



MAJOR ELECTRICITY USERS' GROUP

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By email to electricity@med.govt.nz

Dear Laurie

Submission on proposed levy arrangements for the new Electricity Governance Regime

1. This is a submission by the Major Electricity Users' Group (MEUG) on the discussion paper titled "Proposed levy arrangements for the new Electricity Governance Regime" published by the Ministry¹. The proposed levy arrangements are not a simple mechanical shifting from the current regime to new entities undertaking the same functions. There are important subtleties not considered and new arrangements proposed that MEUG has concerns with.
2. This is not an abstract theoretical exercise. End consumers pay directly and indirectly a large proportion of the \$91m per annum of levies² covered in the discussion paper. We accept that there needs to be a pragmatic transition to the new regime but we do not accept that the existing levy framework and in particular how it has been operated has been robust and can be take as "fit for purpose".
3. For example MEUG has not been satisfied with the level of justification of the need for and value for money of the Electricity Commission (EC) electricity efficiency work programme. A quote from the MEUG submission³ on s.126(3)(c) of the Electricity Industry Bill to Parliaments Finance and Expenditure Committee on 17th March 2010 amplifies this point:

"MEUG have opposed the current Electricity Commission levies that have underwritten the Commission's electricity efficiency programme because it leads to energy efficient consumers subsidising less efficient consumers. It frustrates MEUG members that have spent their own money getting their plant as efficient as possible to pay levies to assist other consumers who have not put their money into doing the same. The Bill does not address this problem. Instead s.126 (3) (c) retains the status quo, ie mainly highly efficient large consumers in competitive global markets subsidising other classes of consumer. MEUG recommend that if government wishes to fund electricity efficiency work then it should be funded from Consolidated account rather than levies involving cross-subsidies.

Some parties have argued that reductions in demand as a result of subsidised electricity efficiency programmes have benefited large consumers because prices will be lower. This misses the point that on average prices are set by suppliers pricing just under the

¹ Refer http://www.med.govt.nz/templates/ContentTopicSummary_43382.aspx

² Refer Table 1 of the Discussion Paper

³ Refer http://www.parliament.nz/NR/rdonlyres/C1BB7771-4217-4546-8A9C-6F38034FEECA/132011/49SCFE_EV1_00DBHOH_BILL9726_1_A36671_MajorElectric.pdf

cost of new supply. If the Long Run Marginal Cost (LRMC) of the next tranche of generation is \$90/MWh, on average spot prices will be just under \$90/MWh. Reductions in demand from energy efficiency programmes do not affect LRMC or the longer term average pricing behaviour of suppliers. Average prices are not necessarily lower because of electricity efficiency programmes."

4. MEUG comments on the proposals in the paper follow:

Subject (paragraph reference)	Proposal	Do you agree with the proposal? Which option do you prefer? Any additional comments?
Definitions (42)	New EA Levy: That the current participant class definitions are checked for consistency with current practice, the Electricity Industry Act and the Code, and amended as required. CC Levy: No changes proposed	Agree need to check for consistency.
Allocations (43)	New EA Levy: That the allocation of costs between individual participants within each class remains the same as in the existing regulations. CC Levy: No changes unless option 2 for Transpower regulation is preferred.	Agree.
Method of Collection, Adjustment and Reconciliation (44)	New EA Levy: That the existing methods of collection, adjustment and reconciliation contained in the current EC levy regulations are retained in the new EA levy regulations. CC Levy: No changes apart from the proposed technical amendment (refer paragraphs 82-85)	Agree.
Network Exemptions (50-51)	New EA Levy: That Stewart Island, Chatham Islands and the Haast networks are exempted from the new levy regulations	Agree.
Grid Direct Customers Exemptions (47-49)	New EA Levy: That 'grid direct' customers are either: <ul style="list-style-type: none"> ▪ levied as only a generator or purchaser; ▪ or levied based on net generation or total consumption plus any generation that is above this. 	Levies should be designed on a case by case basis to ensure no double taxation as well as ensuring the objective of the specific levy is retained. Therefore depending on the type of levy the direct consumer could be charged as a gross consumer, gross generator, net consumer or net generator.

Subject (paragraph reference)	Proposal	Do you agree with the proposal? Which option do you prefer? Any additional comments?
<p>Existing Functions</p> <p>(48-49 and 72-74)</p>	<p>New EA Levy: That the existing levy allocation remains the same for the set of functions currently performed by the EC which are to be performed by other agencies (including the EA, EECA and MED).</p> <p>The current allocations for these functions are well-founded and have been consulted on previously.</p>	<p>Accept the design as a pragmatic transition to cover allocations to June 2011.</p> <p>However do not accept all existing levy allocations as a robust long-term solution. MEUG strongly objects to the statement in cell to the left that <i>"The current allocations for these functions are well-founded and have been consulted on previously."</i> In our view consultation has not been robust in both the initial design and annual consultation on the rate of levy to be set for some aspects of the current arrangements, eg the electricity efficiency levy as noted in paragraph 3 of this submission.</p> <p>MEUG is looking forward to commencement of the review of EECA as part of the Ministerial Review of Electricity Market Performance 2009⁴, ie decision #45 <i>"Note that the Minister of Energy and resources is undertaking a strategic review of EECA to ensure that it is well-focussed and performing effectively (including adopting where possible the best practice approaches to promotion of energy efficiency used by the EC."</i> How EECA work is funded should be part of that review.</p> <p>MEUG does not agree with the proposal that the costs of MED developing and publishing supply and demand scenarios be recovered as part of the Transmission Operations function. MED is a policy agency without, as we it understanding it, any time writing protocols. On the other hand the Commerce Commission is a delivery agency and has time writing protocol so staff time is correctly allocated and accounted for to those activities that levies apply. Until such time as MED has such processes in place than we believe it would be improper for MED to seek recovery of monies for which it has no means of recording and verifying.</p>

⁴ Refer paper considered by Cabinet Economic Growth and Infrastructure Committee on 7th December 2009, Ministerial Review of the Electricity Market, paragraph 166, recommendation 45, refer <http://www.med.govt.nz/upload/71002/cabinet-paper.pdf>

Subject (paragraph reference)	Proposal	Do you agree with the proposal? Which option do you prefer? Any additional comments?
Fund to Promote Customer Switching (54-56)	New EA Levy: That retailers should be levied the full cost of the customer switching fund.	Agree retailers be levied provided the cost allocator between retailers is the number of Metering Category 1 meters supplied ⁵ . Retailers supplying Category 2 to 6 meters (ie time-of-use meters) should not bear any cost of promoting customer switching because they are not operating in the household sector that this policy is targeted at and where the benefits will accrue.
Establishment Costs (57-59)	New EA Levy: That the three participant classes of: generators, purchasers and distributors (which includes Transpower) be equally levied for the establishment of the EA (i.e. one third to each class).	Agree.
Transpower Grid Upgrade Approval (60-70)	<p>CC Levy: It is proposed that Transpower continue to pay the cost of grid upgrade approvals.</p> <p>With regard to the CC's costs for other work related to Transpower under Part 4 of the Commerce Act, there are two options:</p> <p>Option 1: Status quo</p> <p>Option 2: Allocating some (or all) of the CC's other Transpower related costs solely to Transpower.</p> <p>Views are sought on the relative merits of these two options.</p>	<p>Agree Transpower continue to pay the cost of grid upgrade approvals to be processed by the CC rather than the EC.</p> <p>Agree option 1 (status quo) in relation to allocation of other Transpower related work managed under Part 4 by the CC. Option 2 seems administratively complex and costly without any benefits relative to the status quo.</p>
EIRA Exemptions (75-79)	EA Levy: That that the cost of assessing applications for exemptions to retained "EIRA" provisions is allocated to "other activities" and paid for by all industry participants.	<p>Do not agree with this proposal.</p> <p>There is no change in the fact the beneficiaries of exemptions are the applicants. On a user pays basis the status quo should stand and applicants should pay unless the cost of accounting for and billing the applicant for the service (the "overhead transaction costs") relative to the cost of service delivered are high. Given current application fees are \$11,250 (GST inclusive) then overhead transaction costs are likely to be immaterial.</p> <p>The discussion paper argues there will be fewer applications; the cost to the Electricity Authority (EA) will be smaller</p>

⁵ Metering Installation Categories are defined in Code of Practice D1, Part D of the Electricity Governance Rules.

Subject (paragraph reference)	Proposal	Do you agree with the proposal? Which option do you prefer? Any additional comments?
		<p>and therefore no need to match costs with beneficiaries. MEUG disagrees. We think costs will increase. First, if there are fewer applicants then there will be fewer administrative economies of scale and the cost per applicant will likely increase. Second as this is a new activity for the EA, they will have to build processes and expertise and that will also add costs. Rather than costs necessarily decreasing, they may well increase in aggregate.</p> <p>MEUG recommends the Ministry recognise the beneficiary of such applications is the applicant; processing costs are much higher than overhead transactions costs and therefore applicants should continue to pay.</p>
<p>Undertaking reviews on written request of the Minister (80-81)</p>	<p>EA Levy: That the costs of any requested review are allocated to the particular function/activity that the review relates to, and is therefore paid for by the relevant participants. Otherwise, if the review is of a more general nature, it is allocated to "other activities" and therefore paid for by all participants.</p>	<p>Do not agree with this proposal. This proposal fails on two counts.</p> <p>First, the principle of beneficiary pays means the Minister as the beneficiary should pay. By making the Minister pay then the Minister when making a request to the EA to review and report on any matter pursuant to s.20 of the reported back Electricity Industry Bill⁶ will have had to make an assessment that net benefits will accrue from the proposed new expenditure. Otherwise if, as the discussion paper proposes, the Minister doesn't have to fund this out of Vote: Energy, but relies on the general ability of the EA to tax levy payers, then there is an increased ability for Ministers to use s.20 to go fishing on speculative or politically motivated reviews because they do not bear the costs.</p> <p>Second, MEUG does not believe it would be good regulatory practice to have regulations that are not prescriptive but instead provide wide scope of work for as yet undefined specific reviews to be initiated sometime in the future. The same regulations could not specify an exact levy regime because that would depend on the type of review requested by the Minister. Again this would be far from good regulatory design.</p>

⁶ Refer http://www.parliament.nz/NR/rdonlyres/BD799C87-B5E8-4B17-8DBB-B2A33209A515/144535/DBSCH_SCR_4766_ElectricityIndustryBill1112_7647_3.pdf

Subject (paragraph reference)	Proposal	Do you agree with the proposal? Which option do you prefer? Any additional comments?
Additional Technical Amendment (82-85)	CC Levy: That the regulations are amended to enable sub-levy liabilities to be adjusted in the end-of-year reconciliation to ensure that EDBs which become consumer-owned only pay for the sub-levy for the period that they are non-consumer-owned (and vice versa, should this occur).	Agree.

5. As the comments above note there is much MEUG agrees with in the discussion paper. There are also important differences. There may be value in the Ministry undertaking a second consultation round or allowing cross-submissions on the more contentious proposals.
6. One item the discussion paper did not cover was the continuation of the reserve energy scheme as proposed in the report back on the Bill⁷ and hence the need for an ongoing levy. This is important because reserve energy scheme levy payers expect to receive any net asset sale value after the sale and purchase of Whirinaki power station between the Crown and Meridian.
7. Finally MEUG trusts the Ministry will undertake the about to commence consultation on the rate of levies proposed for the year ended 30th June 2011 in a more comprehensive basis than the EC has in the past.

Yours sincerely



Ralph Matthes
Executive Director

⁷ Refer s.125 (b) of the reported back Electricity Industry Bill. Note the discussion paper assumed the energy reserve scheme would cease 30th September 2010 (paragraph 21, last bullet point)