Entrust
Majority shareholder of Vector

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Dear Kimberley,

Entrust welcomes the Commerce Commission and Electricity Authority decision to work together in considering lines company participation in "contestable electricity services". Up until now, there had been parallel workstreams, dealing with substantially the same issues. The co-operation between the two regulators provides precedent for dealing with overlap in regulatory responsibilities or interests. We question, however, whether this project should be a priority at this point in time.

Summary of Entrust views

- *Regulators should avoid duplication and overlap in work programmes wherever possible.*
- *A balanced approach is needed if the joint project is going to be useful:* This requires modification of the draft Terms of Reference. There are six, repetitious, references to potential harm to competition, with only a single reference "to the potential benefits (e.g., efficiencies from vertical integration)".
- *The joint project should be guided by findings of the Electricity Price Review (EPR):* The EPR's Expert Advisory Panel has not raised concerns about lines companies providing contestable electricity services.
- Lines company involvement in contestable electricity services is nothing new. What has changed is that *technological change is increasing choice in how electricity is supplied*.
- *It is important regulation and policy do not obstruct the sector's natural evolution and ability to innovate and embrace new technology:* The joint project should identify any barriers to lines companies adopting new technology, or non-traditional solutions, in place of traditional poles and wire solutions.
- *Entrust agrees with the Commerce Commission that regulators should adopt a neutral approach to technological solutions.*
- *Be wary of the motivation of vested-interests and whether they have the interests of consumers at heart* e.g. restrictions on lines company activities help protect incumbent retailers from competition, analogous to the French taxi drivers' protests against Uber.

The Commerce Commission and Electricity Authority should avoid duplication of workstreams

We are pleased the concerns we raised about duplicate and overlapping workstreams are being addressed in this matter.

We have observed repetition of submissions made by incumbent retailers to the Commerce Commission on lines company adoption of emerging technology, with the submissions being recycled in response to Electricity Authority and Electricity Price Review consultations.[1]

We do, however, reiterate our previous comment that we do not support the Electricity Authority undertaking review of the distribution sector, and the Authority already has too many projects on its work programme. We are not sure the distribution sector review should be a priority for the Commerce Commission either, given the work required for the 2020 electricity network price resets, and establishment and implementation of a new fibre price control regime.

The joint project should be guided by findings of the EPR

The Commerce Commission and Electricity Authority should be mindful of the findings of the Expert Advisory Panel, given the clear overlap between the draft Terms of Reference for the joint study, and the Terms of Reference for the Electricity Price Review. The Expert Advisory Panel has not raised concerns about lines companies' providing "contestable electricity services".

Lines company engagement in new and emerging technology provides opportunity for more efficient service provision and consumer choice

Lines company involvement in what have been labelled "contestable electricity services" is not new, but has gained greater attention in recent times in relation to new and emerging technologies, such as solar PV, battery storage and electric vehicle charging stations.[2] While the draft Terms of Reference doesn't explicitly mention emerging technology, we anticipate this will be part of the case studies selected for the project.

Entrust agrees with the Electricity Authority that new and emerging technologies will drive large changes for lines companies, and "has the potential to lead to efficiency gains and lower costs for consumers".[3] Lines companies are actively considering "How well-placed are distributors to adapt to the impending technology change in ways that benefit consumers".[4] This is reflected in the various new technology trials Vector and other lines companies are engaging in, such as use of battery technology to substitute for line capacity and to improve service reliability.[5] The question should be considered as part of the joint project.

The joint project should focus on the following related questions:

- What role can line companies play in using new technology, or non-traditional solutions, to save consumers money, and offer consumers greater choice?

[1] Entrust, Submission to the Electricity Authority on "equal access", 10 April 2018: https://www.entrustnz.co.nz/media/65948/entrust-ea-equal-access-submission-10-apr-final.pdf
[2] Particularly, in the context of the section 52T (3) Commerce Act requirement "not [to] unduly deter investment by a supplier of regulated goods or services in the provision of other goods or services.
[3] Electricity Authority, Scope for the review of the distribution sector, undated [unpublished].
[4] Electricity Authority, Scope for the review of the distribution sector, undated [unpublished].
[5] A Network Transformation Roadmap helping lines companies prepare for disruptive shifts in electricity production, use, and consumer behaviour, was launched on 3 April 2019 by the Minister of Energy and Resources, the Hon Dr Megan Woods. The roadmap was prepared by the Electricity Networks Association (ENA) to support electricity distribution businesses when setting strategies and planning for significant changes in the energy sector as consumers adopt new technologies: https://www.ena.org.nz/news-and-events/news/transformation-roadmap-to-be-launched-in-april/

- Are there barriers to lines companies adopting new technology, or non-traditional solutions, in place of traditional poles and wire solutions?

These questions align with the Labour and Green Parties' respective energy policies which recognise "Lines companies can have a positive role to play in local energy solutions. Such solutions would enable them to better manage traffic across their network especially at peak times, and to avoid costly and avoidable upgrades" and lines companies should be encouraged to "use new technology to save their customers money".

Regulators should adopt a neutral approach to technological solutions

Entrust agrees with the Commerce Commission that "the regime should remain neutral on *how* the lowest cost is attained"[6] and regulators "have to be careful before deciding to tell firms how to run their business because they very likely know that better than us. Where possible, we should avoid picking winners".[7]

This warning is prescient given the calls by some vested interests, particularly incumbent retailers, to restrict lines company's engagement in new technology, or require any new technology solutions to be out-sourced to 3rd parties. Various stakeholders have pointed out the incumbent retailer interest is in protection from competition by alternative suppliers, rather than a concern about consumer welfare.[8]

The focus should be on ensuring regulated suppliers have incentives to innovate and improve efficiency

The Commerce Commission has been clear regulation of lines companies, including price control, should incentivise lines companies to adopt the most efficient expenditure and procurement choices: "The first question to answer is whether, or to what extent, the incentives the regime currently places on EDBs to make efficient input choices work in practice".[9]

If lines companies don't have the right incentives to innovate and adopt the most efficient service provision and procurement options consistent with sections 52(1)(a) and (b) Part 4 Commerce Act purpose, there should be a discussion about whether there are:

- problems with the way the Commerce Commission is operating Part 4 i.e. not providing strong enough incentives for lines companies to innovate and improve efficiency, and/or

- barriers to lines companies adopting new technology in place of traditional poles and wire solutions.

The Commerce Commission has acknowledged "We have intervened to correct natural monopolists' lack of incentives to improve efficiency" but "It is likely that the resulting incentives we have placed on electricity lines businesses are not perfect; that the job of aligning electricity lines businesses' and consumer interests could be improved".[10]

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[6] Commerce Commission, Commerce Commission regulation of energy networks - key concepts, Prepared for IPAG, June 2018, paragraph 12.
[7] Commerce Commission, Commerce Commission regulation of energy networks - key concepts, Prepared for IPAG, June 2018, paragraph 13.
[8] This isn't an uncommon strategy as illustrated by the High Court observation that anti-competitive behaviour was an ulterior motive behind the planning court case taken by Coastlands shopping mall: https://www.stuff.co.nz/business/109351828/dogfight-over-kpiti-airport-land-development-plans
[9] Commerce Commission, Commerce Commission regulation of energy networks - key concepts, Prepared for IPAG, June 2018, paragraph 14.
[10] Memorandum from the Commerce Commission to the Electricity Pricing Review Expert Advisory Panel and MBIE, Response to May 2018 questions from Expert Advisory, 8 June 2019, paragraph 42.

Closing remarks and recommendations

Stronger and more vigorous competition is needed in the electricity sector. This is clear from the Electricity Price Review. We are aware some incumbent retailers want to stifle or prevent line companies from adopting non-traditional solutions and new technologies, and providing greater choice for end-consumers. If successful these moves would hamper consumer interests and competition.

The joint project should have a clear focus on enabling lines companies to adopt the best value options, which will deliver the greatest benefits to consumers. Entrust agrees with the Commerce Commission that the regulator "should remain neutral" about the solutions line companies adopt.[11]

Entrust **recommends** the draft Terms of Reference be amended to:

- ensure a balanced focus to the potential benefits and harm from lines companies' involvement in "contestable electricity services";
- include review of the findings of the Expert Advisory Panel in the Electricity Price Review;
- recognise the section 52T (3) Commerce Act requirement "not [to] unduly deter investment by a supplier of regulated goods or services in the provision of other goods or services";
- include an assessment of the potential role lines companies can play in using new technology, or non-traditional solutions, to save consumers money, and offer consumers greater choice;
- include consideration of "How well-placed are distributors to adapt to the impending technology change in ways that benefit consumers";[12] and
- include identification of whether there are barriers to lines companies adopting new technology, or non-traditional solutions, in place of traditional poles and wire solutions.

Yours sincerely,

William Cairns
Chairman

[11] Commerce Commission, Commerce Commission regulation of energy networks - key concepts, Prepared for IPAG, June 2018, paragraphs 9 - 11.
[12] Electricity Authority, Scope for the review of the distribution sector, undated [unpublished].