

Terms of Reference

NEM2025 Participant Fee Consultative Committee

1 Application

These Terms of Reference (ToR) govern the AEMO NEM2025 Participant Fee Consultative Committee (PFCC) purpose, appointment, composition and operation.

2 Background

In September 2022, AEMO released its final determination that declared the NEM2025 Reform Program a declared NEM project under clause 2.11.1(ba) of the National Electricity Rules (NER or the Rules).

The NEM2025 Reform Program involves changes to key elements of the energy market design. This will facilitate Australia's transition towards a modern energy system capable of meeting the evolving wants and needs of consumers, as well as enable the continued provision of the full range of services to customers necessary to deliver a secure, reliable and lower emissions electricity system at least-cost.

To fund this investment, the Rules allow for AEMO to determine the structure of an additional fee to recover costs for the NEM2025 Reform Program until the next Participant fee structure determination. This includes determining the registered participants that will be charged the fee, as well as the start date for recovery and the period or periods over which recovery will occur.

The PFCC has been established as one key mechanism to collaborate and engage with industry and consumers on this consultation. AEMO will work collaboratively with the PFCC to refine its analysis of potential options for the fee and period or periods for recovery of its costs associated with the NEM2025 Reform Program, and we will gather broader stakeholder input on options through our formal consultation process.

AEMO is open to input and feedback from all stakeholders on potential alternative options – there is no preferred option at this stage.

Further detailed information on AEMO's consultation and the NEM2025 Reform Program more generally may be accessed here:

- [Structure of Participant Fees for AEMO's NEM2025 Reform Program Consultation Paper.](#)
- [Structure of Participant Fees for AEMO's NEM2025 Reform Program Engagement Plan.](#)
- [Declared NEM Project – NEM 2025 Reform Program](#)
- [NEM2025 Reform Program.](#)

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3 Role of the PFCC

AEMO has set an engagement goal as part of this consultation, which is to collaboratively develop a fee recovery mechanism for the NEM2025 Reform Program that is considered by stakeholders and AEMO to be reasonable, and that is in accordance with the NEL and NER. AEMO will make the final decision on the fee structure mechanism.

Consistent with our Engagement Plan for the Structure of Participant Fees for AEMO's NEM2025 Reform Program, the scope of our engagement with the PFCC (as well as with all other stakeholders) and the associated consultation will include:

- An appropriate fee structure mechanism to recover the costs for the NEM2025 Reform Program until the next general participant fee structure determination.
- The start date for recovery and the period or periods over which recovery will occur.

The scope will not include:

- The amount to be charged. The actual amount charged will be determined on an annual basis, via the AEMO budgeting process. AEMO engages with stakeholders throughout this annual process, via the Financial Consultative Committee (FCC).

We will involve the PFCC at the 'collaborate' level of the International Association of Public Participation (IAP2) spectrum during our consultation on AEMO's Structure of Participant Fees for AEMO's NEM2025 Reform Program. Members of the PFCC are expected to work constructively, openly and collaboratively with AEMO and one another to achieve this engagement goal.

The role of the PFCC has two core parts:

- Work collaboratively with AEMO on development and assessment of potential options for recovery of costs as part of the consultation, including working with AEMO and each other to identify and propose alternative options as appropriate.
- Provide input on the start date for recovery and the period or periods over which recovery will occur.

The PFCC will not be required or requested to provide written submission/s to the consultation. Any formal or written submissions provided will be at the discretion of individual Members and their respective organisations.

To ensure all interested person have access to all relevant information for the consultation, all minutes of the PFCC and documents or presentations provided to or by the Members for the purpose of the PFCC will be made available publicly by AEMO as part of the consultation.

In addition, AEMO will offer a range of opportunities for stakeholders to engage with us and communicate about this consultation through several channels, as outlined in its [Engagement Plan](#). AEMO welcomes a wide variety of input and views as part of this consultation and welcome the opportunity to hold one-on-one discussions with impacted stakeholders as required.

4 PFCC Composition

The PFCC will operate under the guidance of this ToR.

AEMO will Chair and provide secretariat support for the PFCC, including provision of meeting minutes, action items, and a register of key documents if appropriate.

4.1 Number of Members

The PFCC will have up to 11 Members, excluding AEMO representation.

4.2 Composition

The PFCC must be representative of a diverse range of industry and consumer stakeholders. Participation in the Committee is open to suitably qualified nominations from market participants, consumer representatives and three other participants that are not members of the peak bodies invited to provide nominations. The intention is that the PFCC will include representatives from:

- One to two nominees from the Australia Energy Council (AEC) membership;
- One to two nominees from the Energy Networks Australia (ENA) membership;
- One nominee from the Clean Energy Council (CEC) membership;
- One representative from Energy Consumers Australia (ECA); and
- Up to two consumer advocates, associated with organisations that represent a broad cross-section of consumers and their interests (e.g. individual consumers, businesses and major energy users, customers in vulnerable circumstances).

AEMO will also select up to three Members from self-nominated participants that are not constituent Members of the above peak bodies/consumer groups.

AEMO Members of the Committee will include:

- Executive General Manager Reform Delivery;
- Relevant Executive Leadership Team members (e.g. Finance);
- Group Manager Reform Development & Insights;
- Manager Reform Roadmap & Pricing; and
- Stakeholder Engagement Lead – Reform Delivery.

Members must:

- have an understanding of financial, pricing and/or regulatory frameworks related to either AEMO's Participant Fees or the energy sector more broadly;
- have a broad and strategic understanding of the NEM2025 Reform Program;
- work collaboratively with other Committee participants;
- if a representative from an industry association or consumer group, represent the views of members of their associations and groups, and be empowered to speak on their behalf;
- commit to actively engage with the membership of their respective associations and groups on the consultation, and faithfully represent those views back to the PFCC.

4.3 Appointment

Members are appointed by AEMO, initially following a call for Expressions of Interest.

Expressions of Interest must include information about the requisite qualifications and experience required to become a Member, the nomination and selection process.

AEMO reserves the right to directly appoint Members to the PFCC without calling for Expressions of Interest if considered appropriate.

Acceptance of appointment as a Member is deemed to be acceptance by the Member of these ToR (as amended from time to time).

4.4 Term

The PFCC will initially run for the length of the consultation, indicatively to August 2023.

The role of the PFCC will be reviewed by AEMO at the end of this period, and AEMO will consider whether the PFCC should continue as a standing committee for other Participant fee consultations.

4.5 Termination

A Member who in AEMO's reasonable opinion behaves improperly, inconsistently with AEMO's Code of Conduct or this ToR, or does not contribute sufficiently to the work of the PFCC may be terminated by AEMO, including in accordance with the Member Interest Protocol.

4.6 Vacancies

If a Member resigns, is terminated, or is otherwise unable to carry out their role as a Member during their term, AEMO may:

- appoint a replacement directly, including from amongst unsuccessful applicants from a previous Expression of Interest process;
- call for an Expression of Interest for a replacement; or
- not replace the Member.

4.7 Payment for time

AEMO may provide remuneration for Members who are associated with consumer advocacy and consumer groups, for pre-approved work performed for the PFCC, at a rate of \$250.00 per hour, excluding GST.

AEMO recognises that many consumer organisations are independently funded and some Members may choose to participate without the payment of sitting fees or for the fees to be paid to their representative organisation. The Expression of Interest will ask applicants to indicate whether they elect to be paid sitting fees.

5 Meetings and Governance

5.1 Frequency and length of meetings

The intention is for three or four virtual meetings of approximately 2 hours each during the consultation (indicatively between February and August 2023).

AEMO may schedule additional meetings if required.

Meeting times and telephone and video conference information will be made available by AEMO to Members before each meeting.

5.2 Meeting preparation

In order to meaningfully contribute to the PFCC's work, Members are expected to:

- attend formal meetings and workshops;
- prepare for meetings;
- contribute to the development and review of any material produced through the PFCC between meetings; and
- engage in out-of-session discussions (formal and informal) as required.

It is anticipated that Members will require a contribution of approximately 2-3 hours prior to each meeting.

5.3 Chair and secretariat

AEMO will perform the role of Chair and secretariat for all meetings.

5.4 Agenda and minutes

AEMO will provide an agenda, including materials for review, at least one week prior to each PFCC meeting.

Minutes of each meeting will be prepared and published by AEMO and will faithfully summarise and represent the discussion held. Confidential matters raised at meetings will be redacted from the minutes.

5.5 Proxies

Proxies are to be used only when absolutely necessary (e.g. in case of illness). Involvement of proxies at meetings will be at AEMO's discretion.

6 AEMO commitments

AEMO recognises that Members will need to be appropriately supported in order to effectively fulfil their intended role. AEMO will:

- work collaboratively with the PFCC to develop meeting agendas;
- provide written material and analysis that is necessary to support productive discussion and consideration of issues by the PFCC;
- provide secretariat support to the PFCC, including issuing meeting invitations and agendas, and producing and distributing minutes of meetings;
- consider and respond to requests for information in a timely manner;
- ensure appropriate information flow and engagement between the PFCC and other relevant AEMO committees/bodies; and
- provide support at the AEMO senior executive level through the Executive General Manager, Reform Delivery.

7 Conflict of Interest

Duties or interest as a Member

A duty or interest arises when a Member participates in an activity or acquires another interest or an interest that jeopardises, could jeopardise or could be perceived to jeopardise, their judgement, objectivity or independence as a Member.

Conflicts of interest or duty or business dealings or personal relationships which create an actual, potential or perceived conflict with a Member's obligations to the PFCC must be avoided.

Each Member must be aware of, and is responsible for, potential conflicts between (directly or indirectly):

- the role and purpose of the PFCC and that Member's duties as a Member; and
- the Member's personal or external business interests, or their duties to any third party.

Each Member must avoid placing themselves in a position that may lead to:

- an actual or a potential conflict of interest or duty; or
- a reasonable perception of a conflict of interest or duty.

A Member must not improperly use:

- their position as a Member; or
- information acquired through their position as a Member,
- for personal gain or gain of someone else or to compete with, harm the work of, or inappropriately influence the PFCC.

Protocol

Each Member must comply with the Member Interest Protocol in respect of any actual or perceived conflict of interest.

A draft of the Member Interest Protocol will be provided with the Expression of Interest and may be updated by AEMO from time to time after consultation with the Committee.

8 Confidentiality

Given the PFCC's function is associated with an open Rules consultation process and AEMO's statutory obligation to protect confidential information, AEMO will not share confidential information with the PFCC.

All information provided to Members of the PFCC or provided by Members to the PFCC will also be made available publicly as part of the consultation.

However, if a Member receives or accesses confidential information in their capacity as a Member of the PFCC, the Member must not disclose the confidential information to any person except AEMO and must only use the confidential information for the purpose of the PFCC.

Members must consult with the Chair of the PFCC before making public comment on the operation or outcomes of meetings of the PFCC publicly including in the media or on social media, unless referencing the minutes or other documentation of the PFCC that has been publicly disclosed by AEMO as part of the consultation.

9 Approval and amendment of these Terms of Reference

These ToR:

- were prepared and approved by AEMO in February 2023; and
- will be reviewed by appointed Members following their appointment.

AEMO may revise these ToR at any time after consultation with Members. AEMO will advise the PFCC prior to making any changes.

10 Definitions

AEMO	Australian Energy Market Operator Limited and includes its subsidiaries
Chair	Means the chairperson of the PFCC.
Consultation	Means the Structure of Participant Fees for AEMO’s NEM2025 Reform Program consultation .
Member	Means a Member appointed to the PFCC.

11 Related AEMO policies and procedures

Reference	Title	Location
	AEMO Code of Conduct	

12 Version control

Version	Effective date	Comments
1	23 February 2023	Initial published version