



12 April 2019

Kimberley Foo
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By email: eacomcomjointproject@comcom.govt.nz

Dear Kimberley

Views on Terms of Reference for Spotlight on Emerging Contestable Services

1. Orion New Zealand Limited (Orion) welcomes the opportunity to comment on the terms of reference for a joint project of the Commerce Commission (the Commission) and the Electricity Authority (the Authority) of a “Spotlight on Emerging Contestable Services”.

What you are doing

2. The terms of reference state that you are putting a spotlight on contestable electricity services. It would be useful to provide examples of what is meant by both ‘contestable electricity services’ and ‘non-contestable electricity services’ in the current environment and how this might change.
3. The ‘what are we doing’ statement omits to convey the environment of change that has created the impetus for taking a closer look at contestable services. We think it is important to reflect that the change is driven by broadening technology options and consumer choice this creates.
4. The ‘what are we doing’ statement fails to recognise that provision of traditional services provided by distributors, such as the important role load management through hot water control provides in reducing the need for network and grid investment, may be redefined in the new environment. This is important because any spotlight on emerging contestable services must recognise the benefit of existing service provision and the risk of unintended consequences for customers if the ‘transition’ is not managed well.

5. It is clear that contestable electricity services and/or contestable energy services will be underpinned by data access. We think it is important that the role of meter owners and MEPs in contestable services is encompassed in the review.
6. As we stated in our feedback on the Commission's priorities open letter of November 2017 *"We feel that the 'new technology' term has become overused and the turn of discussion risks preventing EDBs from investment and implementation in what should be a natural evolution in the operation of the core network using advanced sensing, monitoring and control for the long term benefit of consumers."* The role of technology is fundamental in both contestable and non-contestable electricity services and the terms of reference should ensure that a premise of the review is to avoid any outcome that creates a technology bias or limits access to technology solutions. Put another way, access to technology choice should be preserved.
7. As the Commission states in its submission on question F1 of the Electricity Pricing Review *"We consider that reviewing the option of ringfencing would be a significant undertaking which may have significant consequences across the supply chain for consumers. Because of this, any powers to ringfence should be exercised cautiously. We consider it important to allow, to the extent possible, new technology and different business models to emerge to the benefit of New Zealanders."* We agree with this sentiment and this emphasises the importance of a balanced terms of reference.
8. The terms of reference should include a review of approaches to contestable electricity services in other international jurisdictions. Useful learnings for our environment, such as consideration of the various phases and pace of technology uptake on the evolution of regulatory frameworks, could come from this analysis. An example is attached from a submission by ENA Australia to the Electricity Network Economic Regulatory Framework Review Approach Paper.
9. Finally the terms of reference should be cognisant of the broader 'system' or energy supply chain impacts of any conclusions.

How you are doing this

10. The terms of reference indicate that you expect to rely on available information and that you do not expect to request further information from stakeholders. The terms of reference also states that you will apply a framework to a series of case studies. We suggest that the Commission and Authority should provide opportunity for stakeholders to share useful scenarios, either real or envisioned, that may be used to inform specific case study scenarios.
11. Our preference is that point 8.2 of the terms of reference is stated in a more balanced way, for instance *“Our draft conclusions on how we could alleviate potential harms to or maximise benefits for consumers arising from distributors supplying contestable electricity services.”*

Best way to engage with us

12. Our preference is for engagement through workshops at which attendees are broken down into smaller discussion groups on particular topics, case studies or questions. This will ensure appropriate participation and feedback from participants.
13. Consideration of specific case studies would help understanding and provide good context for discussions.

Concluding remarks

Overall we are supportive of a balanced terms of reference that identifies and reviews both the potential benefits and harms, for customers in the long term, from EDB participation in emerging services.

Thank you for the opportunity to provide our views. We do not consider that any part of this letter is confidential. If you have any questions please contact Dayle Parris (Regulatory Manager), DDI 03 363 9874, email dayle.parris@oriongroup.co.nz.

Yours sincerely



Dayle Parris
Regulatory Manager

Attachment- Electricity Network Economic Regulatory Framework Review Approach Paper Submission 6 February 2017; ENA Australia page 1 Executive Summary

Lessons from international experience

Many jurisdictions are considering how their regulatory frameworks should evolve to accommodate the transformation occurring in the electricity sector. We reviewed four regimes – Australia, California, New York and Great Britain's – where detailed consideration is being given to these issues. There are also a number of alternative regimes and innovative approaches being used in other sectors which we investigated. Some key lessons we have drawn from the review of the regimes are set out in the box below.

1. The electricity regulatory framework visions of other jurisdictions reflect the existing structure – vertically separated networks in Great Britain and Australia, and vertically integrated in California and New York, but separate or potentially separate system operators (at transmission level and/or at the distribution level) – therefore approaches and mechanisms need to be considered in the Australian context of the clear separation of networks from electricity generation and retailing.
2. Most regulators are taking a cautious but flexible approach to allowing networks to offer services that may become contestable – they are allowing distributed energy resources (DER) (particularly storage) to be directly owned by the regulated firm in a limited way – and encouraging networks to source these services from third parties.
3. There has been a push to ensure networks have balanced incentives for alternative solutions to poles-and-wires, which would require achieving returns through 'opex'. Incentivisation could occur through project-based measures (eg. New York and proposed for California) or total expenditure (eg. Great Britain).
4. The regimes are getting more complex as the industry transforms. While there is some significant 'refocusing' of regulatory frameworks, some of the added complexity appears to be the result of layering new arrangements on top of the existing frameworks. This should be avoided where possible.