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30 August 2023

Tim Sparks
Director
Network Pricing
Electricity Authority

Dear Tim,

Distributors should concentrate on providing clear and appropriate pricing signals to retailers, rather than on how these are passed through to consumers

Electric Kiwi welcomes the opportunity to cross-submit in relation to the Authority's targeted distribution pricing reform consultation.

The merits of different retail pricing is out-of-scope

Some distributor submissions made pejorative comments about retail pricing Electric Kiwi (free hour of off-peak power daily) has adopted that has proven so popular incumbent retailers have not only copied us but also heavily based their marketing around the pricing. We have little sympathy for distributors who may be facing difficulties because they have under-invested in their networks and aren't sending the right pricing signals for network usage. Innovative retail pricing that is proving very popular with many consumers is well out-of-scope of the review of distribution pricing reform.

We would like distribution pricing reform to happen "ahead of the energy transition 'curve'"

It is clear that while the Authority considers distribution pricing reform isn't happening fast enough, some distributors consider the goalposts are shifting and there is uncertainty about what the Authority wants. The latter is articulated in most detail in the Network Tasman submission. We have sympathy for both sides. We would like distribution pricing reform to happen at pace and "ahead of the energy transition 'curve'". We also recognise the Authority's view on network pricing continues to evolve but it could be clearer on matters such as dynamically efficient pricing.

Distributors and retailers have different roles when it comes to pricing

The appropriate delineation of pricing responsibilities between electricity distributors and retailers is that distributors should principally focus on ensuring their pricing is efficient, and pricing signals are useable and useful by retailers, while retailers ensure retail tariffs are tailored to what end-consumers want.



There appears to be angst amongst some electricity distributors about how retailers pass-through their distribution tariffs and the extent to which there is value in distribution price reform if there isn't sufficient (however defined) pass-through of distribution price-signals. Our submission largely addressed this matter.

Distributors should recognise retailers are their customers

Distributors should have a strong focus on ensuring efficient, cost reflective pricing and good engagement and consultation with their retailer customers about potential pricing reform. MEUG has noted some distributors are very good at this and some aren't.

Vector highlighted that "it is actually more straightforward for us not to have to consider either how retailers might accommodate our prices, or how to engage end consumers in pricing and demand response. This suggests a more dispassionate focus for EDBs, purely on cost signalling".

If distributors want to try to adopt a more retail-style (Vector uses the term "consumer-centric") approach over an efficiency focus, they will inevitably face problems that they are not end-consumer facing businesses and trying to second guess what would be acceptable to end-consumers (and/or what retailers may be willing to pass-through more directly) will limit the pricing options available to them.

For example, a wide range of distributors (EA Networks, Network Tasman, Network Waitaki Powerco, and Vector) and the ENA advocated strongly for use of Anytime Maximum Demand (AMD) pricing, and have provided strong reasons why such an approach may be efficient. Pricing options like this may not be acceptable to end-consumers and therefore may not be suitable for pass-through (the Lines Company experience provides a salutary lesson if what end-consumers like and don't like).

A focus on retailer pass-through will essentially leave distributors beholden to what is palatable to the lowest common denominator amongst the large, incumbent retailers (if they want a high level of retailer pass-through). Even if distributors try and set tariffs that make it easier for retailers to pass-through directly, different competitive strategies will inevitably mean different retailers will take different approaches to the distribution tariffs in their own pricing.

Distributors cannot adopt whatever pricing methodologies they want (under voluntary Guidelines) and expect retailers to blindly pass-those prices on to end-consumers or expect retailers to be subject to mandatory pass-through requirements. Any distributor that thinks otherwise is essentially indulging in economic 'cakeism'.

We agree with Vector that these issues should be "explicitly addressed with the sector" and "Until there is alignment between the Authority and the sector, and within the sector, on these key issues of philosophy right at the top of the design process, the risk is that we keep talking past each other".



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There was general support for our view that the consumer protection objective is relevant

We reiterate that we consider the new consumer protection objective to be directly relevant to distribution pricing. The 2degrees/Electric Kiwi, Consumer Advocacy Council, Mercury, and Transpower submissions all raised that the new consumer protection objective is relevant, while submissions from ENA, Genesis, Network Waitaki and Vector highlighted affordability issues and how distribution pricing can harm vulnerable consumers.

Only Contact's submission supported the view that consumer protection considerations should not be taken into account. Contact did not express a view about whether the new consumer protection objective is applicable but rather that it didn't support application of the new objective.

Potential overlap in jurisdiction of the Commerce Commission and Electricity Authority

It would not be appropriate for the Commerce Commission and Electricity Authority to have overlapping powers to price regulate electricity retailers (and potentially other electricity services that are currently not subject to price control). We reiterate price control is the appropriate responsibility of the Commerce Commission under Part 4 Commerce Act.

In our submission, we voiced concern the Authority seemed to imply it has the power to introduce Part 4 Commerce Act type price control (or price control more generally) "if the Commerce Commission is not applying price control to those goods or services". Fundamentally, price regulation is the antithesis of promotion of competition and would substantially inhibit retailer innovation.

In response to a follow-up question,¹ the Authority confirmed it considers it has price control jurisdiction in the absence of Commerce Commission regulation: "If the Commission was authorised or required to regulate electricity retail under Part 4 of the Commerce Act in future, then the Authority would no longer be able to regulate it under the Code".

Yours sincerely,

ELECTRIC KIWI LIMITED

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¹ Received after the closing date for submissions.