

15 May 2017

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Commerce Commission

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(via email to regulation.branch@comcom.govt.nz)

Dear Keston

Input Methodologies Review – Related Party Transactions

Nova Energy (Nova) is pleased that the Commerce Commission is closely reviewing the related party transactions regime for regulated services, and in particular electricity distribution businesses (EDBs). While the number of specific instances where the current regime is being abused is hard to pin down, this is not surprising given that:

- the beneficiaries of such arrangements are not going to object;
- disadvantaged competitors find it difficult to establish facts in the absence of adequate disclosure; and
- consumers that incur the costs indirectly have no real engagement on the issue.

The focus of the problem definition in the paper is on those services purchased by EDB's from related parties as part of operating their regulated business. Nova believes the Commission should also include in the problem definition, those services provided by EDB's to support related parties.

Nova is concerned where EDB's use resources available to them as part of their regulated business to bolster the profitability of their unregulated commercial revenues. We acknowledge the progress in tightening up on the accounting methodologies used to allocate costs, but also note the following avenues where EDB's may exercise undue advantage over third parties:

- **Branding:** 'Lending' an EDB's brand to associated trading activities may have minimal direct cost, but it does provide the beneficiary with a significant competitive advantage given the natural exposure the EDB has in its network region. Expenditure on activities such as signage and sponsorships may also be used to directly benefit associated trading activities. Examples include Electra's sponsorship of the "Electra Business Awards", or Vector's sponsorship of the "Vector Wero White Water Park", which are likely to benefit trading activities.
- **Financial support:** EDBs can leverage their monopoly revenues and financial strength to support competitive trading activities that might otherwise fail to get past usual financial hurdles. Examples include the greenfield start-up of Electra Energy, or the rush by EDB's to provide electric vehicle charging stations at no, or little cost to the actual users of those assets as yet.
- **Risk transfer:** A number of EDBs are trialling the efficacy of grid scale batteries for future use in their networks. While this is forward looking and may provide network benefits, it is also clear that the regulated part of the business is assuming the financial risk involved in such trials, while many of the future benefits of batteries are likely to accrue to non-regulated income in the future.

In each of these instances there is potential blurring of the boundaries between supporting regulated revenues and promoting the activities of related parties. Even if EDBs are in fact maintaining a distinct demarcation between regulated expenditure and other activities, there does not seem to be sufficient transparency in published accounts to determine if that is true or not.

Clearly the issue of compliance is critical for ensuring appropriate returns for investor owned EDBs, but even community owned EDBs should be required to demonstrate that expenditure supporting activities other than the regulated networks business is ultimately of net benefit to the beneficiaries.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'Paul Baker', with a stylized, cursive script.

Paul Baker