



19 April 2022

Sarah Sheppard
Executive Director, Energy
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Submission via: Engage Victoria

Dear Sarah

Re: Electricity Transmission Company Land Access Draft Statement of Expectations

CitiPower, Powercor and United Energy welcome the opportunity to respond to the Essential Services Commission's (ESC) consultation on the Electricity Transmission Company Land Access Draft Statement of Expectations.

At this stage, the ESC's Statement of Expectation only applies to holders of electricity transmission licences. We support limiting the application of the Statement of Expectations to licensed transmission companies.

Distribution companies are significantly different to transmission companies

Distributors are required to provide electricity to millions of end use customers.

To service end use customers distributors are required to convert high voltage electricity into lower voltages at substation transformers. The lower voltage electricity is then carried across wires or in underground cables to businesses and homes.

In contrast, transmission companies are responsible for carrying high-voltage electricity over long distances via large cables and steel towers from generators to terminal stations across Victoria.

As a result of the significantly different customer base, and network requirements, distributors face:

- a significantly greater volume of assets
- a significantly greater distribution of those assets
- significantly more asset maintenance, inspection, and network augmentation
- service and metering
- a far greater presence and awareness of community issues.

Distributors regularly access land using the section 93 power

The need, purpose, and frequency of use of the section 93 power under the Electricity Industry Act 2000 by licensed distributors differs from that of transmission entities.

Distributors have many assets located on private land where there may be no easement or existing access arrangement and these assets include, but are not limited to:

- single wire earth return (SWER) lines
- substations
- poles and wires

- private overhead electric lines (POELS).

Unlike a transmission company, most distribution assets are not located on a registered easement, and section 93 of the EI Act is frequently used to carry out inspections and maintenance to monitor the condition and performance of network assets.

This is to ensure that power is safely and reliably delivered to the end use customer, and to comply with the obligations under clause 3.1 of The Electricity Distribution Code of Practice.

Limiting section 93 of the EI Act would impose an large regulatory burden on distribution companies

If a distributor were required to comply with a Statement of Expectations each time it required property access, then:

- it would be an immense administrative burden given the volume of asset inspections and maintenance performed annually. For example, SWER lines span thousands of kilometres of private land and there are in excess of 300,000 poles that require annual inspection, a significant amount of which are located on private land
- the requirement to provide written communication, advanced notice, exact times, and the ability to reschedule property access would impact the ability of a distributor to perform asset inspection and maintenance activities that could impact the reliability of the network
- would necessitate the creation of a database with land title information that would require updating each time there was a purchase or sale of a property where an asset is located. Given that distribution assets are located on a vast number of private properties maintaining this register would be onerous. Furthermore, where a property is subject to a lease, there would be practical difficulties contacting the person in possession of the property, as unless we are notified of the lease, there is no practical way of finding this information out
- as several substations are located within private buildings and in many cases, there has been further development around these substations since they were constructed, the need to provide advance notice to a landowner or person in possession of the property surrounding the substation could result a practical inability to access the asset
- a Statement of Expectations outlining the way, date, and time that properties are accessed could present an opportunity for landholders to deliberately disrupt access to their property which could result in additional asset failures.

We note that there are already difficulties accessing properties to undertake routine pole maintenance where a landowner refuses access to their property. Application of the Statement of Expectations is likely to exacerbate this issue.

Any pre-existing arrangements should not be altered

Any existing requirements or arrangements governing the process to access private land should not be altered.

These requirements may arise through negotiated connection contracts, planning permits, registered easements, land access agreements, leases, licences or other arrangements with a landholder.

Should the Statement of Expectations apply beyond the use of the section 93 power and govern existing arrangements, then it will result in conflicting obligations for distributors. It may also inappropriately and retrospectively:

- alter existing easement access rights, where the landowner would have received financial compensation reflective of the rights associated with the easement and the impact on the property and its valuation at the time the easement was granted

- recast terms of leases,¹ undermining the purpose of the transmission entity entering into leasing arrangement in the first place
- recasting terms of licences,² by imposing additional obligations into licence agreements that have been negotiated and agreed to between a transmission company and a landowner
- amend the terms of a contracts that have been negotiated in good faith.

Access to land for vegetation management purposes must be outside of scope

When a distributor enters land for the purposes of tree cutting or the removal of vegetation in the vicinity of powerlines, it is entering using powers provided under the Electricity Safety Act and associated regulations.

Clear requirements governing the arrangements for access to land for vegetation management purposes are contained in the legislation and regulations. For example, many of the obligations contained in the Statement of Expectations such as providing notice, providing a dispute resolution process and providing the contact details of a responsible person should an affected person have any concerns are already reflected in the Electricity Safety Act, the Electricity Safety (Electric Line Clearance) Regulations 2015, and the Code of Practice for Electric Line Clearance.

Vegetation management obligations are imposed to minimise the risks to the community and the environment caused by the interaction of trees and powerlines. This includes the risk that such interaction may cause faults resulting in power outages and/or damage to network assets, start bushfires or create electrical safety hazards.

If the Statement of Expectations were to be applied on top of the already existing legislation relating to vegetation management, individual landowner rights will be disproportionately represented when contrasted against community values towards safety.

Scope should be limited to transmission companies

Should the ESC be considering extending the application of this guideline to distributors, we request an further consultation with stakeholders on this matter.

Should you have any queries please do not hesitate to contact Trent Gibson on [REDACTED] or [REDACTED]

Yours sincerely,



Brent Cleeve
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy

¹ A lease provides the lessee exclusive possession of the leased premises and where the transmission company is the lessee, they have the right to exclude all other people from the premises.

² A licence agreement is a binding agreement between a licensor and a licensee that grants the licensee permission to use or possess the licensor's property for a specified term.