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Feedback on fit for purpose regulation

Electra Limited (Electra) owns and operates the electricity lines and assets in the Kapiti and Horowhenua districts. We welcome the opportunity to share our views on the emerging issues for electricity networks, gas networks, and airports and how the Commerce Commission (the Commission) should prioritise these issues when planning its work programme in the near term, as outlined in the open letter¹. Nothing in our feedback is confidential or commercially sensitive.

Like many of our peers, we are attentive to energy transition² and the ongoing impacts of COVID-19. In our feedback, we would like to focus on two issues of particular concern to us:

- (i) the current price-quality framework cannot deliver us a decarbonised future; and
- (ii) changes to the information disclosure requirements should not be used as a means to regulate exempt EDBs prices or quality standards.

Our views on all other matters are expressed in the industry feedback provided by the Electricity Networks Association (ENA).

The current price-quality framework cannot deliver us a decarbonised future

We are locally owned through the Electra Trust and have 45,300 beneficiaries that are the consumers connected to our network. We are an exempt electricity distribution business (EDB) under s54D of the Commerce Act 1986 (the Act) and, as such, are not subject to price-quality regulation under Part 4. Despite our exempt status, we have a strong regard for the

¹ Commerce Commission, Open letter—ensuing our energy and airports regulation is fit for purpose, 29 April 2021.

² Energy transition is a term used by the Commission in its open letter to encapsulate the '...emerging issues that relate to New Zealand's decarbonisation and use of new energy sector technologies and business models...'.

principles of the default price-quality (DPP) framework as administered by the Commission. The DPP framework has proven to be appropriate and effective; however, we are concerned that it encourages regulated suppliers to continue investing as they have always done and continue to provide services as they have always done. While there are some incentives to innovate and invest in non-network solutions, those incentives lack the scalability to meet the investment needed to realise the government's decarbonisation goals.

A significant barrier to innovation faced by all EDBs, both non-exempt and exempt, is the limited access to customer data upon which we can inform our investment decisions. Access to customer data has been a contentious issue that neither the Electricity Authority nor the Commission has been willing to address through regulatory measures. The Commission prioritising the access to readily available data sets will mitigate the uncertainties that currently surround the investment for a decarbonisation future.

We strive to operate efficiently with our people focused on delivery of the core services. Major innovation initiatives must be resourced. There is a concern that competing or inconsistent priorities from both the Electricity Authority and the Commission will not help us in being efficient and invest in innovation. The closer alignment of the Electricity Authority and the Commission's programs, particularly around pricing and the DPP, would assist EDBs in resourcing the innovation that will deliver a decarbonised future.

We want to see the Commission prioritising how it can support innovation by creating a contestable innovation fund like the Digital Government Partnership Innovation Fund³. The Innovation Fund is an annual \$5 million contestable fund that invests in digital and data innovation. Agencies identify a common problem or opportunity and present the initiative through a Lean Canvas format. Initiatives are reviewed by the Fund official panel, which is made up of cross-agency senior officials. A Commission supported and endorsed innovation partnership would enable the collaboration needed to realise a decarbonised future.

As we understand it, the investment needed to successfully meet the government's decarbonisation goals will not have been captured when the allowances were set under the DPP. This is because while the DPP allowances are set on EDBs' forecasted expenditures via the asset management plans; the Commission caps the change in allowances at 120% of actual historical spend. Delivering a decarbonised future may require many non-exempt EDBs to apply for a customised price-quality path (CPP). The Commission reconsidering how it sets the allowances so that the DPP framework can fully support investment in our decarbonised future is preferable to a flood of CPP applications.

We are of the view that the Commission should prioritise removing the barriers for EDBs to invest. A framework that supports EDBs to invest early, even though we will not see the benefits of that investment for some time, will enable us to deliver New Zealand's decarbonised future.

Changes to the information disclosure requirements should not be used to regulate exempt EDBs prices or quality standards

We are troubled by the Commission's inference that it needs to amend the current information disclosure requirements to provide it with additional tools to measure performance due to the hypothetical risk of systemic underperformance arising from decarbonisation. The Commission's statement in the open letter is vague, and our concern is that the further measures could pertain to price and quality.

³ <https://www.digital.govt.nz/digital-government/innovation-fund>

As an exempt EDB, we are not subject to price or quality regulation as our consumers can affect both the price they pay and the quality of service they receive. For an exempt EDB, information disclosure is intended to capture information that our consumers require to determine if our performance meets their expectations. Information disclosure is not intended as an alternative instrument for price or quality regulation enforceable under the DPP. The Commission must not use changes to the information disclosure requirements to regulate prices or quality standards of exempt EDBs.

Closing comments

Like all of us, the Commission has finite resources and so must prioritise its work program. The CCC's decarbonised future is the most significant change the energy sector has seen in 50 years. The Commission must focus its attention on evolving the framework to remove the barriers to invest and support the government's decarbonisation goals. Accordingly, we urge the Commission to focus on evolving the DPP framework as soon as practicable and reconsider its intention to change the information disclosure requirements.

Yours sincerely



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