

Regulating electricity connections for new housing developments

Consultation paper

Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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Overview

On 27 October 2020 the Minister for Energy, Environment and Climate Change introduced the Energy Legislation Amendment (Licence Conditions) Bill 2020 into Parliament.¹ The Bill received Royal Assent on 1 December 2020 and enables the Minister to impose conditions on electricity and gas licences by Ministerial Order published in the Government Gazette.

The Minister has indicated her intention to consider the use of these powers to address delays in connecting electricity to new housing developments through licence conditions regulating timeframes for these connections, or stages of the connection process.²

The need to improve the timeliness of these types of electricity connections has been recognised in a number of recent reviews, and through the Victorian Government's engagement with key industry stakeholders, including by Victoria's Red Tape Commissioner, the Building Victoria's Recovery Taskforce, and the Essential Services Commission (ESC). The Minister has noted that improving the timeliness of electricity connections to new developments is a matter of high priority to Government, particularly at a time when Victoria's construction industry and housing supply is a critical enabler of economic recovery.³

While acknowledging that significant improvement has been made by distribution businesses over the past two years, the ESC's 2020 review into improving the timeliness of electricity connections found that problems remain with new housing development connections. The problems identified included a lack of accountability and transparency from distribution businesses in relation to the timeframes to complete certain stages of the connection process.⁴ The full set of the ESC review's findings is available on its [website](#).

Similarly, Victoria's Red Tape Commissioner noted in its 2019 [Planning and Building Approvals Process Review](#) that the connections process could be improved by setting timeframe targets for each stage of the process which is not contestable in a distribution business' area.⁵

The Department of Environment, Land, Water and Planning (DELWP) recognises the important insights of stakeholders with experience in the negotiated connection process and is seeking your views on regulation of connection timeframes. DELWP considers that any reforms to timeframes should provide greater certainty around connection timelines and reduce delays for new housing developments without compromising network safety or resulting in significantly higher connection costs.

DELWP also notes that Victoria's distribution businesses are currently developing 'Greenfields Negotiated Electricity Connection Customer Service Standards' as part of a requirement recently introduced by the ESC in its 2020 review decision paper, with each standard to include a customer outcomes statement, a requirement to form a consultative committee and a requirement to regularly report on performance metrics. Further information on the customer service standards can be found [here](#).

Any regulated timeframes set through a Ministerial Order are intended to complement these customer service standards by requiring distribution businesses to meet the timeframes (or target or average timeframes) as set out in the Order. As an Order will specify licence conditions, a breach of these conditions could be enforced by the ESC using its compliance and enforcement tools in the *Essential Services Commission Act 2001*.

¹ <https://content.legislation.vic.gov.au/sites/default/files/2020-12/20-037aa%20authorised.pdf>

² <https://www.lilydambrosio.com.au/media-releases/speeding-up-energy-connections-for-new-homes/>

³ Second reading speech, Energy Legislation Amendment (Licence Conditions) Bill 2020.

⁴ Essential Services Commission, Timely negotiated electricity connections, Decision paper, 14 October 2020, p. iii.

⁵ Better Regulation Victoria, [Planning and Building Approvals Process Review](#) - Discussion Paper, p.94.

Background

Under national energy laws applicable in Victoria, electricity connections are categorised as 'basic', 'standard' or 'negotiated' connections. Basic and standard connections are already subject to regulated timeframes through model standing offers approved by the Australian Energy Regulator. Non-standard or negotiated connections, including connections to new housing developments, are not subject to regulated timeframes. As noted above, due to long-standing concerns about the timeliness of electricity connections to new housing developments, regulation of these timeframes is currently being considered.

While connection processes differ for each distribution business, the connection process for new housing developments can generally be categorised into the stages set out in the below table produced by the ESC. DELWP notes that distribution businesses may categorise or define connection stages differently. The negotiated connection stages (stages 1 to 6) are being considered for potential regulation. As noted, stages 7 and 8 (basic and standard connections) are already subject to regulated timeframes.

Negotiated connection – construction of assets to connect development to the existing network						Basic or standard connection (lot level interactions)	
Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6	Stage 7	Stage 8
Precinct Structure Plan and Planning Scheme	Service Master Plan (Network Scope Plan)	Network reticulation design	Construction management and delivery	Construction audit	Electrical 'tie-in'	Energisation, builder temporary supply	Energisation, customer connection via a retailer

Source: ESC, Timely negotiated electricity connections, Issues paper, 30 June 2020

Victoria's five electricity distribution businesses are licensed to operate in different geographic regions of the state. A map of Victoria's distribution zones is available [here](#). There are also differences in the connection processes employed by each of Victoria's five distribution businesses, including contestability of certain stages, and the significant variability in the volumes of new housing development connections that occur across the five businesses.⁶ Accordingly, different approaches to regulating connection timeframes may be appropriate for each distribution business.

What we've heard from distribution businesses

At the end of 2020, DELWP wrote to Victoria's electricity distribution businesses seeking preliminary views in relation to regulated connection timeframes for new housing developments. Distribution businesses were asked for their views on the stages of the connection process that they believed are most suitable to be regulated, achievable regulated timeframes that could be applied to these stages (either as average or target timeframes, or maximum timeframes) and any 'stop the clock' provisions or exceptions⁷ to regulated timeframes that may be necessary.

Importantly, DELWP requested that distribution businesses have regard to the expectations and feedback received from their customers and other stakeholders consulted in developing their new ESC customer service standards when providing this advice to DELWP.

⁶ Powercor and AusNet Services are understood to undertake the majority of new housing development connections, with AusNet reporting to DELWP that in 2020 it received 8,923 underground reticulation connection requests for new housing developments. These businesses are followed by Jemena and United Energy, with Jemena advising DELWP that on average it has three to four new housing developments occurring at any time and United Energy explaining the volume of new housing connections it delivers is very low. CitiPower is understood to have no greenfield residential developments in its network.

⁷ 'Stop the clock' provisions would result in the timeframe being suspended pending the completion of some activity or event, whereas an exception would mean the regulated timeframe would not apply to the connection or connection stage to which the exception applies.

DELWP received responses from each distribution business. The full responses are available on the DELWP website. A summary of the timeframes and exceptions/'stop the clock' provisions included in the responses received from distribution businesses is provided below under 'Responses from Distribution Businesses'.

Have your say

We invite stakeholders to provide written submissions by **5pm, 5 March 2021**.

Submissions can be made by email to stakeholder.consultation@delwp.vic.gov.au.

We will treat submissions received in response to this consultation paper as public documents and submissions will be published on the DELWP website. If you believe that there are aspects of your submission that are confidential or commercially sensitive, you should mark those sections 'IN CONFIDENCE'. In such instances, formal requests for confidentiality will be honoured; however, submissions may be made available publicly under the *Freedom of Information Act 1982 (Vic)*. Any requests for public access to a submission will be determined in accordance with the Act.

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Please note there will be further opportunities for consultation before any Ministerial Order is made. As per the requirements of the *Energy Legislation Amendment (Licence Conditions) Act 2020*, all affected licensees must be given an opportunity to make submissions on any draft Ministerial Order before it is finalised. Other stakeholders will also be further consulted as part of this process.

Issues for consultation

Issues with timely negotiated electricity connections for new housing developments

DELWP is seeking feedback on issues relating to timeframes for negotiated electricity connections (or stages of these connections) to new housing developments, to inform the development of potential Ministerial Orders regulating these timeframes. The need to improve the timeliness of these connections has been raised with Victorian Government agencies over a number of years.⁸

DELWP seeks stakeholder views on whether there continue to be issues with the timeliness of these connections. DELWP notes that some stakeholders have previously made public submissions on this issue through the ESC consultation process on timely electricity connections.⁹ DELWP will also consider these previous submissions, whether or not stakeholders make a further submission in response to this paper. Stakeholders are also welcome to raise the same or new issues in response to this paper.

Questions

1. What issues have stakeholders experienced relating to timeframes for negotiated electricity connections to new housing developments?

In answering this question, stakeholders are encouraged to provide any relevant information or data that might help to demonstrate or substantiate these issues.

DELWP notes that stakeholders may also have concerns with timeframes for other types of connections, or may have other suggestions for addressing these issues that do not involve regulating timeframes. While this is not the focus of this consultation, stakeholders may raise such issues for DELWP's information if they consider these issues relevant.

Regulated connection timeframes

As noted, the Minister has indicated her intention to consider licence conditions regulating timeframes for negotiated electricity connections (or stages of connections) to new housing developments. Accordingly, DELWP seeks stakeholder views on how timeframes for these connections could best be regulated through new licence conditions under a Ministerial Order.

Questions

2. How should timeframes for negotiated connections (or stages of connections) to new housing developments be regulated? Are the timeframes included in the responses from distribution businesses (refer to next section) appropriate?

In answering this question, DELWP suggests stakeholders consider:

⁸ See e.g. the ESC's 'Improving the timeliness of electricity connections' consultation: <https://www.esc.vic.gov.au/electricity-and-gas/information-consumers/electricity-connections-new-developments/improving-timeliness-electricity-connections-2020>; and the Better Regulation Victoria/Red Tape Commissioner's 'Planning and Building Approval Process Review': <https://www.vic.gov.au/planning-and-building-approvals-process-review> at page 92.

⁹ <https://www.esc.vic.gov.au/electricity-and-gas/information-consumers/electricity-connections-new-developments/improving-timeliness-electricity-connections-2020#tabs-container2>

- the stages of the connection process that are of most concern to stakeholders, and the extent to which distribution businesses are responsible for these stages
- achievable timeframes for these stages
- the merits of maximum timeframes vs target or average timeframes
- any 'stop the clock' provisions or exceptions that may be required.

DELWP notes that different distribution businesses have proposed different regulated timeframes, and different stages to be regulated (Citipower has proposed not to be subject to regulated timeframes, noting there are no greenfield residential sites within its network). Stakeholders may wish to provide feedback in relation to specific distribution zones or more generally.

Stakeholders are again encouraged to provide any information or data to support responses to this question.

Costs and benefits of regulated timeframes

In making any Order specifying licence conditions, the Minister must have regard to the costs and benefits of making the Order. DELWP seeks stakeholder views on the costs and benefits associated with regulated timeframes.

Questions

3. What are the benefits and costs associated with regulated timeframes for negotiated electricity connections to new housing developments? Are there any risks associated with regulated timeframes?

In answering this question, DELWP suggests stakeholders consider the direct and indirect costs and benefits that may result from timeframes for connections, or stages of connections, being regulated through licence conditions under a Ministerial Order. Benefits could include, for example, benefits arising from greater certainty as to timeframes, or improved connection timeframes, for property developers or end users of electricity. Costs could include, for example, compliance costs associated with regulated timeframes, or possible increases in connection costs.

Other matters

Stakeholders are encouraged to raise any other matters that stakeholders consider DELWP and the Minister should be aware of in considering regulated timeframes for negotiated connections to new housing developments.

Questions

4. Are there any other relevant matters that should be brought to the attention of DELWP and the Minister?

Responses from distribution businesses

Powercor

While Powercor has explained it considers regulating timeframes is unnecessary, it has identified two stages of the connection process (the requested final audit and reviewing certificate of practical completion stages) as being most relevant for potential regulation. This is a subset of the stages that Powercor proposes to report on under its customer service standard submitted to the ESC.¹⁰ Powercor notes that development industry representatives have advised that the highest priority activities relate to the two stages it has proposed regulated timeframes for.

Powercor has proposed different timeframes for 2021 and 2022, including average timeframes for 2021 and both average and target (90 per cent within a specified period) timeframes for 2022. Powercor has not proposed any maximum timeframes, stating that they do not provide an accurate reflection on their process and that they are highly variable.

Stage	Description	Proposed timeframe for 2021 (business days)	Proposed timeframe for 2022 (business days)
Requested final audit¹¹	Final due diligence construction audit undertaken by the distributor (time measured between audit request and audit report being issued).	8 days (average)	Average within 6 days (measured over a 6-month period) 90% completed within 8 days (measured over a 6-month period)
Review certificate of practical completion	Time taken to review submitted asset handover documentation is complete and either accept (by countersigning the certificate of practical completion) or advise handover requirements are yet to be satisfied.	10 days (average)	Average within 3 days (measured over a 6-month period) 90% within 5 days (measured over a 6-month period).

Exceptions where regulated timeframes would not apply and ‘stop the clock’ provisions

For the ‘requested final audit’ stage Powercor recommends that the clock be reset where a re-audit is required or where the required documentation to allow audit commencement has not been provided. Powercor does not require any exceptions or ‘stop the clock’ provisions for the certificate of practical completion stage.

¹⁰ Powercor’s customer service standard also includes timeframes Powercor will report against for the master plan review, design review and tie-in stages: <https://www.esc.vic.gov.au/sites/default/files/documents/citipower-powercor-united-energy-greenfield-connections-customer-service-standard-december-2020.pdf>

¹¹ Following receipt of Powercor’s advice, the business confirmed with DELWP this stage relates to all construction audits not just first audits as indicated in its letter. Powercor also clarified how the stage would be measured as set out in the definition above.

CitiPower

CitiPower has advised DELWP that it does not have greenfield residential sites within its network and therefore has proposed that the design of any Ministerial Order imposing new licence conditions to regulate timeframes for negotiated connections to new housing developments need not capture its business.

United Energy

United Energy has indicated that given its low volumes of new housing development connections and positive industry feedback on its performance in this area, it does not believe there is benefit in regulating United Energy's timeframes. However, if timeframes are to be regulated United Energy has suggested a maximum timeframe of 10 business days for the authority to commission stage. This is one of the stages that United Energy proposes to report on under its customer service standard submitted to the ESC.¹²

United Energy also suggests any regulated timeframe be based on a maximum number of days to complete the stage rather than an average or target timeframe due to the small number of greenfield residential connections it undertakes annually. It also notes that maximum timeframes provide developers with greater certainty.

No exception or 'stop the clock' provisions are proposed by United Energy.

Stage	Description	Proposed timeframe – (maximum business days)
Authority to commission^a	United Energy reviews evidence that contractor has completed pre-commissioning audits ^b and related activities (including as built detailing), and grants authority for the contractor to tie-in and energise	10 days

Notes:

a – United Energy provides developers with an option for the early release of statement of compliance approval as part of granting authority to commission.
b – The final audit is part of the tie-in process which is managed by the developer's contractor.

Jemena

Jemena has proposed maximum and average timeframes it considers reasonably achievable for a number of stages of the connection process, as outlined below. Jemena notes that the stages proposed have been identified as the most suited for regulation based on consultation with its property development customers. DELWP understands Jemena intends to revise the performance reporting metrics in its customer service standard submitted to the ESC to be consistent with the below.¹³

Stage	Description	Proposed timeframe (average)	Proposed timeframe (maximum)
Design Review Timeframe	Timeframe from a stage design submission date to the initial review date.	6 weeks - from the design receipt date of a complete design.	8 weeks - from the design receipt date of a complete design.
Jemena Offer Timeframe	Timeframe from the receipt of a 'complete' application to the date a firm offer is provided from Jemena.	8 weeks - from the receipt date of a complete application.	13 weeks - from the receipt date of a complete application.

¹² United Energy's customer service standard also includes timeframes United Energy will report against for the contestable offer, master plan review, design review and authority to construct stages: <https://www.esc.vic.gov.au/sites/default/files/documents/citipower-powercor-united-energy-greenfield-connections-customer-service-standard-december-2020.pdf>

¹³ <https://www.esc.vic.gov.au/sites/default/files/documents/jemena-greenfield-negotiated-electricity-connection-customer-service-standard-20201204.pdf>

Pre-commissioning Audit Timeframe	Timeframe from the Pre-commissioning Audit Request being received by Jemena's accredited Auditing contractor, to the date a Pre-commissioning Audit Date is booked.	5 business days	10 business days
Tie-in Timeframe	Time from the submission of a 'complete' tie-in request to the date a tie-in is booked.	7 weeks	7 weeks
Issuing of Statement of Compliance (SOC)	Timeframe from the receipt of a passed pre-commissioning audit to the issuing of SOC from Jemena.	1 week	1 week

Jemena has requested that the following exceptions and 'stop the clock' provisions are considered when regulating connection timeframes.

Exceptions where regulated timeframes would not apply and 'stop the clock' provisions

Stage	Exceptions or 'stop the clock' provisions
Design Review Timeframe	<p>The initial review date will be the date a Jemena designer conducts an initial review of the proposed designs.</p> <p>Should Jemena be required to return the design with comments, it is proposing that the second design proposal must be returned within 5 business days of initial comments. Failure to do so will result in the design timeframe resetting.</p> <p>Jemena is also proposing to only allow up to two re-submissions before this design is made as 'exempt' from the regulated timeframe requirements.</p> <p>Any submission of stage design which require amendment of an approved overall design, will be subject to a negotiated timeframe; and/or exempt from the regulated timeframe.</p>
Jemena Offer Timeframe	<p>Offer times may vary subject to the complexity of the works or customer's requirements.</p> <p>Where applicable, Jemena proposes the ability to negotiate timeframes with customers in line with current activities.</p> <p>Offer revisions as a result of customer requirement, works scope or contestability changes should be subject to exemption of the regulation timeframe.</p>
Pre-commissioning Audit Timeframe	<p>Jemena reserves the right to reject any incomplete requests for Audit.</p> <p>Any additional audits required as a result of non-conformances should be subject to exemption of the regulated timeframe.</p>

Tie-in Time frame	<p>Tie-in completions are subject to standard outage protocols, including community consultation, weather, and latent conditions.</p> <p>Jemena propose any Tie-in cancellations due to reasonable circumstance are considered for exemption to the metric.</p> <p>Timeframes should factor in all planned outage customer and distribution business requirements outlined in the Electricity Distribution Code.</p> <p>Any reasonably identified concerns with work quality, including the submission of as-built drawings, have the opportunity to be exempt from the regulated timeframes.</p>
Issuing of SOC	<p>The developers must ensure they fulfil all requirements under Section 55 of the <i>Planning & Environment Act 1987</i>.</p> <p>Any non-conformances identified should be exempt to the regulatory timeframe.</p>

AusNet Services

AusNet Services has indicated that the design review and network audit stages of its connection process are suitable for being subject to regulated timeframes, as set out below. The proposed timeframes are largely consistent with the performance reporting metrics in its customer service standard submitted to the ESC.¹⁴

AusNet Services has proposed there should be exceptions from the regulated timeframes for unforeseeable events, such as force majeure events, and has also noted that regulated timeframes should not include delays that are due to the developer's contractor failing to meet technical and safety requirements.

Since writing to DELWP, the business has further proposed in subsequent advice that the regulated timeframes should also not apply in situations where the network audit is requested to occur more than 10 business days after the request date, or the work is scheduled over AusNet Services' two week end of the year holiday shut down period.

Stages to be regulated	Definition	Proposed timeframe
Design review ¹⁵	Time between receipt of design request and review completion	90% accepted or rejected within 15 business days ¹⁶
Network audits	Time between request for preliminary or final network audits and auditor appearing onsite to carry out compliance checks ¹⁷	95% within 10 business days

¹⁴ <https://www.esc.vic.gov.au/sites/default/files/documents/ausnet-services-greenfields-negotiated-electricity-connections-customer-service-standard.pdf>

¹⁵ Following receipt of AusNet Services' letter, the business confirmed with DELWP that this stage referred to design review rather than design approval and that the regulatory timeframe being proposed was for design reviews to take on average less than 15 business days not a maximum of 15 business days. AusNet Services also confirmed the definition of the stage and how it would be measured was in line with that provided above.

¹⁶ This differs slightly from the proposal in Ausnet Services' letter to DELWP, following further written advice to DELWP after receipt of this letter.

¹⁷ Definition clarified verbally by AusNet Services following receipt of advice.