/Territory AER members must have '*knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration.*' Similar criteria apply to AER members appointed by the Australian Government.

In identifying suitable candidates for appointment to the Board, consideration is given not just to each individual's qualities in isolation but also to how these fit in with other current and prospective members, so that the Board can be a highly effective unit. This is a matter of skills and experience, and also personal style.

Candidates for Chair will need to have sat on other significant Boards or committees and have strong skills in terms of representing an organisation publicly and in building and maintaining senior level relationships. He or she will need to have demonstrated personal leadership in a complex environment.

He or she will need to have knowledge of energy markets, preferably including in Australia; understanding of the role of an energy utility and market regulator; and experience in, or detailed understanding of, economic regulation of network utilities.

Expertise, experience and personal style

Expertise, knowledge and skills

Knowledge or experience in industry, commerce, law, public administration or consumer protection – this is a statutory requirement	Statutory requirement
Knowledge of energy markets	Essential
Knowledge of Australian energy markets	Desirable
Understanding of the role of an energy utility and market regulator	Essential
Understanding of the role of a Board, and the duties of a Board member, in a public body	Essential
Experience in complex markets monitoring and analysis - competition, market power and market manipulation	Essential for one Board member to have this but need not be the Chair
Experience in the development and/or utilisation of enforcement and compliance approaches	Desirable
Consumer policy and consumer / behavioural insight in a regulatory context	Essential for one Board member must have this but need not be the Chair
Technical understanding of energy systems such as power system engineering or gas network operation	Desirable for one Board member to have this but need not be the Chair
Experience in, or detailed understanding of, economic regulation of network utilities	Essential
Legal aspects of utility regulation	Desirable for one Board member to have this but need not be the Chair
Finance and investment markets relevant to energy	Desirable for one Board member to have this but need not be the Chair

Building and maintaining senior-level relationships, including with politicians	Essential
Representing an organisation e.g. speeches and media interviews	Essential
Knowledge of different regulatory models and approaches, including outside Australia	Desirable

Experience

Membership of a significant Board or committee	Essential
Chairing a significant Board or committee	Desirable
Other regulated sectors, for example other utilities or financial services	Desirable
Senior role in a regulator	Desirable for one member to have this but need not be the Chair
Senior role in a consumer organisation	Essential for one Board member must have this but need not be the Chair
Major organisation decision-making on large programmes e.g. infrastructure investment	Desirable for one Board member to have this but need not be the Chair
Personal leadership in a complex environment	Essential

Personal style and ways of working

Outstanding reputation and collegiate style	Essential
Commitment to sound governance and a strong understanding of the Board role	Essential
A strategic mindset	Essential
A good listener, intellectual independence, and the ability to influence others	Essential
Analytical skills and the ability to process complex information and draw out key issues	Essential
Senior-level decision-making experience	Essential
Personal integrity – fair and open-minded	Essential
Independence from and credibility with energy market stakeholders and participants	Essential

Independence of the Chair is particularly important. The absence of conflicts of interest, especially within the energy sector, is required. Stakeholders expect a high level of personal integrity and ethics to underpin decision making by this national regulator.

Appendix D: Position Description

AER Member

Position Details

Position: Full-time

Location: Flexible. The AER head office is in Melbourne, with other offices in Adelaide, Brisbane, Canberra and Sydney. Most Board meetings are conducted by videoconference.

Reporting to: *AER Chair*

Primary Purpose

The AER members are responsible for the key statutory decisions associated with the regulatory functions of the AER and set the strategic direction of the organisation. The AER members facilitate the development of effective relationships with COAG Energy Council, the COAG EC's Senior Committee of Officials (SCO), the Energy Security Board, the ACCC, AEMC, AEMO and other key stakeholders.

The AER may make decisions in relation to its functions under the National Electricity Law, National Gas Law and National Retail Law. The AER can seek an order from the Federal Court that a person is in breach of a relevant energy law.

Decisions of the AER are subject to judicial review by the Federal Court of Australia.

Term

Subsection 44AP (2) of the CCA provides that a State/Territory Member will hold office for the period specified in the instrument of appointment, which must not exceed 5 years.

Remuneration

According to Section 44AT of the CCA, a State/Territory Member is to be paid remuneration as determined by the Remuneration Tribunal. If there is no Tribunal determination in operation, the Member is to be paid the remuneration that is prescribed.

The current remuneration for a Member is \$407,520.00.

Relationships

Key relationships include:

- COAG EC – the powers conferred on the AER have been granted with the agreement of COAG EC
- state and territory governments – to understand jurisdictions' expectations and impacts of government policy on local industry, stakeholders and consumers
- the Energy Security Board, of which the AER chair is a member – for implementation of the Finkel reforms, collaboration and strategy development
- the ACCC and the other energy market bodies (the AEMC, AEMO and Energy Consumers Australia) – for collaboration
- industry, consumer and stakeholder groups – to discuss industry and regulatory issues and encourage improved industry practice and compliance
- individual energy market participants – in relation to regulatory and compliance issues
- the CEO and senior management team of the AER – to promote strategic advice and support in the operations of the AER and the achievement of the strategic plan.

The AER has entered into an MOU with the ACCC and AEMC, endorsed by the COAG EC, which addresses amongst other matters: consultation, cooperation, information sharing and staffing arrangements. Additional MOUs cover the AER's relationship with a range of bodies including AEMO, energy industry ombudsman schemes and state regulators.

Roles & Obligations

The AER members are responsible for key statutory decisions associated with its regulatory functions. These include regulatory decisions on revenue and price caps, and access arrangement approvals; decisions and guidance on enforcement and compliance. The AER members are also responsible for approval of the AER strategic plan, annual work plan and annual report; and oversight of delegations. Members of the AER oversee the organisation's activities and are responsible for its outputs.

Members are expected to:

- discharge their duties ethically, in good faith and honestly in the performance of AER business with the level of skill and care expected by the community of holders of such offices;
- use the powers of office for proper purposes in carrying out the business of the AER as a whole;
- not make representations or agreements with any stakeholders unless specifically delegated by the AER through a decision of the AER;
- avoid conflicts of interest;
- where actual or potential conflicts exist or where it might be perceived that a conflict exists, declare the matter as soon as it comes to the attention of the Member;
- not make improper use of information or the public office of Member;
- not allow personal interest, or the interest of any associated person, to conflict with the business of the AER;
- make reasonable enquiries to ensure the AER is operating efficiently, effectively and within the intent of the law towards carrying out its statutory functions;
- keep confidential all AER deliberations; and
- comply with the spirit and intent of the law and relevant governance policy.

At meetings and other proceedings, Members are expected to:

- be forthright in carrying out their duty to question, seek information, raise issues, fully canvas issues and reach their own decision on matters;
- be respectful towards others, allowing opportunity for other views to be articulated and considered; and
- support the letter and spirit of decisions once they have been made, inside and outside the organisation.

Eligibility

Subsection 44AP (3) of the CCA provides that a person is not eligible for appointment as a State/Territory Member unless the person, being a person who has knowledge of, or experience in industry, commerce, economics, law, consumer protection or public administration, has been nominated for appointment in accordance with the AEMA.

Selection criteria

The AER Board has two key functions: to take decisions in exercise of its various statutory functions, on behalf of the community; and to provide strategic direction to and stewardship of the AER as an organisation, so that the staff team supports the Board effectively and is held to account for its work.

The powers of the Board are exercised collectively – indeed the current governance arrangements require unanimity in decision-making – but each Board member may bring a different set of skills and experience to the discussion.

This need for diversity of experience and expertise is reflected in the relevant legislation (Competition and Consumer Act s44AP), which requires that State/Territory AER members must have '*knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration.*' Similar criteria apply to AER members appointed by the Australian Government.

In identifying suitable candidates for appointment to the Board, consideration is given not just to each individual's qualities in isolation but also to how these fit in with other current and prospective members, so that the Board can be a highly effective unit. This is a matter of skills and experience, and also personal style.

Expertise, experience and personal style

Expertise, knowledge and skills

Knowledge or experience in industry, commerce, law, public administration or consumer protection – this is a statutory requirement	Statutory requirement
Knowledge of energy markets	Essential for at least two members in addition to Chair
Knowledge of Australian energy markets	Essential for at least two members
Understanding of the role of an energy utility and market regulator	Essential for at least two members in addition to Chair
Understanding of the role of a Board, and the duties of a Board member, in a public body	Essential
Experience in complex markets monitoring and analysis - competition, market power and market manipulation	Essential for one member
Experience in the development and/or utilisation of enforcement and compliance approaches	Essential for one member
Consumer policy and consumer / behavioural insight in a regulatory context	Essential for one member
Technical understanding of energy systems such as power system engineering or gas network operation	Desirable for one member
Experience in, or detailed understanding of, economic regulation of network utilities	Essential for at least two members, in addition to Chair
Legal aspects of utility regulation	Desirable for one member
Finance and investment markets relevant to energy	Desirable for one member
Building and maintaining senior-level relationships, including with politicians	Essential for at least two members in addition to Chair
Representing an organisation e.g. speeches and media interviews	Essential for at least one member in addition to Chair
Knowledge of different regulatory models and approaches, including outside Australia	Desirable

Experience

Membership of a significant Board or committee	Desirable
Other regulated sectors, for example other utilities or financial services	Desirable
Senior role in a regulator	Desirable for at least one member
Senior role in a regulator or regulated or energy market business or energy business association (<i>though candidates should have not been employed by a business regulated or monitored by the AER within last 12 months</i>)	Desirable for one member
Senior role in a consumer organisation	Essential for one member
Major organisation decision-making on large programmes e.g. infrastructure investment	Desirable for one member
Personal leadership in a complex environment	Desirable

Personal style and ways of working

Outstanding reputation and collegiate style	Essential
Commitment to sound governance and a strong understanding of the Board role	Essential
A strategic mindset	Essential
Intellectual independence and the ability to influence others	Essential
Analytical skills and the ability to process complex information and draw out key issues	Essential
Senior-level decision-making experience	Essential
Personal integrity	Essential
Independence from and credibility with energy market stakeholders and participants	Essential

Independence of the Members is important. The absence of conflicts of interest, especially within the energy sector, is required. Stakeholders expect a high level of personal integrity and ethics to underpin decision making by this national regulator.