

Submission

Electricity Authority – Innovation and Participation
Advisory Group: Equal Access Project

10 April 2018

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1 Introduction

Aurora Energy welcomes the opportunity to submit in relation to the Innovation and Participation Advisory Group's (IPAG) Equal Access Project (the Project).

No part of our submission is confidential and we are happy for it to be publicly released. This submission should be read in conjunction with our submissions to the Electricity Authority (the Authority) on mass participation¹ and appropriations and work priorities for 2018/19².

If the Authority (or IPAG) has any queries regarding this submission, please do not hesitate to contact:

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2 Early engagement is a positive first step

Aurora Energy is pleased that the IPAG has chosen to request submissions at an early stage in the review process.

The engagement contrasts starkly with the Market Development Advisory Group's (MDAG) work on the Spot Market Trading Conduct project. The MDAG project milestones mean that it won't consult until 15 months after starting the project, and nearly a year after MDAG has agreed on a problem definition.

The early consultation on the Project is likely to be particularly helpful as the Authority has only undertaken a preliminary assessment of whether there is a problem. We raised our concerns that the Authority had failed in its mass market consultation paper to include a *"Clear and comprehensive problem definition"*. In its *"Enabling mass participation – Response and next steps – Decision"* paper, the Authority expressed the view that it had *"detected a lack of confidence in existing open or equal access arrangements"*³, hence the need for initiating the Project. It is reassuring that the Authority has identified the need for the Project to further investigate the reasons for that lack of confidence.

The Authority acknowledged that more work is needed on the problem definition, and this is reflected in the Project's objective; *"... to identify whether the existing arrangements ensure all parties wanting to use transmission and distribution networks are treated equally and can compete on a level-playing field"*⁴.

If there are legitimate issues in relation to network access, we would expect to see genuine evidence of these from stakeholders (access seekers) that have had problems with access.

3 Clarification of the scope of the project

The term "open access" is commonly used in relation to network access and widely understood to mean non-discriminatory access to the network to enable competition in upstream and downstream markets (electricity generation and retailing).

The Authority, though, has used the terms "open access" and "equal access" interchangeably. It is not clear what, if any, distinction the Authority is trying to make between open and equal access. Non-differentiation, or treating access seekers "equally", is not the same as non-discriminatory access and could, for example, preclude bespoke arrangements designed to suit the particular needs of an individual access seeker.

¹ Aurora Energy. (2017). Enabling mass participation in the electricity market, 11 July 2017.

² Aurora Energy. (2017). Electricity Authority 2018/19 appropriations and work priorities, 19 December 2017.

³ Electricity Authority. (2018). Enabling mass participation: Response and next steps, 4 October 2017, paragraph 3.1.

⁴ Electricity Authority. (2018). Enabling mass participation: Response and next steps, 4 October 2017, paragraph 3.2.

It is also unclear why network access (which is covered by the Default Distribution Agreement project) appears to have been lumped together with issues of third-party network service support. The two issues are separate and unrelated. Network service support is **not** a network access issue.

We therefore urge the Authority and the IPAG to further consider and refine the scope of the project.

4 Misgivings about the Authority's focus on third-party network service support

Our views on third-party network service support are detailed in our submission to the Authority on mass participation⁵.

There appears to be two competing views emerging from retailers and the Authority on why electricity distribution businesses (EDBs) are failing to use third-party network service support.

One argument, enunciated by ERANZ and incumbent retailers, is that EDBs favour their own in-house network service support instead of third-party network service support because their related-party services can be used (through manipulation of cost allocation and related party transaction rules) as a way to increase their regulated business profitability.

The other view, proffered by the Authority, is that electricity networks may be *"reluctant to make greater use of competition to more efficiently supply the network service"*⁶ (and therefore are failing to profit maximise) because:

- *"obtaining network support from third parties is currently not common practice for distributors, and some distributors may be reluctant to adopt an unfamiliar or unproven approach"*⁷;
- there is a lack of understanding amongst distributors that *"improved communication and control technology, and innovation in contracting practices, reduces the need for a distributor to own and directly control the assets required to provide a service"*⁸ meaning that concerns held by distributors regarding reliability levels and cost increases are redundant; or
- *"distributors may have strong commercial incentives to supply all services themselves through owning and controlling assets that provide network support despite the potential cost savings from relying on competition"*⁹.

If either of these views are correct, the solution lies with the Commerce Commission (the Commission) either:

- in the case of the first view, tightening the cost allocation and related party transaction rules, which it has recently done; or
- in the case of the second view, making changes to strengthen incentives to innovate and improve efficiency.

5 Sorting out the boundaries between the Commission and the Authority

Our submission on appropriations for 2018/19 highlighted the scope for improved regulatory interaction between the Authority and the Commission.

The issue of third-party network service support is an example where avoidable and unnecessary overlap between the work streams of the Commission and the Authority appears to be occurring.

⁵ Aurora Energy. (2017). Enabling mass participation in the electricity market. 11 July 2017, section 6.

⁶ Electricity Authority. (2017). Enabling mass participation in the electricity market. 30 May 2017, paragraph 4.17, p20.

⁷ Electricity Authority. (2017). Enabling mass participation in the electricity market. 30 May 2017, paragraph 4.17, p20.

⁸ Electricity Authority. (2017). Enabling mass participation in the electricity market. 30 May 2017, paragraph 4.18, p20.

⁹ Electricity Authority. (2017). Enabling mass participation in the electricity market. 30 May 2017, paragraph 4.19, p21.

This overlap is illustrated by the following comments, which were made by incumbent retailers in their submissions to the Authority on mass participation, which repeat submissions made to the Commission on emerging technology during the input methodology review:

- Contact claims that *"Under existing arrangements, networks have the ability to fund emerging technology assets through their regulatory asset base"*¹⁰;
- ERANZ claims there is a problem with electricity networks not taking up opportunities for lower cost third-party network support, and suggest a solution is greater information disclosure: *"... consumers and third parties need better information to objectively verifying that an EDB has selected the least cost, or most efficient supplier of alternatives to traditional network assets"*¹¹;
- Genesis claims *"there is currently insufficient transparency around related party transactions of monopoly businesses, which could mean that services are procured from related parties by default even though the competitive market could potentially offer a more efficient solution"*¹²;
- Mercury claims it doesn't consider current arrangements under Part 4 of the Commerce Act 1986 (Part 4) to be effective: *"Currently distributors have incentives to favour related parties to provide services and use regulated funds to stifle competition for emerging technology. We refer to the issues raised in the ERANZ submission to the Authority which document well retailers concerns as expressed to the recent Commerce Commission review"*¹³; and
- Trustpower suggests that *"The Authority could work with the Commerce Commission to ensure that distributors are adequately incentivised to seek out network alternatives in favour of investing in assets themselves (providing the most efficient long-term solution is found)"*¹⁴.

These issues, while raised in submissions to the Authority by the incumbent retailers, sit squarely with the Commission and the operation of Part 4 and not within the Authority's purview.

The views about the Commission's operation of Part 4 do not appear to be universally held amongst incumbent retailers. Meridian, at least, *"is broadly comfortable with ... the functioning of price and quality regulation and information disclosure regulation by the Commerce Commission under Part 4 of the Commerce Act 1986"*¹⁵.

The overlap between the Commission and the Authority is inefficient, and has resulted in us having to repeat to the Authority the responses we made during the Commission's input methodology consultation.

We reiterate that Aurora Energy would like to see the two regulators avoid pursuing similar matters.

¹⁰ Contact. (2017). Enabling Mass Participation in the Electricity Market, 11 July 2017.

¹¹ ERANZ. (2017). Submission to the Electricity Authority, ENABLING MASS PARTICIPATION IN THE ELECTRICITY MARKET: How can we promote innovation and participation? 11 JULY 2017, page 4.

¹² Genesis. (2017). Enabling mass participation in the electricity market, 11 July 2017.

¹³ Mercury. (2017). Consultation Paper – Enabling Mass Participation in the Electricity Market, 12 July 2017.

¹⁴ Trustpower. (2017). TRUSTPOWER SUBMISSION: ENABLING MASS PARTICIPATION IN THE ELECTRICITY MARKET, 14 July 2017.

¹⁵ Meridian. (2017). Enabling mass participation in the electricity market – Consultation paper, 11 July 2017.