

Terms of Reference - Better Energy Customer Experiences

Context

The transformation of the energy market is well underway, with consumers at the very heart of this transition. Energy consumers are key actors in driving the shift towards renewable electricity through uptake of new energy products and services. In this context, a strong and fit-for-purpose consumer protections regime, alongside easy access to redress, are fundamental to building consumer trust and confidence in the energy transformation.

The energy transformation is fundamentally changing how the energy market operates. What was once a relatively simple, one-sided market where consumers bought energy from retailers, is becoming a market underpinned by decentralised energy sources, innovative new technologies, and two-way flows of energy between consumers and the market. Innovation in the energy market is driving a broader range of energy choices and ways to participate in the energy market for consumers, with widespread uptake of new energy products and service. These include Consumer Energy Resources (CER) such as solar panels and home battery storage that allow consumers to generate and store their own electricity, alongside services that support consumers to more effectively and efficiently use, store and export their energy, such as home energy management and aggregation services.

The energy transformation is shifting the role of some households from being solely energy consumers to energy generators, exporters and contributors. While these new choices may offer benefits to consumers who are able and choose to access new and innovative arrangements that better meet their needs and preferences, they also carry potential risks. This risk carries over to consumers who do not choose to engage with the energy transition through new products and services.

Evolving market conditions have highlighted the need to review existing frameworks to ensure they remain fit-for-purpose. The National Energy Customer Framework (NECF) was introduced in 2012 on the basis that a basic energy supply is an essential service and consumers needed additional protections beyond those in the Australian Consumer Law (ACL) with energy sector-specific protections. It was designed to reflect the structure and issues in the energy market at the time, notably this included regulating ‘traditional’ energy retail services, with a focus on providing fair contract terms, clear information and protections against disconnection.

There are now growing concerns about the ability of existing frameworks to mitigate the risks associated with new energy products and services that were not envisaged at the

time the frameworks were developed. This issue has been identified through the 2024 *National CER Roadmap*, as well as the Australian Energy Regulator's *Review of Consumer Protections for Future Energy Services*. This complements a series of other recent reviews demonstrating growing tensions between the evolving energy market and new services, and relatively static consumer frameworks. There is also a growing body of research and evidence that means we know a lot more about consumers, the diversity of their energy needs and preferences, and how the regulatory settings can best provide adequate protections.

It is in this context that Energy Ministers have agreed that the Commonwealth should lead a process to identify and progress any necessary changes to consumer frameworks to ensure consumers are adequately protected through the energy transition and beyond.

Scope

The *Better Energy Customer Experiences* process will take a holistic approach to reviewing the consumer protections regime that underpins the relationship between consumers and the energy market to assess whether reforms are needed to support consumers through the energy transition and beyond.

Much of this focus will be on evaluating whether the National Energy Customer Framework (NECF) remains fit for purpose given it is the primary national regulatory framework providing energy specific protections to consumers in the energy market. Consideration will also be given to other related legislation, frameworks and policy settings including the Australian Consumer Law, state and territory-based legislation, and the New Energy Tech Consumer Code to ensure appropriate problem definition and solution development.

The aim will be to identify existing, emerging and potential future challenges in consumer protection settings and develop reforms where required to ensure a smooth energy transition that supports consumers and the realisation of the benefits of the transition. Reforms could include legislative changes, revisions to the rules and guidelines, as well as policy responses.

The process will consider a range of issues related to consumers' access to energy, including but not limited to:

- New energy services:
 - Determining which types of new energy products and services should be captured based on the level of risk they carry
 - Exploring the types of protections consumers need when they engage with new energy products and services

- Considering if and how to expand the remit of external dispute resolution processes to new energy products and services
- Addressing varying levels of protections for customers in different market settings:
 - Embedded networks
 - Off-grid customers
 - Pre-payment customers
 - Bulk hot/chilled water supply
 - Market retail contracts vs standard retail contracts
- Assessing and improving, where required, various key protection measures to support consumers to navigate increased complexity and barriers to accessing the energy market, including:
 - Information provision
 - Contracts and bundling
 - Explicit informed consent
 - Pricing structures
 - Payment difficulty and hardship arrangements
 - Dispute resolution mechanisms
- Issues identified through previous review processes for further consideration and reform
- Other issues identified through consultation.

As tasked by Ministers, this process will include assessing the role an overarching consumer duty, and more generally the role that principles-based regulation could play in addressing systemic consumer issues in the energy market, alongside providing flexibility to future-proof the framework to address unforeseen consumer risks arising in the future. Consideration of an overarching duty will include assessing how it would interact with existing Australian Consumer Law and NECF obligations and whether changes to the current provisions would be needed if it were progressed.

The process will consider opportunities to create holistic solutions that reflect the evolving market and changing consumer needs and preferences. Consideration will also be given to the newly implemented National Energy Equity Framework to ensure reforms support equitable consumer outcomes.

Principles

The process will be based around the following set of common principles:

- **Essentiality** – Access to a basic energy supply is subject to additional protections because it is essential to Australians. The extent to which protections apply should be proportionate to their connection to health, safety, wellbeing and economic and societal participation.

- **Efficiency** – Consumer protections should be effective, as simple as possible and minimise transaction costs and barriers.
- **Agency** – Frameworks should build consumer trust and confidence in engaging with the energy market, including where consumers engage with the market in a limited capacity. Protections should ensure consumers are provided with sufficient information to make informed decisions and be supported by practical mechanisms for redress, such as accessible and low-cost dispute resolution.
- **Equity** – Frameworks should support equitable outcomes. Consumers should enjoy an equivalent level of regulatory protection, regardless of location, income or other circumstances.
- **Deliverability** – The proposed solution should be designed with an eye to implementation and must strike the right balance between legislation, regulation and guidance to ensure it is enforceable and adaptable. Protections should seek to reduce complexity for consumers engaging with energy markets.

Intersection with other reform processes

The process will consider other work happening across the sector to improve the regulatory settings. Where relevant, this project will pick up findings and recommendations from other reform processes that can be streamlined and actioned alongside any potential legislative reform undertaken through this project.

The process will acknowledge the work currently underway to modernise consumer frameworks in jurisdictions that apply consumer frameworks separate to the national laws. Input from these jurisdictions will be sought and where possible, any reforms will have a view to supporting equivalent protections for consumers regardless of location.

Reform components relating to extending protections to new energy services will support the delivery of the 2024 National CER Roadmap, specifically the C.1 workstream.

Governance

Delivery against the scope of works outlined will be led by the Commonwealth Department of Climate Change, Energy, the Environment and Water (Cth DCCEEW), working in conjunction with state and territory government officials through a working group under the National Energy Transformation Partnership. This group will provide recommendations to Ministers for consideration through the Energy and Climate Change Ministerial Council (ECMC).

An advisory group comprised of representatives from relevant market bodies and Commonwealth agencies will be established to provide strategic guidance and advice to officials. The advisory group will provide advice to the working group.

To the extent that the agenda responds to actions under the CER Roadmap, relevant reporting will be provided to the CER Working Group.

Delivery

The process is anticipated to yield a series of recommended reforms, including but not limited to legislative, rule and/or guideline changes as well as broader policy reforms that underpin and support the relationship between consumers and the energy market.

There will be a series of deliverables stemming from Better Energy Customer Experiences, including:

- Consultation Paper – April 2025
- Directions Paper – December 2025
- Recommendations to Energy Ministers – early 2027
- Implementation Plan – early 2027

Consultation will be undertaken at each point throughout the project. While formal consultation processes will be open to all stakeholders, the Commonwealth will also undertake targeted consultation with specific stakeholders where required.