19 October 2018

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Electricity Price Review
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The pricing review needs to result in strong competition benefiting all consumers

We welcome the opportunity to submit while the Expert Advisory Panel is developing its thinking on the nature and scale of problems with the current regulatory and policy settings in the electricity sector.

Electric Kiwi and Haast Energy are available to support the Panel as it progresses the Electricity Price Review.

What's needed in a nutshell

- New information gathering powers for future reviews
- A ban on near-term winback
- A ban on use of information from the switching process for customer retention
- A requirement TECT distribute dividends on the basis of geographic location only
- Asset Swap 2: Create a new hydro only SOE "KiwiHydro" from assets of Genesis, Mercury and Meridian
- Vertically-separate Contact, Genesis, Mercury, Meridian and Trustpower's retail and generation businesses
- Adopt contestable, remunerated market making measures for the hedge market
- Impose maximum contract terms and maximum notice periods on metering contracts in order to stimulate greater innovation in retail
- Either ban "Prompt Payment Discounts" or require them to be cost-based and accurately described as penalties
- Impose restrictions on pre-pay retail pricing to ensure fair pricing for consumers most in need
- Introduce new pre-pay retail reporting requirements on 'self-disconnection.

Useful guidance from overseas' electricity price and affordability reviews

We agree with NZ First energy policy that "recent reviews in the UK and Australia" highlight the need for an inquiry into high retail electricity prices, given they "have found major issues with similar 'market reforms' we adopted here".

The ACCC's review into electricity affordability,[1] for example, provides invaluable guidance about the nature of the competition problems in the electricity sector.[2] We are glad to see the ACCC report referenced, albeit to a limited extent in the first report.

The overseas reviews also provide warnings New Zealand should heed. The introduction of default retail tariffs would have a chilling effect on the development of competition, but represents the kinds of

[1] ACCC, Restoring electricity affordability and Australia's competitive advantage Retail Electricity Pricing Inquiry — Final Report, June 2018, page xiii.
[2] We have previously noted, for example, that the ACCC's concerns about Saves & Winbacks mirrors our own: Electric Kiwi, Supplementary submission on the "Customer acquisition, saves and win-backs – Issues Paper": helpful guidance from the ACCC, 17 July 2018.

intervention that can end up being adopted if competition isn't able or isn't allowed to flourish, and incumbents exploit their dominant position.

Unlocking competition is the key to addressing affordability [Q. 15]

Our interest is in ensuring a strong and thriving competitive landscape develops where retailers operate on a level playing field, and aren't hindered from providing consumers, including those currently missing out on the benefits of competition, competitive prices and service.

The Economist describes the missing middle class in India as the elephant in the room.[3] In the New Zealand electricity retail market, it is the absence of mid-sized retailers. There are small retailers, including a large tail of retailers with less than 1,000 customers, the 5 largest incumbent retailers, and nothing in between.

Only 5 of the small retailers are big enough to be depicted in the Electricity Authority's graphic of the market.

Figure 1: The missing mid-sized electricity retailers[4]

In the absence of a mid-sized tier of electricity retailers, the New Zealand electricity market will continue to be oligopolistic with high levels of market concentration.

This can and is changing, but the change is too slow.

We have recommended a series of reforms that will break-down the current oligopolistic market structure and ensure electricity is one of the most competitive sectors in the New Zealand economy.

The reforms required to achieve this include a mix of policy changes such as a ban on near-time winback, and reform of the TECT-Trustpower dividend arrangements, to vertical-separation of Contact, Genesis, Mercury, Meridian and Trustpower, and the creation of a new generation-only State-Owned Enterprise (SOE), KiwiHydro, through a second stage asset swap.

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[3] https://www.economist.com/briefing/2018/01/11/indias-missing-middle-class
[4] As at 31 August 2018: https://www.emi.ea.govt.nz/Retail/Reports/R_MSS_C?seriesFilter=&Percent=Y&_si=v|3

Getting to the bottom of problems in the electricity market [Q. 15]

We weren't surprised by the problems the Panel has had getting good information.

The same issues arose in the retail petrol market pricing review.

We warned this would be an issue when it came to looking at the profitability of the incumbent retailers. The Electricity Authority similarly commented there would be difficulties in "Preparing financial metrics" and "reliable and constituent comparisons can be very challenging".[5]

We understand there has been varying degrees of co-operation and helpfulness from the incumbent retailers.

It is regrettable the Panel doesn't have the information gathering powers available to the ACCC and UK regulators for their electricity market and affordability reviews. This is something the Panel could recommend the Government fix so it isn't an issue for future reviews.

Recommendation 1: Amend the Electricity Industry Act to provide that future electricity inquiries or reviews have information gathering powers.

The problems getting good information seem to have resulted in a disconnect whereby the Panel has made a qualified statement it couldn't find evidence the incumbent retailers are making excessive profits (or evidence they aren't?), but found:

- market concentration is an issue,
- vertical-integration is an issue,
- market power in the spot market is an issue,
- there is a two-tier retail market with residential consumers being over-charged by $240 - $280/year on average, and
- consumers are being exploited through late payment penalties.

All this at the same time the incumbent retailers announced record profits.

We doubt there are many concentrated or oligopolistic markets, if any, in which the incumbent suppliers aren't earning excessive or monopoly profits. This would require the incumbent retailers are grossly inefficient (highly likely) and/or not exploiting their market power and profit maximising (implausible).

The evidence the incumbents have extracted $5.4 billion in excess revenue from their generation businesses, and an extra $2.3 billion[6] from the two-tier retail market arrangements they have engineered,[7] since 2010, strikes us as telling the most likely story. We are yet to see any tangible evidence to contradict these numbers. The recent Panel release of Retail Billing Analysis indicates the $2.3 billion is a gross underestimate, though it hasn't provided an alternative calculation.8

Mercury's claims about retail business profitability [Q. 15]

Mercury has submitted the purported retail business profits of Contact, Genesis, Mercury, Meridian and Trustpower.

Mercury submitted this in an attempt to discredit the Electricity Authority estimate of the price gap between the two tiers in the retail market. It is surprising Mercury claimed the Electricity Authority data

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[5] Electricity Authority, Comments on the draft terms of reference for the Electricity Price Review, 19 January 2018.
[6] Stephen Poletti, Market Power in the NZ wholesale market 2010-2016, University of Auckland.
[7] Entrust, cross-submission to the Electricity Authority on Saves & Winbacks, Consumers deserve a better deal, 13 August 2018.
[8] Expert Advisory Panel, INITIAL ANALYSIS OF RETAIL BILLING DATA, 15 October 2018, pages 13 onwards.

was an over-estimate given it would have known the information it and the other retailers provided to the Panel would show the opposite, that the Electricity Authority estimate is a substantial under-estimate of the level of the price gap.

The Mercury retail profit figures were based on the companies' annual reports with the exception of Mercury itself. Mercury provided no details of how it calculated its own retail profits, or why this wasn't included in its Annual Report.

Figure 2: Incumbent retailer profitability 2017[9]

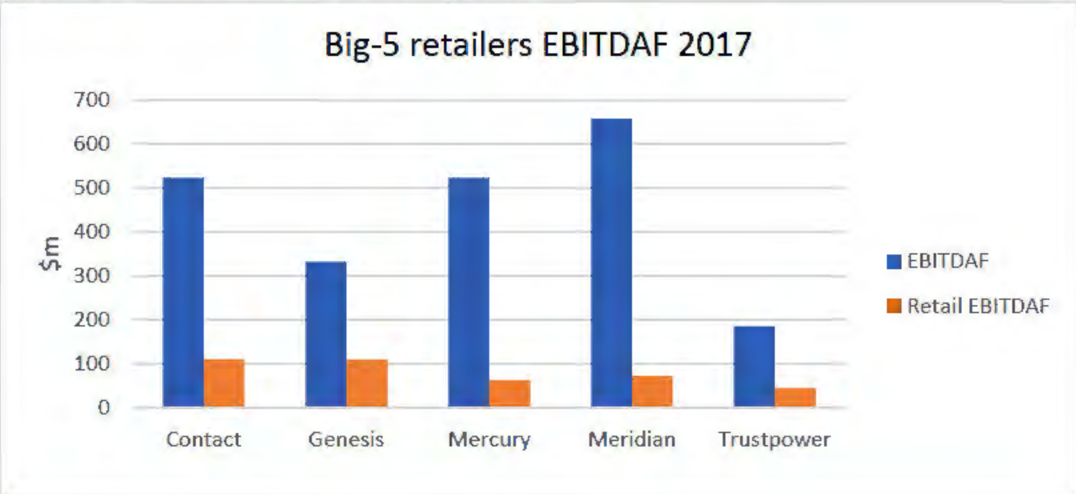
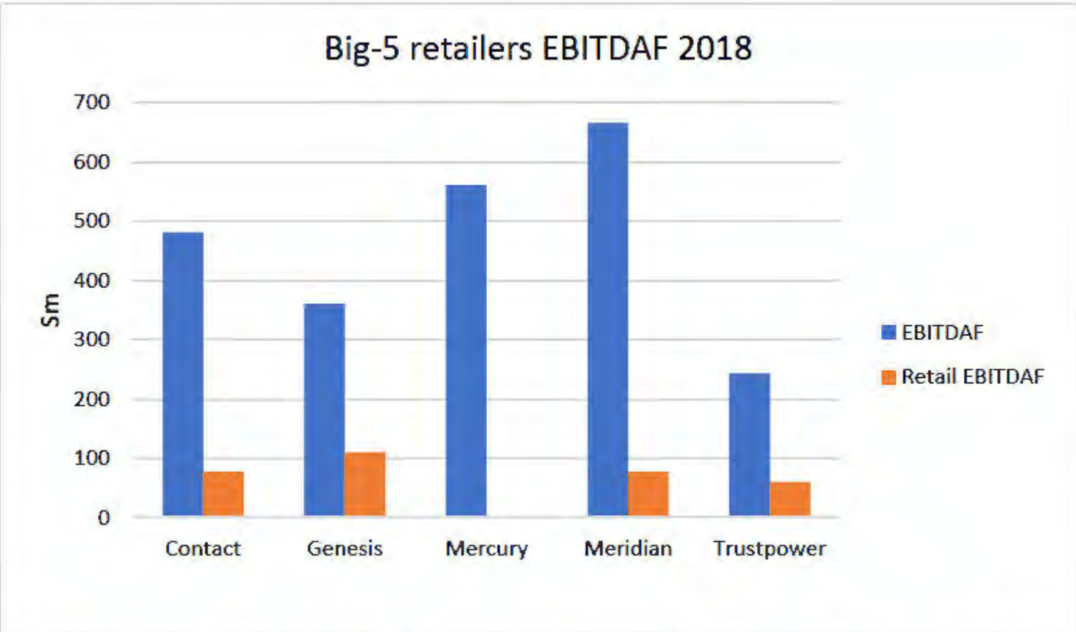


Figure 3: Incumbent retailer profitability 2018[10]



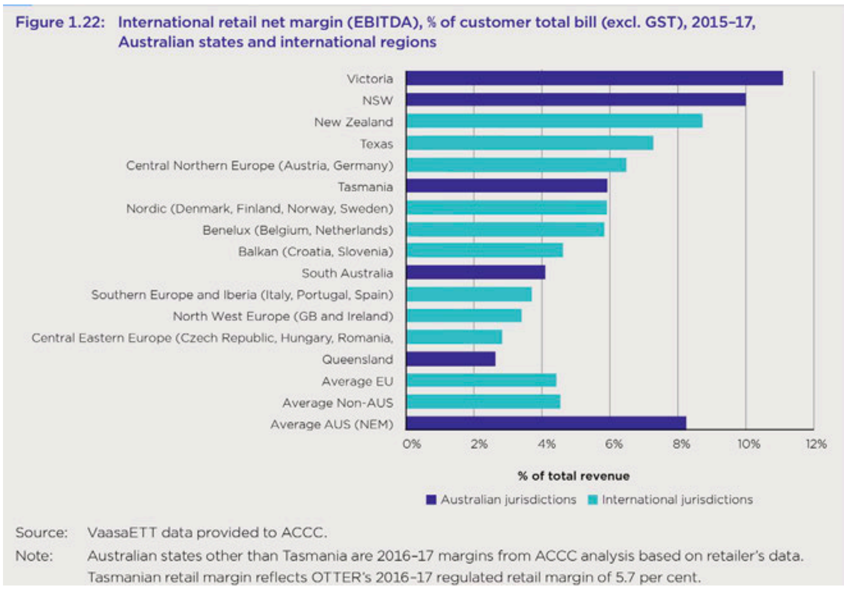
The claim incumbent retailers are making low retail profits was made at the same time Mercury, and the other four incumbent gentailers, announced record profits. The claims about retail profitability highlight issues with vertical-integration and lack of transparency in the gentailers internal arrangements between their retail and generation arms. The ACCC identified similar issues in Australia.

[9] Source: Mercury, Customer Acquisition, Saves and Win-backs – Cross Submission, 14 August 2018, plus each of the 5 largest incumbent electricity retailers 2017 Annual Reports.
[10] Source: Each of the 5 largest incumbent electricity retailers 2018 Annual Reports.

These are the same types of cost allocation and related party issues ERANZ and some of the incumbent retailers have been raising about EDBs; including that such arrangements can result in profitability being masked and cross-subsidies. The difference is that EDBs are subject to financial separation and related party transaction rules and disclosure requirements. These types of options could be worth exploring if the review shies away from structural remedies.

It is also notable that the ACCC assessment of Australian and international retail margins places New Zealand as the country highest in the international rankings (with only the individual states of Victoria and NSW having larger margins):[11]

Figure 4: ACCC assessment of international retail margin (EBITDA)



The Panel is spot on that there is a two-tier retail market [Q. 15 & 16]

We are pleased the Panel shares our views about a two-tier retail market problem.[12]

The Retail Billing Analysis the Panel has released is very helpful and shows the scale of the problem is substantially greater than had been previously thought, based on the Electricity Authority EMI data.[13]

Both the Panel and the ACCC have recognised "The gap between the best and worst offers in the market has been widening …"[14] The Panel made this conclusion on the basis of retail price data for the period covered (2002 – 2014).

While the Electricity Authority EMI data underestimates the size of the gap, what it does show is that there has been a substantial increase in the gap. The Saves & Winbacks submissions, for example, documented the price gap (or savings from switching to the lowest cost supplier) rose by 28% in 2017 (33% in Auckland where the incumbent retention (winback) strategy is most aggressive). By the time the Panel has completed the review it will have 2018 pricing data. We doubt this will make pretty reading for consumers.

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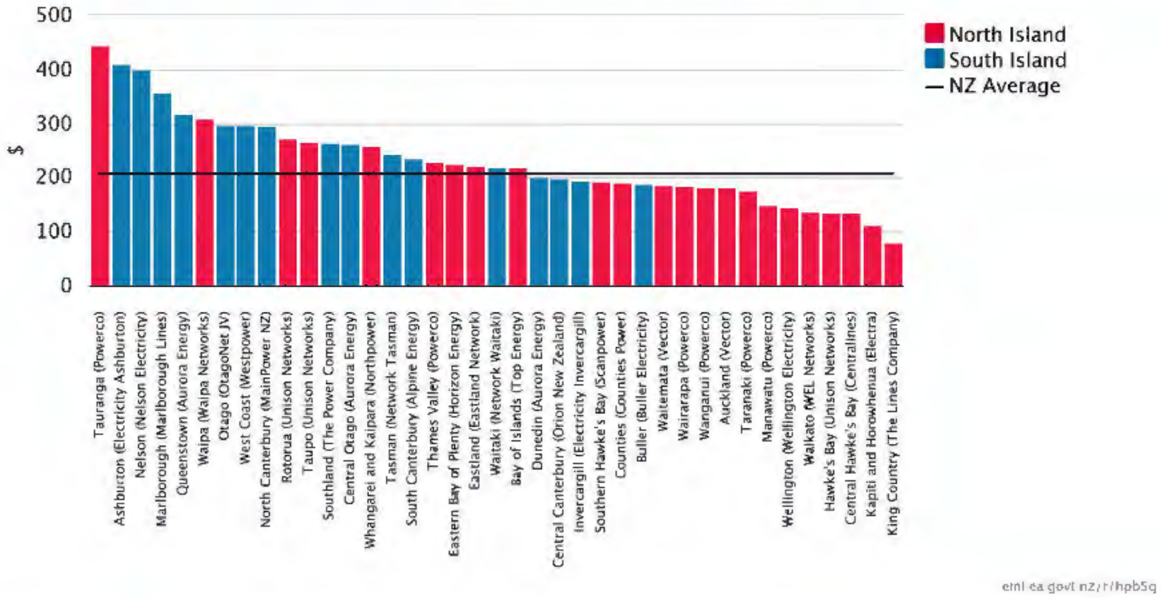
[11] ACCC, Retail Electricity Pricing Inquiry – Final Report, Restoring electricity affordability and Australia's competitive advantage, June 2018, figure 1.22.
[12] We have previously referred to the two-tier retail market problem as a retail incumbency problem, but the two are the same.
[13] Expert Advisory Panel, INITIAL ANALYSIS OF RETAIL BILLING DATA, 15 October 2018, Table 1.
[14] ACCC, Retail Electricity Pricing Inquiry – Final Report, Restoring electricity affordability and Australia's competitive advantage, June 2018, page xi.

We are somewhat incredulous Genesis considers a gap, which based on retailer data is at least $240 to $280 per year on average, and up to $500/year in some areas,[15] "doesn't mean that's a large gap, it just means that there's a differential" or that "In some [undefined] ways, that should be seen as a positive for consumers".[16]We had calculated the level of the "loyalty taxes" by region, based on the EMI data, but the Panel analysis of actual billing data demonstrates this is an underestimate.

Figure 5: Underestimate of the level of "loyalty taxes" by network reporting area, based on EMI data



Genesis went on to make the observation "When you're buying an airline ticket, there are those who shop around and those who simply fly Air New Zealand". This ignores that Air New Zealand offers lower prices to ALL customers in flight routes where there is competition.

Air New Zealand does not restrict cheaper prices to consumers who have looked at flying with Jetstar. That's not how the airline market works, and it's not how healthy-competitive markets work.

Care is needed to avoid falling into the trap of 'victim-blaming'. We make this observation in response to the statement "We know a lot of potential savings <u>are not being taken up. If all residential consumers, including those who have never switched, were to switch</u> to the cheapest plan available to them (excluding spot price-based plans), they would save an average of about $200 a year".[17] The statements put the onus on consumers to do something to avoid being exploited. While we would be more than happy for the number of customers switching to increase, as the Panel effectively urge, in properly functioning markets consumers don't necessarily need to switch to benefit from competition.

The problem isn't that consumers don't switch (victim-blaming). The problem lies in the way incumbent retailers have been able to segment the market into two-tiers (consumer exploitation).

Further investigation area 1: Size of the price gap between the two-tiers (the "loyalty tax"): Undertake further analysis to address the underestimate of the size of the price gap, and provide further information including: (i) the level of the loyalty tax by network reporting region; and (ii) the level of the loyalty tax for each year since 2002 (both in aggregate and by region).

[15] Expert Advisory Panel, INITIAL ANALYSIS OF RETAIL BILLING DATA, 15 October 2018, pages 3 and 4.
[16] Cherry-picking the electricity pricing report, NBR, Jenny Ruth, 12 September 2018.
[17] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, page 36.

It would be useful to explore what enables the incumbent retailers to sustain two-tier market outcomes [Q. 15 & 16]

There are multiple dimensions to the two-tier retail problem.

At its most basic, the two-tier retail market would not exist if incumbent retailers didn't have large pseudo monopoly customer bases and the ability to exploit those customers.

When the Electricity Industry Reform Act was introduced control of the retail market was swapped from vertically-integrated monopolists to vertically-integrated oligopolists.

There are three main pillars which enable the incumbent retailers to maintain two-tier markets, and the price gaps between the tiers, in which customers can be segmented into competitive and non-competitive (pseudo monopoly) categories:[18]

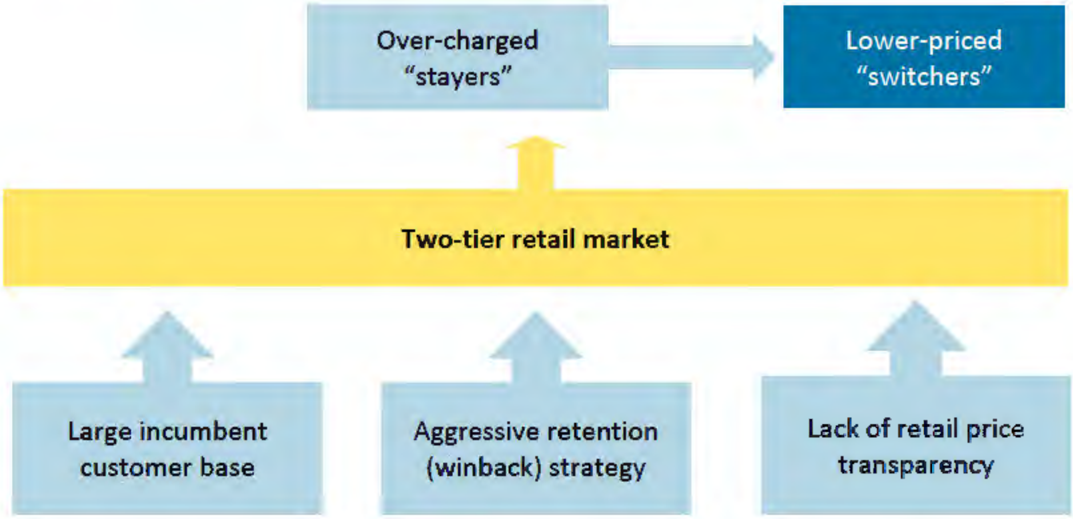
- A large group of incumbent customers (**pseudo monopoly customer base**) to exploit and over-charge (the "loyalty tax").

- **Aggressive retention (winback) strategies** so the price differential does not result in large loss of customers. This is supported by an ineffective Saves Protection Scheme and the warning retailers get from the switching process. As the Electricity Authority has well articulated: "In the retail electricity market the incumbent retailer is notified that a customer intends to switch before the process is completed. This notification allows the losing retailer to use the information of a customer's intention to switch as a prompt to contact the customer to discourage them from switching, rather than use the information for its intended purpose, which was to complete the switch process".[19]

- **Lack of retail price transparency** so that the incumbent customer base or "stayers" aren't fully informed they are being over-charged, or the extent of the over-charging. This is one of the reasons incumbent retailers don't publish all their price plans. Transparency is their enemy. Industry commentator Tim Rudkin, who runs Saveawatt, has observed: "We are aware that the best offers are never advertised, and retailers have offers that they never tell their customers about. These deals will never normally be presented until the retailers are at risk of losing a customer".[20] A good reference point is the nature of competition in telecommunications, where above the line advertising is price based because there is transparency and winbacks are banned. By contrast the incumbent gentailers (who dominate sector above the line advertising expenditure) have never advertised their prices because a large part of their base sits on uncompetitive high tariffs, and they reserve the best (secret) prices for acquisition and retention activity.

[18] Electric Kiwi has detailed these issues in its Saves & Winbacks submissions to the Electricity Authority.
[19] Electricity Authority, Final Report, Post implementation review of saves and winbacks, 29 August 2017.
[20] Review finds two-tier power market developing, SUSAN EDMUNDS, Stuff.

Figure 6: Saves & Winbacks is one of the pillars enabling two-tier retail markets



Saves & Winbacks – aggressive incumbent retention strategies is one of the three pillars of a two-tier retail market [Q. 15 & 16]

We agree with the ACCC that "In a well-functioning market … retention activity is likely to be pro-competitive".[21] The two-tier market the Panel has identified would not be possible or sustainable in most workably or fully competitive markets.

We equally agree with the ACCC "In the market in question … there are questions as to whether the activity is in the best interests of consumers as a whole".[22] If there was no two-tier market winbacks would not be the issue it currently is.

The ability to segment the market and price discriminate, including predatory pricing and cross-subsidisation, is contingent on the incumbent retailers success in customer switch withdrawals (winbacks). If the incumbent retailers weren't able to successfully adopt aggressive retention strategies the result of price discrimination would be risk of losses of large number of customers to more competitive-priced alternative suppliers. MDAG demonstrated this in its analysis of what would happen to market shares if winbacks were banned.[23]

The best way to measure the level and aggressiveness of the incumbent retailers' retention (winback) strategies, based on publicly available data, is the level of retention (winbacks or withdrawn switches) by each incumbent retailer in each of the network areas. We have done this specifically for Mercury in Auckland as they are the main culprit out of the five incumbent retailers.[24]

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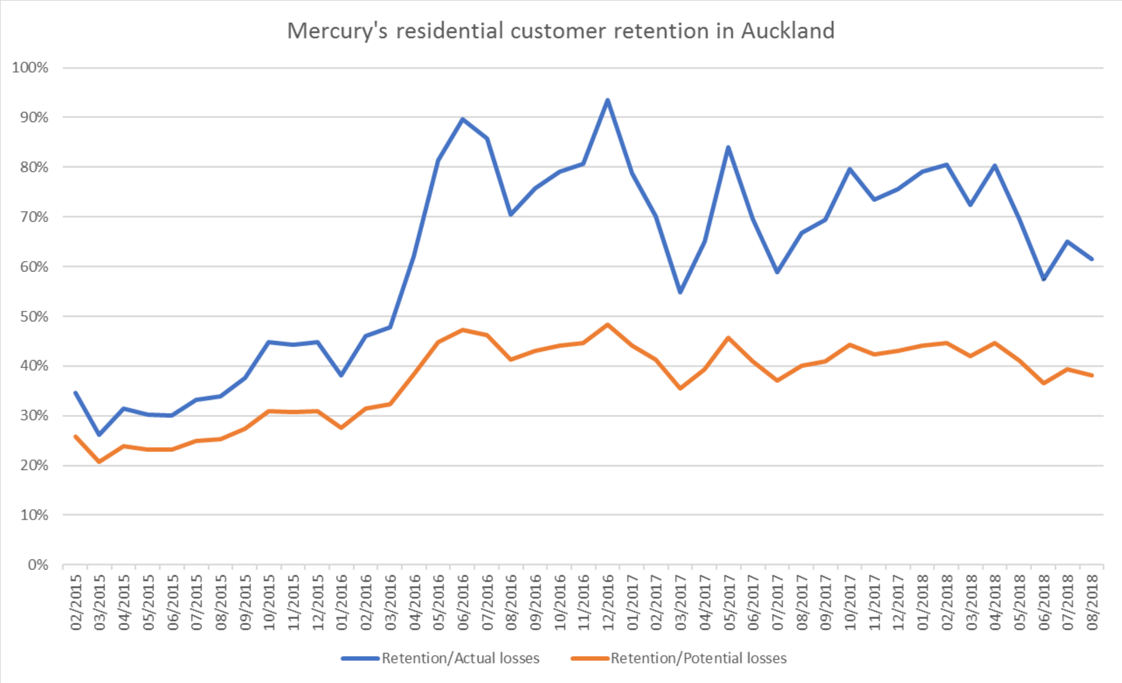
[21] ACCC, Retail Electricity Pricing Inquiry – Final Report, Restoring electricity affordability and Australia's competitive advantage, June 2018, page 143.

[22] ACCC, Retail Electricity Pricing Inquiry – Final Report, Restoring electricity affordability and Australia's competitive advantage, June 2018, page 143.

[23] MDAG has made the point "Absence of switch withdrawals would accelerate reductions in market concentration with the concentration ratio falling by 5.3 per cent inside five years". Source: MDAG, CUSTOMER ACQUISITION, SAVES AND WIN-BACKS – ISSUES PAPER, 22 April 2018, paragraph 5.3.9 and Figure 6.

[24] The level and aggressiveness of the retention (winback) strategy will depend on a number of circumstances. The higher the market share of the incumbent retailer, and the higher the price separation, the greater the benefits of an aggressive retention strategy. In Tauranga, the anti-competitive tying of trust dividend entitlement to being a retail customer of Trustpower reduces its need to rely on winback to maintain price separation.

Figure 7: Mercury's residential customer retention in Auckland



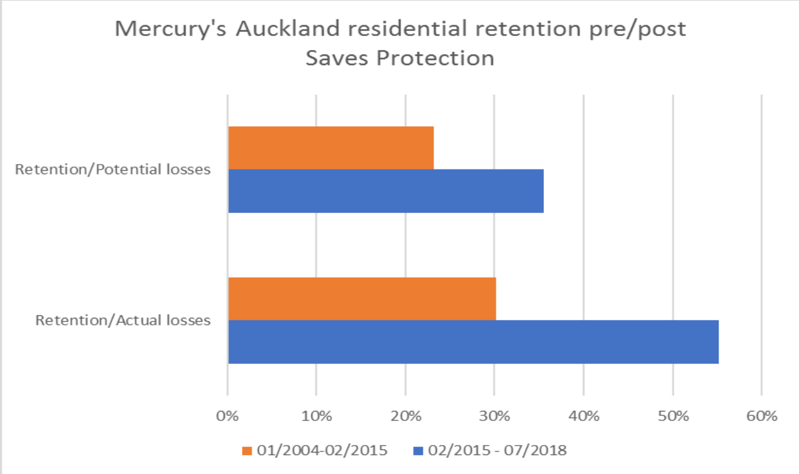
Mercury's residential customer retention rates in Auckland illustrate the problem clearly.

Mercury has managed to retain up to 90 customers for every 100 they lost in Auckland.[25] Or, put another way, the level of Mercury residential customer losses in Auckland could have been up to 90% higher but for their aggressive retention strategy. On average, Mercury's residential customer losses would have been 57% higher in Auckland, since the Saves Protection Scheme was introduced, if it wasn't for its aggressive and highly successful customer retention (winback) strategy.[26]

The increase in the aggressiveness of Mercury's retention (winback) strategy appears to be correlated to the level of the price separation the Panel has observed. It is also notable that the level and success of the retention (winback) strategies has increased since the Electricity Authority introduced the Saves Protection Scheme.[27]

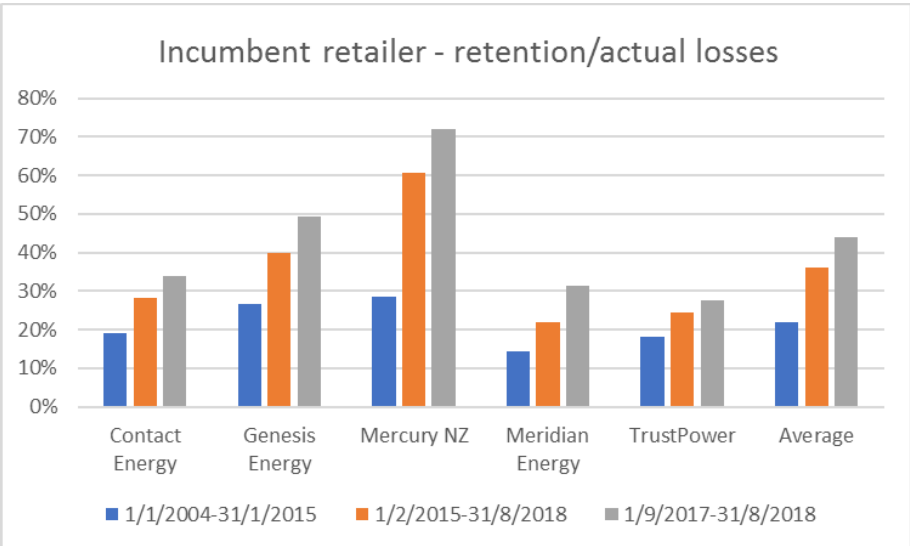
[25] This calculation has been done on the basis of Regional Council (Auckland), Parent Company, Residential, Trader Switch: Electricity Market Information site.
[26] We have included both retention/actual losses (which measures the amount higher customer losses could have been) and retention/potential losses (winbacks as a share of the number of switches that could have been completed) because of differing views with the Electricity Authority over which is the most appropriate measure. We consider that both say the same thing (they are calculated using exactly the same data), but the latter measure suppresses the numbers because it includes the same data in both the numerator and dominator.
[27] This calculation has been done on the basis of Regional Council (Auckland), Parent Company, All ICPs, Trader Switch: Electricity Market Information site.

Figure 8: Mercury's Auckland customer retention before and after Saves Protection



A simpler way of measuring the change in incumbent retention strategy is to look at each of the incumbent retailer's nationwide behaviour. This will capture winback activity in areas where each of 5 largest retailers are not the incumbent, respectively. The statistics tell a similar story. The overall level of the incumbent retailers' retention strategies have increased since the Saves Protection Scheme was introduced. The trend is getting worse, based on the last year's worth of data.[28] In the last 12 months, Mercury would have lost 72% more customers if it wasn't for its aggressive retention (winback) strategy.

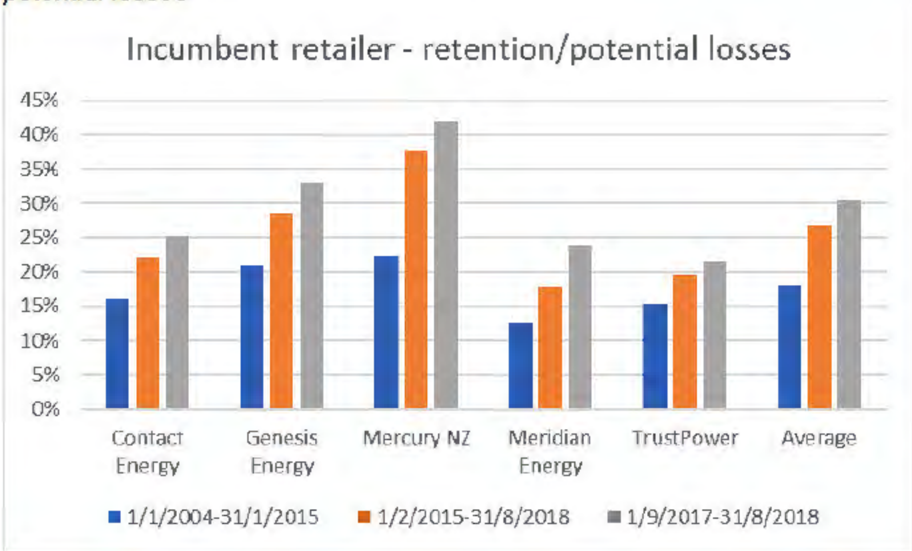
Figure 9: The incumbent retailers' customer retention pre and post Saves Protection – relative to actual losses[29]



[28] The calculations were based on Trader (e.g. Meridian figures exclude Powershop), Trader Switch, All ICPs: Electricity Market Information site.

[29] https://www.emi.ea.govt.nz/

Figure 10: The incumbent retailers' customer retention pre and post Saves Protection – relative to potential losses[30]



If the two-tier retail market problem is going to be addressed, there needs to be a number of changes. We don't envisage a single 'silver bullet'.

There is an urgent need for reform of the Saves Protection Scheme and switching arrangements. The Electricity Authority's original proposal to ban near-time winback (at least while the incumbent retailers' retain an incumbent retail customer base) and prohibitions on use of information from the switching process for another other purpose than facilitating the switch are two changes that are needed.

The Panel has indicated it will take a back-seat on Saves & Winbacks because the Electricity Authority is currently reviewing the matter. We don't support this stance. The Panel needs to provide surety the issue will be adequately addressed given the money at stake for consumers. The Electricity Authority hasn't made any public commitment to continue the review beyond the consultation MDAG has already undertaken, and hasn't set any deadlines for completing the review.

Unfortunately, the Electricity Authority's Advisory Group review has been undermined by domination of 3 out of the 5 large incumbent retailers on MDAG, and an absence of retail operating experience. The Electricity Authority's previous analysis of Saves & Winbacks was generally sound, but MDAG has taken the Authority backwards on the matter. This is one of the reasons why we have called for a temporary moratorium on near-term winback, pending successful resolution of the Saves & Winbacks review. Each year of delay will cost residential consumers at least $371 million. Electric Kiwi has little confidence that the current MDAG process is progressing towards an appropriate problem definition, let alone a solution

Recommendation 2: Ban near-time winback (at least while the incumbent retailers' retain an incumbent retail customer base).

Recommendation 3: Prohibit use of information from the switching process for any purpose other than facilitating the switch are two changes that are needed.

[30] https://www.emi.ea.govt.nz/

The wide variation in the levels of retail market competition across New Zealand is a missing part of the puzzle for the Panel to address [Q. 15 & 16]

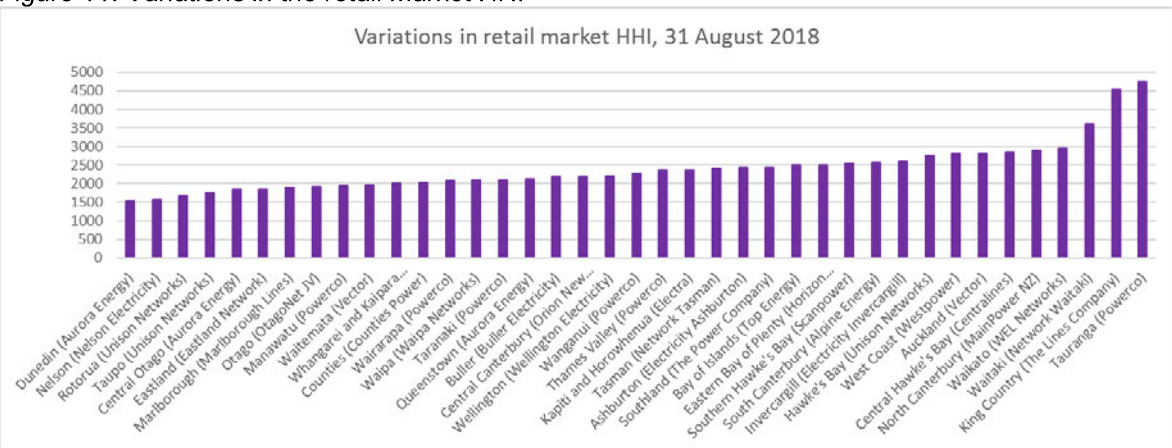
The quality of retail competition doesn't just vary between the two-tiers of the retail market but also across the country. Many consumers are missing out on benefits of competition simply due to where they live.

In our 10 May 2018 letter to the Panel, we noted the wide variation in the level of competition in retail markets across New Zealand. While some of the reasons for this are obvious, notably the situation in Tauranga, we consider there is value in exploring why some regions appear to be so much more competitive than others. From our experience, the penetration of smart meters is a key determinant which varies across different network areas, as many new players innovative offers are based on half hour data which many consumers can't access because certain incumbent players have dragged their heels on smart meters to reduce competition on their incumbencies.

The situation is little or no different to what Wellingtonian's face in the retail petrol market – Wellington is cheaper to supply than Kapiti Coast but petrol prices are higher because there is less competition.

The evidence suggests this isn't simply a case of larger retail markets, which entrant retailers will naturally be more attracted to first, being more competitive than other regions. If this was the case, Auckland would be expected to be the most competitive retail market. Instead regions such as Buller, Central Otago and Marlborough score amongst the most competitive regional markets.

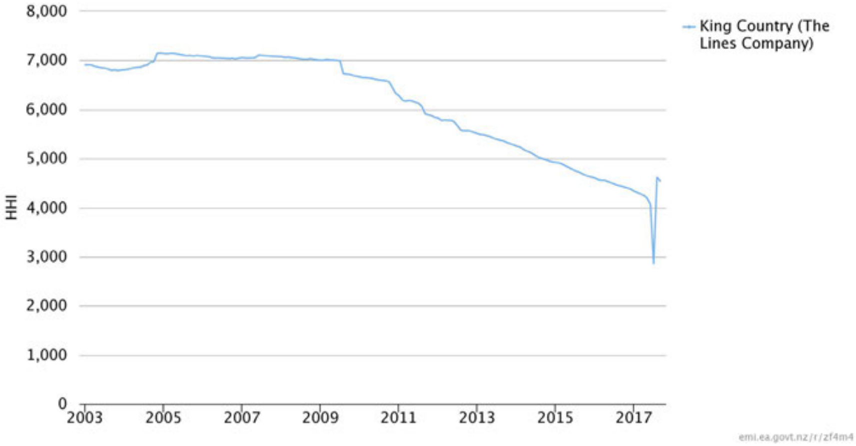
Figure 11: Variations in the retail market HHI[31]



[31] https://www.emi.ea.govt.nz/Retail/Reports/R_HHI_C?RegionType=NWK_REPORTING_REGION_DIST&_si=tg|market-structure,v|3

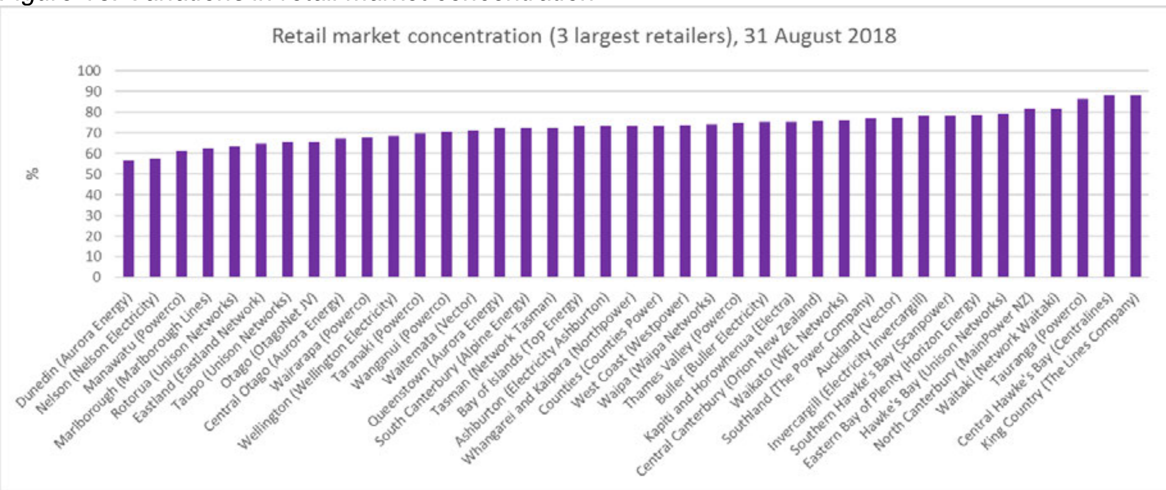
The HHI for King Country has actually started to increase.[32]

Figure 12: HHI trend in King Country



Another standard measure of market concentration is the market share of the largest 3 suppliers. This makes for equally depressing reading.

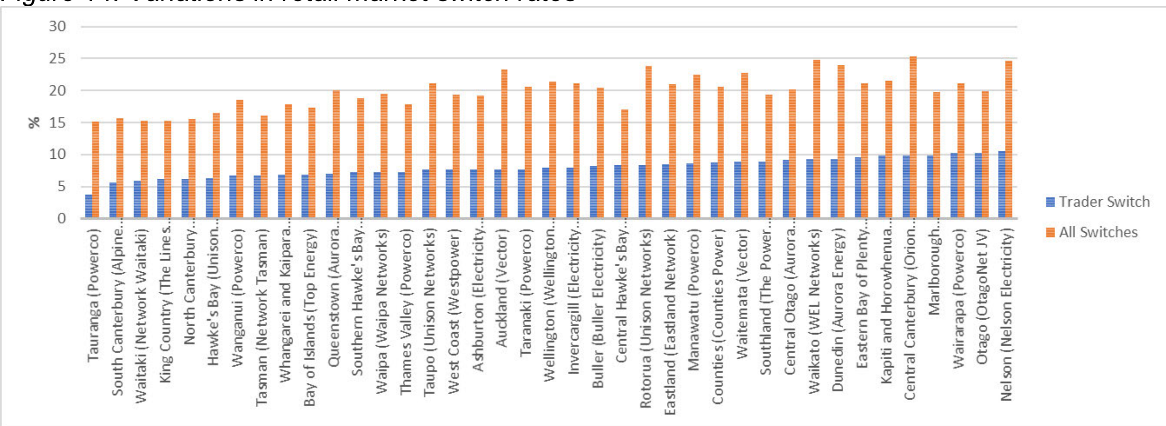
Figure 13: Variations in retail market concentration[33]



32 https://www.emi.ea.govt.nz/Retail/Reports/R_HHI_C?RegionType=NWK_REPORTING_REGION_DIST&seriesFilter=9&_si=tg|market-structure,v|3

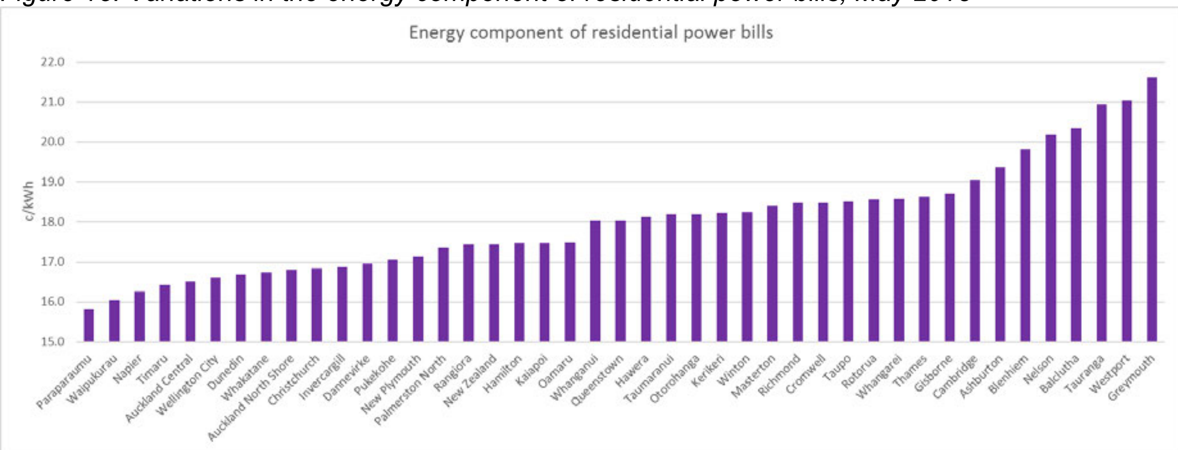
33 https://www.emi.ea.govt.nz/Retail/Reports/IK41HT?Show=CR3&_si=tg|market-structure,v|3

Figure 14: Variations in retail market switch rates[34]



The differences in the level of market concentration translate to a wide variation in the energy component of residential bills ranging from 15.8c/kWh to 21.6c/kWh. This is a substantial variation in electricity affordability.

Figure 15: Variations in the energy component of residential power bills, May 2018[35]



Reaching an understanding of why there is so much variation in the level of retail competition across New Zealand is a necessary part of determining what the barriers to competition in the New Zealand electricity retail markets are.

The situation in Tauranga and King Country is costing consumers dearly and warrants attention in its own right. It is notable Trustpower has more customers in Tauranga now than in 2004.[36]

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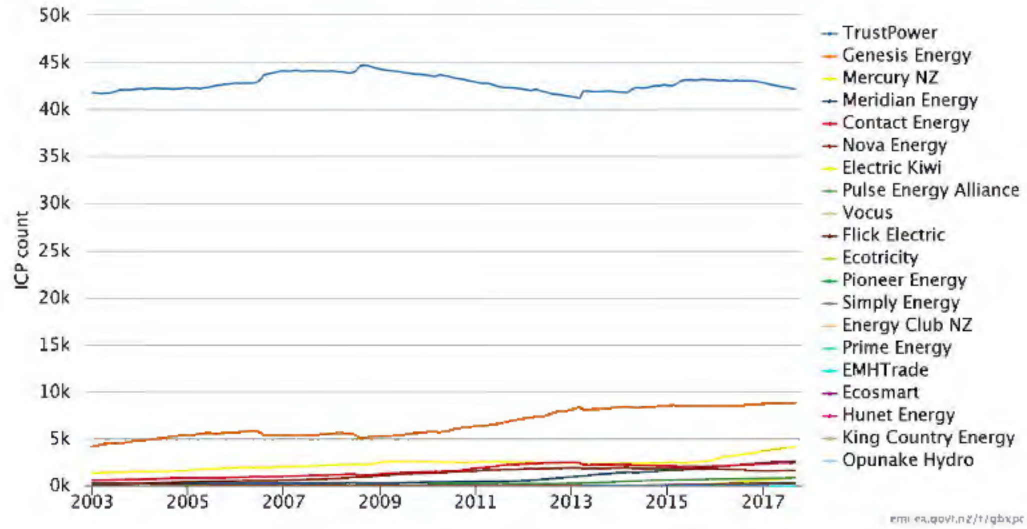
34 https://www.emi.ea.govt.nz/Retail/Reports/BLDOA2?DateFrom=20170901&DateTo=20180831&SwitchTypecode=TR&_si=tg|consumer-switching,_dr_DateFrom|20170901,_dr_DateTo|20180831,_dr_SwitchTypecode|ALL,v|4

35 https://www.mbie.govt.nz/info-services/sectors-industries/energy/energy-data-modelling/statistics/prices/electricity-prices

36 https://www.emi.ea.govt.nz/Retail/Reports/R_MST_C?Percent=N&RegionCode=TRG&RegionType=MAIN_CENTRE&seriesFilter=&_si=v|3

Figure 16: Trustpower's market share in Tauranga



Further investigation area 2: Variation in the quality of competition in different regions: Investigate whether there are barriers to competition that are causing regional variation in the level of retail competition across New Zealand, including specific investigation into Tauranga and King Country.

Recommendation 4: Prohibit the TECT tying dividend entitlement to being a Trustpower customer/replace with entitlement based on geographic location.

Transitory market power in the spot market is a structural problem [Q. 12]

The Electricity Authority has done a good job of identifying the most egregious abuses of transitory market power in the spot market, but has done little or nothing to address the problem.

The Electricity Authority's review of High Prices on 2 June 2016[37] documented a number of instances where incumbent gentailers have (mis-)used or abused their transient market power (net pivotal position) in the wholesale electricity market to raise spot prices.

The undesirable trading situation (UTS) complaint we (Electric Kiwi) made in relation to Meridian's trading conduct on 2 June 2016, when electricity prices briefly spiked to over $4,000 per megawatt hour (MWh), provides additional detail for this particular example of (mis-)use of transient market power.[38] The complaint was rejected on technical grounds because of the narrow and subjective way UTSs are defined. A later alleged Code breach on the same issue resulted in the Electricity Authority issuing Meridian a warning letter stating the Authority believed they had breached the Code and their conduct should improve going forward. A troubling part of Meridian's defense to both the UTS and Code breach was that the practices they employ to manipulate the spot market have been used frequently historically by themselves and the other incumbent gentailers.

One of the problems the Electricity Authority faces, in trying to deal with this problem, is that it is fundamentally a structural problem, but the remedies are available to it are largely behavioural.

The transitory market power arises from the oligopolistic nature of the wholesale market and the size of the 5 largest gentailers; particularly Meridian. Directing the large gentailers that profit maximising behaviour, when they have transitory market power, is a breach of good trading conduct, cannot address the underlying problem.

[37] Electricity Authority, Market performance review: High Prices on 2 June 2016, 18 December 2017.
[38] https://www.ea.govt.nz/code-and-compliance/uts/undesirable-trading-situations-decisions/2-june-2016/

We are also troubled by the arrangements Meridian has established with Contact, Genesis and Mercury for supply to Tiwai Smelter. The rates are well below those available to others in the market, and well below the rates independent retailers could obtain.

This is an area where the Electricity Price Review could assist the Electricity Authority by exploring options outside of the Authority's remit. It could be useful to undertake similar modeling to that used when looking at options for the original break-up of ECNZ, and for the asset swaps, to determine the benefits from potential structural remedies. We agree with the assessment that this tightens the wholesale market and results in higher prices for all other consumers in New Zealand. This highlights the fact Meridian was left with too large share of the wholesale electricity market when it was set-up, and the market is strongly oligopolistic and prone to collusion.

We consider that a new SOE, KiwiHydro, should be established. KiwiHydro should be excluded from entering the electricity retail market so there is a large hydro generator which has incentives to offer competitive hedge contracts to stand-alone retailers.

At its simplest, KiwiHydro could be created by splitting Meridian's generation assets.

We think the best option would be a second asset swap which reallocates hydro power stations such that Genesis, the new KiwiHydro, Mercury and Meridian have roughly equal size generation portfolios. This could be achieved by reallocating some of Genesis' Tongariro, Mercury's Waikato River and Meridian's Waitaki hydro stations. The first asset swap demonstrated splitting run-of-river hydro power stations doesn't cause any operational co-ordination problems.

Further investigation area 3: Abuse of transitory market power in the spot market: Build on the work the Electricity Authority has done to test whether there is more frequent, but lower level, use of transitory market power to artificially raise spot prices. Two areas it could be fruitful to explore are the level of spot market price volatility and frequency of high prices, as well as testing the extent to which high spot prices in 2017 reflected genuine dry-year conditions, and the price relativity between 2017 and 2018.

Recommendation 5: Asset Swap 2: Establish a new, generation-only, State-Owned Enterprise "KiwiHydro" by:

a. **re-allocating some of Genesis' Tongariro, Mercury's Waikato River and Meridian's Waitaki hydro stations, and**
b. **ensuring the re-allocation results in Genesis, KiwiHydro, Mercury and Meridian having roughly equal size generation portfolios.**

We support the focus on retail-generation vertical-integration and the hedge market [Q. 17]

One regrettable consequence of the Electricity Industry Reform Act was that it substituted lines-retail vertical integration for retail-generation vertical-integration.[39] The review into affordability likely would not have been needed if the baby-ECNZs had been precluded from bidding for the line companies' retail customers, and either had to grow their customer bases organically, like entrant retailers have to, or were precluded from entering retail altogether.

It is clear the incumbents' use their generation portfolio to favour their own retail business at the expense of (discriminating against) other retailers. Meridian has been very explicit about this. Genesis has also made it clear it blurs the lines between wholesale and retail, favouring its own retail business, in recent correspondence:[40]

[39] The Electricity Industry Reform Act does at least provide precedent for ownership separation, which could be applied to the 5 largest incumbent retailers, as well as how corporate separation and arms-length rules could be applied.
[40] Letter from Genesis Energy (Marc England, Chief Executive) to Electric Kiwi (Luke Blincoe, Chief Executive), Fuel Constraints Impacting the Wholesale Electricity Market, 12 October 2018.

Our coal stockpile at 12 October is 283kt down from 312kt at 30 September. Genesis currently holds sufficient coal in our stockpile, that, together with scheduled deliveries of domestic coal, will enable us to meet the needs of our own retail customers for a three month dry period. However, we do not currently store sufficient coal to put significant amounts of additional generation into the wholesale spot market for an extended period.

Figures 17 and 18 illustrate the incumbent retailers' reliance on vertical-integration to compete in the retail electricity market. They provide two rare examples where the incumbent retailer is no longer the largest retailer. In both instances, the incumbent retailer lost substantial market share in regions where its retail customer base was not backed up by matching generation capacity.

Figure 17: Change in market share in Whangarei and Kaipara (Northpower) [41]

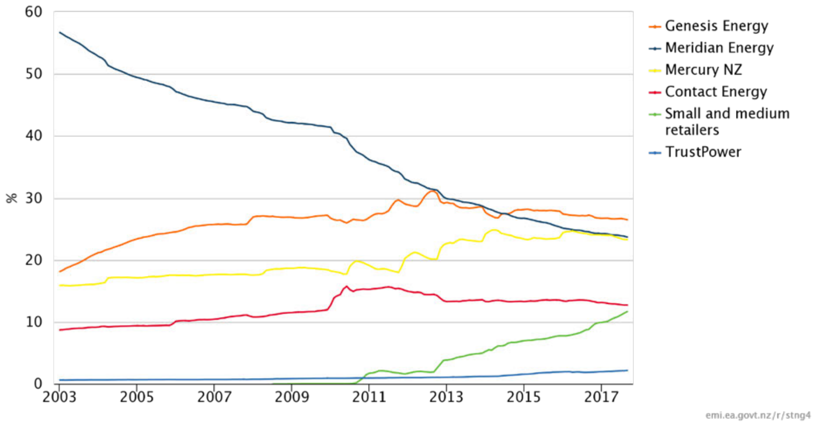
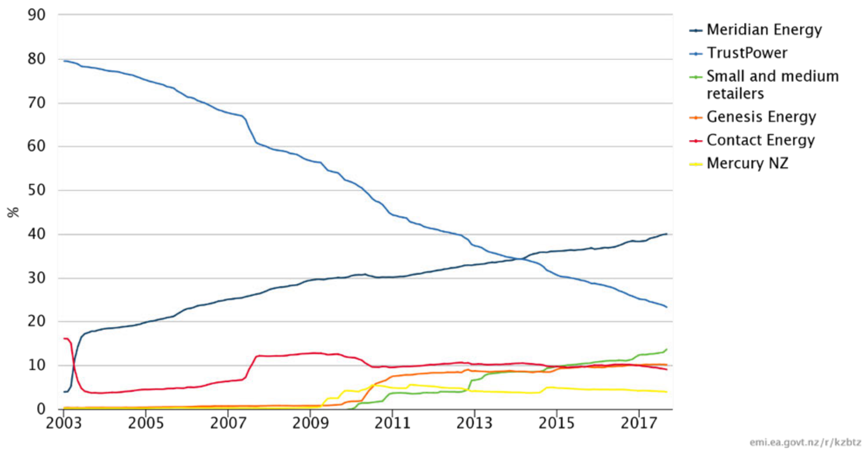


Figure 18: Change in market share in Ashburton (Electricity Ashburton)[42]



The ability of innovative new entrants to enter the market, and gain market share, is severely hampered by the low levels of wholesale liquidity in New Zealand, caused by high levels of vertical-integration.

We agree with the Electricity Authority "more needs to be done to … lift the performance of this market and improve other performance metrics, such as trading volumes".[43] New Zealand stands out as having among the lowest levels of wholesale liquidity relative to its size.[44]

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[41] https://www.emi.ea.govt.nz/
[42] https://www.emi.ea.govt.nz/
[43] https://www.ea.govt.nz/about-us/media-and-publications/market-commentary/market-insights/hedge-market-breaks-records/
[44] Cumulus, Submission by Cumulus Asset Management on the Consultaiton paper titled – Hedge Market Development: Enhancing trading of hedge products, 14 July 2015, at https://www.ea.govt.nz/dmsdocument/19666

The Panel "note[d] some stakeholders have also raised concerns about another type of vertical integration – that between generation and retail activities, which can reduce liquidity in wholesale contract markets, making it harder for non-integrated generators and retailers to compete. There is some regulation currently addressing this issue, and we think the Electricity Authority has adequate jurisdiction to consider further regulation if warranted".[45] The Electricity Authority may have adequate jurisdiction for some of the potential options but probably not to address the underlying structural problem of vertical-integration.

Recommendation 6: Structural separation of Contact, Genesis, Mercury, Meridian and Trustpower's retail and generation businesses:
a. ownership separation (1st best),
b. corporate separation with arms-length rules (2nd best), and
c. financial separation (3rd best).

Hedge market liquidity has quickly deteriorated and threatens retail competition.

Progress in the hedge market from 2010-2016 was a key enabler of increased retail competition from independent retailers. The Electricity Authority should be applauded for its role in hedge market development in this period. The market making arrangements were the key feature that led to this success. The gentailers agreed to provide this service after the Electricity Authority signalled its intention to regulate if the 4 largest gentailers did not do it voluntarily.

However, in the 2017-present period progress has stalled, traded volumes have stagnated, and recently spreads have widened sharply. The incumbent gentailers have increasingly tested the appetite of the Authority to intervene by withdrawing from some of their voluntary market making obligations, and the Authority has not responded forcefully. This has led to progressive withdrawal from the voluntary market making obligations by all 4 of the gentailers in the scheme as they have sensed limited consequences. The market making obligations are now routinely ignored over the front 12 months of the ASX curve, this part of the curve is the most important for hedging and rebalancing for both independent retailers and independent generators.

In the absence of strong and timely new rule making from the Electricity Authority or the Electricity Price Review the sharply lower levels of liquidity could result in a roll back of retail competition. One consequence of the deteriorating liquidity is that Electric Kiwi has been forced to decline to serve the large group of customers on spot based plans who are currently fleeing the high prices and looking for fixed rate offers. While market fundamentals account for a significant uplift in the cost of acquiring additional hedges that would enable us to accept them, the bid/ask spreads routinely exceeding $100 are adding a significant additional component.

This highlights the dynamic efficiency problems with poor liquidity over the front year. Equally with the gas plant outages at Pohokura generators need to rebalance their hedge books so that the least cost plant can run, this happens with significantly more friction when liquidity is poor at the front of the curve.

Figures 19 and 20 show the recent spreads and volume in the monthly ASX contracts as all 4 of the largest gentailers have withdrawn from their obligations over the front 12 months. The contracts for the market making obligations require all 4 market makers to have a maximum of a 5% bid/offer spread.[46]

[45] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, footnote 208.
[46] Figures 19 and 20 provided by the Electricity Authority, in response to an information request.

Figure 19: ASX spreads and volumes on monthly Benmore contracts

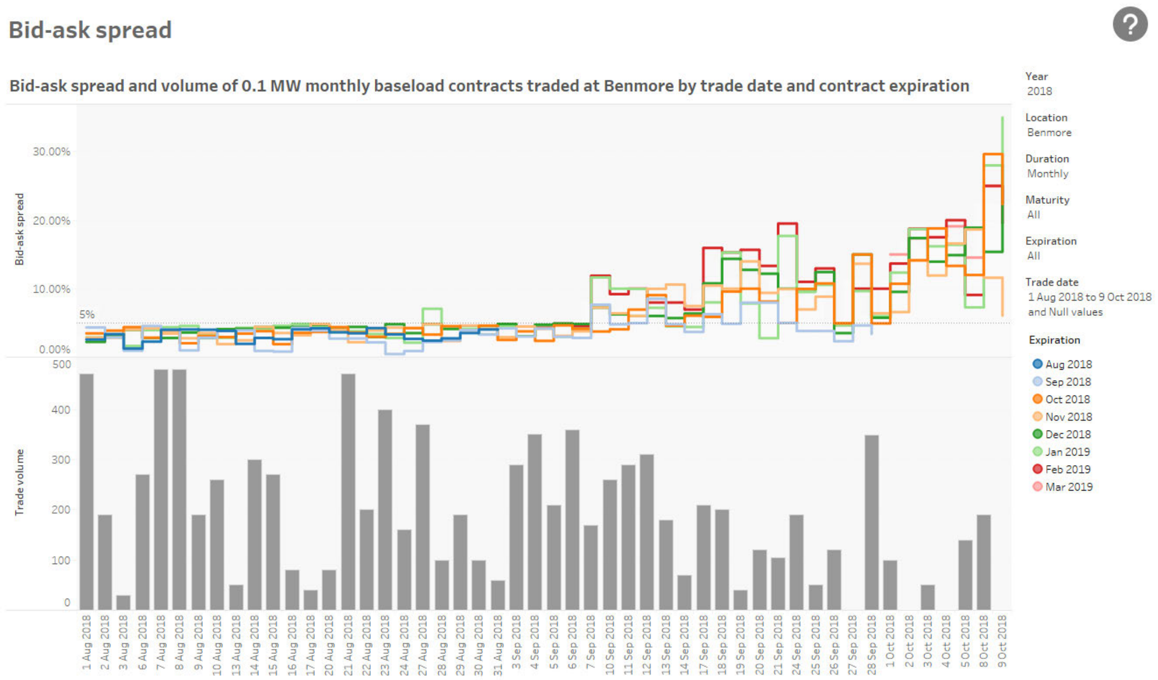
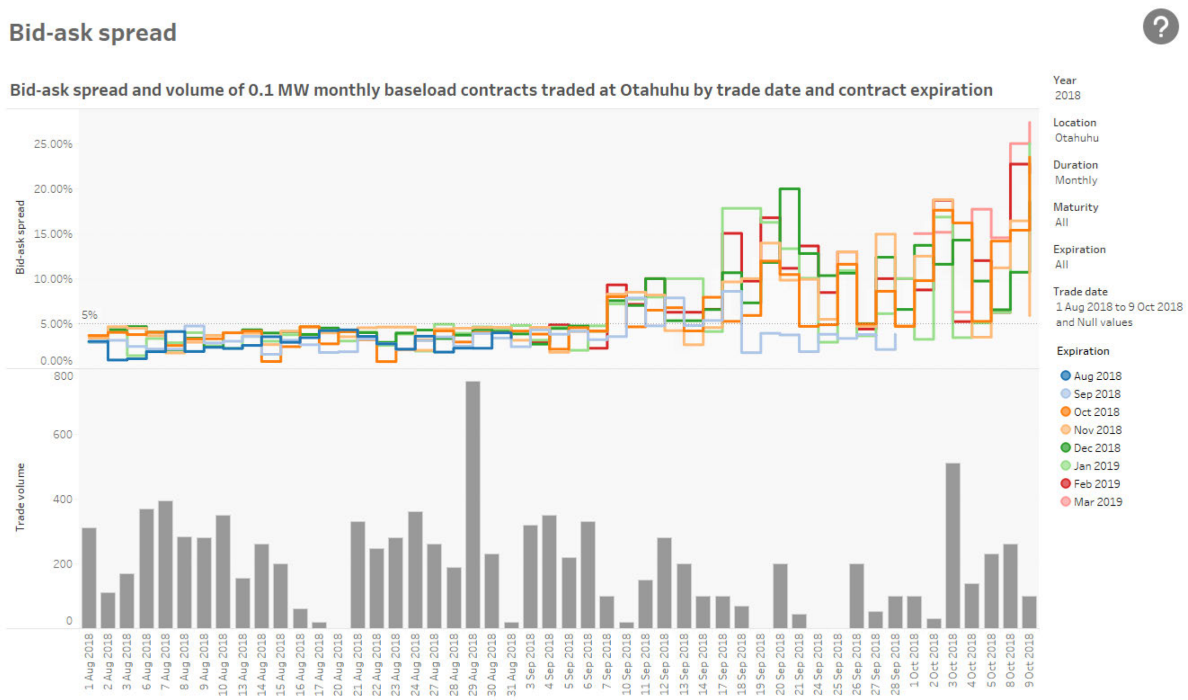


Figure 20: ASX spreads and volume for monthly Otahuhu contracts



These recent actions by the incumbent gentailers can be understood by the incentives and ability to undermine the hedge market and retail competition which the vertically-integrated incumbent suppliers have e.g.:

- Market making is a cost for vertically-integrated incumbents which they would rather not bear; and

- Market making also increases the competition the vertically-integrated incumbents see in the retail market. If market making collapses and retail competition retreats they will have more market power to extract higher retail prices.

The ACCC identified problems which we believe are relevant to New Zealand: “the combination of vertical integration and concentration in the NEM has reduced contract market liquidity and is making it harder for all parties to effectively manage their wholesale price risk” and “In certain regions of the NEM, particularly South Australia, the level of liquidity and the advantages enjoyed by vertically integrated retailers make it difficult for new entrants and smaller retailers to compete effectively in the retail market.”[47]

There are good options for shoring up and improving hedge market liquidity and performance

We agree with the Panel that “improving the depth and resilience of the contract market should be given high priority”.[48]

There is plenty that could be done do to improve the hedge market.

We don’t see a need to ‘reinvent the wheel’ or necessarily develop a bespoke New Zealand solution to hedge market problems and threats.

As well as structural options, such as KiwiHydro which would fundamentally reduce the vertical-integration in the system and increase natural hedging between participants, consideration should be given to adopting a similar approach as Singapore to market making.[49]

In Singapore reverse auctions are carried out for market making and the service is provided by willing parties who are remunerated at market rates for the service. This has proved very successful with much stronger market maker performance than in New Zealand and additionally the market making contracts have been a catalyst for new participants entering the market and competing in other parts of the market, particularly retail. A similar approach could yield a strong outcome for the New Zealand electricity market.

We would expect there to be strong interest from international utilities and traders to participate in such an auction, including from our organisation.

Based on our initial ‘back of the envelop’ consideration of this option, we believe 4 market makers would be adequate, and the total costs would be relatively minor relative to the increased competition benefits. The cost of market marking could be recovered in a similar way to ancillary services via the reconciliation manager after being levied on generation and consumption equally.

Improving wholesale liquidity is one of the key elements to unlocking a more dynamic and competitive electricity market. Market making has been key to ensure a minimum viable level of hedge market liquidity for participants who are not vertically-integrated, and these arrangements are desperately in need of an overhaul.

The Singapore reverse auction cleared at 218k SGD per month per market marker for 7 market makers. Implying an annual cost of circa 18m SGD for the scheme. Costs of this magnitude might initially seem large but the Singapore CBA showed significant benefits beyond these costs, and the recent performance of the market supports this. Such costs can be recovered from the industry, and when spread over generation and load evenly this could amount to circa $2 per year per residential ICP.

[47] ACCC, Restoring electricity affordability and Australia’s competitive advantage Retail Electricity Pricing Inquiry — Final Report, June 2018, page 150.
[48] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, page 45.
[49] https://www.ema.gov.sg/ConsultationDetails.aspx?con_sid=20170801qrkx3Jmi5pCf

Recommendation 7: Adopt a similar approach as Singapore to market making in the hedge market.

Current metering arrangements are adding cost to retail businesses and stifling innovation

There should be a requirement for standardised metering contracts to ensure the provision of timely and accurate usage data to the end consumer and facilitate MEP switching to encourage technological innovation in metering and retail product innovation using the resulting data.

We believe access to high quality and timely metering data is critical to stimulating innovation in the electricity industry. Advances in measurement technology are required to keep pace with advances in areas such as distributed generation, electric vehicle charging and network load management, as well as increasing the ability of end users to manage their individual usage to implement energy efficiency measures and reduce overall cost.

Currently there are only two meter providers with any scale in the provision of smart meter assets and data. This market power has been cemented by the requirement that a retailer must enter into a commercially negotiated contract with each metering company or displace the meter when an ICP switch occurs. With high levels of market winbacks and churn, retailers need for timely data on which to reconcile and the complexity added to the switching process in displacing an existing smart meter makes displacement at the time of switch uneconomic and inefficient, especially for new entrant retailers.

As such, retailers have very limited negotiating power with the incumbent smart meter providers. Knowing this, they further embed their market dominance through onerous contractual terms. Retailers are locked into long notice periods with high penalties for exiting the arrangements. On the other hand, the MEP can terminate their services with comparatively little notice and no penalty. This has serious potential to stifle innovation as any emergent technology can be blocked from entry into the New Zealand market if it is not in the commercial interests of the incumbent metering providers.

In addition, the service level agreements are heavily biased towards the MEP and there is minimal recourse for the retailer to claw back costs incurred for poor service. Retailers ability to reconcile accurately relies entirely on the level of service delivered by the MEP, however it is the retailer who is penalised for late or incorrect data rather than the MEP.

Recommendation 8: We recommend that all existing metering contracts are required to be cancelled and standardised metering contracts introduced. These standardised contracts should:

a. Facilitate economic displacement in the best interests of end-consumers;
b. Include minimum service delivery levels for both legacy and smart meter data with clawbacks for non-delivery; and
c. Be subject to regular review to ensure relevance as new technology and business models emerge and the metering landscape changes.

Prompt payment discounts are a wolf in sheep's clothing [Q. 7 & 8]

We are pleased the Electricity Price Review First Report acknowledges Prompt Payment Discounts are in fact late payment penalties. This is borne out by the Panel's evidence in its Retail Billing Analysis that "The biggest driver of differences across socio-economic groups is the effect of lost prompt payment discounts. These raise bills for consumers in the most deprived areas by around $50/year on average. Again the average hides a wide dispersion of outcomes. The data indicates five per cent of consumers in the most deprived areas pay additional costs of $250/year or more due to lost prompt payment discounts".[50]

[50] Expert Advisory Panel, INITIAL ANALYSIS OF RETAIL BILLING DATA, 15 October 2018, page 3.

Even Meridian now acknowledges the arrangement is a punishment or penalty: “Dropping the prompt payment discount means that on rare occasions when [our customers] don’t, or more to the point can’t [pay their bill on time], they aren’t unfairly punished”.[51]

The incumbent retailers have cynically channelled the business philosophy of the ex-CEO of Telecom, Theresa Gattung, in using confusion as a “chief marketing tool”. Theresa Gattung claims “… that’s fine … You could argue that that's how all of us keep calling prices up and get those revenues, high-margin businesses, keep them going for a lot longer than would have been the case. … customers know that's what the game has been. They know we're not being straight up”.[52]

If you are an Electric Kiwi customer, or thinking about joining, you will know straight up what you will be paying. There is no artifice or deception to Electric Kiwi’s pricing.

If you are trying to compare our prices with Mercury, or one of the other incumbents, should you compare them with the discounted or non-discounted price (to the extent rates are published by the incumbent players)? The answer is it depends. This is illustrated by Figure 11 in the Electricity Price Review First Report. It is no wonder low income consumers find it more difficult to change suppliers.

A “prompt payment discount” of 10 or 20% is actually a late payment penalty of 11.11% or 25%. A discount of 26% translates to a penalty in excess of 35% of the customer bill.

The money saved by power companies because people paid on time was nowhere near the level of the discounts.

It’s one of the incumbent retailers’ dirty little secrets that their favourite customers are customers that pay but don’t pay on time. We agree with the ACCC these late payment fees “are excessive and punitive for those customers who fail to pay bills on time”[53] and “Customers who do not pay on time are, in effect, paying very large late payment penalties, often amounting to hundreds of dollars per year”.[54,55]

The problem with large late penalties is made worse because, as the Panel point out, “vulnerable households are disproportionately affected by prompt payment discounts”[56]: “Consumer NZ survey found more than a quarter of households with incomes of less than $50,000 a year reported missing out on prompt payment discounts because they paid late”.[57] The Retailing Billing Analysis also demonstrates how much lower income housholds are being taken advantage.

[51] Merdian comment on its facebook post “We're replacing unfair prompt payment discounts with a guaranteed discount for all customers”, 6:00pm, 14 September 2018.
[52] Gattung admits Telcos not being straight, NZ Herald, 8 May 2006: https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10380894
[53] ACCC, Restoring electricity affordability and Australia’s competitive advantage Retail Electricity Pricing Inquiry — Final Report, June 2018, page xi.
[54] ACCC, Restoring electricity affordability and Australia’s competitive advantage Retail Electricity Pricing Inquiry — Final Report, June 2018, page xi.
[55] It appears that Meridian will continue to mislead consumers, just in a different way.

Instead of labelling late payment penalties as prompt payment discounts, Meridian intends to label its new prices as a permanent discount: “Instead of seeing a line for your 'prompt payment discount' on your bill, you will see a new line for your 'plan discount'” [source: Merdian comment on its facebook post “We're replacing unfair prompt payment discounts with a guaranteed discount for all customers”, 6:00pm, 14 September 2018.]

The Commerce Commission has been clear: “It would be misleading for a business to keep claiming it was discounting a price when the discounted price had become the usual selling price” [https://comcom.govt.nz/consumers/dealing-with-typical-situations/buying-goods-and-services/pricing].
[56] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, page 37.
[57] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, page 37.

Meridian has broken ranks[58] and admitted Prompt Payment Discounts are "unfair" and "disproportionately impact those who can least afford to pay their energy costs. They disadvantage customers who are struggling the most".[59]

Further investigation area 4: Scale of the late penalty problem: Request that Contact, Genesis, Mercury, Meridian and Trustpower provide details of the level of late payment penalties (Prompt Payment Discounts foregone) for each year since 2000.

Recommendation 9: Ban Prompt Payment Discounts or

a. require use of the term "late payment penalty" to ensure fair and transparent pricing with a prohibition on the term "Prompt Payment Discount" or other wording that creates an impression consumers are getting a special deal; and

b. "restrict … conditional discounts to be no more than the reasonable savings to the retailer from the condition being met" (ACCC recommendation 33).

We don't have confidence pre-pay arrangements are provided in a socially responsible manner

The Electricity Price Review report notes "a lack of competitive prices for some consumers on pre-pay meters, which often come with extra costs (fees for installation, inspections, topping up and closing accounts)" as a factor in the range between the cheapest and most expensive retail prices.[60] The Retail Billing Analysis suggests consumers on pre-pay are paying $40 more for electricity than other consumers due primarily to additional fees.[61] This excludes additional premiums added for debt recovery.

The other side of the social responsibility is around disconnection. While electricity retailers are required to report the level of physical disconnections they undertake, disconnections on prepay systems have been termed "self-disconnections" and allowed to go under the radar. This characterisation is another example of victim blaming, as none of these customers are choosing to actively disconnect, they are simply running out of credit.

We think it's imperative the Electricity Price Review obtain data from each of the pre-pay providers of the frequency with which disconnections occur, and the durations of the disconnections. This data should be broken down by customers that are "vulnerable consumers", "medically-dependent consumers" and all other households. We consider this should be part of the minimum reporting requirements for pre-pay meter providers going forward.

It may well be that there are no issues but the current reporting is insufficient to provide any confidence prepay retailing is a socially responsible solution for vulnerable customers.

Further investigation area 5: Pre-payment meter issues: Determine the level of pre-payment pricing, including the amount pre-pay customers incur in the way of extra costs and debt repayment, and compare this with the standard and most competitive retail pricing the same retailers offer.

Further investigation area 6: Obtain data from each of the pre-pay providers of the frequency with which self-disconnections occur, and the durations of the self-disconnections. This data should be broken down by customers that are "vulnerable consumers", "medically-dependent consumers" and all other households.

[58] Meridian says it "is the first major energy retailer to announce the end of prompt payment discounts". How does it know that it is the first and not the only incumbent retailer to make this change? What discussions has Meridian had with its competitors about their pricing and discounting arrangements.

[59] Meridian, Meridian to replace unfair prompt payment discounts with guaranteed discount for all customers, 14 September 2018.

[60] Expert Advisory Panel, Electricity Price Review - HIKOHIKO TE UIRA, FIRST REPORT FOR DISCUSSION, 30 August 2018, page 28.

[61] Expert Advisory Panel, INITIAL ANALYSIS OF RETAIL BILLING DATA, 15 October 2018, page 4.

Recommendation 10: Introduce pricing/debt repayment standards and requirements for pre-pay retail service providers to ensure fair pricing for consumers most in need..

Recommendation 11: Introduce new reporting requirements for pre-pay retail service providers which include the frequency with which self-disconnections occur, and the durations of the self-disconnections. This data should be broken down by customers that are "vulnerable consumers", "medically-dependent consumers" and all other households.

Concluding remarks

We would like to see the Panel address the structural issues in the wholesale and retail markets.

There are high levels of market concentration and retail-generation vertical integration, which largely explains the low level of liquidity in the hedge market. We shouldn't be observing HHI levels nearly as high as 5,000, in some places, twenty years after retail competition was enabled.

To achieve good competitive market outcomes, the Panel will need to ensure each of the following problems or barriers to competition are addressed:

- the two-tier retail market and the incumbent retailer retention (winback) strategies that underpin it;
- the variation in the quality of retail competition across New Zealand – mirroring the Wellington-Kapiti Coast retail petrol market competition and pricing issues;
- the impact of vertical integration in retail-generation;
- issues of transitory market power in the wholesale market;
- hedge market performance and development, which is closely linked to the above two issues;
- issues with metering and data access.

Addressing issues around social-responsibility and fairness, the Panel will need to ensure:

- late payment penalties are not-excessive or disproportionate to the cost retailers incur or are banned completely; and
- pre-pay arrangements do not exploit vulnerable and medically dependent consumers.

Areas for further investigation

The ACCC report details the type and depth of evidence a review into pricing and electricity affordability should obtain. We think the Commerce Commission and Electricity Authority should be able to assist with some of the information gathering, where the information would assist them in their respective roles and the Panel with its review. The two-tier retail market – Saves & Winbacks issue is a good example of a shared interest between the Panel and the Electricity Authority.

We also consider the Panel should undertake the following specific investigations:

1. **Size of the price gap between the two-tiers (the "loyalty tax"):** Undertake further analysis to address the underestimate of the size of the price gap, and provide further information including: (i) the level of the loyalty tax by network reporting region; and (ii) the level of the loyalty tax for each year since 2002 (both in aggregate and by region).

2. **Variation in the quality of competition in different regions:** Investigate whether there are barriers to competition that are causing regional variation in the level of retail competition across New Zealand, including specific investigation into Tauranga and King Country.

3. **Abuse of transitory market power in the spot market:** Build on the work the Electricity Authority has done to test whether there is more frequent, but lower level, use of transitory market power to artificially raise spot prices. An areas it could be fruitful to explore are the level of spot market price volatility and frequency of high prices, as well as testing the extent to which high spot prices in 2017 reflected genuine dry-year conditions and the price relativity between 2017 and 2018.

4. **Scale of the late penalty problem:** Request Contact, Genesis, Mercury, Meridian and Trustpower provide details of the level of late payment penalties (Prompt Payment Discounts foregone) for each year since 2000.

5. **Pre-payment meter issues:** Determine the level of pre-payment pricing, including the amount pre-pay customers incur in the way of extra costs and debt repayment, and compare this with the standard and most competitive retail pricing the same retailers offer.

6. **Pre-pay and disconnection:** Obtain data from each of the pre-pay providers of the frequency with which disconnections occur, and the durations of the disconnections. This data should be broken down by customers that are "vulnerable consumers", "medically-dependent consumers" and all other households.

Options the Panel should consider recommending to the Minister

Issues to address	Options which the Panel should consider
Competition issues:	
• Information collection and asymmetry problems	1. Amend the Electricity Industry Act to provide that future electricity inquiries or reviews have information gathering powers.
• The two-tier retail market and the incumbent retailer retention (winback) strategies that underpin it.	2. Ban near-time winback (at least while the incumbent retailers' retain an incumbent retail customer base). 3. Prohibit use of information from the switching process for another other purpose than facilitating the switch are two changes that are needed.
• The variation in the quality of retail competition across New Zealand.	4. Prohibit the TECT tying dividend entitlement to being a Trustpower customer/replace with entitlement based on geographic location.
• Transitory market power in the wholesale market.	5. Asset Swap 2: Establish a new, generation-only, State-Owned Enterprise "KiwiHydro" by: a. re-allocating some of Genesis' Tongariro, Mercury's Waikato River and Meridian's Waitaki hydro stations, and b. ensuring the re-allocation results in Genesis, KiwiHydro, Mercury and Meridian having roughly equal size generation portfolios.
The impact of vertical integration in retail-generation.	6. Structural separation of Contact, Genesis, Mercury, Meridian and Trustpower's retail and generation businesses: a. ownership separation (1st best), b. corporate separation with arms-length rules (2nd best), and c. financial separation (3rd best).
• Hedge market performance and development.	7. Adopt a similar approach as Singapore to market making in the hedge market.

Issues to address	Options which the Panel should consider
• Meter Equipment Provider issues	8. We recommend that all existing metering contracts are required to be cancelled and standardised metering contracts introduced. These standardised contracts should: a. Facilitate economic displacement in the best interests of end-consumers; b. Include minimum service delivery levels for both legacy and smart meter data with clawbacks for non-delivery; and c. Be subject to regular review to ensure relevance as new technology and business models emerge and the metering landscape changes.
Social issues and fairness	
• Ensuring late payment penalties are not-excessive or disproportionate to the cost retailers incur or are banned completely.	9. Ban Prompt Payment Discounts or a. require use of the term "late payment penalty" to ensure fair and transparent pricing with a prohibition on the term "Prompt Payment Discount" or other wording that creates an impression consumers are getting a special deal; and b. "restrict … conditional discounts to be no more than the reasonable savings to the retailer from the condition being met" (ACCC recommendation 33).
• Ensuring pre-pay arrangements do not exploit vulnerable and medically dependent consumers.	10. Introduce pricing/debt repayment standards and requirements for pre-pay retail service providers to ensure fair pricing for consumers most in need. 11. Introduce new reporting requirements for pre-pay retail service providers which include the frequency with which self-disconnections occur, and the durations of the self-disconnections. This data should be broken down by customers that are "vulnerable consumers", "medically-dependent consumers" and all other households.

Yours sincerely,

Luke Blincoe
Chief Executive, Electric Kiwi Ltd
9(2)(a) [redacted]

Phillip Anderson
Managing Director, Haast Energy Trading
9(2)(a) [redacted]