

Charter about advisory groups

20 December 2010

Introduction

As required by section 19 of the Electricity Industry Act 2010 (Act), this charter about advisory groups (Charter) sets out:

- (a) how the Electricity Authority (Authority) will establish and interact with advisory groups appointed under sections 20 and 21 of the Act; and
- (b) when and how the Authority will consult advisory groups on material changes to the Electricity Industry Participation Code 2010 (Code); and
- (c) how advisory groups must operate, including provisions concerning procedure.

The Security and Reliability Council (SRC) is a special type of advisory group appointed in accordance with section 20 of the Act. As such this Charter has been divided into two parts:

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- (a) Part 1 applies to the SRC; and
- (b) Part 2 applies to advisory groups appointed under section 21 of the Act (Advisory Groups) (i.e. all advisory groups other than the SRC).

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Part 1 – Security and Reliability Council

1. Purpose of Part 1 of this Charter

- 1.1. In accordance with section 19 of the Act, Part 1 of this Charter presents the Authority's policy on the SRC.
- 1.2. The terms of reference for the SRC set out the "contract" between the Authority, the SRC, and the members of the SRC. The terms of reference are intended to specify all governance and operational requirements for the SRC. If they are ambiguous or inconsistent then guidance should be taken from this Charter.
- 1.3. The terms of reference for the SRC are materially different from the terms of reference for Advisory Groups established by the Authority under section 21 of the Act.

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2. Establishment of the SRC

- 2.1. Section 20 of the Act requires the Authority to appoint the SRC to provide independent advice to the Authority on:
 - (a) the performance of the electricity system and the system operator; and
 - (b) reliability of supply issues.
- 2.2. The SRC is intended to provide the Authority with the information and experience of parties directly affected by the system operator's decisions and actions, and also to draw on the wisdom and expertise of senior industry personnel.
- 2.3. Section 20 of the Act requires the Authority to ensure that the members of the SRC have between them appropriate knowledge and experience of the electricity industry to provide advice to the Authority, but members need not be independent persons.
- 2.4. The Authority may not appoint a person as a member of the SRC unless the Authority has first publicised an invitation for nominations for membership and considered any nominations received.
- 2.5. While members are not required to be independent persons, the Authority requires that prospective members must:
 - (a) be able to provide impartial advice;
 - (b) have high integrity and a sense of public duty; and
 - (c) have a high level of credibility within the electricity industry, such that they can speak with a considerable level of authority on performance and reliability issues.

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2.6. The Authority will consider the following criteria when selecting members for the SRC:

(a) a nominee's ability to provide impartial advice;

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(b) a nominee's knowledge and experience in respect of the performance of the electricity system and the system operator;

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(c) a nominee's knowledge and experience in respect of reliability of supply issues;

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(d) a nominee's knowledge of the economic and other impacts on participants from the system operator's decisions and actions in relation to the electricity system and reliability of supply; and

(e) the members of the SRC as a whole must include a balance of knowledge regarding the long-term interests of consumers, power systems engineering and analysis, generation and demand-side management technologies, and regulatory and economic analysis.

2.7. The Authority will appoint an independent chairperson to the SRC. To qualify as an independent chairperson a nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest such as could arise from current involvement at a senior level in an industry, participant organisation or with parties that act as advisors to such organisations.

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2.8. The chairperson has no media relations role and may not speak on behalf of the Authority in regard to matters on which the SRC has advised, or is advising, the Authority. These responsibilities lie with the Authority.

2.9. The Authority will consider remunerating people or organisations that would be financially disadvantaged by their participation in the SRC.

3. Interactions between the SRC and the Authority

3.1. The Authority expects the SRC to take a strategic view, utilising the knowledge and experience of its members.

3.2. The Act states that the SRC's function is to advise the Authority. The Act does not provide for the SRC to have Code-making capability, or for the SRC's decisions or deliberations to be binding. Similarly, the Act does not provide for the SRC to have directing rights over the system operator or other industry participants, or to take on responsibilities beyond that of advisor to the Authority (such as a 'spokesperson' type role on security of supply).

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3.3. Given the SRC's function, the Authority recognises that advice it receives from the SRC relating to the system operator is more likely than not to be of value to the system operator. Therefore, the Authority will pass on the SRC's advice to the system operator and/or any other parties involved, unless confidentiality prevents this.

- 3.4. When advising on the performance of the electricity system and the system operator, the SRC's focus will be both forward and backward-looking. As part of its function the SRC will be requested to review the system security assessments prepared by the system operator, and review the system operator's performance against its security of supply functions.
- 3.5. When advising on reliability of supply issues, the SRC will be expected to place a greater emphasis on looking forward, usually with a focus on the medium (1-5 years) to longer term (5-10 years). This would be the case, for example, when reviewing the system operator's annual security of supply assessments.
- 3.6. The SRC must avoid duplicating the Authority's role in assessing the day-to-day performance of the electricity system and the system operator, such as receiving and reviewing regular reports from the system operator required under the Code and the system operator service provider agreement.
- 3.7. The SRC will receive six-monthly reports on the performance of the electricity system and system operator. Similarly, it will consider the system operator's medium- to longer-term forecasting of security of supply no more than once every six months.
- 3.8. From time-to-time the SRC may be required to advise and/or assist the Authority on specific performance and reliability issues.

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4. Material amendments to the Code and market-facilitation measures

- 4.1. As implied by the deliberate use of 'Council' in its name, the SRC is not the same as the Advisory Groups the Authority intends establishing under section 21 of the Act.
- 4.2. The Authority intends for Advisory Groups to provide recommendations on developing the Code and market-facilitation measures, including in regard to matters affecting the system operator and reliability of supply.
- 4.3. Despite clause 4.2 the Authority may from time-to-time seek the SRC's advice on Code amendment proposals. Alternatively, the SRC's advice may indicate the need for Code amendments.

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5. Operation of the SRC

- 5.1. The Authority will appoint a senior staff member to assist the SRC and to act as the Authority's representative. The Authority's representative is not a member of the SRC.
- 5.2. Authority staff will administer the SRC, undertake analysis for it, and arrange external expertise at the Authority's sole discretion, although the SRC may recommend to the Authority resources, external to the Authority, which the SRC considers to be necessary to perform its function.

- 5.3. SRC members are appointed to contribute their knowledge and experience on issues brought before them. In the normal course of events, SRC members are not expected to carry out original research and analysis themselves.
- 5.4. The Authority reserves the right to terminate any appointment to the SRC where it is considered the appointee, by his or her conduct (e.g. frequent unapproved absences), is not contributing effectively to the SRC.
- 5.5. SRC members can resign at any time by written notice to the Authority.

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Part 2 – Advisory Groups

1. Purpose of Part 2 of this Charter

- 1.1. In accordance with section 19 of the Act, Part 2 of this Charter presents the Authority's policy on advisory groups appointed under section 21 of the Act (Advisory Groups) (i.e. all advisory groups other than the SRC).
- 1.2. The terms of reference for each Advisory Group set out the "contract" between the Authority, the Advisory Group, and the members of each Advisory Group. In each case the terms of reference are intended to specify all governance and operational requirements for the Advisory Group. If they are ambiguous or inconsistent then guidance should be taken from this Charter.

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2. Establishment of Advisory Groups

- 2.1. The Authority is establishing Advisory Groups, under section 21 of the Act, to provide independent advice to the Authority on the development of the Code and on market facilitation measures.
- 2.2. An Advisory Group is expected to undertake appropriate investigation and analysis of the issues assigned to it, and make recommendations on those matters to the Authority Board (Board) to assist the Authority to meet its statutory objective.
- 2.3. Advisory Groups are strongly encouraged in their terms of reference to reconcile divergent views and interests in ways consistent with the Authority's statutory objective and Code amendment principles, and in a manner that achieves wider stakeholder 'buy in'.
- 2.4. Advisory Groups will report to the Board and the Board will decide Advisory Groups' terms of reference and membership criteria, and will select the chairperson and members of the Advisory Group.
- 2.5. The Authority will consult interested parties on the terms of reference for each Advisory Group prior to calling for nominations.
- 2.6. The Authority intends to establish three standing Advisory Groups: the Retail Advisory Group, the Transmission Advisory Group, and the Wholesale Advisory Group.
- 2.7. The Authority may also from time-to-time establish ad-hoc Advisory Groups to address significant issues on which the Board wishes to receive advice and recommendations directly from people with more specialist knowledge than is typically available on standing Advisory Groups. The provisions in this Charter apply equally to ad-hoc and standing Advisory Groups.

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2.8. In accordance with section 21 of the Act, every Advisory Group must include members who the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues, but members need not be independent persons.

2.9. The Authority will appoint the members of each Advisory Group against published membership criteria. In making these appointments the Authority will be seeking:

(a) a balanced membership across stakeholders and interest groups;

(b) strategic, commercial and regulatory expertise;

(c) knowledge and experience across the relevant component of the electricity supply chain; and

(d) an ability to contribute effectively to the Advisory Group's tasks.

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2.10. The Authority will appoint an independent chairperson to each Advisory Group. To qualify as an independent chairperson a nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest such as could arise from current involvement at a senior level in an industry, participant organisation or with parties that act as advisors to such organisations.

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2.11. The chairperson has no media relations role and may not speak on behalf of the Authority in regard to matters on which the Advisory Group has advised, or is advising, the Authority. These responsibilities lie with the Authority.

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2.12. The Authority will consider remunerating people or organisations that would be financially disadvantaged by their participation in an Advisory Group.

3. Consulting Advisory Groups on material amendments to the Code and market-facilitation measures

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3.1. The Authority has statutory responsibility for the Code, and for undertaking market-facilitation measures and monitoring the operation and effectiveness of market-facilitation measures. The Board at all times retains final responsibility for any decisions on amendments to the Code and on market-facilitation measures, as well as for consulting on these matters.

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3.2. Advisory Groups will be charged with making recommendations to the Board on the issues assigned to them via their terms of reference and work plans and also, when requested by the Board, to advise it on priorities for developing the Code and market-facilitation measures.

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3.3. Any Code amendment proposals or market-facilitation measures recommended by an Advisory Group must be consistent with the Authority's statutory objective. Under section 32(1) of the Act, Code amendment proposals must also be necessary or desirable to promote any or all of the following:

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(a) competition in the electricity industry;

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- (b) the reliable supply of electricity to consumers;
- (c) the efficient operation of the electricity industry;
- (d) the performance by the Authority of its functions;
- (e) any other matter specifically referred to in the Act as a matter for inclusion in the Code.

3.4. All Advisory Groups must adhere to the Authority's Code amendment principles when making Code amendment recommendations.

3.5. Subject to their terms of reference and work plans and the Board's right to provide guidance to Advisory Groups at any stage of the process, Advisory Groups will (among other things):

- (a) decide the extent and type of analysis they undertake and feedback they seek, so as to be in a position to make recommendations to the Board; and
- (b) decide the content of discussion papers on matters identified in either their terms of reference or their work plans (noting that the Authority is responsible under the Act for consulting with interested parties on Code amendment proposals in accordance with the consultation requirements of section 39 of the Act, and that any stakeholder feedback sought by Advisory Groups on discussion papers canvassing issues and options for developing the Code and/or market-facilitation measures is not consultation required under the Act (hence the deliberate use of 'discussion papers' as opposed to 'consultation papers')).

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3.6. Advisory Groups are strongly advised by their terms of reference to provide consensus recommendations to the Board within timeframes agreed with the Authority.

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3.7. If an Advisory Group is unable to reach consensus on a matter under consideration within an agreed timeframe, the Authority may request the Advisory Group to conclude its deliberations and report the differing views to the Board for consideration. The Board expects feedback from the Advisory Group which addresses the views of the minority as well as those of the majority. This feedback should explain how each view is consistent with the Authority's statutory objective and Code amendment principles (as published in Part 1 of the Authority's consultation charter).

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3.8. The Board will make the decision whether or not to consult on Advisory Group recommendations on Code amendment proposals or market-facilitation measures. The Board may, at its sole discretion, seek Advisory Group feedback on submitters' comments.

3.9. As noted above, the Authority has sole responsibility for amending the Code and for market-facilitation measures. The Authority's final decision will reflect the conclusions it reaches and may differ from those preferred by a particular Advisory Group.

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3.10. ~~If the Authority decides further work is required on a Code amendment proposal or a market facilitation proposal, the Authority may choose to send the advice back to the relevant Advisory Group to be reworked, or it may establish a new Advisory Group to consider the issue, or seek advice from any other party it wishes, including Authority staff and independent experts.~~

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4. Other interactions between Advisory Groups and the Authority

4.1. The Authority will develop work plans for each Advisory Group and will discuss them with the Advisory Group's chairperson before presenting them to the Advisory Group for consideration. The Authority will actively engage with the Advisory Group when setting work plan priorities, and will seek to achieve 'buy-in' to the priorities from a majority of the members.

4.2. The Authority will hold Advisory Groups accountable to agreed work plans by:

(a) monitoring the performance of the Advisory Groups and their members and assessing progress against the Advisory Group's work plan;

(b) requiring the chairperson of each Advisory Group to make half-yearly reports of the Advisory Group's progress against its work plan to the Authority; and

(c) receiving feedback on the Advisory Group's analysis and recommendations and its decision-making processes.

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4.3. The Authority may at any stage request progress reports from Advisory Groups and the Authority has the right to provide guidance to Advisory Groups at any stage, except on the content of their recommendations.

4.4. The Authority may at any stage request or procure additional analysis or shift consideration of issues to other parties, such as other Advisory Groups, Authority staff, or independent experts.

5. Operation of Advisory Groups

5.1. The Authority will appoint a senior staff member to assist each Advisory Group and to act as the Authority's representative. The Authority's representative is not a member of the Advisory Group.

5.2. Authority staff will administer the Advisory Groups, undertake analysis for them, and arrange external expertise at the Authority's sole discretion.

5.3. Advisory Group members are appointed to Advisory Groups to contribute their knowledge and experience on issues brought before them from their work plan. In the normal course of events, Advisory Group members are not expected to carry out original research and analysis themselves.

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- 5.4. The Advisory Group chairperson is responsible for ensuring that the views of the Advisory Group are captured in papers to the Board regarding all matters dealt with by the Advisory Group.
- 5.5. An Advisory Group will decide who, in addition to the chairperson, will represent it at Authority Board meetings when its reports are considered by the Board.
- 5.6. The Authority reserves the right to terminate any appointment to an Advisory Group where it is considered that the appointee, by his or her conduct (e.g. frequent unapproved absences), is not contributing effectively to the Advisory Group.
- 5.7. Advisory Group members can resign at any time by written notice to the Authority.

6. Interaction with Working Groups

- 6.1. The primary role of Working Groups is to provide technical and specialist input to the work of Advisory Groups. The Authority may also establish Working Groups to assist with an Advisory Group's workload. Working Groups can be standing or ad-hoc, and may be functional or project specific, depending on the Advisory Group's requirements.
- 6.2. The Authority will establish Working Groups in the following manner:
 - (a) the Advisory Group and the Authority representative on it will decide jointly whether to form a Working Group and, if so, its terms of reference and membership criteria; and
 - (b) the Advisory Group chairperson and the Authority representative on it will decide jointly the Working Group's chairperson and membership, having due regard to input received from Advisory Group members.
- 6.3. Each Working Group will report its analyses and recommendations to the Advisory Group involved in establishing it. A Working Group will decide who, in addition to its chairperson, will represent it at Advisory Group meetings when its reports are considered.

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