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TRUSTPOWER SUBMISSION: DRAFT TERMS OF REFERENCE FOR ELECTRICITY PRICING REVIEW

1 Introduction

- 1.1.1 Trustpower Limited (**Trustpower**) welcomes and supports the government's Electricity Pricing Review (**the Review**).
- 1.1.2 We are confident the underlying structure of the market is sound, and that the market is performing well. However, there are positive changes that can be made in some areas. We believe that the Review provides the opportunity to confirm the areas that are performing well, and to develop and implement incremental change to industry governance and regulation that will serve the long-term interests of electricity consumers.
- 1.1.3 At this point in time we appreciate the Ministry for Business, Innovation and Employment (**MBIE**) providing stakeholders with the opportunity to comment on the draft Terms of Reference (**ToR**) for the Review. We agree broadly with the ToR, and have restricted our comments to a few areas only. These are covered in the remainder of this letter.

2 Review timeframes

- 2.1.1 We question whether the period from 1999-2017 is an appropriate timeframe for all elements of the Review. For example, the market and regulatory structure across both generation and retail is significantly different now compared with any time in the past 20 years, and indeed the current regulatory structure has only been in place since 2010 – the conclusion of the last major review of the sector. This suggests to us that 2010 might be a reasonable starting point for reviewing industry governance.
- 2.1.2 However, it may be necessary to examine the input costs and prices of supply earlier than 1999 in order to gain a complete understanding of the long-term trends and influencing factors – particularly in relation to the allocation of costs across various customer groupings such as commercial, industrial and residential customers. Given that retailers bundle a multitude of services to their consumers (e.g. energy, distribution, transmission, metering, billing, etc.), analysis of these input costs will be particularly critical.

2.2 Future focus

- 2.2.1 In general, however, we believe the Review should ensure it is focussed on the future and how industry governance and regulation should evolve to meet future needs – of course taking into account what we have learned in the past. There is a risk that too great a focus on historic data and regulatory decisions will cause the Review to focus on issues that have either been resolved already in the recent past, or are unlikely to prevail, and risk missing the chance to set the industry up to deliver optimal outcomes for consumers going forward.

3 Cohesion between the Electricity Authority and Commerce Commission

- 3.1.1 We welcome the Review exploring whether the current governance of the electricity industry is appropriate, and in particular the boundaries between the Electricity Authority and Commerce Commission’s responsibilities, the strengths and weaknesses of their respective regulatory processes and the nature of the accountability frameworks under which they operate.
- 3.1.2 The blurred nature of these boundaries is causing increased frustration within the industry, including on issues relating to the impacts of emerging technology and the pricing of regulated services. By way of example, boundary issues have been raised repeatedly by submitters during the Electricity Authority’s review of the Transmission Pricing Methodology (TPM). The Commerce Commission has responsibility for regulating both Transpower’s allowable revenue and its investment, and parties consider that the Authority has attempted to introduce TPM guidelines which effectively second guess decision-making by the Commission in both areas.
- 3.1.3 Similarly, we expect the review to examine the overall accountability frameworks under which the Authority and Commission operate, and how their regulatory decision-making delivers investor certainty, legal certainty and appropriate transition mechanisms in cases of significant change.

3.2 Inclusion of TPM

- 3.2.1 We expressly support the review examining the regional distributional aspects of transmission pricing.
- 3.2.2 However, we do not think that the Review need reopen historic transmission network upgrade decisions made by the Commerce Commission or the Electricity Commission. While these have clearly resulted in increases in retail prices (and we fully expect the recent network upgrades will be recorded as a significant source of price increases), reopening the actual decisions would not be helpful.

4 Appropriate interface with other objectives and agencies

- 4.1.1 The ToR have a strong focus on electricity pricing and affordability, but are silent on the other two legs of the commonly-referred to “energy trilemma”: reliability/security and environmental sustainability. We expect that the Review will establish that both the other two legs have improved dramatically over the period from 1999, something which, in general, does not occur without an increase in cost.
- 4.1.2 It is also unclear to us how the Review will consider the context of the current development of targets for 100% renewable electricity by 2035, and net zero emissions by 2050. The imposition of any form of target or constraint can only increase costs above where they would have been otherwise. Renewables are relatively cheap to operate but expensive to develop (i.e. they have low *operating* costs but high *capital* costs), and the investment costs required to meet these targets will have to be recovered somehow. While we support an increased role for

renewables, the extra investment required will place upward pressure on electricity prices (assuming the increased investment costs will be recovered via the electricity market).

- 4.1.3 Further, we expect the Review to consider interfaces between the electricity sector, its governance, and the new Climate Change Commission and Ministry for the Environment (including the Resource Management Act). We have given this area considerable thought, including recently commissioning an independent report¹ on the “joined-up thinking” required to achieve multiple policy objectives across energy, water and climate change.
- 4.1.4 Similarly, energy vulnerability among consumers is driven by a trilemma of energy prices, energy requirements and income levels. Alongside exploration of whether electricity prices are fair and equitable, we expect the Review to propose measures to mitigate the other two limbs that drive energy vulnerability. This will require examination of the role that building standards have to play in energy requirements, and interface with Housing New Zealand and the Ministry of Social Development.

4.2 Fairness

- 4.2.1 We expect the Review to consider the legal risks around having fairness as an explicit objective versus ensuring that we have regulatory decision-making processes more likely to give fair outcomes to all stakeholders. This may include, for example, having sufficient consumer (and also industry) involvement in decision-making.

5 Industry data to support the Review

- 5.1.1 We will cooperate fully with the Review Panel (**the Panel**), and are willing to contribute data to support the Review as required.
- 5.1.2 However, we suggest strongly that the Panel works with the industry to ensure that it uses only that data that is appropriate for undertaking any calculations of returns and other metrics.
- 5.1.3 For example, as a multi-product and multi-national market participant, Trustpower’s overall profitability and growth has been influenced heavily by its earnings from Australian electricity generation and New Zealand telecommunications and gas retailing, alongside electricity generation and retailing. We sell bundles of products to our consumers.
- 5.1.4 Many other industry participants similarly trade in multiple markets outside of New Zealand electricity. We would therefore caution against using publically-available headline data of earnings and capital employed as the basis for any calculations, as this will not give the Panel an accurate picture.
- 5.1.5 We trust that comprehensive arrangements will be put in place to protect the confidentiality of any data we provide.

5.2 Sequencing

- 5.2.1 We expect the panel to undertake its analysis of sector profitability first, before it looks deeper into how prices have changed and what has driven these changes. In our view, it will be important for the Panel to establish whether any excessive profits are being made **before** it looks to develop solutions to potential affordability issues.

¹ The report by Sapere is available online at: <https://www.productivity.govt.nz/view/submissions/3254>

6 Vertical integration

- 6.1.1 As set out in the ToR, the Panel will be interested in exploring the impacts of vertical integration across the electricity supply chain, as we and many other participants are.
- 6.1.2 Emerging technologies, and the emergence of prosumers, are changing the supply chain and raising questions about traditional (regulated) definitions of the competitive and non-competitive parts of the sector. This has impacts across the supply chain, including **forward** of the retailer (“behind the meter”).

7 Inclusion of gas pricing in the Review

- 7.1.1 We note that many of the same areas highlighted in the ToR for the electricity market – including pricing, governance, market structure and market performance, have also been the subject of concern in the gas industry. Given especially that energy vulnerability and overall affordability is impacted by gas pricing too, the scope of the Review should therefore be expanded to include the gas industry and its governance.

8 Cross-overs with existing, ongoing regulatory workstreams

- 8.1.1 Finally, we note that the ToR cover several areas in which there is ongoing regulatory work. Front of mind for us of these is the Authority’s review of the TPM.
- 8.1.2 In order to reduce any risk of overlap, or the need for decisions to be re-made by regulators following the conclusion of the Review, we suggest that the Government collaborates with the independent regulators to limit their ongoing work in areas that are covered by the ToR.
- 8.1.3 Engaging with the Review in a meaningful way will require considerable focus and input from the sector stakeholders, and we suggest that the timing of formal engagement periods are also coordinated between the Panel and the various regulatory agencies. This coordination has been lacking in past years, which has led to challenging engagement issues for a number of sector participants on some critical projects.

Regards,



ANNABEL DAVIES
RISK, REGULATORY AND STAKEHOLDER MANAGER