MAJOR ELECTRICITY USERS' GROUP

10 November 2010

Peter Alsop
General Manager Organisation Performance
By email to peter.alsop@comcom.govt.nz

Dear Peter

Input into Commerce Commission strategic planning

Thank you for your letter of 18th October inviting input for the Commerce Commission strategic plan. Four strategic issues to be considered for regulation of electricity line businesses including Transpower follow:

1. The measure of success of the Commission is whether the long-term benefit of consumers has been maximised. To date the Commission has used the textbook approach of estimating dynamic, allocative and productive economic efficiencies when making regulatory choices. The actual day to day decisions of end consumers arising from regulation of electricity line businesses is much more complex. For example the Commission may estimate future behaviour, changes in productivity and economic utility based on a view that apart from changes in demand, everything else will remain the same. The Commission does not consider, for example, changes in the details of contract terms and conditions that can shift risk and incentives and hence change behaviours resulting in less optimal outcomes. Unless the Commission drills into and understands more of the subtleties of the various drivers of regulated businesses and their captive customers, we can never be sure regulatory decisions are optimal.

   MEUG suggest the strategic plan provide for more engagement with end consumers and a focus on understanding more of the complexity of how regulatory decisions impact on consumers and their relationship with line monopolies. This will assist the Commission make decisions that better reflect the real world that consumers must manage within.

2. Apart from MEUG there has been very little participation by end consumers in the Part 4 consultation processes. Line company participation has been intensive and extensive. This isn't a matter of end consumers not having any value at risk but rather end consumers have many competing policy and management needs. Even the most electricity intensive end user will have less than 50% of their future cash flow at risk compared to 100% for a line company. For most businesses and households' electricity costs are less than 5% or perhaps even 2% of total expenditure.

Level 1, 93 The Terrace, Wellington 6011, New Zealand
PO Box 8085, Wellington 6143, T +64-4 494 0996, info@meug.co.nz , www.meug.co.nz

Many consumers probably consider the Commission will in effect stand in their shoes and act proactively on their behalf. As point 1 above explains we think the Commission has barely scratched the surface on understanding the complexities of what end consumers consider is their long-term benefit and how that is achieved.

The problem of asymmetry of views being put to the regulator is common worldwide. Ofgem are using a Consumer Challenge Group to better engage with consumers, refer

http://www.ofgem.gov.uk/Networks/PriceControls/CCG/Pages/CCG.aspx

The Commission strategic plan should consider this approach or other options to overcome the asymmetry in competing views put to and considered by the Commission.

3. Part 4 of the Commerce Act enacted in 2008 shifted New Zealand more towards conventional OECD black type regulation. We are becoming followers of overseas regimes that suit much larger economies. The Commission strategic planning should set aside resources and time to allow innovative thinking about new approaches to regulation that is both right-sized for New Zealand and future-proofed.

   For example there will be future changes in technology to allow line service levels to be measured and or differentiated. This will provide an opportunity for line companies to have better incentives to meet the needs of consumers through contracts specifying service levels. The regulatory regime can utilise this and or facilitate a shift towards this by the regulator setting default benchmark agreements in the absence of line companies arriving at contracts bi-laterally with consumers. It isn't a question of if this will occur. It's a question of when and is the regulatory regime in New Zealand future-proofed to take advantage of these changes?

4. With hundreds of millions of dollars of regulated costs and capital investment to be approved each year for Transpower and multi-year multi-million dollar price paths to be set for non consumer owned distribution businesses, this is the time to be most vigilant that line companies have incentives to be efficient. What matters to MEUG is robust and efficient investment. What concerns MEUG is the Commission may have too much of a focus on reducing regulatory costs. We are not adverse to increasing regulatory costs in the short-term given the risk of inefficient investment being made.

This input is not confidential.

Yours sincerely

Ralph Matthes
Executive Director