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Keston Ruxton
Manager, EAD Regulation Development
Commerce Commission
44 The Terrace
WELLINGTON

Sent via email: regulation.branch@comcom.govt.nz

Dear Keston

Related party transactions: Draft decision and determinations guidance

This is the First Gas cross-submission on the Commerce Commission's consultation paper "Related party transactions: Draft decision and determinations guidance" dated 30 August 2017 ("guidance paper").

We focus our comments on two key areas:

- The need for different treatment of traditional services from related parties versus related party transactions (RPTs) around emerging technologies; and
- Further refinement and guidance is needed to address implementation issues and ensure policy intent is achieved.

Separate treatment needed for RPTs related to emerging technologies

From our review of submissions from electricity distributors and gentailers, it is clear that there are two types of RPTs that need addressing through the Commission's review:

- traditional services from RPTs – work/services on standard distribution assets (i.e. "poles and wires"); and
- the use of related parties for emerging technology (i.e. battery storage).

It appears to be the transactions around emerging technologies that dominate the discussion. As outlined in our submission, we believe this has heavily influenced the review of RPTs and consequently led to proposed amendments that are not calibrated to the scale of the problem.

We recommend that the Commission address the treatment of RPTs around emerging technologies as a discrete matter, separate to this review. This will ensure a solution can be found that addresses the exact problems that parties believe are occurring in the emerging technologies markets.¹

Refinement to proposals needed to address implementation issues – endorse idea of workshop

It is apparent from submissions from all parties, that further refinements are required to the draft determinations to address implementation issues and ensure the policy intent can be met. The proposed definition of "related party" still has a level of ambiguity, as raised by parties such as the Electricity Networks Association, ERANZ and Powerco. We also encourage the Commission to address the assurance issues raised in PWC Auditors submission, such as the form of the assurance report that will be required.

¹ As outlined in the Electricity Retailers' Association of New Zealand (ERANZ) submission, 27 September 2017.

First Gas endorses the idea of a workshop² with regulated parties and further guidance provided on these RPT amendments. It is important that there is a consistent understanding of the new requirements to ensure that any amendments meet the policy intent and objectives of this review.

If you have any questions regarding this cross-submission, please contact me on 04 979 5368 or via email at karen.collins@firstgas.co.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Collins', with a long horizontal flourish extending to the right.

Karen Collins
Regulatory Manager

² As raised by parties such as Powerco.