

3 November 2023

Committee Secretariat
Governance and Administration Committee
Parliament Buildings
1 Museum Street, Wellington 6160
By email to ga@parliament.govt.nz

ENA submission on the Governance and Administration Committee inquiry into the Emergency Management Bill

Electricity Networks Aotearoa (ENA) appreciates the opportunity to submit on the Governance and Administration Committee's inquiry on the *Emergency Management Bill* (the Bill).

ENA is the industry membership body that represents the 27 electricity distribution businesses (EDBs, sometimes called lines companies) that take power from the national grid and deliver it to homes and businesses. ENA harnesses the collective expertise of members to promote safe, reliable, and affordable power for our members' customers. ENA members are lifeline utilities under the existing Civil Defence and Emergency Management Act 2002 (CDEMA) and will be designated critical infrastructure entities (CIE) under the Bill. ENA is supportive of the National Emergency Management Agency (NEMA) and central Government's endeavours to increase the resilience of infrastructure.

ENA has no concerns to raise with much of the Bill, however there are two new duties (as compared with CDEMA) which ENA believes will impose unnecessary burdens on our members without materially improving the reliability or resilience of critical infrastructure. Therefore, our submission focusses on sections 57 and 58 of the Bill – please see our commentary on these sections attached to this letter as Appendix A.

Do not hesitate to get in touch with ENA if you'd like to discuss our submission. Please contact Richard Le Gros (richard@electricity.org.nz, 04 555 0075) in the first instance.

Yours sincerely,



Tracey Kai
Chief Executive
Electricity Networks Aotearoa

Appendix A

1. Placing the Bill on Hold

This Bill is being progressed through Parliament at a time when there are other, broader critical infrastructure resilience reform efforts (e.g. Dept. of Prime Minister and Cabinet's recent phase 1 consultation on their project to increase the resilience of New Zealand's critical infrastructure¹) and ongoing reviews (e.g. the Cyclone Gabrielle Recovery Taskforce) taking place. While we acknowledge the necessity of enhancing emergency management practice, we believe that developing a new Act in isolation from these other reforms could undermine the intended purpose of the Bill. Although the Bill has a more limited scope than the critical infrastructure resilience reform, there is a substantial overlap. Numerous regulatory frameworks and work programs intersect with emergency management and resilience, many of which are currently under development or review, including RMA national direction, the National Energy Strategy and regulation of the electricity and gas networks under the Commerce Act. Therefore, we strongly recommend delaying the Bill to allow these other reform and reviews to take their course, rather than advancing it in isolation.

2. General comments

We emphasize the need for coordination, both at the community level and streamlining of related obligations, which the Bill currently does not effectively address. It primarily relies on individual responsibilities of critical infrastructure entities, rather than emphasizing coordination at the community level, which is imperative for an effective response to emergencies. We also suggest limiting and clarifying the scope of information sharing requirements, ensuring two-way communication between infrastructure providers and the government. The Committee might consider that Regional Emergency Management Committees should collaborate with critical infrastructure providers in the development of their emergency management plans.

3. Section 57 concerns

Section 57 of the Bill introduces a new (with respect to CDEMA) duty to establish, review and publish planning emergency levels of service (PELOS). However, the drafting in this section of the Bill is vague and the duty to be implemented is potentially significant. It isn't clear if PELOS would be created around only one or two probable hypothetical scenarios or span the full gamut of potential natural and man-made emergency scenarios. The type, scale and severity of emergency situations is so variable that a PELOS, even one in response to a detailed scenario, is unlikely to be accurate. It will be difficult for our members to make assurances that they will meet their PELOS as the nature of an emergency is so uncertain. If PELOS are a requirement under the Act, there should be clarification that PELOS are a goal, not a service level guarantee, with the purpose being to improve planning and coordination among critical infrastructure providers at a regional level.

We also have concerns about the usefulness of such a plan to third parties. Resilience standards will only be fit for purpose if they reflect the nuanced decision making that takes place during and after an emergency, including considering the impact and cost for consumers. PELOS could not be relied on by third parties as a resource for further planning. It is highly unlikely to be representative of the actual capability and capacity of our members' infrastructure following a difficult-to-predict emergency event. This is not to say that the capability and capacity for providing the infrastructure

¹ [Lifting the resilience of New Zealand's critical infrastructure | Department of the Prime Minister and Cabinet \(DPMC\)](#)

service following an emergency does not exist, rather that it is totally dependent on the nature, scope, and scale of the emergency.

A significant allocation of resources would be required to create and review PELOS, as we understand the requirement. We considered that the burden of doing so would be excessive, especially given the limited usefulness of PELOS. Section 57(3) creates a duty to publish this plan on an internet site. ENA understands the desire to provide greater certainty to stakeholders regarding the expected levels of service critical infrastructure entities will provide during and post an emergency event. Our concern is that if this is a public facing internet site, this resource may mislead or create unrealistic expectations of our members' infrastructure being available during and after an emergency. There is very little certainty around what critical infrastructure will be available in such a situation. We encourage the Committee to give extra weight to Powerco's submission on the Bill. Powerco, having actively participated in the Wellington Region pilot PELOS, has put forth several valuable recommendations regarding a PELOS requirement.

4. Section 58 concerns

While accountability is necessary to achieve better systems and processes., we consider that Section 58(a) imposes an unnecessary duty on our members to annually report compliance with obligations in the Act. Our members have a specialised role to play in the electricity sector. It is unclear how the Ministry of Business, Innovation and Employment (MBIE) (our responsible public service agency), would have both the capacity and expertise to review our members' systems and processes to determine compliance with the Act. As the requirement for CIE to comply with their obligations in the Bill exists as a matter of course (as it does with all legislation), we are unsure what additional value providing a written statement to this effect will generate.

Appendix B – ENA Members

Electricity Networks Aotearoa makes this submission along with the support of its members, listed below.

Alpine Energy
Aurora Energy
Buller Electricity
Centralines
Counties Energy
Firstlight Network
Electra
EA Networks
Horizon Energy Distribution
Mainpower NZ
Marlborough Lines
Nelson Electricity
Network Tasman
Network Waitaki
Northpower
Orion New Zealand
Powerco
PowerNet
Scanpower
Top Energy
The Lines Company
Unison Networks
Vector
Waipa Networks
WEL Networks
Wellington Electricity Lines
Westpower