

15 July 2024

Ms. Leanne Hughson
Chief Executive Officer
Energy Safe Victoria
Level 5, 4 Riverside Quay
Southbank VIC 3006
Via email: Consultation@energysafe.vic.gov.au

Dear Ms. Hughson,

Energy Infrastructure Safety Case Guidelines Consultation Paper

Thank you for the opportunity to review and comment on the draft Energy Infrastructure Safety Case Guidelines, May 2024 (draft guidelines).

At the outset, we would like to express our support for what we understand the intent is of these draft guidelines to improve the efficiency and effectiveness of the safety case approval process and include a greater role for customers and stakeholders. We fully support these goals and welcome the opportunity to work closely with Energy Safe Victoria (ESV) on their implementation.

Executive summary

- We support the adoption of a transparent, principled, and documented process for safety case approval. This is consistent with best practice adopted by regulators across Australia.
- Future safety case approvals need to align with the economic regulatory cycle. Approval and amendment of safety cases can materially impact the funding of our networks. The funding window for networks is only open once every 5 years, it is essential safety cases are resolved before funding decisions and those safety cases are supported by ESV in discussions with the Australian Energy Regulator (AER).
- Amendments that are immaterial, or minor, in nature to safety cases should be 'fast-tracked' to free up resources of ESV and the networks.
- Greater certainty is required on the approval timeframes for safety cases. It is common practice amongst economic regulators for there to be a fixed period (e.g., 90 days) by which approval is required. These are often accompanied by 'stop the clock' provisions in circumstances where further information is being sought.
- Clarity is required on the assessment of cost impacts of new or amended safety mandates. The principle of 'grossly disproportionate' is undefined but assumed a high bar. This threshold will not necessarily be reflective of the views of the community which will become more apparent with the inclusion of customer and stakeholder engagement.
- The treatment of 'state of knowledge' under the draft guidelines is problematic and likely to deter the use of new technologies and data.
- The level of detail being sought on assets and technical standards under the draft guideline appears disproportionate and unaligned with a more high level, outcomes based regulatory model.

- We are strong advocates for an increased role for customers and stakeholders in the approval process for safety cases. If customer and stakeholder views are invited, their voices and views must be heard and acted on by ESV. It is important that what is being engaged on is agreed between the networks and ESV. For the avoidance of doubt, we assume this to be trade-offs between safety risk and cost. If this is not the case, we would appreciate further discussion and guidance.

Section 1: Summary

We support the adoption of a transparent, principled and documented process for safety case approvals. Such an approach is consistent with practices in other regulatory frameworks around Australia.

As part of refining the safety case approval process, we would strongly support it being brought into line with the economic regulatory cycle through which networks obtain funding. The window for funding for networks only opens once every 5 years. Outside of this window, networks do not have ready access to further funding. This makes changes outside of the economic regulatory cycle highly problematic, likely to face resistance from networks and economic regulators, and not able to be readily reviewed and consulted with customers and stakeholders.

A better approach would be to align approvals or amendments to safety cases such that they are in line with the economic regulatory cycle faced by networks. The milestone for the economic regulatory cycle is regulated under the National Electricity Rules with final proposals due from networks in January of the year prior to the start of the next regulatory period.

Alignment of these processes would allow greater synergies to be achieved in the customer and stakeholder engagement process, permit discussion of safety investments in the context of other investments, customer affordability and reliability and allow a transparent discussion on the relative costs and benefits of safety mandates. It would also allow closer collaboration between ESV and the Australian Energy Regulator (AER) and avoid the need for rework around business cases related to safety matters.

It is important to note that some major electricity companies such as Australian Energy Operations and the proposed Powercor transmission are not subject to the requirements of the regulatory price reset, therefore stakeholder engagement processes as described above would differ for these entities and not be reliant on alignment of economic regulatory cycles.

Section 1.4: Structure and content of safety cases

The draft guidelines state that:

“...energy infrastructure companies need to be careful to draft their safety cases in such a way that they do not require frequent revisions and therefore re-submission to Energy Safe for assessment and acceptance”.

Whilst we endeavour not to produce safety cases that require frequent changes, change is sometimes inevitable. We seek continuous improvement through the continuous adoption of new technologies, skills and knowledge which will at times necessitate change.

For change not considered major, we would like to see the adoption of a ‘fast track’ approval process. A ‘fast track’ process would reduce the burden on ESV and the networks and more importantly, provide a quick and simple process that encourages innovation in delivering safety outcomes. Several economic regulators employ ‘fast track’ processes including the Australian Energy Markets Commission (AEMC). Without ‘fast track’, we fear safety case approvals will become slow and cumbersome, achieving neither the outcomes sought by ESV or networks.

Section 2: The safety framework

Section 2.1.1 Major electricity companies

Powercor has sought a transmission licence (licence) from the Essential Services Commission of Victoria (ESC). The licence sought is geographic based covering the territory defined by the existing distribution licence. It is limited to assets 220kV and below. A decision on whether the licence is granted is expected in August 2024.

The draft guidelines state:

“A MEC must not commence to commission, or operate, a supply network unless an ESMS for that supply network has been accepted by Energy Safe”.

Our interpretation of this requirement requires us to submit a Electricity Safety Management Scheme (ESMS) and/or Bushfire Mitigation Plan (BMP) whenever a new customer is connected to the transmission network.

We would request the guideline further clarifies what is deemed as to ‘not commence to commission, or operate, a supply network’. For example, does the establishment of a new 66kV line constitute a supply network that would require acceptance of an ESMS before it can be commissioned and operated?

Section 2.2.2 Revision of accepted safety cases

Clarity is required as to what constitutes a ‘revision’. For example, if a referenced document (not an incorporated document) is revised, does this constitute as a revision that needs to be resubmitted? It is our understanding that referenced documents do not form part of the ESMS or a plan and hence, are not subject to revision submission but we would appreciate clarity.

The draft guidelines also refer to a transitional period. The transitional period is however undefined. We would again appreciate clarification as to when the transitional period ends.

Section 3: Concept of minimising hazards and risks

Section 3.2.1 Assessment must be made with a clear presumption in favour of safety

All decisions involve an assessment of risk versus cost. We agree safety is a priority in the provision of electricity. One of our key company values is ‘live safely’ and a message that is emphasised within our networks is to ‘never compromise safety’. Further, we appreciate the Victorian Government and ESV have an important role in ensuring electricity is delivered safely and to define social policy with respect to electrical safety.

Safety outcomes are not, however, costless. Compliance costs comprise upwards of 80 per cent of our network investments and represent the majority of our network tariffs. Whilst not all the compliance obligations relate to safety, a significant portion do.

Over the last 4 years of our reset engagement, we have heard repeatedly customers value affordability and equity. These issues were paramount for customers of United Energy and CitiPower and in Powercor, second after reliability. Customers rate affordability and equity for several reasons. Prime amongst these is the rising cost of living. This is closely followed by the cost of the energy transition. As a result, customers (and stakeholders) are increasingly questioning the cost associated with compliance, and whether compliance outcomes can be achieved in other ways or, can be more efficiently managed through a reallocation of risk between parties.

It is noted that the draft guidelines apply a definition of 'grossly disproportionate' when assessing costs. This is stated as:

"...control must be implemented unless the cost of doing so is so grossly disproportionate to the benefit..."

It is assumed the terminology 'grossly disproportionate' is intended to act as a high hurdle or barrier to any decision that may result in a safety risk reduction. We are concerned this definition places safety on another plain above reliability, resilience, etc. Our experience has been customers will wish to consider safety alongside other attributes of the electricity supply and will struggle with the concept they cannot trade off safety outcomes and costs the same way they do for other energy supply attributes.

Even if the draft guideline chooses to maintain the terminology 'grossly disproportionate', it is important that we can provide customers (and stakeholders) guidance about what this terminology means to ESV. A definition would also assist our discussions with the AER who may question why a different approach is being applied to risk assessments for safety versus other attributes of energy supply.

We would like to highlight consideration of equity and what that means to our customers (especially those residing in Powercor). Due to the nature of Powercor's network, its customers have incurred a disproportionate amount of costs related to safety mandates compared to other urban based networks. Mandates related to rapid earth fault current limiters (REFCLs), installation of armour rods, vibration dampers, spreaders and pole replacement amongst other new requirements have all had a sizable impact on Powercor customers network bills. More recent changes around vegetation management requirements will further exacerbate the issue.

It is important in assessing future safety mandates, that ESV considers the distributional impact of its decisions. It could be argued that the benefits case for reduction in bushfire starts benefits all Victorians, however under the economic regulatory framework only Powercor and AusNet customers contribute to the costs. This raises a broader issue around equity that we would like to see ESV engaging with Victorian Government on this matter.

Section 3.2.3 State of knowledge

It is pleasing that the draft guidelines raise the concept of 'state of knowledge' and what it means to future safety compliance.

Technological advancement and digitalisation are changing what we know of our networks. The introduction of advanced metering infrastructure (AMI) revolutionised our knowledge for example around voltage compliance. We are now observing the same trend in safety compliance using LiDAR techniques and other advanced data analytics. It is important to realise that whilst the new approaches provide more robust information on our safety compliance status, they are not changing the underlying risk that has always been present.

From our perspective, the identification of a new 'state of knowledge' should trigger a reassessment of the risk-cost trade off. It is inevitable a revised 'state of knowledge' will, in most cases, identify a higher level of risk than was previously known. If we choose to lower that risk back to what was previously considered an acceptable level of risk, we will be asking customers to incur additional costs which could be significant (or grossly disproportionate). This should trigger a reassessment of the previous impact assessment to test whether the risk/cost trade off remains economic for customers to further invest mitigating that risk or, given they have previously lived with this risk, whether it is appropriate to accept a new benchmark and not impose further costs on customers.

Where ESV does form a view that cost should be incurred to reduce risk following a new 'state of knowledge', we believe there should be consideration of the time over which a network returns to compliance. The commercial reality is it will never be possible to rapidly move from a lower level of compliance to a higher level of compliance instantly. Achieving a new benchmark level of compliance will certainly involve new processes, systems, resources, and materials. In the case of labour and materials, these resources can be rare and take time to train and acquire.

It is also important to consider what a rapid transition to compliance would do to customers. Requiring networks to fall back instantly or rapidly into compliance is likely to involve adoption of highly inefficient and ineffective practices that will cost customers more and be unlikely to robustly deliver the outcomes sought by ESV. Further, the potential 'bill shock' for customers is likely to lead to resentment and adverse reputational outcomes for the network, ESV and Victorian Government. Through our engagements, customers have told us that changes to the network should be gradual where possible, to ensure affordability into the future.

Lastly, we note that managed poorly, changes in 'state of knowledge' are likely to have a chilling impact on innovation. Our own recent experiences with this issue have triggered discussion around our own decisions to implement new technologies. Further, we note that other networks have already not followed our the lead of our networks, understanding how this may impact their compliance status and standing with ESV. Networks should be incentivised to innovate and improve understanding of their risk profiles.

It should not be the case that new technology and data analytics identifying new and emerging risks should be used to punish networks. We would encourage ESV to work constructively with networks to resolve issues in a way that benefits all rather than resorting to penalties. We firmly believe this approach will deliver better outcomes for all Victorians.

Adoption of technical standards

The draft guidelines require safety cases to include design specifications and technical standards that were applied at the time of construction of the network. It also requires information on whether enhancements or modifications have been made over time to those assets to align them with updated specifications or standards.

The value of this level of detail to ESV staff is unclear, particularly when compared to the burden of providing (and receiving) this information. It is worth remembering that our networks comprise more than 900,000 poles, with multiple pieces of equipment attached to each, and every pole. It should also be remembered we change assets everyday across our networks which would require daily resubmissions. Further, it is understood the draft guideline requirements extend to provision of a wide range of asset specific technical standards.

Our understanding from discussions with ESV staff is the above is not intended however, it does represent the literal interpretation of the requirement. We would appreciate clarification on this point.

Stakeholder engagement and consultation

As an essential service provider, our customers and their experience with our networks is central to what we do. This has extended to all our internal investment decisions which includes an explicit customer benefit calculation based on our ground-breaking 2021 Customer Value Analysis. Further, we have spent the best part of the last 4 years conducting the most extensive reset engagement program, employing a wide range of qualitative and quantitative analysis supervised by an independent engagement specialist, and overview by an 11 person independently chaired Customer Advisory Panel. All engagement activities in relation to our regulatory reset are transparently reported on our dedicated Engage websites.

We are highly supportive of customer and stakeholder engagement being extended to safety cases and further, consider it highly appropriate given our customers ultimately are required to pay and experience the outcomes of decisions under the safety cases. Thus, they should be given the right to have a say on their outcome.

Multiple rounds of engagement have however, taught us engagement is more challenging on technical issues and there is already an element of engagement fatigue amongst the community. We therefore believe it is essential that safety engagement, to the extent possible, be incorporated into wider engagement undertaken by networks, particularly the reset process. Our experience has been customers value very highly affordability, equity, reliability, and resilience. They will trade these off with safety outcomes and for the engagement to be genuine, customers need confidence that ESV will genuinely engage in their views. This includes in circumstances where ESV may not agree with the outcome, but has to recognise, from a customer perspective, the costs are simply too high.

Further, engagement is not cheap. Depending on the nature of the engagement, whether it involves rural or urban customers, whether the engagement session requires independent facilitation and the sample/cohorts to be included, costs can range from \$45k up to \$170k per session. For this level of investment, there needs to be more than token consideration of views by the networks and ESV.

It would be appreciated if the draft guideline could provide some additional guidance in the areas, it expects engagement on. We note that the AER provides considerable guidance on the principles it expects engagement to encompass, and similar guidance would be great to receive from ESV. We do highlight it is important that we seek principles rather than advice on how engagement should be undertaken. We believe how engagement is undertaken is best left to networks to allow the adoption of innovative, agile, and bespoke approaches that match their customers and stakeholders. Certainty is also required on engagement expectations. We take from the draft guideline engagement will be on risk/cost trade-offs. If this is not the case, we would appreciate further discussions with ESV on its intentions.

Section 4: Submission and assessment process

It is important for customers and stakeholders, networks, other regulators and ESV that more prescription is provided on the timelines for safety case approvals.

The practice of keeping networks and regulators accountable to timelines is not new and is prescribed in many regulatory documents such as Chapter 6 of the National Electricity Rules.

Section 4.5: Timeframe for Energy Safe decisions

Table 4.1 refers to timeframes associated with minor and major revisions. Table 4.2 refers to material and immaterial revisions. For clarity, it is requested that ESV outline the relationship between table 4.1 and 4.2.

Section 4.7: Revisions to an accepted ESMS

The draft guidelines require that if we submit a revision to a safety case whilst a previous revision to a safety case is still under assessment, we will be requested to provide an amended submission including all revisions.

Whilst not an unreasonable request, this requirement will become onerous for example in case of connecting a transmission customers should we receive multiple connection requests over a year. We would appreciate further discussion on achieving a more efficient outcome for all parties in this instance.

Particularly with reference to Table 4.2 in the draft guideline, in relation to changes to key positions (names or titles) described in safety cases we would highlight it is not practical or possible to obtain ESV acceptance to positional changes within the networks prior to them taking effect or being announced. We believe the requirement would be better expressed as the networks providing the necessary documentation to ESV as soon as any changes have been announced within the network.

We support ESV's approach to distinguishing material and immaterial revisions. It is important that there is an efficient method to review revisions, especially immaterial ones. Without the establishment of an efficient process (which we suggest should include a fast-track review and acceptance method) it is likely ESV and networks will become overwhelmed with administration and bureaucracy resulting in high costs, use of extensive resources and a large number of incomplete safety plans. In our view, all immaterial revisions must be fast-tracked, with a targeted review completed within 2 weeks provided all information is provided by the network.

Section 5: Structure and contents of safety cases

Clarity is required as to whether safety plans must be re-submitted for acceptance where there is a revision to an incorporated document. Once the contents of a revision to an incorporated document is accepted by ESV, it is recommended the ESV note an immaterial revision of a safety plan. This will greatly assist with the efficiency and timeliness of the assessment of safety plan revisions. It is recommended that ESV engage further with stakeholders on processes to establish identification of a material and immaterial revision.

Section 5.2: Structure and content of safety cases

We acknowledge the key elements of the safety case described in table 5.1 of the draft guidelines. Whilst we support these criteria, we believe the format and structure of safety case remain flexible as they form an integral part of each network's operations. To be effective they need to be structured in a way that complements how a network operates.

Beyond complementing network operation, we believe providing networks flexibility will minimise repetition in safety cases and allow for them to better integrated into other management systems within organisations.

We welcome the opportunity to discuss our feedback with ESV to ensure our response is well understood in the context of delivering the best outcomes for our customers.

Please contact Luke Farrugia, Network Risk and Assurance Manager on mobile 0409 930 910 or email lfarrugia@powercor.com.au should you have any queries regarding this response.

Kind regards,



Glen Thomson
General Manager Electricity Networks