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### **Draft Energy Technical and Safety Harmonisation Enhancement Plan**

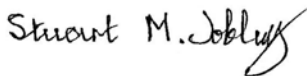
WestNet Energy under an operational services agreement has been engaged by WA Gas Networks Pty Ltd to provide maintenance and construction services in the operation of the WA Gas Networks, the largest gas distribution network within Western Australia.

WestNet Energy supports the development of a single national regulatory energy framework. The current situation whereby the operation of *gas pipelines* and *gas distribution networks* are administered by multiple energy regulators with different requirements within and across Australian States and Territories unnecessarily increases the complexity and cost of compliance and reduces business efficiencies.

In harmonising the Energy Technical and Safety Regulations WestNet Energy is supportive of the objective of the *Harmonisation Enhancement Plan* as defined in clause 14 of the *Plan* and in harmonising the framework the Energy Technical and Safety Regulations should deliver a "*light-handed regulatory instrument that will place a minimum compliance burden on energy network operators, while providing the flexibility to implement safe working solutions to maintain worker and community safety standards*". The risk associated with harmonising the Energy Technical and Safety Regulations is that the best of, or favoured sections of different States or Territories legislation is combined and the result is more onerous and fails to deliver the objectives of clause 14.

Should you wish to discuss any of these comments further please contact me on (08) 6213 7733.

Yours sincerely



Stuart Jobling  
Technical Compliance Manager

Attachment: WestNet Energy Review and Comments – Draft Energy Technical and Safety Harmonisation Enhancement Plan – September 2009

## ATTACHMENT

### WESTNET ENERGY REVIEW AND COMMENT – DRAFT ENERGY TECHNICAL AND SAFETY HARMONISATION ENHANCEMENT PLAN – SEPTEMBER 2009

#### 1. INTRODUCTION

WestNet Energy has reviewed the Draft Energy Technical and Safety Harmonisation Enhancement Plan and provides the following stakeholder comments from the perspective of a *gas pipeline* and *gas distribution network* operator.

#### 2. STAKEHOLDER RESPONSES

##### 2.1 *Scope of the Draft Plan*

*Stakeholder comments: Clauses 68 to 72*

The Leaders Group through this Draft Plan seeks stakeholder views on the exclusion of electricity generation and gas plants from the scope of the Final Plan.

Further, stakeholders' views are sought on what, if any, measures should be taken to harmonise energy regulation not covered by the model National OHS Act for generators and gas plants.

WestNet Energy supports the views that *gas plants* are excluded the Scope of the Final Plan.

##### 2.2 *Legislation and a new Australian Standard*

*Stakeholder comments: Clauses 118 to 122*

The Leaders Group seeks stakeholder views on the extent to which, and how, harmonised energy supply industry legislation may impact the operation of existing state and territory regulatory arrangements.

In Western Australia harmonisation of the Technical and Safety Regulations could have some advantages and disadvantages.

If the option 2 of maintaining the existing multiple jurisdictional regulators with a harmonised approach is adopted then the proposal will fail to deliver harmonisation if the result is that organisations are still required have an ENSS for *gas pipelines approved/accepted* by one Regulator and another ENSS for *gas distribution networks approved/accepted* by another Regulator even though the systems for managing both are part of the same integrated management system. In this situation there is a risk that the two Regulators may interpret the national ENSS requirements differently. For harmonisation to work *approval/acceptance* of an Operators ENSS by for example the regulator administering the *gas distribution network* legislation, where the ENSS is validated as being fit for purpose, has the appropriate systems for managing and assuring the integrity of the *gas pipelines* and the *gas distribution network*, then the ENSS should then be taken as being *approved/accepted* by the *gas pipelines* regulator.

Option 3 of creating a single national regulator with offices in each jurisdiction offers the advantage of overcoming having to potentially deal with and seek *approval/acceptance* of ENSS's from multiple regulators. However with respect to the administration of legislative instruments for the management of 'consumer gas installations' WestNet Energy believes there are distinct advantages in having the *gas distribution network* regulator, also being the regulator managing the *consumer gas installations* legislation. Another risk associated with option 3 is that it is likely the skills and experiences that reside

within the state regulatory departments will be lost in the process of the creation of state based offices of a national technical and safety regulator.

Legislators need to understand that *gas pipelines* and *gas distribution network* operators who also have an inspection and compliance role in the management of *consumer gas installations* have integrated management systems for managing all parts of their business. If the government bodies administering the legislative instruments are not integrated, then that will always create an increased level of complexity, limiting management flexibility and increasing compliance costs.

*Stakeholder comments: Clauses 123 to 124*

The Leaders Group seeks stakeholder views on the proposed regulatory architecture and the various legislative instruments and standards. Stakeholders are also requested to consider and comment on the requirements for legislation and the creation of a new national Australian Standard for an Energy Network Safety Scheme.

WestNet Energy supports the architecture of the *Act*, *Regulations* and the *ENSS Standard*.

### **2.3 Two-Tiered Implementation of the Proposed Framework**

*Stakeholder comments: Clauses 135 to 141*

Stakeholder comments are sought on whether it is desirable to adopt a two tiered approach to implementation where, in the first tier, the proposed overarching legislation, worker mobility initiatives and governance arrangements would apply to both gas and electricity supply sectors equally and fully. While, in the second tier, specific sector issues can be dealt with, particularly initially the development of a national electricity network ENSS standard.

WestNet Energy supports the adoption of a two tiered implementation approach.

### **2.4 Mandatory Requirements**

*Stakeholder comments: Clauses 142 to 152*

The Leaders Group seeks views on the Draft Plan's two options on referencing of mandatory requirements. Stakeholder views are also sought on the proposal to task the Policy Committee to develop criteria to guide:

- what standards and mandatory requirements need to be developed; and
- the referencing of standards or other normative documents as mandatory standards or "deemed to satisfy" standards.

WestNet Energy supports "Option 2: No specification of mandatory requirements other than for the relevant ENSS". For *pipelines* and *gas distribution networks* AS 2885 and AS/NZS 4645 both provide an effective framework for managing gas transmission pipelines and gas distribution networks, where the only Standard which needs to be developed and mandated would be the Standard for the development and implementation of the ENSS.

## 2.5 Validation, Submission and Acceptance of an ENSS

*Stakeholder comments: Clause 153 to 163*

The Leaders Group seeks stakeholders' views on the significance of the different approaches to 'acceptance' by jurisdictional regulators and proposals for a regulatory framework that facilitates mutual recognition should these differences not be resolved.

### **Principles for Acceptance/Certification of an ENSS**

*Stakeholder comments: Clauses 164 to 177*

Stakeholders' comments are sought on the proposed principles for the Validation, Submission and Acceptance of an ENSS.

Further comments are also sought on the three models presented. The Leaders Group notes that under existing state and territory legislation, some jurisdictions formally accept submitted ENSS/safety cases, while others only require submission of a validation report and others only require it to be in place and implemented.

WestNet Energy believes that the different *approval/acceptance* approaches by jurisdictional regulators result in differences in the cost of preparing and having a Safety Case or ENSS accepted. Some of the variations within each of the proposed models do not meet the objective as stated in clause 14 of the *Harmonisation Enhancement Plan*. WestNet Energy would support two options that would achieve this objective.

The two options which WestNet Energy believes would deliver harmonisation and meet the objective of clause 14 of the Plan are:

1. *Approval/acceptance* by the Regulator that being one Regulator if the ENSS has been prepared to cover both *gas pipelines* and *gas distribution networks*, whether that is a single national body regulator or a state based regulator administering the harmonised technical and safety regulations. The approving (or accepting) Regulator also provides the independent validator, where the Regulator is to demonstrate that they have validators with appropriate qualifications, experience and are independent of the operator submitting the ENSS. This option overcomes the potential of a Regulator not *approving/accepting* an ENSS that has been validated by an independent validator, whose selection would have been approved by the Regulator. If an independent validators certificate of compliance and the submitted ENSS was not *approved/accepted* by the Regulator, then the cost and time associated with procuring and working with the independent validator would have been to a large extent, totally wasted.
2. The ENSS is validated and certified by an independent validator, whose qualification, experience and independence from the operator preparing the ENSS has been approved by the Regulator who is *approving/accepting* the ENSS. The Regulator *approved/accepts* the ENSS upon receipt of the ENSS, and the certificate of compliance. The regulations prescribe the intervals at which either the Regulator, or a third party independent auditor audits the operation of the ENSS to certify that the ENSS remains effective and still conforms to the appropriate requirements defined in the ENSS standard.

Option 3, the *obligation to have a plan only* option offers the greatest degree of flexible with respect to the preparation of an ENSS, however providing the regulator with the power to engage a third-party audit or conduct and audit or inspection at any time could potentially be disruptive as all business's operate to business plans that need the ability to predict and budget for key business events. This option is unlikely to result in consistent ENSS's from operator to operator.

## **2.6 Enforcement and Compliance Bodies (Regulators)**

*Stakeholder comments: Clauses 241 to 245*

The Leaders Group seeks comments on the proposed ongoing governance structures in a nationally harmonised regulatory regime.

For WestNet Energy's comments refer to our comments under section 2.2 in reference to a "Legislation and a new Australian Standard"