

Friday, 16 June 2017

Department of Environment, Land, Water and Planning
GPO Box 500
East Melbourne Vic 8002

By email: delwp.secretariat@delwp.vic.gov.au

Dear Sir/Madam,

Review of Victoria's Gas Network Safety Framework

Australian Gas Networks (AGN) owns gas distribution networks and transmission pipelines located in northern Melbourne, northern and south eastern Victoria, and in the Mildura region. AGN has contracted APA Networks (APA) to operate those pipelines and networks. AGN and APA welcome the opportunity to make a submission to the Department of Environment, Land, Water and Planning (DELWP) regarding the review of Victoria's Electricity and Gas Network Safety Framework (the Framework).

In response to the DELWP Supplementary Issues Paper dated May 2017, we provide in Attachment A to this letter our views on the issues raised.

Please contact me on 08 8418 1128 if you would like to discuss this submission further.

Yours sincerely,

Ralph Mignone
Manager Operations & Engineering

Attachment A

Issues for consideration – safety legislation and approach to safety regulation:
Submissions to the review may seek to comment on the legislative framework underpinning the Victorian Gas Network Safety Framework:

- Are there opportunities to improve the efficiency and the effectiveness of the Gas Safety Act, Pipelines Act and associated regulations?
- Should there be a change in the degree of prescription provided in the current framework? If so, what would be the justification for any proposed changes?
- Are there examples of 'better practice' gas safety and risk management frameworks from other jurisdictions (nationally or internationally) or from other industry sectors that should be considered?

The current Victorian Gas Network Safety Framework (Framework) has been in place for nearly 20 years. In our experience, this framework had its greatest impact in the first 10-15 years when risk management approaches were being developed and implemented. Accordingly, we believe that there are opportunities to now review and improve the current framework, particularly in streamlining the various safety requirements under the Gas Safety Act, Pipelines Act and associated regulations to focus on improved safety outcomes and avoid duplication and over prescription which has evolved over time.

We believe that the key to a successful framework is to focus on improved safety outcomes rather than inputs or prescriptive processes that require regulatory micro-management. Where a framework encourages or allows such prescription and involvement of a regulatory body in the day to day operations of a business, it may lead to inefficient outcomes and a distraction from the primary goal of safer outcomes for the industry and the community.

We submit that efficiencies and effectiveness could be achieved by amending the framework so that it is consistent with, or references wherever appropriate, the relevant Australian Standards AS4645 and AS2885. Those Standards are developed through a broad industry and stakeholder consultation framework that includes input from Australian technical regulators. Those Standards therefore represent carefully considered good industry practice, and should be relied upon to the extent possible in order to promote national harmonization and elimination of state-based idiosyncrasies.

Further efficiency could be achieved by the merging of the regulatory roles of ESV and DEWLP so that they are only carried out by one regulatory body (i.e. ESV). We believe that this would minimise uncertainty, avoid differences in the interpretation and administration of over-lapping safety requirements and help minimise over-prescription. A good approach would be to rely on the Safety Management System requirements of AS4645 and AS2885. The structure and content of a safety case as detailed in the Gas Safety (Safety Case) Regulation is largely aligned with that in AS4645, however there is a significant difference in the clarity and the practical application of the requirements.

The Victorian framework is underpinned by a 5-yearly safety case review process, which can be protracted. An alternative used in other jurisdictions is a framework that consists of a standing document (safety and operating plan) that is merely updated annually.

Issues for consideration — safety culture and engagement of the workforce:

Submissions to the review may wish to comment on the extent to which the current framework promotes strong and effective safety cultures within gas transmission and distribution network businesses:

- Does the framework effectively promote the engagement of the workforce in promoting safety? Are there opportunities for improvement?
- Are there opportunities to further promote strong safety leadership cultures?

When the Gas Safety Act and Pipelines Act were developed in 1997, ESV made a significant contribution to the development of risk and performance based approaches to gas safety management. Since then the industry has made significant advancements in safety culture and workforce engagement, and contributed to improvements in the industry Standards AS-4645 and AS-2885. Such improvements have occurred regardless of the regulatory framework, driven by the desire of businesses (particularly distribution businesses), to achieve high levels of safety. Such an attitude is also driven by the general WHS frameworks, which require significant engagement with the workforce.

Historically ESV has used a collaborative consultation approach that allowed industry participants to jointly share their experiences and views to promote a stronger and more effective safety culture. The continuation of this approach is welcomed and supported by AGN. We believe that a broad consultative approach is effective in promoting safety and engaging with the industry.

Issues for consideration — DELWP and ESV roles in gas network safety:

Submissions to the review may wish to comment on the respective roles of DELWP and ESV and on the broader government programs and activities to promote gas network safety:

- Are the respective roles of ESV and DELWP clear and well-coordinated? Should any changes be considered to the allocation of responsibilities between ESV and DELWP?
- Are there further matters that should be considered in relation to issues associated with planning around gas pipelines to ensure public safety?

While a Memorandum of Understanding exists between ESV, DELWP and DEDJTR there are sometimes different views and interpretations on what is required to address a particular obligation. A 'lead' regulator is the preferred model, with one regulator liaising with other Departments as required. This approach would provide greater clarity and guidance and is similar to the approach adopted in South Australia.

ESV currently performs the roles of regulation administration, compliance monitoring (reporting) and compliance auditor. We believe the NSW approach is worthy of consideration, whereby the regulator administers the regulations and monitors safety performance but outsources compliance auditing to independent auditors with the required competency and experience. This approach would allow regulatory resources to focus more on governance and outcomes rather than detailed process issues. We note that this approach was recently partially adopted by ESV in its audit of emergency response procedures.

With reference to the issues with planning around gas pipelines, we welcome the inclusion of pipeline corridors in the review of planning around Major Hazard Facilities. It is disappointing that this review was unable to recommend specific changes to the planning processes for developments close to licensed pipelines. We note that the required changes have now been left to the LDAP committee to develop. Increasing the Statutory protection offered under the pipeline legislation should also be considered.

Issues for consideration — ESV's capabilities and governance:

Submissions to the review may wish to comment on ESV's governance arrangements and capabilities to regulate and promote gas network safety.

- Does ESV have the right mix of capabilities — people, skills and systems?
- Are there capabilities, including in new and emerging areas that should receive greater attention and investment?
- Are there existing capabilities that could be scaled back or managed more efficiently by ESV?

ESV currently performs the roles of administration, compliance monitoring (reporting) and compliance auditor. We believe that a more efficient and effective approach to regulation in some areas can be achieved.

ESV is required to review and approve new pipeline construction and alterations works under the Pipeline Act. The level of detail required and level of scrutiny applied in these administrative processes can be significant. The onerous level of detail for minor works can cause significant delays in obtaining the required approvals. This is therefore an area where there is potential for the scaling back of activities, or perhaps where a more efficient process can be implemented.

Another of ESV's functions is to conduct safety case compliance audits. The audit program may benefit from a review in consultation with the industry to improve processes and establish a suitable balance between system and process audits and site inspections. Outsourcing compliance audits to independent third parties with appropriate competency and experience could also be considered, as is the case in New South Wales.

Many instances of third party damage and interference with gas network assets are routinely reported to ESV. We understand that ESV's resources in this area had been significantly increased. Due to the significant safety risk arising from third party strikes on assets, the industry supports strong action by the regulator in this area, and increasing the regulator's powers under the framework if required in this area.

Issues for consideration — ESV's approach to regulation

Submissions to the review may wish to comment on ESV's approach to gas regulation:

- Does ESV strike an effective balance in its compliance and enforcement activities? (That is, a balance between an approach that could be seen as too 'light touch', where regulatory interventions could be stronger, and one that could be seen as too 'heavy handed', where regulatory interventions might be seen as disproportionate to the risks involved).
- Does ESV communicate its requirements effectively? Are there any aspects that could be improved?

In recent times, ESV has made considerable effort to communicate its approach to regulation and AGN has welcomed the collaborative and constructive approach espoused by ESV. AGN believes that ESV endeavours to communicate its requirements effectively, and that continued regular communication with licensees will assist in the improvement that AGN has observed in this area.

In terms of general compliance and enforcement, we reiterate our previous comment whereby we support the ESV's enforcement activities in relation to third party asset damages. In terms of licensee

compliance and enforcement, AGN supports the ESV published guidelines in this area, which encompasses a graduated mechanism for enforcement.

Issues for consideration — safety reporting and public information

Submissions to the review may wish to comment on the current reporting practices on Victoria's gas network safety performance and areas for improvement.

AGN supports the ESV production of an annual industry report that enables licensees and government to assess the safety performance of the industry. While recent reports have focused on a relatively small number of measures, AGN appreciates ESV's desire to establish a set of key performance indicators for the industry to enable a better comparison of performance and risk management. The reports may also benefit from the inclusion of positive safety outcomes and achievements by industry. Publishing of positive outcomes not only demonstrates improvements by businesses, but the dissemination of such information may assist other businesses in also undertaking similar improvements, such that the ultimate goal of improved industry safety is furthered.

Issues for consideration — interactions between economic and safety regulation

Submissions to the review may wish to comment on the relationship between the economic regulatory and safety regulatory frameworks.

As the ESV is the key regulatory body for ensuring the safety and reliability of energy assets operated in the community, consultation and coordination between the AER and the ESV during access arrangement reviews is important to ensure that safety and economic issues are considered jointly. It appears that there is significant scope for closer collaboration between the AER and the ESV when making decisions that will ultimately determine available funding for ensuring the safety of gas networks and the community. This could be achieved by making ESV input a formal step in the AER review process.

Issues for consideration — emerging trends

Submissions to the review may wish to comment on the capacity of the existing gas safety framework to effectively regulate emerging trends associated with the gas network.

- Will any changes to the safety framework be required as gas transmission and distribution networks evolve over time to adapt to changes in demand and with the adoption of emerging natural gas supply solutions?

Reliable and secure energy and cost effective carbon reduction

Natural gas will play an essential role as the Australian economy transitions to a cleaner energy future. Over the longer term, gas will have its own decarbonisation journey. Low carbon fuels such as biogas and hydrogen have the potential to become mainstream and complementary solutions that will use existing distribution networks. Safety of consumers and the public will remain a priority for which an effective and flexible regulatory energy safety framework will be required. Over time, ESV will need to consider the risks and issues associated with the blending of renewable gas (bio-methane and hydrogen) into the gas distribution networks.

Regional Gas Infrastructure Program

We fully support the Victorian government's initiatives to make natural gas available to more regional communities, and look forward to participating in these expansion programs.

An emerging trend that the regulatory framework may need to consider are changes in the way energy products are delivered to consumer groups, for example larger embedded networks and associated participants offering a new range of services for such networks.