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DRAFT DECISION – GUIDELINE 22 – REGULATORY AUDITS OF ENERGY BUSINESSES

MARCH 2013

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1 OVERVIEW

The Essential Services Commission (the Commission) is the independent economic regulator established by the Victorian Government to regulate prescribed essential utility services, including electricity, gas, water, ports and rail freight industries and aspects of the insurance industry.

One of the Commission's statutory functions is to administer the licensing of electricity distribution, generation, transmission and retailing activities. A person is prohibited from engaging in the sale or supply or generation or transmission of electricity unless that person holds a licence to undertake the activity or has received an exemption from the Governor-in-Council (see chapter 2).

In undertaking this role, the Commission is guided by the provisions of the *Electricity Industry Act 2000* (EI Act), *Gas Industry Act 2001* (GI Act) and the Commission's objectives under the *Essential Services Commission Act 2001* (ESC Act).

The Commission's primary objective is to perform its functions and exercise its powers to promote the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services.

The Commission is also required to promote a more certain and stable regulatory framework conducive to longer term infrastructure investment and to maintain the financial viability of regulated utility industries.

The Commission will not grant an application for the issue of a licence unless the Commission is satisfied that:

- the applicant has and will maintain the technical capacity to comply with the conditions of the licence, and
- the applicant is financially viable and can be expected to continue to be so.

Once a person is licensed, the Commission is obliged to seek assurance of the person's ongoing capacity through regulatory audits and general compliance and enforcement activities.

The Commission uses a variety of methods to discharge these obligations including analysis of complaints made against licensees to either the licensees themselves or the Energy and Water Ombudsman Victoria (EWOV).

1.1 Why are amendments to our regulatory audit framework required?

Since 2008, energy retailers and distributors have been obliged to self-report breaches of licence conditions to the Commission. In doing so, licensees attest to having robust compliance monitoring and reporting systems and to submitting accurate compliance reports. If those conditions were met, the Commission agreed to reduce the frequency of formal regulatory audits.

The obligation for distribution business to report compliance breaches to the Commission ceased when its regulatory functions in relation to distribution transferred to the Australian Energy Regulator (AER). However, some of those transferred non-economic regulatory activities may be resumed by the Commission. References will be made in this paper to those issues where the Commission will undertake audits in relation to distribution.

Recent audits of energy retail business have identified a number of risks with the Commission's current audit methodology and compliance assurance approach.

Briefly:

- Audits have demonstrated that energy retailers' confidence and assurance in the robustness of their compliance monitoring and reporting systems has often been overstated.
- The quality of audit reports submitted to the Commission has varied in both quality and approach which does not assist the Commission's comparison of licensees across the energy retail sector.
- There have been lengthy and unnecessary delays in the Commission's ability to finalise audits, due to energy retailers' failure to provide final reports in a timely fashion, or issues arising with the Auditors.
- Audit scopes are too detailed in some areas, for example, performance monitoring metrics at the expense of the key consideration of whether a licensee has a robust and risk-based compliance program for monitoring regulatory obligations and performance information.
- The Commission is no longer fully confident, on the basis of quality and timeliness of the audits carried out, that retailers are investing sufficiently in compliance.

This Draft Decision outlines the Commission's proposed approach to remedying these deficiencies in the current audit framework. The revised audit framework will include amendments to:

- Guideline 22
- The Audit Deed
- The Audit Report

The proposed amendments are intended to address issues that have arisen in past audits and ensure that the Commission has a best practice audit methodology applicable for all licence types and a framework that reflects the Commission's ongoing role.

Further, the long standing issues of delays, loss of Commission control, overly prescriptive audit scopes and lack of consistency across audit firms will be addressed.

1.2 ESC audits to date

The Commission's most recent audit program saw energy retailers being audited against their licence conditions in 2011 and 2012. Most auditors' reports established that retailers had adequate compliance monitoring systems as far as they related to licence obligations.

Performance reporting was less robust with very few retailers being found to have accurate and reliable reporting processes. The Commission is concerned that, in the absence of reliable, comprehensive and timely data, retailers could not be confident about their compliance. This in turn would be reflected in the level of confidence that the Commission and customers could have in retailers' reporting on compliance.

Several audits were not completed either due to staffing changes at the audit firm or a lack of information being made available to the audit firm. Delays in providing final audit reports in turn delayed the Commission's decisions on remedial action.

The Commission's focus on an extensive range of performance indicators led auditors to produce lengthy reports with considerable repetition.

The lack of a standard template meant that reports on licensees prepared by different audit firms were difficult to compare directly, and the current tripartite Audit Deed does not allow the Commission to publish the auditors' reports as provided. For these reasons, the Commission was obliged to summarise each auditor's report.

The recent audits have shown a need for changes in the auditing framework to allow the Commission to be a more efficient and responsive regulator. The substantive issues found during the retailers' regulatory audits will be addressed in the forthcoming audit program.

1.3 The Commission's risk assessment methodology

In future, in planning regulatory audits, the Commission will consider risk at different levels: the sectors of the energy industry, by licensee within sector, and by activity or auditable obligation for each licensee.

1.3.1 Sector level

When determining whether a regulatory audit of licensees in an industry sector is required, the Commission will consider:

- when the sector in question was last audited (and by which regulatory agency),
- whether licensees have been subject to any significant compliance or regulatory enforcement action,
- whether licensees have been impacted by any significant policy changes that may result in regulatory risk,
- whether licensees operate in a sector that is particularly volatile or contentious,
- whether there have been significant changes to corporate governance structures or any change of control matters within that business or the sector, and
- whether there are customer or other outcomes-based observations that may cause concern to the community or that suggest a regulatory issue.

1.3.2 Licensee level

For each industry sector in which the Commission proposes to conduct regulatory audits, it will develop an annual plan. In this, the Commission will consider risk factors in several different categories.

For instance, in the energy retail sector, relevant risk factors are:

1. Customer Base – the risk score will be based on the number of customers a licensee has in relation to the total number of customers of all licensed energy businesses. The risk arising from scale is that an issue for a large retailer will have an impact on more customers than a smaller retailer with fewer customers.
2. Reported regulatory breaches – the risk score will be based on the number of regulatory breaches either self-identified or identified by a regulatory agency. For example, where a retail energy business has reported Type 1 or Type 2 Breaches they will be compared to the total Type 1 or Type 2 breaches from all licensed retail energy businesses.¹
3. Previous Audit Ratings – the risk score will be based on the results or grades received by the licensee on key licence obligations, reflecting the quality of the audit and the perceptions those audits give rise to about the licensee.
4. EWOV Quarterly Reports – the risk score will be based on complaints reported by EWOV, where they are systemic in nature.

¹ The Commission has grouped and summarised regulatory obligations for reporting purposes. Breach of Type 1 obligations would have a critical impact on customers, rapidly increasing over time unless rectified quickly. Breach of Type 2 obligations would generally have a serious and increasing effect on customers. All other obligations are Type 3.

5. Other relevant sources of information ; for example, the results of regulatory audits or major compliance failures (for example failures on relevant issues in other jurisdictions or against other regulatory obligations)

In other industry sectors, different risk factors will be relevant in similar categories. For instance, generating capacity or transmission load can reflect the customer base that is potentially affected. Compliance breaches reported to the relevant regulatory authority for other sectors will be considered where available.

Each of the relevant risk factors will be rated on a three-point scale (High, Medium or Low), for each licensee in a sector. This scale will be defined, among others, by the risk factors mentioned above.

The overall risk assessment will provide the Commission with a risk overview and comparison of the auditable licensees at entity level, and a more structured and documented approach in the planning phase of the regulatory audits.

The Commission will base risk ratings on available information that it considers reasonable, reliable and informative. Conversely, if the Commission is concerned that there is insufficient information available to it on any relevant issue, it may instigate an audit of some or all businesses in that sector. This risk assessment is not intended to be used by an auditor evaluating risks at a transactional or process level during the audit of a licensee, although it may be helpful at that stage of an assignment.

Strategic input from the Commission will also be considered that may override the results of this risk assessment.

Our proposed annual audit plan once approved by the Commission will be communicated to the relevant licensed businesses in a timely manner, for example in the fourth quarter of the preceding year.

1.3.3 Auditable scope level

When developing the Minimum Audit Scope of activities and obligations to be reviewed, we will consider several risk factors including:

- the volume and nature of any complaints we have received from customers, advocacy groups or EWOV,
- information, including advice regarding regulatory breaches, self-identified by industry participants or other regulatory agencies,
- any previous audit results,
- any concerns the Commission may identify that relate to any recently introduced reporting or regulatory requirements,
- areas where non-compliance is likely to have significant or long term adverse implications for consumers or the operation of the market,

- additional matters proposed by the licensee for coverage in the audit, based on its own assessment of regulatory risk.
- past conduct by a licensee or group of licensees in a regulated sector.

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2 DRAFT DECISION – GUIDELINE 22

The Commission considers that it must have the capacity and the framework to undertake regulatory audits for any type of licence category that it issues and administers. The general principle the Commission has adopted is that its regulatory audits should follow an agreed process controlled by the regulator.

The Commission notes that no distribution licence audits have been undertaken since 2009, while the Commission has never undertaken audits of generation or transmission licensees.

Amendments to the existing audit methodology and framework are therefore required to address and broaden the retailer-based approach taken to date. Also, The Commission considers that a review of our audit methodology and accompanying compliance rating scheme is timely.

The proposed audit framework is intended to:

- ensure that audits will be conducted in an independent, rigorous, timely and comparable manner and establish minimum requirements for the independence and expertise of auditors, and the conduct and reporting of audits,
- provide incentives for business to achieve and maintain compliance by increasing the probability that significant non-compliance will be detected, providing licensed energy businesses with an opportunity to rectify non-compliance and taking any further action required to achieve compliance,
- maximise the cost effectiveness of the audits by taking a risk based approach to more clearly defining the scope and frequency of the audits to be undertaken, and
- reduce the regulatory burden by selectively auditing to focus on the key licence conditions.

The following sections outline the Commission’s Draft Decision about necessary amendments to the tripartite audit deed, Guideline 22, and audit reports to remedy the issues outlined above.

2.1 Specific amendments – Guideline 22

In this Draft Decision, the Commission is proposing a series of amendments to the existing *Guideline 22 – Regulatory Audits of Retail Energy Businesses* (Guideline

22) to outline the procedure for regulatory audits of any energy licensee to be undertaken if required.

The draft revised Guideline 22 and Audit Deed can be found at the Commission's website, www.esc.vic.gov.au

The draft revised Guideline includes references to a number of Auditing Standards –for example *Standard on Assurance Engagements ASAE 3100 Compliance Engagements* – that appointed audit firms will have to comply with when conducting regulatory audits on our behalf.

Further, auditors will be required to assess the licensee's compliance risk appetite by reviewing the licensee's compliance program and framework with reference to *3806-2006 Australian Standard Compliance Programs*.²

The amended Guideline also outlines the Commission's risk assessment methodology for determining the scope and frequency of regulatory audits. In brief, the Commission expects that licensed businesses considered low risk would be audited no more than once every three years provided no substantial new concerns are raised in respect to that business.

2.1.1 Section 1 –Definitions

This section outlines a number of definitions to aid clarity.

2.1.2 Section 2 – Introduction

This section confirms that through the licence regime the Commission is entitled to require regulatory audits and outlines the general principles that are to apply.

The substantive amendment to this Section clarifies that the Commission may require audits of any licensed energy business – retail, distribution, generation or transmission – should any cause for concern arise.

The Commission's audit program for 2013 is yet to be finalised, but it is expected that some or all Victorian distributors and energy retailers will be required to undertake regulatory audits in the first half of 2013.

At this stage the Commission has no plans to audit licensed generation or transmission businesses, but reserves the right to do so in future.

2.1.3 Section 3 – Key Regulatory Audit Concepts

The section has been amended to require all regulatory audits to be conducted with reference to the general principles stated in *Standard on Assurance*

² A reference in this paper to 'risk appetite' refers to the amount of risk, on a broad level; an organization is willing to accept in pursuit of value. Each organization pursues various objectives to add value and should broadly understand the risk it is willing to undertake in doing so. The Board, with Management's assistance, should develop, communicate, monitor and update risk appetite.

Engagements ASAE 3100 Compliance Engagements (Compliance Engagement Standard).

We consider this addition necessary as it will establish standards for regulatory audits to meet our greater emphasis on assurance of specific reporting obligations under contracts, legislations or regulatory framework.

The Standard requires the auditor to express a conclusion whether the licensed business has complied in all material respects with requirements as measured against suitable criteria.³

The audit criteria are likely to require the auditor to assess compliance with:

- a) all relevant aspects of the Energy Licence
- b) all relevant aspects of the GI Act and EI Act.
- c) Any Codes, Orders or Guidelines issued under the licence or relevant Acts.

Suitable criteria will include an assessment of the compliance framework based on *AS3806 – 2006 Australian Standard Compliance Program and Standard on Assurance Engagements ASAE 3100 Compliance Engagements* (Compliance Engagement Standard).

Other standards, for example, *AUS 810 Special Purpose Reports on Effectiveness of Control Procedures* or *AUS 904 Engagements to Perform Agreed-Upon Procedures* were not adopted. The selected criteria permit the auditor to express assurance or provide an assurance level on the effectiveness of the control procedures.

In addition, the Commission intends publishing advance notice of its audit plan, in terms of the basis on which it will select the businesses that it intends auditing.

2.1.4 Section 4 - Appointing the Auditor

Aside from numbering changes, the amendment proposed for this section in Guideline 22 is intended to clarify that the Commission can, and may, undertake audits of any licensed energy business irrespective of the sector in which it operates.

Further, this section will require any proposed auditor to provide significantly more information to confirm their relevant experience and their ability to comply with various auditing Standards.

The Commission considers that it would be helpful for it to establish a panel of suitably qualified and experienced firms, to conduct regulatory audits of energy licensees. Membership of the panel would simplify the licensees' task of

³ A reference in this paper to 'suitable criteria' means the reasonable and acceptable standards of compliance which are subject to the compliance engagement. Suitable criteria are reliable, neutral, understandable, relevant, and complete.

Source: Auditing and Assurance Standards Board, 2008, *Standard on Assurance Engagements ASAE 3100 Compliance Engagements*, September

nominating an auditor and accelerate the Commission's review and approval of a proposed audit team. The process of empanelling auditors will give the Commission assurance about the application of professional auditing and compliance standards and the responsiveness of the auditors to the Commission's objects in undertaking audits.

2.1.5 Section 5 - Approving the Audit Scope

Proposed amendments to Section 5 of the Guideline are intended to clarify how the audit scope will be developed and approved.

Audit scopes will continue to be developed in consultation with the licensed business and with the approved audit firm.

A substantive amendment will now require the auditor to assess the licensed energy businesses compliance risk appetite by reviewing the licensee's compliance program and framework with reference to the *3806-2006 Australian Standard Compliance Program*. This Program was initially developed by the Standards Australia Committee QR-014, following a request from the Australian Competition and Consumer Commission (ACCC).

The objective of this Standard is to provide principles and guidance for organisations in designing, developing, implementing, maintaining and improving an effective compliance program.

An effective compliance program will result in the licensee being able to demonstrate its commitment to compliance with its licence obligations and relevant laws.⁴

2.1.6 Section 6 - Conducting the Audit

Section 6 of the Guideline outlines the audit methodology and proposes that any audit firm will need to ensure that its methodology complies with the general principles of the *Standard on Assurance Engagements ASAE 3100 Compliance Engagements*.

In addition to assessing the existence and robustness of documented policies and procedures, auditors will be required to assess other measures such as complaints feedback mechanisms and any internal audits to determine the robustness of compliance monitoring frameworks with reference to *AS3806 – 2006 Australian Standard Compliance Program* or *AS/NZS ISO 31000:2009 Risk management - Principles and guidelines* or *AS ISO 10002-2006 Customer satisfaction - Guidelines for complaints handling in organizations*.

As previously stated, we experienced lengthy delays in receiving the final reports for some of the energy retailer audits in 2011 and 2012. We understand that the

³ Source: Standards Australia, *AS 3806 – 2006 Australian Standard Compliance Program*,

delays may have been related to the energy retailers seeking to complete their remedial action plan and to start putting it into effect, before releasing the final report. Therefore, the Commission has proposed specific timeframes for the completion of the audit and the completion of remedial action plans.

Clause 6.1.2 has been amended to ensure that auditors do not delay finalising audits due to delays in any remedial action plans being developed by the licensees.

Also, the Commission will expect future audits to be completed in no more than three months from the time the audit commences. From the Commission's perspective the purpose of the audits is to stimulate continuous improvement in services quality and efficiency: timeliness of information and recommendations for improvement is a key audit outcome. Where the auditor fails to complete the audit in the required time, the Commission could review the auditor's membership of the audit panel and examine the implications of delays in completing audits for the audited firm. Equally, having agreed to the scope and timing of an audit, the licensee has a responsibility to assist the auditor to complete it, and material delays may indicate that the licensee cannot demonstrate that it has an effective compliance framework.

Clause 6.1.3 is a new addition intended to address circumstances where the licensee seeks to make a representation to the auditor in addition to any evidence or information the auditor has assessed themselves.

Consistency of audit report is a key consideration for the Commission to ensure that compliance across a sector can be assessed. Our new requirement for all auditors in future to comply with the *Standard on Assurance Engagements ASAE 3100 Compliance Engagements* is replicated in the new clause 6.1.1.

Finally, previous audits have exhaustively reviewed performance indicator data and methodologies which have some benefit but do not always assess the compliance monitoring framework.

The audits in 2011 and 2012 indicated that most retailers did not adequately document their procedures for extracting and quality-assuring performance data. This meant that while auditors might determine that the relevant staff member was aware of what they were required to do, the business had minimal safeguards in place to ensure reliable and accurate data.

Therefore, in addition to the usual generic compliance issues to be reviewed – namely are policies documented, understood, communicated and do they meet Commission requirements – auditors will be required to assess in relation to *regulatory information* whether:

- Existing controls, when affected by changes in regulatory requirements, have been modified to retain their effectiveness.
- Changes to existing systems are authorised, tested, approved, properly implemented and documented, to maintain system integrity.

- Access to regulatory reporting systems is restricted to authorised staff.

For all other *licence conditions* auditors will be required to form a view as to the compliance culture within a business and whether the organisational structure supports compliant behaviour and outcomes.

2.1.7 Section 7 – Assessing and Reporting on Compliance

Section 7 of the Guideline outlines the Commission’s compliance grading system methodology. We propose augmenting the current two part compliance rating system through the inclusion of:

- Harvey Ball grading⁵ to indicate the presence and quality of each of the following:
 - Policies
 - Culture/Practices
 - Procedures
 - Systems
 - Training/Skills
- A traffic light system to be used to indicate overall compliance taking into account all five areas for which the separate Harvey Balls have been given.

The amendments are consistent with the approach the Commission takes to audits of regulated water businesses and ensures a consistent approach in future.

Harvey Ball grading provides the intended users of the report with a more visual description of the compliance activities and the actions required from the licensee. Further, the traffic light system provides an overall assessment of the compliance program including the nature and urgency of action plans required from the licensee.

Other amendments in this section are intended to ensure consistent reporting approaches and styles and to address any circumstance where the proposed three month time limit for audits may not be met. These amendments will be supported by the standard Audit report template which can be found in Appendix A of this paper.

⁵ Harvey Balls are conventional circular symbols with four quadrants that are progressively coloured to represent five different grades of compliance. They are illustrated in section 7.4 of the draft Guideline.

2.1.8 Section 8 - Responding to the Audits

Proposed amendments to Section 8 of the Guideline are intended to ensure that the licensed energy business responds quickly and efficiently to the Commission once the audit has been completed.

The Commission intends that details of remedial actions planned to be undertaken by the licensed business will be provided within 30 days of the Commission's receipt of the final report. Failure to respond in a timely way may be regarded by the Commission as a compliance breach and consequently may give rise to enforcement action. Where the licensee's response is delayed, the Commission will consider publishing part or all of the report in advance of the response.

This section also addresses the steps that the Commission may take should the auditor's report or findings need, in the Commission's view, to be revisited or reviewed.

2.1.9 Appendix A – Consent Audits

The Commission proposes removing the existing Appendix A – Consent Audits. This section was removed from the Commission's *Code of Conduct for Marketing Retail Energy* (the Marketing Code) as part of our 2008 Regulatory Review.

We consider that the section can be removed because the requirement for retailers to conduct consent audits does not relate to the regulatory audits that the Commission might require to be undertaken. Moreover, a retailer's compliance monitoring framework as it relates to marketing activities is likely to be included in any audit scope so duplication in this Guideline is not required.

2.2 The Audit Deed

The Commission intends retaining the current tripartite Audit Deed which binds it, the energy business being audited and the approved audit firm to a number of obligations.

As stated above, the Commission does not consider that the existing auditor approval process requires any amendment. That is, the regulated business to be audited will still be required to nominate its preferred audit firm, noting that the choice of auditors will normally be restricted to selection from an accredited panel of auditors, and the Commission will then consider that nomination prior to approval.

Nominated audit firms will still be required to provide proof of expertise and capability and to identify any conflicts of interest, although firms selected from the audit panel will be taken to have established suitable qualifications. The Commission may consider imposing a time constraint on its approval process once an accredited panel of auditors is developed, the effect of which would be to increase the speed with which approvals are given. Should the Commission fail to

approve a nomination of a non-panel auditor in the required time, in the above circumstances, the auditor proposed would be deemed to be approved.

The amendments to the Deed we have proposed are intended to reinforce that the auditors' primary obligation should be to the Commission and then to the regulated business being audited.

The current Audit Deed will be amended to reflect:

- Clause 6.1 - Timeframes and milestones for undertaking and finalising the Audit will be negotiated and incorporated into the Deed. Extensions to these agreed timeframes will need to be negotiated and will be subject to formal escalation processes within the Commission.
- Clause 6.2 – The auditor will be required to provide the final report within 30 days of meeting with Commission staff to discuss the completed audit. It is our expectation that the final report would be provided no more than three months after the audit commences.
- Clause 6.3 - Approved auditors will also be required to provide regular status updates. The format and frequency of the status updates may also be specified in the Deed.
- Clause 7.3 - The final report, once submitted by the approved audit firm, will be published in its entirety on the Commission's website.
- A requirement that the lead auditor (or equivalent) states:
 - that the Guideline and deed have been complied with; that the findings reflect the professional opinion of the auditor to the level of confidence specified in the Guideline;
 - that the audit findings haven't been improperly influenced by the licensee; and
 - the auditor's professional opinion on the overall assessment of compliance.
- New paragraph 11.1(c) of the Deed provides that the auditor must indemnify the Commission against liability for defamation and similar liability.
- An extension to clause 11.3 now requires the auditor to carry any insurance that should respond to any liability under the indemnity. The indemnity does not extend to the licensed energy business, but it remains open for that business to seek an arrangement with the auditor should it consider it necessary.

A copy of the amended Deed can be found at the Commission's website, www.esc.vic.gov.au.

The Deed may be amended, by agreement between the parties to an audit, to reflect any particular issues that relate to a licensed energy business or the sector in which that business operates.

2.3 The Audit Report - Template

We propose that any approved audit firm when undertaking regulatory audits in any sector will be required to use the Audit Report template (see Appendix A of this paper)

The introduction of a template for all Audit Reports is intended to assist the Commission in comparing and contrasting similar energy businesses.

The template should also assist the auditors to finalise audits in a timely manner as they need only submit their findings.

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3 NEXT STEPS

We invite submissions in relation to this Draft Decision. In particular, we seek comment on how well the proposed changes will help to achieve the following:

- establishing a panel of auditors serving the interests of timeliness, efficiency and effectiveness,
- proposing timeframes for future audits that will be achievable,
- amending the compliance rating system in a way that can be applied consistently by audit firms,
- the Commission adopting the amended Audit Guideline and Deed without impediment.

Please send comments to elecindicators@esc.vic.gov.au by the close of business on Friday 26 April 2013. Submissions will be made available on our website, except for any information clearly identified as commercially confidential or sensitive. Any material that is confidential should be clearly marked as such.

Any queries regarding this paper or the performance indicator review process should be directed to either:

Martin Johnson on 03 9302 1355

Michele McAuliffe on 03 9302 1379

elecindicators@esc.vic.gov.au

After consideration of, and incorporation of any relevant submissions to, this Draft Decision, the Commission intends finalising the Guideline, Audit Deed and Audit report Template.

The Commission expects to undertake a number of regulatory audits of retail and distribution businesses commencing in the first half of 2013. At this stage the Commission has no plans to audit licensed generation or transmission businesses, but reserves the right to do so in future.

4 APPENDIX A - AUDIT REPORT TEMPLATE

Auditor's Report – Proposed Format – Audits

[Addressee(s) – include Ms. / Mr. and full name, e.g. Dr Ron Ben-David]

[Title]

[Entity Name]

[City and Country]

Scope

This section should provide the reader with an overview of the audit scope and test period. This may include a brief reference to the Electricity Industry Act 2000 and Gas Industry Act 2001 and ESC Regulatory Audit – Minimum Audit Scope.

This section may also include a brief reference to the standards that the auditor adheres to when performing the review (Standard on Assurance Engagements ASAE 3100 Compliance Engagements).

Notes to Consider – Keep this section concise. Do not use this section to enumerate all the obligations selected by ESC for review. The detailed scope should form part of the Executive Summary. Do not also use this section to provide details of the auditor's Approach to Sampling, Methodology, Overview of Testing, Compliance Grades, Systems and Processes. This information may form part of the Detailed Audit Report as an Appendix.

Limitations

This section should allow the reader to understand the inherent limitations of the retailer's internal control environment, and limitations of the auditor's review as it is not designed to detect all weaknesses, provide absolute assurance, etc.

This section may also include a brief statement on the distribution and use of the report, the person or entity that may be entitled to rely on the report, and the responsibility that the auditor accepts for the reliance that may be placed on the report.

Notes to Consider – Keep this section concise with key statements relating to the limitations of the auditor's review and report.

Observations and Conclusion⁶

This section should include a statement that allows the reader to grasp a level of assurance on the retailer's overall compliance framework, improvements noted since the last review, significant non-compliance issues, and other matters that need to be highlighted to ESC.

Notes to Consider – Keep this section concise with key statements relating to an auditor's opinion on the overall compliance of the retailer. Do not use this section to enumerate significant audit findings as these should form part of the Executive Summary. Target audience includes senior executive management of ESC and licensed energy business. The signed letter serves as the cover letter for the Executive Summary.

Name of Audit Firm

Name and Signature of Partner

Date

⁶ ASAE 3100 suggests the inclusion of sections on Respective Responsibilities and Use of Report, and wording for the Conclusion in the case of a qualified or unqualified opinion. These elements are not required for the Commission's purposes.

Executive Summary – Proposed Format

Background

This section should provide the reader with a brief description of the nature of the review, and an auditor's statement confirming that GL No. 22 and Tripartite Audit Deed have been complied with when the audit was performed.

Notes to Consider – Keep this section concise. Key statements should mainly relate to ESC's requirement for a compliance review conducted by an independent auditor.

Scope

This section should provide the reader with information on the audit scope and objectives and test period including the prescribed compliance grades. This may include a brief reference to ESC 201X Regulatory Audit – Minimum Audit Scope.

Notes to Consider – Keep this section concise. Do not use this section to explain each compliance grade.

Audit Findings and Management Compliance Plans

This section should provide a summary of audit findings and management compliance plans (if available). A brief reference to GL No. 22 compliance grades should be made. The table only contains (1) non-compliance and partial compliance (for obligations), and (2) worse than B2 (for regulatory information).

Subheadings (such as 'Energy Licence' etc. below) would normally be replaced by text reflecting the subject matter of a group of obligations in the audit scope – e.g. 'Complaint management'.

Audit Findings	Management Compliance Plans
A. Energy Licence	
A.1 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i> A.1.1 A.2.1 <i>Expected Completion Date:</i>

Audit Findings	Management Compliance Plans
B. Energy Codes	
B.1 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i> <i>B.1.1</i> <i>B.1.2</i> <i>Expected Completion Date:</i>
B.2 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i> <i>B.2.1</i> <i>B.2.2</i> <i>Expected Completion Date:</i>
C. Energy Guidelines	
C.1 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i> <i>C.1.1</i> <i>C.1.2</i> <i>Expected Completion Date:</i>
C.2 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i>
D. Regulatory Reporting	
D.1 Summary of Significant Non-Compliance (cause and significance of the audit finding)	<i>Summary of Key Management Action Plans</i> <i>D.1.1</i> <i>...</i> <i>Expected Completion Date:</i>

To provide the reader with a balanced report, a brief statement may be made to state the number or brief description of items with 'A' or 'B' compliance grades (for

regulatory information) and those classified as ‘general compliance’ (for licence obligations).

The table in this section should also provide the reader with the auditor’s brief assessment on the retailer’s compliance plans (if available) and the status of such plans as of the issue date of the audit report.

Summary of Key Management Action Plans should identify the root cause rather than the symptoms of the problem, and address the root cause to minimize (or prevent) non-compliance from recurring.

Expected Completion Date should be the date when the new process or controls have been implemented and tested by management. For example, it may take at least six months for new process or controls to be proven effective and sustainable.

Notes to Consider – Provide the reader with a concise description of the significant non-compliance and the corresponding compliance plan. Do not use the table to provide the specific details of the non-compliance.

A brief reference to the Detailed Audit Report may be made to let the reader know that detailed information on the audit findings stated in the table above is available in a separate report. The Detailed Audit Report also contains the details of items with ‘A’ or ‘B’ compliance grades (for regulatory information) and those classified as ‘general compliance’ (for licence obligations).

Other Matters

This section should only be used when an auditor believes that important information should form part of the Executive Summary to apprise ESC management, but does not belong to any of the above category. This may include any observations or additional comments related to the Conclusion of the signed Auditor’s Report.

This section may also include other key observations that the auditor believes are necessary to support the audit conclusion such as the extent to which compliance risk is articulated, treated or managed in the organization, or the extent to which the licensee manages its compliance program with relevant standards (i.e., AS ISO 10002–2006 Customer satisfaction - Guidelines for complaints handling or AS 3806–2006 Compliance Program.

Notes to Consider – Any limitations on scope or change of IT systems that affected the test period or sample size should still be reported under the Scope section. Any changes to this format must be discussed with the Commission and be guided by the suggestions set out in ASAE 3100.

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