WAIPĀ NETWORKS TRUST

Submission to Electricity Authority

The Electricity Authority
PO Box 10041
Wellington 6143

Via email: connection.feedback@ea.govt.nz

To whom it may concern,

Waipa Networks Trust welcomes the opportunity to provide feedback on the Electricity Authority's (EA's) consultations on:

- Network Connections Project – Stage One
- Distribution Connection Pricing Proposed Code Amendment.

Our feedback on both submissions is combined into this single response.

Our Trust owns 100% of Waipa Networks Ltd, and represents around 40,000 connected consumers covering the Waipa District and Kawhia areas. Our Trust is a Consumer Trust meaning that all profits are retained by the community rather than going to external shareholders.

Waipa Networks Trust owns one of the twenty New Zealand EDBs that are Trust owned – either in part or full. It is the dominant ownership model for EDBs and collectively we supply electricity to over one and a half million customers and have over $9 billion in network assets. Crucially, these networks are owned by their customers which ensures they can strike a balance between affordability of prices to current customers and investing in an increasingly critical piece of community infrastructure for future generations.

By virtue of our ownership model, we are naturally incentivised to act in the best interest of connected consumers. Our profits are returned to our customers, the company provides local sponsorships and community initiatives and is a significant employer in our area.

We support in general the submissions by Energy Trusts of New Zealand (ETNZ), Electricity Networks Aotearoa (ENA) and the Electricity Engineers Association (EEA). Rather than repeat their submissions we have concentrated our feedback on the key matters that affect our customers and beneficiaries. Where there are any differences raised in this letter, the points outlined below take precedence.

We are concerned that the proposed changes are designed to favour a small number of connecting parties over others and that these changes will result in increased charges and risk to existing customers.

Please Slow Down

Firstly, and most importantly, we urge the EA to slow down this process. It is being implemented with undue haste. Mistakes and missteps will only be borne by our existing customers in the form of higher prices and increased risk.

The level of change proposed is overly complex. We acknowledge connection processes, including pricing practices, could be improved and we support initiatives that result in faster, more efficient, and cheaper connection processes. Artificial timelines and pricing methodologies are not the way to go.

We believe there are simpler solutions than what is proposed and we would be happy to work alongside the EA to achieve this objective if the changes benefit all customers and there is a clear and realistic process to implement the change.

We do not support changes to existing processes that are designed to standardize processes for the benefit of a small number of customers to the detriment of many. Our role, and that of our network company, is to be evenhanded and ensure all customers – current and future – are treated fairly.

Equity is Paramount

The EA fails to recognize that networks have an obligation to treat all customers equitably. Any subsidization of new connections is borne by increased charges to existing customers. It is not clear that the EA has canvassed this matter with existing customers. If it hasn't it should urgently do so to ensure a balanced and reasoned debate.

The proposed changes are likely to impact negatively on existing customers in three ways:

1. They are unlikely to have new customers pay a fair charge to join the network meaning existing customers will pay the shortfall.
2. Existing customers will be forced to take on stranding risk on new speculative connections that historically networks would have ringfenced to the investment. A real example is Pike River mine. Westpower made Pike River pay for this connection in full and upfront. Had they not done so the people of the West Coast would still be paying for it.
3. The increased compliance load to administer the raft of proposed changes will result in increased costs. The EA openly acknowledges this in the consultation documents. While it would be logical to reflect these to new customers it is unlikely that these costs will be able to be fully recovered, leaving existing customers to pick up the shortfall.

Obligation to Supply is Forced Investment

The proposed changes create an explicit obligation to supply new loads. This was acknowledged by the EA on their webinar of 11 November. This obligation was removed by statute at the start of the deregulation of the sector in the 1990's. Reinstatement of this obligation should not be done through lesser and more opaque methods. Furthermore, reinstating the obligation to connect <u>and</u> dictating the terms (including price) on which this is done is tantamount to forced investment.

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Better Regulatory Process is Needed

There are many instances within the proposed changes that point to poor regulatory process. We have included some of the more material ones below as examples.

- An obvious case in point is the potential for a non-exempt network to find itself limited in its ability to recover revenue for new connections via a combination of its revenue limit and a constraint on capital contributions. It should not rest with the affected party to try and find a way through a problem created by the inability of two regulators to collectively determine a solution. There is no reason that the EA cannot provide regulatory certainty ahead of the change and it should do so.
- The use of an arbitrarily determined reliance limit set at an average value is not good practice. All networks are different and should be treated as such. The framework the Commerce Commission uses for non-exempt networks reflects this. Networks are set maximum allowable revenues based on their past and future investment profiles and can also seek customized arrangements if necessary. It is easy to foresee future situations where networks will be constrained by the reliance limit through no choice of their own. Network growth capex and customer contributions are not as tightly linked as implied in the consultation document. What is needed is a robust process to arrive at the right outcomes for each network not a subjective limit that requires networks to apply for exemptions they may not get.

The consultation makes numerous references to capacity rights.

- Networks sell access not capacity. With new connections and upgrades they provide a maximum capacity limit within an agreed timeframe. Capacity rights imply ownership and with ownership comes the perception of having something that is tradeable. This is dangerous territory, and this should not be embedded in the code.
- Consumer maximum capacity (demand) often changes over the life of a connected consumer as does its daily and weekly profile. Investment in network capacity is optimized taking advantage of these time varying capacity demands or ADMD (After Diversity Maximum Demands). With capacity rights the EA is creating the unintended consequence of reducing network optimization with consequential increasing costs for all customers.

Slowing this process down would allow the EA time to address the above issues.

Conflicts with our Trust Deed

Consumer Trust Discounts

We assume the EA considers that these new subsidised connections will benefit from otherwise standard terms, conditions and lines charges. I.e. there will be no discrimination between them and other customers of the network.

This assumption cannot be left unchallenged. For example:

Extracts from Waipa Networks Trust Deed

5.3 **Discretion as to Income:** The Trustees may, subject to Clause 5.4 and Clause 5.5 pay, apply or appropriate the whole or substantially all of the current net annual income derived by or credited to the Trust Fund in any Financial Year to or for or otherwise howsoever for the benefit of the Connected Consumers or such one or more of them to the exclusion of others or other of them in such manner and in such shares and proportions as the Trustees in their absolute and unfettered discretion shall think proper. However, this discretion shall not include any distribution for charitable or political purposes.

5.4 **Retention of Dividends:** The Trustees shall in respect of any Dividend received be entitled to pay, apply or appropriate that Dividend to Connected Consumers in accordance with Clause 5.3 at any time during the Financial Year to which that Dividend relates or the following Financial Year provided however that the Trustees may defer payment, application or appropriation of any sum or benefit to any Connected Consumer until the Trustees are satisfied that all liability for taxation in respect thereof has been discharged.

5.5 **Directors Report:** The Trustees may request the Directors to produce a report in respect of each Dividend received by the Trustees which report recommends an appropriate allocation of the Dividend amongst the Connected Consumers or classes of Connected Consumer based on the contribution made by each class of Connected Consumer to the earning of that Dividend and in such report the Directors may classify Connected Consumers in any manner they see fit and in exercising their discretion in accordance with clause 5.3 the Trustees may have regard to those recommendations but shall not be bound by such recommendations.

This could mean that Waipa Networks Trust will require it’s company to publish new tariffs which exclude discounts for these customers thereby denying them future discounts which they might otherwise expect to receive.

Such a decision if made would add considerable complexity to the schedule of published tariffs and to the subsequent calculations of the company’s discounts which usually exceed those published.

Waipa Networks Trust would prefer to treat all customers equitably; both in the charges made for connection and in the disbursement of benefits such as biannual discounts.

In Summary

We have not reviewed the draft code within the consultation. Given the many questions that are likely to be raised around how the EA intends to implement its plans we feel it is premature to do so at this point in time. If the EA were to implement the draft code without any change it would surely point to a lack of intent to consult openly. We therefore reserve the right to provide feedback on this at an appropriate stage in this process.

Should you wish to discuss any of the points raised above please feel free to contact me on 0276447463. We would welcome the EA being present at any forums we hold to hear the views of current customers. We ask that any interest in this be coordinated through ETNZ.

Yours sincerely

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