

# Jemena Asset Management Pty Ltd

Submission - "Review of Victoria's Electricity and Gas Network Safety Framework" - Interim Report - October 2017

Public

27 November 2017



**An appropriate citation for this paper is:**

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**Authorisation**

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**History**

Rev No	Date	Description of changes	Author
1	08/11/17	Submission version	Alan Shu

**Owning Functional Area**

Business Function Owner:	Asset Management
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## 1. EXECUTIVE SUMMARY

The recommendations proposed in the Review of Victoria’s Electricity and Gas Network Safety Framework – Interim Report have both positive and negative aspects.

### ***ESV’s Regulatory and Corporate Governance***

Reconstituting ESV under three commissioners independent of government and commercial influence is not consistent with the energy regulatory frameworks established in other Australian jurisdictions, particularly in the ESV’s core areas of energy safety regulation and energy technical standards. The Interim Report seeks to justify this recommendation by referencing four existing energy regulatory bodies which operate as commissions, but of these:

- Three (the AEMC, AER and ACCC) have been established to operate across a number of jurisdictions
- Only one is specific to Victoria (the Essential Services Commission), and that was established some years ago at a time when – unlike the ESV in 2017 - a primary focus of this body was to directly regulate Victorian government entities
- None of the four commissions cited have an energy safety and technical standards core focus

This begs the question as to what is so different with the ESV in Victoria to require this approach, which Jemena does not believe, is required. Safety is both a commercial and government objective and should be recognised as such by all key stakeholders. Jemena fully supports the principle of independence of review (audit) but believes that the interests of the industry and our customers are best served if ESV remains well connected into Government, maintaining its strong linkages to other government departments and agencies relevant to the energy industry in Victoria.

Jemena acknowledges the importance of safety and has been following a “No Harm” philosophy for many years. This is embedded in Jemena’s management systems – as such, Jemena believes it is already strongly aligned with ESV’s desire to protect the people of Victoria. Any increase in prescriptive regulation which may eventuate from these recommendations will simply add unnecessary cost, which ultimately will be passed onto energy users without delivering further improvement in public or personal safety.

Jemena is firmly of the view that the risks associated with operating the asset reside with the Licensee. As such, Jemena sees the role of the regulator to monitor safety management system outputs to support an assurance position it forms on behalf of government and the community. Jemena does not accept that the regulator has a role in industry wide data analytics to scope up specific work programs, which Licensees as a group or individually are directed to complete. Rather, whilst issues may be highlighted by the regulator, responsibility for mitigating those risks (including the nature and scope of the response) should be a matter for the Licensee.

### ***Integrating Safety Regulation with Economic Regulation***

Jemena would welcome closer links between technical and economic regulation, but this must be applied in a way to optimise the benefits for energy end-users - “the customers” - through driving lower costs of compliance and supporting risk-based regulation as opposed to “hands-on” intrusive and prescriptive regulation.

Jemena welcomes the outcomes-based approach acknowledged in the report as intending to not add overhead and unnecessary bureaucracy to the core of a safety strategy. But Jemena does not support any increase in prescriptive regulation as this negates innovation and improvement in efficiency and effectiveness and does not fit with a risk-based safety case approach supported by robust systems of performing work. As is well known, safety case regimes are based on the principle that the legislation sets the broad safety goals to be attained and

the operator of the facility develops the most appropriate methods of achieving those goals. A basic tenet<sup>1</sup> is the premise that the ongoing management of safety is the responsibility of the operator, not the regulator. The Licensee as the asset owner bears the risk of operating the asset under the law, and the role of the regulator is to:

- ensure the Licensee is complying with the applicable legal framework, and
- provide to the community assurance that the safety systems implemented by the Licensee deliver the expected safety outcomes now and into the future.

In the context of the ESV's review, Jemena would encourage further consideration of the place of existing Australian and/or International standards in defining prudent energy safety practice before prescribing additional sources of technical prescription.

### ***Regulatory Approach and Capabilities***

The Interim Report, while supporting an outcomes-based approach, goes on to state that “experience has demonstrated that a robust safety case system requires strong hands-on engagement”. Jemena would see that the interests of public safety are best served through an outcomes-based approach and appropriately targeted action taken where outcomes are not deemed satisfactory.

Jemena supports a rigorous industry audit regime as a performance review mechanism but does not believe the only way to achieve this is through increasing the audit capability within ESV itself. There are other models which have been successfully adopted in the Australian energy industry, whereby independent auditors are used to verify and provide assurance that safety case controls are in place and working effectively or identify inadequacies in safety controls or practices. Utilising an independent auditor model would also address the perceived need to build capability within ESV to assess safety cases, as the expertise exists within industry already.

Furthermore, any ESV inspection and audit effort should be targeted based on risk with inspections and audits directed towards participants that lack the strong systems that drive performance towards aligned safety objectives. In other words, a careful application of “hands on” and “light handed” audit and inspection processes, depending on the underlying risk profile of the specific industry participant in question.

Jemena does not support any increase in the number of analysts employed within ESV. ESV already receives key performance data and one assumes already performs comparative analysis of these results. Separately, Jemena as the licensee closely monitors performance and safety related indicators, incidents and outputs, implementing appropriate actions where necessary to address any issues identified to manage Jemena's risks. Risks and issues faced by licensees are not identical, Jemena does not support ESV performing comparative analysis that may then result in industry wide directives, simply adding unnecessary costs implementing mandated safety programs to address a perceived problem that does not exist for a particular Licensee.

Jemena supports a regime whereby appropriate powers are available to ESV to prosecute or issue directions to licensees (where required) on the basis of an identified risk not addressed in the safety management system or the failure to adequately implement the Licensee's own safety management system and programs of work.

### ***Engagement Across Regulatory and Interagency Boundaries***

Jemena is also concerned that the draft report is not consistent with an Australia-wide Council of Australian Governments (COAG) harmonisation drive to unify and align energy industry legislation and regulation in an effort to lower the overall cost of compliance ultimately passed onto customers. A number of the recommendations proposed in the Interim Report further reinforce specific jurisdiction-based approaches which adds regulatory

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<sup>1</sup> <https://www.nopsema.gov.au/safety/safety-case/safety-case-approach/>

burden to licensees, particularly those with assets in more than one jurisdiction or those crossing jurisdictional boundaries.

***Promoting Workforce Engagement***

Finally, Jemena is also concerned that the Interim Report recommends further consultation requirements with employees and unions in respect to implementing change. Consultation with employees is already required as part of change management requirements which support a robust safety case. Further, consultation requirements are already legislated in workplace health and safety legislation and further regulation would simply duplicate these measures and is not required.

## 2. JEMENA RESPONSE TO REVIEW RECOMMENDATIONS

No	Review Recommendation	Jemena Comment
<b>ESV's Regulatory and Corporate Governance</b>		
1	Energy Safe Victoria should be established as a commission with three commissioners. One commissioner should serve as a full-time chair, with reserve powers in the event of emergencies. The remaining two commissioners should be appointed on a part-time basis. The commissioners should each have equal voting rights, with decisions being made by consensus, or by a simple majority if a consensus cannot be achieved. Commissioners should be appointed for five year terms, with the ability for these terms to be renewed once only.	<p>Jemena does not consider that a persuasive case has been made in the Interim Report to move away from the current ESV governance structure, with the formation of an independent commission, and accordingly does not support it. Furthermore:</p> <ul style="list-style-type: none"> <li>• No other State or Territory-based energy safety or technical regulators are structured as a commission</li> <li>• The circumstances of each of the four commissions cited in the Interim Report in support of this recommendation can be clearly distinguished from the ESV – given the cross-jurisdictional remit of each of the AEMC, AER and ACCC, and the role of the ESC in Victoria to regulate entities within the Victorian Government</li> <li>• The ESV must be able to be held to account in the use of its powers. This objective is clearly best served by the ESV retaining its current governance structure.</li> </ul>
2	The Chair of the Energy Safe Victoria Commission should also serve as Chief Executive of ESV and should have responsibility for the corporate leadership of ESV, advised by an Executive Management Board comprising the commission members and no more than five executive managers.	See comments Recommendation #1.
3	Building on its existing <i>Conflict of Interest Policy</i> , ESV should develop documented protocols and additional guidance to ensure that perceived and potential conflicts of interest are addressed in its regulatory decision making, particularly in cases where regulatory staff have previously been employed by network businesses or undertaken previous consulting engagements with network businesses.	Jemena supports ESV improving its internal controls. Appropriate internal management of perceived or potential conflicts of interest should be a requirement for all responsible corporate entities.

### ESV's Regulatory and Corporate Governance

4	<p>The Executive Management Board of ESV should develop an overarching organisational reform roadmap that details key actions that have already been taken to strengthen ESV's corporate governance and management structures and processes, and the actions that have yet to be completed.</p> <p>This roadmap should take account of actions in response to the recommendations of this Review of Victoria's Electricity and Gas Network Safety Framework and in response to the findings of previous reviews commissioned by the Director of Energy Safety. The roadmap should be reported publicly on ESV's website and updated quarterly until all key actions have been completed.</p>	<p>Jemena supports this recommendation as an exercise in ESV demonstrating accountability.</p>
5	<p>ESV should develop and implement a formal workforce strategy to support the attraction and retention of high performing staff. This strategy should include a specific focus on broadening the diversity of ESV's workforce over time, including gender diversity.</p>	<p>Jemena supports this recommendation. A strong regulator supported by well-trained competent staff is essential in achieving ESV's objectives.</p>

### Regulatory Approach and Capabilities

6	<p>ESV should substantially increase its audit and inspection resources and activity compared to recent years, in accordance with the directions set out in its <i>Corporate Plan 2017-2020</i>. Performance against this plan should be reported publicly, including summary information that clearly explains, at a "plain English" level, what ESV has achieved and what more remains to be done to fully deliver its more intensive audit program. This should be supported by detailed information on the audits conducted each year, including: the number of audits, the sites and distribution businesses covered, the focus of the audits and the results of those audits. This should build on and extend existing safety performance reporting by ESV.</p>	<p>Jemena supports greater transparency as to the nature and focus of audits conducted, but has concerns that poorly targeted increases in ESV audit programs and effort will merely increase costs for licensees through time taken in preparing and responding to audits and through increased levies or fees applied by ESV to cover the additional audit resource base.</p> <p>Rather than an 'across the board' increase in audit activity, ESV audit and inspection resources should be targeting poor performers and be based on risk rather than strict prescriptive regulatory compliance.</p>
7	<p>ESV should conduct an internal review of its expanded audit and inspections program in 2020 to determine whether a further change in the resourcing of these functions is required.</p>	<p>See comments for Recommendation #6 above.</p>

### Regulatory Approach and Capabilities

8	<p>ESV should develop an integrated plan of action to strengthen its analytical capabilities and processes to support effective risk-based regulation. This action plan should build on the initiatives outlined in ESV's <i>Corporate Plan 2017-2020</i>. To promote accountability, it should include clear actionable milestones. Progress against the action plan should be reported annually until all planned milestones have been completed.</p>	<p>Jemena is firmly of the view that the risks associated with operating the asset reside with the Licensee. As such Jemena sees the role of the regulator to monitor safety management system outputs to support an assurance position it forms on behalf of government and the community.</p> <p>Jemena does not accept that the regulator has a role in industry wide data analytics to scope up specific work programs, which Licensees as a group or individually are directed to complete. Rather, whilst issues may be highlighted by the regulator, responsibility for mitigating those risks (including the nature and scope of the response) should be a matter for the Licensee.</p>
9	<p>ESV should implement the more robust approach to regulatory compliance and enforcement outlined in its <i>Corporate Plan 2017-2020</i>, and prepare an updated <i>Charter of Consultation and Regulatory Practice</i> and an updated <i>Compliance and Enforcement Policy</i>, to reflect this amended approach.</p>	<p>Jemena fully supports the role of Government to enforce the law, in accordance with a clearly defined compliance and enforcement policy, when targeted appropriately towards poor performers.</p>
10	<p>ESV should maintain a sufficient capability to initiate strong enforcement actions, including legal prosecution, when justified on public interest grounds. This should include standing arrangements to ensure it can effectively draw on specialist external resources if and when required. capabilities to support strong enforcement actions should be reviewed by ESV's Executive Management Board annually.</p>	<p>Refer response to Recommendation #9.</p>
11	<p>ESV should continue to strengthen its internal systems and processes to facilitate robust and consistent compliance and enforcement decision making. This should include the continued operation of the recently re-established Compliance and Enforcement Panel, and any necessary improvements in the internal guidance to ESV officers in compliance and enforcement related roles to ensure timely and consistent decision making.</p>	<p>Jemena supports this recommendation.</p>

Regulatory Approach and Capabilities		
12	<p>The range of compliance and enforcement tools provided in legislation should be expanded, including provision for injunctions and adverse publicity orders, and giving ESV the capacity to enter into enforceable undertakings. In addition, existing regulatory tools available to ESV should be reviewed to:</p> <ul style="list-style-type: none"> <li>• remove unnecessary limitations on what the tools can be used for, including expanding the scope for infringement and improvement notices to be used;</li> <li>• better align them between electricity and gas sectors; and</li> <li>• identify any further improvements that may be required.</li> </ul>	<p>Jemena is of the view that compliance and enforcement should be based on the assessment of safety outcomes and audit results. We support ESV having available compliance and enforcement tools which are in line with other energy sector technical regulators in Australia.</p>
13	<p>The penalty levels for offences related to electricity and gas networks should be reviewed with a view to increasing them to levels that apply in other leading safety regimes in Australia. As part of this process, the penalties for similar offences applying to pipelines, gas and electricity networks should be aligned.</p>	<p>Jemena has no issues with a penalty regime that reflects contemporary Australian expectations and standards.</p>
14	<p>The development of a mature data analytics capability, including the data collection and management systems to support robust statistical analysis, should form a central component of ESV's integrated action plan to strengthen its analytical capabilities. Clear milestones should be developed to promote accountability.</p>	<p>Jemena queries the need for an increase in ESV analytics capabilities. In Jemena's view, each Licensee has a different risk profile – and in light of that data analysis is best performed by each licensee. ESV already receives key performance data and should already perform comparative analysis of these results. Separately, Jemena as the licensee closely monitors performance and safety related indicators, incidents and outputs, implementing appropriate actions where necessary to address any issues identified to manage Jemena's risks. Risks and issues faced by licensees are not identical, Jemena does not support ESV performing comparative analysis that may then result in industry wide directives, simply adding unnecessary costs implementing mandated safety programs to address a perceived problem that does not exist for a particular Licensee.</p>
15	<p>ESV should consider and respond to all recommendations of the report <i>Assessment and Analysis of Incident Data Held by Energy Safe Victoria</i> as part of strengthening and expanding its Data Management Analytical Strategy.</p>	<p><u>Jemena supports this recommendation -</u> Information and data held with ESV needs to be assessed and cleaned up to ensure it is accurate.</p>

### Engagement Across Regulatory and Interagency Boundaries

16	ESV should review each existing MOU with other regulators and government departments and agencies annually to ensure they remain current and fit-for-purpose.	<u>Jemena supports this recommendation.</u> – Further, harmonisation of approach with other states should be a priority.
17	ESV and DELWP should jointly develop an MOU to help manage their respective responsibilities. This should replace the MOU with the former Department of Primary Industries and update the arrangements to reflect the current allocation of responsibilities between ESV and the department. The MOU should recognise and facilitate ESV's independence in regulatory decision making, and the department's role as the principal source of policy advice to the Minister for Energy, Environment and Climate Change.	<u>Jemena supports this recommendation.</u> Removal of regulatory overlap between ESV and DELWP should be a priority.
18	The ESC should complete its review of the voltage variation standards under Clause 4.2.2 of the <i>Electricity Distribution Code</i> as soon as practicable. The planned broader reviews by the ESC of the <i>Electricity Distribution Code</i> and the <i>Gas Distribution Code</i> should ensure technical standards are clearly defined and consider the role of ESV in promoting and enforcing compliance with these standards.	<u>Jemena supports this recommendation.</u> Voltage standards should be removed from the Distribution Code and retained within Australian Standards. The review will be beneficial.
19	ESV should review, and update where necessary, the <i>Electricity Hazards &amp; Safety Handbook for Emergency Service Personnel</i> in consultation with DELWP, network businesses and the relevant emergency services agencies. This review should consider any areas in which current operational responsibilities require clarification. In addition, ESV should prepare a Gas Hazards and Safety Handbook in consultation with DELWP, the industry and the relevant emergency services agencies.	<u>Jemena supports this recommendation.</u>

Integrating Safety Regulation with Economic Regulation		
20	In consultation with the AER, ESV should annually evaluate the operation of its Memorandum of Understanding with the AER. A summary of each evaluation should be published in ESV's Annual Report.	Jemena supports closer liaison between the AER and the ESV, in particular to improve AER understanding and support of public safety related programs and initiatives in Victoria.
21	In consultation with the AER, ESV should prepare public guidance that sets out clear protocols to facilitate effective engagement between ESV and regulated network businesses as an input into price review processes conducted by the AER.	<u>Jemena supports this recommendation.</u> A clear engagement protocol would assist the price review process.
22	ESV should, in consultation with regulated network operators and the AER, evaluate its requirements for safety cases to ensure that all safety-related elements that have been factored into AER determinations, are identified and supported by clear implementation plans.  ESV should report on the progress made by regulated network operators in its annual network safety performance reports. The reporting should be sufficient to ensure that there is a high degree of transparency to the Victorian community about the progress in the implementation of safety programs.	<u>Jemena supports this recommendation.</u> ESV support of safety related elements of pricing proposals to the AER is welcomed.  Further Jemena values accountability and will readily provide sufficient progress status data within annual network safety reports.
23	The Victorian Government should request the Australian Energy Market Commission, in close consultation with stakeholders, to develop a clear reliability standard for gas supply to support consideration of a robust, economically justified level of investment for reliable and secure gas supply.	<u>Jemena supports this recommendation.</u>
24	The Victorian Government should request the Australian Energy Market Commission, in close consultation with stakeholders, to develop a coordinated planning process to enable overall system planning and to improve the assurance of reliable supply of gas to all declared transmission system and distribution network gas customers in an economically efficient manner.	<u>Jemena supports this recommendation.</u>

### Promoting Workforce Engagement

25	<p>ESV should establish a consultative committee under Section 8 of the <i>Energy Safe Victoria Act 2005</i>. This committee should:</p> <ul style="list-style-type: none"> <li>• provide advice to ESV to assist in its consideration of workforce engagement issues;</li> <li>• contribute to the development of broader workforce engagement strategies, including the sharing of best practices; and</li> </ul> <p>be comprised of representatives from network businesses, major contractors, trade unions, Worksafe Victoria and the workforce.</p>	<p>In principle, providing forums to discuss key issues and share information on industry best practices is beneficial. However, Jemena believes that the existing ESV consultative forums can be utilised for this purpose, without the need to establish this consultative committee.</p>
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### Programs to Address Bushfire Risk in Victoria

26	<p>DELWP should develop a transition plan that outlines a clear pathway for the closure of its program components of the Powerline Bushfire Safety Program and handover arrangements for residual components to ensure the learning gained through the program is maintained into the future.</p>	<p><u>Jemena supports this recommendation to have a plan and documented learnings that can be shared.</u></p>
27	<p>The deployment of REFCL technology to satisfy the <i>Electricity Safety (Bushfire Mitigation) Regulations 2013</i> should be subject to review prior to each further tranche by an independent expert panel appointed by the Minister for Energy, Environment and Climate Change, with the first report to be provided once further experience has been gathered with the deployment of the first tranche. The panel should draw on advice and input from the Powerline Bushfire Safety Committee that has been established by ESV.</p>	<p><u>Jemena supports this recommendation.</u></p> <p>Jemena's REFCL installation at COO is in the third (last) tranche so would benefit from the report of the expert panel to guide product selection and design parameters.</p> <p>In addition, Jemena is represented in the Powerline Bushfire Safety Committee expert panel.</p>
28	<p>ESV should continue to work closely with distribution businesses, and with the assistance of the Powerline Bushfire Safety Committee, to provide timely advice to the Minister for Energy, Environment and Climate Change on the need for any exemptions from the performance standards contained in the <i>Electricity Safety (Bushfire Mitigation) Regulations 2013</i>.</p>	<p>ESV should work with distribution businesses where Licensees have a requirement for an exemption, however ESV should leave the request to the Licensees and not be driving the process.</p>
29	<p>The Victorian Government should provide ongoing funding for further research and development into new technology to manage the bushfire risk from electric lines. Any funding should be contingent on being at least matched by contributions from distribution companies. The ongoing program should be managed jointly with distribution companies and involve input from university researchers. It should be subject to evaluation at least every four years, with</p>	<p>Any funding for research and development from the Victorian government will be welcomed. However, the scope should be expanded beyond university researchers to include equipment suppliers, as eventually the new products would need to be commercialised. Matching funding from the distribution companies would have to be secured through the EDPR process. Would</p>

### Programs to Address Bushfire Risk in Victoria

	the continued provision of public funding to be contingent on satisfactory research performance.	the Victorian government support the Licensees' proposals through discussions with the AER?
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### Regulating Underground Energy Assets

30	The Victorian Government should note the Review's support for the Major Hazard Facilities Advisory Committee's recommendations to formalise the membership and operation of the <i>Land Development Around Pipelines Working Group</i> and to task the working group with providing advice to government to improve planning around high pressure gas pipelines.	<u>Jemena supports this recommendation.</u>
31	Subject to the completion of a positive regulation impact assessment, <i>Dial Before You Dig</i> should be made mandatory in Victoria following the approach that has been adopted in New South Wales.	<u>Jemena supports this recommendation.</u> This should be a high priority in Victoria.

### Regulating the Networks of the Future

32	ESV should establish an expert advisory committee under Section 8 of the <i>Energy Safe Victoria Act 2005</i> to advise on emerging trends in electricity and gas networks and possible changes to regulatory settings that might be considered necessary to manage new sources of safety risk.	<u>In principle, Jemena supports this recommendation,</u> given current regulations do not take into consideration emerging safety issues and possible future technology.  Jemena considers the concept to be a good idea however Jemena believes this can be achieved through existing forums such as Australian Standards Committees, ENA, AGPA, Technical Committees.
33	ESV should develop a roadmap of emerging issues and proposed actions to ensure the safety risks arising from new technologies and network structures are identified early and managed effectively. Progress against the roadmap should be reported annually in ESV's Annual Report and network safety performance reports.	<u>Jemena supports this recommendation.</u> Having a roadmap will assist in developing new solutions. Jemena believes this is best enacted as a standing agenda item at the GM Forum.

### Strengthening the Foundations for Future Network Safety Regulation

34	<p>All energy safety legislation should be consolidated in a single new energy safety Act, replacing the <i>Gas Safety Act 1997</i>, <i>Electricity Safety Act 1998</i>, those elements of the <i>Pipelines Act 2005</i> that relate to safety, and the <i>Energy Safe Victoria Act 2005</i>.</p>	<p><u>In principle, Jemena supports this recommendation</u>, with consolidated energy safety legislation likely to make it easier to manage all the safety cases in the same way.</p> <p>However, any such initiative would need to be mindful that the resulting legislation does not become too large and unwieldy, as has eventuated for the equivalent Queensland legislation (the <i>Petroleum and Gas (Production and Safety) Act</i>).</p> <p>Jemena would encourage the use of common terms, and consistency of requirements, in all jurisdictions to simplify and harmonise Australian Legislation and Regulations. Regulations should point to relevant Australian Standards.</p>
35	<p>The general safety duties within the new consolidated energy safety legislation should be based around a consistent application of the principle that risks should be reduced as far as “reasonably practicable” aligning with the definition adopted in the Occupational Health and Safety Act 2004.</p>	<p><u>Jemena supports this recommendation.</u></p> <p>As long as the principle of reducing risks is clear and “reasonably practicable” needs to be well defined.</p>
36	<p>The general safety duties within the new consolidated energy safety legislation should be presented clearly, with the aim that they:</p> <ul style="list-style-type: none"> <li>• are aligned, but retain necessary sector-specific differences;</li> <li>• cover a range of circumstances in energy network safety;</li> <li>• do not easily become outdated and can cover emerging risks and industry changes;</li> <li>• are clearly expressed as to the obligations imposed and classes of duty holders;</li> <li>• are enforceable in practice;</li> <li>• function effectively with safety case provisions under the Act, including enabling the regulator to take compliance and enforcement action in response to unacceptable risk; and</li> <li>• remain outcomes-based allowing flexibility in compliance arrangements.</li> </ul>	<p><u>Jemena supports this recommendation.</u></p> <p>Clearly worded legislation will assist Jemena and others in interpreting it.</p>

Strengthening the Foundations for Future Network Safety Regulation		
37	<p>The consolidated energy safety legislation should provide consistent foundations for the safety case regime in the regulation of electricity and gas network safety. The legislation should make it clear that safety case based regulation must be supported by detailed systems and prescribed standards applied within network businesses. It should also be clear from ESV's objectives, functions, and business' safety duties that long-term asset integrity and sustainability are encompassed within the safety case regime and ESV's regulatory remit.</p>	<p><u>Jemena supports this recommendation.</u></p> <p>Consistent foundations that are supported are positive. In respect to electricity networks, the Safety Case and the Electricity Safety Management Scheme (ESMS) needs to be one document.</p>
38	<p>In developing new consolidated energy safety legislation, consideration should be given to improving the structure and operation of regulations under the Act, including, for example, integrating the Code of Practice for Electric Line Clearance into the <i>Electricity Safety (Electric Line Clearance) Regulations 2015</i> and setting the expiry period to ten years rather than five.</p>	<p>In general terms, we see improving the structure and operation of regulations is positive in terms of being able to utilise them, however, Jemena does not support incorporating a Code of Practice into regulations. A Code of Practice is intended to operate as a practical guide to achieve the safety standards required under the legislation, and is not suited to incorporation into the legislation itself.</p>
39	<p>The full responsibility for administering the civil penalty provisions applying to electricity network businesses should be assigned to ESV when it is established as a commission under the new consolidated safety legislation. Any decision to exempt a business from the application of the requirements subject to civil penalties should remain with the responsible Minister.</p>	<p><u>Jemena does not support this recommendation and is of the view that suitable separation of power provides an appropriate degree of checks and balances.</u> We are not convinced that there is an issue with current arrangements which would justify taking this step. See comments above regarding establishing ESV as a commission.</p>
40	<p>The safety case provisions in the consolidated energy safety legislation should facilitate effective regulation by ESV including:</p> <ul style="list-style-type: none"> <li>• providing broad discretion for ESV to request changes;</li> <li>• providing the capacity for ESV to accept changes or request revisions without it requiring a full revision resetting the five-year revision period;</li> <li>• providing the capacity for ESV to require a full revision of a safety case resetting the five-year revision period, under circumstances where there has been a material change warranting a full revision; and</li> <li>• incorporating effective provisions to ensure network businesses have adequate safety cases in place.</li> </ul>	<p><u>Jemena queries what would be permitted by the "broad discretion" to request changes, as flagged in the first bullet point. In Jemena's view, the ESV's role in relation to safety cases should be focused on assessing compliance with the legal framework (the regulatory obligations) as distinct from assessing the merit of specific content of the plans or initiatives to manage the risks identified by a particular Licensee.</u></p> <p><u>Jemena is supportive of the procedural changes proposed in the second to fourth bullet points.</u> Resetting the five-year revision period after material change is positive. The safety management system (the controls applied to address the risks identified) should be under continual review by the licensee as a dynamic document in any case.</p>

Strengthening the Foundations for Future Network Safety Regulation		
		If the outcomes are unsatisfactory, prosecute.
41	As part of the consolidated safety legislation, ESV should be given sufficiently wide powers across sectors for requesting information to assist ESV in performing its functions. This should be informed by the powers available to the AER under the <i>National Electricity Law</i> .	<p><u>Jemena does not support this recommendation.</u></p> <p>The Interim Report provides no proper justification as to why new wider powers are needed by the ESV (including why the AER's powers, in particular, are especially relevant here – noting the different roles that the AER and ESV perform). Existing powers should be sufficient to provide ESV with the information it needs to do its job.</p>
42	<p>ESV should, in consultation with network businesses, further develop internal and external guidance on its expectations for safety cases, and its approach to evaluating safety cases for acceptance. This should include its approach and expectations for:</p> <ul style="list-style-type: none"> <li>• safety case components being clear, measurable and targeted to safety obligations;</li> <li>• how a precaution-based approach is applied to managing safety risk; and safety case submission and revision processes.</li> </ul>	<p><u>Jemena supports this recommendation.</u></p> <p>Improved consultation and guidance to Licensees in developing safety cases will assist in reduced time and effort in the development of a safety case.</p>
43	The consolidated safety legislation should provide for the review of ESV by an independent expert panel appointed by the responsible Minister every five years.	<u>Jemena supports this recommendation.</u>