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Submission on financeability in EDB DPP4 reset

As the industry association representing consumer and community owned energy trusts, our focus is on ensuring that our members' beneficiaries (i.e. energy consumers) receive optimal benefits from the electricity networks held in trust on their behalf.

Trust ownership of EDBs is well established in New Zealand, and – under the oversight of the Commission's Information Disclosure regime – continues to deliver efficient, forward-looking investment in electricity supply and to promote innovative practices and technologies.

We agree with the Commission's view [1] *that investment in regulated infrastructure involves 'patient capital' and attracts investors that have long horizons for recouping their investment (generally over the expected physical lives of the long-lived assets)*. This view is compatible with our members' investment focus, where priority is given to achieving optimal sustainable outcomes for beneficiaries (i.e. consumers) rather than to profit maximisation.

While we recognise the requirement to deliver those outcomes while maintaining viable commercial businesses, we recognise that the primary role of trust ownership is to prioritise beneficiaries' interests. In doing this energy trusts recognise the long investment lives of electricity networks, the intergenerational factors at play in financing and utilising them, and also the need to protect consumers from commercial incursions that threaten their long-term position.

On this last point we note the following comments in the issues paper:

> 1.11 Prudent businesses undertaking effective capital planning will manage their finances to ensure that over the course of investment cycles there is sufficient capital headroom to meet expenditure needs at any

[1] (para.1.8 of the issues paper)

> given point in time, while maintaining appropriate credit metrics. Maintaining capital headroom is likely to be particularly important for trust owned EDBs that prefer to maintain trust ownership.

and

> 4.52 Where consumers are in effect being asked to provide a substitute for new capital by paying higher prices in the short term (for example, where a trust owned EDB was seeking to maintain full trust ownership) we would expect consumer consultation on the CPP to address and seek views on this issue.

Trust-owned EDBs operate in a normal commercial environment and are supported by the Commission's regulatory oversight. To date it appears that none of the four CPPs approved by the Commission has involved a trust-owned company and, while a handful of trusts represent relatively small numbers of beneficiaries, all seem to be facing few problems in maintaining financeability.

When, and if, a trust-owned EDB encounters restraints on capital headroom then we would expect the EDB and its trust to explore the normal range of commercial options. Here we would expect the trust to ensure that its beneficiaries' interests are protected. Just as the Commission expects consumer consultation to occur (in the case of a CPP application) consumers, as the beneficial owners of trusts, could expect to be consulted and informed on the issues and options involved in matters such as maintaining commercial headroom when it is under threat.

We are aware of arguments presented by some commercial interests that trust ownership is an impediment to capital raising, etc. In the past New Zealand has experienced (notably) North American investors presenting similar arguments to justify buying major urban networks but, while exiting with significant profits, appearing to oversee significant asset run-downs. Similarly, we've witnessed the Dunedin EDB run-down under local government ownership. Based on those examples there is no justification for suggesting that trusts will be less capable than other owners in maintaining the viability of their businesses in the face of rising demand.

We support the points made by stakeholders as set out in the issues paper:

> 1.16.1 the Commission should provide certainty on how it will assess and address financeability problems for suppliers, preferably through a defined test and response approach for accelerating cashflow;
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> 1.16.2 that failure to do so may undermine suppliers' incentives to innovate and invest to meet customer demands; and
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> 1.16.3 the Commission should make financeability assessments to check regulatory consistency.

In this context we believe that the Commission's December 2023 decision to reduce the WACC weighting for EDBs and Transpower from 67% to 65% gave an unnecessary negative signal at a time when the financeability of meeting forecast network investment needs was coming under scrutiny. We would expect prospective financiers to note this margin trimming and to conclude that further regulated margin erosion should be factored into their considerations. Accordingly, given the importance of maintaining certainty along with incentives to innovate and invest, we feel that the Commission should take financeability impacts into account when assessing overall market impacts of key regulatory decisions.

Increasingly, trusts and EDBs are developing long-term investment perspectives aimed at best serving decarbonised communities. The Commission's five-year time horizon tends to inhibit this, meaning that it would be helpful to look for some form of connective mechanism (perhaps some sort of infrastructure bond, or something similar). Furthermore, the impacts of decarbonisation will all unevenly, creating varying financeability pressures.

The Commission's view that the CPP is an adequate financeability fallback is not widely shared among networks, where the CPP is seen as a time-consuming and uncertain instrument with a relatively short focus that could add to financeability uncertainties. This is especially true in a situation where asymmetric demand growth and other risks – such as competition for scarce labour and other resources – would, in an unregulated environment, be best countered by investing ahead of need.

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