

Revoking the Electricity System Code

Draft decision

28 September 2023

Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

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Summary

The *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021* (Compliance and Enforcement Act) implemented our new enforcement framework. Since the commencement of this Act (on 1 December 2021) we are reviewing our codes so that their provisions can be fully enforced through the new framework. This review is on the Electricity System Code, which was established in 2000.

One of our aims when reviewing our codes is to streamline obligations and remove duplication among our instruments and national instruments where appropriate. The Electricity System Code contains obligations relating to Victorian electricity transmission and distribution businesses. However, we have found that the obligations in the Electricity System Code are now largely regulated via the National Electricity Rules and the National Electricity Law, which are administered by the Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER). Therefore, we propose to revoke the Electricity System Code and plan to update existing transmission licences to reflect the revocation of the code and ensure consistency across licences.

During preliminary consultation, key stakeholders suggested that there may be provisions of the code which the industry may still rely on or consider good industry practice. However, our proposal is to revoke to the code in its entirety unless there are compelling reasons for us to retain certain provisions.

We recognise that the obligations in the code are now primarily regulated through the national energy framework, which was adopted by Victoria in 2005 particularly for electricity transmission. We also note that if we are to retain any provisions of the Electricity System Code, they may be specified as a civil penalty requirement under our new enforcement framework.¹ To that extent, we seek stakeholder views and feedback on whether any provisions of the Electricity System Code should be retained. We have highlighted in this paper specific provisions which we consider may benefit from stakeholder feedback.

This draft decision has two key objectives:

- to propose to revoke the Electricity System Code
- to seek stakeholder feedback on parts of the Electricity System Code that may be retained to the extent that any such provisions are not addressed in the National Electricity Rules and the National Electricity Law.

¹ See *Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021*.

We also propose to vary transmission licences to reflect recent regulatory changes and maintain consistency across commission issued licences. We propose to simplify the licences, remove redundant provisions and streamline obligations.

Indicative timelines

The key dates related to revoking the Electricity System Code are:

- 28 September 2023 – consultation on the draft decision to revoke the Electricity System Code commences.
- 9 November 2023 –consultation submissions close.
- December 2023 – final decision published.

Questions for stakeholders

This consultation is primarily technical and administrative in nature. Revoking the Electricity System Code is not expected to cause disruption to the industry or consumers – as it is largely regulated and operating under the National Electricity Law and National Electricity Rules.

- We welcome stakeholder views and feedback on the following questions:
- Q1. Do you have any concerns regarding the proposed revocation of the Electricity System Code? Please elaborate.
- Q2. Are there any provisions of the Electricity System Code that we should consider retaining? Please elaborate.
- Q3. Do you consider the proposed revocation of the Electricity System Code in December 2023 provides enough time for any consequential adjustments that may be needed? If not, please elaborate why additional time may be required and specify the additional time needed.
- Q4. For transmission licence holders: do you have any concerns with our proposals to vary transmission licences as described in Annexes A and B to this draft decision?

How to give us your feedback

Submissions should be made via Engage Victoria by **5 pm, 9 November 2023**. Submissions will be published on the commission's website, except for any information that is marked as commercially sensitive or confidential by the respondent, in accordance with our [Submissions Policy](#). Submissions should clearly identify which information is sensitive or confidential.

We are also open to meeting with individual stakeholders to discuss specific feedback. If you have any questions or would like to arrange a meeting, please contact us at energyreform@esc.vic.gov.au.

Introduction

Background

The current version of the Electricity System Code was published by the Office of the Regulator-General in October 2000. Since then, the institutions responsible for the electricity industry and the regulatory instruments that apply to the industry have undergone considerable change. Enabled by the *National (Victoria) Electricity Act 2005*, the most notable change is the transition of some areas of Victoria's energy regulation from a state based to a national framework.

The regulatory functions which once resided in the code are now addressed by the National Electricity Law and the National Electricity Rules, administered by the Australian Energy Market Operator (AEMO), the Australian Energy Market Commission (AEMC) and enforced by the Australian Energy Regulator (AER). However, the Electricity System Code is still in force in Victoria, despite most of its obligations being duplicated in the National Electricity Law and the National Electricity Rules.²

As a part of our objective to streamline and update our regulatory frameworks, we consider that the Electricity System Code is no longer a relevant regulatory instrument and should not be subject to our enforcement powers as a code of practice.

The Electricity System Code

The purpose of the Electricity System Code is to regulate the provision of shared transmission network services and the connection of distributors, high voltage customers and generators to the transmission network.³ The Electricity System Code applies to the following categories of market participants: transmission companies, distribution companies, generators, retailers, Extra High Voltage (EHV) consumers and traders.⁴

Transmission and distribution network service providers licensed in Victoria are all registered participants under the NER and are therefore also subject to the National Electricity Rules.

² The National Electricity Law (NEL) is set out in the Schedule to the *National Electricity (South Australia) Act 1996*. The NEL applies as a law of Victoria pursuant to section 6 of the *National Electricity (Victoria) Act 2005*, which came into operation on 1 July 2005. Part 7 of the NEL provides for the making of the National Electricity Rules (NER). The initial NER were made by the relevant South Australian Minister pursuant to section 90 of the NEL and commenced on 1 July 2005.

³ See clause 10.1 of the Electricity System Code (October 2000).

⁴ The code also refers to the Victorian Energy Networks Corporation (VENCorp), which was abolished by the *Energy Legislation Amendment (Australia Energy Market Operator) Act 2009*. The primary functions of VENCorp are now administered by the Australian Energy Market Operator (AEMO).

Generators relevant to the operation of the interconnected national electricity system and Extra High Voltage consumers are also regulated under the National Electricity Rules. The Electricity System Code has no substantive provisions related to retailers. It has a specific section that applies to traders which no longer has any effect.⁵

The National Electricity Rules now provide a comprehensive framework for the regulation of the various topics covered by the Electricity System Code. Therefore, the ongoing relevance of the Electricity System Code is likely to be limited, if any.

We propose to revoke the Electricity System Code in December 2023. A specific date will be published in our final decision after consultation with stakeholders.

We are seeking feedback on whether parts of the code may need to be retained

We have consulted key stakeholders prior to this draft decision. Preliminary engagement indicated strong support for the revocation of the Electricity System Code. However, some stakeholders mentioned that industry may still rely on, or refer to, certain provisions of the code in their operations and contracts. It has been suggested that such provisions may need to be retained in our codes of practice.

In this draft decision we highlight key provisions which may benefit from further feedback from stakeholders. We seek stakeholder views on:

- provisions in the Electricity System Code which industry may rely on
- whether such provisions have no equivalent in the National Electricity Rules or in other regulatory instruments
- why such provisions may need to be retained in our codes of practice and thus be subject to our enforcement powers.

⁵ There has only ever been one trader licence issued to the State Electricity Commission of Victoria which was revoked on 21 June 2017. See Victorian Government Gazette, No G 27, 6 July 2017, 1439. See also, in relation to clauses 2.18 and 2.20, the modifications specified therein applied only for a certain period (1 Jan 1998 to 31 Dec 2002), which has now passed.

Draft decision

Revocation of the Electricity System Code

Our draft decision is to revoke the Electricity System Code.

Stakeholder interest in retaining certain provisions

Preliminary engagement with key stakeholders revealed that there may be parts of the Electricity System Code that industry may still rely on or consider good industry practice.

We are seeking feedback from stakeholders to identify any such provisions of the code which we should consider retaining. Some of the provisions brought to our attention were:

- High Voltage (HV) protection requirements between the distributors and transmission companies expressed in clause 100.3
- the HV Protection Sub-Code referred to in clauses 100.4.1 to 100.4.3
- provisions related to maintaining voltage supply below 100kV and defining target voltage levels expressed in 110.2.1(a) and (b) respectively.

We consider these issues to be adequately regulated under the national framework. Our draft decision considers that if these obligations are only to be considered good industry practice, it will not be appropriate to retain them as obligations in a code of practice. If any provisions are to be retained in our codes of practice, we will need to have the tools to enforce compliance and will propose to specify them as civil penalty requirements. This will enable us to use the full range of our enforcement tools to monitor and enforce compliance of those provisions – this includes the issue of penalty notices and undertaking legal proceedings for alleged non-compliance.

We highlight below key provisions which may benefit from stakeholder feedback.

Clause 100.3 – High Voltage (HV) protection

Clause 100.3 of the Electricity System Code deals with high voltage (HV) protection. This clause requires that:

- transmission companies provide appropriate HV protection equipment for points of connection to its transmission network with a nominal supply voltage of 66kV or less
- transmission companies ensure that the protection settings on feeders connected to its transmission network are coordinated with the protection settings on its primary equipment at terminal stations

- the settings of HV protection equipment be agreed between distributors and transmission companies in the relevant connection agreement
- distributors advise transmission companies of performance requirements for the protection of a feeder connecting a distribution network to a transmission network
- a transmission company uses best endeavours to comply with the performance requirements advised by a distributor
- transmission companies and distributors cooperate to test HV protection equipment of points of connection to the transmission network with a nominal voltage of 66kV or less, including testing at specific periods and at least once in every three financial years
- transmission companies or distributors cooperate to conduct additional testing of HV protection equipment when required by a connected participant.

However, we consider that the National Electricity Rules and the connection agreements made under those rules address the issues covered by clause 100.3 of the Electricity System Code. This includes the right of testing relevant equipment, tests for generators to demonstrate compliance with connection requirements, setting of protection and control systems and the requirement for a transmission company to be provided appropriate HV protection equipment.⁶

We seek stakeholder views on whether there are any aspects of clause 100.3 which may not be covered by the National Electricity Rules and connection agreements and, if so, if those aspects could be addressed by amending those instruments.

Clause 100.4 – High Voltage (HV) Protection Sub-Code

Clause 100.4 of the Electricity System Code states that transmission companies and distributors must comply with the HV Protection Sub-Code. The HV Protection Sub-Code is a set of guiding requirements developed for the use of Victorian distribution business and transmission companies in relation to HV protection equipment.⁷ This clause also requires a committee with industry participants to regularly review the HV Protection Sub-Code.

Some stakeholders have suggested that clauses 100.4.1 to 100.4.3 of the Electricity System Code may need to be retained, to sustain the status of the HV Protection Sub-Code and continue requiring network service providers to comply with the Sub-Code.

⁶ See NER rules 5.7.2, 5.7.4, S5.3.4, 5.2.1(a) and 5.2.3(b)(1).

⁷ See HV Protection Sub-Code (July 2008).

The latest version of the HV Protection Sub-Code was published in 2008. We note that the Sub-Code states that in the event there is any inconsistency between the Sub-Code and any parts of the National Electricity Rules, the National Electricity Rules shall prevail.⁸

Our draft decision proposes to revoke the Electricity System Code in its entirety, including reference to the HV Protection Sub-Code. to the extent that the Sub-Code may still be useful for industry, we seek feedback from stakeholders on:

- whether it remains fit for purpose given any developments since it was last updated and as it was contemplated to be a document that would be regularly reviewed
- whether it should be retained as a reference in one of our codes of practice and subject to our enforcement powers, or if it can be retained as a voluntary industry code or as another instrument potentially overseen by another appropriate body.

Clause 100.5 – transmitter’s benchmark performance standards

Clause 100.5 of the Electricity System Code requires a transmission company to use best endeavours to ensure that the performance of its transmission network and its protection system is consistent with the benchmark performance standards in Attachment 11 of the code. Attachment 11 establishes performance standards for forced outages. Clause 100.5 also requires transmission companies to report yearly to the regulator and to other industry participants on their performance against the standards for forced outages in Attachment 11.

However, we note that adoption of the national framework includes incentives for transmission companies to meet performance standards via the Service Target Performance Incentive Scheme (STPIS), administered by the Australian Energy Regulator.⁹ We note that while there is some overlap between the performance standards set out in clause 100.5 and Attachment 11 of the Electricity System Code with the STPIS, these standards could serve different purposes. We seek feedback from stakeholders on whether there is any value in retaining the performance standards set out in clause 100.5 and Attachment 11 of the Electricity System Code in a code of practice, to the extent that they are not addressed by other regulatory instruments.

Clause 110.2 – supply quality

Clause 110.2 of the Electricity System Code deals with topics of supply quality and data provision. In particular, clause 110.2.1(a) determines that a transmission company must use best endeavours to maintain normal voltage levels below 100kV at each point of supply within a range of +/- 5% of

⁸ See HV Protection Sub-Code p. 5 (Introduction).

⁹ [Service target performance incentive scheme](#) (version 5), September 2015.

the target voltage level advised for each point of supply. In turn, clause 110.2.1(b) determines the responsibilities for defining target voltage levels below 100kV and establishes a process for defining such target voltage levels, including timing and consultation procedures.

We understand that clauses 110.2.1(a) and (b) contemplate licensees providing information related to supply quality to AEMO.¹⁰ During preliminary consultation some stakeholders have indicated that parts of clause 110.2 which deal with voltage levels, voltage fluctuations, harmonic distortion levels, power factor load, load balance, embedded generation, and processes to request a specific voltage at a connection point may need to be retained.

We consider that system standards related to variations in voltage, voltage fluctuations, negative sequence voltage, harmonic distortion levels and the process for determining target voltage are addressed in instruments such as the National Electricity Rules and the Electricity Distribution Code of Practice.¹¹ To the extent that there are different processes between the Electricity System Code and other instruments, we consider this duplication should be removed.

We seek stakeholder views on whether they still rely on clause 110.2 of the Electricity System Code and whether they will be affected by the revocation of this clause. We also seek specific feedback on whether the procedures established in clause 110.2.1(a) and (b) can be addressed, if needed, by other regulatory instruments.

- Q1. Do you have any concerns regarding the proposed revocation of the Electricity System Code? Please elaborate.
- Q2. Are there any provisions of the Electricity System Code that we should consider retaining? Please elaborate.

Consequences for industry

We do not expect the revocation of the Electricity System Code to cause disruption to industry. However, we note that the code may still be referenced by other instruments and documents used in business operations, such as connection agreements.

We propose to revoke the Electricity System Code in December 2023. To avoid any unintended consequences of the revocation of the code, we seek feedback from stakeholders on the time they may need to make adjustments prior to the revocation taking effect.

¹⁰ These clauses refer to VENCORP, whose primary functions are now administered by AEMO.

¹¹ See NER S5.1a.4, S5.2.5.6, S5.3.7, S5.3.9, S5.1.a.7, S5.1.7, S5.1.a.7 and S5.1.7.

- Q3. Do you consider the proposed revocation of the Electricity System Code in December 2023 provides enough time for any consequential adjustments that may be needed? If not, please elaborate why additional time may be required and specify the additional time needed.

Updating transmission licences

Since 2001 the commission has issued seven transmission licences that have all been similar in content.¹² Although most of the original licences issued have had variations made to them from time to time to keep pace with regulatory changes, they still refer to the Electricity System Code and are not consistent with standard licence conditions found across other commission licences.

Further, there has not been a comprehensive review of the content of electricity transmission licences since they were first issued. As a result, some licence conditions have been superseded by other regulatory developments.

A licence may be varied by agreement between the commission and the licensee. Alternatively, the commission can issue a notice where it is of the view that the variation is necessary.¹³ As part of this review, we also propose to update licence conditions to reflect our decision to revoke the Electricity System Code and to maintain consistency across commission issued licences. We are seeking licensees' consent to vary licences by agreement.

Our approach is to simplify licences, remove redundant provisions and streamline obligations. This will lead to a reduction in the number of licence conditions. This review is based on the following assumptions:

- Some licence conditions are no longer required, having been superseded by regulatory changes.
- Licence conditions which are similar to energy retail licences and electricity distribution licences (e.g., variation, revocation, payment of fees, compliance with regulatory instruments) may benefit from alignment with other licences granted by the commission.
- Remaining licence conditions may benefit from updating definitions and drafting improvements.

We note that this review is focused on licence conditions which will apply to all electricity transmission licensees.

We have set out in more detail in Annexes A and B our proposals for updating transmission licences, which are on conditions common to all transmission licences. We will also consult licensees individually to address any conditions that may be specific to their licences.

¹² Basslink Pty Ltd (issued June 2001); AusNet Transmission Group Pty Ltd (issued in 1994, varied 2019); NSW Electricity Networks Operations Pty Ltd (issued July 2017); Transmission Operations (Australia) Pty Ltd (issued September 2013, varied November 2018); Transmission Operations (Australia) 2 Pty Ltd (Issued May 2016); TransGrid Services Pty Ltd (Berrybank - issued July 2020); TransGrid Services Pty Ltd (Kiamal – issued December 2019).

¹³ See section 29 of the *Electricity Industry Act 2000*.

- **Annex A** contains a summary of our proposed licence variations.
- **Annex B** contains a draft template of new transmission licences with standard licence conditions.

Next steps

We are seeking feedback from transmission licence holders on whether they have any concerns with our proposal to update transmission licences in accordance with what is set out in Annexes A and B.

- Q4. For transmission licence holders: do you have any concerns with our proposals to vary transmission licences as described in Annexes A and B to this draft decision?

We will contact transmission licensees individually to discuss their licences and to seek their consent to vary licences by agreement. We aim to conclude this process together with our final decision in December 2023.

Note: this process does not affect the concurrent development by the commission of a Land Access Code of Practice which will apply to electricity transmission licensees.¹⁴

¹⁴ 'Developing a Land Access Code of Practice', Essential Services Commission, accessed 18 September 2023, <https://www.esc.vic.gov.au/electricity-and-gas/codes-guidelines-and-policies/developing-land-access-code-practice>

Next steps

We are seeking feedback from stakeholders on our proposal to revoke the Electricity System Code and the potential need to retain any provisions in our codes of practice.

Stakeholder consultation

Stakeholders have six weeks starting 28 September 2023 to submit their responses. The submission period will close on 9 November 2023 at 5:00 pm. Table 1 provides the indicative timelines for key milestones of this project.

Table 1: Indicative timelines

Target date	Activity
28 September 2023	Consultation on the draft decision to revoke the Electricity System Code commences.
9 November 2023	Submissions close.
December 2023	Final decision.