

# Hearing Commissioner Code of Conduct

Effective April 16, 2018

## Preamble

This code of conduct applies to hearing commissioners of the Alberta Energy Regulator (AER). Hearing commissioners are responsible for the interpretation and application of the *Responsible Energy Development Act (REDA)* and other statutes and regulatory instruments administered by the AER in the performance of their adjudicative and alternative dispute resolution functions.

This code reflects the hearing commissioners' commitment to values and guiding principles that uphold the integrity and reputation of the role of a hearing commissioner. All can expect hearing commissioners to behave in accordance with the spirit and intent of this code.

In addition to this code, full-time hearing commissioners are subject to the AER's *Conflict of Interest Policy and Procedures*. The conflict policy

- requires all AER directors, officers, full-time hearing commissioners, and employees to conduct themselves impartially in carrying out their duties;
- prohibits people in those positions from acting in self-interest or furthering their own personal interests by virtue of their positions or through carrying out their duties;
- prohibits people in those positions from having a direct or indirect monetary or financial interest (including securities) in issuers or entities regulated by the AER, unless those interests are held in a blind trust arrangement that complies with the *Conflict of Interest Act*;
- explicitly deems ownership of securities or financial interests of entities regulated by the AER (defined as “prohibited assets”) to be a conflict of interest and requires divestiture of those assets within two years from the date engagement with the AER unless otherwise specified by the AER's Ethics Committee; and
- requires people in those positions to disclose real and potential conflicts of interest, including ownership of prohibited assets.

In regards to the conflict policy, even though part-time hearing commissioners are not included in the definition of “hearing commissioner” in that policy, part-time hearing commissioners are still subject to it as it pertains to the provision of services in relation to a proceeding or other AER project or initiative. The extent to which the conflict policy is applicable is determined by the chief hearing commissioner of the AER.

Further, as per Order in Council 085/2018, the chief hearing commissioner is a senior official and a designated senior official for the purposes of the *Conflicts of Interest Act*. The provisions of the conflict policy regarding senior officials and designated senior official apply to the chief hearing commissioner.

This code and the conflict policy are both available to the public on the AER's website.

## **Commissioners' Values**

### **Respect**

We respect all people and demonstrate this by

- treating everyone with courtesy and dignity,
- taking the time to understand different points of view and perspectives,
- being open and empathetic to the competing needs and interests of all stakeholders, and
- not favouring one person or group over another.

### **Fairness**

We believe in fairness and demonstrate this by

- a commitment to uphold the rules of natural justice and procedural fairness,
- making decisions objectively and without bias,
- maintaining an appropriate level of separation and independence from other AER and Government of Alberta decision-makers and elected officials, and
- disclosing real and perceived conflicts of interest.

### **Integrity**

We believe that our actions must reflect the highest level of integrity and contribute to confidence in the regulatory system. We demonstrate integrity by

- ensuring that processes led by our hearing commissioners are clear, transparent, and understood by all of our stakeholders;
- respecting confidentiality;
- striving for consistency in our processes and decisions; and
- exhibiting courage and resolution in our decision-making.

## Responsibility

We are responsible and accountable to all Albertans, as well as the AER and the Government of Alberta, in the fulfillment of our duties. We demonstrate this responsibility by

- a commitment to competency, diligence, and service;
- balancing the need for inclusiveness and the desire for efficiency; and
- carefully considering legislative and regulatory requirements and the effects of our decisions on participants and other stakeholders.

## Guiding Principles

These principles guide the behaviour and decisions of hearing commissioners.

1. In serving the public interest, hearing commissioners make decisions within the jurisdiction of *REDA* and other applicable legislation and policy.
2. Hearing commissioners at all times behave in a way that demonstrates their commitment to fairness and reasonableness so that public confidence in the integrity, objectivity, and independence of hearing commissioners as quasi-judicial adjudicators is maintained.
3. Hearing commissioners are committed to the principles of natural justice and procedural fairness in their decision-making responsibilities.
4. Hearing commissioners at all times act honestly and in good faith.
5. Hearing commissioners maintain strict confidentiality regarding AER business activities.
6. Hearing commissioners are required to disclose real and potential conflicts of interest. Full-time commissioners comply with the AER's conflict policy. Part-time commissioners are required to disclose real or potential conflicts before accepting an assignment.
7. Hearing commissioners are committed to respectful and effective working relationships with their colleagues and AER staff. Independent thought and diversity of perspectives are encouraged with the knowledge they will be carefully heard and considered.
8. Hearing commissioners will strive for consensus in their decision-making but are not constrained from issuing dissenting decisions when appropriate.

## Administration of the Code

Administrative processes help manage dilemmas, including any real or apparent conflict of interest concerns.

The code administrator is responsible for providing advice and managing concerns and complaints concerning potential breaches of this code. The code administrator ensures that any real or apparent conflict of interest is avoided or effectively managed. The code administrator receives and ensures the confidentiality of all disclosures except for those made under the AER conflict policy.

The code administrator for hearing commissioners is the chief hearing commissioner and the chair of the AER's Ethics Committee.

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The AER's Ethics Committee administers the conflict policy. Also, initial and annual disclosures made by full-time hearing commissioners are submitted to the Government of Alberta ethics commissioner.

### **Affirmation**

All hearing commissioners are required to confirm their understanding of and commitment to this code.

The code is effective April 16, 2018, and is reviewed annually to ensure that it remains current and relevant.