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8 April 2009

Manager, MCE Secretariat  
Department of Industry, Tourism and Resources  
GPO Box 9839  
Canberra, ACT 2601

Dear Sir / Madam

**Energy Market Reform Bulletin No. 145 - Discussion paper on harmonisation of energy supply industry technical and safety standards**

Country Energy appreciates the opportunity to comment on the development of a national framework for the harmonisation of Energy Supply Industry (ESI) Technical and Safety Standards and to provide input into the options provided in the discussion paper.

Attached to this covering letter is Country Energy's submission detailing our suggestions, on the development of the framework and preferred options as sort by the MCE.

Country Energy would be pleased to discuss this matter further. Should you require further information or clarification please feel free to contact Jason Cooke on 02 6338 3685.

Yours sincerely



Natalie Lindsay  
General Manager Regulatory Affairs and Revenue Systems

Att. 1.

# Energy Market Reform Bulletin No. 145 – Discussion paper on harmonisation of energy supply industry technical and safety standards

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## General Overview

Country Energy supports the development of a regulatory framework that moves from multiple state based regimes to a single national standard. This national standard should complement general Occupational Health and Safety (OH&S) Standards and be administered by a single regulatory body.

Country Energy recognises that this may not be achievable in the short term, however Country Energy would encourage a common recognition and acceptance of other jurisdictional frameworks during the transition.

Country Energy also believes that the harmonisation process should be achieved without diminishing current standards. Therefore, the harmonised framework should be as flexible as possible with the only mandatory standard being the Energy Network Safety System (ENSS) itself. Country Energy acknowledges that there may be a need to mandate certain standards as long as the determination process is based on an appropriate benefits test.

## Submission Responses

The following responses use the item reference numbers from the MCE *Harmonisation of Energy Supply Industry Technical and Safety Regulation* discussion paper issued in February 2009.

### **Reference 59 to 68.**

The Leaders Group seeks stakeholder views on the scope of harmonisation as outlined in the discussion paper, and potential impacts on any related technical requirements that are currently included in State and Territory regulations but are not specifically related to public or worker safety and that cross over into other regulatory spaces, such as reliability and economic regulation.

The scope of the harmonisation outlined in the discussion paper is appropriate for the intended outcomes of the nationalisation of regulation in this area.

Country Energy believes that given the disparity in the level of maturity between the electricity and gas industries, there is merit in approaching full nationalisation of ESI Technical and Safety Standards through a staged approach, with the initial stage bringing the electricity industry up to par with the gas industry.

Country Energy supports ensuring any regulation developed acknowledges and allows for specific differences in state, territory and jurisdictional coverage necessitated by geographical, demographic and established network operational arrangements.

National regulation should be complementary to or replace existing national regulation without diminishing current standards. Country Energy envisages that only technical industry specific standards would be covered by the ESI Technical and Safety regulation. For example, it is not envisaged that the regulator would attempt to take control over the OH&S role of WorkCover, except where it relates to safety risks from specific gas and electrical assets.

**Reference 69 to 71.**

Stakeholder views are sought on the coverage and detail of the descriptions provided for each State, Territory and Commonwealth legislation contained in **Appendix 3**.

**Reference 72 to 74.**

Stakeholder views are also sought on the coverage and detail of the current regulatory arrangements contained in **Appendix 4**.

The coverage and detail of descriptions provided in Appendices 3 and 4 seem appropriate and comprehensive enough to support the intentions of the development of this national standard. Country Energy has no additions to these appendices.

**Reference 75 to 91.**

The Leaders Group seeks comments on the extent of the problem in the current arrangements, and possible approaches to address these issues.

The Leaders Group also seeks comments on the above mentioned examples and other examples of limits to labour force mobility, emergency response, regulatory inconsistencies and compliance burden.

Country Energy agrees that it should not be necessary for multi-jurisdictional network operators to operate under more than one set of obligations for what is effectively a single network.

Country Energy manages electrical line assets in both Victoria and Queensland resulting in separate compliance issues to contend with across these states. The compliance requirements for Victoria and Queensland, specifically around cross border customers and arrangements, have increased complexities in the business and placed additional regulatory compliance burden on Country Energy. Country Energy is required to maintain separate plans and special approvals to work under NSW arrangements for these areas.

**Reference 92 to 101.**

The Leaders Group seeks stakeholder views on the interaction between the scope of the National OHS Review and the scope of this discussion paper, and the potential impact the scoping paper may have on the recommendations and/or options included in the discussion paper. In particular, the Leaders Group seeks comments on whether the proposed approach (potentially isolating the ESI requirements) may introduce undesirable inconsistencies between safety requirements for the ESI and electrical workers outside the ESI.

Country Energy supports development of national industry specific safety requirements which would operate alongside National OH&S requirements in a manner that ensures minimal duplication in the regulatory arrangements.

Country Energy envisages that under a harmonised approach, requirements would be minimised to one management system and plan, including compliance with OH&S requirements.

**Reference 102 to 108.**

The Leaders Group seeks stakeholder views on the content of the legislation and what, if any, further matters should be addressed in the legislation. Stakeholder views are also sought on basing the legislation on the concept of compliance with a national ENSS standard.

Country Energy supports this approach and the concept of compliance with a national ENSS standard.

**Reference 109 to 115.**

The Leaders Group seeks stakeholder views on the proposed Energy Network Safety System and its coverage.

Country energy supports an outcomes based ENSS that could be applied across all jurisdictions. The ENSS should be based on a formal management structure that provides an all encompassing management system, to facilitate a national standard for adherence of all network operators. The proposed approach is consistent with current NSW state regulation and will enable the government to achieve its regulatory objectives of ensuring networks and their associated assets are effectively managed using independent verification.

**Reference 116 to 121.**

Stakeholder comments are sought on whether it is desirable to develop a generic standard covering the management systems of both gas and electricity networks, so as to facilitate a common ENSS standard for network operators.

Country Energy believes it is desirable to develop a generic outcomes based ENSS standard covering both gas and electricity networks.

**Reference 122 to 128.**

The Leaders Group seeks views on the two options for the treatment of small and isolated networks.

If an exemption is permitted for small and isolated networks, the Leaders Group seeks views on the definition of a "small and isolated network"?

The Leaders Group also seeks views on whether or not either of these options should also be applied to small embedded networks.

Generally the regulatory framework applied to all networks should be identical regardless of size. It is important for all organisations to be treated consistently and equally, with this most likely to be achieved under the first option proposed by the Leaders Group. Country Energy envisage the level of effort required to comply with a standardised ENSS for small networks would be minimal making compliance proportionate with their relative size.

**Reference 129 to 134.**

The Leaders Group seeks views on the two options presented with respect to the issue of mandatory standards.

Since 1995, NSW network operators have been able to determine and manage safety risks rather than have mandatory standards imposed by regulators. This approach places the onus on the network operators, encouraging innovation and ownership rather than making regulators responsible for setting the standards. This approach has proven to be very effective in improving the level of safety across the state.

Country Energy believes moving away from the NSW regime towards mandatory standards for regulation would be a backward step for safety in the workplace. The framework should be as flexible as possible with the only mandatory standard being the ENSS itself.

While Country Energy believes mandatory standards are generally not appropriate to be embedded within the framework, there may be instances in the future where the need to mandate regulation becomes necessary. When this need occurs, the net benefits test currently applied by the Australian Standards appears to be an appropriate mechanism to mandate a standard.

Country Energy therefore supports the second option provided by the Leaders Group.

**Reference 135 to 138.**

Stakeholder views are sought on criteria to guide:

- the development of standards; and
- the referencing of standards or other normative documents as mandatory standards or "deemed to satisfy" standards.

Any such recommendations must be accompanied by justification in terms of the COAG Best Practice Regulation criteria.

Country Energy does not support standards directly referenced in legislation. Rather we propose that the Advisory Committee should develop industry codes and any necessary guidelines with criteria that align to the current state based systems. This approach is similar to the approach for electricity safety regulation in NSW and the proposed draft Victorian electricity safety regulations.

Country Energy strongly believes that the developed national framework for ESI Technical and Safety must meet the requirements of the COAG Best Practice Regulation guidelines which focus on results and performance based regulation.

**Reference 138 to 139.**

The Leaders Group seeks views on the three options for "acceptance" or "certification" of a network operators ENSS

Country Energy supports the second option proposed by the Leaders Group to enable network operators to submit their ENSS and audit reports (certified by a third party independent certifier) for acceptance by the regulator. This approach aligns to the current practice in NSW which has worked effectively for some time.

**Reference 140 to 142.**

The Leaders Group seeks stakeholder comments on the need for the proposed Central ENSS Register and its contents.

Country Energy believes a central ENSS register would impart unnecessary costs and compliance on network operators for access to information that can be readily supplied to the limited number of parties requiring access to each network operators ENSS.

**Reference 143 to 151.**

Stakeholder comment is sought on the proposal for a National Energy Skills Passport.

Stakeholder comment is also sought on what additional steps, particularly to industry work practices, are required to facilitate greater portability of ESI workers.

Country Energy supports a national energy skills passport. A national passport would enhance worker mobility through improved recognition of worker training and skill sets, allowing better management of cross border worker mobility and support during emergencies across different jurisdictions and state boundaries.

**Reference 152 to 155.**

Comment is sought on the preferred option for the development of standards and other normative documents required for the proposed regulatory model.

Country Energy supports the development of Australian Standards. These standards should be underpinned by the development of industry codes and guidelines that comply with the Standards Australia net benefit test as proposed by the Advisory Committee.

**Reference 156 to 163.**

The Leaders Group seeks comments on bringing energy supply technical and safety issues within the ambit of the MCE.

Country Energy supports bringing safety issues under the control of the MCE. However, the scope should be limited to the coverage of safety issues to prevent the introduction of supply technical issues, including reliability licence conditions, which would complicate the harmonisation of safety standards and delay their introduction.

**Reference 164 to 169.**

The Leaders Group seeks comment on the need for an Advisory/Regulatory Committee, its representation and accordingly what should its role be?

Country Energy supports developing an advisory committee that is a tripartite body of equal representation between regulators, industry representatives and union bodies.

The advisory committee should be responsible for all aspects of the ENSS, and compliance and enforcement of the ESI framework under the guidance of the MCE. The advisory committee should be able to consult with COAG and occupational health and safety agencies as needed.

The advisory committee should be able to provide input and recommendations to the MCE for developing industry codes and guidelines that can improve safety outcomes.

**Reference 170 to 173.**

The Leaders Group seeks comment on the proposed governance framework for energy technical and safety regulation, the options presented and any other options.

Country Energy supports the third option presented by the Leaders Group for a single national framework administered by a single regulator. Variances to this are for generalised OH&S requirements that are not industry specific which are currently administered by WorkCover.

**Reference 174 to 190.**

The Leaders Group seeks comment on the options presented for legislative implementation.

Whilst both options for legislative implementation would produce the desired outcome, Country Energy would favour option one. This approach aligns to the model used for the NEL and NGL.

**Reference 191 to 192.**

The Leaders Group seeks stakeholder feedback on the proposed subsequent documents required in addition to the Harmonisation Implementation Plan and suggestions on any other documents that may be required.

Country Energy agrees with the sequence of the next steps identified in items 191 to 192 of the discussion paper and has no additional documents to add to the list.

**Reference 193 to 194.**

The Leaders Group seeks stakeholder feedback on how the proposed model should be implemented. What sequence should the model be implemented in and are there some aspects of the proposed model that need to be implemented before others?

Country Energy considers the inclusion of industry feedback through one or more workshops would be a beneficial exercise to develop a strategy for the implementation of the proposed model. This approach provides roundtable input from industry stakeholders with appropriate opportunity for potential implantation issues to be identified and addressed.

Country Energy would be pleased to be invited to provide input to assist the development of this framework as the matter progresses further. Should you require further information or clarification please feel free to contact Jason Cooke on 02 6338 3685.