

Agreement – Conferral of
functions on the
Australian Energy
Regulator under the
*Energy (Renewable
Transformation and Jobs)
Act 2024 (QLD)*

The Commonwealth of Australia

The State of Queensland



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Agreement

Between the parties

Commonwealth **The Commonwealth of Australia**

QLD **The State of Queensland**

Recitals

1. The AER is established by section 44AE of the CC Act.
2. The ERTJ Act was passed by the Queensland Parliament on 18 April 2024 and received royal assent on 26 April 2024. The ERTJ Act allows for the conferral of functions on the AER.
3. The Commonwealth supports the functions being conferred on the AER under the ERTJ Act and Regulations (once made).
4. This agreement is made for the purposes of section 44A1(3) of the CC Act, and sets out the conferral of functions, duties and powers on the AER.
5. The AER's performance of functions, duties and powers under the ERTJ Act and Regulations will be undertaken on a cost-recovery basis.



Definitions

1 Definitions

The meanings of the terms used in this agreement are set out below.

Term	Meaning
AER	The Australian Energy Regulator as established by section 44AE of the CC Act
CC Act	The <i>Competition and Consumer Act 2010</i> (Cth)
Commonwealth	The Commonwealth of Australia
Commonwealth Minister	The Commonwealth Minister with portfolio responsibility for the AER
Department	The Department of Energy and Climate (Qld), or any successor department with responsibility for administering the ERTJ Act.
ERTJ Act	The <i>Energy (Renewable Transformation and Jobs) Act 2024</i> (Qld), as amended from time to time.
QLD	The State of Queensland
QLD Minister	The QLD Minister with responsibility for administering the ERTJ Act
Regulations	Any subordinate legislation made under the ERTJ Act, including as amended, including any provisions of subordinate legislation that have the effect of modifying the National Electricity Rules.

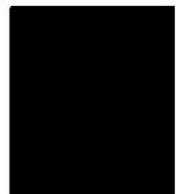
Conferral of functions, powers and duties

2. For the purposes of section 44A(3) of the CC Act:
- (a) Subject to paragraph 2(b), the parties agree to the conferral of the functions, powers and duties in the ERTJ Act or Regulations on the AER as outlined in the Schedule.
 - (b) For any substantive amendments to provisions within the ERTJ Act or Regulations that purport to confer functions, powers or duties and directly relate to those in the Schedule, the parties agree to the conferral of those functions, powers and duties, or amended functions, powers or duties, provided that:
 - i. they are consistent with the functions, powers and duties outlined in the Schedule; and
 - ii. the Department has consulted with the AER regarding the provisions or amendment; and
 - iii. the AER does not object to the conferral of those functions, powers or duties, or amended functions, powers or duties, and has responded to the Department in writing in relation to consultation undertaken in paragraph (b)(ii), including but not limited to any matters that may give rise to validity issues concerning the application of the Commonwealth Constitution and/or the CC Act prior to the making of the provisions or amendment.
 - (c) For any provisions within the ERTJ Act or Regulations or any substantive amendments to them that purport to confer functions, powers and duties on the AER and that are not covered by paragraph (a) or (b) of this clause, the parties acknowledge these provisions, Regulations or amendments will require agreement for the conferral of the functions, powers and duties on the AER. The process for such agreement is:
 - i. the Department has consulted in writing with the AER regarding the functions, powers or duties; and
 - ii. the AER does not object to the conferral of those functions, powers or duties, and has responded to the Department in writing in relation to consultation undertaken in paragraph (c)(i), including but not limited to any matters that may give rise to validity issues concerning the application of the Commonwealth Constitution and/or the CC Act prior to the making of any such provisions in the ERTJ Act, Regulations or amendments; and
 - iii. the QLD Minister has sought in writing the agreement of the Commonwealth Minister, to confer the additional function, power or duty; and
 - iv. the Commonwealth Minister responds to the QLD Minister in writing agreeing to the proposed conferral, with such conferral to take effect on the date it is agreed to by the Commonwealth Minister.
 - (d) Where functions, powers or duties are conferred under paragraph (a), (b) or paragraph (c)(iv) of this agreement under a provision or law that is not a 'State/Territory energy law' within the meaning of section 4(1) of the CC Act, the Commonwealth must take necessary steps to prescribe that provision or law as a 'State/Territory energy law' as soon as practicable.

3. Clause 2 gives effect to the conferral of each function, power or duty when:
- (a) that function, power or duty as outlined in the Schedule to this Agreement or agreed to be conferred under clause 2(b) or 2(c)(iv) has come into force (whether through royal assent by the Queensland Governor, in accordance with Constitution of Queensland 2001 and the *Parliament of Queensland Act 2001*, through being proclaimed by the Queensland Governor-in-Council, or prescribed by a Regulation made under the ERTJ Act), and
 - (b) that function, power or duty is provided for under the ERTJ Act or Regulations which have been prescribed as a 'State/Territory energy law' within the meaning of section 4(1) of the CC Act.

Funding

- 4. The parties agree that the AER will carry out the functions, powers and duties conferred under this agreement on the basis that the AER (through its accountable authority) will recover its actual costs for undertaking the conferred functions and related obligations from QLD.
- 5. The recovery of actual costs for undertaking the AER's performance of conferred functions, powers and duties is provided for in a Funding Agreement between the Commonwealth and QLD.



Agreed Functions conferred by the ERTJ Act and Regulations

Functions, powers and duties	Reference
The advisory functions of the suitably qualified person under Part 5 of the ERTJ Act, in relation to Powerlink's submission about a candidate priority transmission investment, if the responsible Ministers seek advice from the AER under the section	s 23
The advisory functions of the AER as a suitably qualified person under Part 5 of the ERTJ Act, in relation to Powerlink's report about a candidate priority transmission investment, if the responsible Ministers seek advice from the AER under the section	s 25
The advisory functions of the AER as an appropriately qualified person under Part 6 of the ERTJ Act, in relation to any matter relevant to the performance of a function under that part, if advice is requested from the AER under the section	s 80
Particular actions to be taken by the AER under Regulations made under Part 5 of the ERTJ Act, in relation to Powerlink's revenue determination, regulatory asset base or revenue proposal if Powerlink makes a relevant application to the AER.	s 28
Particular actions to be taken by the AER under Regulations made under Part 6 of the ERTJ Act, in relation to a transmission network service provider's revenue proposal or transmission determination to ensure the transmission determination is made as required.	s 73



Executed as an agreement

Signed on behalf of the State of Queensland)
by the **Minister for Energy and Clean**)
Economy Jobs, Queensland)

[Redacted signature area]

Signature

Witness signature

The Honourable Michael (Mick) de Brenni
MP, Minister for Energy and Clean Economy
Jobs

[Redacted witness name]

Name of witness

Signed on behalf of the Commonwealth of)
Australia by the **Minister for Climate**)
Change and Energy of the)
Commonwealth of Australia)

[Redacted signature area]

Signature

Witness signature

The Honourable Chris Bowen MP, Minister for
Climate Change and Energy

[Redacted witness name]

Name of witness

[Redacted area]