

8 June 2004

Director, Electricity
Essential Services Commission of South Australia
GPO Box 2605
Adelaide 5001

Dear Sir/Madam,

Re: Compliance Audit Framework for the Electricity Sector

Thank you for invitation to respond to the Discussion Paper: Compliance Audit Framework for the Electricity Sector.

Generally we support the Commissions intent to establish conduct for compliance audits that is consistent with other jurisdictions, complements the existing compliance reporting framework and minimizes disruption or unnecessary costs.

We offer the following specific comment to the discussion paper:

Tripartite Agreements.

A lack of clarity exists in the ESCV Guideline No.9 (referred to in the ESCOSA consultation) as to whether one or more, all, or none of the Conditions of engagement (3.4.1 of ESCV Guideline No.9) may be included in a tripartite contract. There is then uncertainty in this case as to whether the ESCV Guideline No.9 or the tripartite agreement prevails in the event of a dispute.

Our preference is for a direct agreement between the auditor and the retailer, of which the guideline forms part of the contract. If, however, a tripartite agreement is to be regulated in South Australia, we would then prefer the mandatory inclusion of all proposed conditions of engagement, exception being by agreement with the Commission. We suggest that a condition such as “Unless with the prior written agreement of the Commission, the following conditions of engagement will apply....” be adopted as it better captures the intent of the clause and provides certainty of the conditions of engagement once the tripartite contract is executed.

Defining and agreeing the audit scope.

ESCOSA has indicated it may adopt the Victorian ESCV approach in this regard. The ESCV Guideline No.9 provides that:

4.2.3 The Commission will also consider the likely or known extent of non-compliance in assessing risk. This will include assessment of previous audit results. (underline added)

This clause is difficult to interpret into audit practice and scope without further definition. Licence holders monitor their own compliance as an existing South Australia licence condition and as good governance. Our assessment of this clause is that its purpose is to sanction referral to operational and compliance audits previously provided to the Commission or any other matter that the Commission is made aware of by a licensee complying with the mandatory notice of material non-compliance of the standard licence. If ESCOSA were to adopt the ESCV approach, our preference is that this further clarification is included in the explanation of what previous audits this will include.

Further enquiry on this matter should be directed to me on 03 8628 1156.

Yours sincerely

David McAloon
Regulatory Manager
TXU Government and Regulatory Affairs