



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021	Date to be published	3 December 2021

List of documents that have been proactively released

Date	Title	Author
November 2021	Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021	Office of the Minister of Energy and Resources
25 November 2021	Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021 LEG-21-MIN-0195	Cabinet Office

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

[In Confidence]

Office of the Minister of Energy and Resources
Chair, Cabinet Legislation Committee

Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021

Proposal

- 1 I propose that the Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021 are approved for submission to the Executive Council.

Relation to government priorities

- 2 This proposal relates to the government's commitment to continue to implement the recommendations following the Electricity Price Review, as outlined in Labour's Election Manifesto 2020.

Background

- 3 On 6 September 2021, Cabinet agreed that the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 (the LFC regulations) should be amended by way of a five-year phase-out beginning 1 April 2022 and revocation from 1 April 2027 [CBC-21-MIN-0083 refers].
- 4 The LFC regulations require electricity retailers to provide a low fixed charge (LFC) tariff option of no more than \$0.30 per day to domestic consumers, and also impose requirements on electricity distributors, including a cap on fixed charges, with respect to arrangements they have with retailers or domestic consumers who choose LFC tariffs.
- 5 In 2019, the Electricity Price Review (the Review) outlined a number of unintended consequences of the LFC regulations, which:
 - help only some households while pushing others into greater energy hardship – the Review estimated that almost half of consumers in the most deprived areas pay higher prices because of the LFC regulations.
 - promote inefficient choices for the adoption and use of new technologies (such as domestic rooftop solar generation and electric vehicles) and for electrifying the economy.
 - increase pricing complexity and confusion, making it harder for consumers to shop around for the right electricity plan, hampering retail competition and likely raising average prices for consumers.

6 Consequently, the Review recommended that the LFC regulations be removed. While due regard was given to the findings of the Review, I considered it prudent for my officials to conduct further analysis and additional stakeholder engagement to better understand the impacts of the LFC regulations. This confirmed the finding that the LFC regulations result in unintended, adverse outcomes. In particular, this analysis found that the LFC regulations:

- are a poorly targeted tool which helps some vulnerable households while pushing others, such as those with large families and/or poorly insulated homes, into greater hardship; and
- represent a well-recognised barrier to distribution pricing reform which, as the economy increasingly electrifies, will be crucial to the shift towards more cost-reflective price signals that enable networks to effectively manage peak demand.

7 I therefore recommended to Cabinet that the LFC regulations should be phased-out over a five year period. This phase-out mechanism would see the maximum daily charge for the fixed component of LFC tariffs (and the maximum fixed charge by distributors to retailers) raised during each year of the phase-out period, starting 1 April 2022, to gradually bring the fixed component of LFC tariffs in line with the market rate. The LFC regulations would be revoked on 1 April 2027. This phase-out mechanism was specifically designed to limit any potential impact on consumer bills.

8 Cabinet agreed that the LFC regulations should be phased out through a five-year transition under the following configuration:

- in the first year, from 1 April 2022, the maximum charge of \$0.30/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$0.60/day;
- in the second year, from 1 April 2023, the maximum charge of \$0.60/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$0.90/day;
- in the third year, from 1 April 2024, the maximum charge of \$0.90/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.20/day;
- in the fourth year, from 1 April 2025, the maximum charge of \$1.20/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.50/day;
- in the fifth year, from 1 April 2026, the maximum charge of \$1.50/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.80/day; and
- at the end of the phase-out, on 1 April 2027, the LFC regulations will be revoked, allowing for a market-determined adjustment of fixed charges.

- 9 Additionally, Cabinet agreed that during the phase-out period, the existing split between the maximum fixed charge for distributors and retailers will be retained, so that the maximum fixed charge for distributors remains at 50 percent of the maximum fixed charge for retailers.
- 10 Analysis showed that around 60 per cent of households (approx. 970,000) in New Zealand could benefit from removing LFC tariffs. This includes approximately 270,000 households in areas of high deprivation¹. However, up to 40 per cent of households (approx. 690,000) could face higher electricity bills as a result of removing the LFC regulations, including approximately 235,000 households from areas of high deprivation. Roughly half of the households facing higher bills (approx. 340,000) could see relatively small increases of less than \$40 per year, or \$166 to \$226 by the end of the transition.

Regulations for approval

- 11 To give effect to these policy decisions a new schedule will be included in the existing LFC regulations setting out the required changes in each year of the phase-out, as outlined below.

Regulation 8 (Minimum requirements for LFC tariff options)

- 12 This regulation sets out the minimum requirements a retailer must meet to provide an LFC tariff. In particular, it sets out that daily fixed charge for a consumer must not be more than \$0.30 per day (excl. GST). The proposed amendments would replace the current maximum daily fixed charge with the new maximum daily fixed charge (excl. GST) for retailers each year as outlined above in paragraph 8.

Regulation 14 (Regulated distributor tariff option)

- 13 This regulation sets out the minimum requirements for a distributor's arrangement with a retailer in order to provide an LFC tariff. In particular, it sets out that the daily fixed charge a distributor charges must not be more than \$0.15 per day (excl. GST). In effect this provides that the maximum fixed charge for distributors is 50 per cent of the maximum fixed charge for retailers. This split will be retained, so the proposed amendments would replace the current maximum daily fixed charge with the new maximum daily fixed charge (excl. GST), which will be 50 per cent of the maximum fixed charge for retailers each year as outlined in paragraph 8.

Regulation 17 (Distributors providing wholesale pricing)

- 14 This regulation sets out the requirements a distributor must meet to provide an LFC tariff option when the distributor makes a wholesale tariff option available to a retailer. Similar to regulation 14, the proposed amendment would replace \$0.15 with the new maximum daily fixed charge (excl. GST)

¹ Determined using University of Otago's "New Zealand Deprivation Index"

which will be 50 per cent of the maximum daily fixed charge for retailers each year as outlined in paragraph 8.

Regulation 18 (Prompt payment discounts)

15 This regulation sets out what the maximum daily fixed charges allowed under regulations 8, 14 and 17 are after the deduction of any prompt payment discount. The proposed amendments to the maximum fixed charge allowed require this to be reflected in the maximum fixed charge referenced in this regulation.

Other amendments required

16 There are a small number of minor and technical changes to the LFC regulations that are also required which were not part of Cabinet’s decision. Cabinet authorised me to approve any further details or matters that arise in the implementation of Cabinet’s policy decision, including any minor or technical issues. These additional changes arose through consultation with the regulated parties as well as in the drafting process. These changes are:

- Regulation 9 (Regulation of variable charges in low fixed charge tariff options): an example which was previously included has been removed as it is no longer necessary due to the high level of understanding of how the regulations operate;
- Regulation 12 (Promotion of low fixed charge tariff options): while retailers will continue to be required to promote their LFC tariffs during the phase-out, in the same manner as they currently do, the requirement to promote their LFC tariffs in the final year of the phase-out has been removed since the tariff will no longer be available the following year; and
- Regulation 26 (Minister may grant exemptions): a reference to section 172B of the Electricity Industry Act 2010 has been removed as it is no longer required.

17 Additionally, an update is required to the definition of ‘home in the Lower South region’ in the regulations. The boundary between the lower South Island Zone and the rest of New Zealand (different consumption thresholds apply in each zone) is defined in the regulations by a number of grid exit points. Due to a number of grid upgrades in and around Christchurch, it is now outdated. Below is a table showing the change required. The existing boundary will not be altered by this change.

Previous Definition	Amended Definition
home in the Lower South region means a home that is supplied by any of the following grid exit points: a) Arthur’s Pass:	home in the Lower South region means a home that is supplied by any of the following grid exit points: a) Arthur’s Pass:

<p>b) Castle Hill:</p> <p>c) Papanui:</p> <p>d) Hororata:</p> <p>e) any grid exit point that is south of any grid exit point referred to in paragraphs (a) to (d)</p>	<p>b) Castle Hill:</p> <p>c) Islington:</p> <p>d) Bromley:</p> <p>e) Kimberly:</p> <p>f) Hororata:</p> <p>g) any grid exit point that is south of any grid exit point referred to in paragraphs (a) to (f)</p>
---	--

Financial Implications

18 There are no financial implications associated with this proposal.

Impact Analysis

Regulatory Impact Statement

19 A regulatory impact statement was prepared for the Cabinet meeting approving the policy relating to the amendments to the LFC regulations [CBC-21-MIN-0083 refers]. This regulatory impact statement has been proactively released.

Climate Implications of Policy Assessment

20 A climate implications of policy assessment (CIPA) was prepared for the Cabinet meeting approving the policy relating to the amendments to the LFC regulations [CBC-21-MIN-0083 refers]. It noted that this proposal is likely to result in a total cumulative reduction of approximately 8 million tonnes of carbon dioxide equivalent (MtCO₂-e) by 2050. This CIPA has been proactively released.

Compliance

21 The proposed regulations comply with:

- the principles of the Treaty of Waitangi;
- the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- the principles and guidelines set out in the Privacy Act 2020;
- relevant international standards and obligations; and
- the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 22 There was an extensive programme of consultation undertaken during the Review which identified the issues with LFC tariffs and recommended that they should be removed. Additionally, my officials engaged with parties most likely to be affected by the phase-out when designing the phase-out mechanism to better understand the likely impacts and to balance ensuring a just transition with taking meaningful steps to reduce the harm the LFC regulations create.
- 23 Under section 113(4) of the Electricity Industry Act 2010, before I recommend an Order in Council to amend the LFC regulations I am required to consult with the Minister of Consumer Affairs. The Minister of Consumer Affairs has been consulted. No feedback was received.
- 24 Under section 113(4) of the Electricity Industry Act 2010, I am also required to obtain and consider advice from the Authority on the impact of the proposed Order in Council on the promotion of competition in, the reliable supply by, and the efficient operation of, the electricity industry. The Authority has considered the impact of the proposed amendments to the regulations on the promotion of competition in, the reliable supply by, and the efficient operation of, the electricity industry and has indicated its support for the proposals. A letter from the Authority is attached as Annex A.
- 25 The following agencies were also consulted in the development of the policy proposals underlying the amendments to these regulations: Department of the Prime Minister and Cabinet; Electricity Authority; Energy Efficiency and Conservation Authority; Ministry for the Environment; Ministry of Business, Innovation and Employment; Ministry of Health; Ministry of Housing and Urban Development; Ministry of Social Development; Ministry of Transport; and The Treasury.

Communications

- 26 The amendments to the LFC regulations will be notified in the New Zealand Gazette.

Proactive Release

- 27 I intend to release this Cabinet paper, minutes and any associated papers proactively in whole within 30 business days of final decisions being taken by Cabinet. MBIE will publish a copy on its website.

Recommendations

The Minister of Energy and Resources recommends that the Committee:

- 1 **note** that in September 2021, Cabinet agreed [CBC-21-MIN-0083 refers] that the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 (the LFC regulations) should be phased out through a five-year transition under the following configuration:
 - 1.1 in the first year, from 1 April 2022, the maximum charge of \$0.30/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$0.60/day;
 - 1.2 in the second year, from 1 April 2023, the maximum charge of \$0.60/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$0.90/day;
 - 1.3 in the third year, from 1 April 2024, the maximum charge of \$0.90/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.20/day;
 - 1.4 in the fourth year, from 1 April 2025, the maximum charge of \$1.20/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.50/day;
 - 1.5 in the fifth year, from 1 April 2026, the maximum charge of \$1.50/day for the fixed component of LFC tariffs will be raised by \$0.30, to \$1.80/day; and
 - 1.6 at the end of the phase-out, from 1 April 2027, the LFC regulations will be revoked, allowing for a market-determined adjustment of fixed charges.
- 2 **note** that in September 2021, Cabinet agreed [CBC-21-MIN-0083 refers] that during the phase out period the existing split between the maximum fixed charge for distributors and retailers will be retained, so that the maximum fixed charge for distributors remains at 50 per cent of the maximum fixed charge for retailers.
- 3 **note** that the Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021 will give effect to the policy decisions agreed by Cabinet referred to in recommendations 1 and 2 above.
- 4 **note** that some minor and technical issues arose during consultation with the regulated parties as well as in the drafting process, which are referred to in paragraph 16 and 17, which required further amendments authorised by the Minister of Energy and Resources, as agreed to by Cabinet [CBC-21-MIN-0083 refers].
- 5 **authorise** the submission to the Executive Council of the Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021.

I N C O N F I D E N C E

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources

I N C O N F I D E N C E

Annex One: Letter from the Electricity Authority

4 November 2021



Justine Cannon
Acting General Manager, Energy and Resource Markets
Ministry of Business, Innovation and Employment
WELLINGTON

Dear Justine

Consultation draft: Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021

Thank you for sharing with us in 29 October 2021 MBIE's consultation draft on the proposed Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Amendment Regulations 2021 that will amend the 2004 low fixed charge (LFC) regulations² to phase out the LFC for domestic consumers.

We understand that before the Minister of Energy and Resources can recommend an Order in Council to phase out the LFC regulations, she is required to obtain and consider advice from the Electricity Authority on the impact of the proposal on the promotion of competition in, the reliable supply by, and the efficient operation of, the electricity industry.

As communicated in our 14 July 2021 letter to you, the Authority supports the process underway to phase out the LFC Regulations through a five-year transition. The proposed phase out will:

- facilitate further distribution pricing reform with the potential to bring significant long-term benefits for consumers³
- remove distortions to consumers' use of electricity caused by the Regulations (e.g. the high variable charges resulting from the Regulations may inefficiently discourage consumers from using electric heating in their homes during winter)
- promote transition to a low-emissions economy at least cost to consumers by removing distortions to consumers' investment decisions (e.g. electric vehicles and solar panels)
- reduce compliance costs for retailers and for distributors.

² The Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004.

³ As the Authority has noted in the past, there is scope for some limited distribution pricing reform with the LFC Regulations in place. However, the LFC Regulations are a barrier to more comprehensive reform and are perceived by distributors to be a significant impediment.

IN CONFIDENCE

In our view the phase out there for promote competition in, the reliable supply by, and the efficient operation of, the electricity industry.

Thank you for your engagement to date with the Authority on the proposed amendment regulations. We remain available to support MBIE during this next stage if our assistance would be useful.

Yours sincerely



James Stevenson-Wallace
Chief Executive