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Response to open letter of 29 April on ensuring regulation fit for purpose

ETNZ appreciates the opportunity to contribute to this discussion on the Commission's near term work planning. We, too, are mindful of the messages delivered by the Climate Change Commission and recognise the importance of refocussing attention on the priorities and processes identified by the CCC.

This response addresses matters that are more meaningful to ETNZ and to energy trusts. Our members, along with ENA, will have views on the IM and disclosure regimes that we have not addressed.

As representatives of consumer and community owners, we see the following opportunities, and related challenges, opening up for the electricity distribution industry in transitioning to a low carbon economy:

1. Informing and empowering consumers.

The Commerce Commission has come a long way in developing an accurate and timely performance tool to help inform networks and network owners, as well as consumers on technical disclosure data it obtains. We strongly support the continuance and further development of this.

Providing consumers with clear pricing and billing information that enables them to make easy and informed decisions on power suppliers, and on pricing and/or supply risk exposures, has proved challenging for industry participants, including energy trusts. Enforcing standard disclosures on retailers may be outside the Commission's legislative powers at present but it would be a useful and low cost step towards greater consumer empowerment. If necessary an appropriate regulatory change could be recommended to Ministers.

In parallel, energy trusts can command the high ground in providing accurate and trusted information to consumers on a broad spectrum of matters directly relating to the energy transition. For example, as well as the material they

provide on energy efficient lighting, warm homes, etc. scope exists for them to develop and share data bases and contact lists on relevant technologies such as:

- electric vehicles
- EV charging points
- home energy control and storage systems
- solar power

Scope also exists to provide a platform for discussion on electricity and technology suppliers and supplier performances, energy pricing, and on cutting edge developments.

2. Promoting efficient and compatible systems

The IT failings being experienced by District Health Boards underline the importance of ensuring that critical information management systems work well and are adequately protected. Trusts can emphasise the importance of this to the network companies they own, and also incentivise it for directors through their Statement of Corporate Intent exchanges.

There is also a role for regulators in identifying and encouraging technologies that regulated companies use to help achieve results that are compatible with CCC objectives. As well as contributing to best practise outcomes, this could involve a refocussing of the performance regime in order to recognise and reward investments and achievements in new areas, such as:

- Direct consumer engagement on matters relating to CCC objectives
- Vegetation control and associated fire safety risk mitigation, where hazards are targeted and dealt with efficiently
- Speedy adoption of effective new technologies
- Investments in measures that reduce energy losses
- Relevant staff training and deployment

3. Regulatory incentive signals

The apparently very direct and strong powers given to the Commission by section 54Q of the Commerce Act instruct the Commission to provide incentives for distributed energy services delivering energy efficiency and demand-side management:

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).

Until now there has been little or no material evidence that the very limited application given to this instruction has done anything to achieve its objectives.

A challenge we'd advance is for the Commission to move urgently to consult on the much more forceful use of s54Q, with a view to providing incentives targeted at achieving regulatory rules that– in the words of the Commission's Open Letter – "*support the increased electrification of the economy, including through incentivising regulation, the adoption of new technologies and demand response management, and allowing for the successful integration of electric vehicles.*" This wording is very compatible with the wording of the Act.

4. Ensuring that the regulatory lines/energy 'cross-over' prioritises climate change outcomes

We believe that it is important for regulation to now have a strong focus on ensuring that moves by regulated companies to achieve good climate change outcomes are not swamped or diluted by conflicting energy market rules and objectives. For example:

- Steps should be taken to identify and eliminate any moves to maximise retailers' returns at the expense of incentivising electric vehicle adoption. This could include avoiding pricing arrangements that target charging times that are most convenient for motorists, or that deliver directional signals that discourage home charging;
- Electricity market rules that impinge on incentives for solar conversions, etc;
- Retailers 'repackaging' distribution pricing and, in the process, diluting signals that promote energy efficient outcomes and/or contribute to consumer confusion.

It would also be useful for the Commission to review the approach being taken by the Electricity Authority to the phasing out of 'Avoided costs of transmission' (ACOT). Here we note the Authority's comment in its December 2020 Briefing to incoming Minister:

One of the outcomes the Authority has sought during TPM reform is to eliminate avoided cost of transmission (ACOT) payments being made where no transmission costs are in fact being avoided. ACOT payments are made by distributors on behalf of consumers, and have been up to \$60 million per annum, with Trustpower receiving roughly half of them. They have been progressively reducing since 2017 but implementing the new TPM guidelines would have a material impact on Trustpower's bottom line.

We have no interest in outcomes for TrustPower but understand that the Authority has been moving for several years to remove or phase down the ACOT incentive for those transmission customers successfully investing in reducing use of the national grid. As well as being incompatible with the aims of s54Q, this would mean poor outcomes in terms of the Climate Change Commission's objectives.

Also, the message in the BIM that *payments being made where no transmission costs are in fact being avoided* is misleading, as transmission costs are in fact being avoided through the application of ACOT but (under the existing perverse regulatory incentive to protect Transpower's sunk costs) are being reallocated in the form of increased charges to other transmission customers. It is that reallocation that causes distortions.

Accordingly, another challenge for the Commerce Commission would be to consult (perhaps in conjunction with the Electricity Authority) on mechanisms that would maintain or enhance the signals provided by ACOT while avoiding outcomes that are incompatible with climate change objectives. This might include advice to Ministers on the need for associated legislative changes.

Yours sincerely

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