

19 January 2018

Andrew Hume
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Ministry of Business, Innovation & Employment
By email: energymarkets@mbie.govt.nz

Dear Andrew

Submission on the Electricity Pricing Review proposed terms of reference

1. Thank you for the opportunity to provide feedback on the proposed terms of reference (ToR) for the Government's Electricity Pricing Review. The Commerce Commission welcomes the review, and we are happy to assist in any way we can to help contribute to better long-term outcomes for electricity consumers. Our comments below focus on the review's problem definition, outcomes, and scope.

The review's problem definition and desired outcomes

2. It might be helpful if the concerns or identified problems motivating the review are provided as an introduction to the ToR. Alternatively, if it is intended that a key part of the review is to identify and define the problems to be addressed, that could be made more explicit.
3. The review is focussed on whether electricity prices are 'fair and equitable'. Both 'fair' and 'equitable' mean different things to different people. To allow all stakeholders to best contribute to the review, it would be helpful to indicate what success for the review might look like.
4. We note that, for the transmission and distribution parts of the electricity sector, the Commission's role is to promote the long-term benefit of consumers, essentially by promoting competitive outcomes in those parts of the sector without competition. Our role includes ensuring regulated lines businesses have incentives to improve efficiency, and to provide electricity lines services at a quality that reflects consumer demands. However, we do not have a wider 'fairness and equity' mandate.

Scope of the review

5. We appreciate that electricity pricing and affordability are important. To ensure that the best long-term outcome for consumers occurs, we think that the question of pricing needs to be reviewed against an appropriately broad context.
6. Electricity is widely acknowledged as an essential service. Critical infrastructure delivering essential services has to be paid for. Questions about the affordability of electricity prices need to be balanced against security of supply and environmental sustainability objectives. With this in mind:
 - 6.1 Current service quality (eg, security, reliability and resilience) tends to default to historical quality levels. It is not clear that when faced with a range of

trade-offs, this is actually the reliability consumers want, or the resilience the New Zealand economy requires, over the long term.

- 6.2 A snapshot review of historic and current pricing now may be of less value to consumers than considering future pricing and the evolution of the electricity system in the context of aging infrastructure, emerging technology (including implications for the boundary between monopoly and competitive activities), and climate change and decarbonisation (including the need for electricity infrastructure to respond to increasing electrification of the transport fleet).
7. We note the intention for the input methodologies (IMs) set under Part 4 of the Commerce Act to be out of scope. We agree there has already been robust testing of the key IMs (eg, asset valuation and cost of capital) by stakeholders and the courts, and the Act provides for regular reviews with ongoing appeal rights. Excluding these matters from the review will contribute to regulatory certainty, leading to an improved climate for infrastructure investment—a key objective when the current Part 4 was introduced.¹
8. There has been discussion within the industry for some time, and international commentary,² as to whether there are material efficiency gains to be made from changes to the structure and governance of the distribution sector. It is unclear to us whether this question is within the scope of the review, but it does seem relevant in the context of a review about the level of electricity prices (and service quality).
9. For the competitive parts of the sector, it is unclear whether the review is intending to consider all aspects of competition in the retail market. If that is the intention, it would be helpful to explicitly address the extent to which there is competition on price and non-price factors in the retail market, and supplier behaviour in relation to prices: for example, whether there are any issues relating to price transparency, tacit co-ordination between retailers, price discrimination by retailers, and whether there is evidence of competitive pressure on prices.
10. Finally, we look forward to assisting however would be most useful with the review. In particular, we have a large amount of financial and non-financial performance data and indicators for the electricity transmission and distribution businesses likely to be relevant to a number of issues to be considered by the review.

Yours sincerely



Rob Bernau
Head of Energy, Airports and Dairy Regulation

¹ Commerce Amendment Bill 2008 No 201-1, pp 3-5, 15 and 25.

² International Energy Agency “Energy Policies of IEA Countries, New Zealand 2017 Review”, pp 127-163.