



Updating the regulatory frameworks for embedded networks – Terms of Reference

Under section 45 of the National Electricity Law (NEL) and section 232 of the National Energy Retail Law (NERL), the Australian Energy Market Commission (AEMC or Commission) has initiated a review to provide advice to governments on updating the regulatory frameworks that apply to embedded networks.¹

The purpose of the review is to advise on the detailed amendments to the regulatory framework that are required to implement the recommendations made by the Commission in the *Review of regulatory arrangements for embedded networks*. In that review, prompted by the significant uptake of embedded networks in recent years and concerns in relation to poor consumer experiences, the Commission assessed the current regulatory arrangements that apply and found that they are no longer fit for purpose. To address the issues it found, the Commission made a number of recommendations for changes to the regulatory frameworks.²

Objectives

Through this review, the Commission will develop a package of changes to the NEL, NERL, National Electricity Rules (NER), National Energy Retail Rules (NERR) and any other relevant regulatory instruments to implement the new regulatory approach for embedded networks previously recommended by the Commission.

The output of the review will be a report to the COAG Energy Council that includes:

- rules drafting for recommended changes to the NER and NERR
- drafting instructions for recommended changes to the NEL, NERL and National Energy Retail Regulations (if required)
- recommendations for any required changes to other regulatory instruments
- advice on any recommended actions for regulators, for example, revisions to the Australian Energy Regulator's (AER's) exemption guidelines for embedded network operators
- information on gaps, or areas in which changes may be required, in jurisdictional regulatory frameworks that are identified in the course of undertaking the review
- advice on implementation, including the timing and sequencing of required changes.

¹ Part 4 of the NEL sets out the functions and powers of the AEMC. Under Division 5 of Part 4, the AEMC has the power to conduct a review into the operation and effectiveness of the National Electricity Rules (NER). Part 9 of the NERL similarly sets out the functions and powers of the AEMC, with the AEMC having the power to conduct a review into the operation and effectiveness of the National Energy Retail Rules (NERR) under Division 5 of Part 9.

² AEMC, *Review of regulatory arrangements for embedded networks*, Final report, 28 November 2017, p. v.

Scope

The review will consider how best to implement the new regulatory approach for embedded networks recommended by the Commission in the *Review of regulatory arrangements for embedded networks*. The scope of the package of changes to be developed includes:

- improving access to retail market competition in legacy and new embedded networks, principally by making more embedded network customers market facing and by standardising network billing arrangements
- elevating new embedded networks into the national regulatory frameworks, including through the increased registration of embedded network service providers and the authorisation of on-selling retailers
- improving consumer protections in legacy and new embedded networks by addressing regulatory gaps for retail customers in embedded networks and improved information provision, and better monitoring and enforcement.

In the final report for the *Review of regulatory arrangements for embedded networks*, the Commission noted that it would commence work on developing detailed advice on implementing the proposed framework set out in that report, unless advised otherwise by the COAG Energy Council by July 2018. The Council has advised that it supports the Commission commencing this work in mid-2018 to advise the Council on changes to the law and rules to implement the Commission's recommendations in the final report.³

The changes recommended by the Commission in relation to the authorisation of on-selling retailers will apply to sellers of gas, as well as electricity. The Commission will build on the work it undertook in the *Review of regulatory arrangements for embedded networks* to provide advice to the COAG Energy Council as to whether the embedded network service provider registration framework should also apply to gas embedded networks.

The Commission will further provide advice on the appropriate pathway for implementation of the recommended package of changes, including the need for, and governance of, any potential dedicated implementation program and how rule changes should be progressed.

Approach and key principles

In conducting the review, the Commission will be guided by the National Electricity Objective and National Energy Retail Objective.

The Commission will take account of any related work underway, including work coordinated by the Energy Security Board to implement the recommendations of the *Independent Review into the Future Security of the National Electricity Market* (the 'Finkel Review').

In particular, as recommended by the Finkel Review,⁴ the COAG Energy Council has directed the AEMC to provide advice on required changes to the electricity regulatory framework, as set out in the NEL and NERL and associated rules and subordinate instruments, to allow for stand-alone power systems (SAPS), where this would contribute to the achievement of the NEO and or NERO.

³ COAG Energy Council, *Terms of Reference – Review of changes required to the national electricity framework for stand-alone power systems*, July 2018, p. 5.

⁴ Dr Alan Finkel AO et al, *Independent Review into the Future Security of the National Electricity Market*, Blueprint for the Future, June 2017, Recommendation 6.9.

The Commission considers there to be a number of synergies between the issues for customers of embedded networks and customers of stand-alone power systems, and intends to progress the development of these two frameworks concurrently.

Key deliverables

At a minimum, the Commission will seek to publish:

- a draft report at an appropriate interval ahead of developing a final report
- a final report by 31 May 2019.

An embargoed copy of the draft and final reports will be provided to the COAG Energy Council prior to publication.

The Commission may also publish additional consultation papers as considered necessary.

Collaboration with the AER, AEMO and consultation with other stakeholders

In developing its advice, the Commission will consult widely with a range of stakeholders through a public consultation process. In particular, the Commission will:

- collaborate with the AER and the Australian Energy Market Operator (AEMO) on the most appropriate means of implementing the recommendations
- consult with Energy Consumers Australia (ECA), other consumer groups and ombudsmen, and seek feedback and input from stakeholders during the consultation process
- consult with state, territory and commonwealth officials during the review.