

Draft Orders submitted to the Governor in Council by the Honourable the Minister for Energy and Resources

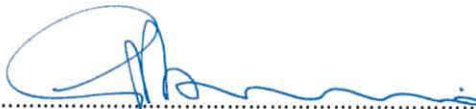
National Electricity (Victoria) Act 2005

Recommending to the Governor in Council, under section 12A of the **National Electricity (Victoria) Act 2005**, that the National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024, be made.



(Signature of Secretary or Authorised Delegate)

John Bradley, Secretary, Department of Energy, Environment and Climate Action



(Signature of Minister).....

The Hon. Lily D'Ambrosio MP, Minister for Energy and Resources



For Executive Council

16 JUL 2024



APPROVED BY THE
GOVERNOR IN COUNCIL



.....
Clerk of the Executive Council



National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

EXPLANATORY MEMORANDUM

Summary

- The proposed **National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024** (proposed Regulations) will provide for standalone power systems owned, operated, or controlled by the Victorian Distribution Network Service Providers, to be 'regulated standalone power systems' for the purposes of section 6B of the National Electricity Law.
- The effect of the proposed Regulations is that National Electricity Law or Rules apply to 'regulated standalone power systems'.
- The proposed Regulations are proposed to commence on the day they are made.

Recommendation

1. It is recommended to the Governor in Council that the **National Electricity (Victoria) (Standalone Power Systems) Regulations 2024** be made.

Background to proposed Regulations and their effect

2. A standalone power system is an electricity supply arrangement that is not physically connected to the national grid. Standalone power systems offer a cost-effective way to enhance the resilience of supply to fringe-of-grid areas on electricity Distribution Network Service Providers' networks, reduce expenditure for supplying high cost-to-serve customers, reduce energy emissions and reduce bushfire start risk.
3. In 2019, the Australian Energy Market Commission published a report which reviewed the regulatory arrangements for standalone power systems to be used by distributors in the National Energy Market as an alternative to standard grid supply where it would be economically efficient to do so, while preserving consumer protections comparable to those afforded to customers supplied via the interconnected grid.
4. The Australian Energy Market Commission's review resulted in amendments to the National Electricity Law and Rules, which establish a standalone power systems



framework.

5. In September 2021, the **National Electricity (Victoria) Act 2005** was amended, to adopt the National Electricity Law and Rules as they relate to standalone power systems framework. However, that framework will not apply in Victoria unless local regulations are created that specifically provide for 'regulated standalone power systems'.
6. The proposed Regulations will allow standalone power systems that are owned, operated and controlled by specified Distribution Network Service Providers in Victoria to be 'regulated standalone power systems' to which the National Electricity Law and Rules apply. The effect of proposed Regulations is that Distribution Network Service Providers in Victoria can add expenditure related to establishing and maintaining standalone power systems into their regulatory proposals to the Australian Energy Regulator. The Australian Energy Regulator is then able to factor that input into distribution determinations that consider expenditure that can be passed through to the customer base.

Application of the National Electricity Laws and Rules in Victoria

7. Section 6 of the **National Electricity (Victoria) Act 2005** adopts the National Electricity Law and Rules into Victoria. The National Electricity Law is the Schedule to the **National Electricity (South Australia) Act 1996** and is the Law that applies to all participating jurisdictions in the National Electricity Market.
8. For standalone power systems, section 6B of the National Electricity Law provides that a participating jurisdiction may make regulations to provide that a standalone power system owned, operated or controlled by specified Distribution Network Service Providers form part of the national electricity system by declaring them 'regulated standalone power systems'.
9. Broadly, section 12A of the **National Electricity (Victoria) Act 2005** provides for the making of Regulations for or with respect to any matter required or permitted by that Act to be prescribed or necessary or convenient to be prescribed to give effect to that Act.
10. Section 12A(2)(h) of the **National Electricity (Victoria) Act 2005** provides that Regulations can provide for two classes of stand-alone power systems to be part of the national electricity system.
11. The two classes of stand-alone power systems that can be prescribed are:

- a particular system, which consists of a distribution system owned, controlled or operated, or proposed to be owned, controlled or operated, by a regulated distribution system operator; and
 - a system, which consists of a distribution system owned, controlled or operated, or proposed to be owned, controlled or operated, by a regulated distribution system operator, that belongs to a particular class of stand-alone power systems.
12. Section 12A(2A) of the **National Electricity (Victoria) Act 2005** provides that those types of stand-alone power systems may be described by reference to—
- the particular geographic area where the system is or will be located; or
 - the regulated distribution system operator that owns, controls or operates, or proposes to own, control or operate the system or proposed system; or
 - whether the system, or the class of systems, comply with any requirements specified by the Rules.
13. Section 12A(3)(eb) of the **National Electricity (Victoria) Act 2005** further provides that the Regulations may modify the application of a specified provision of the National Electricity (Victoria) Law or the Rules for and with respect to a regulated stand-alone power system or a class of regulated stand-alone power systems.
14. In Victoria, a ‘regulated standalone power system’ is to comply with the National Electricity Law, National Electricity Rules, as well as Victoria’s regulatory framework, including **Electricity Industry Act 2000**, the **Electricity Safety Act 1997**, and the **Essential Services Commission Act 2001** (which provides for the Electricity Distribution Code of Practice).

Overview of the Proposed Regulations

15. The proposed Regulations provide that a standalone power system forms part of the national electricity system if:
- it is owned, operated or controlled by one of the following Distribution Network Service Providers:
 - Citipower Pty Ltd (ACN 064 651 056)
 - Ausnet Electricity Services Pty Ltd (ACN 064 651 118);
 - Jemena Electricity Networks (Vic) Ltd (ACN 064 651 083);
 - Powercor Australia Ltd (ACN 064 651 109);



- United Energy Distribution Pty Ltd (ACN 064 651 029).
16. The proposed Regulations will provide that those stand-alone power systems are 'regulated standalone power systems' for the purposes of section 6B of the National Electricity Law and will have the effect of applying the following chapters of the National Electricity Rules to standalone power systems owned, operated or controlled by distribution service operators:
- Chapter 2 – market participant registration requirements,
 - Chapter 3 – market rules and the new standalone power system settlement market operated by the Australian Energy Market Operator for standalone power system electricity trades,
 - Parts A, B and D of Chapter 5 – rules regarding customer engagement, quality of supply principle, network connection and access requirements, and the economic regulatory requirement that prior to transitioning a customer to a standalone power system, the Distribution Network Service Provider must ensure that it is the most efficient non-network option compared to maintaining a traditional grid connection,
 - Chapter 5A – rules regarding connection applications,
 - Chapter 6 – rules regarding ring-fencing requirements, regulatory proposals and distribution pricing rules, and
 - Chapter 7 – rules regarding metering services.
17. Under the National Electricity Rules, the following chapters are disapplied for the purposes of a regulated standalone power system:
- Chapter 4 – power system security requirements are disapplied because the Australian Energy Market Operator will not be responsible for the frequency levels within a regulated standalone power system, and
 - Chapter 4A – the retailer reliability obligations are disapplied for a regulated standalone power system.
 - Part C of Chapter 5 – rules regarding inspection, testing and commission of network assets post-connection.
18. Consistent with its current regulatory obligations, the Essential Services Commission will need to enforce compliance for other technical obligations set out in the Electricity Distribution Code of Practice. The current technical obligations set out in clause 19 of the



Electricity Distribution Code of Practice are sufficient for the purposes of a regulated standalone power system.

19. Regulations 1 to 3 of the proposed Regulations set out the preliminary arrangements for the regulations including the objectives, authorising provision, and definitions.
20. Regulation 4 of the proposed Regulations provides for a standalone power system is a 'regulated standalone power system' for the purposes of section 6B of the National Electricity Law if it is owned, operated or controlled by the following entities:
 - Citipower Pty Ltd (ACN 064 651 056)
 - Ausnet Electricity Services Pty Ltd (ACN 064 651 118);
 - Jemena Electricity Networks (Vic) Ltd (ACN 064 651 083);
 - Powercor Australia Ltd (ACN 064 651 109);
 - United Energy Distribution Pty Ltd (ACN 064 651 029).
21. Implementation of these regulations facilitates more efficient and widespread roll out of standalone power systems by Distribution Network Service Providers. This will assist protecting consumers from prolonged power outages caused by extreme weather events as climate change progresses, reduce the risk of bushfire ignition, and increase reliance on electricity supply that will reduce carbon emissions. Network charges placed on distribution customers on a State-wide basis will be subject to less upwards pressure because standalone power systems are a more cost-efficient investment compared to upgrading, augmenting and maintaining current long grid connections.
22. The Essential Services Commission, Energy Safe Victoria, the Victorian Distribution Network Service Providers, Victorian retailers, other jurisdictions with existing Standalone Power System regulations, and consumer advocacy groups were consulted on the preparation of the proposed Regulations.
23. A Regulatory Impact Statement has not been prepared as the proposed Regulations do not impose a significant economic or social burden on a sector of the public.

Authorising Legislation

24. Section 12A of the **National Electricity (Victoria) Act 2005** provides that the Governor in Council may make regulations for any matter in relation to the Act. Under sections 12A(2)(h) and 12A(2A), the Governor in Council can provide for standalone power



systems owned, operated or controlled by Distribution Network Service Providers as 'regulated standalone power systems' for the purposes of section 6B of the National Electricity Law, and to prescribe other conditions for the purposes of such a provision.

Certificates provided in accordance with the Subordinate Legislation Act 1994

25. The following certificates are attached for the proposed Regulations in accordance with the **Subordinate Legislation Act 1994**:

- Section 6 – Consultation Certificate.
- Section 8 – Exemption Certificate.
- Section 12A – Human Rights Certificate. The proposed Regulations do not limit any human right under the **Charter of Human Rights and Responsibilities Act 2006**.

National Competition Policy

26. In accordance with the guidelines contained in the *Victorian Guide to Regulation* (published by the Office of the Commissioner for Better Regulation), the proposed Regulations are not required to be tested under competition policy assessment requirements as they are exempt from the Regulatory Impact Statement process.

Gazettal

27. Notice of the proposed Regulations will be published in a Special Gazette on the day of their making.

Contact Name: Lan Nguyen
Telephone Number: 03 8508 1041





Hon Lily D'Ambrosio MP

Minister for Climate Action
Minister for Energy and Resources
Minister for the State Electricity Commission

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9504

National Electricity (Victoria) Act 2005

National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

RECOMMENDATION

It is recommended to the Governor in Council that, under section 12A of the **National Electricity (Victoria) Act 2005**, the National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024 be made.

Advice from the Chief Parliamentary Counsel is submitted as required by section 13 of the **Subordinate Legislation Act 1994**.

A Regulatory Impact Statement for these Regulations has not been prepared. As the Minister responsible for the administration of the **National Electricity (Victoria) Act 2005**, I have issued an exemption certificate under section 8 of the **Subordinate Legislation Act 1994**, and it is attached.

Under my hand, the following additional, certificates are attached:

- A consultation certificate prepared under section 6 of the **Subordinate Legislation Act 1994**;
- A human rights certificate prepared under section 12A of the **Subordinate Legislation Act 1994**.

Dated: 30/06/2024


The Hon. Lily D'Ambrosio MP
Minister for Energy and Resources





Hon Lily D'Ambrosio MP

Minister for Climate Action
Minister for Energy and Resources
Minister for the State Electricity Commission

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9504

Subordinate Legislation Act 1994

CONSULTATION CERTIFICATE

(Section 6)

National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

I, Lily D'Ambrosio, Minister for Energy and Resources, and Minister responsible for administering the **National Electricity (Victoria) Act 2005**, certify that in accordance with the guidelines made under the **Subordinate Legislation Act 1994** there has been consultation with:

- (a) every other Minister whose area of responsibility may be affected by the proposed National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024, including the Essential Services Commission, and there is no overlap or conflict with any other existing or proposed statutory rule, legislation or stated government policy;
- (b) electricity Distribution Network Service Providers, electricity retailers, and community groups; and
- (c) Energy Safety Victoria and the Australian Energy Regulator;

so that the need for and the scope of the proposed National Electricity (Victoria) (Standalone Power Systems) Regulations 2024 have been considered.

Dated: 30/06/2024

The Hon. Lily D'Ambrosio MP
Minister for Energy and Resources





Hon Lily D'Ambrosio MP

Minister for Climate Action
Minister for Energy and Resources
Minister for the State Electricity Commission

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9504

Subordinate Legislation Act 1994

EXEMPTION CERTIFICATE

(Section 8)

National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

I, Lily D'Ambrosio, Minister for Energy and Resources, and Minister responsible for administering the **National Electricity (Victoria) Act 2005**, certify under section 8(1)(a) of the **Subordinate Legislation Act 1994** that in my opinion, the proposed statutory rule would not impose a significant economic or social burden on a sector of the public.

The proposed Regulations will enable the deployment of "regulated stand-alone power systems" and, subject to a regulatory investment test, will lead to benefits of lowered network costs, increased efficient outcomes for customers and industry as well as improved environmental outcomes from reduced greenhouse gas emissions and costs for vegetation management.

Accordingly, a Regulatory Impact Statement has not been prepared for these Regulations.

Dated: 30/06/2024

The Hon. Lily D'Ambrosio MP
Minister for Energy and Resources





Hon Lily D'Ambrosio MP

Minister for Climate Action
Minister for Energy and Resources
Minister for the State Electricity Commission

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East Melbourne, Victoria 3002
Telephone: 03 9637 9504

Subordinate Legislation Act 1994

HUMAN RIGHTS CERTIFICATE

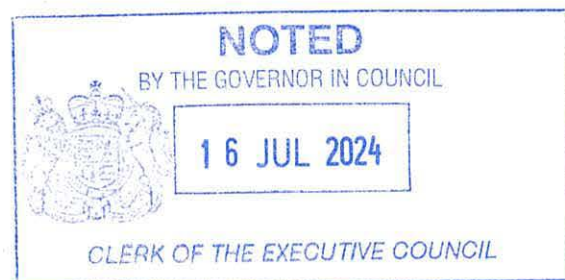
(Section 12A)

National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

I, Lily D'Ambrosio, Minister for Energy and Resources, and Minister responsible for administering the **National Electricity (Victoria) Act 2005** certify that, in my opinion the proposed National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024 do not limit any human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.

Dated: 30/06/2024

The Hon. Lily D'Ambrosio MP
Minister for Energy and Resources





PARLIAMENTARY COUNSEL VICTORIA

Your Reference: LEX-24169

Parliamentary Counsel's Chambers
Level 2, 1 Macarthur Street, Melbourne, VIC 3002

DX 210753

Our Reference: 23388 24-017:JS/CP

Tel: (03) 9651 2103 Fax: (03) 9651 2107

Website: www.legislation.vic.gov.au

SUBORDINATE LEGISLATION ACT 1994 SECTION 13 CERTIFICATE

Proposed statutory rule : **National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024**

Authorising Act : **National Electricity (Victoria) Act 2005**

Date of print of proposed statutory rule : 15 May 2024

A proposed statutory rule that is to be made by, or with the consent or approval of, the Governor in Council must be submitted to the Chief Parliamentary Counsel for the issue of a certificate by the Chief Parliamentary Counsel specifying whether the proposed statutory rule —



- | | |
|---|---------------------------|
| (a) <i>appears to be within the powers conferred by the authorising Act;</i> | (a) so appears; |
| (b) <i>appears without clear and express authority being conferred by the authorising Act —</i> | (b) |
| (i) <i>to have a retrospective effect; or</i> | (i) does not so appear; |
| (ii) <i>to impose a tax, fee, fine, imprisonment or other penalty; or</i> | (ii) does not so appear; |
| (iii) <i>to shift the legal burden of proof to a person accused of an offence; or</i> | (iii) does not so appear; |
| (iv) <i>to sub-delegate powers delegated by the authorising Act;</i> | (iv) does not so appear; |
| (c) <i>appears to be consistent with the general objectives of the authorising Act;</i> | (c) so appears; |

- | | |
|--|-------------------------|
| (d) <i>appears to be consistent with and to achieve the objectives set out in the proposed statutory rule and, if the proposed statutory rule is to amend an existing statutory rule, appears to be consistent with the objectives set out in the existing statutory rule;</i> | (d) so appears; |
| (e) <i>appears to be inconsistent with principles of justice and fairness;</i> | (e) does not so appear; |
| (f) <i>appears significantly or substantially to overlap or conflict with any other statutory rule or legislation;</i> | (f) does not so appear; |
| (g) <i>is expressed as clearly and unambiguously as is reasonably possible.</i> | (g) is so expressed. |



JAYNE ATKINS

Chief Parliamentary Counsel

Date : 15 May 2024



This certificate relates to the circumstances as at the date of the certificate.

**National Electricity (Victoria) (Regulated Stand-
alone Power Systems) Regulations 2024**

S.R. No. 69

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STATUTORY RULES 2024

S.R. No. 69

National Electricity (Victoria) Act 2005

National Electricity (Victoria) (Regulated Stand-alone Power Systems) Regulations 2024

The Governor in Council makes the following Regulations:

Dated: 16 JUL 2024

Responsible Minister:

LILY D'AMBROSIO
Minister for Energy and Resources



Clerk of the Executive Council

1 Objective

The objective of these Regulations is to provide for particular stand-alone power systems to be regulated stand-alone power systems for the purposes of the National Electricity (Victoria) Law.

2 Authorising provision

These Regulations are made under section 12A of the **National Electricity (Victoria) Act 2005**.

3 Definition

In these Regulations—

stand-alone power system has the meaning given by section 6B(6) of the National Electricity (Victoria) Law.

4 Regulated stand-alone power systems

A stand-alone power system which consists of a distribution system that is owned, controlled or operated, or proposed to be owned, controlled or operated, by any of the following entities forms part of the national electricity system and is a regulated stand-alone power system for the purposes of the National Electricity (Victoria) Law—

- (a) Citipower Pty Ltd (ACN 064 651 056);
- (b) Ausnet Electricity Services Pty Ltd (ACN 064 651 118);
- (c) Jemena Electricity Networks (Vic) Ltd (ACN 064 651 083);
- (d) Powercor Australia Ltd (ACN 064 651 109);
- (e) United Energy Distribution Pty Ltd (ACN 064 651 029).

Note

See also the definition of *regulated stand-alone power system* in section 2 of the National Electricity (Victoria) Law and section 6B of that Law.
