



MAJOR ELECTRICITY USERS' GROUP

15 December 2017

Robert Bernau
Head of Energy, Airports and Dairy Regulation
Regulation Branch
Commerce Commission
By email to regulation.branch@comcom.govt.nz

Dear Rob

Priorities for the electricity distribution sector for 2017/18 and beyond

1. This is the feedback from the Major Electricity Users' Group (MEUG) on the Commerce Commission open-letter to stakeholders "our priorities for the electricity distribution sector for 2017/18 and beyond", 9 November 2017.¹
2. MEUG members have been consulted in the preparation of this feedback. This letter is not confidential. Some members may make separate feedback.

We agree with the CC vision

3. MEUG supports the Commission's (underlined text by MEUG) "... vision that New Zealanders are better off because markets work well, and consumers and businesses are confident market participants."²
4. Implementing the Commission's vision in competitive markets uses similar regulatory tools employed by overseas regulators (ie Part 2 of the Commerce Act provisions). Emerging digital and web based technologies are a new challenge globally for market conduct regulators.
5. Regulation of electricity lines monopolies in different countries is further complicated by different ownership structures and how non-line parts of the energy supply chain are regulated. An important consideration for New Zealand are our legacy regulations based on a "light-handed" approach compared to other OECD countries. Given this context, MEUG suggest implementing the Commission's overall vision in paragraph 3 above for the themes of markets and confidence for New Zealand's Electricity Distribution Businesses (EDB) would be achieved when:
 - EDB line services become more market-like and where possible made contestable.

¹ URL <http://www.comcom.govt.nz/dmsdocument/15863> at <http://www.comcom.govt.nz/regulated-industries/electricity/our-priorities-in-electricity-distribution/>

² Open-letter paragraph 3.

The direction of regulation should be to facilitate better engagement between line service suppliers and end customers to mimic that found in markets. Engagement may be directly or through a retailer or aggregator.³ There will be more not less granularity of service quality and cost-price specifications for customers to choose from (or to elect a bundled average service package from a retailer if a customer so wishes).

- EDB and their customers have confidence in making choices and being innovative in providing or using electricity line services and substitutes.

Confidence, in terms of the regulatory environment, requires certainty that the regulators will be agnostic between technology options, even-handed, pro-active and accountable. Certainty on these policy process parameters is needed by both line service suppliers and end customers.

6. There are a myriad mix of different future technology paths and business models that may develop for both customers and those in the supply chain including EDB. "Future-proofing" the regulatory framework governing EDB needs to consider a wide range of possible regulatory scenario options.

Comments on AMP, summary disclosures and encouraging CPP

7. The open-letter proposes a near-term focus on Asset Management Plans (AMP), improving summary information of existing disclosures and encouraging more Customised Price-Quality Path (CPP) applications. These are in effect a continuation of business-as-usual work programmes.
8. For example, take AMP. Apart from Wellington Electricity Lines Ltd (WELL) MEUG is not aware of any other EDB that has used an asset criticality index. Despite AMP having been part of the Commission's regulatory requirements for at least 13 years they are, apart from WELL, below that expected of an EDB meeting Good Electricity Industry Practice (GEIP).⁴ A 13-year lead time to improve the quality of AMP to that of GEIP should have been sufficient. That leads MEUG to conclude the regulatory tools to date have failed and fresh ideas need to be proposed and tested. We are not confident EDB led development of guidelines will increase the pace of improvement. Neither do we wish to shift from having relatively "light-handed" regulation. Smarter or innovative regulation is needed; not just the status quo.
9. Improving presentation of summary information of existing disclosures to a wider audience may led to some incremental participation by customers and retailers in regulation of EDB. Until there is a better contractual relationship between EDB and customers (bi-lateral contract or chain of contracts through a retailer), we think the agency problem whereby EDB view their primary customer as the Commission will continue to dampen incentives on most customers to participate in the complexities of regulating EDB.
10. The recent Powerco and WELL CPP applications have undermined our confidence in many aspects of the CPP regime.⁵ The review of those application processes mentioned in paragraph 39 of the open-letter is essential. The CC should make it clear if any actions arising from a review will be confined to the IM framework revised this time last year or further refinements to the IM will be possible. We think a review must allow the latter.

³ For the balance of this submission references to "customer" infer retailers and aggregators also as intermediaries between EDB and end use customers.

⁴ The reference to AMP being required for at least 13-years is based on the Commerce Commission Electricity Information Disclosure Handbook, 31 March 2004, section 4, refer <https://www.comcom.govt.nz/dmsdocument/2584>

⁵ Refer 2-MEUG submissions to CC. First, Powerco CPP proposal, 22 September 2017, p13. Second, Wellington Electricity CPP proposal, 15 December 2017, paragraphs 8 and 12.

11. In summary, MEUG agrees work is needed on lifting the quality of AMP and a comprehensive review of the CPP regime. We see less benefit on focussing on improved presentation of disclosure information compared to working towards a clear line of sight on contractual terms and conditions between customers and EDB.⁶
12. The above paragraphs considered the business-as-usual focus work proposed in the open-letter. MEUG suggests the Commission should also consider what focus topics need to be considered for scenarios at the other extreme where there is the potential for rapid ubiquitous disruption. AMP would also be critical including more granular price-quality choices being provided to individual customers or clusters (eg regional and or voltage class).
13. In a highly disrupted future energy market efficient pricing signals to customers would be critical compared to say improved summary disclosure information. In this scenario customers would participate directly by choosing to use less or more, or be a provider of line services (eg a customer providing battery services to an EDB). Even if modest direct customer participation were to occur, we think this would have a material effect at the margin on EDB investment and operating behaviour.⁷ This highlights the importance of pricing and other contract terms and conditions such as compensation for non-performance at a finer level of customer class or region for both the rapid ubiquitous disruption scenario and the business-as-usual scenario.

The 2020 DPP reset

14. MEUG supports:
 - Other dimensions of quality should be considered (paragraph 6.1 of the open letter);
 - A more disaggregated basis of quality standards is needed (paragraph 6.2). This aligns with our view in paragraph 13 above that what matters for customers are cost-reflective and service-based terms and conditions including prices and compensation for non-performance for more disaggregated customer classes and or regions.
15. MEUG is sceptical of relying on individual EDB forecasts of demand in their AMP as a basis for setting DPP. The proposed focus in the open-letter on a business-as-usual paradigm could set an expectation by EDB that continuous year-on-year growth in demand peak is acceptable. That would lead to a very high investment path for EDB compared to, for example, if all EDB were to consider the demand projection used in Transpower's Transmission Tomorrow paper.⁸ A range of demand scenarios should be required in AMP and if necessary mandated default scenarios for all EDB and Transpower.
16. Finally, MEUG suggests all relevant key supporting documents to an EDB AMP be published. The examples we are thinking of are the Project Overview Documents (PODs) and Options analysis and Economic Evaluation Tools (OAEET) published by Powerco as part of their CPP proposal. An AMP that meet GEIP should have similar levels of supporting documentation. We see no reason why an EDB would not wish to disclosure that level of analysis. The more granular and detailed disclosures are the more relevant they are likely to become to customers; hence facilitating more feedback to EDB so they can improve and tailor services to what customers want and are prepared to pay for.

⁶ Another relevant regulatory tool is Electricity Authority's proposed Default Distribution Agreement. The DDA is an opportunity to have terms and conditions for default compensation payments for non-performance of service levels.

⁷ MEUG acknowledges at the mass market level individual customer's quality specifications are usually not feasible and some averaging is needed to say the supply feeder. However, that is a better option or at least a decision customers should consider rather than be given no choice other than an EDB dictating average quality standards for all feeders.

⁸ Refer Transpower, Transmission Tomorrow, Powering New Zealand Today + Tomorrow, May 2016, URL <https://www.transpower.co.nz/sites/default/files/publications/resources/Transpower%20-%20Transmission%20Tomorrow26052016.pdf>

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Matthes', with a long horizontal stroke extending to the right.

Ralph Matthes
Executive Director