

11 November 2024

Electricity Authority | Te Mana Hiko

By email: [REDACTED]

For the attention of: Sarah Gillies, Chief Executive

Dear Sarah,

RE: Proposed amendments to the Electricity Industry Participation Code 2010 – Part 6 distributed generation and load and Part 6B connection pricing methodologies

Thank you for your letter of 21 October 2024 seeking our feedback under s 54V(1) of the Commerce Act 1986 (Act) on the proposed amendments to the Electricity Industry Participation Code 2010 (Code) relating to:

- Amendments to Part 6 for distribution generation and introduction of application process for load; and
- Amendments to Part 6B introducing connection pricing methodologies into the Code.

I understand that the Electricity Authority (EA) and Commerce Commission (Commission) staff have already engaged on the proposed amendments, and we are keen to continue to work with you to ensure our regulatory regimes together produce efficient outcomes for consumers.

We support initiatives that are intended to better position New Zealand for the transition to a highly electrified economy, in particular pricing and processes which support efficient connection to and use of Electricity Distribution Businesses' (EDBs) networks and lead to efficient investment decisions by developers and EDBs.

We also note the alignment of these initiatives with the recently issued Government Policy Statement which reflected the importance of efficient investment in generation and related services and the role of efficient network pricing as an enabler of this.

Amendments to Part 6 for distribution generation and introduction of application process for load

We have no significant concerns in terms of the impact of these proposed amendments on our regulation under Part 4 of the Act.

While my current understanding is that the proposed amendments are likely to have only a relatively small impact on EDBs' costs, I would request that the EA update the Commission

on any understanding you have or develop on the likely cost impact of the proposed amendments.

Amendments to Part 6B introducing connection pricing methodologies into the Code

I understand that a number of technical issues relating to these proposed amendments are still being worked through by EA and Commission staff.

As you know, we are working to reset the default price-quality path, which will apply from 1 April 2025 to 31 March 2030 for non-exempt EDBs, by 29 November 2024.

I understand the proposed amendments could have potentially significant impacts on price paths which apply to EDBs, both in terms of the proposed fast-track measures and the full reform. We acknowledge that changes are intended to lead to more efficient pricing which will support efficient investments, but note that for customers in some areas this will result in increased prices, at least in the short term.

We note that you have proposed an exemption process accompanying the proposed amendments, for the fast-track proposals this applies where the impact on an EDB's price-path cannot be resolved by November 2025. We agree that further engagement on this topic would be beneficial, including how the proposed exemption process might work in practice alongside the Commission's reconsideration process for price-quality paths under s 54V(5) of the Act.

We would like to reach a position where any proposed changes required from this programme of work by the EA are able to be dealt with in an administratively efficient way for all parties.

The current consultation also reflects a number of considerations for the potential timing and content of full reform. Setting and reconsideration of an EDB's price path, either via a customised price-quality path or the default price-quality path requires significant time and effort from the Commission and industry stakeholders. Accordingly, we anticipate ongoing engagement with the EA across an extended period to ensure both organisations are clear on the impact of the proposed amendments.

Interaction of our respective legislation

We recognise the Electricity Industry Act 2010 specifies the following two exceptions to the prohibition under s 32(2)(b) on the Code purporting to do or regulate anything that we are authorised or required to do or regulate under Part 4:

- setting quality or information requirements for Transpower or 1 or more distributors, in relation to access to transmission or distribution networks; and
- setting pricing methodologies for Transpower or 1 or more distributors.

We note that if one of the above exceptions does not apply, then s 32(2)(b) precludes any Code requirement that purports to do or regulate anything we are authorised or required to do or regulate under Part 4 – namely, regulating 'prices' (as defined in s 52C of the Commerce Act) or revenues from regulated services under Part 4. As you are aware, it is

important therefore that any Code requirement can be characterised as a 'pricing methodology' (as defined in s 32(4) of the Electricity Industry Act), as opposed to regulating 'price', so that the exception under s 32(4)(b) will apply.

Please contact Simon Wakefield ([REDACTED]) if you have any queries on our response.

Yours sincerely

A large black rectangular redaction box covering the signature of the Commissioner.

Vhari McWha
Commissioner