

12 February 2021

Commerce Commission

**COMMERCE COMMISSION: LEVY CONSULTATIONS 2020-2021**

Network Waitaki welcomes the opportunity to provide comments on the proposed funding as stipulated in the levy consultation paper.

Chapter 1: Introduction	
Question 1	<p><b>Do you have any feedback on the purpose and objectives of this consultation paper?</b></p> <p>The purpose and objectives are clear and we understand and support the need for regulatory oversight.</p> <p>We are fully supportive of the Commission having sufficient resources to deal with regulatory issues, challenges and questions in an efficient and effective manner to achieve outcomes that will benefit electricity customers, industry and New Zealand.</p> <p>Our concern relates to the risk of potential regulatory overreach with this significant increase of 61% of required revenue (up from \$5.6 million to \$9 million per year) and whether this equates to an equal increase in work. For example, par. 101 refers to the desire of the Commission to “develop a deeper understanding of regulated businesses and how they operate”. In our view this creates a risk of the Commission getting involved in the operational side of businesses rather than focussing on the strategic objectives, outcomes and performance of regulated businesses. In this vein we have some comments regarding some of the specific points raised in paragraph 18 regarding “bridging the gaps in sector performance”:</p> <p>18.1 Reference is made to “increasing the level of effort and attention we commit to performance monitoring and reporting” in order to “bring to light weaknesses in asset stewardship...”. As a regulated Electricity Distribution Business (EDB) good asset management is possibly THE biggest focus area. In cases where it is not done well the relevant regulated entities need to be held accountable through enforcement actions and fines, without requiring the Commerce Commission to increase its monitoring efforts across all industry players at great cost and effort. We do not see this as a widespread challenge across a lot of industry players.</p> <p>18.2 Price-Quality and Information Disclosures are in place and we do not see any major gaps.</p> <p>18.3 We agree that there is a need for a proactive approach from the Commission to support and educate regulated EDBs to ensure the</p>

	<p>Rules are correctly understood and complied with. We have found it challenging in the past to find an opportunity to improve knowledge and understanding regarding the various rules and regulations. We would thus welcome engagement and outreach by the Commission and the provision of courses and seminars to improve knowledge regarding the regulatory rules and regulations.</p> <p>18.5 Review of rules is important but is usually part of the regulatory mandate and should not require additional funding.</p>
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**Chapter 2: The changing energy landscape**

Question 2	<p><b>Please provide feedback on whether you agree with how we have characterised the operating context of our work – in terms of a regulatory regime with increased expectations – in relation to our regulation of electricity and gas networks.</b></p> <p>We understand that we live in an ever-changing environment and that the Commission needs to be adaptable to respond to expectations from various stakeholders. However, this operating context with numerous expectations has always existed and the light-handed approach from the Commission towards regulation has been an example of a good regulatory approach.</p> <p>We are concerned that once such a large increase as proposed is accepted, nothing will prevent the “operating context” being expanded again and again.</p> <p>We note the list of areas in which the Commission face increasing expectations, but it appears that the consumer engagement gap is the most obvious one which we question as to the depth of engagement that is required as there is a big focus on consumer engagement from all regulators and regulated businesses alike.</p> <p>The growth in the Commission as an organisation and increased cost in corporate services and business management is understandable but concerning although we note that the overall indirect cost is still lower than for a stand-alone regulator.</p> <p>In our view the Commission is doing a good job of most other regulatory areas. For example, the performance summaries and Performance Accessibility Tool (PAT) provide a good snapshot of EDBs and their performance providing the Commission with enough information to identify and drill deeper into those businesses’ which performance give cause for concern.</p>
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Question 3	<p><b>Please provide feedback on whether you agree with how we have characterised the changing energy landscape in relation to electricity and gas networks. Are there other sector factors that you think are important?</b></p> <p>We agree with the characterisation of the landscape.</p>
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**Chapter 3: Increased expectations of the Commission**

Question 4	<p><b>Please provide feedback on whether you agree with how we have characterised the increased expectations on the Commission?</b></p>
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	<p>We note the increased expectations from other government departments and finds comfort in par. 72 that the Commission is conscious of the cost of poor regulation.</p> <p>Protection of consumers against monopoly owners of businesses is essential and this includes industry players across the value chain such as generators, retailers as well as the distribution and transmission sectors.</p> <p>As an exempt, consumer trust owned EDB we have different business drivers and incentives compared to investor owned EDBs and the level of regulation required (and therefore regulatory cost burden) should be lower than for non-exempt EDBs.</p>
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**Chapter 4: Delivering consumer outcomes in electricity and gas networks**

<p>Question 5</p>	<p><b>Please provide feedback on how we have characterised our approach to delivering consumer outcomes in electricity and gas networks and our focus on ‘bridging the gap’. Are there other outcomes you would expect to see with the additional funding we are seeking in the consultation document??</b></p> <p>All the outcomes are relevant, but it is not that clear that there are gaps as such, rather scope for improvement. Some comments on 3 of the outcomes:</p> <ul style="list-style-type: none"> <li>• Investment and quality – We agree that this is a critical outcome and a focus area for the Commission but we are not convinced that the majority of distributors do not have a sound understanding of the condition and criticality of their assets.</li> <li>• Innovation – We agree that EDBs must embrace new ideas to deliver benefits to consumers, but would recommend some caution be applied as all EDBs’ situations differ and although it is necessary to plan ahead pushing companies to adapt their business models for the sake of making changes may cost consumers more in the end.</li> <li>• Efficiency – We agree that striving for efficiency gains is essential. In our view the Default Price Path (DPP), Customised Price Paths and the various performance benchmarking tools have made a great contribution towards efficiency. It is not that obvious to us that there is that big a gap to bridge here from the Commission’s perspective.</li> </ul>
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**Chapter 5: Implied workplan and costing for our energy work**

<p>Question 6</p>	<p><b>Please provide feedback on the workplan for ‘bridging the gap’ outlined above in relation to electricity and gas networks. Are there other elements of the workplan that should be included??</b></p> <p>The workplan appears to be comprehensive.</p>
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**Chapter 6: Implied workplan and costing for the input methodologies (IM) review**

<p>Question 7</p>	<p><b>Please provide feedback on the workplan for ‘bridging the gap’ outlined above in relation to the IM review. Are there other elements of the workplan that should be included? Do you agree that the ‘bridging the gap’ scenario for the IM review is more appropriate than ‘bridging the gap+’?</b></p>
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	Agree.
<b>Chapter 7: Reasonableness checks</b>	
Question 8	<p><b>Please provide feedback on whether you think the additional funding we are seeking for our work in relation to electricity and gas networks is appropriate. If you think a different level of funding is warranted, please explain why?</b></p> <p>We do not agree that it is appropriate for the Commission to seek an increased level of funding at this point in time. EDBs, as the subject of this regulation, have been faced with downward cost pressures including a reduced WACC leading to lower revenue and returns, increasing compliance requirements across all aspects of their operations. It is also noted in recent a recent CPP decision, a belief by the Commission and their advisers that EDBs should be able to operate more efficiently with lower costs despite increasing requirements and expectations. It seems counter intuitive that the Commission should seek increased funding for increased operational requirements when its regulatory subjects are facing pressures to reduce operating costs while required to meet increased operational requirements.</p> <p>A 61% increase is significant and we question whether there is a case for re-prioritising to ensure areas that were not sufficiently covered is addressed.</p> <p>It is critical that any increase in funding be considered against the backdrop of the additional regulatory burden on businesses having a ripple effect as each business need to increase resources to ensure compliance to more regulatory requirements. At the end of the day the cost will be for the consumer.</p> <p><b>Recommendation:</b></p> <p>We recommend that an increase in funding be split equally among the following three sources:</p> <ul style="list-style-type: none"> <li>• Central Government (through fines- we assume the fines that are levied currently is utilised by Central Government). It is essential that the Commission becomes more transparent on how fines levied on regulated businesses are utilised for the funding of regulatory initiatives. This transparency is especially relevant for customers in areas of previous regulatory non-compliance.</li> <li>• Internal efficiencies in the Commission, including the efficient selection and procurement of external consulting services. There has to be confidence that the consultants used are providing value for money delivery and are not “riding the gravy train”.</li> <li>• Regulated entities. We recommend that a “<b>user-pay</b>” principle be considered and applied. In cases where the Commission identifies a regulated business that for example is not managing its assets properly and requires regulatory investigation and scrutiny that the business in question fund the Commission’s time and effort rather than applying an “all across the board” increase in funding from all Electricity Distributors.</li> </ul>

## Chapter 8: Other options we considered

Question 9

**Please provide feedback on whether you think one of the other funding options set out above is more appropriate than our preferred option of 'bridging the gap', and why?**

The "holding the line" option seems appropriate and will put efficiency pressure on the Commission, similar to regulated businesses.

For any questions or clarifications on this submission, please contact Cornel van Basten at [cornelb@networkwaitaki.co.nz](mailto:cornelb@networkwaitaki.co.nz)

Yours sincerely



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