

# NATIONAL ELECTRICITY CONSUMERS ADVOCACY PANEL

## GUIDELINES FOR THE REGULATION AND CONDUCT OF MEETINGS OF THE PANEL

### STANDARDS OF CONDUCT

1. Panel members should carry out their duties impartially at all times.
2. Panel members should be frank and honest in Panel deliberations and other dealings with colleagues, applicants and others on Panel business. Dealings should be conducted in measured and temperate terms and as far as possible in terms of objective considerations.
3. Panel members should avoid situations in which their private interest, financial or otherwise, conflicts or might reasonably be thought to conflict with their Panel duties and should be aware of the Panel's conflict of interest rules, e.g. a member cannot accept or perform a role in the execution of a project funded by the Panel.
4. Members must ensure they maintain and update when relevant their declarations of independence during their terms of office.
5. Where a Panel member has an interest, direct or indirect, which conflicts or might reasonably be thought to conflict with the member's duty in considering a funding application, including any personal or business relationship with an applicant or involvement with an application, the member must inform other members of the potential conflict at the first opportunity with sufficient details to enable them to evaluate that conflict, and must disclose to them thereafter any new or additional facts relevant to the potential conflict which may arise in the course of consideration of the application. An example of a material personal interest is where a member stands to benefit personally from the success of an application.
6. The member should consider whether the interest in question is a material personal interest in which case, or if the other members so consider, the member should take no part in the consideration of or vote on the application. A member may remain at a meeting while a matter is discussed in relation to which the meeting has agreed that the member has a conflict of interest provided that:
  - the member does not participate in any discussion regarding the matter unless a question is asked of the member in which case the member's response must avoid personal opinion and must be restricted to responding directly to the question asked; and
  - the member does not vote on the matter.
7. Any disclosure of a conflict of interest and subsequent non-participation must be minuted in the records of the meeting. Where, following disclosure by a member of a potential conflict of interest, the other members conclude that the interest of the member is not a material personal interest, they may so resolve in which case the member in question may participate in the consideration of or vote on the application. The disclosure and subsequent resolution must be minuted in the records of the meeting.
8. Without in any way limiting the above requirements, a member may not be an applicant or act as an agent or consultant to an applicant on an application. A member must be careful to avoid the appearance of any such relationship. Subject to the foregoing, a member may provide general guidance in relation to funding criteria, past decisions on applications and reports or submissions funded by the Panel

provided the request for guidance is made by an applicant or potential applicant through the Executive Officer of the Panel.

### **MEETING RULES**

The Panel is required to meet and regulate its meetings in accordance with the National Electricity Rules (clause 8.10). The following rules and practices have been adopted by the Panel;

9. The Panel must meet at least quarterly in accordance with these guidelines for the regulation and conduct of meetings of the Panel.
10. A quorum for a meeting consists of the Chairperson and two other members present i.e. physically present or present by phone or video. The Chairperson may determine that a member or members may form part of the quorum for a meeting held by telephone conference, closed circuit television or other means provided that the member who speaks on any matter at the meeting can be heard by other members.
11. The Panel may meet in person or by telephone or video hook-up where each member can hear the other members.
12. The Chairperson shall convene meetings for the dispatch of the business of the Panel and must convene a meeting where requested by two members. At least two days notice of a meeting shall be given to all members (in person or to the address notified to the Chairperson for that purpose) unless all members agree to a shorter period.
13. A decision of the Panel requires a majority vote. As provided in the National Electricity Rules, the Chairperson shall, in addition to his or her deliberative vote, have the casting vote in all decisions. A member may abstain from a decision or vote on a matter.
14. Where practicable, the Chairperson shall circulate an agenda prior to a meeting. Members may submit matters for inclusion on the agenda.
15. If all the members of the Panel have signed, or approved by email or fax sent from the member to the Chairperson, a document containing a statement that they are or are not in favour of a resolution or decision of the Panel set out in the document, a resolution or decision in those terms shall be deemed to have been passed or made at a meeting of the members held on the day that the document was signed or approved, and at the time that the document was last signed or approved. If the document was signed or approved on different days, the resolution or decision shall be deemed to have been made on the day of last signature or approval and at the time at which the document was last signed or approved.

### **MINUTES OF MEETINGS**

16. Minutes are to be prepared of business conducted at meetings of the Panel and:
  - (a) are to record the decisions of the Panel including in the case of approval of an application, the amount approved and the terms of any condition, and in the case of a refusal, the reasons for refusal of the application;
  - (b) where requested by a member, the minutes shall record any dissent, abstention, significant concern, or specific comment of that member on business at a meeting;
  - (c) are to record details of any conflicts of interest declared at the meeting.
17. Draft minutes are to be circulated to members for preliminary approval as soon as practicable following a meeting. A revised draft, taking account of comments

received from members, is to be submitted to the following meeting for formal approval.

18. Applicants will be advised of the results of their applications as soon as practicable following the obtaining of preliminary approval of the draft minutes. If an application is rejected, the reasons for the rejection will be provided.
19. Where decisions are made by the Panel at a meeting conducted by telephone:
  - (a) before a decision taken at the meeting is acted on, and unless the Panel otherwise decides, the terms of the decision, and where practicable the minutes of the meeting, shall be given in writing to all members for confirmation;
  - (b) the minutes of a telephone meeting of the Panel are to be considered at the next meeting of the Panel in conjunction with any other minutes on the agenda.

#### **APPLICATIONS FOR FUNDING – APPROVAL PRACTICE**

20. An application for which urgent approval is sought must be provided to the Panel's Executive Officer at least three business days prior to the day on which the applicant expects the Panel to consider the application. The Executive Officer will prepare a report on the application and will forward the report and the application to the Panel at least two business days prior to the day on which the applicant expects the Panel to consider the application. If there is any delay in the application and report being received by a member of the Panel, the Panel may defer consideration of the application to another date.
21. Where an application is dealt with at a meeting, the terms of the decision on the application should be agreed at the meeting so it can be acted upon. If an application cannot be determined at a meeting, agreement is to be reached on further action required, e.g. delegation, or where the issue requires consideration by all members, a decision by email vote.
22. An approval or condition of approval for an application may not be varied except by or under a decision of the Panel.
23. Decisions on applications for funding are made in accordance with the following process:
  - A. The Executive Officer will prepare a report on each application. The report will summarise the application, provide other relevant information, such as possible instalment clause conditions, and review the eligibility of the applicant and the project. The report will be provided to the Panel with the application for funding.
  - B. The eligibility of the applicant will be determined by reference to the Panel's approved funding criteria and application guidelines. The criteria and guidelines are based on the relevant clauses of the NER and have been the subject of consultation under the Rules. The eligibility of the applicant involves consideration of the following issues:
    - a. To be eligible to receive funding an applicant must be in a position to represent the common interests of a reasonable number of end-users. For this purpose end-users are:
      - i. the direct members of an applicant, where the applicant body is a recognised organisation representing end-users;

- ii. members of organisations supporting an application, where those organisations are recognised as representing end-users;
    - iii. end-users whose interests are likely to be affected in common with the direct members;
    - iv. in the case of a non-representative body that is an applicant, such as a consultant or a single end-user, end-users in whose interest the applicant proposes to carry out a project.
  - b. The Panel's preference is to fund end-user organisations but applications by non-representative bodies will be considered.
  - c. The reasonableness of the number of end-users whose interests are represented will be considered in the context of a particular application, having regard to:
    - i. the relationship of that number to the overall number of end-users, e.g. some applications will be in the interests of all end-users or a very large portion of domestic and/or business end-users;
    - ii. the implications for the efficiency and effectiveness of the national electricity market of the interests in question of those end-users;
    - iii. the special needs or circumstances of those end-users, e.g. retirement villages.
  - d. The applicant may be:
    - i. a representative organisation acting on behalf of a reasonable number of end-user members;
    - ii. an organisation or person acting in the interests of a reasonable number of end-users.
    - iii. an organisation or person applying to carry out a project or commission for or on behalf of the Panel.
  - e. The ability of the applicant to carry out and complete the project with an acceptable standard of proficiency. This is not stated in the funding criteria and guidelines but is an issue the Panel considers in order to ensure its funds are used effectively.
- C. The eligibility of the project is also determined by reference to the Panel's approved funding criteria and application guidelines. A project should employ end-user advocacy as a means of achieving its ends. The eligibility of the project involves consideration of the following issues:
- a. Eligible projects are those that address issues that relate to the efficiency and effectiveness of the national electricity market or of the retail electricity market where that market or an aspect of that market affects the efficiency and effectiveness of the national electricity market.
  - b. Eligible projects must:
    - i. relate to the development, design or policy behind the national electricity market, its regulations, rules and codes that may apply from time to time;

- ii. relate directly to:
    - the responsibilities of the Australian Energy Market Commission (AEMC) or the National Electricity Market Management Company (NEMMCO) under the National Electricity Law and the Rules; or
    - the monitoring, investigation or enforcement responsibilities of the Australian Energy Regulator (AER) or functions of the AER relating to the exemption from registration of network service providers under the National Electricity Law and the Rules; or
  - iii. have implications for the national electricity market as a whole.
- D. Compliance with the requirements of the Panel's application form will be determined. This involves consideration of:
- a. The representative nature of the applicant:
  - b. The description of the project - the objectives and scope of the project for which funds are sought must be described to show it is eligible under criteria 2.1, 2.2 and 2.3. The project should describe:
    - i. the title and description of the project;
    - ii. the study or other work to be produced including how and when it will be published;
    - iii. the plan for communication or advocacy to the appropriate authority or decision maker;
    - iv. benefits to end-users.
  - c. The work program and budget should be outlined including:
    - i. the budget and any related income;
    - ii. the timetable for the project by key elements including the expected date of completion of the project;
    - iii. the time and cost of each consultant or staff to be engaged in the project, including appropriate quotations for the work;
    - iv. the actual or required qualifications and capability of consultants and/or professional staff who will carry out the specified work;
    - v. the cost of disbursements such as travel, conference rooms, printing and telecommunications;
    - vi. the cost of in kind support including project management and supervision by the applicant and how the inclusion of in kind support meets criterion 2.4;
    - vii. the proportion of budgeted funds sought, the timetable and milestones for which progress payments are to be made;
    - viii. the arguments in support of any application for waiver in terms of criterion 2.4;
  - d. The application should identify the desired outputs and outcomes for the project;

- e. Preparing and submitting applications - the responsibility of submitting applications is with the applicant. Applicants or prospective applicants may seek assistance from the Panel's Executive Officer.
- E. The Panel will assess the funds available for allocation to projects by reference to the calculation of funds available provided to each meeting of the Panel.
- F. The priority of the project will then be determined by considering the following factors:
- a. The potential impact of the project outcome as opposed to its cost. This involves consideration of the desired outcome of the project and the degree of importance to end-users of the outcome being achieved in comparison with its cost; e.g. the dollar value of the outcome or the significance of the outcome to the future of the national electricity market. The 'value' of the outcome then needs to be assessed in relation to the cost of the project, e.g. a project that may achieve a small benefit for a few end-users at a relatively high cost would not rank as high as one of a comparable cost that could be a major benefit for many end-users.
  - b. The importance of the issue to end-users. This requires an assessment of issues such as the number of end-users who will benefit from a successful outcome to the project, as well as the importance/significance of a successful outcome to those who will be affected by the project.
  - c. The likelihood the project will influence decision makers. To be ranked highly, the outcome of the project must be capable of influencing the relevant decision maker. Thus an outcome which directly addresses the issues being considered by the decision maker will rank highly.
  - d. The likelihood the project will increase diversity of end-users' views on the issue. Diversity is a key objective for the Panel. Clause 8.10.6 of the National Electricity Rules provides that "there should be diversity in the allocation of funding with respect to the number of end-users represented, the nature of the interests represented and the issues which are the subject of the application for funding". A project that will not add to diversity would rank lower than one that increases diversity.
  - e. The importance that end-users' views are heard on the issue. To an extent this factor overlaps with the first two factors – potential impact and importance. However, as the prime objective of funding support for end-users is to increase end-user input into consultation processes in the electricity market, it is an issue that must be specifically considered.
  - f. In relation to requests for funding of staff positions, the effect of the project on the capacity of the applicant to advocate in future on behalf of end-users.
  - g. By ranking applications according to the prioritisation criteria set out above, the Panel identifies the applications that it can and should fund. This may result in a situation where an application which qualifies in terms of the eligibility of the applicant and the project does not receive funding because there are other applications before the Panel which are of a higher priority. The Panel uses the following table for ranking purposes:

Potential impact of the project outcome as opposed to its cost	high medium low
Importance of the issue to end-users	
Likelihood the project will influence decision makers	
Likelihood the project will increase diversity of end-users' views on the issue	
Importance that end-users' views are heard on the issue	

- G. The Panel may attach conditions to the approval of an application where considered to be necessary in order to make express a particular aspect of the project approved, such as the scope, timetable or other aspect of implementation, or to make a project come within the funding criteria. Any condition precedent to a funding agreement must be met before the funding agreement is entered into and any other relevant conditions are given effect in the agreement.