

24 May 2018

Keston Ruxton
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Commerce Commission
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By email: keston.ruxton@comcom.govt.nz

Dear Keston

Re: Commerce Commission's open letter on its intention to gather information relating to emerging technologies

The Electricity Retailers' Association of New Zealand (ERANZ) welcomes the opportunity to provide feedback on the Commerce Commission's (the Commission) 9 May 2018 open letter regarding the Commission's intention to gather information relating to emerging technologies.

As requested in paragraph 15 of the Commission's letter, ERANZ wishes to register its interest in assisting the Commission in its information gathering exercise.

Specifically, ERANZ can assist the Commission by:

- Facilitating meetings between the Commission and ERANZ members;
- Providing specific real-world examples and insights into the intended and unintended consequences of the application of evolving technologies by electricity distribution businesses (EDBs), and the impact on the competitive market and end-consumers;
- Relate the concerns of the contracted customers (retailers) of EDBs.

We would like to make the following points in response to the open letter:

1. The timing is right for the Commission to undertake this exercise

Falling costs and increasing efficiency of nascent technologies, especially those behind the meter, such as rooftop solar, home battery storage, smart appliances, home energy management tools, and electric vehicles, will see increasing numbers of customers taking up those services. This will result in changing customer needs from EDBs, retailers, generators, and other parties.

Distribution networks are an integral part of the transition to a fit-for-purpose future electricity system. This is an important juncture to ensure the regulatory framework supports EDBs in transitioning to become a platform provider for the different services that will rely on their networks to build competitive services and products for customers. EDBs should also be enabled to transparently procure evolving technologies from the contestable market to deliver the network service as reliably and efficiently as possible.

2. The Commission's interests align with those of other expert agencies

The concerns the Commission has identified are consistent with those raised by the International Energy Agency (IEA) in its report on the New Zealand energy sector released in 2017:

New Zealand's electricity distribution sector is facing a period of rapid change, following the widespread deployment of advanced interval metering and the emergence of new technologies (electric vehicles, battery storage, and rooftop solar PV). These developments provide an opportunity to consider more efficient, innovative, cost-effective and responsive electricity markets throughout New Zealand, which can deliver a range of benefits for all electricity consumers. However, these developments also have the potential to radically transform the distribution system use and power flows, making the systems far more dynamic and complex to manage in an efficient and secure manner. Distribution businesses will be at the forefront of managing these challenges...

...Concerns have been raised about the financial, technical and managerial capability of the distribution sector to respond effectively to this challenge. Concerns have also been raised about the governance and decision-making capability of the distributors and their capacity to manage this potentially complex transition in an efficient and timely manner that will help to realise the potential benefits for consumers.¹

The recent Productivity Commission draft report on transitioning to a low-emissions economy indicated that consumers would be better served through lines networks providing a neutral platform which gives equal access to diverse participants (including consumers) to competitively buy and sell services, rather than EDBs also participating in those same competitive markets themselves:

The IEA identified two alternative models for EDBs that were emerging globally in response to rapid technological change. In one model, distributors provide value-adding services (such as owning or selling rooftop solar-panels or operating EV charging stations) to provide additional revenue streams to supplement their regulated cashflows. In the other model, the distributors act as neutral facilitators for other businesses (retailers and aggregators) to provide services. In this model, distributors provide information, operate the system, and establish, maintain and manage the network infrastructure.

¹ International Energy Agency report: Energy Policies of IEA Countries, New Zealand 2017 Review, page 16

The IEA considers that the latter “platform-for-services” model is more suitable to meet the challenges facing the sector because it will increase competition and innovation, reduce transaction costs and more effectively integrate a diverse range of suppliers and new technologies. In addition, it will maintain a more effective separation of contestable and natural monopoly functions².

A future distribution system will need to overlay this radial physical network with a platform for multidirectional local and national trading relationships. Telecommunications provides a rough parallel, where Chorus supplies and owns the physical lines and infrastructure that are then used by many competing service providers³.

3. ERANZ agree with the Commission’s position that EV chargers should not be part of the regulated lines service...

We agree with the Commission that electric vehicle chargers have the primary purpose of charging cars, not the conveyance of electricity. The Commission position aligns with ERANZ view that the exercise of encouraging, installing, and marketing electric vehicle charging stations, is an important one for New Zealand and the New Zealand electricity system. It is not, however, a natural monopoly exercise – competition has already and will continue to develop.

Distribution businesses are an important factor in the implementation of a successful roll-out of EV charging infrastructure, but the blurring of what their role is, as well as the lack of transparency as to how the EV charging stations are being funded, and how the costs associated with the EV charging activities are allocated, can result in a cooling effect, particularly in areas where the charging is provided at no cost to the EV owner. If an EDB wishes to support and promote EVs in its area, then our view is that they should openly tender for, and partner with, options from the competitive market. We note that some EDBs are doing exactly this.

... However, ERANZ believes the exemption to allow part ownership of EV chargers is not required and may have unintended consequences

Paragraph 31.1 of the Commissions letter allows EDBs an exemption to place some of the costs of EV chargers under the scope of the regulated service:

Where the EDBs have active control over the EV charger, such that it can be controlled to manage network load (e.g. for deferring capital expenditure on the distribution network), and the controller is not separable from the EV charger

Our research indicates that almost all EV charging technology currently available could be covered by the exemption as the ability to control the equipment is integral to the unit. That is, there is no separate modem/access point by which to attach control equipment. The ability to control is

² Productivity Commission’s draft report on transitioning to a low-emissions economy, 27 April 2018, page 341

³ Ibid at 2., page 344.

generally integrated into the charger as a standard feature, irrespective of whether this functionality is to be used.

ERANZ's concern is that the exemption is based on the technology rather than the service and will quickly be surpassed. If it is determined that the service is not one that should be put in the regulated asset base, why create the exemption?

We are also concerned the exemption may incentivise EDBs to seek to control EV chargers to justify having a portion of their costs under the scope of the regulated service rather than to address an actual network need. EDBs may also seek to use the exemption to claw-back previous EV charger expenditure under their regulated asset base, by claiming 'control' for parts of their network that are not constrained, but theoretically could be at some point in the future.

Our understanding is that EDBs would not allow the connection of a public EV charger by third parties to a constrained part of its network – or would only do so under commercial terms, whereby the provider of the charger would pay the cost associated with mitigating the constraints brought on by their equipment.

Regardless, there should not be a presumption of the need to control EV chargers by EDBs. Other mechanisms could be more effective and have less consumer impact. For example, targeted tariffs may provide enough incentives to achieve sufficient peak reduction in constrained areas. Alternatively, demand response could be procured by an EDB through a contestable market. These options would provide peak reduction whilst retaining choice for those consumer segments who either want or need to charge their vehicles during peak periods (e.g. to meet a residential consumers home business needs - say for UBER drivers, or providers of pizza delivery services).

4. We encourage the Commission to continue to liaise and coordinate with the EA and MBIE on the broader market and competition implications of the regulated EDB service

The development of evolving technology and its application to the broader electricity market is something that all the regulatory agencies are reviewing. We encourage all the regulatory agencies to work together on the overlapping issues these issues raise. The cost-reflective service-based distribution pricing reform being encouraged by the EA, and the work of the EA's Innovation and Productivity Advisory Group (IPAG) on Open Access to Networks is very relevant in the context of evolving technology. It is important to consider what incentives there are to provide access to others to deliver Distributed Generation, Demand Response, or other services on the EDB networks.

5. The competitive market is being affected, not just the regulated service

We also support the Commission considering the issues from the perspective of its Part 2 mandate.

ERANZ supports an open and competitive market. Therefore, if EDBs wish to develop unregulated revenue from the businesses in the evolving technology space then they must do so on a level playing field. Regulated businesses increasingly moving into the competitive, unregulated markets

is raising concerns, creating investment uncertainty, industry disquiet, and market anxiety. The markets for emerging technology are marginal and highly dependent on the economics to make a business case possible in the competitive landscape.

There is also the factor of information asymmetry and potential misuse of the monopoly position given the EDBs hold the information about network constraints and future investment needs which the competitive market needs to access to innovate and develop alternative solutions.

Some of the EDB practices are already having the effect of lessening competition in the market for these services and assets in New Zealand. Others have the potential to as these nascent markets develop.

Thank you for your consideration of this letter. We look forward to working with the Commission.

Yours sincerely

A handwritten signature in blue ink that reads "Jenny Cameron". The signature is fluid and cursive, with the first name "Jenny" being more prominent than the last name "Cameron".

Jenny Cameron
Chief Executive