

Draft decision

**AusNet Services, Jemena, CitiPower,
Powercor and United Energy electricity
distribution determinations**

1 July 2026 – 30 June 2031

**Attachment 17 – Negotiated services frameworks and
criteria**

September 2025

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17 Negotiated services framework and criteria

AusNet, Jemena, CitiPower, Powercor and United Energy each provide a range of distribution services that we classify as direct control services. The revenue recoverable from direct control services is subject to our distribution determination and annual pricing approval processes.

We do not, however, set revenue, prices, or terms and conditions for negotiated services. Where Distribution Network Service Providers (DNSPs) do offer negotiated distribution service, they are instead subject to:

- a Negotiating Framework¹, which each DNSP has submitted for our approval as part of its proposal.
- Negotiated Distribution Service Criteria², which we have proposed and consulted on in conjunction with its proposal³.

The approved negotiating frameworks and criteria will inform negotiation of terms and conditions of access to any negotiated services and will apply to dispute resolution processes for negotiated services under the NER.

17.1 Draft decision

Victorian DNSPs have not provided any negotiated services in the current, 2021-26 period. However, our draft decision is that in the 2026-31 period we will classify a new negotiated distribution service for all Victorian DNSPs:

“Distribution asset rental: Rental of distribution assets (e.g. poles) to third parties for the installation of electric vehicle (EV) chargers or associated hardware”

This is to support third party access to DNSPs’ assets, including kerbside poles, as potential hosts for commercial EV charging infrastructure on terms that are fair, reasonable and cost reflective.

We received no submissions on proposed negotiating frameworks or our proposed Negotiated distribution service criteria in our consultation on these earlier this year. We are mindful, however, that service classifications at the time of consultation did not include any negotiated services. We therefore welcome any new submissions on the proposed frameworks and criteria now that this has changed.

¹ NER, cl. 6.7.5. Under clause 6.12.1(o) of the NER, as part of each distribution determination, we are required to decide the Negotiating Framework to apply to the relevant network.

² NER, cl. 6.7.4.

³ Under clause 6.12.1(p) of the NER, as part of each distribution determination, we are required to decide the Negotiated Distribution Service Criteria to apply to the relevant network.

Our draft decision is:

- To approve all five proposed negotiating frameworks subject to the matters raised in this attachment and to any submissions received in light of the AER's decision to classify a new negotiated service.
- That the Negotiated Distribution Service Criteria set out in Appendix A to this attachment will apply to Victorian DNSPs for the 2026-31 period, subject to any submissions received in light of the AER's decision to classify a new negotiated service.

17.2 Assessment approach

In each electricity determination, we must decide on the Negotiating framework and Criteria that will apply for the relevant control period. These components of our decision are technically required even where no services provided by the distributor have been classified as negotiated services.

The **Negotiating Framework** sets out the procedure to be followed during negotiations between the distributor and any person who wishes to receive a negotiated distribution service from the distributor, as to the terms and conditions of access for the provision of the service. It is developed and proposed by the distributor. We must either accept the proposed framework or replace it with an amended one.⁴

The framework must set out the procedure to be followed during negotiations between the distributor and any person who wishes to receive a negotiated distribution service from the distributor, as to the terms and conditions of access for the provision of the service. It must meet the minimum requirements set out in clause 6.7.5 of the NER.

We must approve a proposed negotiating framework if the AER is satisfied that it adequately complies with the requirements of the NER.⁵ If we are not satisfied, and we refuse to approve the proposed negotiating framework, any changes we make must be determined on the basis of the DNSP's proposed negotiating framework and amended from that basis only to the extent necessary to enable it to be approved in accordance with the NER.⁶

Clause 6.7.3 of the NER also requires our determination on the negotiating framework to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of the negotiating framework. We look first to see if the framework proposed by the distributor addresses this. Where it does not, we will address this as part of our draft and final decisions.

The **Negotiated Distribution Service Criteria** are principles that guide negotiations and outcomes, and must be applied:⁷

- by the provider in negotiating terms and conditions of access including:

⁴ NER, cl. 6.12.1(o).

⁵ NER, cl. 6.12.3(g).

⁶ NER, cl. 6.12.3(h).

⁷ NER, cl. 6.7.4(a).

- the prices that are to be charged for the provision of negotiated distribution services by the provider for the relevant regulatory control period; or
- any access charges which are negotiated by the provider during that regulatory control period; and
- by the AER in resolving an access dispute about terms and conditions of access including:
 - the price that is to be charged for the provision of a negotiated distribution service by the provider; or
 - any access charges that are to be paid to or by the provider.

While the Negotiating framework is proposed by the distributor, and forms part of its regulatory proposal, Negotiated distribution service criteria are determined by the AER. The criteria must give effect to and be consistent with the Negotiated Distribution Service Principles set out in clause 6.7.1 of the NER.

We publish our proposed criteria for consultation at the same time as the distributor's proposal, from which point they are subject to the same consultation and decision-making process as other parts of our determination. In our draft and final decisions, we must confirm what criteria will apply and may replace those we initially proposed with amended ones considering any issues raised in submissions or revised proposals.⁸

17.3 Reasons for draft decision

In the sections below we set out the reasons for our draft decision on the proposed Negotiating frameworks and Negotiated distribution service criteria that will apply to Victorian DNSPs in the 2026-31 period.

17.3.1 Negotiating frameworks

Table 17-1 below lists where each of the proposed Negotiating frameworks addresses the minimum requirements set out in clause 6.7.5 of the NER. The proposed frameworks are consistent with those we approved for the current, 2021-26 period, and were considered at that time to adequately comply with the NER. No substantive changes have been proposed. However, noting that the frameworks were proposed at a time when there were no negotiated services, we welcome further submissions on whether they adequately comply with the requirements of Chapter 6, Part D of the NER.

We would also welcome revised proposals from Victorian DNSPs exploring greater alignment of their negotiating frameworks. While we have previously found all five to be adequately compliant, consistency in negotiating frameworks within Victoria is something we consider would benefit those seeking access to negotiated distribution services. We would welcome revised proposals that sought to further align drafting between frameworks for each DNSP. For example:

- Timeframes specified for the commencement and finalisation of negotiations for the provision of negotiated services are different for each DNSP. AusNet's and Jemena's proposed negotiating frameworks provide clearer targets for DNSPs and service

⁸ NER, cl. 6.12.1(p).

applicants to work towards in their negotiations than those set out in CitiPower, Powercor and United Energy’s proposed frameworks.

- Jemena’s proposed negotiating framework is clearer as to how and when it will publish the results of negotiations on its website than those proposed by AusNet and CitiPower, Powercor and United Energy.
- Direction provided to relevant provisions of the NEL and NER setting out the process for resolution of disputes by the AER is clearer in AusNet’s and CitiPower, Powercor and United Energy’s proposed negotiating frameworks than in Jemena’s. We also encourage DNSPs to consider including details of their own, internal dispute resolution processes for disputes in relation to negotiated services (for example, by reference to Australian Standard ISO 10002:2018 (Quality management - Customer satisfaction – Guidelines for complaints handling in organisations) and/or the Essential Services Commission’s Electricity Distribution Code of Practice).

We encourage Victorian DNSPs to consider these and other opportunities for alignment in their revised proposals.

Table 17-1 Assessment of proposed Negotiating frameworks

NER requirements	Where AusNet’s proposed framework addresses that requirement ^a	Where Jemena’s proposed framework addresses that requirement ^b	Where CPU’s proposed frameworks address that requirement ^c
Requirement for a distributor and applicant to negotiate in good faith - cl.6.7.5(c)(1)	See page 3.	See Clause 1.5.	See section 2.
Requirement for a distributor to provide all such commercial information an applicant may reasonably require to enable the applicant to engage in effective negotiations for the provision of the negotiated distribution service, including cost information - cl.6.7.5(c)(2)	See page 5.	See Clause 4.1.	See section 3.
Requirement for a distributor to identify and inform the applicant of the reasonable costs and/or increase or decrease in costs of providing the negotiated service; demonstrate to an applicant that the charges for providing the negotiated distribution service reflect those costs and/or the cost increment or decrement; and have appropriate arrangements for assessment and review of the	See page 5.	See clause 4.1.2C.	See section 3.3.

NER requirements	Where AusNet's proposed framework addresses that requirement ^a	Where Jemena's proposed framework addresses that requirement ^b	Where CPU's proposed frameworks address that requirement ^c
charges and the basis on which they made - cl.6.7.5(c)(3)			
Requirement for an applicant to provide all commercial information the distributor may reasonably require to enable the distributor to engage in effective negotiation with that applicant for the provision of the negotiated distribution service - cl.6.7.5(c)(4)	See pages 4-5.	See clause 3.1	See section 4.
Requirement that negotiations with an applicant for the provision of negotiated distribution services be commenced and finalised within specified periods; and a requirement that each party must make reasonable endeavours to adhere to the specified time limits - cl.6.7.5(c)(5)	See pages 3-4.	See clauses 2.1, 2.2.	See section 6.
A process for dispute resolution which provides that all disputes as to the terms and conditions of access for the provision of negotiated distribution services are to be dealt with in accordance with the relevant provisions of the Law and Rules for dispute resolution - cl.6.7.5(c)(6)	See page 5.	See clause 10 Jemena's proposed framework warrants amendment for clarity considering the new service, which would be subject to the access dispute regime under Chapter 6, Part L of the NER and Chapter 10 of the NEL. In its revised proposal we recommend Jemena look to the AusNet and CPU frameworks as examples.	See section 9.
The arrangements for the payment by an applicant of a distributor's'	See page 4.	See clause 7.1, 7.2.	See section 10.

NER requirements	Where AusNet’s proposed framework addresses that requirement ^a	Where Jemena’s proposed framework addresses that requirement ^b	Where CPU’s proposed frameworks address that requirement ^c
reasonable direct expenses incurred in processing the application to provide the negotiated distribution service – cl. 6.7.5(c)(7)			
Requirement for a distributor to determine the potential impact of the provision of a negotiated distribution service on other distribution network users - cl.6.7.5(c)(8)	See page 5.	See clause 6.2.	See section 5.1.
Requirement for a distributor to notify and consult with any affected distribution network user and ensure that the provision of the negotiated distribution services does not result in non-compliance with obligations in relation to other network users under the NER - cl.6.7.5(c)(9)	See page 5.	See clause 6.3.	See section 5.2.
Requirement that the distributor publish the results of negotiations on its website - cl.6.7.5(c)(10)	See page 4.	See clauses 9.1, 9.2.	See section 8.

Source:

- [AusNet - Appendix 21A Proposed Negotiating Framework - January 2025](#); AER analysis
- [Jemena - Attachment 08-04 Negotiating Framework – January 2025](#); AER analysis
- [CitiPower - Attachment 5.05 - Proposed negotiating framework – January 2025](#); [Powercor - Attachment 6.05 - Proposed negotiating framework – January 2025](#); [United Energy - Attachment 6.04 – Proposed negotiating framework – January 2025](#); AER analysis.

Subject to any submissions in response to this draft decision, the Negotiating Frameworks approved in our final determination will next be reviewed and replaced in our determination for the 2031-36 period. At that time, Victorian DNSPs will be required to again prepare and submit proposed Negotiating frameworks that satisfy the requirements of the NER as in force for that period.⁹

17.3.2 Negotiated distribution service criteria

The proposed criteria for the 2026-31 period we published in February 2025 with DNSPs’ regulatory proposals, were drafted to reflect the Negotiated Distribution Service Principles. Our only addition at that time was that the terms and conditions of access for a negotiated distribution service, including the price that is to be charged for the provision of that service and any access charges, should promote the achievement of the national electricity

⁹ NER, cl. 6.7.3.

objective. This approach was consistent with criteria that have applied in Victoria in the current period, and with criteria approved for other electricity distribution networks.

However, noting that the criteria were proposed at a time when there were no negotiated services, we have revisited them in the context of the concerns giving rise to our classification of the new distribution asset rental service.

We have drafted these in such a way that the criteria will remain suitable for any negotiated distribution service. For a new service, and one that will be provided in what is still a nascent market, we see significant risk in establishing prescriptive, service-specific criteria at this time. As the market develops, and negotiation results for the new service are shared in accordance with DNSPs' negotiating frameworks, we may look to provide further guidance for DNSPs and service applicants

Our amended criteria are set out in Appendix A to this attachment, and include additions to:

- Reinforce requirements under Negotiating Frameworks that negotiations between DNSPs and service applications are conducted by both parties in good faith and are commenced and finalised within fair and reasonable timeframes and without undue delay.
- Clarification that, where referenced in the criteria, prices charged for negotiated services:
 - Include all fees and charges making up the total 'price' paid by the service applicant to access the service, including but not limited to arrangements for payment of the DNSP's reasonable direct expenses incurred in processing the application to provide the negotiated distribution service.¹⁰
 - Are to be based on the DNSP's prudent and efficient costs of providing the service, as with other distribution services covered by our distribution determinations.¹¹
 - Should not include costs already recovered or recoverable through prices the DNSP charges for direct control services or unregulated services provided by the DNSP.

We consider these additions to the criteria are consistent with, and give clearer effect to, the negotiated distribution service principles in the NER.¹² We welcome further submissions on these or other potential amendments.

We have not proposed any changes to criteria 10 and 11, which are specific to 'shared distribution services'¹³, or clauses 15 and 16, which are specific to 'access charges' for connection services.¹⁴ We consider these are therefore unlikely to impact the new, negotiated distribution asset rental service. We may give these criteria further consideration if

¹⁰ NER, cl. 6.7.5(7).

¹¹ See, for example, criteria for assessment of capital and operating expenditure recoverable for standard control services in cl. 6.5.6 and 6.5.7 of the NER.

¹² NER, cl. 6.7.1

¹³ A shared distribution service is "a service provided to a Distribution Network User for use of a distribution network for the conveyance of electricity (including a service that ensures the integrity of the related distribution system) – see NER Chapter 10 – Glossary.

¹⁴ An 'access charge' is, for a DNSP in respect of access to negotiated distribution services which would have been negotiated distribution services regardless of the operation of clause 6.24.2(c) of the NER, an amount described in rule 5.3AA(f)(4) of the NER - see NER Chapter 10 – Glossary.

additional negotiated services are classified in future such that these criteria are likely to become more relevant.

A Negotiated distribution service criteria

A.1 National Electricity Objective

1. The terms and conditions of access for a negotiated distribution service, including the price that is to be charged for the provision of that service and any access charges, should promote the achievement of the national electricity objective.

A.2 Negotiations to be timely and in good faith

2. Negotiation of prices, access charges and terms and conditions must be conducted in good faith and commenced and finalised in fair and reasonable timeframes and without undue delay.¹⁵

A.3 Criteria for terms and conditions of access

A.3.1 Terms and conditions of access

3. The terms and conditions of access for a negotiated distribution service must be fair and reasonable and consistent with the safe and reliable operation of the power system in accordance with the NER.¹⁶
4. The terms and conditions of access for a negotiated distribution service (including in particular, any exclusions and limitations of liability and indemnities) should not be unreasonably onerous taking into account the allocation of risk between a distributor and any other party, the price for the negotiated distribution service and the costs to a distributor of providing the negotiated distribution service.¹⁷
5. The terms and conditions of access for a negotiated distribution service should take into account the need for the service to be provided in a manner that does not adversely affect the safe and reliable operation of the power system in accordance with the NER.¹⁸

A.3.2 Price of services

6. The price for a negotiated distribution service includes any package of prices charged in respect of the service, including but not limited to arrangements for payment of the DNSP's reasonable direct expenses incurred in processing the application to provide the negotiated distribution service.¹⁹
7. The price for a negotiated distribution service should reflect the prudent and efficient costs that a distributor has incurred or incurs in providing that service and must be determined in accordance with the principles and policies set out in the relevant cost allocation method.²⁰
8. The price for a negotiated distribution should not include costs already recovered or recoverable under direct control services or unregulated services.

¹⁵ NER, cl. 6.7.5(c)(1), (5).

¹⁶ NER, cl. 6.7.1(i).

¹⁷ NER, cl. 6.7.1(j).

¹⁸ NER, cl. 6.7.1(k).

¹⁹ NER, cl. 6.7.5(7).

²⁰ NER, cl. 6.7.1(a).

9. Subject to criteria 10 and 11, the price for a negotiated distribution service should be at least equal to the cost that would be avoided by not providing that service but no more than the cost of providing it on a stand-alone basis.²¹
10. If a negotiated distribution service is a shared distribution service that:
 - i) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation, or
 - ii) exceeds the network performance requirements set out in schedules 5.1a and 5.1 of the NER,then the differential between the price for that service and the price for the shared distribution service which meets the network performance requirements under any jurisdictional electricity legislation or as set out in schedules 5.1a and 5.1 (as the case may be) should reflect the increase in the distributor's incremental cost of providing that service.²²
11. If a negotiated distribution service is the provision of a shared distribution service that does not meet or exceed the network performance requirements, the differential between the price for that service and the price for the shared distribution service which meets, but does not exceed, the network performance requirements should reflect the cost a distributor would avoid by not providing that service (as appropriate).²³
12. The price for a negotiated distribution service must be the same for all distribution network users unless there is a material difference in the costs of providing the negotiated distribution service to different distribution network users or classes of distribution network users.²⁴
13. The price for a negotiated distribution service should be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person, in which case such adjustment must reflect the extent to which the costs of that asset are being recovered through charges to that other person.²⁵
14. The price for a negotiated distribution service should be such as to enable a distributor to recover the efficient costs of complying with all regulatory obligations or requirements associated with the provision of the negotiated service.²⁶

A.4 Criteria for access charges

A.4.1 Access Charges²⁷

15. In respect of providing distribution network user access to negotiated distribution services which would have been negotiated distribution services regardless of the operation of clause 6.24.2(c) should be based on the costs reasonably incurred by the distributor in providing that access and, in the case of compensation referred to in clauses

²¹ NER, cl. 6.7.1(b).

²² NER, cl. 6.7.1(c).

²³ NER, cl. 6.7.1(d).

²⁴ NER, cl. 6.7.1(e).

²⁵ NER, cl. 6.7.1(f).

²⁶ NER, cl. 6.7.1(g).

²⁷ An access charge for a DNSP, in respect of negotiated distribution services which would have been negotiated distribution services regardless of the operation of cl. 6.24.2(c) of the NER (dual function assets), is an amount described in r. 5.3AA(f)(4) of the NER and payable by a connection applicant.

5.3AA(f)(4)(ii) and (iii), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs;²⁸ and

For the declared transmission system of an adoptive jurisdiction, in respect of providing transmission network user access to negotiated distribution services which would have been treated as negotiated transmission services were it not for the operation of clause 6.24.2(c) should be based on the costs reasonably incurred by the distributor in providing that access and, in the case of compensation referred to in clauses 5.4A(h) - (j) (as preserved under clause 11.98.8(a)(2)), on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs.²⁹

²⁸ NER, cl. 6.9.1(h)(1)

²⁹ NER, cl. 6.9.1(h)(2).

Shortened forms

Term	Definition
AER	Australian Energy Regulator
DNSP	Distribution Network Service Provider
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules