

12 April 2019

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By email to eacomcomjointproject@comcom.govt.nz

Dear Kimberley

Spotlight on emerging contestable services

1. This is a response by the Major Electricity Users' Group (MEUG) on the terms of reference titled "Electricity Authority – Commerce Commission joint project – Spotlight on emerging contestable services" published 1st April 2019.¹ MEUG members have been consulted in the preparation of this submission. This submission is not confidential. Some members may make separate submissions.
2. The terms of reference seek views on two topics: "what we are doing" and "how we are doing this?" (paragraph 9).
3. On the former topic of "what we are doing", MEUG recommends:
 - a) The output of the project is to have a framework for identifying quantitative and qualitative benefits and costs for when and when not an EDB can provide contestable services (paragraph 6.1). MEUG recommends this objective and the project outputs should be described in generic terms at a level of principal to apply equally to any other similar Part 4 regulated line business, i.e. applicable to and consistent with how Transpower, gas line services, regulated airfield services and fibre services are regulated.
 - b) MEUG agrees the project requires use of cost-benefit-analysis (CBA) techniques (paragraphs 6.1 and 6.2). An optimal regulatory framework for emerging contestable services will provide pressure on costs, hence lower prices and facilitate improved options for price-quality trade-offs. Alternative levels of quality over time (and the corresponding cost coupling) may be by discrete region and or voltage class and in the longer term some or even all individual customers. This will be an area of the project that will need to be carefully considered given the Commission does not recognise CBA as a necessary tool to consider alternative price-quality options when making Customised Price-Quality Path (CPP) decisions.
 - c) The terms of reference do not specify if the project applies to contestable electricity services to all classes of consumers or there is an underlying and unstated assumption the focus of the project is on services to the mass-market or household consumers. To avoid any misunderstanding MEUG recommends the terms of

¹ <https://www.ea.govt.nz/dmsdocument/24983-electricity-authority-commerce-commission-joint-project-terms-of-reference>

reference state clearly the project framework output will be considered and designed to facilitate optimal long-term outcomes for all classes of consumer.

4. On the latter topic ““how we are doing this?”, MEUG recommends:
 - a) Submissions on this consultation round be published promptly to allow supplementary submissions on points raised by other parties. This need not be a formal cross-submission round. Nevertheless, given the complexity of this topic the more views including contesting views that are put on the table the better informed the Authority and Commission will be to robustly scope and complete this project.
 - b) A list of current and potential contestable electricity services that fall within the scope of the project be consulted on. Having clarity on what services and in and out of scope at an early stage of the project will ensure there are no surprises by the time the project gets to the open workshop stage.
 - c) Similarly, to assist all parties gain a common understanding of what “current and potential regulatory tools” might be in and out of scope of the project, a strawman list of both should be consulted on at the outset. For example,
 - would a potential regulatory tool be to change Part 4 legislation to allow revenue paths to be determined in part by benchmarking?
 - Would reviewing the rules on how EDB change from being exempt to non-exempt and the reverse be an option within the scope of the project?
 - d) The Authority and Commission jointly have targeted engagement with selected parties to tease out any new evidence and new topics raised in this consultation round. Those bi-lateral discussions can be conducted under the Chatham House Rule if parties wish to be anonymised or in confidence if commercially sensitive information is being considered. Though the detailed content of those engagements need not be disclosed, MEUG recommends parties where bi-lateral engagement is undertaken be publicly listed.
 - e) Ahead of the open workshops the Authority and Commission should circulate materials, case studies and any CBA models to be considered at the workshops. An option for parties to attend by conference call or tele-conference facilities should be available for the workshops. At least 3-weeks’ notice of when workshop(s) are to be held is needed to allow participants to set-aside time and make travel arrangements.
 - f) Material requested from participants at the workshops should be published and an option for interested parties to make supplementary views on that post-workshop material.
5. We look forward to the prompt publication of the views of other parties and ongoing engagement on this important project.

Yours sincerely



Ralph Matthes
Executive Director