Australian Government

AUSTRALIAN ENERGY REGULATOR

Final decision - Ergon Energy and Energex

Requested amendments to 2025–30 tariff structure statements

October 2026

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1 Final decision – summary

On 22 May 2026, Ergon Energy and Energex submitted a request to amend their 2025–30 tariff structure statements under the National Electricity Rules (NER) cl. 6.18.1B.[1]

NER cl. 6.18.1B provides a mechanism under which a distributor can request to amend its tariff structure statement during a regulatory period.

Ergon Energy and Energex requested to remove from their approved tariff structure statements the planned introduction of:

- optional residential and small business demand tariffs
- optional residential and small business flexible load tariffs.

Our final decision is to refuse to approve Ergon Energy's and Energex's requested tariff structure statement amendments, as we are not satisfied that the requested amendments meet the requirements in NER cl. 6.18.1B(d)(1).

We understand there are practical reasons a distributor may have for wanting to change an approved tariff structure statement, for example where there is a shift in tariff strategy or a distributor encounters implementation challenges. We also note that in this case, retailers and Ergon Energy's and Energex's Network Pricing Working Group support the requested amendments.[2] However, the threshold for tariff structure statement amendments under NER cl. 6.18.1B is high. NER cl. 6.18.1B was introduced following the Australian Energy Market Commission's (AEMC's) *Distribution Network Pricing Arrangements Final Determination.* The AEMC determined that a high test for tariff structure statement amendments is appropriate, and that if the threshold for amendments is too low, there is a risk that distributors would not adequately consider their network pricing strategies when proposing their tariff structure statements.[3]

We note the possibility that the threshold for a tariff structure statement amendment could change. In December 2025, Energy Networks Australia (ENA) submitted a rule change request to the AEMC on *Improving flexibility in the tariff structure statement process*. The rule change request seeks to lower the amendment threshold, including by offering an easier pathway to make immaterial amendments during a regulatory period.[4] However, this rule change has not been initiated by the AEMC, and we are required to make decisions under the current NER.

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1 Ergon Energy and Energex, *Attachment 1 – Application for Tariff Structure Statement Amendment*, May 2026.

2 Ergon Energy and Energex, *Attachment 1 – Application for Tariff Structure Statement Amendment*, May 2026, p. 8-9.

3 AEMC, *Distribution Network Pricing Arrangements, Rule Determination*, November 2014, pp. 89-91. See also p. 211.

4 Energy Networks Australia, *Rule change request – increasing flexibility to amend tariff structure statements*, December 2025, p. 16-17.

2 Regulatory framework for tariff structure statements and amendments

2.1 Framework for tariff structure statements

A distributor is required to prepare and submit a tariff structure statement with its regulatory proposal to the AER.[5] We approved Ergon Energy's and Energex's tariff structure statements in April 2025. They have applied since July 2025 and will continue to apply until 30 June 2030.

Among other matters, a tariff structure statement must set out a distributor's proposed tariffs the structures and charging parameters for each proposed tariff, and the policies and procedures the distributor proposes to apply in assigning customers to tariffs or reassigning customers from one tariff to another.[6]

Once approved by the AER, a tariff structure statement applies to a distributor's tariffs for the duration of the regulatory control period. The 5-year regulatory control period provides retailers with certainty and transparency on the available network tariffs, facilitating their ability to translate these network tariffs into retail offers.

The tariff structure statement is the first stage of a two-stage network pricing process. The second stage is for distributors to develop and submit an annual pricing proposal to the AER. The annual pricing proposals apply pricing levels to each of the tariff structures in the approved tariff structure statement. In setting prices, distributors must comply with their approved tariff structure statement and any other applicable requirements in the NER.[7]

2.2 Framework for and approach to assessing an amendment request

NER cl. 6.18.1B provides a mechanism for distributors to propose amendments to tariff structure statements during a regulatory period.

A distributor's request to amend a tariff structure statement must include, among other things:[8]

- an amended tariff structure statement
- a description of the event(s) that have occurred to cause the distributor to seek an amendment, and why the event(s):
  - was beyond the distributor's reasonable control and
  - could not reasonably have been foreseen at the time the distributor's current tariff structure statement was approved by the AER

5 NER, cl. 6.8.2(a).

6 NER, cl. 6.18.1A.

7 NER, cl. 6.18.1A(c).

8 NER, cl. 6.18.1B(b).

- a description of how the amended tariff structure statement would better comply with the pricing principles for direct control services[9]
- a description of how the distributor engaged with stakeholders.

Ergon Energy's and Energex's amendment request includes the information required of them in NER cl. 6.18.1B(b). We published their amendment requests to our website on 29 May 2026.

Under NER cl. 6.18.1B(d), we must approve an amendment if we are satisfied that a distributor has demonstrated that:

1. NER cl. 6.18.1B(d)(1): an event has occurred that
    a) was beyond the reasonable control of the distributor; and
    b) could not reasonably have been foreseen by the distributor at the time its current tariff structure statement was approved by the AER; and
2. NER cl. 6.18.1B(d)(2): as a result of the event in NER cl. 6.18.1B(d)(1), the proposed amended tariff structure statement would, or would be likely to, materially better comply with the pricing principles for direct control services[10] than the current tariff structure statement.

In this decision, we refer to the requirements in NER cl. 6.18.1B(d) as a two-step assessment criteria.

If the AER refuses to approve a requested amendment against the two-step assessment criteria, the approved tariff structure statement continues to apply throughout the regulatory period (in this case until 30 June 2030). The AER must approve or refuse to approve a request for an amendment to a tariff structure statement no later than 4 months before the start of a regulatory year (in this case, by 28 February 2027).[11]

We have based our assessment on the information in Ergon Energy's and Energex's request, further information we obtained from Ergon Energy and Energex in response to an information request,[12] and bilateral meetings. We also publicly invited expressions of interest to discuss the request. We received a response from one stakeholder, who we organised a bilateral meeting with. At this meeting it was determined that Ergon Energy's and Energex's requested tariff structure statement amendments would not apply to this stakeholder as they were a large customer. The stakeholder contended that they had no further issues with the proposed amendments.

9 NER, cl. 6.18.5.

10 NER, cl. 6.18.5.

11 NER, cl. 6.18.1B(e).

12 Ergon Energy and Energex, *Response to AER information request - TSS Amendment*, July 2026.

3 Ergon Energy's and Energex's amendment requests

Ergon Energy and Energex requested to:

- remove the planned introduction of optional residential and small business demand tariffs from 1 July 2027 (requested amendment 1)
- remove the planned introduction of optional residential and small business flexible load tariffs from 1 July 2028 (requested amendment 2)
- make incidental amendments to their assignment policies to reflect removal of the tariffs.[13]

3.1 Requested amendment 1 – optional demand tariffs

Ergon Energy's and Energex's approved tariff structure statements include the introduction of optional demand tariffs for residential and small business customers. These tariffs include 3 time-of-use windows and 3 demand windows. The optional demand tariffs were approved to be introduced from 1 July 2027.[14]

These tariffs would be in addition to Ergon Energy's and Energex's optional time-of-use demand tariffs for residential and small business customers, which have been available since 1 July 2025 and which consist of 3 time-of-use windows and one peak demand charge.

3.2 Requested amendment 2 – flexible load tariffs

Ergon Energy's and Energex's approved tariff structure statements include the introduction of optional flexible load tariffs for residential and small business customers. The flexible load tariffs were designed as a rebate for customers with flexible load, such as electric vehicles, who allow Ergon Energy or Energex control of the load via a dynamic connection agreement. The flexible load tariffs were approved to be introduced from 1 July 2028.[15]

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13 Ergon Energy and Energex, *Attachment 1 – Application for Tariff Structure Statement Amendment*, May 2026, p. 1.

14 Ergon Energy, *Tariff Structure Statement 2025-30*, April 2025, pp. 16-17; Energex, *Tariff Structure Statement 2025-30*, April 2025, pp. 15-17.

15 Ergon Energy, *Tariff Structure Statement 2025-30*, April 2025, p. 20; Energex, *Tariff Structure Statement 2025-30*, April 2025, p. 19.

4 Reasons for decision

As noted under section 1, our final decision is to refuse to approve Ergon Energy's and Energex's requested tariff structure statement amendments. In this section, we outline our reasons for this decision.

As we are not satisfied that Ergon Energy and Energex have satisfied the requirements under step one (NER cl. 6.18.1B(d)(1)) of the two-step assessment criteria, this decision does not consider step two (NER cl. 6.18.1B(d)(2)).

4.1 Requested removal of optional demand tariffs

Our final decision is to refuse to approve Ergon Energy's and Energex's requested amendment to remove introduction of the optional demand tariffs. We are not reasonably satisfied that an event has been established that was both beyond Ergon Energy's and Energex's reasonable control and could not reasonably have been foreseen.[16]

4.1.1 The proposed event underpinning the amendment

Ergon Energy and Energex proposed that the convergence of two factors makes the demand tariffs unnecessary, impractical and inconsistent with the emerging policy direction of pricing reform:[17]

- residential and small business customers already have access to optional demand-based tariffs which are set out in the approved tariff structure statements. Uptake of these tariffs has been low and introducing additional optional demand tariffs would increase complexity without delivering meaningful benefits to customers or retailers, and
- since the AER approved the tariffs in 2025, the AEMC has progressed its Electricity Pricing Review (the AEMC's Pricing Review).[18] Ergon Energy and Energex submitted that progress of the AEMC's Pricing Review indicates that static, non-locational demand tariffs for small customers are unlikely to form part of the future pricing framework.

4.1.2 The event could reasonably have been foreseen

We consider that, at the time the tariff structure statements were approved, Ergon Energy and Energex could have reasonably foreseen the possibility that customers might not opt into additional optional-demand tariffs.[19] We also do not consider that the emerging policy direction has shifted since the tariff structure statements were approved.

At the time we approved Ergon Energy's and Energex's 2025–30 tariff structure statements, historical, publicly available annual regulatory information notices (RIN) (now Annual

16 NER, cl. 6.18.1B(d)(1).

17 Ergon Energy and Energex, *Attachment 1 – Application for Tariff Structure Statement Amendment*, May 2026, p. 1.

18 AEMC, *The pricing review - Electricity pricing for a consumer-driven future*, *Draft report*, December 2025.

19 NER, cl. 6.18.1B(d)(1)(b).

Information Orders) demonstrated low uptake of optional demand tariffs in multiple jurisdictions in the NEM. For example, 2023–24 RIN data showed that on 30 June 2023:

- 66 out of SA Power Networks' almost 400,000 eligible residential customers were on its optional residential demand tariff[20]
- 134 out of CitiPower's almost 285,000 eligible residential customers were on its optional demand tariff.[21]

Our view is that it could have reasonably been foreseen by Ergon Energy and Energex, based on public information, that take-up of optional demand tariffs would be low. Accordingly, it could have reasonably been foreseen that additional optional demand tariffs might be unnecessary or impractical.

We consider that optional demand tariffs introducing complexity and being inconsistent with policy direction could also reasonably have been foreseen. Complexity of demand-based tariffs and preference from stakeholders for default time-of-use tariffs was discussed in our draft decision on Ergon Energy's and Energex's 2025–30 tariff structure statements.[22] For example, submissions from both Origin Energy and Red Energy and Lumo noted that demand tariffs are too complex for customers to understand. [23]

Further, the complexity of demand tariffs underpinned our decision to require Ergon Energy and Energex to change default tariff assignment for small customers from demand to time-of-use tariffs. It is reasonable that based on our draft decision, Ergon Energy and Energex could have foreseen that an additional demand-based tariff could create additional complexity for customers.

Finally, the AEMC's Pricing Review does not recommend policy direction away from static demand tariffs. It canvasses several future network tariff reforms rather than making any tariff requirements to be applied retrospectively (it is not a rule change), and indicates a transitional period would be appropriate for changes that may be introduced.[24] The AEMC's *Distribution Network Pricing Arrangements Final Determination* provided some examples on how NER cl. 6.18.1B(d)(1) might be applied in practice.[25] These examples include changes in jurisdictional obligations. We do not consider that outcomes of the AEMC's Pricing Review have altered Ergon Energy's and Energex's obligations to offer optional demand tariffs.

4.2 Requested removal of flexible load tariffs

Our final decision is to refuse to approve Ergon Energy's and Energex's requested amendments to remove the planned introduction of flexible load tariffs. We are not

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20 SA Power Networks, *2023-24 – Annual Rin Response*, October 2024.

21 CitiPower, *2023-24 – Annual Rin Response*, October 2024.

22 AER, *Draft Decision Attachment 19 - Tariff structure statement - Ergon Energy and Energex - 2025-30 Distribution revenue proposal*, September 2024, pp. 17-19.

23 Origin Energy, *Submission – 2025-30 Electricity Determination – Energex, Ergon and SA Power Networks*, May 2024, p. 1; Red Energy and Lumo Energy, *Submission – 2025-30 Electricity Determination – Energex*, May 2024, p, 2.

24 AEMC, *The pricing review - Electricity pricing for a consumer-driven future*, *Final report*, June 2026, p. 27.

25 AEMC, *Distribution Network Pricing Arrangements, Rule Determination*, November 2014, Box 5.1, p. 88.

reasonably satisfied that the event put forward was both beyond Ergon Energy's and Energex's reasonable control and could not reasonably have been foreseen.[26]

4.2.1 The proposed event underpinning the amendment

Ergon Energy's and Energex's proposed event to trigger not introducing the flexible load tariffs is that they identified a non-resolvable incompatibility between the flexible load tariffs and mandatory NEM settlement, validation and billing systems. This includes AEMO's procedures, metrology requirements and NEM data / settlement frameworks. Ergon Energy and Energex contend that this incompatibility could not have been discovered before implementation of the tariffs / before their tariff structure statements were approved.[27]

4.2.2 Incompatibility was not beyond reasonable control

We accept that Ergon Energy and Energex did not identify any potential tariff incompatibility with NEM settlement, validation and billing systems until after their tariff structure statements were approved. However, our view is that:

- Ergon Energy and Energex have not demonstrated that offering a flexible load tariff would in fact result in non-compliance or incompatibility with a requirement under the NER. We understand that, at the time Ergon Energy and Energex submitted their amendment requests, they had not engaged with AEMO on the workability of flexible load tariffs.[28]
- Even if there is inconsistency between the flexible load tariffs and a NER requirement, Ergon Energy and Energex have not identified any changes in AEMO's procedures since we approved Ergon Energy's and Energex's tariff structure statements. While AEMO's procedures and frameworks are beyond Ergon Energy's and Energex's control, it was not beyond the distributors' reasonable control, at the time they developed the flexible load tariffs, to determine the tariffs' compatibility with AEMO's requirements, for example by engaging with AEMO.

We understand that this decision means that Ergon Energy and Energex will be required to offer tariffs that could be difficult to implement. This decision is not intended to invalidate the distributors' concerns around the difficulty of implementing the flexible load tariffs. However, given that the planned introduction for flexible load tariffs is not until 1 July 2028, and there is a benefit to customers who opt-in to these tariffs, we encourage Ergon Energy and Energex to consider further whether flexible load tariffs can be implemented. In considering this, we encourage Ergon Energy and Energex to engage further with AEMO.

We also encourage Ergon Energy and Energex to engage with SA Power Networks on its Diversify tariff trial.[29] This trial is similar to the flexible load tariffs, as it offers a fixed charge rebate for control over smart appliances, and has been offered in trial form since 1 July 2023. Because the Diversify tariff is a trial, it cannot be directly compared to Ergon Energy's and

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26 NER, cl. 6.18.1B(d)(1).

27 Ergon Energy, *Tariff Structure Statement 2025-30*, April 2025, p. 20; Energex, *Tariff Structure Statement 2025-30*, April 2025, p. 19.

28 Ergon Energy and Energex, *Response to AER information request - TSS Amendment*, July 2026.

29 SA Power Networks, *Tariff trial notification - 2026-27*, March 2026, pp. 1-2.

Energex's flexible load tariffs. The Diversify tariff trial is restricted to 500 customers, while the flexible load tariffs would be available to any customers who are eligible for them. However, it does demonstrate that similar tariff structures are capable of being offered to customers.

Glossary

Term	Definition
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ENA	Energy Networks Australia
NEM	National Electricity Market
NER	National Electricity Rules
RIN	Regulatory Information Notice