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To: [Energy Markets](#)
Subject: Electricity Price Review submission
Date: Thursday, 21 March 2019 9:20:33 p.m.

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Region

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Category

Individuals, Researchers and Academics

Do you accept these terms & conditions?

Yes

A1. Establish a consumer advisory council

Introduction to this submission

Thank you for the opportunity to make a submission on the options paper and for the panel's work on the first report and options paper.

I have been actively involved as a legal adviser in electricity and downstream gas industry since the 1990s. The views in this submission are personal views provided as a long-term observer of the industry. They do not represent the views of clients and are not legal advice.

The electricity industry is necessarily complex, and the panel is to be congratulated for distilling the wide range of views received into the favoured options for promoting practical incremental improvements to the industry.

I support the panel's view that the industry settings do not need radical reform. I note the position reached by the panel that the wholesale market price setting mechanism of long run marginal cost is appropriate and that the distribution company's asset valuations are in accord with Commerce Commission's review processes. As an aside, I see the recent UTS decision being a suitable endorsement of the market functioning - while at the same time highlighting the multitude of issues that can bear on the supply and demand curve in setting the clearing price (being an industry participant is not for the faint hearted!).

On this basis, I support most of the favoured options recommended by the panel. Many of the options are interconnected and will impact on other aspects of the industry and Government policy - so a measured approach is warranted.

This submission highlights the key options favoured by the panel I agree with, any variations, and the reasons for this.

(please note I agree with the panel's conclusion on each option it has not favoured, for the reasons given by the panel - and have not separately commented on these).

Options A1, A2 and F4

On balance, I favour the Electricity Authority being given a consumer protection function as the most practical and cost-effective method of giving consumers a voice. A specifically targeted and representative working group within the EA can provide input on key aspects of the industry impacting consumers, and the EA would be required to take that input into account in its policy and industry-related reviews.

A2. Ensure regulators listen to consumers

see comment under A`1

B1. Establish a cross-sector energy hardship group

B1 to B5

I agree with the sensible approach advocated by the panel that the first thing needed is an agreed definition of what constitutes energy poverty (otherwise it is an amorphous concept) and a stocktake of current initiatives to determine what is working.

Ultimately, direct tailored financial assistance to those within the defined group may be the right policy tool for the Government to consider (I do not favour industry subsidies which will distort the functioning of the market).

All initiatives which foster energy efficiency and further knowledge of efficient energy usage should be encouraged.

The issue of energy poverty is going to become ever more important as New Zealand transitions to a net zero emissions economy. There is likely an inverse relationship between the conversion of the fleet to EVs and the uptake of new technologies such as solar and batteries and the ability of those in energy poverty to afford these new technologies (with the affordability issue being exacerbated by the true cost of carbon being reflected in future fuel prices). This will require energy poverty (as it is appropriately defined) to be considered in Government policy settings as part of the transition

B2. Define energy hardship

see B1

B3. Establish a network of community-level support services to help consumers in energy hardship

see B1

B4. Set up a fund to help households in energy hardship become more energy efficient

see B1

B5. Offer extra financial support for households in energy hardship

see B1

B6. Set mandatory minimum standards to protect vulnerable and medically

dependent consumers

B7. Prohibit prompt payment discounts but allow reasonable late payment fees

I support requiring prompt payment discounts to be restructured to reflect the reasonable cost to the retailer of not collecting payment on usual number-of-days terms.

B8. Seek bulk deals for social housing and/or Work and Income clients

C1. Make it easier for consumers to shop around

C2. Include information on power bills to help consumers switch retailer or resolve billing disputes

C3. Make it easier to access electricity usage data

Requiring stream lined access to usage data makes sense especially as new technologies become increasingly available to consumers.

(It is interesting to try and square this requirement with the observation in C6 that between 400,000 to 750,000 consumers have never switched from their original incumbent retailer).

C4. Make distributors offer retailers standard terms for network access

Industry standard access terms make complete sense.

C5. Prohibit win-backs

I agree the pendulum may have swung too far on win backs – they do appear to be a major disincentive on retailers' ability to sign up a new customer from the incumbent. I can also see that completely removing the ability of the incumbent to retain their existing customer may go too far. I question if the right approach might be to require the new retailer to say to a prospective customer that they have the ability to compare currently available terms in the market (including from their current retailer) from the switch websites to make sure the new offer is the best available – and allow the customer a reasonable period of time to do this before signing up to the new retailer unless the customer is happy to waive this. This is intended to allow the (incoming) retailer the ability to offer the prospective customer attractive terms while incentivising the incumbent retailer to make sure their terms reflect current market offerings.

C6. Help non-switching consumers find better deals

I am hesitant about the option of the EA effectively running an RFP process for non-switched customers as I think this has the potential to muddy its regulatory role. It would also require the retailers participating in the RFP to have the balance sheet prudential and hedge capacity to take on a potentially significant number of new customers. A softer approach may be to fund a national advertising/ social media campaign on the deals available to customers via the current switch websites.

C7. Introduce retail price caps

D1. Toughen rules on disclosing wholesale market information

D2. Introduce mandatory market-making obligations

I agree that further consideration needs to be given to a compulsory hedge market with identified stress outs. I favour further research on the benefits and costs of requiring a generator/retailer with say more than 50MWs having to place 5 to 10% of the additional load on to the hedge market (bilateral or ASX) within the 5% spread to promote further liquidity of the hedge market. I agree there needs to be identified circumstances where the generator can be relieved by the EA from this requirement including the ability of the generator to have a more general out if it can convince the EA that compliance with compulsory market making rules will

result in material cost to the generator.

D3. Make generator-retailers release information about the profitability of their retailing activities

I also see merit in the generator retailers having to formalise information barriers and segment reporting against their (separate) generation, retail and hedge businesses.

D4. Monitor contract prices and generation costs more closely

D5. Prohibit vertically integrated companies

E1. Issue a government policy statement on transmission pricing

E2. Issue a government policy statement on distribution pricing

I support the development of a GPS on distribution companies pricing principles. As identified by the panel it will be good for relevant expert stakeholders to say what those principles should be. My (non-expert) view is that the principles should include the aim of promoting variable price signals to allow consumers more control over time of use.

E3. Regulate distribution cost allocation principles

E4. Limit price shocks from distribution price increases

E5. Phase out low fixed charge tariff regulations

I support the phasing out of the low fixed charge tariff for the reasons set out by the panel.

E6. Ensure access to smart meter data on reasonable terms

E7. Strengthen the Commerce Commission's powers to regulate distributors' performance

I see merit in the panel's option of requiring all distribution companies to have a legally mandated fit for purpose asset quality requirement. The key reason for this is to assist distribution companies be in the best position they can be to withstand more regular extreme weather events as a result of global warming and to ensure best practice governance.

There is a case for further consideration of whether all trust owned entities should be subject to Part IV price quality regulation as part of bringing in a fit for purpose asset requirement (it would require expert review, but I suspect that it would be difficult to impose a uniform fit for purpose asset quality requirement without Part IV also applying. Part IV applying to all distribution companies may also provide incentive for the smaller distribution companies to amalgamate given the additional compliance costs involved).

In any event I see merit in considering if Part IV should apply to existing trust owned entities if they provide consumer services – such as metering, distributed generation or retail.

E8. Require smaller distributors to amalgamate

In concept, I support the amalgamation of distribution companies into larger regional companies. I see benefit in the smaller distribution companies combining to have strong balance sheets to make them more able to withstand the effects of climate change (more frequent and aggressive storms), to allow necessary investment in making sure the asset base is fit for purpose to meet the challenges of climate change, to allow investment in smart meter technology and grid scale batteries to support/ defer/ avoid network upgrades and to better support distributed generation on their network. Larger regional distribution companies would make it easier to adopt a uniform pricing approach and standard use of system access rights

and simplify the industry. It should be possible for ownership structures can be developed which enable existing trust owners to continue to use dividends for the benefit of their local communities.

I note the panel's view that this should not be mandated by law as this would upset existing property rights. Perhaps a half-way house could be to consider mandating a meaningful consultation with local beneficiaries within say the next three years to ensure a review of the status quo and other ownership options can be fully canvassed.

E9. Lower Transpower and distributors' asset values and rates of return

See comment in introduction.

F1. Give the Electricity Authority clearer, more flexible powers to regulate network access for distributed energy services

The current restrictions in the Electricity Industry Act on participants cross involvement in either distribution or generation/retail are largely a hangover from the mid-90s Bradford reforms, which have been (rightly) watered down over the years. In my view, the current rules are worthy of review some 30 years on to make sure they remain fit for purpose.

For New Zealand to transition to a net zero emissions economy over the next 20 years or so will require a profound change to the electricity industry to support the electrification of the fleet and industrial heating/cleaning and significant investment in scale renewables, new technologies and grid assets. I think there is benefit in reviewing the regulatory settings so that they allow allowing any person to invest in and provide new technologies to consumers to better assist the transition and to ensure a level playing field.

As a result, I favour a fresh approach to the Electricity Industry Act cross involvement rules being taken. I think it worth considering not having the current restrictions but rather allowing a distribution company to participate in any segment of the industry so long as:

(a) the monopoly part of its business is regulated under Part IV and there is separate management/arm's length rules and segment reporting of (each of) its distribution, generation and/or hedge components of its business from its consumer services business (for these purposes I see electricity consumer services being anything that is a contestable service to mass market, commercial or industrial consumers – such as retail, meters, distributed generation); and

(b) it first obtains EA approval to undertake the additional activity.

The EA's approval would be measured against a developed set of guiding principles – which would include:

(a) what is in the best interests of consumers to enable them to best take advantage of new technologies as these become available/economic;

(b) the encouragement of investment in these new technologies for the benefit of consumers; and

(c) (as noted by the panel) the promotion of competition, reliability and efficient operation of the market.

In addition, the distribution entity would need to satisfy the EA it will meet minimum compliance standards such as:

- (a) Access to data to those wishing to access the network on reasonable terms;
- (b) Separate management of the distribution component of the business and satisfaction that it complies with other applicable aspects of the arms-length rules; and
- (c) Part IV regulation (to be satisfied that there is no potential cross subsidisation).

The EA approval process would resemble the current exemption application process.

I acknowledge that this is a different approach than that favoured by the panel of leaving the Electricity Industry Act cross involvement rules as they are but allowing the EA to rule against distribution entities undertaking certain types of activities as the future unfolds. I raise for consideration if the alternative approach outlined above would give more certainty to market participants – both for distribution entities who wish to get involved in other aspects of the industry and for other participants knowing that the distribution entity had been through an EA approval process.

The key difference will be to allow distribution companies to invest in scale generation and acquire retail customers on their network.

F2. Transfer the Electricity Authority’s transmission and distribution-related regulatory functions to the Commerce Commission

F3. Give regulators environmental and fairness goals

F4. Allow Electricity Authority decisions to be appealed on their merits

F5. Update the Electricity Authority’s compliance framework and strengthen its information-gathering powers

F6. Establish an electricity and gas regulator

G1. Set up a fund to encourage more innovation

G2. Examine security and resilience of electricity supply

I support the panel’s favoured option of the EA undertaking a thorough review of the security, reliability and resilience of electricity supply to meet the challenges and opportunities in the decades ahead via the Security and Reliability Council

I appreciate that this is somewhat of an obvious statement, but it will be important for the industry to keep security of supply at the forefront of its engagement on net zero emissions policy development (I suspect it is very easy for the “in normal hydrological years” component of any agreed renewables target to be glossed over in the popular debate on climate change policy – and it is incumbent on the industry to continually remind New Zealand policy makers of this – including the likely need for gas peakers in dry years).

G3. Encourage more co-ordination among agencies

The electricity industry is uniquely placed, and has unique challenges, to assist New Zealand reach net zero emissions by 2050. I agree strongly with the panel’s view that all relevant Government agencies, industry bodies and key stakeholders need to be joined up in their thinking on this issue and an overall “energy” (as opposed to electricity alone) focus be brought to bear.

This issue needs to be kept under review pending further details on the Zero Carbon Bill and the Climate Change Commission emerging and how the industry best provides input into the CCC as it develops its policy response to climate change.

G4. Improve the energy efficiency of new and existing buildings