



27 November 2017

Dr. Paul Grimes  
Secretariat, Review of Victoria's Electricity and Gas Network Safety Framework  
Department of Environment, Land, Water and Planning  
PO Box 500  
Melbourne VIC 8002  
By email: [delwp.secretariat@delwp.vic.gov.au](mailto:delwp.secretariat@delwp.vic.gov.au)

Dear Dr. Grimes

**Re: REVIEW OF VICTORIA'S ELECTRICITY AND GAS NETWORK SAFETY FRAMEWORK INTERIM REPORT**

CitiPower, Powercor Australia and United Energy welcome the opportunity to respond to the Department of Environment, Land, Water and Planning (**DELWP**)'s Interim Report on the Review of Victoria's Electricity and Gas Network Safety Framework.

We commend the review and support the findings that the existing outcomes-based safety regulation is broadly effective and that no major changes are proposed to this approach.

Our submission proposes some enhancements to the draft recommendations that we believe will improve outcomes of the review, including:

- support for Energy Safe Victoria (**ESV**) enhancing its capabilities. We agree ESV should focus on inspecting activities that pose the highest risk to the network, including that of third parties working near the network
- we support ESV's independence from DELWP and clear separate roles of the two parties
- we support the Essential Services Commission (**ESC**) completing its review of the voltage variation standards as outlined in the Electricity Distribution Code (**the Code**) as soon as practicable. We further believe the ESC should revise the technical standards under the Code to reflect Australian Standards and ESV should solely regulate technical standards that have significant safety implications
- the interaction between the safety and economic regulatory frameworks, and between ESV and the Australian Energy Regulator (**AER**) should allow distributors flexibility to select projects that deliver the highest long-term benefit to consumers
- we propose that ESV develop a principles-based stakeholder engagement framework
- the proposed consultative committee on workplace safety is not necessary as we have strong internal consultative processes already
- if the Victorian Government accepts to establish an independent panel to review any necessary changes to Electricity Safety (Bushfire Mitigation) Regulations 2013 (**the Regulations**), in light of Tranche 1 and before the commencement of Tranche 2, it must grant Victorian distributors a time extension for compliance with Tranche 2, effectively a 'stop the clock' mechanism, both within the Regulations and the Bushfire Mitigation Civil Penalties Scheme
- ESV should provide exemptions from performance standards in the Regulations without requiring Minister's approval. This would minimise the burden of obtaining an exemption

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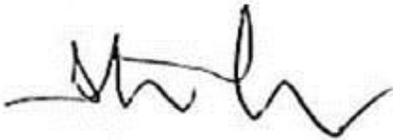
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- we support the consolidation of safety legislation
- we support the consolidation of existing electrical safety management schemes (**ESMS**), safety cases and AS577 into a single instrument. This will reduce reporting redundancies and allow distributors and ESV to focus resources on improving network safety and the quality of reporting
- we propose the independent panel review of ESV should occur only once in every ten years to ensure stability in safety regulation. The panel's review should precede ESV's approval of safety cases and AER's approval of cost recovery mechanisms.

Should the Secretariat have any queries regarding this submission, please do not hesitate to contact Matt Thorpe at (03) 9683 4357 / [MThorpe@powercor.com.au](mailto:MThorpe@powercor.com.au) or Mike Tshaikiwsky at (03) 8846 9807 / [Mike.Tshaikiwsky@ue.com.au](mailto:Mike.Tshaikiwsky@ue.com.au).

Yours sincerely,



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## 1 ESV regulatory and corporate governance

We support the proposed changes to ESV's regulatory and corporate governance.

## 2 Regulatory approach and capabilities

We support ESV strengthening its capabilities, including more audit and inspection resources, stronger analytical competencies and more efficient internal systems and processes. A resourceful ESV will regulate more robustly and consistently.

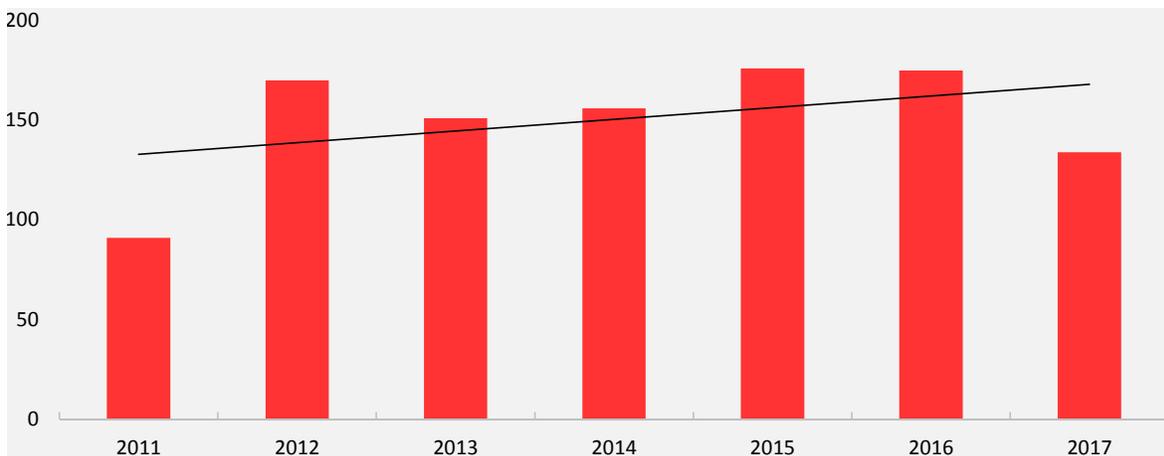
In the following subsections, we propose where ESV's capabilities should be enhanced.

### 2.1 ESV should increase monitoring of third parties on our network

As shown in our previous submission<sup>1</sup>, third parties working on or near our assets pose the greatest risk to safety in the industry. No-Go zone infringements reportable to ESV have increased since 2011 (Figure 1). Conversely, as our previous submission shows, our safety record has improved.

We believe ESV would more effectively improve safety by increasing audits and inspections of third parties rather than distributors.

Figure 1 Victorian distributors' No-Go Zone infringements reportable to ESV



Source: CitiPower, Powercor and United Energy.

### 2.2 ESV should minimise costs by prioritising work to reduce safety risk

ESV requires more financial resources to extend its audits and inspections. We do not however believe this necessarily translates to always hiring staff.

ESV should make greater use of existing distributors' databases, statistical and risk-based techniques and safety performance indicators to assess the likelihood of poor performance. Only after this assessment has been completed should additional resources be considered.

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<sup>1</sup> CitiPower and Powercor, Submission to the Review of Victoria's Electricity Network Safety Framework Issues Paper, 2 May 2017.

### **2.3 ESV should collect quality data and expand its internal database**

We support ESV developing data collection and database management systems to assist with analytical work. Data collection however needs to be relevant and we would encourage ESV to undertake a thorough review of its data collection needs before seeking information from distributors.

We propose ESV utilises similar data collection processes to the existing Regulatory Information Notices (**RIN**) which the AER administers. The RINs are a great example of robust consistent reporting. ESV can also achieve greater consistency in reporting by providing a clear set of definitions that assists distributors in the collection of the necessary data.

Consistent with the outcomes-based approach, each distributor will have unique safety analytics and risk-assessment techniques. In developing its analytical capabilities, ESV should expand on its analysis and understanding of the asset management practices of each distributor. This will assist in the interpretation of the differences between distributors and provide context in any comparison of the safety performance of Victorian distributors.

ESV should also seek access to various analytical studies related to network safety already undertaken by distributors.

### **2.4 ESV should thoroughly consider potential breaches before enforcement action**

In developing an updated compliance and enforcement policy, ESV should carefully and clearly define reasonable necessary steps and processes that apply before enforcement action is taken. As the consequences of breaches and penalties can be severe, onus should be placed on the early investigation and rectification of potential breaches, rather than resorting to enforcement action.

We propose ESV's updated compliance and enforcement policy be in line with the similar ESC Energy Compliance and Enforcement Policy, particularly section '3.2.4 Investigation and Consideration of Further Action'. This section outlines an array of considerations the regulator should have regard to in deciding whether to investigate a particular breach, before taking enforcement action. We believe the ESC's Energy Compliance and Enforcement Policy demonstrates good industry practice that would be equally applicable to ESV.

Additionally, ESV should clearly state which stage of the compliance-enforcement pathway the distributor is at in all interactions and communications.

## **3 Engagement across regulatory and inter-agency boundaries**

### **3.1 We support the separation of ESV and DELWP roles**

We support ESV's independence from DELWP and there being clearly defined roles between the two parties. This is necessary for robust and consistent safety regulation. We also support a new memorandum of understanding (**MoU**) that will clarify the role separation.

### **3.2 We support ESC completing its Electricity Distribution Code review**

We support ESC completing its review of the voltage variation standards under Clause 4.2.2 of the Code as soon as practicable. The review is critical to the effectiveness of REFCLs and removing needless voltage variation breaches under the Code. Any further delays in the review will result in unnecessary costs to consumers.

### **3.3 ESV should regulate safety-related technical standards**

We propose ESC revise technical standards under the Code to reflect Australian Standards. ESV should monitor compliance with those standards.

However, ESV should take sole responsibility for developing, administering and enforcing compliance with technical standards that have significant safety implications. A more resourceful and equipped ESV can ensure that technical standards appropriately reflect the changing safety requirements of the network.

ESV should regulate safety-related technical standards through the Electricity Safety (Installations) Regulations 2009, which currently replicate the standards. This approach will ensure that safety regulation is reflected in recognised technical standards without the need to unnecessarily and inefficiently update and review the Code.

## **4 Integrating safety regulation with economic regulation**

We support greater alignment between economic and safety regulation through a conducive relationship between ESV and the AER. We support an annual review of the MoU between the two parties, to capture changes in the relationship.

However, we consider the role envisaged for ESV in regulatory determinations to be inappropriate and a contradiction to the principles of an incentives-based approach. We understand the review recommends ESV should:

- evaluate its requirements for safety cases to ensure that all safety-related elements have been factored into AER determinations are identified and supported by clear implementation plans; and
- report on the progress made by regulated network operators in its annual network safety performance reports.

These recommendations constrain the distributor's ability to achieve least cost solutions for safety obligations given alternative technologies may emerge.

The AER approves a distributors' revenue allowance for a regulatory control period based on the expenditure needed to achieve a suite of outcomes, including safety obligations prescribed in legislations and regulations. The outcome-based economic framework provides distributors with a financial incentive to find the least cost solution whilst also ensuring the distributor complies with all regulatory obligations, including safety. Consumers benefit from this approach as 70 per cent of the achieved cost savings are passed onto consumers.

The incentive-based approach, combined with technological improvements, drives innovation. Through innovation, distributors may change projects from those proposed to those eventually implemented. This ensures that distributors continue to meet their safety obligations at least cost to consumers.

### **4.1 ESV should approve safety cases before the AER approves regulatory proposals**

We believe a closer interaction and timing alignment is required between safety and economic regulation. We believe:

- distributors should develop and propose safety-related projects and programmes that most effectively fulfil their obligations under safety regulations. These projects and programmes should be proposed to ESV in safety cases and ESMSs, and should take the short-term and long-term implication into account
- ESV should approve safety cases and ESMSs, as well as any changes in safety regulations (e.g. the Electric Line Clearance Regulations, Bushfire Mitigation), *prior* to distributors submitting their regulatory proposals to the AER. This approach would ensure consistency in expectations around the implications of safety cases and expenditure allowances
- once the AER approves cost recovery mechanisms for safety-related expenditure, ESV should provide distributors with the flexibility to develop solutions that may better meet their safety obligations, for example through an emergence of an alternative technology.

We believe this approach will ensure that safety outcomes are achieved whilst optimising the long-term benefit to consumers.

## **4.2 ESV should develop a stakeholder engagement framework**

Transparent and meaningful engagement with stakeholders is a key component of regulatory success. We believe ESV should develop a principles-based stakeholder engagement framework, with similar principles to the AER's recently developed framework. This would be a clear signal to all stakeholders that the ESV is seeking to genuinely engage and is seeking the best outcome for the Victorian community as a whole.

## **5 Promoting workforce engagement**

### **5.1 A consultative committee on workforce engagement is not necessary**

We do not support the recommendation for ESV to establish a consultative committee under Section 8 of the Energy Safe Victoria Act 2005. We believe the committee would not significantly improve workplace safety in distribution businesses as we already have rigid internal processes to ensure a safe work environment.

Our internal processes include an extensive consultative process with our staff and stakeholders on safety matters, including issues arising from new technologies. We conduct an annual staff survey to measure engagement and identify ways to improve working conditions and safety.

We also have safety-related obligations under our Enterprise Business Agreements (**EBA**) that our field staff are party to. EBAs oblige us to engage staff on safety-related workplace changes and we hold quarterly consultative forums with union representatives.

Our safety track-record shows that we cultivate a safe workplace. Given our existing internal consultative activities and our track-record, a new consultative committee would only increase administrative burden without additional benefit to our workers and consumers.

## **6 Programs to address Bushfire Risk in Victoria**

We support a transitional pathway for closure of DELWP's program components of the Powerline Bushfire Safety Program (**PBSP**). We also support handover arrangements for residual components to ESV, to ensure learnings gained through the program are maintained into the future.

### **6.1 Roll-out of REFCLs should be paused until the government reviews the Regulations**

Powercor remains committed to the REFCL program as it will provide an essential step change in fire risk reduction to Victorians. This program represents a world first in application of this technology and will place Victoria at the forefront of electrical bushfire risk mitigation once successfully completed.

The implementation of the REFCL program continues to reveal new challenges and opportunities, particularly as we now progress commissioning of the first multi-REFCL unit site at Woodend, to be followed closely by several more multi-REFCL unit sites in Tranche 1 in 2018. The distributors, particularly Powercor and AusNet Services, along with ESV, have been collaborating closely to progressively learn from experiences at each REFCL site. This collaboration has been invaluable this far to better understand the capabilities of REFCL technology, particularly in relation to achievement of the required capacity, and balancing of efficient cost. In essence the industry is still in a phase of research and development in parallel with the required implementation.

Based on this collective experience to date, we believe a Tranche 1 review has the potential to improve the cost benefit balance on behalf of Victorian customers.

It is important to note, however, that while the Electricity Safety (Bushfire Mitigation) Amendment Regulations 2016 set out three distinct dates for completion of the three REFCL Tranches, in reality, Tranches are delivered with significant overlaps. The Powercor Tranche 1 projects are well into the construction phase, and Tranche 2 is now at early stages of design and procurement including commencement of customer negotiations. The Tranche 2 program overlaps our Tranche 1 work by more than 18 months. Therefore a review after the full completion of

Tranche 1 would potentially delay Tranche 2 by approximately 2 years. Alternatively a review mid-way through Tranche 1 will still enable learnings from some of the multi-REFCL unit sites and is likely to still provide the potential improvements to the program suggested by the interim report, whilst not delaying Tranche 2 to the same extent.

If the Minister chooses to undertake a review of the REFCL program Powercor will positively and actively assist with the objective of further improving outcomes of the REFCL program and the net benefit to our customers.

However, given the level of prescription in the Regulations, and the severity of associated civil penalties for non-compliance, it is crucial that as part of the review, the appointed independent panel account for stringent deadlines of implementation. We are exposed to severe penalties under the proposed Bushfire Mitigation Civil Penalties Scheme if our implementation is late. Therefore, if Minister agrees to accept the Grimes recommendation 27, Victorian distributors must be granted a time extension for compliance with Tranche 2. Effectively this would be a 'stop the clock' mechanism, both within the Bushfire Regulations and the Bushfire Mitigation Civil Penalties Scheme.

While the review has potential benefits for Victorians, any uncertainty, either from the review itself or from an absence of a prompt decision to accept recommendation 27 to conduct such a review, has a high risk of impacting several other aspects of the program, such as the:

- AER funding process for Tranche 2 and 3 as the review, or consideration of a review, will and has already created, regulatory uncertainty of funding triggers for the REFCL program
- high-voltage (**HV**) customer negotiations and network solutions that must be undertaken in order to allow the REFCLs to be operated. A review, however, may enable more adequate time to resolve the current conflicting regulatory framework relating to the Code voltage quality requirements
- Expenditure approval processes internal to the distribution businesses. The uncertainty of this recommended review has already led to delays in internal Governance approvals as there may be changes in scope, design or timings coming from a review. If an announcement is not promptly forthcoming, a 'stop the clock' may also be necessary to grant distributors reasonable time relief from the uncertainty created by this recommendation.

While the interim report recommends that the review panel should draw on advice and input from the Powerline Bushfire Safety Committee (**PBSC**) established by ESV, the current charter of the PBSC does not include consideration of costs. Therefore, the panel should broaden this scope to consider a balanced cost benefit framework for Victorian customers.

More generally, the review and panel should conduct extensive and meaningful consultation with the distributors over the process of any exemptions or review of the Regulations, including case-by-case considerations. Distributors will be able to share learnings from Tranche 1 as well as share their own risk assessments and studies on the impact of REFCLs on different parts of their network, and the opportunities for program improvements moving into Tranche 2 and 3.

## **6.2 ESV should provide technical exemptions without Minister's approval**

We support the availability of exemptions from the Regulations, which would allow distributors to implement more efficient options. As shown in our previous submission<sup>2</sup>, our Geelong (**GL**) zone substation predominately services low bushfire risk area (**LBRA**) feeders but also has a feeder which traverses high bushfire risk areas (**HBRA**). Because the Regulations specify we must install REFCLs at the GL zone substation, we must reconfigure

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<sup>2</sup> Ibid.

the zone substation and undertake associated hardening works for all connected assets. A potential lower cost solution may involve installation of a REFCL downstream of the zone substation on the feeder that traverses the HBRA and only hardening the subset of assets connected to the feeder.

We propose ESV be empowered to provide exemptions from performance standards required in the Regulations without requiring Minister's approval. It should do so in cases where:

- the cost of investment is disproportionate to minor risk reductions
- the Regulations are not consistent with the *intent* of the Victorian Bushfires Royal Commission (VBRC) recommendations.

The procedure of obtaining an exemption would be more straightforward if the Minister is not required to approve them. It would also minimise administrative and financial cost and the risk of delays in project implementation.

With regard to civil penalties, we believe ESV should administer civil penalties that apply to electricity networks, while it is appropriate for the Minister to provide exemptions to the same.

### **6.3 Research and development should be jointly funded but distributors should manage the project**

We support ongoing funding for research and development into new technology to manage the bushfire risk from electric lines. We support jointly funded projects between distributors and the Victorian Government, although propose that parties should have the flexibility to negotiate the terms.

In order to reduce the complexity of the projects, we propose that distributors solely manage the projects, as opposed to joint management with the Victorian Government. Distributors are best placed to understand their network's individual characteristics, which is necessary for a project's success. We are experienced in managing research and development on our networks, and are currently testing the technology for single-wire earth return (SWER) broken wire protection on our United Energy network.

### **6.4 Research and development can be provided through the regulatory framework**

We also propose that the review consider a research and development funding mechanisms for safety-related projects through the regulatory framework, similar to the Demand Management Innovation Allowance (DMIA). The AER currently provides the DMIA as a 'use it or lose it' ex-ante R&D funding for demand management projects. DMIA allows distributors to develop projects and test solutions on their network without the risk of incurring service target performance incentive scheme (STPIS) penalties.

## **7 Regulating underground energy assets**

### **7.1 Dial Before you Dig should be mandatory in Victoria**

We support mandating 'Dial Before You Dig' in Victoria. Third party interactions with our network, including No-Go Zone and Dial Before You Dig interactions, are the primary source of safety incidents on our network. ESV should increase its inspection, audit and enforcement resources in this area of regulation.

## **8 Regulating the networks of the future**

### **8.1 ESV should regulate distributors and contestable service providers equally**

The transition to more contestable services, such as the installation and operation of distributed energy resources and metering services, have serious electrical safety risks, particularly through their interaction with the network. We propose ESV strengthen its capabilities to regulate distributors and third parties undertaking work on or around the network under the same standards.

## **8.2 ESV should develop a roadmap of potential safety concerns**

We support ESV developing a roadmap of key potential safety concerns on the network with regard to new technologies. This roadmap will assist in the development of the necessary technical standards and legislation to ensure safety is maintained. In developing the roadmap, ESV should engage with the distributors throughout the whole process, to share knowledge and incorporate distributors' own findings on their networks. ESV's engagement will be most meaningful through a structured framework, as mentioned in section 4.2.

# **9 Strengthening the foundations for future network safety regulation**

## **9.1 Consolidated legislation should seek to maximise benefit to consumers**

We support the consolidation of legislation and agree with the need to clarify the terminology for a common understanding of distributors' roles in maintaining and improving safety on the network.

We believe the Electricity Safety Act and the Electricity Safety (Management) Regulations 2009 should form the basis of the new legislation and define the general safety duties of reducing risk as far as “reasonably practicable”. Electricity Safety (Management) Regulations 2009 are currently applicable in Victoria and are very similar to the Gas Safety (Safety Case) Regulations 2008. Designing new legislation around these regulations would therefore minimise future disruptions.

The consolidated legislation and subsequent ESV roles and responsibilities should seek to maximise the long-term benefit of consumers. To do so, the framework should:

- remove inconsistencies between economic and safety regulation
- consolidate safety and technical regulation
- streamline regulatory processes and procedures
- reduce the burden of non-compliance and the need for enforcement action through early engagement and open communication.

We look forward to the opportunity to engage more thoroughly on the development of legislation in the future.

## **9.2 Effective outcomes-based regulation includes benchmarking of safety-related outcomes**

We support the review's findings that outcomes-based regulation is effective and its desire to continue with this approach. We believe the success of the outcomes-based approach is largely driven by the quality of our asset and risk management systems and through the deep dedication to our Safety First principle, from the Board, the Chief Executive, all staff and contractors.

However, there is currently a disparity between the outcomes-based approach and ESV's monitoring activities. ESV primarily monitors the delivery of inputs, such as a number of assets replaced, rather than measuring performance against desired outcomes.

ESV should benchmark distributors' performance against a set of safety indicators that reflect both outcomes and the underlying factors affecting safety risks (such as the health indices of network assets). This would complement the existing AER benchmarking framework: compelling distributors to achieve safety outcomes while considering AER's efficiency-related financial incentives and economic benchmarking. If a distributor is underperforming in safety benchmarking, ESV should actively engage with them to resolve performance issues.

ESV should develop the benchmarking framework through a comprehensive process of industry consultation with reference to similar models such as those managed by the AER.

### **9.3 Reporting should be useful, timely and efficient**

We strongly support the consolidation of existing ESMS, safety cases and AS5577 into a single instrument. This will reduce existing reporting redundancies and allow distributors and ESV to focus resources on improving network safety and the quality of reporting.

We support open and clear communication between ESV and distributors, and we provide data and materials to ESV upon request. However, ESV should be cognisant of the timeliness, quantity and reasonableness of the information requested and its relevance to ESV's operations. A set of "reasonable" reporting expectations should be developed as part of ESV's stakeholder engagement framework.

Reporting can be further simplified. There is currently duplication between Online Safety Incident Reporting and Intelligence System (**OSIRIS**) and quarterly reporting. It is also unclear how ESV uses the data provided in OSIRIS. Therefore, we propose that ESV further:

- streamline reporting requirements by removing unnecessary redundancies
- increase transparency around how data is used in its functions.

### **9.4 Review of ESV should be aligned with approval of safety cases and cost recovery mechanisms**

We support the Minister's independent expert panel review of ESV periodically. We however, believe that the panel should review ESV no more than once every ten years. This will ensure consistency and stability of safety regulation.

We also propose the panel finalise each review prior to ESV approving safety cases and prior to AER approving cost recovery mechanisms. This will minimise disruption to delivery of planned projects if the review proposes changes to ESV.