

Draft Energy Technical and Safety Harmonisation Enhancement Plan

Comments, prepared by Allan Driver, Principal Consultant, Allan Driver & Associates, are provided as follows:

Scope of the Draft Plan

Under Section 72 of the Draft Plan, comments are sought about the exclusion of electricity generation and gas plants from the scope of the Final Plan.

In Victoria, all electricity generation plants, including wind generators, etc. have all been regarded as upstream of the point-of-supply as defined in the Electricity Safety Act (ES Act) and therefore subject to the Electricity Safety (Network Assets) Regulations [ES (NA) Regulations] as well as a range of other safety legislation and regulations.

Under the ES Act and the ES (Management) Regulations, electricity generators could develop a safety case or Electricity Safety Management Scheme (ESMS) to manage their safety regime.

As such, the definition of a generator needs to be clearly defined before electricity generators can only be subject to relevant O H & S legislation only.

Mention was made that these generators do not present the same risk in the public domain, however, wind farms could be considered to be in the public domain. Wind farms are more in the “public domain” than large coal fired power stations or hydro power stations and could be seen as a greater risk to the public.

Other electricity generators, such as, co-generation or stand by generation, are generally considered as part of normal electrical installations downstream from the point-of-supply and are generally covered by the Wiring Rules.

Electricity generators are covered by O H & S legislation as well as various licence and code conditions. As such, questions arise as to the level of auditing that is currently carried out by energy safety and technical regulators unless the generators have combined transmission and/or distribution networks which are subject to other regulations like electric line clearance and bushfire mitigation.

The Draft Plan should not include generation downstream from the point-of-supply, however, consideration should be given to including all electricity generators upstream of the point-of-supply. Also, the Draft Plan should not include retailers and their workplaces.

Workforce Mobility

The focus on national workforce training through the use of national training package implementation and agreed and consistent competencies is essential. This should lead to trades persons being able to gain a licence (if required) simply through streamlined mutual recognition processes.

Cross Border Emergency Response

Reference is made to clause 97.

In the case of the Victorian Bushfire teams, it is not clear whether the discussion relates to electricians or line workers. If it was electricians, they do not need to be licensed to work on networks. If the reference were made about lineworkers, then ESV would have registered them as per current agreements. It is not understood why it was necessary for the interstate lineworkers to work alone and act in this manner when efforts could have been made to integrate them into the Victorian teams.

Regulatory inconsistency and compliance burden

The differences highlighted in this area justify the need for the industry to move to harmonization and the development of a national regulator.

Continuing roles for ERAC and GTRC appear not to be useful going forward.

Benefits of Harmonization

Reference is made to Clause 106

Sharing of regulator experience and knowledge should be aimed at developing best practice on a national basis with a national regulator and not “better” national requirements.

It is not clear what is meant by “grandfathering existing infrastructure would be allowed while providing a more common approach to development of new infrastructure”. If this refers to older infrastructure being managed under existing legislation and the new infrastructure being managed under new legislation, then it is not appropriate. All network infrastructures should be managed under one ENSS with common legislation/regulations.

In relation to benefits, the standardization of components has been underway for many years and the responses to emerging safety issues have been occurring for many years through national working groups with, I understand, good outcomes. Further, the “significant benefits” need to be explained fully and quantified.

Regulators must be able to operate in a balanced manner and without taking on inappropriate risk. The legislation and regulations should be established in such a way that the responsibility and accountability for compliance is undertaken by the respective businesses operating in the public domain with the regulator keeping a watching brief and undertaking enforcement action when required. In regulatory and general terms, a light-handed regulatory environment comes with higher penalties for non-compliance.

It is not clear what is meant by the statement “Foster a more common approach at the interface between the infrastructure and installation with potential flow on benefits through greater harmonization with the electrical contracting industry”. If it means that there needs to be a more common approach at the

point-of-supply interface between the networks and the customer's electrical installations, it is essential as there could be significant benefits realised.

There certainly needs to be a clear interface (and clarification of responsibilities) between safety/technical regulators and economic regulators. Safety/technical regulators should not be involved in reliability of supply issues, for example.

Legislation and a new Australian Standard

Clause 119 needs to be explained in a less confusing way.

Clause 120: A consistent legislative framework would reduce regulatory inconsistency for multi-jurisdictional regulators, however, it should not translate into a decrease in the need to demonstrate compliance. It may reduce the regulatory burden but there should be no reduction in the need to comply with the legislative framework.

Clause 122: In general terms, and which has been mentioned throughout this plan, there is a need for specialists to be able to understand the nature of transmission and distribution networks, so it would have been simple to have the regulatory people involved in this area to be transferred to areas where they can work without affecting the other activities carried out by the regulators.

For example, the opportunity could be taken for gas and electrical appliance approvals to be tied together, as they can have both electrical and gas operating requirements, and transferred to an organization or organizations who carry out the approvals on behalf of regulators and licensing/registration could be transferred to consumer affairs or business licensing areas.

Compliance activities for customers' electrical installations could be outsourced to inspection companies operating under contract to the regulator.

Clause 123: Questions should be asked as to whether "security of supply" should be in the energy safety/technical legislation and regulators' role. The legislation should state where the network finishes and the customer's installation commences. The regulation and/or standard should have all the required clearances laid down as well as what network assets are covered or not covered downstream from the point-of-supply, for example, metering and communications equipment owned by the distributor for smart metering installations.

Clause 124: The schedule of the regulations should include internal auditing processes, whether carried out by the network business or by an accredited third party, the means by which these audits are communicated to the regulator and how the regulator is to record and monitor any actions taken or required to be taken to maintain compliance. The regulator should be able to carry out audits to clarify any issues.

The legislation/regulations should also pick up all the relevant "Exemptions" that currently exist under such legislative instruments like "Orders-in-Council". There is no mention of current Orders-in-Council in Appendices 3 and 4 of the Draft Plan.

The Energy Network Safety Scheme (ENSS)

Network businesses should be able to demonstrate that there will be no reduction in existing standards and clearances when setting up an ENSS.

Two Tiered Implementation of the Proposed Framework

Clause 141: Adopting a two tiered approach appears to be reasonable under the current circumstances and in the current environment.

Clause 147: In my opinion, Option 1 should be adopted and should include the critical electricity safety issues mentioned in clause 149. To do anything else would appear to reduce standards and this would not be appropriate with such enquiries progressing as the 2009 Victorian Bushfire Royal Commission.

Over time, there could be a move to Option 2 as all relevant stakeholders work through the issues. Further, in critical areas, there should not be performance based standards as it provides the opportunity for varying opinions as to what is compliant and provides the opportunity for the courts to make decisions rather than industry.

Validation, Submission and Acceptance of an ENSS

Clause 153: Regulators should not be the independent validator of an ENSS as it should be the responsibility of the network business to demonstrate compliance with the legislative framework.

Clause 157: The ENSS should be submitted to the relevant regulator with an independent validation report.

Clause 159: In this clause, it is not clear how an ENSS that has been validated and accepted in any jurisdiction can be immediately unconditionally and nationally recognized. This may depend on a range of environmental and geographical issues.

Clauses 160-162: The use of the term “mutual recognition” in this context can be misleading as it appears to indicate that an ENSS has been accepted under Mutual Recognition legislation.

Clause 164: It is not clear how an ENSS can cover assets across multiple jurisdictions if there is no national regulator. While the safety of the network remains with the network operator, there is no mention of responsibilities related to, and toward, the public, particularly as the assets are in the public domain.

During the life of the accepted ENSS (and there is no mention of the length of time an ENSS is in place) regulators should carry out compliance audits on a regular basis and require the network operator to arrange for independent compliance audits on at least an annual basis.

In relation to the 3 models presented for acceptance and/or approval of a regulator, Option 2 should be adopted. It should be the case that a network

operator should comply with the relevant existing legislation and regulations prior to an ENSS being adopted.

Small and Isolated Networks

Option 1 should be adopted in my view without exemptions.

Central ENSS Register

A central register should be supported with public access available. Further, for complete transparency, actions taken, such as, audits, the audit results and actions required for a network operator to demonstrate compliance, including timeframes and whether the network operator met those timeframes, should also be available publicly.

Standards Development

Option 4 under clause 187 should be adopted, in my view.

Legislative Implementation

Option 1 should be adopted, as it is consistent with other national models. Also, it should assist the industry to move toward the development and implementation of a national energy safety and technical regulator.

National Energy Skills Passport

It should be the responsibility of the network operators to manage their network and the use of skilled employees and contractors using an ENSS. It is also the responsibility of the network operator to ensure that all the qualifications, skills, training and refresher training of their employees and contractors, are up to date and relevant records are kept, through the passport, to satisfy the relevant energy safety/technical legislation as well as the O H & S legislation.

As such, I believe it is the responsibility of the industry to administer and maintain the national Energy Skills Passport with oversight by the regulator. The regulator should have access to the register for audit purposes and investigations. Therefore, provided agreed access arrangements could be made, ENA could be the administration body.

Proposed Governance Arrangements

While the MCE could be seen as setting policy, I don't believe it should be a decision making body. However, bringing energy supply technical and safety issues, within the ambit of the MCE are a positive step forward.

It appears that the alternative governance arrangement is a simpler and less bureaucratic approach and should be adopted.

Enforcement and Compliance Bodies

Option 3 should be adopted, in my view, as soon as practicable.