

To Keston Rushton, Commerce Commission: Manager Input Methodology Review:

Submissions on this important Review appear to have been solidly in line with the submitters' private interests, as is appropriate in New Zealand's more-market commercial world. Any concept of public interest is ill-defined, or at best, fragmented.

The submission most relevant to my own concerns is that of the Smart Grid Forum:

At this point there is no clear problem that would justify changing the existing regulatory governance structure. Indeed, in the domain of fast-changing technology a market-led approach, relying on market participants and customers to choose if and when to invest is likely to be the most dynamically efficient.

I disagree, because the phrase "market-led approach" presupposes the present electricity market. Its rules dictate the choices available to customers, market participants and market competitors. Other submissions discuss barriers to small-scale (distributed) energy resources, and problems with an outdated regulatory system:

- a) SEANZ also considers that potential for market failure exists or is already present under the current electricity market structure, where prosumers are required through regulation to sell electricity surplus to their competitor (the electricity retailer). The price is dictated by the retailer, who has no incentive to differentiate the higher locational value of the energy purchased from the nominal bulk wholesale price at the front end of the transmission system. The transmission system is not used yet the pricing implies that it is.
- b) solarcity: Electricity policy settings generally are not technology neutral. The settings reflect the status quo and imaginable technologies. For example, in PJM Interconnection the rules around reserve products were recently changed to reflect the characteristics of batteries and the advantages these characteristics offered to the grid in terms of frequency keeping.
- c) Vector: The Part 4 regulatory framework needs to adapt to ensure market conditions do not result in misalignment between regulated suppliers' risks and incentives. In particular, the opportunity for regulated suppliers to earn a commercially appropriate return on investment in the emerging market environment is a challenge the IM Review will need to address.

The IM review cannot align suppliers' risks and incentives without addressing pricing frameworks. But distribution and transmission pricing principles are set by the Electricity Authority not the Commerce Commission.

A concern I raised in my submission was: how are small consumers and small-scale energy service providers to be represented in the decision-making processes of the Commerce Commission, the Electricity Authority, and other agencies that influence energy investments and operation – including (importantly) the Smart Grid Forum?

A week ago I emailed their chair, John Hancock: "You are aware of my interest in regulatory and policy issues that seem to suppress consumer-driven investment to reduce power bills. I'm surprised the SGF seems to have no end-consumer representative. Have you looked at my submission on IMs?"

He replied, "The SGF has reps from Consumer NZ, Countdown (for MEUG), Business NZ and all the regulators so there's quite a loud consumer voice."

I disagree. The Minister has always "used" Consumer NZ as a consumer voice that they were comfortable with – a muted consumer voice. David Russell was the spokesperson for Consumer Coalition 93<sup>1</sup> for many years, and was appointed to the Ministerial Task Force. The Electricity Authority funds Consumer NZ's Powerswitch. This in my view is a conflict of interest that prevents Consumer NZ from openly criticising electricity decisions at the governance level. And the regulators are far closer to the companies they regulate than to the consumers whose long-term benefit the whole exercise is meant to assure.

Governance of today's electricity sector is strongly influenced by the Commerce Commission's Determination No. 473 in September 2002<sup>2</sup>, which defined the electricity market as being limited to electricity suppliers, consumers, and businesses which are contracted by the providers to supply ancillary or data management services.

The Determination commented on (sect 210) the Sustainable Energy Forum's submission -

210... the Sustainable Energy Forum ("the SEF") suggested that "at the retail level electricity is eminently substitutable by many other resources, which we term 'distributed resources'". It [SEF] considers that a relevant market for this determination is the market for energy services at the retail level.

The Commission's decision rejected SEF's suggestion, but qualified the rejection as follows:

212 Nevertheless there can be special features in individual markets, such as the impact of distributed resources on the retail market, which may need to be recognised when considering the impact of the Arrangement. The Commission is confident that it has been able to do this within the market definition framework it has adopted.

213 The markets adopted in this instance are considered appropriate for the analysis of the particular Application before the Commission. They are not necessarily the markets which the Commission will use in all cases involving the electricity sector. As indicated above, the Commission will continue to define markets in a way which provides the clearest picture of the relevant competitive process for each case in the light of commercial reality and the purposes of the law.

Although "the Arrangement" – namely, self-regulation by industry and consumers – was soon superseded by formation of the Electricity Commission, the definition of the electricity market has been firmly embedded in regulation to this date.

The time has surely come to revise the Input Methodologies – and indeed the EA's interpretation of its statutory objective - to redefine electricity markets to include energy services that compete with electricity supply, and to coordinate decisions on network pricing principles.

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<sup>1</sup> CC93 was a story in itself – Power for Our Future was one of the original six organisations in the lobby group, but was dismissed following my insistence that sustainability be a consideration in its lobbying.

<sup>2</sup> [www.comcom.govt.nz/dmsdocument/10472](http://www.comcom.govt.nz/dmsdocument/10472)