



Buller Electric Power
Trust

24 Wakefield Street
Westport 7825
New Zealand

PO Box 297
Westport 7866
New Zealand

T +64 3 789 7389
F +64 3 789 7387
E secretary@bullerelectricpowertrust.co.nz

11 April 2019

Kimberley Foo
Senior Analyst – Regulation
Commerce Commission
c/- eacomcomjointproject@comcom.govt.nz

Dear Kimberley

SPOTLIGHT ON EMERGING CONTESTABLE SERVICES

We enclose herewith a copy of the submission from Energy Trusts of New Zealand and confirm the Buller Electric Power Trust's full support of this.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Jan C Coll", is written over a light blue horizontal line.

Jan C Coll
Chairperson



ENERGY TRUSTS OF NEW ZEALAND INC.

P O Box 109626

Newmarket

Auckland 1149

Phone: (09) 978 7673

www.etnz.org.nz

12 April 2019

Kimberley Foo (Senior Analyst - Regulation, Commerce Commission)
c/o eacomcomjointproject@comcom.govt.nz

Spotlight on emerging contestable services – Submission on ToR

ETNZ - The Energy Trusts Association - represents the Trust owners of electricity distribution businesses throughout New Zealand, the largest of which is Entrust and smallest of which is the Buller Electric Power Trust. The Trustees of these organisations are elected by electricity consumers and their communities, who are the beneficiaries of the Trusts.

As the organisation representing consumer and community owners of EDBs, ETNZ has both an asset owner and a consumer perspective in addressing this topic.

The EA and the ComCom have asked for input on the following aspects of this joint project's ToR:

'What we are doing'

1. Electricity distributors are increasingly participating in markets for contestable electricity services such as distributed energy services. We are considering the extent to which distributors' participation in these markets is benefitting consumers or hindering the development of competition in these markets in the long term.

and

'Why are we doing this'

2. The Electricity Authority (Authority) and the Commerce Commission (Commission) want to better understand whether the current regulatory arrangements are fit-for purpose and able to support the best possible outcomes for consumers in the long term.

3. We want to establish a shared understanding of the types of circumstances where the participation of distributors in contestable electricity services is likely to be harmful to consumers in the long term. We also want to develop a framework for how the current and potential regulatory tools could be used

to address these harms and when it might be appropriate to intervene in these markets.

4. We expect this work will help make transparent our views on distributors supplying contestable electricity services.

Our views on the ToR

Paragraph 1. focuses the review on distributors' participation in markets for contestable electricity services. As those emerging markets are developing rapidly, and are of key importance to the future of the industry, we believe that the focus should be on participation by the major parties involved, not just on distributors. In reaching this view we are conscious that a small number of vertically integrated generator-retailers are in a dominant position in the electricity market, and have a strong interest in maintaining the very healthy income streams they enjoy from sunk cost assets that are on the brink of becoming subject to price competition from emerging services.

As consumer owners of distributors, our members recognise that demand-side competition will produce favourable outcomes for our beneficiaries, and that there is a shift occurring away from the 'top down' priorities of the established electricity markets, and towards greater consumer empowerment. Accordingly, the two regulators should be giving priority to ensuring that regulation promotes competition between the old order and the new, rather than on identifying and (potentially) closing down the competitive pressures that distributors are beginning to bring to bear on the established players.

Paragraph 3. narrows the focus further, to *the types of circumstances where the participation of distributors in contestable electricity services is likely to be harmful to consumers in the long term*. At the very least the review should be directed at the benefits and dis-benefits of distributor participation, and in particular on identifying the counterfactual if distributors do not take a lead in challenging the established players.

In addition, we are yet again disappointed by the apparent regulatory blindness shown to section 54Q of the Commerce Act:

54Q Energy efficiency

The Commission must promote incentives, and must avoid imposing disincentives, for suppliers of electricity lines services to invest in energy efficiency and demand side management, and to reduce energy losses, when applying this Part in relation to electricity lines services.

Section 54Q: inserted, on 1 April 2009, by [section 4](#) of the Commerce Amendment Act 2008 (2008 No 70).

With regard to paragraph 4. (the reference to making transparent the views of regulators on distributors supplying contestable services), as the Commerce

Commission appears to be leading the review we believe that it is required to take note of the two 'musts' included in this very relevant part of its parent Act. It is not the Commission's role to over-rule a clear and long-standing policy requirement of this type. It should certainly be acknowledged in the ToR.

Karen Sherry
Chair, ETNZ