



# Public forum 2 transcript – Transmission Company Victoria Pty Ltd electricity transmission licence application

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**Note:** This transcript was originally automatically generated. We reviewed the transcript and made changes for accuracy. Minor discrepancies between the transcript and the forum may remain.

**Chris Porter 0:07**

OK, good evening, all. Thanks for joining us. My name is Chris Porter. I'll be coordinating today's discussion. I'm from Cube group and we've been engaged to help the Essential Services Commission host these two forums and I'm being supported this evening by my colleague Monique.

Purpose of today's discussion is to present some information on how you can contribute and participate to the Essential Services Commission feedback process on the licence application for transmission licence from Transmission Company Victoria Proprietary Limited.

Through the rest of the discussion, we'll refer to the Essential Services Commission as the ESC and to set Transmission Company Victoria as TCV, just to keep things a little bit more smooth.

From the ESC, we're joined by Nathan Zhivov, who's the executive director of the Energy Division. Nathan will present some information and answer most of the questions today. Nathan's role is head of the Energy division is to lead the assessment of TCV's application and make a final recommendation to the Commissioners. Based on that assessment and Nathan's the ESC's most senior staff member involved in this licence application.

And Nathan's also joined by some other members of the A/C H Division, who are also involved in the process.

So yeah, just to reiterate, the purpose of today's session is really to give you information about the process and how you can provide feedback on TCVs application. We're not necessarily able to dive into the details of the application itself.

And what we'll aim to consider all the questions we can if we're not able to, we'll be able to potentially link you in with other agencies who might be able to respond or direct you where they might be further information.

So I'm kicking off. I'll acknowledge that I'm on the lands of the Wrundjeri people of the Kulin nation. I'm paying my respects to elders past and present. I can send that respect to the traditional owner groups of other lands. You may be joining from today, and also any First Nations people who are joining us on the call.

In terms of the session, how the session will run.

We'll be important to know will be recorded and be made available on the ESC website within about a fortnight of the session. This is a webinar, so the way it's running is cameras and microphones are switched off just so we can be smooth with the presentation. You'll be able to hear myself and Nathan, but you can use the Q&A function on teams to submit your questions at any time throughout the session. We'll be monitoring them and able to ask them later on.

We'll give some instructions on that in a moment.

It's important in posting your questions tonight that your name will appear against them, but they may not appear immediately as we need to do some processing on our end.

The filth of them as they come in.

So in terms of posting your question, there's a couple of different ways to do it.

There'll be monitoring throughout the forum, but you can if you're in the desktop version of teams, you can click on the little Q&A icon that will be up near the top.

Or if you're on the mobile phone, you might need to click on the three little dots that are frighteningly close to the hang up button to be able to access that function there.

We'll aim to answer as many questions as we can if we have the time, but we also are respectful of people's time and make sure we do close a session at the scheduled time of 6:45.

If these questions were not able to cover ESC, as I said, might take them away and provide some responses to other channels or refer you to the relevant documentation.

But yeah, important to note that because the application is under assessment currently, that might affect the level of

specific detail that can be provided in the answers to the questions.

And that the main focus of the discussion really is about how you can provide the feedback on the application process.

We'll give some more detail on how you can submit that application.

Feedback later on as well.

So just an overview of, I guess what we'll be covering in today's forum. So covering the purpose of the session a little bit of background on TCV's application itself. Nathan will explain the role of the ESC in energy and assessing that application. We'll talk about the content of a transmission licence and then how you're able to provide feedback.

And then we'll open up for questions. So presentation will take around 15 minutes and then we'll have plenty of time for questions afterwards.

With that, Nathan, I'll pass over to you and welcome you to take us through the information.

**Nathan Zhivov (ESC) 4:32**

Thanks very much, Chris. Thanks very much everyone for attending tonight. I really appreciate you giving us your time. I know there's been a lot of interest in this application during my presentation. I probably want to cover about four things. So I want to provide an overview of the TCV application. I want to talk through our role in electricity licencing, including the assessment process and the decision making process.

I want to provide a bit of information on how to make a submission and what we do with the information people providing their submissions.

And I want to talk a little bit about the time frames and next steps in our process. Can I have the next slide please?

So a little bit about TCV's application, TCV applied for a licence to transmit electricity that applications made under the Electricity Industry Act and we'll make our decision in accordance with the requirements of that act. TCV's plan is to use the licence to transmit electricity in connection with the Victoria, NSW Interconnect, the West or the VNI West Project and the Victorian part of it.

TCV's provided us with information to support its application and assessment against the statutory criteria.

That we need to consider when the Commission decides whether or not to accept or reject the licence application. Now you can find TCV's application form and a lot of additional public materials on the applications. Engage Victoria web page.

I hope that's useful.

Could I have the next slide please?

I just want to talk a little bit about the role of the Essential Services Commission in energy regulation and in transmission and licence applications, so the Essential Services Commission's been around for about 30 years now in various forms and we were created under an Act of Parliament, which is the Essential Services Commission Act. We're an independent regulator independent for government in our decision making and our role primarily is to promote the long term interests of Victorian consumers with respect to price, quality and reliability of those services, particularly in this case energy.

In relation to electricity, we have quite a number of roles and many of them are primarily focused on consumer protection. Most relevant here is that we licence businesses to transmit, distribute, generate, supply or sell electricity. In Victoria, we also write a lot of the rules that determine the consumer protection that consumers of electricity get. In Victoria, one of the main ones that we are involved in is the energy retail code of practice.

Which we're actually reviewing right now in a different process, but quite recently.

Last year, really we put together and started the implementation of the Land Access code of practice and it regulates the rules and processes that licenced electricity transmission companies need to comply with when exercising compulsory powers to access private land.

We also have a fairly strong compliance and enforcement programme where we investigate alleged breaches of the codes of practice or licence conditions and we take action in relation to breaches that we find.

And that can involve issuing penalties, taking people to court, getting injunction and various other remedies. Can I have the next slide please?

So I'm gonna talk a little bit about how we assess transmission licence applications or really most licence applications overall. So one of the key questions that we ask is does the applicant have the technical capacity to comply with the licence conditions and this is in the act itself to do this, we look at a few things including the governance risk and compliance systems and policies that the applicant has and this includes ensuring that the policies and procedures that they have in relation to land access, align with the Land access code of practice.

We look at the personnel available to the applicant. We look at their employees, we look at the contractors that they have or staff that they might have held within a parent company or group. Now where we're talking about people who aren't direct employees of the applicant company, but instead we're talking about people who might be somewhere in the corporate group or consultants. We require applicants to provide us with agreements between the applicant company and those other companies so that they can show the requisite technical capacity to comply with their licence conditions.

Beyond technical capacity, we also look at our statutory objectives. So the Commission's overarching statutory objective is to promote the long term interests of Victorian consumers with regard to price, quality and reliability of essential services, something I mentioned a bit earlier. But we will be considering whether or not granting the licence would be consistent with this objective.

Another thing that we look at is whether the applicant company is a fit and proper person to hold the transmission

licence. Now, in determining whether the company that is applying is a fit and proper person.

We include having a look at the conduct of, yes, the company itself, but also its directors, its office holders or any person with a significant managerial duty or influence on the applicant company.

It's probably important to note that discovery of a single matter will not automatically lead us to conclude that the applicant isn't a fit and proper person. We'll just look a bit more deeply at that. So some of the things that we consider are the seriousness of the matter, whether there's been any remediation that they've put in place to fix something that's gone wrong.

And the applicant's subsequent conduct.

Can I have the next slide please?

So I know that a big focus of a lot of people's attention has been on the technical capacity in this application, and one of the things that I'd like to mention is that maintaining technical capacity to comply with licence conditions is a standard licence condition that we put in place for all transmission licences.

One of the things that we may also choose to do is include a condition for a further technical capacity assessment. If the applicant company is not carrying out the licenced activity, which in this case would be transmitting electricity within 12 months of the licence being granted.

Can I have the next slide please?

There are some other standard conditions that we do tend to put into transmission licences and other licences.

These include addresses and processes for issuing notices, description of the activities that the licence permit and the date from which they're permitted.

Provisions relating to the change of control I'll get into that in a bit more a little bit later.

A requirement to comply with regulatory instruments like our codes of practice and making non-compliance a civil penalty so that we can fine people if they don't comply.

The ongoing technical capacity requirement I mentioned a little bit earlier.

And there are some other general administration items, like how a licence can be revoked, how it can be varied, or how it can be transferred.

May also include special licence conditions on a case by case basis.

Where matters that the licence needs that are specific to the particular entity or the circumstances are identified.

It's also probably worth noting that because we issue a fair number of licences across the entire industry from time to time, the Commission reviews the standard conditions that we put in licences to make sure that they stay fit for purpose. I might go to the next slide if that's OK.

So obviously we're seeking feedback from stakeholders on TCV's application and whether or not it should be granted a licence, and we want your feedback to assist us in our assessment against the statutory criteria. Submissions are due by 5:00 PM on the 21st of October, which is not too far away and you can complete the survey that we've got on the Engage Victoria website or you can provide a written submission.

Unless you request otherwise, your name and your submission will generally be published on our website and made publicly available.

So that other people can see the information we're considering in making our decisions. It's just part of the transparency of the process that we want to run. We're going to consider any submission that someone puts in, particularly in relation to the statutory criteria. And these submissions may also influence any specific conditions that we might decide to go on the licence in addition to the standard conditions.

You can also send submissions by e-mail or mail to the addresses that you can see on this slide.

OK. Can we please go to the next slide?

Now, in addition to providing a submissions process, we've also put a survey on the Engage Victoria website. You're welcome to answer all or some of the questions that we've got there and you can submit a document or e-mail rather than completing the survey. Whichever you choose we will try to take those into account.

Can I have the next slide please?

After submissions close, we will consider all of the stakeholder feedback and assess the documentation that stakeholders provided and that TCV has provided.

We're expecting this process may take two months from the close of submissions, possibly more so we haven't set a decision date yet, but given that we're getting towards the end of the year, there is a possibility that we won't make a decision until sometime in 2025.

Can I have the next slide please?

That's basically it for my presentation. Thank you very much for listening and for giving me your time this evening and I'll hand back to Chris for questions.

### **Chris Porter 13:54**

Next, and it's really helpful information there and you're bang on time with your 15 minutes. So well done. We've got some time for questions now, which is great. Plenty of time left in the scheduled session. So we'll probably bring down the slides and spotlight you a bit, Nathan. So we can see you a bit more clearly.

But as we get into that, just a reminder that that the focus for the discussion here is really on how the assessment process is conducted and how you can participate in that.

We're reading any questions as they come in and we'll post them as we go. But and where there might be a few questions that touch on similar themes, we can kind of bundle those up as well. But we'll just see how many questions

we get. And as I said, if there's questions we're not able to cover, the ESC team might take them away and be able to address them separately or follow up. You know the channels. But we did actually have the opportunity to submit some questions ahead of time. We've got a couple of those. So if it's alright. We'll start off with them.

So the first one being how does the Commission assess the quality and integrity of the licence application, particularly noting that there's no independent review over what's been proposed to happen after the licence is issued?

How does the Commission get comfort over the information assumptions made in the application and a follow up piece is what role does the Commission have if and when a licence is issued?

**Nathan Zhivov (ESC) 15:24**

All right there. There's a fair bit in that one, but let me take you through it. We thoroughly assess all of the documents that are provided with an application. We go through them, we read them and we develop views about them.

If there's anything in there that's not right, we'll seek further information, whether it's through an information request to the applicant or some other means. Now, in addition to that, one of the things that we require when people apply is a signed and witnessed statutory declaration from one of the senior officials in the in the applicant organisation.

Then they have to provide that with an application confirming that everything that they provided is true and correct, and the reason that we do that is to put a little bit of risk on them. If you make an untrue declaration, you are subject to offences under the oath and Affirmations Act, and you can be prosecuted for that. And that's one of the ways that we put an incentive on the applicants to provide information that is only true and correct.

Now as we go through the assessment, our decision making process is consistent with our objectives and aligns with our other processes of making sure that it goes through several quality control stages internally and people reviewing any papers that go up to the Commission.

Once a licence is issued, should we end up there with TCV? We have monitoring compliance and enforcement functions that take over post licencing. Some of this involves requirements on licenced entities to report to us about various things and in some cases if they breach an obligation they have an obligation on us to report that they've done that too. And.

Vast majority of entities in the industry when they breach obligations front up about it very, very quickly and we go through an enforcement process.

We in particular receive information from companies on their land access use and that's under the Land Access code of practice and we're looking at that information when it comes in to make sure that they are complying with their obligations under that code of practice. I hope that gives everyone an insight into the quality control measures that we've got in place when we're assessing a licence and what we do afterwards as well.

**Chris Porter 17:25**

Thanks, Nathan. So second question, we received ahead of time is about the change of control, which you sort of alluded to before. So question is given that TCV is currently completely subsidiary owned by the Australian Energy Market Operator.

Has ESC considered? How possible? How legally possible it is for TCV to actually hold that licence at this point in time?

And then prior to being transferred to a new owner, is there particular advice or a process that has to happen? And again, if that licence is to remain valid.

**Nathan Zhivov (ESC) 17:59**

OK, there's a fair bit to answer. Let me say a few things. The first one is with any licence application, part of our assessment process is to confirm that the applicant is eligible to hold a licence under law. TCV's Licence application is no different in that regard. That assessment will take place.

It's also true that we expect applicants for licences, who are often relatively large organisations, to get their legal right and determine the correct entity for applying for a licence prior to submitting the application.

Now the change of control issue has come up in a number of places, so I probably should address it.

It is very common in my experience in the licencing space over my time here for entities to change control or licensees to change control. There is a lot of buying and selling that goes on in the energy market and you see different companies owned by different parties at different times and that's one of the reasons why we have licence conditions and processes in place to manage that.

So let me take you through them. Generally speaking, we will have a provision in every licence that requires a company that has a licence, should they go through a change of control to notify us of that and upon them notifying us of that, we undertake an assessment. We basically have a look at whether the change of control has an impact on that licenced entity's ability to continue to meet specifically the technical capacity requirements to comply with it's licence conditions.

We look at who the personnel are, are they changing? Does that have an impact? What other factors might be going on as part of that change of control, it might have an impact now, should we find ourselves in a situation during that assessment process where we have concerns about the licenced company's ability to continue to meet its licence obligations, particularly around technical capacity? We will raise that with them.

And if they aren't able to satisfy us that they've been able to address and fix those concerns within a reasonable period

of time.

Then I would have no hesitation in going to my Commission and saying we need to, we need to revoke the licence. There'd obviously be a process that would have to go through to do that. But if that were the scenario we are in, that is the action that I would be looking to take. I hope that's useful.

**Chris Porter 20:28**

That's great. Thanks, Nathan. Yeah, it's important detail in the process to understand that that changing control has happened quite a lot in the industry. So good to know there's a process around that.

At this point we don't have any further questions in that have been submitted so far, so I might give another few moments to see if any pop up. But in doing that, we can also remind that if you have, if you do have further specific questions that come up following today's session that they can be directed to [licences@esc.vic.gov.au](mailto:licences@esc.vic.gov.au) and we'll have a slide up with that e-mail address as confirmation just before we close, but in the interest of respecting people's time at this time of the evening, it looks like we can probably wrap up there if there haven't been any further questions appear that that we can see.

So give you the opportunity to see that reminder of the due date for the submissions where you can go for more information on Engage Victoria and then as I said any further queries can be directed either to that e-mail address or via mail to the Essential Services Commission.

And with that, we'll leave it there. Thank you again for joining us and have a have a pleasant evening.

**Chris Porter 21:48**

I have just had one question popping right. As we've said that and you might have already answered, Nathan, but let's grab it anyway. Do the licence applications ever get refused.

**Nathan Zhivov (ESC) 21:59**

We haven't had many in my time. We haven't had any get refused, but we have had quite a number of parties not huge numbers, but some from time to time get to a point in the application process where we've come to the view that we're unlikely to recommend granting the licence and to be fair to the applicant, we let them know that we are unlikely to recommend granting the licence to the Commission.

And some of those parties, when they get that news, have decided rather than proceeding to rejection to withdraw the application that's happened.

But I haven't in my time in the role, been through a process where we've gone to rejection.

**Chris Porter 22:42**

Thanks, Nathan. In that time another question has popped up. So we'll bring that up as well. Does the Commission seek input to understand the technical aspects of the application?

**Nathan Zhivov (ESC) 22:54**

I'm not sure exactly what that person means by the technical aspects of the application, but I'll talk a little bit about the technical capacity criterion.

The statutory criteria about technical capacity is technical capacity to comply with the licence conditions. So what we're looking at is their ability to comply with the conditions that exist in the licence and we will look at those. We'll look at what the company has provided us in relation to those and we will look at what anyone says in relation to those.

It's not a kind of an assessment of every single aspect of running a transmission company. It's about their ability to comply with the licence conditions.

And so, yes, we have a technical assessment and yes, we look at a technical capacity assessment and from time to time we've brought in consultants as well to assist us with that technical capacity assessment where we felt the need to do so. But I do need to be clear that when the act talks about technical capacity, it is technical capacity to comply with the licence conditions.

**Chris Porter 23:57**

Great clarification. Thanks Nathan.

Great to catch those couple of questions too there, right at the end, I'll give it another moment just to see if any more do pop up but haven't seen any in the last couple of minutes since you've answered those couple. But yeah, keen to make sure there is an opportunity if people haven't that they can ask.

That is looking like that might be it for me. Watching the post there so again, if there are further questions afterwards, of course there's that [licences@esc.vic.gov.au](mailto:licences@esc.vic.gov.au) e-mail address. That can be followed up and a gentle reminder that those submissions are due on the 21st of October at 5:00 PM. If, if you'd like to have further feedback submitted, that's the most important way to have it considered as part of this application process.

I'm just seeing another question pop up.

Question just about process actually, Nathan, does the Minister for Energy need to approve the application for a licence or who's the authoriser?

**Nathan Zhivov (ESC) 25:00**

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Yeah. Yeah, that's a that's a fair question. So our licences are issued by the Commission, they're issued independent of government, the Minister for Energy is not the person who grants this licence.

**Chris Porter 25:15**

I'll leave it there just for a little moment more to see if any further come through.  
Happy, nice. And we'll wrap it up there.

**Nathan Zhivov (ESC) 25:38**

Well, thanks again everybody for your time and for coming and listening this evening. I really appreciate it.

**Chris Porter 25:45**

So have a pleasant evening.

**Nathan Zhivov (ESC) 25:48**

Thanks everyone.

**End of transcription**