23 May 2022

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

Dear Sarah

Re: Draft Electricity Distribution Code of Practice

CitiPower, Powercor and United Energy welcome the opportunity to respond to the Essential Services Commission's (ESC) consultation on the draft Electricity Distribution Code of Practice (EDCoP).

We commend the ESC for the work undertaken in reviewing various regulatory instruments and consolidating the regulatory obligations into the new EDCoP. It largely realises the ESC's objectives to remove drafting inconsistencies and redundant provisions, provide an improved and more coherent structure and align the code with national regulatory frameworks.

The outcome will be a more streamlined regulatory framework that will benefit Victorian electricity customers and distributors.

While the review was stated to be administrative in nature, we consider there are amendments which will have a significant operational impact. Our submission focuses on the following substantive issues:

1. hard limits should not apply to network voltages
2. we seek additional consultation on proposed changes to the Licences
3. appropriately targeting civil penalty provisions to those matters that impact the customer or markets
4. retention of clause 2 of Guideline 14 relating to avoided cost calculations for connections
5. an avenue is needed to allow minor variations to the EDCoP for situations where distributors previously varied the rights and obligations by agreement with small customers
6. tenders should not be required to be called for every connection
7. a distributor's obligations when accessing a customer's property should continue to apply on a best endeavours basis
8. require a transitional period to implement the change to the timeframe in which a hard copy letter is assumed to be received.

We expand on these issues in the appendix. Should you have any queries about this submission please do not hesitate to contact Elizabeth Carlile on [redacted]

Regards

Renate Vogt
General Manager Regulation
CitiPower, Powercor and United Energy

APPENDIX

1. Hard limits should not apply to voltages

We strongly oppose the proposed changes to the application and enforcement of steady-state voltage standards in this consultation, combined with civil penalty provisions. The ESC must amend the EDCoP to remove hard voltage limits.

Changes were made to the technical obligations in the Electricity Distribution Code in April 2020 following extensive consultation with stakeholders. On our low voltage network, our nominal voltages are now required to comply with Australian Standard (AS) 61000.3.100 which requires:

- voltages are above 216V (i.e. 230V – 6%) for 99% of the time
- voltages are below 253V (i.e. 230V + 10%) for 99% of the time.

Functional compliance with the Australian Standard is met if the targets above are met across 95% of customers. This probabilistic approach recognises it is not economic to maintain all customers within a fixed range at all times.[1]

Furthermore, customers are able to seek compensation from distributors through Guideline 11 if voltages vary outside of a wider range of 230V +13%/-10% (i.e. <207V; >260V) and cause damage to their equipment:

- voltages fall below 207V (i.e. 230V – 10%)
- voltages rise above 260V (i.e. 230V + 13%).

The ESC now proposes that steady-state voltage excursions to "remain within +13% and -10% of nominal for 100% of the time" (proposed clause 20.3.2, refer note ** to row 2). That is, voltages on the network would have a hard limit and any excursion could be subject to a civil penalty.

There are many factors outside a distributor's reasonable control that may influence a distributor's voltage performance and take it outside the proposed limits, including but not limited to:

- changes in network conditions at a point in time, including faults
- distributor investment in the network to upgrade or replace assets to increase solar exports
- customers having incorrect technical settings on the inverters of their solar photovoltaic (PV) systems (for example, inverter continues to export when voltages are too high, continuing to push up voltages)
- the lack of an effective compliance and enforcement framework if solar installers utilise incorrect inverter settings.

To comply with the proposed hard limits, we would need to apply to the Australian Energy Regulator (AER) for additional funding to upgrade the network. We would also need to take a take a more stringent approach to non-compliant solar PV systems on our network. Hard voltage limits would also compromise our ability to assist in managing system security issues in the National Electricity Market. The cost of ensuring compliance with the proposed hard limits would significantly outweigh the benefits.

2. Additional consultation on proposed changes to the Licences

Our Licences provide us with the right and means to provide an essential service to our customers and operate in our communities. It is our most valuable asset. The risk of our Licences being varied and revoked is thus a critical focus for our businesses and shareholders.

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[1] Refer Appendix D Australian Standard 61000.3.100.

The ESC has indicated it may amend the terms and conditions in our Licences in a similar manner to that proposed for retailers in their concurrent review. These amendments, particularly in relation to "older forms" of retail licence that are similar in many respects to distribution licences, do not appear to be finalised.

Based on our current understanding of the proposed changes to clauses relating to licence variation and revocation, we expect we would support those changes subject to minor amendments. In particular, the ESC's power to vary a licence:

- should continue to specify the current requirement that ESC consider the licence variation to be necessary having regard to its statutory objectives. 'Necessity' is a very high standard, and the regulatory certainty this provides is of significant comfort to investors and financiers
- should continue to specify the ESC will consult with the licensee prior to varying a licence.

Retaining these requirements in the licence will provide comfort to our investors and financiers, such that we can continue to provide a reliable and safe electricity service while keeping our prices affordable.

In relation to CitiPower, it is unclear whether the CBD Security of Supply obligations (clause 3.1A) are proposed to be deleted and/or moved to the Licence. If deleted, we note that CitiPower would not have an ongoing obligation to maintain the higher reliability levels in the CBD once the CBD Security of Supply plan is completed. The ESC may wish to reconsider whether to impose an ongoing obligation, such as requiring CitiPower to apply a probabilistic planning approach to the 66kV cable network in the Melbourne CBD to maintain N-1 secure (maintain supply after the loss of two 66kV cable elements, with an allowance of 30 minutes switching time after the loss of the first element).

On the basis of the above, we request an additional opportunity to comment on an updated version of our proposed Licence prior to it being finalised by the ESC.

3. Civil penalty provisions should be targeted to those that have the potential to cause harm

Almost all provisions within the EDCoP have been designated as civil penalty provisions. Only those operative provisions that have the potential to cause consumer harm or impact the security of electricity supply should be designated as civil penalty provisions.

Civil penalty provisions should identify those requirements which distributors should prioritise in their operations. Distributors are subject to around 1,200 obligations administered by the AER and ESC under instruments such as the National Electricity Law (NEL), National Electricity Rules (NER), Licences, Distribution Code of Practice and related regulations and guidelines. A limited subset of NEL and NER obligations are designated as civil penalty provisions. While we seek to comply with all obligations, we increase our efforts to monitor and maintain compliance for the civil penalty provisions as the designation conveys the relative seriousness of a contravention.

Operative provisions in the EDCoP, that have the potential to cause harm or impact the market, should be the focus of the enforcement framework. The nature of civil penalty provisions in the EDCoP varies considerably in terms of the seriousness and potential consequences of breaching them. Yet breaches of these obligations appear to attract the same default penalty notice amount. We ask the ESC to further consider the classification of clauses as civil penalty provisions based on the seriousness of contravention, the incentives to breach the provision and the consequences of doing so.

Further, EDCoP clauses that are administrative in nature, or explanatory should not be designated as civil penalty provisions. For example, there are obligations that specify when we become liable to make a GSL payment and the value of those payments. Separately, we are required make those GSL payments to customers. Both provisions are classified as civil penalty provisions and we request such duplication is removed.

4. Retention of clause 2 of Guideline 14 relating to avoided cost calculations for connections

The avoided cost calculation within clause 2 of Guideline 14 should be retained for the benefit of all Victorian customers. This calculation ensures customers make a fair contribution to the undergrounding, modification or relocation of existing distributor assets.

Customers should not be required to fund the full cost of a distributor replacing an aged asset. For example, if a customer wishes to change the location of a pole on their nature strip, the cost the customer should incur should take into account whether the pole is new (e.g. 2 years old) or old (e.g. 48 years old). To the distributor, an old pole would be expected to be replaced soon and be incurring a relatively higher maintenance cost. If the replacement of an old pole is fully funded by a customer, the distributor would benefit through the deferment of the expected cost to replace the old pole and lower maintenance costs. The avoided cost calculation allows these benefits to be provided to the customer by reducing the amount the customer must pay to relocate the pole.

The national regulatory framework does not include any similar provisions to the avoided cost calculation in Guideline 14. A negotiated connection offer made under Chapter 5A of the NER (as applied in Victoria) to relocate the pole would require the customer to fully fund the new pole.

Our current connection policies, which have been approved by the AER, only contain the avoided cost calculation as it is needed to ensure compliance with Guideline 14. If the avoided cost calculation is repealed with Guideline 14, then there will be no requirement on Victorian distributors to continue to use this methodology to calculate customer contributions in subsequent regulatory periods (i.e. after 30 June 2026) when a customer seeks to underground, relocate, replace or remove one of our assets.

Victorian distributors may subsequently have inconsistent policies for modifying our assets. Victorian distributors will be required to submit the proposed connection policy for the 2026-2031 regulatory period to the AER with their regulatory proposal in early 2025.[2] The connection policy is required to be consistent with the connection charge principles[3] as well as the AER's connection charge guidelines.[4] As there is no requirement for the avoided cost calculation within the national framework, there will be no ability for the AER to require such a calculation with a Victorian distributor's connection policy.

We encourage the ESC to discuss the proposed repeal of the avoided cost calculation with the Department of Energy, Land, Water and Planning (DELWP). In meetings with Victorian distributors at the time of the introduction of Chapter 5A into Victoria, the Victorian Government policy position was that the avoided cost calculation should be retained to ensure customers are only required to make a fair contribution when modifying our assets.

5. A pathway is needed to permit minor variations of the EDCoP

An avenue to allow minor variations to the EDCoP is needed for situations where distributors and small customers both wish to do so. Under the proposed EDCoP, the ability of a distributor to agree to vary the rights and obligations with a small customer will be removed, but it will be retained for large customers (i.e. business customers with peak demand over 500kVa and consumption of over 160MWh).

In the past, we have relied upon the clause that permitted variation by written agreement of the Distribution Code[5] with small customers. For example, we may have interrupted supply at the request of the impacted

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2 Refer NER 6.8.2(c)(5A)

3 Contained in NER 5A.E.1

4 Refer AER, Connection charge guidelines for electricity retail customers – under chapter 5A of the National Electricity Rules, June 2012. Available from: Final decision | Australian Energy Regulator (aer.gov.au)

5 Clause 1.6 of the Electricity Distribution Code up to and including version 13.

customer to allow a customer to undertake maintenance works on their own switchboard. There is no explicit right for a distributor to interrupt supply at the customer's request pursuant to proposed clause 11.2.1.

Importantly, under the former clause 1.6 of the Electricity Distribution Code, any such agreed variation was not permitted to reduce the rights or increase the obligations of the customer without giving benefits of equal value, whether financial or otherwise.

There are likely a number of circumstances where distributors have relied upon the ability to vary the rights and obligations in the Distribution Code with small customers to achieve a positive customer outcome. While we may not have identified all instances during this consultation period, we are concerned that removing our entitlement to vary the EDCoP provisions in agreement with customers may expose us to civil penalties if we provide suitably tailored positive customer outcomes.

We consider there is benefit in the EDCoP retaining our ability to vary the rights and obligations by agreement with small customers to provide positive customer outcomes. Alternatively, the ESC should ensure the EDCoP provides a pathway for minor variations of the EDCoP in circumstances where the clauses restrict our ability to best meet the needs of small customers.

6. Tenders must not be required for construction works in all cases

The EDCoP appears to oblige distributors to call tenders for all connection offers. In transferring our obligations under section 4 of Guideline 14 to the EDCoP, an unintended consequence of the drafting is that distributors must, instead of may, be required to call for tenders to perform construction works in connection with connection services, undergrounding, public lighting services or services to other distributors.[6]

We seek proposed clause 5.2.1 be amended such that distributors "may be required to call for tenders", rather than "must". It is not practical, or in our customer's best interests, for distributors to call for tenders on all relevant construction works:

- CitiPower and Powercor provide over 35,000 connections each year and over 10,000 augmentations
- it would be administratively burdensome on distributors and industry participants to prepare, and respond to, that many tenders each year
- the time and cost to prepare and administer the tendering documentation and contracts would delay the connection timeframes and the tendering costs would inevitably be passed on to the customer
- for some works, and in some geographic locations, there may be no third parties who have the skills to perform the tendered work
- some construction works are non-contestable as they can only be performed by us due to reasons including safety, customer impact, network complexity, outage and switching implications or complexity of network planning.

In many cases, our businesses have already conducted a tender process for specific services in the market. For example, we have preferred suppliers of pole-to-pit services in particular geographical regions, or a panel of firms approved to perform civil works. We are able to extract the best prices for our customers by essentially buying in bulk.

7. Best endeavours should be retained when accessing a customer's property

A distributor's obligations when accessing a customer's property should continue to apply on a "best endeavours" rather than an absolute basis. An unintended consequence of the drafting in proposed clause 7.3.4

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[6] Connection services encompasses new connections or connection alterations. Undergrounding is defined as undergrounding, relocations or modifications to any part of the distribution system.

would mean that, except for an emergency, we could only access a customer's premises at a mutually convenient time.

The proposed clause does not provide any allowance for situations where we have genuinely tried to agree a mutually convenient time with a customer, but have been unable to do so, for example because:

- we are unable to contact the customer
- the customer does not respond
- the customer refuses to agree to a time, or agrees and then repeatedly changes their mind
- the customer will only agree to times that do not work for us
- the customer refuses access to the premise at any time, for example because they are engaging in illegal activity such as electricity theft.

We are also concerned the proposed drafting of this clause is inconsistent with existing statutory rights to access land, for example for the purpose of inspecting and maintaining our assets or keeping vegetation away from our powerlines.

8. We require a transitional period to implement the change to the timeframe in which a hard copy letter is assumed to be received

We require a transitional period until 1 February 2023 to implement the IT and process changes to amend the timeframe in which we send planned outage notifications.

The EDCoP proposes to increase the timeframe in which it is assumed a customer receives a hard copy of a letter sent by post. Currently, the Code assumes the date of receipt of a letter is "2 business days after the date the distributor posts the letter". The draft EDCoP proposes to increase this to seven business days (draft clause 2.3(b)).

Following discussions with ESC staff, we understand this will be changed to assume a customer receives a letter four days after it is posted. This change is on the basis that a time period of seven days would increase the time period for notifying a planned outage and is inconsistent with requirements for notifying planned outage cancellations.

We do not object to the increase to four business days in the timeframe to receive a letter. We consider this is broadly consistent with Australia Post estimated delivery times of up to 4 business days for regular letters intrastate.[7]

However, such a change will require planned outage notifications to be sent to customers at least 9 business days prior to a planned outage, rather than 7 business days. This will trigger IT system changes which we need time to develop and implement, as well as consequential process changes to the way in which planned outages are requested and scheduled. On this basis, we seek a transitional period until 1 February 2023 for the proposed new requirement to take effect.

9. Other comments on Quality of Supply changes

Changing the location where voltages are measured is not appropriate

We oppose the changes to proposed clause 20.3.1 which states a distributor must maintain a nominal voltage level at the meter electrically closest to and applicable to the point of supply to the customer's electrical

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7 Australia Post, Domestic delivery times, website, accessed 16 May 2022, https://auspost.com.au/service-updates/domestic-delivery-times

installation, rather than at the point of supply. This change would result in the following inconsistencies and misalignments:

- AS 61000.3.100 describes the *supply point voltage*, not the *meter voltage* as the point of compliance measurement
- the observed meter voltage includes the voltage performance of customers mains conductors (between the point of supply and the meter) that are beyond the control of distributors
- customers are prescribed voltage rise (AS4777.1 -2%) and drop (AS3000 -5%) accountabilities for their installations within Australian Standards and guidelines. This change is inconsistent with the intent of clear delineations of accountability of these standards. More stringent standards would be applied to Victorian distributors because of the prevalence of AMI meters.

To maintain alignment with other jurisdictions, the wording should revert to: "*Subject to clause 20.3.2, a distributor must maintain a nominal voltage level at the point of supply to the customer's electrical installation*".

Changes to the power factor limits for customer loads are not practical

We are concerned the ESC's additions to clarify that power factor values apply to a customer's load, net of generation, are not practical (proposed clause 20.4.6). This change would likely render most customer installations non-compliant. We suggest either:

- removing this clause and retaining the position in the current Electricity Distribution Code, or
- changing supply voltage to be greater than 1kV and less than 6.6kV so that LV customers are excluded.

Harmonic Distortion Limits are unclear

The amendments to the Harmonic Distortion Limits are unclear and should be clarified. We suggest a more appropriate way to deal with the reduction of harmonic distortion[8] levels within the EDCoP would be to implement harmonic limits on customers that apply both prospectively and retrospectively.

Additionally, new clauses should be inserted into the EDCoP that state if that a distributor allocates harmonic distortion limits to a customer or embedded generator, then the following four limits should be applied in order of least to most strict.

1. The harmonic distortion limits contained in Table 3 of the EDCoP
2. AS61000.3.6:2001 voltage compatibility levels for each customer
3. AS61000.3.6:2001 voltage planning levels for each customer
4. AS61000.3.6:2001 voltage planning levels allocation for each customer.

This would provide clarification around the harmonic filtering that distributors are to apply. These changes are proposed as the proposed drafting of the clauses 20.5.4 and 21.7.3 are unclear for the following reasons:

- there are multiple different clauses within Australian Standard 61000.3 and it is unclear which clause within that standard is being referred to
- the wording at the end of each clause "to the extent that harmonic filtering by the distributor is not feasible to achieve this outcome" provides no direction on feasibility which will create ambiguity when dealing with customers
- it is impractical to determine the harmonics generated by a low voltage customer as to do this requires a customer to be offline for at least seven days to baseline background harmonics.

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[8] We also suggest removing "of the fundamental" from the end of the definition of harmonic distortion in the glossary.

10. Other matters

We also raise the following matters for consideration by the ESC:

- **Superfluous clauses**: there are a number of clauses which are duplicative of the rules and obligations located in other instruments, in particular the NER. We request the ESC to review whether the inclusion of the following clauses in the EDCoP is needed:
  - connection process (proposed clause 3.2, 4.2) which require a distributor to comply with obligations in the NER
  - metering obligations (proposed clause 6.2.1) which requires a distributor to comply with applicable metering codes
- **GSL exemption timeframes**: we support the change in the process when a distributor notifies the ESC after an exemption from the GSL scheme is applied. We request the timeframe to notify the ESC is amended from 30 business days after the event to quarterly (the quarter being January-March, April-June, etc). This would align the timeframes for exemptions with our requirement to determine whether we are required to make supply restoration or low reliability GSL payments to customers (proposed clause 14.8.3)
- **Clarification that the obligation to provide information to the Department of Health during a widespread outage relates to life support customers** (proposed clause 11.8.1(a)). In a workshop convened by the Department of Energy, Land, Water and Planning (DELWP) in December 2020, it was confirmed that the Department of Health receives the information from distributors to focus solely on life support customers. They do not use nor require information relating to other customers.
  - To that end, we support the inclusion of the words "where a life support resident resides" after "point of supply" in the written clause to clarify the information that must be supplied by distributors and ensure compliance with the obligations
- **Obligations for the reconnection of supply** (proposed clause 17.2.1): we request the timeframes in this clause do not apply where we are not the owner of the meter (e.g. contestable meter) or where a site visit is required (e.g. manually read-meter)
- **Voltage monitoring obligations are duplicated**: we suggest clause 20.3.7(b) be removed. There is an element of duplication as we can use an AMI meter to provide data on the voltages and voltage variations on every feeder on our network, per clause 20.3.7(c)
- **Clarify when a Statement of Charges should be issued** (proposed clause 8.8.2(a)): the current drafting is unclear. The word "next" should be removed so that the clause reads as follows "The distributor must provide the statement of charges to a retailer as agreed between the parties but no later than the 10th business day of the retail billing period following the retail billing period to which the charges relate."