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Kimberley Foo
Regulation Branch
Commerce Commission
WELLINGTON

By email: eacomcomjointproject@comcom.govt.nz

Dear Kimberley

Terms of Reference: Spotlight on emerging contestable services

Genesis Energy Limited (**Genesis**) welcomes the opportunity to provide feedback to the Commerce Commission (**Commission**) and Electricity Authority (**Authority**) on the proposed terms of reference for your joint project putting a spotlight on emerging contestable services (**joint project**).

We have chosen to provide our own brief submission in addition to supporting comments from ERANZ. This is because we consider the joint project is a key turning point in ensuring the regulatory framework, as it relates to emerging contestable services, is fit for purpose for the benefit of all consumers now and in the future.

We are pleased to see the Commission and Authority working together on this matter. We believe it is important you consider all current regulatory tools available across the regulatory framework, including Part 4 of the Commerce Act 1986 and the Electricity Industry Act 2010. This should include evaluating what additional steps can be taken under existing legislative settings, or whether legislative change or new regulatory tools are required.

As Genesis has commented in recent submissions¹ we are concerned that without a level playing field for competition for emerging technologies, including addressing the potential unfair advantage provided to monopolies, there is the real potential for harm to consumers. In our view, the potential harm is so great that it justifies appropriate, proactive regulatory

¹ Genesis Energy submissions on [Enabling Mass Participation in the electricity market](#); [Priorities for the electricity distribution sector for 2017/2018 and beyond](#); [Electricity Price Review: first report for discussion](#).

intervention now, or in the least, steps should be taken to ensure flexible regulatory tools are available as required to support the competitive market to thrive.

We support the joint project to deliver the latter, while continuing to advocate for the former, noting New Zealand is now out of step with other jurisdictions as far as setting rules for fair play in the emerging contestable services market. This is undermining trust and confidence amongst market participants that we will collectively be best positioned to understand the risks, address the challenges and maximise the opportunities of current, emerging and future technologies for the benefits of our consumers.

If there is no clear starting point for *how* participants in the supply value chain compete to offer consumers access to new technologies – whether that be enabling consumers to connect their technology of choice to networks, or procuring grid energy, ancillary services and networks services that reduce costs for consumers – then consumers will have limited access to the benefits of the range of products and services that exist today e.g. batteries and solar panels or those that are yet to be developed through innovation; innovation that is disincentivised by the blurred lines that persist in this space.

We believe the focus should rightly be on setting rules for play, not dictating *who* can compete in the market. To be clear, Genesis welcomes competition in emerging technologies and supports monopoly service providers including electricity distribution businesses (**EDBs**) and Transpower to efficiently leverage technologies to promote consumer benefits. In fact, they should be required and incentivised, where appropriate, to explore and competitively procure (in the broadest sense)² non-traditional investments that will defer costly investment in assets that run a greater risk of stranding as the way we generate, store and use electricity continues to change.

With this in mind, we are pleased that case studies will be used to support the joint project as this will ensure the Commission and Authority consider the current incentives for EDBs (and Transpower) to invest in emerging technologies in parallel to understanding and avoiding the potential for harm to consumers. In addition to case studies, we recommend the Commission and Authority take on board relevant learnings from other jurisdictions, particularly in respect of the scope of its proposed assessment framework. We encourage the Commission and Authority to engage with stakeholders on these and other matters that will inform the assessment framework, and not wait until the draft framework is developed before consulting.

Our view is that distributed energy services will be increasingly important in delivering value to consumers, but just how technologies such as solar, batteries, electric vehicles and

² Procurement should not be narrowly interpreted e.g. we believe it could be interpreted in two ways. In the first, an EDB might identify that network infrastructure is in need of investment. It could release a request for services that was limited to large organisations capable of providing a full solution, limiting the ability of multiple smaller entities to compete for the value by providing a partial solution. In the second, a competitive market exists such that before an asset reaches the end of its useful life, EDBs are able to procure solutions that defer the need for investment. In this way multiple participants can provide services and compete for that value e.g. via batteries, smart hot water cylinders, solar or other distributed technology.

energy management tools will enable consumer benefits is not yet clear. We believe the Commission and Authority should continue to seek the views of a broad range of current (and potential) market participants and consumers to understand how the regulatory framework should be designed. Accordingly, we look forward to additional opportunities to engage on the joint project.

If you would like to discuss any of these matters further, please contact me by email: margie.mccrone@genesisenergy.co.nz or by phone: 09 951 9272.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. McCrone'.

Margie McCrone
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