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The Secretary  
Department of Resources Energy and Tourism  
10 Binara St,  
Canberra ACT 2601

Attention of Secretariat, Energy Technical and Safety Leaders Group  
[MCETMarketReform@ret.gov.au](mailto:MCETMarketReform@ret.gov.au)

**Submission on the “Discussion Paper – Harmonisation of Energy Supply Industry Technical and Safety Regulation”**

Dear Sir

Thank you for the opportunity to comment on the above discussion paper.

The NGF represents the electricity generators in the National Electricity Market (NEM), which includes some of Australia’s largest businesses with diverse electricity generation portfolios involving coal, gas, hydro and a range of other renewable sources. The principal Western Australian generators are associate NGF members. The annual revenue of the NEM exceeds \$12 billion.

The NGF is fully committed to continuous improvement in the provision of a safe and healthy workplace for all persons on generation sites, and fully supports initiatives which result in improving the current high OH&S performance of this sector of the energy supply Industry.

As a significant industry sector operating across the full range of Australian jurisdictions, NGF members operate in environments which are subject to different energy sector specific technical legislation and regulation and to different OHS legislation and regulations – all having various degrees of regulation on the prescriptive / performance based continuum. The resultant division of resources or additional workload does not support the effective and efficient meeting of minimum standards as defined in each jurisdiction’s legislation, and importantly also distracts and detracts from efforts to drive genuine continuous improvement towards meeting and sustaining zero harm objectives across the industry sector.

Industry sector and organisation-wide technical and safety management standards and systems are very difficult and costly to develop and maintain. There are differences across state and territory boundaries leading to significant and unnecessary complexity and duplication.

This impacts upon the clarity, usability and potential effectiveness of these systems in the workplace where it is critical that they make an ongoing difference to performance in terms of the health and safety of people, and the safe / reliable operation of industry sector assets.

Auditing processes should only be sized to verify with reasonable confidence that critical outcomes are being delivered - a "chock" just large enough to retain ground already taken on the continuous improvement journey to 'zero harm' and ongoing safe, reliable operations. The resources that are currently being consumed on satisfying and resourcing multiple external regulatory audit processes (e.g. those of the technical regulator, WorkCover self-insurance, legislative audits by State OHS Regulators) - all of which significantly overlap - are resources that are not being invested in continuous improvement. The industry is unable to sustain this use of resources. National regulations and a single national regulator would reduce this auditing burden significantly (as well as increase the efficiency and arguably the effectiveness of regulators themselves).

Currently with each state / territory and the Commonwealth resourcing the production of multiple sets of similar regulations with the same objectives but just enough difference to create confusion and thereby require an individually tailored approach in each jurisdiction, wasted resources must abound. The NGF suggests that a much reduced level of resources could be engaged in developing a single set of leading-edge, nation-wide Technical (industry sector specific) and OHS legislation / regulations, with the resources saved re-invested in quality OHS research and positive education or support initiatives for proactive and targeted driving of continuous improvement.

Differences in regulations across state boundaries negatively impact the effective and efficient transfer of people within national organisations within industry. This makes recruitment and movement of people to organisations in different states an exercise in retraining and competency assessment. A single technical and OHS regulator with a single set of regulations would enable our entire industry to speak the same language, apply the same standards and procedures; and make movement across the country less onerous, more efficient and significantly less costly. In addition, as access to skilled personnel decreases over time, the need for increased levels of flexibility to meet business challenges and maintain asset reliability is increasing.

Differences in technical and safety legislation across jurisdictions within the National Electricity Market is a key factor in sustaining an uneven playing field, and facilitates competing agendas across states and territories (e.g. for business investment).

The NGF does not believe that a 'national harmonisation' approach which falls short of national legislation and regulations will significantly improve the status quo. As evidence of the confusion caused and the time, energy and resources that can be expended when individual state and territory jurisdictions differently interpret a single national standard, reference should be made to the National Standard for Construction Work. This standard has been applied in a variety of ways to the generation sector, even though neither the standard nor the Final Report of the Royal Commission into the Building and Construction Industry references the generation industry.

The NGF members are of the firm view that harmonisation is only possible through a single set of legislation and regulations and a single regulating body. To fall short of this outcome will continue to waste resources and create confusion, all to the detriment of improving safety at the workplace. The NGF's response to the national review into Model OHS laws has been prepared on this basis. However, the NGF will support and seek to be actively involved in any process that leads towards harmonization; be it national standards or national model legislation, and the consistent and sensible adoption of those standards and legislation by each jurisdiction.

The objective of the NGF is to seek, in order of preference:

- a. A single national OH&S regulator, with coverage over generator sites (i.e. no coverage of generators by a separate energy regulator).
- b. Multiple OH&S regulators consistently applying a national regulatory model, each with coverage over generator sites in their respective jurisdictions (i.e. no coverage of generators by separate energy regulator/s).
- c. A single national OH&S and a single national energy technical regulator, each with coverage of the generator sites.

The NGF members are aware that at the COAG meeting of 3 July 2008 it was agreed that there is to be no single national OHS regulator. In the light of this decision it is essential that means are found to correct the current situation of different regulators interpreting and applying national standards in different ways without adequately consulting the affected industries.

Failing the move to a single national OHS regulator or a single national energy regulator, the NGF seeks – as an outcome of the process of harmonisation of energy supply industry technical and safety regulation – to be covered by a single regulator in each State, and that that regulator be responsible for all OHS aspects on generation sites.

To achieve this outcome, the NGF desires that current energy regulatory requirements be restricted in scope to transmission and distribution networks and to matters pertaining to public safety (such as approval of appliances / equipment and licensing of electrical workers who undertake works in the public domain). This is therefore the thrust of the NGF's comments on the "Discussion Paper – Harmonisation of Energy Supply Industry Technical and Safety Regulation". It is noted that the outcome sought by the NGF is already in place in NSW.

With this outcome and the NSW model in mind, the NGF submits the following:

- a. **Licensing of electrical workers** -- that the requirement to use licensed electrical workers - with qualifications based upon domestic and commercial application of AS3000 – should not apply to generation sites as they have little relevance to the specialised equipment and associated maintenance activities (such as high voltage testing and in-situ work on generator windings). The NGF proposes that a requirement to use competent electrical workers (as is currently the case in NSW, Victoria, South Australia and West Australia) when working on other than domestic or commercial-style installations is more appropriate.
- b. **Standards, Guidelines & Codes** -- that the related Australian Standards pertaining to electrical safety would be called up in the model OH&S Regulations.
- c. **Licensing of Generators** -- that the requirement for licensing of generators would be removed, as – given the requirements of the AER and NEMMCO registration process – the licence adds no value to either reliability or quality. Note that generators are not required to be licensed in NSW.
- d. **Electrical Incidents** -- that electrical incidents would be reported to the OH&S regulator/s, as they currently are in a number of jurisdictions.
- e. **Community Education** -- that with the absence of exposure by the public to generator assets, the need for community education with respect to electrical hazards falls away.
- f. **Inspection / Enforcement** -- that inspection / enforcement relating to all incidents or site visits will fall under the OH&S regulator/s – as they do now.

- g. **Approval of Appliances / Equipment** -- that as this matter pertains to public safety it will remain the province of the Energy Regulator/s.
- h. **Bushfire Mitigation / Vegetation Clearance** -- that bushfires and encroaching vegetation which present risks to the public are not considered being relevant to generation assets. These matters would therefore remain the province of the Energy Regulator/s.
- i. **Cathodic Protection Schemes** -- that the need to register cathodic protection schemes is driven by the risks to public assets from stray currents, that it is considered that the risks to public / other assets from stray currents associated with power station cathodic protection schemes is negligible, and that registration of those schemes may remain the province of the Energy Regulators and not be applied to generators.

With respect to the proposal for the “Energy Network Safety System (ENSS)”, the NGF acknowledges the ENA’s position for transmission and distribution network operators, and that owing to their geographic spread and exposure to the public and risks to public assets, an ENSS is an appropriate response for ENA network businesses.

The NGF submits that for generators, the application of an ENSS is significantly less critical as, unlike transmission and distribution companies, generators are not – for the main part – required to have a safety case. A mandated safety case will impose additional burden and cost, distract a workforce from opportunities to improve, result in no improvement in safety performance within the asset, and has no relevance outside the asset (i.e. in the public domain). In particular:

- a. Generation technology – and therefore the operating and maintenance regime – is relatively stable. Typically the development of technology does not outstrip the advancement of regulation – enabling the current regulatory regime to provide sufficient flexibility in operation and work practices.
- b. Repair, maintenance and overhaul (either scheduled or unscheduled) activities within generators are planned, assessed for risk, undertaken on a controlled and stable site with no public access, and managed according to clearly defined safety procedures.
- c. Activities at a power station are similar to those of any heavy manufacturing industry.
- d. The historical risk profile of generator OHS performance does not indicate any need for movement to the safety case regime.
- e. The introduction of the safety case regime has the potential to increase diversity between generators through different adoption of Standards, Codes of Practice, etc, – increasing barriers caused by different approaches to safety management.
- f. Maintenance plans exist for the whole of plant life (60 – 80 years).
- g. Major maintenance activities are undertaken on a cyclic basis to a detailed program.
- h. Power stations have procedures, processes and practices in place to ensure that hazards are understood and risks are – wherever possible – as low as reasonably practicable.
- i. If the nature of generation facilities presents a significant risk, that risk is managed through the application of existing Major Hazard regulations.

In summary, the NGF does not support the inclusion of generators within the proposed Energy Network Safety System and associated safety case requirements.

Nor does the NGF support the continued application of current energy and technical regulatory requirements (designed predominantly for the regulation of transmission and distribution networks and matters pertaining to electricity and public safety) to generators on either a National or jurisdictional basis.

Rather, as per the discussion above and, as has been demonstrated adequately in New South Wales, the NGF strongly supports generators being subject to OHS legislation and regulation alone (i.e. no energy / technical regulation), and preferably national OHS legislation and regulation administered through a single national OHS regulatory body.

Where agreement on a single national OHS Regulator cannot be reached through the current national harmonisation process, the NGF supports the nationally consistent implementation, interpretation and administration of a single national OHS Act and set of national OHS regulations by the jurisdictional OHS regulators across Australia.

The NGF is committed to working with key stakeholders to deliver these outcomes, which will in turn deliver significant OHS and efficiency improvements to generation organisations across the nation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'JBoshier', with a stylized flourish at the end.

John Boshier  
Executive Director