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TRUSTPOWER SUBMISSION: COMMERCE COMMISSION 2021-2026 FUNDING REVIEW CONSULTATIONS FOR REGULATION OF TELECOMMUNICATIONS AND ENERGY SECTORS

1.1. Introduction

1.1.1 Trustpower Limited (**Trustpower**) welcomes the opportunity to provide a submission to the Commerce Commission (**the Commission**) on its:

a) Review of the funding for the regulation of Telecommunications and Fibre under the Telecommunications Act 2001 Discussion paper 10 December 2020 (**Telco Levy Paper**)

b) Review of the funding for the regulation of electricity and gas networks under Part 4 of the Commerce Act 1986 Discussion paper 10 December 2020 (**Energy Levy Paper**)

1.1.2 We understand that the main points put forward in the Telco Levy Paper are that the Commission requires additional funding because:

a) It has an expanded role in telecommunications;

b) Its funding has not been reviewed since 2012; and

c) It seeks to develop its consumer engagement processes.

1.1.3 Likewise, we understand the Commission's rationale for the proposed additional funding in the Energy Levy Paper are because:

a) Its funding has not been reviewed since 2013;

b) It seeks to develop its consumer engagement processes; and

c) It has a legislated review of the input methodologies upcoming.

1.2. Trustpower's Views

1.2.1 Trustpower considers that prudent regulation of monopoly utilities is crucial to ensuring fair outcomes for consumers and acknowledges this requires appropriate resourcing within the Commission. We have also previously suggested the Commission should consider how to best enable further consumer engagement in their regulatory processes, particularly in the telecommunications sector.

1.2.2 For these reasons we support the Commission's 'bridging the gap' proposals in both the Telco Levy Paper and the Energy Levy Paper and acknowledge that the recent expansions to the Commission's role, particularly within the telecommunications sector requires additional funding.

1.2.3 In particular, we support the Commission's:

a) emphasis on service quality disclosure requirements proposed in the Energy Levy Paper. The observation of service quality and reliability is an important component of regulation. We note the recent findings of the Commissions with respect to contraventions of quality standards by two electricity distribution businesses.[1] We support the Commission increasing its resourcing in this area to enable increased focus by the Commission on enforcing quality standards.

b) planned increase to performance testing, focus on retail service quality and improved use of sub-national data proposed in the Telco Levy Paper. As observed in the electricity sector, service quality can be overlooked and consequently, become an area of cost cutting by regulated parties. An increased emphasis in this area for both the telecommunications and energy sectors is a sensible choice.

c) increased funding for outreach and engagement. This accords with the findings of the Electricity Price Review around the need for regulators to engage more and better with consumers. We note it may be appropriate to consider whether the Consumer Advisory Panel that is currently being set up for the energy sector could in time also have its scope expanded to cover telecommunications.

d) proposed changes to amend the *Telecommunications Operator (Commerce Commission Costs) Levy Regulations 2019* to enable the continuation of fibre sub-levies for recovering the Commission's funding costs for fibre regulation going forward. We agree with the Commission that its reasonable to allocate these costs exclusively to the fibre network operators. We also note that continuing to separate these costs from other telecommunications regulatory costs helps to enhance the transparency of the costs of the new fibre regulatory regime.

1.2.4 The remainder of this submission provides our views on some additional matters for the Commission's consideration.

Enhanced monitoring of behaviour in the Gas Market

1.2.5 With the market dynamics in the natural gas sector anticipated to significantly shift over the next few years as natural gas supply begins to decline, we think the Commission should have a greater focus on deterring anti-competitive behaviour from arising in the upstream gas sector. Subsequently, we support the Commission increasing its monitoring and enforcement activities in the sector.[2]

1.2.6 We note that this issue was also identified by the Ministry of Business, Innovation and Employment (**MBIE**) in their most recent Briefing for the Incoming Minister of Energy and Resources[3].

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[1] Refer to compliance advice issued to Unison Networks and the warning provided to Horizon Energy that was publicly notified on 10 February 2021.

[2] Note that we also raised this point in our recent submission to the Gas Industry Company on its proposed levy for 2021/22.

[3] Briefing to the Incoming Minister of Energy and Resource 2020, MBIE, Page 10

"[D]omestic oil and gas production is increasingly becoming concentrated among a smaller number of companies, who are likely to maximise the value from existing fields and infrastructure. These types of market dynamics may affect the availability and pricing for consumers of natural gas before they transition to other energy sources."

Continued focus on regulatory cohesion

1.2.7 We agree with the Commission's intended plan to become better connected by seeking to work more effectively across the energy markets regulatory system.

1.2.8 We note that this approach, including the Commission's continued work with the Council of Energy Regulators, will help to: ensure a consistent whole of systems approach is being adopted by all regulatory agencies involved in the energy sector; enable agencies to leverage off the skills of other agencies thereby avoiding a duplication of resourcing effort where practicable; and will assist in ensuring cohesion among regulatory bodies surrounding the timelines of related policy[4].

1.2.9 We note that failure to appropriately coordinate regulatory change processes could result in substantial delays occurring before necessary reforms can be implemented, which will have associated direct and indirect costs. Likewise, ensuring that current thinking of matters is aligned across all regulatory agencies will ensure that policy cohesion can be achieved. As a result, we strongly support the continued focus by the Commission and other energy sector regulatory agencies on ensuring regulatory cohesion is being achieved.

1.2.10 We suggest that one area for potential improvement, which could assist with the overall effectiveness of the energy markets regulatory system, is the way in which regulatory and policy agencies upskill on new knowledge and techniques.

1.2.11 For example, it may be inefficient for the Commission, Electricity Authority, MBIE and Gas Industry Company to all become experts in behavioural economics for the one-off implementation of the Electricity Price Review suggestions. A coordinated, cross-agency approach to upskilling in this area would ensure cost effectiveness, while promoting greater capabilities within the relevant agencies.

1.2.12 A potential solution for this growing priority on behavioural economics amongst regulatory and policy agencies could be the creation of a centralised source of behavioural economics expertise, which could be tapped into by the relevant regulatory and government agencies as they need to upskill in this area, for example, via cross-agencies training sessions; secondments between agencies etc.

1.2.13 A similar coordinated approach could be adopted for upskilling in other areas where there are similar needs between regulatory agencies.

For any questions relating to the material in this submission, please contact Fiona Wiseman, Senior Advisor Strategy and Regulation on 027 549 9330

Regards,

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[4] For example, if Energy Efficiency and Conservation Authority was implementing a policy to substantially increase the uptake of electric vehicles (EV) then it would be important for the Commission to in advance adjust the price pathways for distributers to fund infrastructure that supports this uptake in EVs.