

Darren Edwards
Director
Energy Grid Alliance

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Essential Services Commission

Via email: Licences@esc.vic.gov.au

Subject: Formal Opposition to Transmission Company Victoria Pty Ltd (TCV) Electricity Transmission Licence Application

To Whom It May Concern,

I am writing on behalf of the Energy Grid Alliance (EGA) to formally oppose TCV's electricity transmission licence application, primarily due to concerns over transparency, technical capacity, and regulatory compliance. Granting this licence would not serve the best interests of the community or the energy market in Victoria. After careful examination of TCV's intentions and the relevant regulatory framework, I have identified several key concerns supporting my opposition:

1. Lack of Intent to Operate:

TCV's application claims it intends to hold the transmission licence to develop, own, and operate the VNI West transmission lines. However, it also indicates that the licence will ultimately be transferred to a third party (the New Owner) prior to the construction phase. This raises significant concerns regarding TCV's genuine intentions and its ability to fulfil the obligations of a licence holder. If TCV does not plan to engage in construction and operational activities until after this transfer, the fundamental purpose of the licence becomes questionable. I argue that TCV's true intent is not to transmit electricity but rather to secure statutory authority under Section 93 of the Electricity Act, thereby gaining access to the proposed easement for environmental studies necessary for project advancement. This approach not only suggests that TCV lacks a genuine intention to engage in transmission activities but also undermines the regulatory framework established to ensure accountability among licence holders. Such behaviour raises alarm bells about TCV's suitability as a licence holder and its commitment to the community and regulatory standards. This intent to transfer circumvents the accountability mechanisms that should ensure licence holders are capable and responsible.

2. Insufficient Technical Capacity:

While TCV claims to have the technical capacity to meet licence conditions, the absence of experience in building, owning, or operating transmission assets undermines this claim. This absence of relevant experience raises doubts about its capability to meet the technical requirements outlined by the Essential Services Commission (ESC). Additionally, TCV's lack of experience in generating, transmitting, supplying, or selling electricity further highlights its inadequacy as a licence holder.

3. **Precedent for Circumventing Regulatory Standards:**

Granting TCV a licence based on the intention to transfer it to a capable entity could set a dangerous precedent. It may allow any organization to apply for a licence under the guise of future transfer, merely to gain access to land using statutory powers. This undermines the integrity of the licensing process and poses risks to landholders and the community.

4. **Unclear Future Ownership Implications:**

The application states that TCV will become a Declared Transmission System Operator once the transmission line is operational, contingent upon obtaining a transmission licence. However, there is no guarantee that the New Owner will maintain TCV's corporate structure, raising concerns that the licence may be granted without any valid operational purpose. This could lead to a situation where TCV is dissolved, and its assets are absorbed by the New Owner, negating the rationale for granting the licence in the first place.

5. **Failure to Register with AEMO:**

TCV has not registered with the Australian Energy Market Operator (AEMO) as an Intending Participant - Network Service Provider, and it has no immediate plans to do so. This lack of registration further suggests that TCV does not genuinely intend to engage in the activities typically associated with holding a transmission licence.

6. **Clarity on the Transfer Process:**

The transfer of the licence to a New Owner raises significant risks to the community, particularly due to the lack of clarity surrounding this process. Key concerns include:

- **Transfer Timeline:** What is the expected timeline for the transfer, and how will transparency be ensured to avoid consumer confusion?
- **Selection Process:** How will the New Owner be selected, and will there be a competitive bidding process to guarantee accountability and protect landholder interests?
- **Regulatory Oversight:** Will the Essential Services Commission (ESC) oversee the transfer process to safeguard consumer interests and maintain public trust in the licensing system?
- **Performance Guarantees:** Will the New Owner be required to provide performance guarantees to ensure compliance with licence obligations, and how will these guarantees be enforced?

The ambiguity surrounding these critical elements can lead to uncertainty for both consumers and landholders, potentially jeopardizing their rights and undermining confidence in the regulatory framework.

7. **Potential Impact on Consumers:**

Granting a licence to TCV could have significant implications for consumers, including:

- **Increased Costs:** If the New Owner is not financially viable, consumers may face higher electricity prices.
- **Reduced Reliability:** Inexperience could lead to increased outages and disruptions.

- **Compromised Quality of Service:** Failure to meet regulatory standards could result in lower service quality.

8. **Regulatory Compliance and Public Interest:**

The Essential Services Commission (ESC) has a fundamental responsibility to ensure that all licence holders operate safely, reliably, and efficiently within the regulatory framework, with a primary mandate to protect consumer interests. However, TCV's current structure, lack of experience, and absence of immediate operational plans raise serious concerns. TCV's actions suggest that it does not prioritise these interests, which undermines the integrity of the regulatory framework. Therefore, I urge the ESC to reconsider the implications of granting a licence to an entity that fails to meet the essential criteria for a transmission licence holder and does not demonstrate a commitment to safeguarding the interests of consumers and the community.

9. **Key Considerations:**

- **Upholding Strict Licensing Criteria:** The ESC must maintain stringent licensing standards to preserve the integrity of the regulatory framework governing the electricity market. Any leniency in these criteria could erode public confidence in both the market and its operators. Moreover, TCV has not demonstrated transparency in its operations, failing to provide sufficient evidence or clarity on how it plans to meet the Commission's objectives, particularly regarding consumer interests.
- **Demanding Concrete Evidence:** TCV must be held accountable for providing definitive evidence of its capacity to meet the obligations associated with holding a licence. Vague assurances regarding future intentions are insufficient and do not align with the expectations set forth in the Electricity Industry Act 2000. The speculative nature of TCV's claims about market efficiency and competition is particularly concerning, as they lack solid data or historical evidence to support their assertions.
- **Concerns About Long-term Sustainability:** TCV's application raises significant questions regarding its long-term viability as a licence holder. Given its current lack of resources and expertise, there are serious concerns about its ability to fulfil ongoing financial and operational obligations related to transmission infrastructure. The focus on financial viability, rather than concrete consumer benefits, contradicts the Commission's primary objective under the ESC Act, which prioritises the long-term interests of Victorian consumers.
- **Assessing Financial Capacity:** According to Section 19(2)(a) of the Electricity Industry Act 2000, applicants must demonstrate financial viability. TCV has failed to provide adequate evidence of its financial capacity to undertake the responsibilities of a transmission licence, particularly in light of the substantial costs associated with building and maintaining transmission infrastructure. Additionally, there are concerns about TCV's ability to maintain compliance with health, safety, and environmental regulations due to the lack of concrete details in their response.
- **Lack of Clarity in Governance:** The application lacks clarity regarding TCV's operational framework and accountability mechanisms. A transparent

governance structure is vital for any licence holder, and the uncertainties in TCV's proposed structure raise significant concerns about accountability for operational decisions and outcomes.

- **Importance of Community Engagement:** Effective community engagement is essential for the success of transmission projects. TCV's community engagement to date has been wholly inadequate, as they have not adhered to the IAP2 Public Participation Spectrum. Their approach has often appeared dismissive of community concerns, reflecting a lack of respect for local stakeholders. This failure to establish meaningful relationships and adequately address local concerns raises serious doubts about TCV's ability to engage genuinely with landholders and Traditional Owners. Such shortcomings underscore that TCV is not fit to perform the duties required of it in this capacity.

These key considerations are vital for ensuring public trust in the regulatory process. The ESC's diligence in upholding rigorous standards is crucial not only for the integrity of the electricity market but also for fostering confidence among consumers and the communities affected by TCV's operations.

10. **VNI West Contingent on WRL:**

It is crucial to note that VNI West's functionality is contingent upon the successful completion of the Western Renewables Link (WRL), which is also a proposed project. TCV's application characterises VNI West as a "proposed" project, implying it is independent and ready to advance. However, the WRL is still undergoing the Environmental Effects Statement (EES) process and is far from obtaining the necessary approvals for construction. Given that the WRL must be completed before VNI West can become operational, this raises significant questions about the viability of VNI West. Without the WRL, the purported benefits of VNI West would not be achievable, raising significant doubts about the project's feasibility, undermining the project's rationale. Furthermore, TCV's characterisation of the WRL as a project currently progressing through the approvals process is misleading, as it has not yet secured the required environmental approvals. Therefore, the Commission should critically evaluate the interdependence of these projects and the associated risks when considering TCV's application. Proceeding with VNI West without certainty regarding the completion of WRL could lead to significant implications for consumers and the broader energy market.

Key Questions for Consideration

In addition to the concerns outlined above, I have several key questions regarding Transmission Company Victoria Pty Ltd's (TCV's) application for an electricity transmission licence. These questions reflect crucial uncertainties and potential risks that require clarification to ensure the decision to grant or deny the licence is made in the best interests of the community and the energy market.

1. **Intent and Transparency in the Licence Transfer Process**

- What assurances can the ESC provide to ensure the transfer of the transmission licence to a New Owner will be conducted transparently and in a way that protects the interests of landholders, consumers, and the community?

- Will the ESC oversee the transfer process to ensure that the New Owner is selected based on demonstrated capacity and financial viability, and not solely through a private transaction?

2. Technical and Operational Capacity of TCV

- How does TCV intend to ensure it has the technical expertise to fulfil its obligations during the period between licence issuance and transfer to the New Owner?
- Can TCV provide evidence of any track record in managing or constructing transmission assets, or is the ESC satisfied with a licence being issued to an entity with no prior experience in these critical areas?

3. Regulatory Compliance and Consumer Protection

- Given TCV's failure to register as an Intending Participant with the Australian Energy Market Operator (AEMO), how does the ESC plan to ensure that TCV is compliant with the broader regulatory requirements expected of a transmission licence holder?
- How will the ESC guarantee that consumers will not face increased costs or reduced service reliability if TCV's licence is granted and subsequently transferred to a New Owner?

4. Impact on Local Communities and Landholders

- What specific measures will be implemented to ensure that TCV, and any future New Owner, engages meaningfully with impacted landholders and local communities, particularly in regard to environmental and socio-economic impacts?
- How will the ESC ensure that TCV adheres to the IAP2 Public Participation Spectrum to promote authentic community engagement and mitigate community concerns?

5. Dependency on the Western Renewables Link (WRL)

- Given that the viability of VNI West is contingent on the successful completion of the Western Renewables Link (WRL), how will the ESC address the potential risks if the WRL does not proceed as expected?
- Can TCV provide a clear and realistic timeline for VNI West, considering the unresolved status of WRL approvals, or does the ESC intend to evaluate VNI West's feasibility independently of WRL's progress?

6. Long-term Financial and Operational Viability

- How does the ESC plan to assess the financial viability of TCV and the New Owner, particularly given the significant costs associated with building, maintaining, and operating transmission infrastructure?

- Will performance guarantees or financial assurances be required from TCV or the New Owner to ensure ongoing compliance with safety, reliability, and environmental standards?

By posing these questions, I hope the ESC will consider the long-term impact of granting this licence and the associated risks to landholders, communities, and the electricity market. Addressing these issues is crucial for ensuring that the regulatory framework is upheld, public trust is maintained, and the best interests of all stakeholders are protected.

Considering these questions and concerns, I respectfully urge the Essential Services Commission (ESC) to protect the interests of Victorian consumers and uphold the integrity of the licensing framework by rejecting the application for an electricity transmission licence submitted by Transmission Company Victoria Pty Ltd (TCV).


Granting this licence would not only jeopardise the integrity of the licensing process but also pose significant risks to landholders and the wider community. It would set a troubling precedent that undermines the regulatory framework designed to protect public interests and ensure a safe, reliable electricity supply.

I trust that the ESC will consider these points carefully and act in the best interests of the community and the electricity market.

Thank you for your attention to this matter.

Sincerely,

Darren Edwards
Director
Energy Grid Alliance



www.energygridalliance.com.au