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**Electricity Authority and Commerce Commission joint project:
Spotlight on emerging contestable services**

Meridian strongly supports the initiation of this joint project by the Electricity Authority and Commerce Commission and agrees with the proposed terms of reference. It is critical that the Authority and Commission 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.

Meridian has long sought to highlight the potential harm to competition that could occur through the participation of distributors in emerging contestable markets for distributed energy technologies and services. In our recent submission to the Government's Electricity Price Review Panel we stated that:¹

The possibility that lines companies can include distributed energy-related services (including solar PV, in-home batteries and electric vehicles) in their regulated asset bases and thus earn a guaranteed return on their forays into these emerging markets by allocating the costs to consumers as part of those companies' lines charges should, in Meridian's view, be a cause of some concern. ... It has certainly caused concern in other jurisdictions where regulators have required distributors who wish to participate in these emerging markets to do so on an arm's-length basis separate from their regulated network businesses. The concern of regulators in those jurisdictions is that competition in these emerging markets can and should take place on a level playing field.

¹ <https://www.mbie.govt.nz/dmsdocument/4195-meridian-energy-electricity-price-review-first-report-submission>

As a first step, clarity is needed on what technologies and services can reasonably be included in the “regulated services” of distributors. The Commerce Commission recently published an open letter on its intention to gather information on emerging technologies.² The letter said that with limited exceptions the Commission does not consider electric vehicle chargers to be part of the regulated service. This is because “the main purpose of EV chargers is to charge cars, not the provision of the regulated service (defined as conveyance of electricity by line). Therefore, our starting point is that we would not expect the costs and revenues associated with EV chargers to be within the scope of the regulated service.” Responses to the open letter have now been published with some distributors challenging the Commission’s views and indicating they are already including EV chargers in their regulated asset bases along with batteries, solar panels, and home energy management systems.³ We hope that the joint project will resolve this difference of view and provide clarity to both distributors and investors in not just EV chargers but a wider range of distributed energy services and technologies.

Distributors will always be free to invest in distributed energy services and technologies, independent of the regulated service, i.e. facing the same risks and lack of regulated revenue as any other company competing in these emerging markets. However, to the extent distributors seek the inclusion of these services and technologies in their regulated asset base or operating expenditure as part of the regulated service, Meridian believes they should do so through an arm’s length related party in competition with other providers. By transparently procuring new technologies or services in competition with other providers:

- consumers can be assured that distributors’ investments are efficient and in the long-term best interest of consumers; and
- other providers of contestable services can be assured of a level playing field in which all can compete effectively.

Meridian was pleased to see the progress made by the Authority’s Innovation and Participation Advisory Group on the Equal Access project⁴ and the Commission’s decision on related party transactions.⁵ These are positive steps and we hope this joint project can build on those developments. The related party transactions decision introduced principles-

² https://comcom.govt.nz/_data/assets/pdf_file/0023/90581/Open-letter-Our-intention-to-gather-information-relating-to-emerging-technologies-9-May-2018.pdf

³ https://comcom.govt.nz/_data/assets/pdf_file/0014/100661/Snapshot-of-EDBs-spend-on-e-tech-10-October-2018.pdf

⁴ <https://www.ea.govt.nz/dmsdocument/24577-equal-access-presentation-draft-advice>

⁵ https://comcom.govt.nz/_data/assets/pdf_file/0029/59591/Related-party-transactions-Input-Methodologies-review-Final-decision-and-determinations-guidance-21-December-2017.pdf

based requirements for regulated suppliers to demonstrate that each related party transaction is valued as if it had the terms of an arm's-length transaction, based on an objective and independent measure, i.e. regulated suppliers will need to test markets for competitive price signals or use objective benchmarking where competitive price signals are not apparent. However, we are unsure to what extent the retention of the consolidation (or cost-based) approach to valuation of related party transactions will still be used and whether this will undermine these otherwise positive developments.

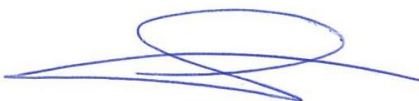
More importantly, there is currently no requirement for distributors to invest in distributed energy services and technologies through a related party (arm's-length or otherwise). On the contrary it seems distributors are investing directly in distributed energy technologies and services and that these investments are being included in the regulated service. We hope that the joint project will consider the costs and benefits of regulation that requires distributors to only invest in distributed energy services or technologies through a related party, ideally at arm's-length.

The proposed terms of reference state that the joint project will consider "the wider costs and benefits of regulatory tools which could be applied to mitigate competition or other concerns." We encourage the Authority and Commission to not limit their analysis to the existing statutory tools at their disposal. For example, if a legislative change would provide the best outcome for consumers, the joint project should identify that option and escalate it to relevant Ministers and government departments for further consideration.

We have also read and support the submission of the Electricity Retailers' Association of New Zealand (ERANZ).

Please contact me if you have any questions regarding this submission.

Yours sincerely



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