



ENERGY TRUSTS OF NEW ZEALAND INC.

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Dear Nick

Thank you for the opportunity to comment on the Commission's priorities going forward.

ETNZ members share your concerns about potential consumer exposure to paying for conventional investments that may be made redundant by new technologies. The new Trusts Bill places detailed and exacting requirements on trustees to develop and adhere to robust investment plans and to ensure that trust-owned companies recognise, in particular, the emerging investment risks posed by new technologies. These investment plans will necessarily sit above companies' asset management plans and it will be important for trusts and companies to develop shared understandings of risk exposures, along with realistic assumptions on load growth, the value of lost load to their consumers and the rate at which transformative technologies will penetrate their areas.

As consumer and community representatives, trustees are very focussed on the issues that face electricity users in the current environment. The new Trusts Bill underlines the rights of our consumers - as beneficial owners - to be fully informed about those issues. ETNZ will be working with our members to ensure that information flows to and from consumers are clear and useful, and that the reasons for investment decisions are presented openly.

Accordingly, we believe that the Commission's work programme should include two items that assist in clarifying the investment climate, and in further empowering trusts to engage effectively with consumers:

1. *Creating a well-defined regulatory frontier between the Commission and the Electricity Authority.*

We recognise that the two regulators communicate with each other, and that the interface is governed to some extent by a *memorandum of understanding*. However, as the representatives of very disparate owners of regulated distributors, we feel that the relationship between the Commission and the Authority is rather opaque and that some primary outcomes seem inconsistent with legislative objectives.

As a current example, section 54Q of the Commerce Act requires the Commission to provide incentives and avoid imposing disincentives for providers of electricity distribution services to invest in energy efficiency and demand-side management. However, as noted in the EA's Briefing to Incoming Ministers, the Authority is in the process of dismantling the so-called ACOT (avoided cost of transmission) regime, meaning that what is probably the most material incentive to make such investments is about to go.

We do not accept that it is the intent of legislators to give with one hand and take away with the other: the Commission was given a clear instruction to implement s54Q – the Act uses 'must' twice in that clause. Allowing the EA to intrude into this area adds to the investment uncertainties created by the regulatory structures.

Given the EA's ability to effectively make regulations where it can justify these under the umbrella provided by its Code, it is important to ensure that this ability to by-pass legislative process is not used to over-ride actual legislation. We recommend that the Commission make an early move to create a more transparent interface with the Authority, and to review any Code-related initiatives that intrude into areas covered by the Commerce Act.

2. *Improving information flows to and from consumers*

As already noted, trusts and trustees are accountable to their consumers, are focussed on ensuring that current and changing consumer requirements are met, and are given additional directives to communicate with electricity users by the new Trusts Bill. Like the Commission, we recognise the increasing risk exposures associated with cyber security, health & safety, climate change and decarbonisation, all of which have direct impacts on customers and which many consumers will either be unaware of or exposed to misleading information.

We are also aware that communication with consumers can be challenging where complex technologies and long-term investment horizons are involved. ETNZ believes that trusts offer the most effective mechanism available to develop meaningful interchanges with the broad range of consumers and consumer interests. We would welcome the Commission developing a programme aimed at promoting consumer communication, recognising that trusts will have a legislatively defined requirement to do that once the new Bill takes effect.

At this stage we are not familiar enough with the Commission's new web-based performance accountability tool to comment on this. However, we may provide feedback later in the process.

Again, ETNZ appreciates being consulted on your priorities, and the ETNZ Executive would welcome the opportunity to engage further on the issues raised.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alan Jenkins', with a long, sweeping horizontal flourish extending to the right.

Alan Jenkins
Executive Officer, ETNZ

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