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Submissions
Electricity Authority
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By email: submissions@ea.govt.nz

2016/17 Levy-funded appropriations, and work programmes

We welcome the opportunity to submit on the Electricity Authority and EECA joint consultation paper *2016/17 Levy-funded appropriations, Electricity Authority work programme, and EECA work programme* published 13 October 2015.

Our submission focuses on funding and on the work programme of the Authority:

- we support efforts to contain cost but caution against false economy that could degrade the quality of stakeholder consultation, analytical and decision making processes
- we broadly support the work programme, particularly its focus on promoting retail competition and efficient pricing. We see the distribution pricing review and work by the Retail Advisory Group on low fixed user regulations as an important part of this.

We discuss each point below.

FUNDING ALLOCATION

We welcome the Authority's ongoing commitment to containing operating expenses. We support the aim of building in-house capability to allow the Authority to reduce its reliance on consultants. However, we recognise that the Authority's decisions have far reaching consequences that may create costs or benefits that are orders of magnitude larger than the Authority's entire operating expenses and caution against false economy.

We consider investment in the analytical and regulatory policy capabilities of the Authority's staff to be prudent. Similarly, judicious use expert external advice – particularly for matters that are complex, contentious or could result in substantive policy reforms – is prudent and likely to promote the statutory objective. We consider this view to be compatible with the Authority's broad objective to reduce its reliance on consultants for core or business as usual functions.

We note the Authority's recent use of independent experts to inform or critique the Authority's work, and / or that of its advisory groups, and support this. As well as stress-testing the Authority's own thinking, this can help strengthen the evidence base supporting the Authority's policy decisions; ultimately contributing to enhanced stakeholder confidence and reducing the risk of legal challenge or of regulatory failure.

The Authority's emerging practice in this regard is aligned with that of the Commerce Commission which is increasingly utilising independent experts to test its own thinking and to provide quantitative evidence in support its decision-making. Similarly, we support the Authority engaging early in the policy development process which we consider is conducive to more successful regulatory decision making.

The combination of consulting early in the policy making process, investment in the capability of Authority staff and the judicious use of independent experts to inform and challenge the Authority's thinking is more likely to result in the Authority being 'right first time' (and be more cost effective in the long term). If this results in a short term increase in cost for the Authority then we would support a higher appropriation.

WORK PROGRAMME

We appreciate that the Authority has responded to previous feedback to more vigorously prioritise workstreams and to ensure the Authority's BAU functions such as project evaluation, Code governance and compliance are recognised in the programme.

We support the Authority's efforts to continuously improve business-as-usual systems and processes, including communication with participants. In the latter regard we consider that this appropriations consultation, along with the Authority's work programme calendar, Regulatory Managers meetings, and market briefs, are valuable in communicating the Authority's work programme and priorities to stakeholders.

We support the general direction of the Authority's work programme; particularly, the ongoing strategic focus on retail competition. In addition to helping improve the price signals to consumers, distribution pricing reform will be a key enabler of effective retail competition. We also support the Authority's use post implementation reviews to establish whether expected outcomes (costs and benefits) have been achieved.

In relation to the Authority's 2016 Code amendment omnibus we encourage the Authority to take into account stakeholder feedback on its 2015 Code amendment omnibus programme.

Consultation on implementation of new Disconnection Policy

Omitted from the work programme is the Authority's planned consultation on the disconnection of direct purchasers. This consultation relates to new Code provisions (14.49), which were decided on in December 2013 and came into effect in March 2015, providing for disconnection of direct purchasers following an event of default. When it decided to change the Code the Authority stated in its market brief:¹

The Authority intends to undertake consultation early next year to seek further views on disconnection procedures for direct connect consumers that purchase their electricity from the clearing manager.

As indicated by the decision paper² this would include an exploration of the role of court injunctions in those processes. This consultation has not yet occurred.

In practice this means that the Code, and corresponding Benchmark Agreement provisions, provide for disconnection of direct purchaser customers in situations of default in the wholesale market, but there is no specification of the policy or procedure governing the exercise of this grave power (or how the directed party, potentially ourselves, is expected to apply the direction).

We consider the present situation to be unsatisfactory and with potentially serious unintended consequences. We encourage the Authority to follow through on its December 2013 commitment.

¹ <http://www.ea.govt.nz/dmsdocument/16798>

² Settlement and Prudential Security Decision and Reasons paper *The option of seeking an injunction to prevent the direct purchaser using electricity remains as one possible tool in the Authority's "toolbox" for managing an unremedied default.*

CONCLUDING REMARKS

We appreciate the opportunity to comment on the 2016/17 work programme and look forward to supporting the Authority in its delivery.

We recognise and appreciate efforts by the Authority to communicate with and engage its stakeholders. We consider the Authority has made gains in this respect in 2015/16.

Please do not hesitate to contact me if you would like to discuss this submission or our views on the appropriations and work programme consultation.

Yours sincerely,

A handwritten signature in black ink, consisting of the letters 'JC' followed by a long horizontal line that ends in a small hook.

Jeremy Cain
Regulatory Affairs & Pricing Manager