



Auditor Panel Handbook

Retailer Reliability Obligation

August 2019

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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
AER Reference: Doris 64873

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1 Purpose

The Retailer Reliability Obligation (RRO) requires that - if the obligation is triggered - *liable entities* (relevant *market customers* and *opt-in customers*) report their *net contract position* to the AER, with contracts adjusted based on their relative 'firmness'.¹ *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*.

The Interim Contracts and Firmness Guidelines (Guidelines) for the RRO details the requirement for *liable entities* to have their *bespoke firmness methodologies*, and the way they've been applied, approved by *Independent Auditors* on the AER's *Auditors Panel*.²

The purpose of the audit is to ensure the firmness of *qualifying contracts* are being appropriately valued and, more broadly, to satisfy the requirements under the Chapter 4A of the *National Electricity Rules* (Rules).

Under rule 4A.E.5 the AER is required to establish and maintain a panel of auditors. This Auditor Panel Handbook acts as a supplementary guide to the Guidelines. It specifies governance arrangements, including how we will establish and maintain the *Auditors Panel*, and our monitoring and oversight of the *Auditors Panel*. The *Auditors Panel* will be published on the AER website.

This handbook is intended as a guide only and is not a substitute for the Rules or the Guidelines. Specific guidance on the role and function of an *Independent Auditor* is included within the Guidelines. *Independent Auditors* are required to follow the Guidelines in deciding whether to approve a *bespoke firmness methodology*.

1.1 Role of an *Independent Auditor* in the RRO Rules

Under the Rules, *Independent Auditors* are required to approve *bespoke firmness methodologies* and the firmness factor determined by applying those *firmness methodologies*.³ The *bespoke firmness methodologies* may be developed by a *liable entity*, or where the *liable entity* engages an *Independent Auditor* to do so, may be developed with the assistance of an *Independent Auditor*. In exercising their function, an *Independent Auditor* will be required to exercise professional judgement and discretion. When using discretion, an *Independent Auditor* should be able to demonstrate how they have applied the guidance provided by the Rules and Guidelines.

¹ Firmness is based on how likely the contract is to reduce the buyer's exposure to wholesale electricity price volatility. More information can be found in the National Electricity Rules and Interim Contracts and Firmness Guidelines.

² See 4A.E.5 (e) and 4A.E.6 (b)(6) of the *National Electricity Amendment (Retailer Reliability Obligation) Rule 2019*.

³ Rule 4A.E.4(b)

Auditors must also keep the AER informed of changes in their activities for the purposes of compliance and quality assurance by the AER. To be qualified to remain on the *Auditors Panel*, auditors should keep themselves up to date on the Rules and Guidelines.

2 Requirements of an *Independent Auditor*

Under rule 4A.E.5(a)(1), in establishing an *Auditors Panel*, the AER must have regard to whether the person has sufficient experience and expertise in energy derivatives and energy contracts and whether the person is an *independent person*. The Rules define a person as an individual or firm. If a firm applies to be on the *Auditors Panel*, the AER will assess the firm's application by considering the specific qualifications of the individual person(s) who will sign off on the audit. If multiple individuals from a single firm wish to apply for approval as auditors, they must each do so separately. The *Independent Auditor* should be able to demonstrate the experience and expertise outlined in sections 2.1 to 2.6 below. These are the selection criteria that the AER will use to assist in determining whether a person should be included on the *Auditors Panel*.

2.1 Knowledge of RRO

Independent Auditors are required to have specific knowledge of both the:

- Chapter 4A of the National Electricity Rules (Rules); and
- RRO Guidelines⁴ including the Interim Contracts and Firmness Guidelines.

Independent Auditors should also be aware of:

- any other associated legislation, rules and guidance.

The AER considers that confirmation from the applicant that they have carefully read and considered the Rules and Guidelines is sufficient evidence of specific knowledge of the RRO.

As *Independent Auditors* gain more experience working with the Rules and Guidelines, knowledge of the RRO will expand to include work that the *Independent Auditor* has undertaken for *liable entities*.

2.2 Qualifications

In establishing the *Auditors Panel*, the AER will consider any tertiary qualifications relevant in the AER's opinion to functions performed by an *Independent Auditor* under the Guidelines. Individuals should submit in their application details of any Bachelor's, Master's or Doctoral degree (or equivalent) from a university or equivalent institution of higher learning.

Prior knowledge of auditing is preferred but is not an essential requirement to be an *Independent Auditor*. If an applicant does have relevant auditing qualifications, such as completion of audit related courses, this should be detailed in the application.

⁴ 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.

2.3 Membership of Professional Bodies

Where applicants are of the view that membership of a professional body is relevant to performance of the duties of an *Independent Auditor* under the Guidelines, details of this membership should be included with the application.

2.4 Experience

Applicants should detail their 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, particularly in relation to *liable entities* and/or involving energy derivatives and energy contracts;
- any other relevant experience.

2.5 Independence

The Rules require that an *Independent Auditor* be an independent person. An independent person is defined under the NER as a person who:

- (a) is not a member, employee or member of staff of the AER or the AEMC;
- (b) is not a director or employee of AEMO;
- (c) is not a director or employee of, or partner in, a Registered Participant;
- (d) 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
- (e) is not a director or employee of a related body corporate of any Registered Participant.⁵

2.6 References

The AER requires that the applicant provide details of at least two written and signed references that the AER can use to verify expertise and experience submitted in the application. Referees can include industry peers, past clients and professional bodies. The AER may choose to contact the referees to seek additional information about the applicant.

⁵ Chapter 10 Glossary, National Electricity Rules

3 Applying to be an *Independent Auditor*

Persons who wish to apply to be an *Independent Auditor* should follow the guidance set out below and in section 6 of the Guidelines.

The Rules set out that the *Auditors Panel* means a panel of persons who can be individuals or firms. The AER considers that where a firm applies to be on the panel, the requirements to be an *Independent Auditor* as stipulated in Section 2 above are assessed on the individual within the firm signing off on the audit. Therefore, the *Auditors Panel* will consist of a panel of individuals and/or firms who have the ability to sign off on audits undertaken under the RRO.

3.1 How to Apply

To apply, the applicant will need to submit an application to be an *Independent Auditor* to the AER.

Applicants should submit the following information:

- (a) Part A: Personal Details
 - a. Name of individual
 - b. Address
 - c. Contact details
 - d. Place of employment
- (b) Part B: Qualifications
 - a. Certified copy of qualification (e.g. transcript, degree, graduate diploma)
 - b. Details of relevant audit qualifications
- (c) Part C: Membership with professional bodies
 - a. Dates of membership
 - b. Membership number
 - c. Name of professional body
 - d. Any past or present disqualifications from relevant professional bodies
- (d) Part D: Knowledge of RRO
 - a. Statement confirming that the National Electricity Amendment (Retailer Reliability Obligation) Rule 2019 and RRO Guidelines including the Interim Contracts and Firmness Guidelines have been read and understood.
 - b. Details of any other experience or training that would demonstrate knowledge of the National Electricity Amendment (Retailer Reliability Obligation) Rule 2019 and/or RRO Guidelines.

(e) Part E: Experience

- a. Description of projects and tasks undertaken under each applicable category described at paragraph 2.4. The description should be sufficiently detailed to provide the AER with an understanding of what work was performed by the applicant.
- b. Where appropriate, the applicant should provide details of the duration of time spent on the projects and tasks undertaken under each category described at paragraph 2.4. This can be in the form of hours, days or on a frequency basis.
- c. The description of experience should include what role the applicant played within the project. For example, whether the applicant was a team member, manager, or project leader.

(f) Part F: Independence

- a. Declaration of independence which includes a statement of compliance with the independent person requirements under paragraph 2.5.
- b. Applicants should disclose any actual or perceived conflicts of interest, and detail how these conflicts will be managed in auditing *liable entities*.

(g) Part G: Referees

- a. Name
- b. Position
- c. Contact details

(h) Part H: Declaration and signature

- a. Applications should include a signed declaration that all information provided to the AER is true and accurate.

The applicant should direct their completed application to rro@aer.gov.au

If you have queries about the application process, please email rro@aer.gov.au.

Collection and disclosure of information received from applicants will be managed in accordance with the general information policy of the ACCC and AER. The information policy can be accessed [here](#).

There are no application fees to apply or be registered as an *Independent Auditor* on the *Auditors Panel*.

3.2 When to Apply

To establish the initial *Auditors Panel*, the AER will be conducting an expression of interest (EOI) process. Applications for the initial *Auditors Panel* will be open from 01 September 2019 to 31 October 2019. The AER will then take approximately two months to process the initial applications depending on the number of applicants.

Following the initial *Auditors Panel* establishment process, applications to be on the *Auditors Panel* may be made at any time throughout the year.

Auditors need to be approved and on the panel prior to approving a *bespoke firmness methodology* and firmness factor for *liable entities* under the Guidelines.

3.3 Processing Application

It will usually take 20 to 30 business days to process complete applications depending on the volume of applications received by the AER at the time.

The AER may contact the applicant to seek further information or documents required for assessing the application.

Once the application has been processed, the applicant will be notified of the outcome of their application via e-mail and, if successful, will be included on the *Auditors Panel* on the AER website.

3.4 Remaining on the *Auditors Panel*

Independent Auditors on the *Auditors Panel* should keep their information with the AER current. If there are any changes to the information submitted to the AER under Section 3.1 above, the person should notify the AER as soon as possible.

Failure to keep information up to date may result in the *Independent Auditor* being removed from the *Auditors Panel*.

Independent Auditors are required to remain up to date with any developments in the Rules and Guidelines which could impact *liable entities*.

3.5 Removal from the *Auditors Panel*

Under Rule 4A.E.5(d), the AER has the discretion to remove auditors from the panel at any time. Reasons for removal may include:

- failure to adequately consider the criteria outlined in the Interim Contracts and Firmness Guidelines when performing an audit;
- failure to notify the AER of changes in information submitted to the AER in a timely manner;
- Changes in circumstances resulting in failure to meet the requirements outlined in paragraphs 2.1 to 2.6;
- actual or suspected breach of independence requirements;
- failure to provide the AER with information about their RRO auditing activities in a thorough and timely manner; and
- any other conduct that the AER deems inconsistent with the requirements of an *Independent Auditor* on the *Auditors Panel*.

Nothing in the above limits the AER's discretion to add or remove an *Independent Auditor* from the *Auditors Panel* at any time under 4A.E.5(d).

3.6 Review of *Auditors Panel*

Under rule 4A.E.5(d), the AER is required to review the *Auditors Panel* at least every four years.

4 Monitoring and Oversight by the AER

The AER may conduct spot checks to assess an *Independent Auditor's* compliance with the Guidelines and to assess whether the audited *firmness methodology* and *firmness factor* are free from fraud and manifest error. The results of the AER's spot checks may also inform the AER's decision to remove an *Independent Auditor* from the *Auditors Panel* described under section 3.5 above. The spot checks are separate from the compliance audits that the AER may conduct at any time to assess a regulated entity's compliance with the RRO.⁶

Where the AER finds fraud or manifest error, the audited *firmness methodology* and *firmness factor* will not be applicable for the purposes of a liable entity's net contract position (NCP).⁷ Absent of fraud or manifest error, the audited firmness factor is binding on the AER. The AER's interpretation of fraud and manifest error is provided in the Guidelines.

There are several other reasons for the AER's checks and monitoring:

- This will provide the AER with assurance that the auditors understand the RRO Rules and the AER's Interim Contracts and Firmness Guidelines.
- The AER will compare auditors' assessments of similar contracts to determine if some contracts have methodologies that can be moved from bespoke to standard.
- AER will review the auditors' assessment of methodologies to determine whether additional guidance is required to ensure consistent approaches are applied among auditors.

Independent Auditors are required to keep records supporting the audit opinion. They should maintain complete, detailed and accurate records of their audit procedures over the firmness methodology and firmness factor. These records should provide an understanding of how the audit was conducted, what procedures were performed and how the conclusion was reached.

Records maintained by *Independent Auditors* should include:

- 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

⁶ Section 18ZE National Electricity Law

⁷ Under rule 4A.E.5(e) a *bespoke firmness methodology* and firmness factor approved by an *Independent Auditor* and included by a liable entity in its NCP is binding on the AER in the absence of fraud or manifest error.

4.1 Reporting to the AER

Following completion of an audit, *Independent Auditors* are required to produce an Auditor Report as stipulated under section 9 of the Guidelines. The Auditor Report must be confirmed and signed by an *Independent Auditor* that has been approved to be on the AER's *Auditors Panel*.

Independent Auditors may also wish to report to the AER of their own volition. This may include:

- advising the AER of any errors or ambiguities in the Guidelines,
- informing the AER of any unreasonable requests from *liable entities* to approve methodologies.

Further detail about the AER's oversight and monitoring of the *Independent Auditors* is at section 4 above.

4.2 Compliance Audit Requirements

Independent Auditors should be aware that, under section 18ZE of the NEL, the AER may carry out audits of a regulated entity's activities to assess compliance with the RRO.⁸ Whilst compliance audits do not directly audit the *Independent Auditor*, in performing audits under the RRO framework, *Independent Auditors* should have in mind the regulated entity's obligations to keep records and provide information to the AER.

⁸ See section 18ZE, Compliance audits by AER, of the National Electricity (South Australia) Act 1996.