



# Updating the regulatory frameworks for distributor-led stand-alone power systems

## Terms of Reference

September 2019

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 required changes to the electricity regulatory framework to allow stand-alone power systems (SAPS) to be used by Distribution Network Service Providers (DNSPs) as an alternative to standard grid supply.<sup>1</sup>

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 the regulatory frameworks for stand-alone power systems – Priority 1*. In that review, the Commission set out a number of recommendations for changes to the regulatory framework to facilitate the provision of SAPS specifically by distribution businesses.<sup>2</sup> The Commission also prepared recommended drafting instructions for amendments to the NEL and the NERL that it considers are needed for the recommendations made on SAPS to take effect through the National Electricity Rules (NER) and the National Energy Retail Rules (NERR).

The COAG Energy Council Senior Committee of Officials (SCO) has advised that it supports the Commission commencing this work to advise on detailed revisions to the NER and NERR to implement the Commission's recommendations.<sup>3</sup>

## Objectives

Through this review, the Commission will develop detailed revisions to the NER and NERR required to implement the new regulatory approach for DNSP-led SAPS previously recommended by the Commission.

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

- rule drafting for recommended changes to the NER and NERR
- recommendations for any required changes to other regulatory instruments, for example jurisdictional reliability standards and NERL application Acts

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<sup>1</sup> 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 powers and functions 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.

<sup>2</sup> AEMC, *Review of regulatory frameworks for stand-alone power systems*, Final report, 30 May 2019, p.xiii.

<sup>3</sup> On the 10 September 2019 the Chair of SCO's Stand-Alone and Embedded Networks Working Group wrote to the AEMC requesting the development of advice on detailed revisions to the NER and NERR required for the recommendations made on SAPS to take effect.

- advice on any recommended actions for regulators, for example, for the Australian Energy Regulator (AER) to review and where necessary amend relevant guidelines in order to extend their application to SAPS
- advice on implementation, including the timing and sequencing of required changes.

## Scope

The review will consider how best to implement the regulatory framework for DNSP-led SAPS recommended in the Commission's *Review of the regulatory framework for stand-alone power systems – Priority 1*. The scope of the package of changes to be developed includes:

- supporting efficient planning and investment outcomes, principally through amending planning processes and establishing customer engagement obligations in relation to transition to SAPS
- enabling DNSPs to use SAPS to provide regulated distribution services where it is economically efficient to do so
- extending existing energy market arrangements, including the Australian Energy Market Operator's (AEMO's) settlement system, to accommodate DNSP SAPS
- extending the full suite of energy-specific consumer protections in the NEL and NERR, to SAPS customers (noting that the ability to do this depends in part on changes to jurisdictional instruments)
- allowing participation by jurisdictions in the national arrangements for DNSP SAPS on an opt in basis.

The changes recommended by the Commission will apply to the provision of SAPS by distribution businesses. In respect of third party SAPS, suggested amendments to the NEL and NERR to allow for rule changes will be prepared in the course of the *Review of the regulatory frameworks for stand-alone power systems -- Priority 2*.

The Commission will further provide advice on the appropriate pathway for implementation of the recommended package of rule changes, including where jurisdictional instruments may need to be reviewed and amended to ensure consistency with the recommended framework.

## Approach and key principles

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

The package of recommended rule changes will be developed on the assumption that the NEL and NERR will be amended in accordance with the changes the Commission recommended in the *Review of the regulatory framework for stand-alone power systems – Priority 1* final report.

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,<sup>4</sup> the COAG Energy Council has directed the Commission 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 SAPS, where this would contribute to the achievement of the NEO and/or NERO.

### **Key deliverables**

At a minimum, the Commission will seek to publish:

- a draft report by the end of 2019
- a final report by 31 May 2020.

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 with a range of stakeholders through a public consultation process following publication of the draft report. In addition, the Commission will consult with:

- state, territory and commonwealth officials and engage with the Senior Committee of Officials' Stand-Alone and Embedded Networks Working Group during the review.
- the AER and AEMO on the most appropriate means of implementing the recommendations
- Energy Consumers Australia (ECA), other consumer groups and ombudsmen, and seek feedback and input from stakeholders during the consultation process

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<sup>4</sup> 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.