



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Progressing the Electricity Price Review's Recommendations	Date to be published	13 February 2020

List of documents that have been proactively released		
Date	Title	Author
11 December 2019	Progressing the Electricity Price Review's Recommendations	Office of the Minister of Energy and Resources
11 December 2019	Progressing the Electricity Price Review's Recommendations DEV-19-MIN-0325	Cabinet Office
11 December 2019	Annex One Regulatory Impact Analysis for the Electricity Industry Amendment Bill future	MBIE

Information redacted

YES / NO

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Some information has been withheld to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and Officials.



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Progressing the Electricity Price Review's Recommendations

Portfolio Energy and Resources

On 11 December 2019, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that on 25 September 2019, DEV:
 - 1.1 agreed to the government's response to the final report of the Electricity Price Review (the Review);
 - 1.2 invited the Minister of Energy and Resources to report back on a number of matters in December 2019;

[DEV-19-MIN-0264]

Strengthening the consumer voice

Establish a consumer advocacy council

- 2 **noted** that households and small business consumers struggle to make their voices heard, engage with, and exert influence over decisions that affect them in the electricity sector;
- 3 **agreed** to establish a Consumer Advocacy Council, as a Ministerial Advisory Committee, with the objective of providing evidence-based policy advocacy for small business and residential consumers, which represents their voice to energy regulators;
- 4 **agreed** to amend the Electricity Industry Act 2010 to provide for the Minister of Commerce and Consumer Affairs, in consultation with the Minister of Energy and Resources and the Minister for Small Business, to appoint a suitably constituted and qualified body to perform the functions of a Consumer Advocacy Council;
- 5 **agreed** to amend the Electricity Industry Act to enable the recovery of all costs of the Consumer Advocacy Council incurred from 1 July 2020 from electricity industry participants, subject to consulting levy payers on the approach for any cost recovery via levy regulations;

- 6 [REDACTED] Constitutional conventions

- 7 **authorised** the Minister of Commerce and Consumer Affairs, the Minister of Energy and Resources, and the Minister for Small Business to consult with interested parties on the proposed terms of reference for the Consumer Advocacy Council;
- 8 **invited** the Minister of Commerce and Consumer Affairs, in consultation with the Minister of Energy and Resources and the Minister for Small Business, to report back to:
- 8.1 DEV in the first half of 2020 on the proposed terms of reference for the Consumer Advocacy Council;
- 8.2 the Cabinet Appointments and Honours Committee on proposed appointments to the Council, [REDACTED] Constitutional conventions [REDACTED] and Cabinet agreement to the Council's terms of reference;

Reducing energy hardship

- 9 **noted** that the Review found that many households struggle to afford electricity to maintain a healthy home resulting in poor living standards, and that policies need to be carefully designed and co-ordinated in order to tackle this issue;
- 10 **agreed** that the Minister of Energy and Resources establish a cross-sector Energy Hardship Group, bringing together senior staff from NGOs and government agencies;
- 11 **agreed** that the Minister for Energy and Resources, in consultation with the Ministers of Housing, Social Development, Commerce and Consumer Affairs, and Child Poverty Reduction, will appoint the Chair and determine the final make-up of the Energy Hardship Group, and its terms of reference;
- 12 **agreed in principle**, [REDACTED] Constitutional conventions [REDACTED] that the Energy Hardship Group will be supported by a small full-time secretariat;
- 13 **noted** the report on progress with the following Review recommendations, as outlined in the paper under DEV-19-SUB-0325:
- 13.1 define energy hardship;
- 13.2 establish a network of community-level support services to help consumers in energy hardship;
- 13.3 set up a fund to help households in energy hardship to become more energy efficient;

Improving the regulatory system

Clarifying the Electricity Authority's information gathering powers

- 14 **noted** that the Electricity Authority has uncertain powers to collect information from industry participants to support reviews or inquiries requested by the Minister;
- 15 **agreed** to clarify the Electricity Authority's powers to gather information from industry participants for the purpose of carrying out reviews or investigations requested by the Minister;

Clearer powers to regulate distribution access agreements

- 16 **noted** that the Electricity Authority has limited ability to regulate competitive access to distribution networks, due to a regulatory gap created by legislation governing the jurisdictions of the Electricity Authority and the Commerce Commission;

- 17 **agreed** that the Electricity Authority be given jurisdiction to regulate transmission and distribution access terms and conditions, including setting quality standards and information disclosure requirements as those terms are used in the Commerce Act 1986;

Further powers to regulate distributors' involvement in contestable electricity markets

- 18 **noted** that Part 3 of the Electricity Industry Act regulates the involvement by a distributor in business activities as a generator or a retailer for the purpose of promoting competition, but that it does not regulate involvements by Transpower or distributors in other contestable markets, including those for distributed electricity storage and demand management;
- 19 **noted** that the Electricity Authority has limited ability to promote its statutory objective in evolving contestable markets in the electricity industry, because the Electricity Industry Participation Code is subordinate to Part 3 of the Electricity Industry Act;
- 20 **agreed** to give the Electricity Authority jurisdiction to regulate involvement by Transpower and distributors in contestable electricity markets by:
- 20.1 incorporating the substance of sections 76 to 79 in Part 3 of the Electricity Industry Act into the Electricity Industry Participation Code, at the point of enactment;
 - 20.2 retain section 75, requiring ownership separation of distribution and large-scale grid-connected generation, together with any provisions necessary for its operation;
 - 20.3 provide for the enforcement of those provisions transferred into the Code under existing sections 50 to 62 of the Electricity Industry Act;
 - 20.4 make any other amendments to Part 3, and to the provisions transferred into the Code, that may be necessary or desirable to give effect to paragraph 20;

Improving the protection of consumers

- 21 **noted** that there is regulatory ambiguity in the Electricity Authority's ability to regulate for the protection of household and small business consumers;
- 22 **agreed** that the Electricity Authority be given an explicit statutory function under the Electricity Industry Act to protect residential and small business electricity consumers, together with any further amendments necessary to ensure consistency with its statutory objective;

Back-stop regulatory power

- 23 **noted** that the Electricity Authority has made improvements to the operation of wholesale and retail electricity markets since its establishment, but that a number of outstanding matters remain and more work is required;
- 24 **agreed** the Minister of Energy and Resources be given a time-limited power, lasting no more than two years and commencing no less than two years after the power comes into force, to amend the Electricity Industry Participation Code as if the Minister were the Electricity Authority, if the Minister considers the Code's provisions are unsatisfactory in respect of any matters underpinning or relating to the following specified recommendations from the Review:
- 24.1 develop a streamlined way for retailers to process consumer requests for consumption data;
 - 24.2 make distributors offer retailers standard terms for network access;

- 24.3 prohibit saves and win-backs;
- 24.4 establish a pilot scheme to help non-switching consumers find better deals;
- 24.5 improve the availability of wholesale market information;
- 24.6 introduce a mandatory market-making obligation unless the sector develops an effective incentive-based scheme;
- 24.7 make generator-retailers release information about the profitability of their retailing activities;

Phase out low fixed charge tariff regulations

- 25 **noted** that the Review recommended phasing out the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 (the LFC Regulations) because it found they are poorly targeted and also have a number of unintended consequences;
- 26 **noted** that, rather than report back to Cabinet now with specific proposals for phasing out the LFC Regulations, the Minister of Energy and Resources has directed officials to engage with parties most likely to be affected to better understand the likely impacts, as input to developing a robust and fair phase out mechanism;
- 27 **invited** the Minister of Energy and Resources to report back to DEV in 2020 with specific proposals to phase out the LFC Regulations;

Review of institutional arrangements for the energy sector

- 28 **agreed** to take a phased approach to the scope and timeframe for a review of institutional arrangements;
- 29 **agreed** that the Ministry of Business, Innovation and Employment undertake consultation with relevant stakeholders and conduct a scope of work that includes:
 - 29.1 developing a greater understanding of any concerns with existing arrangements, whether current or future focussed;
 - 29.2 identifying low-impact options for improved agency co-ordination and potential policy levers that address any identified market failure;
- 30 **invited** the Minister of Energy and Resources to report back to DEV by late-2020 on the work referred to in paragraph 29 above, with the potential for early advice on certain matters;

Legislative implications

- 31 **noted** that the Electricity Industry Amendment Bill has a category 5 priority on the 2019 Legislation Programme (drafting instructions to be issued to PCO in 2019);
- 32 **invited** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;

- 33 **authorised** the Minister of Energy and Resources to make decisions consistent with the overall policy decisions in the paper under DEV-19-SUB-0325, including on any minor and technical issues that may arise in the drafting process.

Janine Harvey
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Phil Twyford
Hon Dr Megan Woods (Chair)
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Shane Jones
Hon Julie Anne Genter
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Energy and Resources
Minister for Small Business
Minister of Commerce and Consumer Affairs

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