

# Legislative and regulatory obligations

## 2020-25

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## 1. Introduction

This summary document examines the key legislative and regulatory obligations that Ergon Energy and Energex must comply with in the next regulatory control period from 1 July 2020 to 30 June 2025, as distribution network service providers (DNSPs) operating in the National Electricity Market (NEM).

Compliance with applicable regulatory obligations and requirements is a key 'expenditure objective' under clauses 6.5.6(a)(2) and 6.5.7(a)(2) of the National Electricity Rules (NER). This document outlines the key legislative obligations that underpin a significant portion of Ergon Energy's and Energex's fixed operating costs.

Clauses 6.3.1(c)(2) and 6.8.2(d) of the NER require our Building Block and Regulatory Proposals to comply with the requirements of, and contain or be accompanied by the information required by, any relevant regulatory information instrument.

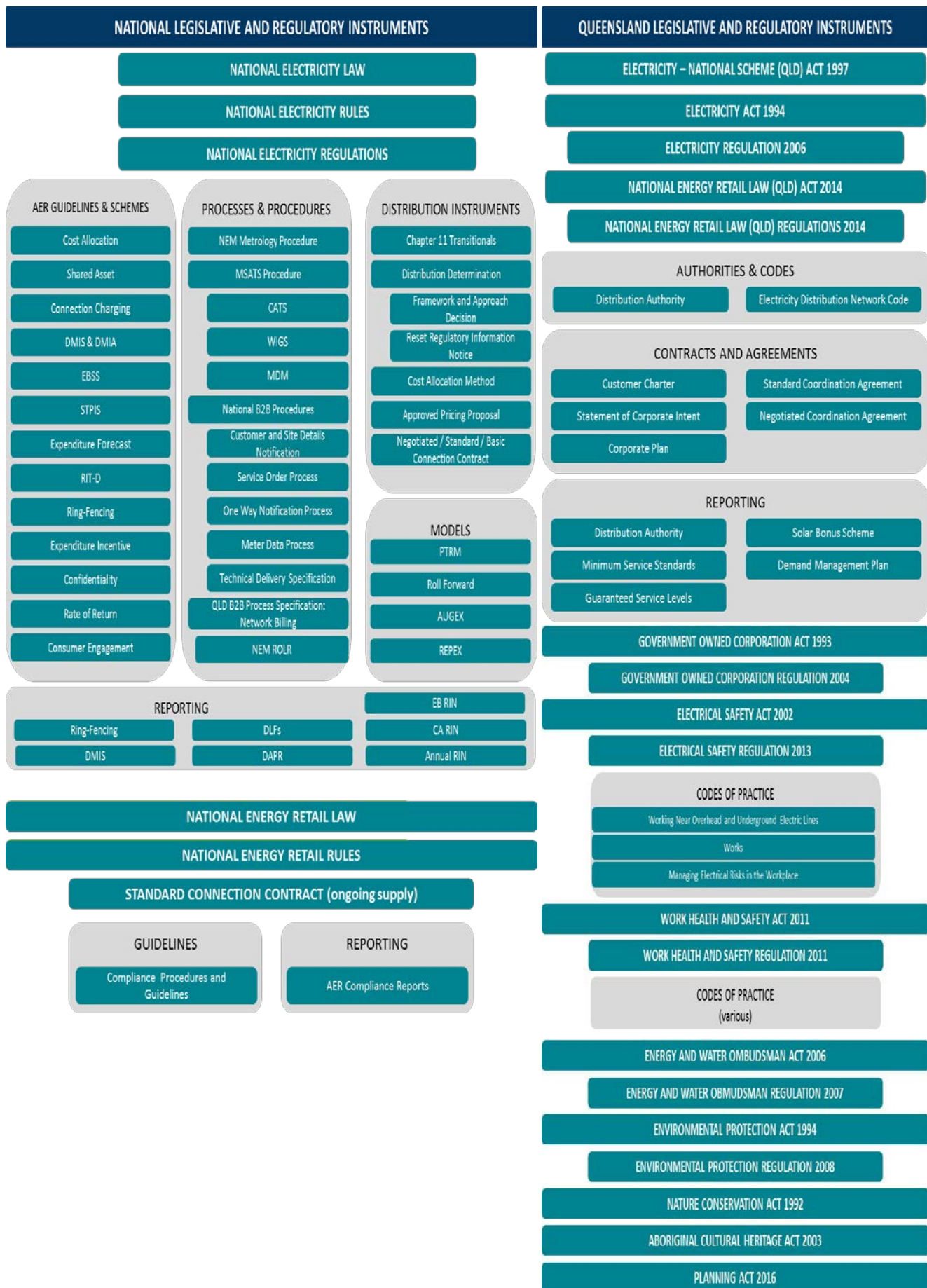
Section 4.1(d) of the respective Regulatory Information Notices (RINs) requires Ergon Energy and Energex to provide certain information about the obligations and requirements that have been relied upon in the development of the Regulatory Proposals and section 11.5 requires the impact on step changes in capital expenditure to be provided.

The key industry specific legislative and regulatory instruments that are relevant to both Ergon Energy and Energex are represented in Figure 1.

Our decision-making is guided by various applicable legislation, regulations, codes and guidelines. However, compliance with these numerous obligations accounts for a significant portion of the expenditure incurred in the construction, operation and maintenance of both DNSPs' electricity networks.



**Figure 1: Electricity legislative and regulatory instruments.**



## 2. Obligations and requirements for 2020-25

The following is a summary of the key national and Queensland-specific legislative and regulatory instruments that Ergon Energy and Energex must comply with in the regulatory control period 2020-25.

### 2.1 National legislative and regulatory instruments

#### 2.1.1 National Electricity Law (NEL)

The NEL prescribes the National Electricity Objective (NEO) which is 'to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, safety, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system'.

Section 7A of the NEL also specifies the Revenue Pricing Principles (RPP). In preparing this proposal, Ergon Energy and Energex have had regard to both the NEO and the RPP.

The NEL also establishes the governance arrangements for the NEM and Queensland's participation in the national market – including conferring policy oversight and review powers on the Council of Australian Governments' (CoAG) Energy Council and functions and powers on the Australian Energy Market Commission (AEMC), the Australian Energy Regulator (AER) and Australian Energy Market Operator (AEMO).

As DNSPs, Ergon Energy and Energex have a number of obligations under the NEL, including a requirement to comply with the distribution determination that applies and any regulatory information instruments that are served.

#### 2.1.2 National Electricity Rules (NER)

The NER are made under the NEL and set out the rights and obligations of participants in the NEM, AEMO as the market operator, and the market institutions. Of particular relevance to the Regulatory Proposals are:

- Chapter 5: network connections and network planning and expansion
- Chapter 5A: electricity connection for retail customers
- Chapter 6: economic regulation of distribution services
- Chapter 7: metering
- Chapter 9: jurisdictional derogations and transitional arrangements, and
- Chapter 11: savings and transitional rules.

The NER also require the AER to develop and publish certain guidelines, models and schemes to be applied to Network Service Providers (NSPs). These include:

- AER guidelines:
  - Rate of Return Guidelines – these guidelines set out the approach the AER will use to estimate the returns on equity and debt for a benchmark efficient business
  - Confidentiality Guideline - the Confidentiality Guideline sets out how DNSPs must make confidentiality claims over information submitted to the AER
  - Expenditure Forecast Assessment Guidelines – these guidelines describe the process, techniques and associated data requirements for the AER's approach to setting efficient expenditure allowances for DNSPs

- Shared Assets Guideline – this guideline sets out how the AER reduces consumer costs for shared assets, through forecasting the annual unregulated revenue that a network business is expected to earn from shared assets, and comparing this to the revenue that is required to provide regulated services
- Expenditure Incentive Guideline – this guideline is specifically concerned with further improving the incentives facing DNSPs to undertake efficient and prudent capital expenditure (capex)
- Connection Charge Guideline – this guideline sets out how DNSPs should charge electricity customers for connection services and distributors must develop their Connection Policies in accordance with this guideline
- Cost Allocation Guidelines (Distribution) – these guidelines outline the required content of our Cost Allocation Method (CAM) and the basis on which the AER will assess that method for approval
- Regulatory Investment Test for Distribution (RIT-D) – the RIT-D is a cost-benefit test that DNSPs must apply when assessing the economic efficiency of different investment options
- Ring-fencing Guideline (Electricity Distribution) – this Guideline is centred on, among other things, preventing a DNSP from providing services that could be cross-subsidised by its distribution services and preventing a DNSP from conferring a competitive advantage on its related electricity service provider that provides contestable electricity services, and
- Consumer Engagement Guideline – this guideline gives NSPs a high level framework to integrate consumer engagement into their business-as-usual operations.
- AER schemes:
  - Service Target Performance Incentive Scheme (STPIS) – clause 6.6.2 of the NER requires the AER to develop and publish a STPIS. The STPIS is designed to ensure DNSPs improve efficiency without deterioration in service performance for customers, and improve service performance where customers are willing to pay for these improvements
  - Efficiency Benefit Sharing Scheme (EBSS) – the EBSS aims to provide for a fair sharing between DNSPs and network users of efficiency gains and efficiency losses in accordance with clause 6.5.8 of the NER
  - Capital Expenditure Sharing Scheme (CESS) – the CESS provides financial rewards for DNSPs whose capex becomes more efficient and imposes financial penalties for those that become less efficient, with consumers benefitting from improved efficiency through lower regulated prices, in accordance with clause 6.5.8A of the NER, and
  - Demand Management Incentive Scheme (DMIS) and Demand Management Innovation Allowance Mechanism (DMIAM) – the DMIS provides DNSPs with an incentive to undertake efficient expenditure on non-network options relating to demand management. The separate DMIAM provides DNSPs with funding for research and development in demand management projects that have the potential to reduce long term network costs.

Procedures and processes for market operations, power system security, network connection and access, pricing for network services in the NEM and national transmission planning are also prescribed under the NER.

The AER is responsible for enforcing the NEL and the NER. Consequently, Ergon Energy and Energex must provide a range of regulatory compliance reports to the AER, including the Annual Ring-fencing Compliance Report, Distribution Annual Planning Report, Demand Management Incentive Scheme Report and Distribution Loss Factors for approval.

### **2.1.3 National Energy Customer Framework (NECF)**

The NECF is a set of laws, rules and regulations providing a national regime for electricity and gas distribution and retail regulation. The legal instruments for the NECF include the National Energy Retail Law (NERL), National Energy Retail Rules (NERR) and the National Energy Retail Regulations.

The NERL establishes the NECF which is focused on the sale and supply of energy to residential and small business customers. The NERR are made under the NERL and provide the detailed content of the consumer protection measures and model contracts that govern the relationships between customers, retailers and distributors. The NERR also facilitates the provision of electricity and gas services to retail customers, including rules relating to:

- customer connections
- retail competition - allowing customers to choose between competing retailers and to switch their retailer
- energy-specific consumer protections, and
- basic terms and conditions contained in standard and market retail contracts.

The AER is responsible for monitoring, investigating, enforcing and reporting on compliance under the NECF. Consequently, Ergon Energy and Energex are required to monitor compliance with NECF obligations and report any breaches identified to the AER in accordance with the AER's Compliance Procedures and Guidelines.

### **2.1.4 Metering**

The following procedures outline our obligations with respect to metering services:

- Metrology Procedure – this document sets out Ergon Energy's obligations as a Metering Coordinator (MC) in exempt areas in regional Queensland, and for Type 6 meters until such time as they are replaced with a Type 4 or Type 4A meter by a competitive MC
- Market Settlement and Transfer Solution (MSATS) Procedures: Consumer Administration and Transfer Solution (CATS) Procedures Principles and Obligations – these procedures set out the principles governing customer transfers, the registration of metering installations and the management of standing data in the NEM
- MSATS Procedures: Procedures for the Management of Wholesale, Interconnector, Generator and Sample (WIGS) National Metering Identifiers (NMI) – these procedures set out the principles that govern consumer transfer, the registration of metering installations and management of standing data for NMIs that are classified as wholesale, interconnector, generator or sample
- MSATS Procedures: Meter Data Management (MDM) Procedures – these procedures define and document the management of metering data within MSATS
- Business to Business (B2B) Procedures: Customer and Site Details Notification Process – these procedures define the business rules and transactions for regular updates of customer and premises between a retailer and a DNSP



- B2B Procedures: Service Order Process – these procedures define the business rules and transactions for a retailer to request a DNSP to undertake a service order on behalf of the retailer or a customer and for the DNSP to provide advice regarding the outcome of the request, and
- B2B Procedures: Meter Data Process – these procedures define the business rules and transactions for Metering Data Providers (MDPs) to send data to retailers, DNSPs and other MDPs and for these parties to communicate about the data, for example, by raising queries.

Additional information on the obligations, requirements and standards applicable to Ergon Energy and Energex and which have been relied upon in the development of this Regulatory Proposal are included in each of the RINs Template 7.3 of Workbook 1.

## 2.2 Queensland-specific legislative and regulatory instruments

### 2.2.1 *Electricity – National Scheme (Queensland) Act 1997*

The *Electricity – National Scheme (Qld) Act 1997* provides that the NEL and the NER apply as a law in Queensland. This Act incorporates the NEL as an attachment.

### 2.2.2 *National Energy Retail Law (Queensland) Act 2014*

The *National Energy Retail Law (Queensland) Act 2014* provides that the *National Energy Retail Law (South Australia) Act* applies as an Act in Queensland and provides the Queensland derogations from the national law as a schedule.

The *National Energy Retail Law (Queensland) Regulation 2014* provides the Queensland derogations to the NERR, including protections specific to consumers in regional and remote Queensland.

### 2.2.3 *Electricity Act 1994 and Electricity Regulation 2006*

The *Electricity Act 1994* (Qld) and *Electricity Regulation 2006* are the primary instruments governing Queensland's electricity supply industry. Among other things, they are the basis for establishing:

- the Distribution Authorities for Ergon Energy and Energex
- our rights and obligations for carrying out our operations, and
- the industry regulatory framework, including giving regulators powers to make industry codes.

### 2.2.4 *Electricity Distribution Network Code (EDNC)*

The EDNC has been made under the *Electricity Act 1994* (Qld) and contains a wide range of obligations that impact on our operations relating to:

- guaranteed service levels (GSLs) and service order performance
- reporting and monitoring arrangements
- arrangements governing the provision of services between Ergon Energy or Energex and retailers, including under a Standard Coordination Agreement
- customer transfer and consent arrangements for the purposes of full retail competition, and
- metering obligations in relation to type 7 meters and isolated/excluded customers in Ergon Energy's distribution area.



The Standard Coordination Agreement is a deemed agreement that applies between Ergon Energy or Energex and any retailer with whom we have a common customer. The agreement defines the way in which the parties will discharge their respective obligations to customers and establishes common protocols for communicating customer information, in circumstances where a Negotiated Coordination Agreement has not been entered into. It is contained at Annexure A to the EDNC.

Ergon Energy and Energex can also negotiate with any retailer with whom we have a common customer. The Negotiated Coordination Agreement defines the terms and conditions under which the parties will discharge their respective obligations to customers and establishes common protocols for communicating customer information. Any such agreement would replace the Standard Coordination Agreement.

The Queensland Market Participant Handbook defines the standard protocols for communication and transactions between Ergon Energy and Energex and retailers, metering coordinators, meter providers and electrical contractors operating within our distribution areas. In the Standard Coordination Agreement it is known as the 'Operational Procedures'.

The Queensland B2B Process Specification: Network Billing, which has been prepared in accordance with clause 3.3 of the EDNC, describes the automation of the network billing process, its associated transactions and the associated business rules.

### **2.2.5 Distribution Authority**

The Queensland Regulator (the Department of Natural Resources, Mines and Energy (DNRME)) has issued both Ergon Energy and Energex with a Distribution Authority in accordance with the *Electricity Act 1994* (Qld). It imposes a broad range of obligations on the DNSPs, including in relation to compliance with Minimum Service Standards and GSLs as notified from time to time.

Under the *Electricity Regulation 2006* (Qld), it is a condition of each Queensland DNSP's Distribution Authority that it must annually prepare a Demand Management Plan for approval by the Regulator. The Demand Management Plan must include strategies, plans, cost estimates and performance targets for undertaking demand management initiatives.

### **2.2.6 Safety Obligations**

The *Electrical Safety Act 2002* (Qld) (Safety Act) and *Electrical Safety Regulation 2013* (Qld) (Safety Regulation) establish a safety framework by imposing obligations on persons who may affect the electrical safety of others and are administered by the Electrical Safety Office. The fundamental principle of the legislation is to set legal requirements to ensure the electrical safety of licensed electrical workers, other workers, licensed electrical contractors, consumers and the general public.

The Safety Regulation prescribes, among other things, the requirements for working around live electrical parts. In particular, section 216 of the Safety Regulation states that:

*"An electricity entity must ensure that trees and other vegetation are trimmed and other measures taken, to prevent contact with an overhead electric line forming part of its works that is likely to cause injury from electric shock to any person or damage to property."*

The Safety Act also supports Codes of Practice which provide practical advice regarding the discharge of obligations under the Safety Act and Safety Regulation. In particular, the Electrical Safety Code of Practice 2010 – Works, provides practical advice on ways for an entity to manage electrical safety risks associated with earthing systems, underground cable systems, and supporting structures for overhead lines forming part of the works of an electricity entity. In relation to supporting structures for overhead lines, the Code stipulates that an electricity entity should have a maintenance system that achieves a minimum three-year moving average reliability against the incidence of failure

of 99.99 per cent a year and that special consideration should be given to poles in areas of higher risk (such as cities and towns).

Other relevant codes of practice include Working Near Overhead and Underground Electric Lines and Managing Electrical Risks in the Workplace.

The *Work Health and Safety Act 2011* (Qld) (Health and Safety Act) and *Work Health and Safety Regulation 2011* (Qld) (Health and Safety Regulation) reflect the harmonised safety legislation across Australia governing safe working requirements. The Health and Safety Act provides a framework to protect the health, safety and welfare of all workers in the workplace and of other people who might be affected by the work, while the Health and Safety Regulation addresses procedural and administrative matters relating to duties prescribed under the Health and Safety Act.

### **2.2.7 Energy Ombudsman**

The *Energy and Water Ombudsman Act 2006* (Qld) and *Energy and Water Ombudsman Regulation 2007* (Qld) establish an independent dispute resolution mechanism for small customers who have a complaint about their energy supply. The *Electricity Act 1994* (Qld) empowers the Energy and Water Ombudsman Queensland to compel electricity distribution entities to make payments to customers.

Significant resources are devoted to not only delivering safe and reliable electricity supply services in accordance with service standards but also to manage customer access to information and actively communicating with the community, government and other NEM participants.

### **2.2.8 Environmental and heritage obligations**

The nature of electricity distribution operations means environmental and heritage obligations have significant cost implications for Ergon Energy and Energex. Of particular significance are the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), *National Greenhouse and Energy Reporting Act 2007* (Cth), *Environmental Protection Act 1994*, *Nature Conservation Act 1992*, *Aboriginal Cultural Heritage Act 2003* and the *Planning Act 2016*. Ergon Energy and Energex continue to experience a steady increase in legislative and policy obligations with respect to environmental obligations in the areas of waste disposal and management, protected animals and plants, vegetation management, weeds and emissions and pollution management. The general trend is towards evidence-based environmental performance rather than prescription via permits and approvals, with a greater emphasis on pre-works surveys, accreditation of internal environmental management documents and audits by regulators.

### **2.2.9 Government Owned Corporations obligations**

Prior to the establishment of Energy Queensland Limited, Ergon Energy and Energex were Queensland Government Owned Corporations (GOCs), with shareholding Ministers to whom the Board reported. Ergon Energy and Energex are now subsidiaries of the GOC Energy Queensland Limited and remain subject to the same level of regulation as they did as a GOC. Most of the obligations imposed on GOCs by the *Government Owned Corporations Act 1993* (Qld) relate to accountability and performance monitoring requirements.

### 3. Anticipated or incremental regulatory obligations

#### 3.1 National legislative and regulatory instruments

All of the national legislative and regulatory instruments will continue to apply in the regulatory control period 2020-25, although various changes will have been made to each instrument between the two periods.

The following new national regulatory instruments did not apply in the regulatory control period 2015-20 but will apply in the 2020-25 regulatory control period:

- Distribution Determination – the AER will issue a Distribution Determination for Ergon Energy and Energex in accordance with clause 6.2.4(a) of the NER
- Framework and Approach – the AER issued its Framework and Approach for Ergon Energy and Energex in accordance with clause 6.8.1 of the NER on 30 July 2018
- Regulatory Information Notice – the AER issued a RIN for Ergon Energy and Energex on 1 November 2018 in accordance with section 28F(1)(a) of the NEL. Ergon Energy and Energex have addressed the requirements of this RIN in our Regulatory Proposals
- Models – the AER has issued two models that Ergon Energy and Energex have used in submitting our Regulatory Proposals to the AER:
  - Post Tax Revenue Model (PTRM) – the AER has issued a PTRM and an associated PTRM Handbook, and
  - Roll Forward Model (RFM) – the AER has issued a RFM and an associated RFM Handbook
- CAM – the AER has approved the CAM that Ergon Energy and Energex submitted to it in accordance with the Cost Allocation Guidelines and clause 6.15 of the NER. This document will be used by Ergon Energy and Energex for the purposes of attributing costs to, or allocating costs between, our distribution services, and other unregulated activities within each DNSP.

#### 3.2 Queensland-specific legislative and regulatory instruments

All of the Queensland-specific legislative and regulatory instruments detailed above will continue to apply to Ergon Energy and Energex in the regulatory control period 2020-25.

#### 3.3 Queensland Government electricity sector reforms

It is expected that Queensland Government policies will change over time and we cannot anticipate the nature or timing of any such changes given this is ultimately a matter for the Queensland Government to decide. However, we note that changes to requirements and obligations are inevitable as a result of ongoing market reform and outworking of energy sector reviews such as the Electricity Legislation Review.

### 3.3.1 Electricity Legislation Review

DNRME has commenced a review of the *Electricity Act 1994 (Qld)*, *Gas Supply Act 2003 (Qld)* and *Energy and Water Ombudsman Act 2006 (Qld)* and Regulations to assess how well this legislation services current and future needs. The review does not extend to federal and applied national energy laws, but rather looks at the alignment of the state-based energy legislation with the applied national laws.

The Issues Paper which was released in May 2018 is the first of three stages of consultation to explore how changes in the energy sector may be affecting the operation of state-based energy legislation, and to seek industry views and recommendations. The final stage is scheduled for mid-2019.