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TRUSTPOWER SUBMISSION ON TERMS OF REFERENCE - SPOTLIGHT ON EMERGING CONTESTABLE SERVICES.

- 1.1.1 Trustpower Limited (**Trustpower**) welcomes the opportunity to provide feedback to the Commerce Commission (**the Commission**) and the Electricity Authority (**the Authority**) on the Terms of Reference (**ToR**) for their joint project "*Spotlight on emerging contestable services*".
- 1.1.2 Emerging technologies have the capacity to give consumers greater choice than ever before. With the increasing the involvement of Electricity Distribution Businesses (**EDBs**) in markets for contestable electricity services such as distributed energy resources, it is timely for the Commission and the Authority to review the implications of EDBs' participation in these markets.
- 1.1.3 These changes may have the potential to benefit consumers in different ways but it also presents potential challenges to how the Commission and the Authority regulate lines services under both the Electricity Industry Act 2010 and the Commerce Act 1986 going forward.

2 Trustpower's views

- 2.1.1 Trustpower supports the Commission and Authority initiating this joint project.
- 2.1.2 There are boundary challenges for each of the regulators in considering the issues around EDB involvement in emerging contestable services. Short of a structural solution, a joint project will enable a comprehensive review can be undertaken and ensure that consumers' interests continue to be promoted by the broader regulatory frameworks.
- 2.1.3 As an overriding principle for considering this matter, we consider it is important consumers are enabled and supported to have choice over *what* is on offer and *how* it is being offered. At the same time, balance needs to be struck between improving outcomes in the short term and ensuring that the market will continue to deliver security, reliability and good consumer outcomes.
- 2.1.4 A number of concerns have been raised around EDBs' involvement in the provision of contestable services in the last few years, including with respect to the potential for cross-subsidisation of investments and for inefficient procurement decisions.
- 2.1.5 We consider this project provides a timely opportunity to further consider these concerns and ensure that a level playing field for competition is maintained and least-cost decisions are being made with respect to the provision of network services. This will promote good outcomes for consumers in the long term.

2.2 Support broader focus on emerging contestable services

- 2.2.1 We consider that a key element of ensuring that consumers' interests are promoted by the arrangements, is that efficient investment in emerging contestable services is occurring. We are therefore pleased that the ToR has chosen to adopt a broader approach of considering emerging contestable services, as opposed to adopting a more narrow interpretation focused only on emerging technology or assets.
- 2.2.2 A narrow focus – on emerging technology or assets only – would potentially mean that the use of existing assets, including distributed generation, to provide any required network services would not be considered within the proposed framework as an alternative option to the distributor investing in emerging technology.
- 2.2.3 Distributed generation is able to provide similar network support services to emerging technology such as large scale batteries. In our view, investing in a “new” technology to provide a service that an existing (or new) distributed generator could provide equivalently and more cost-effectively would seem a perverse outcome, regardless of whether the new investment was being made by an EDB or another party.
- 2.2.4 Regulation should not stifle or impede the competitive deployment of emerging technologies, or the competitive operation of existing technologies in offering the same services as new technologies.
- 2.2.5 As part of the project's review, we strongly suggest that a key focus should be on ensuring appropriate procurement decisions are made (and will continue to be made in future) and that existing and new technologies that can provide the same services are considered equally as part of any decision-making process.
- 2.2.6 Further details of our views around this matter were captured previously in our submissions to the Commission on the:
- a) Input Methodologies review Draft Decision, August 2016; and
 - b) Emerging Technology Pre-Workshop paper, February 2016.
- We attach these as Appendix 1 and 2 for reference.

2.3 Considerations when developing the framework

- 2.3.1 We support the Commission and Authority developing a framework for identifying and assessing the costs and benefits of a distributor supplying contestable services including the wider costs and benefits of regulatory tools which could be applied to mitigate competition or other concerns.
- 2.3.2 Key to the project's success will be transparency of the qualitative assessment that is undertaken using the framework.
- 2.3.3 We support the Commission and the Authority publishing details of all the case studies that are considered through this process, along with clear justifications as to why specific regulatory solutions that could alleviate potential harms to consumers are not adopted. These solutions

(regulatory tools) may include the introduction of ring-fencing arrangements¹, regulatory investment tests², or regulatory measures such as disclosure regimes to improve transparency.

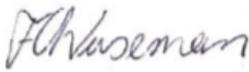
2.4 Final comments

2.4.1 Ensuring appropriate procurement decisions are made, and that existing and new technologies that can provide the same services are considered equally as part of any decision-making process is an important aspect of ensuring outcomes are promoted that benefit consumers in the long term. We would welcome the opportunity to meet with the Authority and the Commission to discuss this matter further at the beginning of this joint project.

2.4.2 We also look forward to continuing to engage with both the Commission and the Authority as the joint project progresses and would like to register our interest in any upcoming workshops or forums to do with the emerging contestable services work;

For any questions relating to the material in this submission, please contact me on 027 549 9330.

Regards,



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¹ We note that the AER considers that: “Effective ring-fencing arrangements are vitally important—promoting good consumer outcomes by creating better conditions for contestable markets to emerge and develop, to deliver new services to customers. Ring-fencing aims to promote competition in the provision of electricity services, by providing a level playing field for third party providers in contestable markets.” Australian Energy Regulator, *Annual Ring-fencing Compliance Report - 2017-18*, pg. 2. Published 21 March 2019 available from <https://www.aer.gov.au/system/files/Annual%20Report%20Final.pdf>

² We note the AER has a regulatory investment test for distribution networks (RIT-D) which promotes the interest of electricity consumers. The AER posits that such an arrangement helps identify the most efficient investment and this benefits consumers directly by reducing the risk that they will pay for inefficient investments Australian Energy Regulator. Refer to *AER Final Decisions – RIT application guidelines*, Published 14 December 2018 available from <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/rit-t-and-rit-d-application-guidelines-2018/final-decision>