




# **ELECTRICITY PRICE REVIEW**

**HIKOHIKO TE UIRA**

**OPTIONS PAPER  
for discussion**

*18 February 2019*



**ELECTRICITY PRICE REVIEW**  
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# Introduction

This paper sets out possible options to address problems discussed in our first report. Some are high-level only and deliberately so: as preliminary views, the options are subject to testing and development as we engage with submitters and stakeholders.

Many of the options address the need for electricity prices to be fair and affordable, not just efficient or competitive. This element of our review, which was a requirement of our terms of reference, has not featured in past reviews. It is a key theme of this one and a considerable influence on our thinking about options. Another novel element has been the review's focus on consumers' points of view and their say in the direction of the sector.

The paper also contains suggestions to help ensure the electricity sector functions well during the transition away from carbon-based fuels – a consideration that will become increasingly important as electricity meets more of New Zealand's energy needs. It is vital the industry makes full use of the opportunities presented by emerging technologies, which have the potential to limit price rises. It is also vital those opportunities are fully supported by the regulatory framework.

The options arise from suggestions by stakeholders and our panel of experts. We have also drawn on other reviews. In considering the options, we have taken into account practicality, effectiveness, level of stakeholder support, costs and implementation times. Some solutions we favour, others we do not. We have included the latter for two reasons. First, some submitters proposed them and they warrant consideration despite our preliminary views. Secondly, they may warrant reconsideration if the ones we do favour – especially the industry-led initiatives – turn out not to deliver the expected improvements. In three instances, we have confined ourselves to making comments rather than proposing options because with one matter, voluntary action now may resolve matters, and, with the others, specific problems affect particular regions only. It is likely our final report will recommend a high-level review three years after adoption of any recommendations the Government accepts.

The paper has left out proposals deemed outside our terms of reference, such as encouraging more use of electric vehicles and solar power, and resource management reform to ensure construction of enough future generation to address decarbonisation (matters relating to reducing emissions from our electricity system are being considered by the Interim Climate Change Committee (ICCC)). We have been liaising with the ICCC. Other omitted options are, in our view, for others to consider, such as tree trimming regulations. Finally, some proposals are, we think, unnecessary or impracticable. An example is a return of ownership of the industry to the Government, as some consumers recommended.

It is important to note, the options we favour in this paper are designed to work as a package. Some can be led by the industry (without waiting for regulations) or swiftly taken up as government initiatives. Others require more significant changes to legislation or regulation and will take longer to implement.

The options are subject to engagement with stakeholders – hence our wish for your feedback. Submissions can be made via the Ministry of Business, Innovation and Employment webpage (see how at the back of this paper). We also plan to hold meetings and workshops, as necessary, to further test and develop the options. We greatly value your feedback in advance of preparing our final recommendations, which will go to the Minister of Energy and Resources in mid-2019. We emphasise this paper sets out our preliminary views only.

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## Section A: Strengthening the consumer voice

The consumer's point of view and voice on the electricity sector's direction are a distinguishing feature of this review.<sup>1</sup> As noted in our first report, households and some businesses find it difficult to make their views known in a way that can shape government and industry decisions about matters that ultimately affect them. Residential and small business customers especially have limited influence over decisions affecting electricity prices and reliability. They also cannot match larger industry participants' well-funded and co-ordinated research and advocacy efforts, resulting in an imbalance of influence.

Many submitters agreed with our findings. Some made suggestions about how to give consumers more influence over decisions that affect their electricity supply.<sup>2</sup> We note there are already ways to learn about electricity consumers' concerns, such as through the service provided by Utilities Disputes, and regulators and industry could make much better use of this information when reaching policy and market decisions.

Several submitters supported setting up a dedicated consumer agency like Energy Consumers Australia that could conduct or fund research into consumers' needs and priorities, make submissions on behalf of specific consumer groups, and work with other consumer organisations to get better prices and service for electricity consumers.

We present two options to strengthen the consumer voice and ensure regulators and industry participants incorporate consumers' needs into, respectively, their regulatory and commercial decisions. These are complemented by options discussed in sections B and C, including ways to help consumers understand the factors that determine their monthly power bills, and also to give them a stronger voice when liaising with the industry.

### **A1: Establish a consumer advisory council**

The Government would set up an electricity consumer advisory council to promote the interests of residential and small business consumers. The council would, among other matters, look at the price, quality and reliability of electricity. It would also work with the Electricity Authority, Commerce Commission, other government agencies and industry participants on any matters affecting electricity consumers. It would complement and extend, rather than replace, consumer representation on existing advisory groups and consumer panels.

Council members would be appointed by a Minister and selected from a wide range of consumer backgrounds.<sup>3</sup> Credentials in consumer advocacy or related skills would be favoured. The council could be funded by a levy on electricity industry participants, with secretariat support provided by a dedicated executive staff or by the Ministry of Business, Innovation and Employment.

The council could commission specialist research to support its activities. Such activities could include making formal submissions on behalf of consumers, participating in workshops and regularly meeting regulators, other agencies and industry participants.

Among those to support an independent council was Trustpower. It said such an agency would help ensure "the necessary level of sophistication to engage with decision makers".<sup>4</sup> The Community Energy Network said such a body "would be able to fairly influence policy and provide an appropriate communication channel for all stakeholders".<sup>5</sup>

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<sup>1</sup> 2018-19 Electricity Price Review's First report for discussion, pp15-16.

<sup>2</sup> Consumer NZ, pp8-13; He Kainga Oranga/The Housing and Health Research Programme, pg5; Top Energy and North Power, pg13; The Salvation Army, pg7.

<sup>3</sup> This could be, for example, the Minister of Energy and Resources or Minister of Commerce and Consumer Affairs.

<sup>4</sup> Trustpower, pg3.

<sup>5</sup> Community Energy Network, pg5.

Household consumer Jake Lilley said the complexity of the electricity sector – and the likelihood it would become more so with the widespread introduction of new technology – made it important to ensure funding for “specialist independent consumer advocacy”.<sup>6</sup> Flick Electric saw Energy Consumers Australia as a potential model for a “Customer Champion”.<sup>7</sup>

From a practical perspective, an electricity consumer advisory council could be established relatively quickly, but levy funding would require legislation. Establishing a council through legislation would give it a statutory basis and ensure greater status and durability.

In the longer term, the council's mandate could be extended to other utility sectors, such as gas and telecommunications, if it proved successful and if a stronger consumer voice were needed in those sectors. In that case, industry participants in those sectors could pay a levy towards its operation.

We favour this option.

## **A2: Ensure regulators listen to consumers**

The Electricity Authority and Commerce Commission would be given an explicit statutory responsibility to consult electricity consumers. This would ensure regulators are both informed about, and take into account, consumers' needs, concerns and priorities when making policy decisions, or when making or amending legislation or market rules that could affect electricity prices.

Regulators already have broad consultation obligations, but there is no specific requirement to seek consumers' views or explain how they take those views into account when carrying out their regulatory functions. This option would reinforce their existing statutory objective to promote the long-term benefit of consumers by ensuring they seek input from representatives of different types of consumers, such as vulnerable residential consumers and small businesses.

Several submitters supported this approach. Housing and Health Research Programme He Kainga Oranga said “residential consumers should not have to trust the electricity sector to look after their interests, as there should be a regulatory body answerable to residential consumers that ensures residential consumer interests are appropriately valued”.<sup>8</sup> Fonterra said “regulatory bodies need to add weight to the consumer's voice to ensure that interests are fairly represented and a balanced outcome is achieved”.<sup>9</sup>

This option could be linked to one in Section F giving the Electricity Authority explicit consumer protection functions.

We are undecided about this option.

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<sup>6</sup> Submitter Jake Lilley, pg7.

<sup>7</sup> Flick Electric, pg15.

<sup>8</sup> He Kainga Oranga/The Housing and Health Research Programme, pg6.

<sup>9</sup> Fonterra, pg2.



## Section B: Reducing energy hardship

Many households can't afford the electricity they need to maintain a healthy home.<sup>10</sup> This problem of energy hardship is serious. Such householders may cut back on their heating, resulting in unacceptable living conditions and significant health costs.<sup>11</sup> To pay power bills, they may scrimp on other essentials, and yet they are also more at risk of disconnection because of non-payment. For these consumers, "every power bill is a crisis and a potential slide into the debt spiral".<sup>12</sup>

Submitters were almost unanimous in regarding energy hardship as a problem, but differed on its scale and how to fix it. The causes are varied, and include a household's financial situation, energy needs, and lack of awareness of different tariff and payment options. Housing quality is also a big factor. What is clear is there is no magic bullet. New Zealand needs carefully designed and co-ordinated measures to tackle energy hardship. From submissions and stakeholder discussions we know many excellent initiatives already operate in parts of the country to deal with energy hardship.<sup>13</sup> However, they could all be improved, extended or supplemented in some way to produce a more co-ordinated response to the problem. In the meantime, all should be encouraged to continue their excellent work.

We present eight options. Some, we believe, can deliver immediate benefits and should be undertaken as a priority. Others appear promising, but need more analysis to get a clearer picture of their costs, benefits and how they would align with other government measures to tackle poverty. Several options are best developed together, which is why we propose a cross-sector energy hardship group to act as a co-ordinating body. It may even be time for a more far-reaching approach: the establishment of a poverty commission that would bring together all the strands of work on energy hardship, financial hardship, housing hardship and so on. Such a step would, of course, be a matter of government policy and is beyond the scope of this review to consider.

### **B1: Establish a cross-sector energy hardship group**

This group would bring together decision-makers from key government agencies, regulators, industry participants, community organisations and consumer advocates to ensure energy hardship initiatives are well-considered, carefully co-ordinated and properly implemented.<sup>14</sup> This option recognises the causes of energy hardship extend beyond the electricity sector, making it a problem the Government, regulators and industry must tackle together – a point emphasised in many submissions.

The group could operate in a variety of ways, ranging from providing advice on high-level policy and strategy through to detailed design and implementation of cohesive and cost-effective energy hardship initiatives. It could be funded by the Government and/or an electricity industry levy.

The group's first job should be to carry out a detailed stocktake of existing initiatives to find out what is working well and see where there are gaps. The stocktake would provide vital input to the group progressing other initiatives, such as commissioning a nationwide network of community-level support services to help those in energy hardship (see option B3). Indeed, the group would play a central role in putting into effect five of the options listed below (B2 to B6). The group could also offer advice on the energy hardship implications of wider government initiatives such as welfare or tax reform.

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<sup>10</sup> First report, pg25.

<sup>11</sup> We acknowledge the distinction between energy hardship (a combination of many factors) and affordability (primarily about price), a point made in several submissions. This section specifically targets energy hardship. Options in other sections target energy hardship and/or affordability generally by strengthening consumers' voice (option A1), increasing retail competition (section C) and improving transmission and distribution (section E, including E5 phasing out the Low Fixed Charge regulations).

<sup>12</sup> Child Poverty Action Group, pg6.

<sup>13</sup> Examples include those run by The Salvation Army, Community Energy Network, Sustainability Trust, Electricity Retailers' Association of New Zealand.

<sup>14</sup> Relevant government agencies could include the Ministry of Business, Innovation and Employment, Work and Income, Ministry of Social Development, Ministry of Health, Housing New Zealand, Oranga Tamariki, Energy Efficiency and Conservation Authority, and the Minister of Housing and Urban Development.



FinCap, a budgeting and financial advice service supported by the Ministry of Social Development, could be a model for this group, as could the Nationwide Health and Disability Advocacy Service, a charitable trust that offers independent advice to users of health and disability services.

We favour this option as a matter of priority.

## **B2: Define energy hardship**

Defining energy hardship would enable the cross-sector group to estimate the number of households that meet the definition and evaluate the effectiveness of energy hardship initiatives.<sup>15</sup> There is no agreed definition in New Zealand of energy hardship and no regular gathering of statistics on the extent of the problem. Plainly, it is hard to manage a problem that is not properly defined or measured. Some suggest a narrow definition to ensure help goes to those in greatest need. Others say a wider definition is appropriate because electricity is an essential service and no household should go without the electricity needed for a healthy home. Several submitters said it was critical to have a New Zealand-specific definition so government policy could be appropriately directed.<sup>16</sup>

A definition would probably require establishing a set of indicators (such as income, housing quality and age of occupants) that contribute to energy hardship. Our first report referred to a Statistics NZ paper that set out a range of indicators for estimating energy hardship.<sup>17</sup> We received another study in submissions that suggested a definition based on income spent on energy, after accounting for housing costs, and other energy hardship risk factors.<sup>18</sup> These studies could be used as a starting point for developing a New Zealand definition and indicators for energy hardship.

The cross-sector group should play a key role in this work.<sup>19</sup> It is important such a group or some other suitable agency monitors the level of energy hardship and reports on the impact of initiatives designed to reduce it. Energy hardship could also be among the wellbeing indicators the Government is developing for future Wellbeing Budgets.

We favour this option as a matter of priority.

## **B3: Establish a network of community-level support services to help consumers in energy hardship**

Under this option, the Government would contract a nationwide network of organisations to deliver electricity-specific support services to those in energy hardship. Many organisations in the community already provide excellent services such as budgeting help, energy efficiency advice and community support. However, most offer help in all forms of hardship, not just energy. Their resources are stretched and electricity can be low on the priority list behind help with food, housing and clothing. Only some parts of New Zealand have these services, and many of those in hardship do not know there are organisations they can approach for help.

Many submissions across all parts of the sector suggested measures along these lines.<sup>20</sup> Some suggested calling the organisations “energy ambassadors”.<sup>21</sup> Energy hardship researcher Ian McChesney said: “Those in energy hardship often need individualised assistance from specialist agencies.”<sup>22</sup> The Salvation Army said it wasn’t necessary to reinvent the wheel when working with

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<sup>15</sup> There would be merit in recording and monitoring other key statistics such as disconnections for non-payment and self-disconnections by those on pre-payment meters.

<sup>16</sup> Submitter Ian McChesney, pg4; Community Energy Network, pg4; Contact, pg18; Unison Networks, pp1-2; Powerco, pg9; Genesis, pg3; BusinessNZ Energy Council *Sapere Research Group report*, pg78; and the Sustainability Trust, pg3.

<sup>17</sup> Statistics NZ’s *Investigating different measures of energy hardship in New Zealand*, 1 September 2017.

<sup>18</sup> The other energy hardship risk factors were based on other energy spending relative to income measures, the age of the house and the age of the occupants. PricewaterhouseCoopers *Definition of Energy Vulnerability in New Zealand*, for Electricity Retailers’ Association of New Zealand, October 2018.

<sup>19</sup> Community Energy Network, pg4; and energy hardship researcher Ian McChesney, pg4; submitted that this should be one of the first tasks of a cross-sector group.

<sup>20</sup> Submitter Ian McChesney, pg5; Trustpower, pg55; and Electricity Authority, pg14.

<sup>21</sup> Electricity Network Association, pg4; Unison Networks, pg3.

<sup>22</sup> Submitter Ian McChesney, pg5.

vulnerable consumers, but it did require a long-term commitment, a culturally appropriate service and an absence of tokenism.<sup>23</sup>

Such a network would offer timely, cost-effective assistance to thousands of households in energy hardship by building on existing community organisations, including their service delivery methods and community relationships.<sup>24</sup> It would also encourage more collaboration between community-based budget advisors, community health organisations, relevant government agencies and other social support agencies. This greater collaboration could extend to cross-referral of households eligible for financial support, as proposed in this option and in options B4 and B5.<sup>25</sup>

Setting up such a network would improve nationwide access to credible, independent advice about electricity prices, electricity technology and energy efficiency options to lower energy costs and improve living standards for households in energy hardship. Consumers could contact organisations in this network either directly (contact details would be widely available), through their retailer or by referral from agencies such as budget advisors, social agencies and health providers.

Services offered by this network would include:

**Switching and plans:** Trained advisors would work with consumers in energy hardship to assess their circumstances (such as electricity needs, metering, payment arrangements), identify the best retailer and plan for them, and help them make the switch. This would resolve the problem that many consumers in hardship simply don't know how to choose and switch. Having a trained and trusted person to help them do this is one of the most tangible ways of helping them get the best deal.<sup>26</sup> Improving the Powerswitch website and access to consumption data will make this task easier (see option C1).

**Energy use:** Trained energy coaches would provide households with specialist advice on how to make their home warmer and more energy efficient. This would include helping them get better insulation, curtains and heaters, and other simple energy efficiency technology such as electricity use monitors and thermostats. Some simple behavioural changes can also improve energy efficiency, but these can be hard to understand and adopt without hands-on assistance. Other energy efficiency measures need funding support, and this would come from funds made available under option B4.

**Build skills:** Community groups and advisors already working with households in hardship would have access to specialist training programmes and educational material to deepen their knowledge of energy hardship and ways to deal with it in their community. This training and educational material could include information on smart energy use, maintaining a healthy home and where to get more help. The result would be more accurate and tailored advice on energy use and switching.

The Government and/or an electricity industry levy could fund this initiative. Contracts would require regular monitoring and reporting to ensure services are delivered as agreed and reach those who need them in a cost-effective manner.

We favour this option as a matter of priority.

#### **B4: Set up a fund to help households in energy hardship become more energy efficient**

Eligible households could draw on this fund to act on the advice of energy-use advisors (option B3). It could fund any relevant technology that cut electricity costs in the home, including the purchase of LED lighting, hot water cylinder wraps, efficient wood-burners and more efficient heaters. The fund could also pay for research into the best ways to engage with hard-to-reach

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<sup>23</sup> The Salvation Army, pg3.

<sup>24</sup> Central co-ordination and building on successful existing programmes are key reasons for us favouring this option over others for delivering similar services (such as imposing a regulatory requirement on retailers to run their own hardship programmes covering these services).

<sup>25</sup> For a description of the financial capability services available, see <https://www.fincap.org.nz/>.

<sup>26</sup> This could be extended to a "social broking" service that targets particular communities in energy hardship for group switching deals tailored to their needs. It could also be widened to make the trained switching advisors available to assist any consumers with technology, language or cultural difficulties (not just those in energy hardship).

households in energy hardship and energy efficiency pilot programmes that would benefit these households.

Many submitters said improving energy efficiency was generally the most cost-effective way to reduce energy costs.<sup>27</sup> We agree. Almost all households and businesses have room to improve their energy efficiency, but the barriers to doing so are particularly high for households in energy hardship because they lack the funds to invest now to save money in the future. Also, many of these householders live in rental accommodation, and property owners will sometimes not agree to, or pay for, such improvements.<sup>28</sup>

The Government would establish and maintain this fund. The Energy Efficiency and Conservation Authority (EECA) could administer it, given it already operates the Warmer Kiwi Homes fund, which pays for retrofitting insulation by eligible householders. This option and the previous one are so intertwined that we consider the cross-sector group should play a key role in co-ordinating this initiative with EECA and the Community Energy Network.<sup>29</sup>

We favour this option.

### **B5: Offer extra financial support for households in energy hardship**

Under this option, households meeting the definition of energy hardship would be eligible for extra financial support to help pay their power bills.<sup>30</sup> The Winter Energy Payment has had a positive effect for many households, but we expect many are still struggling to pay their power bills – particularly low-income households with very high energy needs. Furthermore, many households in energy hardship do not receive the payment.<sup>31</sup>

Many submissions said low household incomes were a key cause of energy hardship, and called for increased or better targeted financial assistance for those in genuine need and/or special electricity prices.<sup>32</sup> How much assistance would be needed would depend on the definition of energy hardship adopted and the extent of the problem thus defined. It would also depend on how effective other measures to tackle energy hardship, and poverty more generally, proved to be. We note, in particular, the work of the Welfare Expert Advisory Group.

Ultimately, it is for the Government to decide on the nature of this financial support, although we would recommend it seek advice from the cross-sector group on the implementation of such a decision.<sup>33</sup>

Payments could align with other forms of government financial support, such as Working for Families payments, Community Services Card benefits, emergency assistance grants or the Winter Energy Payment. Or they could be in the form of a general income supplement or a direct rebate based on consumers' bills (modelled on the rates rebate scheme for residential ratepayers).<sup>34</sup>

Funding should come from the Government because this is, in essence, a form of welfare assistance.

We favour this option.

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<sup>27</sup> For instance, Molly Melhuish submission "Energy efficiency initiatives are clearly the most cost-effective way to alleviate energy hardship, as saving energy is essentially always cheaper than generating and distributing it", pg15.

<sup>28</sup> The Ministry of Housing and Urban Development is considering how the Residential Tenancy Act 1986 can better help landlords and tenants make reasonable modifications or minor changes to rental properties.

<sup>29</sup> The Community Energy Network is the national body for regional organisations that offer energy assistance in local communities. See <https://communityenergy.org.nz/>.

<sup>30</sup> This would augment any assistance they might already be receiving from other forms of Government support such as Working for Families, the Community Services Card, emergency assistance grants, and the recently introduced Winter Energy Payment.

<sup>31</sup> The Winter Energy Payment is automatically given to those receiving the New Zealand Superannuation, the Veteran's Pension, Jobseeker Support, Jobseeker Support Student Hardship, Sole Parent Support, Supported Living Payment, Young Parent Payment, Youth Payment and Emergency Benefit.

<sup>32</sup> Mercury, pg24; Trustpower, pg8; Electricity Networks Association, pg4; Genesis, pg1; Powerco, pg9; Utilities Disputes, pg10; Nova Energy, pg12; Unison Networks, pg3; Ian McChesney, pg10.

<sup>33</sup> Targeting assistance to those who need it can be complex and costly. However, it is important to recognise that increased financial assistance can have unintended consequences if poorly directed and funded.

<sup>34</sup> A government-funded, local council-administered subsidy for low-income homeowners to cover the cost of their rates bills.

## **B6: Set mandatory minimum standards to protect vulnerable and medically dependent consumers**

This option would replace existing voluntary standards with mandatory, enforceable minimum standards that distributors, retailers and others would have to meet when providing electricity services to vulnerable and medically dependent consumers.<sup>35</sup> This would include customers at risk of disconnection for non-payment. New regulations under the Electricity Industry Act 2010 or new provisions in the Electricity Industry Participation Code would set such standards, and enable enforcement by the Electricity Authority.

The Electricity Authority has published voluntary guidelines<sup>36</sup> on assisting vulnerable and medically dependent consumers, and the Electricity Retailers' Association of New Zealand (ERANZ) has developed voluntary practice benchmarks for retailers managing customers struggling to pay their bills.<sup>37</sup>

We understand from submissions and stakeholder discussions that some retailers don't consistently comply with all aspects of these guidelines. Submissions from consumer groups and some retailers<sup>38</sup> argued for a formal, consistent and enforceable regime for dealing with vulnerable and medically dependent consumers.<sup>39</sup> Such a regime would become even more important as innovation in business models and technology leads to the emergence of new providers that may not give high priority to voluntary standards.

Regulations would cover matters such as identifying vulnerable or medically dependent consumers,<sup>40</sup> the provision of advice, payment and metering options, pre-pay service standards, management of those in arrears, disconnection and reconnection matters, the involvement of other agencies (including Work and Income and budget advisors), and monitoring and enforcement arrangements.<sup>41</sup>

We favour this option.

## **B7: Prohibit prompt payment discounts but allow reasonable late payment fees**

Retailers (and where applicable any distributor) would be allowed to charge late payment fees (capped to reflect genuine debt recovery costs) but prompt payment discounts would be prohibited.<sup>42</sup> Other conditional discounts (such as for paperless billing, direct debit or bundled offers) would be allowed but would be capped to reflect genuine savings to the retailer.<sup>43</sup>

Consumer advocates and advisory groups say prompt payment discounts disproportionately hurt low-income consumers and, in many cases, are unrelated to the true cost of recovering late payments.<sup>44</sup> One submitter described them as "a wolf in sheep's clothing".<sup>45</sup> The Australian Competition and Consumer Commission (ACCC) recently found electricity retailers' discounting practices "give the impression that an offer is significantly cheaper than other offers in the market

<sup>35</sup> 'Vulnerable consumer' is a term the industry has defined in its existing voluntary guidelines. We have used that term here to distinguish the scope of this option from others targeted specifically at households in energy hardship (defined under option B2) – these mandatory minimum standards should apply more broadly, not just to those in energy hardship.

<sup>36</sup> See also the Electricity Authority's voluntary good contracting principles and minimum terms and conditions for domestic contracts. Refer the Electricity Authority's *Guidelines: arrangements to assist medically dependent consumers*, 19 August 2016; and *Guidelines on arrangements to assist vulnerable consumers*, 19 August 2016.

<sup>37</sup> Refer to Electricity Retailers Association of New Zealand's webpage *Better outcomes for those struggling to pay their electricity bills*, <https://www.eranz.org.nz/news-and-insights/better-outcomes-for-those-struggling-to-pay-their-electricity-bills/>, 30 January 2019.

<sup>38</sup> Trustpower, pg8; Entrust, pg20; Meridian, pg7; FinCap, pg3.

<sup>39</sup> We also note the Australian Energy Market Commission recently ruled to strengthen protection for consumers in hardship. See *National Energy Retail Amendment (Strengthening protections for customers in hardship) Rule 2018 No. 6*.

<sup>40</sup> Establishing a centralised registry of medically dependent customers would assist with this.

<sup>41</sup> The mandatory minimum standards would need to strike an appropriate balance between providing sufficient protection and certainty while allowing some flexibility in how retailers/providers develop their hardship programmes to meet their customers' needs.

<sup>42</sup> The Lines Company, which directly bills its customers (currently the only distributor to do so), gives prompt payment discounts.

<sup>43</sup> Retailers would need to prove that any late payment fee or conditional discount is reasonable.

<sup>44</sup> This view is supported by our quantitative analysis, the advice of consumer advocates and the views expressed in many submissions. In particular, our analysis shows that lost prompt payment discounts are the single biggest factor distinguishing what consumers in the most deprived and least deprived areas pay. This finding is adjusted for other differences such as usage levels. See 2018-19 Electricity Price Review's Initial Analysis of Retail Billing Data, 15 October 2018, pp9-12.

<sup>45</sup> Electric Kiwi and Haast Energy Trading, pg21.

when this is often not the case. This behaviour is confusing, at times misleading, and leads to poor consumer outcomes”.<sup>46</sup>

Retailers undoubtedly incur costs when bills are paid late (for instance credit management and bad debt), but allowing late payment fees would promote timely bill payment and also lower supply costs.<sup>47</sup>

We commend Meridian for replacing its prompt payment discount in October 2018 with a guaranteed discount for all customers even if they pay late. Meridian estimates its change will amount to an immediate saving of \$5 million a year for its customers.<sup>48</sup> It says that, in the first two months following the change, it “observed no discernible impact on or deterioration in ... customers paying their bills late, levels of customer debt, or disconnections”. If other retailers followed, our analysis suggests a total saving of about \$45 million a year for all consumers. Individual retailers that did so voluntarily, without waiting for regulations, would give their customers a greatly appreciated pre-winter boost.

New regulations under the Electricity Industry Act 2010 or new provisions in the Electricity Industry Participation Code would ensure quick implementation of this change. Clearly communicating to consumers the reasons for banning prompt payment discounts would be vital. The Meridian example resulted in no increase for any of its customers and bill decreases for others. We also note that some customers’ term contracts include prompt payment discounts, something that would need to be factored into the implementation process.

We favour this option.

### **B8: Explore bulk deals for social housing and/or Work and Income clients**

The Government would actively encourage agencies such as Housing New Zealand and Work and Income to explore bulk electricity deals for their clients. Housing New Zealand is already exploring such deals, and ERANZ has a project investigating possible bulk deals for social housing.

Many social housing tenants and Work and Income clients live in households in energy hardship. Housing New Zealand and Work and Income could negotiate cheaper electricity prices for their clients using their bulk purchasing power and ability to help manage credit.<sup>49</sup> Their customers would receive cheaper power and would avoid the costs of late payment and disconnection.

Some submitters suggested the Government consider bulk electricity deals, although there were notable variations in what they proposed.<sup>50</sup> Some suggested the Government establish or contract a retailer to act as a “social retailer” or “retailer of last resort” that would provide a guaranteed supply of electricity to those in energy hardship and/or those unable to connect due to a poor credit history.<sup>51</sup> Another suggested social housing agencies become electricity retailers for their tenants, including providing customer services. We understand another variation under consideration would involve including some electricity as part of the rental agreement. This would be designed to allow tenants to heat their homes to a healthy standard without fear of bill shocks, and give the social housing provider, as landlord, an incentive to ensure homes were energy efficient.

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<sup>46</sup> See Australian Competition and Consumer Commission’s, *Retail Electricity Pricing Inquiry*, June 2018, pg253.

<sup>47</sup> By contrast, an outright ban might increase debt management costs across the retail sector and/or cause retailers to place a greater emphasis on credit checks, which could create another barrier for consumers with a poor credit history. Nova Energy, pg17; and Mercury, pg8.

<sup>48</sup> Letter from Meridian Chief Executive to Electricity Price Review Chair, 14 December 2018.

<sup>49</sup> This would be undertaken via tender or some other competitive means. It could be extended to bulk deals for other groups with high levels of energy hardship such as Community Services Card holders.

<sup>50</sup> Electricity Retailers’ Association of New Zealand, pg67; Genesis, pg13; Meridian, pg7; Trustpower, pg6; and Electric Kiwi, Flick, Pulse, Vocus, pg4.

<sup>51</sup> A social retailer can take several forms, but generally involves providing a special hardship tariff for eligible households.

One challenge is that the electricity needs of these customers vary significantly, and the one-size-fits-all approach of a bulk deal might make some worse off than if they were on the best price on the open market. (Enabling, customers, however, to opt out of a bulk deal would easily address this.) Being part of a bulk deal may also prevent these customers from taking up innovative offers or technology developments available in the open market, further exacerbating the two-tier market effects described in our first report. This could become increasingly significant as technologies and business models evolve.<sup>52</sup>

We consider there is merit in government agencies exploring bulk power deals, and work in this area should continue. We do not support, however, any new arrangements that would simply shift costs from the industry to the taxpayer. They would need to deliver genuine efficiencies.

The cross-sector group (option B1) would be a useful forum to help develop bulk power deals.

We favour this option.

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<sup>52</sup> Given the size of the social housing and Work and Income client base, these bulk contracts in aggregate could remove a substantial percentage of the potential consumer base from the market. This could distort the remaining open market and have eventual unintended consequences for competitive supply and investment. Depending on how such schemes are targeted, there is also a risk of creating further inequalities between households that would be eligible and those who are excluded but may have similar energy hardship circumstances (for instance tenants in public housing and private rentals).



## Section C: Increasing retail competition

Despite recent growth in competition, a two-tier market is developing in the retail electricity sector. Consumers actively shopping around enjoy the benefits of competition, but those who don't pay higher prices.<sup>53</sup> Our discussions with stakeholders largely confirmed these findings from our first report. However, stakeholders differed on whether the increasing difference in prices paid by consumers was a matter for concern or a sign of healthy competition.<sup>54</sup>

Some price differences are to be expected, based on such variables as retailers' cost base, size, market share and profit expectations. We do not want to eliminate those differences, which would merely lessen retailers' incentive to innovate and respond to market signals. Even so, our concern about the growing size of price gaps in the retail market, together with our requirement to consider fairness<sup>55</sup> as well as efficiency, has led us to develop seven options to try to narrow those gaps so as to extend the benefits of competition to all consumers, not just some.<sup>56</sup>

The options include retail price caps, which other countries have introduced but which we do not favour because evidence shows New Zealand is more competitive than most, including Australia and Britain, which have the caps.<sup>57</sup> Rather, we favour the approach of increasing competition.

### C1: Make it easier for consumers to shop around

Merging price comparison websites Powerswitch and Whatsmynumber and improving the new website's performance would boost consumers' ability to hunt out the best deals. Both websites tell customers about the potential savings of switching retailers or price plans. Although it's generally regarded the Electricity Authority-run Whatsmynumber is effective at raising awareness of retail competition, only the Consumer NZ-run Powerswitch provides price comparison functions. So under this option, the various functions would be merged into an enhanced Powerswitch website, which the Electricity Authority would contract Consumer NZ to run. Periodic retendering would ensure the service remained efficient.

Several submitters said there was plenty of scope to do more to facilitate switching.<sup>58</sup> The Electricity Authority said a "significant" number of households could still benefit from changing their plan or provider.<sup>59</sup> It spends \$2.5 million a year on Whatsmynumber, as well as on supporting Powerswitch.<sup>60</sup> This money would be better spent on a single website that was easier to navigate, was better at identifying the best deal for individual consumers, and offered real-time access to each customer's usage data (see option C3). It would also be simpler and more efficient to promote awareness of a single price comparison website, and this could extend to working directly with agencies that help households with budgeting problems.<sup>61</sup>

We favour this option.

### Variation

Retailers must disclose all "generally available" price offers, but this does not include offers made by retailers when "directly contacting a consumer".<sup>62</sup> Consumer NZ expressed concern at the lack of transparency about "win-back" discounts offered by retailers to customers about to switch to another retailer. It suggested changing mandatory information disclosure requirements so retailers

<sup>53</sup> First report, pp35-39; and Initial Analysis of Retail Billing Data, 15 October 2018.

<sup>54</sup> See, for example, Business NZ Energy Council *Sapere Research Group report*, pg4; and Entrust, pp11-13.

<sup>55</sup> Fairness is core element of the overarching objective and scope of the review. See 2018-19 *Electricity Price Review Terms of Reference*.

<sup>56</sup> First report, pg38.

<sup>57</sup> Price capping arrangements in Australia are currently being implemented.

<sup>58</sup> For example, Trustpower, pg9; Flick, pg29; Vector, pg53.

<sup>59</sup> The Electricity Authority, pg11.

<sup>60</sup> The Electricity Authority had a budget of \$2.5 million in 2017-18 for "facilitating consumer participation". See <https://treasury.govt.nz/publications/estimates/vote-business-science-and-innovation-economic-development-and-infrastructure-sector-estimates-2018-2019-html#section-37>

<sup>61</sup> FinCap, pg3; Meridian, pg38; and the Electricity Authority, pp11-14.

<sup>62</sup> Defined in Part 1 of the *Electricity Industry Participation Code* as those open to any consumer who meets specific geographic, metering and other technical requirements. Disclosure must be made to any person who makes a request.

had to publish all available prices and offers.<sup>63</sup> Other submitters thought widening the disclosure requirement could stifle innovation and competition by, for example, hindering retailers' ability to offer tailored prices.<sup>64</sup> Tailored prices can include a win-back offer, or special deals such as for members of a club or association.

Clearly, a balance must be struck between providing enough information so consumers can see the range of prices available in the market without over-complicating price comparisons by showing tailored prices not widely available. The current disclosure rules are fairly new, and we think more time is needed to test them and gauge whether disclosure of generally available information is the appropriate yardstick.<sup>65</sup> For this reason we do not support any change. We also consider option C5 will respond to concerns about win-back offers.

We do not favour this option.

## **C2: Include information on power bills to help consumers switch retailer or resolve billing disputes**

Some consumers find it hard to seek out better deals, and most are unaware of a free disputes resolution service, so retailers would be required to include on their power bills clear, prominent information about how consumers could switch supplier or dispute their bill. The Electricity Authority could enforce this requirement through a change to the Electricity Industry Participation Code.

Receiving the monthly power bill reminds consumers of what they are paying under their current plan and retailer, and can prompt them to reconsider their plan or retailer. The inclusion of prominently placed, easy-to-understand information about how to take this step would greatly help some consumers.<sup>66</sup>

Several submitters suggested including switching information on bills, although they differed on how detailed this information should be. Mercury, for example, suggested "making sure [consumers] are aware they can switch and providing links to relevant resources such as Consumer Powerswitch".<sup>67</sup> Trustpower suggested including details about a retailer's alternative offers.<sup>68</sup> We think power bills should at the very least include information about Powerswitch (assuming option C1 goes ahead).

Also, few consumers know that Utilities Disputes can help them resolve disputes with their retailer – a point made by Grey Power NZ.<sup>69</sup> Retailers must "promote" Utilities Disputes on bills, although reference to the service tends to be in fine print.<sup>70</sup> This information should be more prominent on power bills and on retailers' and distributors' websites, and Utilities Disputes should be involved in designing how it would look on bills and websites. We are also concerned at the very low awareness of the free scheme (as little as one percent) and would like to see retailers and distributors contributing to a Utilities Dispute marketing campaign to lift awareness of the scheme significantly and quickly.

For some consumers, providing information on bills may not be the most effective way of helping them to change their plan, switch retailer or resolve billing disputes. The Electricity Authority should also look at other ways to increase consumers' ability to do these things.

We favour this option.

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<sup>63</sup> Consumer NZ, pg9.

<sup>64</sup> For example, Meridian, pp38-39.

<sup>65</sup> The current rules were introduced in 2016.

<sup>66</sup> The Electricity Authority's *Residential National Survey December 2016* found that 23 per cent of respondents thought switching was difficult, or were unsure about how to switch.

<sup>67</sup> Mercury, pg29.

<sup>68</sup> Trustpower, pg9.

<sup>69</sup> Greypower, pg3; The first report found only 21 per cent of consumers surveyed were aware of Utilities Disputes, footnote 97.

<sup>70</sup> All distributors and retailers must join and follow the rules of Utilities Disputes, which operates the approved Energy Complaints Scheme under the Electricity Industry Act 2010. See *The General and Scheme rules for the Energy Complaints Scheme operated by Utilities Disputes Limited*, 1 October 2018, <https://utilitiesdisputes.co.nz/>.



### C3: Make it easier to access electricity usage data

Streamlining access to retailer data about customers' electricity consumption would enable customers or their agents to make faster, more informed decisions about the right plan for their level and pattern of power use. It would also give price comparison websites and competing retailers more assured access to the same data. The change could be brought about by the Electricity Authority setting new default rules governing access to data. We understand the Authority already has work under way in this area.

Retailers have been required to give consumers or their authorised agents usage data on request since 2016.<sup>71</sup> Nonetheless, agents have found it hard to do so because retailers decide individually what criteria and processes to apply, and this lack of standardisation complicates, or even hinders, agents' access.<sup>72</sup> In addition, retailers have five business days to comply with data requests – too long for many consumers, who nowadays expect real-time responses via smart devices. Quick, easy access to this data will become increasingly important as smart tariff pricing (which reflects the cost of producing electricity at different times of the day) becomes more common. It will also be vital in helping consumers decide whether to invest in solar panels, batteries and other technology.

We favour this option.

### C4: Make distributors offer retailers standard terms for network access

Distributors would have to offer common default terms to retailers wanting to use their lines networks (or embedded networks).<sup>73</sup> These terms would automatically apply unless the parties agreed otherwise.

Retailers often say lack of standard access terms raises their costs. Mercury said “the current lack of standardisation among distributors creates unnecessary costs in terms of negotiating bespoke use-of-system agreements and dealing with the considerable number of pricing structures. This can also act as a barrier to new entrant retailers, particularly outside the major metropolitan centres”.<sup>74</sup> This lack of standardisation also hinders retail competition and is a key reason why fewer retailers operate on smaller networks.

The Electricity Authority recently sought to make distributors offer a standard default agreement to retailers, but one distributor challenged its jurisdiction to regulate in this area. The Court of Appeal, which is due to issue a second judgment on the matter in early 2019, noted in its first one that “greater standardisation ... would lower retail market entry and expansion barriers, reduce the cost of doing business and reduce the potential ... to stifle competition and innovation”.<sup>75</sup> If the Court of Appeal concludes the Electricity Authority lacks the power to regulate this matter, we support an amendment to the Electricity Industry Act 2010 to give it the power.

We favour this option.

### C5: Prohibit win-backs

Retailers would be prohibited from using notification that a customer was switching to another retailer to win back that customer with a better offer.<sup>76</sup> The Electricity Authority could make this change by amending the rules in the Electricity Industry Participation Code. The new rules could be modelled on those in effect in the telecommunications sector, where such win-back offers are prohibited.

Submitters differed on whether win-back offers hindered or helped competition. The Commerce Commission considers win-backs could potentially have anti-competitive effects, such as raising rivals' costs by making it harder for them to attract new customers, but recognise that banning all selective discounts could be counter-productive.<sup>77</sup> The Australian competition regulator agrees,

<sup>71</sup> The Electricity Authority's *Requests for consumer consumption information procedures*, 18 November 2015.

<sup>72</sup> Consumer NZ, pg12.

<sup>73</sup> Embedded networks are smaller networks (such as in shopping malls and industrial parks) that are not connected directly to the national grid. See Part 1 of *Electricity Industry Participation Code* for full definition.

<sup>74</sup> Mercury, pg46.

<sup>75</sup> Court of Appeal, CA481/2017 [2018] NZCA 543, paragraph 43.

saying “large retailers have the financial means to offer such aggressive retention offers by cross-subsidising these offers from the higher profits they are earning from their significant number of sticky high-value customers”.<sup>76</sup>

Submissions from new retailers were critical of win-back offers, saying they limited “competition and the ability for new entrant, innovative retailers to establish themselves”.<sup>77</sup> Energy hardship expert Ian McChesney said win-back offers contributed to the two-tier market and should be prohibited on fairness grounds.<sup>78</sup> The Australian regulator noted “the effectiveness of these retention activities reduces the need for big retailers to proactively give their loyal customers financial and/or other inducement(s) to stay. If anything, customer loyalty is likely penalised with higher prices” and “there are questions as to whether the activity is in the best interests of consumers as a whole”.<sup>79</sup>

Some submitters said win-backs could be good for competition. Meridian’s view was that “consumers get the direct benefit of competing offers and counter-offers from suppliers looking to win or retain a consumer’s business”. Contact, on the other hand, believed “there may be value in investigating how save and win-back activity could be disciplined”.<sup>80</sup>

We note the Electricity Authority is expecting to receive advice from its Market Development Advisory Group on win-backs in April 2019, but that assessment will be limited to competition, reliability and efficiency-related concerns. Our assessment also takes account of fairness.

Two retailers<sup>81</sup> active in both the electricity and telecommunications sectors suggested a win-back prohibition modelled on rules for the telecommunications sector.<sup>82</sup> We agree. Even with the prohibition, competition in the telecommunications sector is strong, with about 20,000 mobile and local phone customers switching providers each month.<sup>83</sup>

We favour this option.

## C6: Help non-switching consumers find better deals

The Electricity Authority or a contracted agent would negotiate a bulk deal for consumers who had not switched retailers for many years. Consumers could evaluate the savings of such a deal and opt out if they didn’t want to switch. The Authority would need the power to require retailers to hand over information about long-term customers.

In New Zealand, between 400,000 and 750,000 households have never switched retailers since 2002 (when records began).<sup>84</sup> Some would have shopped around but not gone any further, or would have started to switch but accepted a win-back offer.<sup>85</sup> The high numbers strongly suggest many have never shopped around, despite efforts to simplify the switching process and campaigns to help consumers seek out better prices.

Such a scheme could be modelled on a recent trial in Britain – a suggestion raised by distributor Vector.<sup>86</sup> In early 2018, 50,000 British consumers took part in the pilot project, all of whom had

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<sup>76</sup> If the switching process is cancelled it results in a “save”, and if reversed a “win-back”. For simplicity, we refer to any retention activity based on switching information as a win-back.

<sup>77</sup> Commerce Commission, pg7.

<sup>78</sup> Australian Competition and Consumer Commission’s *Retail Electricity Pricing Inquiry Final report*, pg143, 30 July 2018.

<sup>79</sup> Energy Club NZ, pg12.

<sup>80</sup> Submitter Ian McChesney, pg10.

<sup>81</sup> Australian Competition and Consumer Commission’s *Retail Electricity Pricing Inquiry Final report*, pg143, 30 July 2018.

<sup>82</sup> Contact, pg33; Meridian, pg42.

<sup>83</sup> Contact, pg26; and Vocus, pg11.

<sup>84</sup> The rules cover landline, internet and mobile services and are set out in the following. See Commerce Commission’s *Terms For Local And Mobile Number Portability In New Zealand*, 2016; Commerce Commission’s *TCF Code for Transfer of Telecommunications Services*, 26 February 2013; and New Zealand Telecommunications Forum’s *Non-Regulated Customer Transfer Code for Fibre Services*, 31 March 2016.

<sup>85</sup> See New Zealand Telecommunications Forum *Number Porting Reaches Record High in 2018*, 24 April 2018.

<sup>86</sup> [www.tcf.org.nz/industry/workstreams/standing-committees/number-portability-user-group/2018-04-24-number-porting-reaches-record-high-in-2018/](http://www.tcf.org.nz/industry/workstreams/standing-committees/number-portability-user-group/2018-04-24-number-porting-reaches-record-high-in-2018/)

<sup>87</sup> This is equivalent to between 23 per cent and 42 per cent of all residential consumers. First report, pg36.

<sup>88</sup> Some of these consumers will also have benefited from a retention offer without switching retailer. First report, pg36.

<sup>89</sup> Axiom Economics report, pp30-31, attached to Vector submission.

not switched retailer for at least three years.<sup>89</sup> The British electricity regulator contracted a “consumer partner” to negotiate a bulk deal on behalf of the group, and to provide advice on alternative offers and savings by phone, email and internet.<sup>90</sup> In the trial, 22.4 per cent of consumers have switched, more than eight times the rate of a control group. These consumers saved an average of £298.<sup>91</sup> Almost a quarter of those who switched were over 75.<sup>92</sup> Only 0.1 per cent opted out of the trial, demonstrating that very few consumers are not interested in better power prices. Encouraged by these results, the regulator launched two larger trials in late 2018.

Based on the success of the British trial, we consider a similar scheme would help the same consumers here to get better deals.

We favour this option.

### C7: Introduce retail price caps

The Electricity Authority would set a maximum price retailers could charge consumers for electricity. Retail price regulation could be applied to the entire market, to selective price plans or to different types of consumers.

Price caps could directly target excessive electricity prices, but regulation this prescriptive has risks.<sup>93</sup> If a price cap is set too high, retailers may charge excessive prices. If set too low, retailers may be unwilling to supply electricity because they can’t cover their full costs. Price regulation can also cause longer-term harm by stifling innovation.<sup>94</sup>

Setting price caps at the right level is challenging because of the large volume of information required, and the dynamic nature of some inputs such as wholesale energy costs. The challenge would be magnified in New Zealand because wholesale energy and network costs vary by location.

As noted in our first report and by many submitters, retail competition is working more effectively here than in Australia and Britain.<sup>95</sup> We consider introducing retail price caps would do more harm than good, and there are better ways to tackle the problems of the two-tier retail market.

We do not favour this option.

### Comment

Some submitters said retail competition in the western Bay of Plenty was undermined by how the Tauranga Energy Consumer Trust distributed benefits. Consumers in the region receive a trust distribution only if they are a Trustpower customer. Meridian said this gave Trustpower “a significant competitive advantage over other retailers and, as a result, the region is comfortably the least competitive retail market in the whole of New Zealand”.<sup>96</sup> Submitter David Riley said “the Tauranga electricity market has unique circumstances that are reducing competition”.<sup>97</sup> We note that if these arrangements are reducing competition – and we accept the Tauranga region has the highest concentration ratio on the HHI Index – this may be a matter the Commerce Commission should investigate.<sup>98</sup>

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<sup>89</sup> Consumers could switch to the collectively negotiated offer, or other competitive offers. See Ofgem’s *Active Choice Collective Switch*, February 2018.

<sup>90</sup> These included the collective switch tariffs and other offers in the market.

<sup>91</sup> The report by the regulator Ofgem does not specify over what period the saving was made, or what percentage of a typical bill it represented. But regardless, it is a not an insubstantial amount.

<sup>92</sup> See Ofgem’s *Active Choice Collective Switch Headline Results*, August 2018.

<sup>93</sup> See report from Professor Stephen Littlechild, attached to Meridian’s submission.

<sup>94</sup> *Ibid.*

<sup>95</sup> First report, pp39-40; and Mercury, pp34-35.

<sup>96</sup> Meridian, pg42.

<sup>97</sup> Submitter David Riley, pg1.

<sup>98</sup> The Herfindahl-Hirschman Index (HHI) is a measure commonly used to assess market competitiveness. It is calculated based on the market shares of suppliers.

## Section D: Reinforcing wholesale market competition

Our first report found two main problems with the wholesale market. Firstly, contract price signals between buyers and sellers can be muffled when supply becomes unexpectedly tight – when hydro storage is low or gas supply for thermal power stations is constrained. Secondly, the contract market is fragile. It relies heavily on the four biggest generator-retailers voluntarily quoting buy and sell prices with spreads of no more than 5 per cent for certain benchmark contracts (called market-making).<sup>99</sup> However, these parties have increasingly not maintained contract offer prices within the 5 per cent spread.<sup>100</sup>

Quoted prices for benchmark contracts are important because they are the basis for companies to negotiate supply contracts with one another. An effective and trusted contract market promotes competition and investment in the industry and fosters consumer confidence.

Some industry participants, especially smaller retailers, said we had underestimated the seriousness of the problems, particularly the scope for companies with generation and retailing operations (vertically integrated companies) to inhibit competition.<sup>101</sup> Several submitters said the limited availability of key market information, such as gas supplies used for power generation, was also a problem.<sup>102</sup> Generator-retailers downplayed or dismissed the scale of any problems, although Genesis and Mercury supported making market information more available.<sup>103</sup>

We share the view there are problems and present five options to address them. One suggested by some submitters was the forced separation of generator-retailers. We don't favour this because separation will be unnecessary if the other four options are successful.

### D1: Toughen rules on disclosing wholesale market information

The Electricity Authority would vigorously enforce the existing disclosure rules that require industry participants to publish all information about their operations that would materially affect electricity wholesale, spot or contract prices. The Authority would also identify any gaps in its power to require the disclosure of further information, such as contract fuel supplies.

The rules are designed to foster confident and informed participation in the wholesale electricity market, ensure electricity prices reflect what electricity is truly worth, and lower price volatility by reducing uncertainty about such key matters as the availability of generation plant.<sup>104</sup> These rules are contained in the Electricity Industry Participation Code.<sup>105</sup>

Last year, the Electricity Authority strengthened the information disclosure rules. Nonetheless, there is reason to believe significant gaps may remain. Electricity spot prices and contract prices increased sharply between the end of September and mid-October 2018, rising more than 200 per cent.<sup>106</sup> Disruption to gas supplies from outages at the Pohokura field was widely cited as the key factor driving up prices, at a time when New Zealand's energy system was already dealing with low hydro generation. However, as far as we are aware, no generator-retailer shared any specific information that gas fuel shortages were coming.

We also note Electric Kiwi, Flick Energy, Pulse Energy, Vocus and Vector have since lodged an Undesirable Trading Situation claim with the Electricity Authority, alleging the rest of the sector received no information at the time about known gas shortages or higher gas costs. Some generator-retailers may have ignored the Authority's information disclosure rules, or gaps may

<sup>99</sup> The four biggest generator-retailers are Contact, Genesis, Mercury and Meridian.

<sup>100</sup> First report, pp43-45.

<sup>101</sup> Electric Kiwi and Haast Energy, pg18; Energy Club NZ, pp13-14; Pulse Energy, pp18-22; Simply Group, pg13.

<sup>102</sup> Electric Kiwi and Haast Energy, pg4; Simply Group, pg16; Genesis, pg20.

<sup>103</sup> Genesis, pg20; Mercury, pg37.

<sup>104</sup> This includes the wholesale contract and spot markets.

<sup>105</sup> Electricity Industry Participation Code, clause 13.2A(2).

<sup>106</sup> See wholesale energy prices and forward markets settlement price trend reports, on the Electricity Authority's *Electricity Market Information* website. [www.emi.ea.govt.nz](http://www.emi.ea.govt.nz).

remain in the rules. The Authority should vigorously enforce the rules as they currently stand and identify any gaps.

We agree with submissions supporting the extension of disclosure rules to include information on the availability of generation fuel.<sup>107</sup> If the Authority lacks power to require disclosure of this information, it should be given it.

We favour this option.

## D2: Introduce mandatory market-making obligations

The Electricity Authority would impose mandatory market-making obligations on vertically integrated companies to ensure they quoted buy and sell prices for certain benchmark contracts, and price spreads were within a maximum range. The current voluntary market-making arrangements do not prevent the four biggest generator-retailers from withdrawing from offering such contracts, or from quoting outside the 5 per cent spread.

Arrangements since 2010 have supported strong growth in the volume of fixed-price contracts traded and improved retailing competition.<sup>108</sup> However, the wholesale contract market has recently become increasingly fragile. For long periods in 2017 and 2018, buy and sell price spreads far exceeded the agreed 5 per cent limit – sometimes reaching more than 50 per cent. At the time, hydro storage levels were low and/or gas supplies were short, creating spikes in electricity spot prices. The spikes prompted at least one of the four generator-retailers to withdraw from market-making, citing “portfolio stress”. The others quickly followed. This rapidly led to significant price spreads and muffled price signals.<sup>109</sup> Mercury, one of the four market-makers, said in its submission “the current voluntary market-making arrangements are not sustainable”.<sup>110</sup>

Some submitters argued wider price spreads were acceptable during increased uncertainty about supply.<sup>111</sup> We acknowledge this view has merit, and market-makers should not be required to assume undue risks. However, individual market-makers currently decide whether to take part in this activity. Nothing is made public about the criteria they use to arrive at decisions, or even whether they have withdrawn from market-making. Once one withdraws, the likelihood is others will follow. This arrangement renders market-making fragile and unpredictable.

Some submitters argued market-making was unnecessary when electricity supply was short because buyers and sellers should already have secured supply contracts. As one put it, companies should not try “to buy insurance while your house is on fire”.<sup>112</sup> We do not agree companies should never need to buy or sell contracts during tight supply periods. Most companies will contract ahead, although some may need to adjust their position in the middle of a tight supply period. For example, a generator with gas-fired turbines that unexpectedly runs short of gas will probably want to buy contracts even at a higher price and should be able to do so.

Mandatory market-making happens in Britain and is being introduced in parts of Australia.<sup>113</sup> Its introduction here would reduce the fragility of the wholesale contract market.

A mandatory market-making obligation could be introduced relatively quickly. New regulation would also include provisions to temporarily relax the market-making obligations when certain conditions were met. In Britain, the obligation to quote fixed contracts can be suspended if the contract price moves more than a predefined amount on a single day. Adoption of a mandatory

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<sup>107</sup> Some parties subject to the disclosure regime appear to support its strengthening, although the details of their preferred changes are not entirely clear. For example, Mercury said it “is supportive of the [disclosure] regime being further strengthened”, pg37; Genesis said it “would also like generation fuel availability to be included in these disclosures”, pg20.

<sup>108</sup> First report, pp43-44.

<sup>109</sup> Wholesale contract price spreads are a key measure of market efficiency. When spreads are tight, wholesale buyers and sellers receive clearer electricity price signals – rather than having to judge whether the true value is closer to the buy or the sell price. Tighter spreads also make it easier for retailers to use contracts to manage their risks, such as adjusting their contract book to reflect growth in retail customer numbers.

<sup>110</sup> Mercury, pg37.

<sup>111</sup> Nova Energy, pg19; Meridian, pg48.

<sup>112</sup> Mercury, pg36; Meridian, pg48; Nova Energy, pg19.

<sup>113</sup> Australian Competition and Consumer Commission’s *Retail Electricity Pricing Inquiry Final report*, recommendation 7, 30 July 2018.

approach with predefined “stress” provisions would improve market resilience while avoiding undue risks and costs for market makers.

The level of obligation on market makers could be graduated based on a generator-retailer’s size and extent of vertical integration. Compliance monitoring and enforcement penalties would also be included.

A mandatory market-making obligation could be replaced later by an incentive-based scheme whereby companies best placed to act as market makers could be paid to take on that responsibility. A levy on vertically integrated companies above a minimum size could help recover market-maker fees. This could be more efficient than a mandatory obligation, and compliance monitoring and enforcement costs could be lower. However, Singapore’s experience suggests an incentive-based scheme would take several years to develop.<sup>114</sup>

In the first instance we favour a mandatory obligation, with provision to move to an incentive-based scheme later.

We favour this option.

### **D3: Make generator-retailers release information about the profitability of their retailing activities**

New information disclosure rules developed by the Electricity Authority would require generator-retailers to report separately on the financial performance of their generation and retailing operations. These disclosures would enhance transparency and improve market confidence.<sup>115</sup> Known as segmental reporting, it would be similar to rules already applying to distributors. Generator-retailers would also need to disclose the “transfer prices” of energy sales within their vertically integrated companies. An example would be when they “sell” electricity from their generation arm to their retail arm. Some generator-retailers voluntarily report in this way, but there is no common approach.<sup>116</sup>

One submitter said “the nature of the information is inconsistent amongst the generator retailers ... and the lack of transparency remains a source of suspicion over the business activities of generator-retailers”.<sup>117</sup> We agree.

Genesis, an integrated generator-retailer, said it “would be open to a requirement to disclose segment contributions from its generation/wholesale operations, as well as performance from its residential and business operations. This is a level of transparency not currently in the market...”.<sup>118</sup> Making generator-retailers disclose segmental information would have compliance costs, but careful design would moderate these.<sup>119</sup> The Commerce Commission’s consistent reporting rules, developed for electricity distributors, could be used as a template.

We favour this option.

### **D4: Monitor contract prices and generation costs more closely**

The Electricity Authority would periodically compare wholesale contract prices with new-generation costs for evidence of any excessive profits by generators. If the Authority identified any issues, these would be investigated to determine the causes and appropriate actions to address them. This would strengthen confidence in the effectiveness of the wholesale market.

Our first report’s analysis of generators’ profits found no evidence they were excessive, although submitters had mixed views about our analysis.<sup>120</sup> Some challenged our use of long-run marginal

<sup>114</sup> Singapore’s Energy Markets Authority began designing an incentivised market-making scheme in January 2012 and launched it in April 2015.

<sup>115</sup> For instance Electric Kiwi and Haast Energy, pg4; Pua to the People, pg1; Electricity Networks Association, pp32-33.

<sup>116</sup> These include Contact, Genesis and Trustpower.

<sup>117</sup> BusinessNZ Energy Council *Sapere Research Group report*, pg54.

<sup>118</sup> Genesis, pg20;

<sup>119</sup> For example, providing *de minimis* exemptions.

<sup>120</sup> First report, pp32-33.

costs<sup>121</sup> as a benchmark for determining excessive profits.<sup>122</sup> Economist Stephen Poletti preferred short-run marginal costs, saying “generator profits on the spot market are excessive compared to underlying costs”. He submitted his own analysis indicating spot prices had regularly exceeded the short-run marginal cost of generation, concluding generators had received “market power rents [of] \$5.4 billion – \$6 billion” between 2010 and 2016.<sup>123</sup>

Other submitters supported our analysis. Meridian said “profits above short-run marginal costs are entirely expected in an energy-only market and are necessary otherwise no one would ever invest”.<sup>124</sup> The peer review accompanying Dr Poletti’s submission noted “industry professionals are increasingly coming to the view that an energy-only market will need to deliver prices above [short-run] marginal cost to sustain investment returns”.<sup>125</sup>

Several submitters welcomed further monitoring. Vector said costs were falling rapidly for some generation technologies and “enduring structural and transparency-based solutions” should be considered.<sup>126</sup> The Major Electricity Users’ Group also supported further analysis “to remove ongoing uncertainty about supplier profits”.<sup>127</sup>

We acknowledge spot prices have sometimes exceeded short-run marginal costs, but we do not consider this can accurately be used to assess generators’ profits because it ignores fixed costs. By contrast, a comparison of contract prices with new-generation costs is sufficient to guide long-run profit analysis. The Electricity Authority already monitors the wholesale market, but we consider it should expand this work to include periodic comparisons of contract prices and new-generation costs.

We favour this option.

#### **D5: Prohibit vertically integrated companies**

Companies would be prohibited from owning generation and retailing businesses. Vertically integrated companies would have to split their businesses under separate ownership.

Some submitters said forced ownership separation would promote retailing competition and improve wholesale contract market liquidity because managing risk through vertical integration would no longer be possible.<sup>128</sup> Other submitters considered vertical integration made risk management more efficient and this benefit would be lost if generator-retailers were forced to split. They also said forced separation would be disruptive and possibly stall generation investment, hindering decarbonisation efforts.<sup>129</sup>

As far as we are aware, no country has required separation of generation and retailing. Some submitters said previous New Zealand reviews had looked at vertical integration and nothing had emerged to justify forced structural change.<sup>130</sup>

We consider forced separation would substantially change New Zealand’s electricity market and disrupt many businesses. Forced separation is unnecessary because other measures to improve the contract market (options D1 and D2) would counter the drawbacks of vertical integration at much lower cost and risk while retaining the benefits of integration.

We do not favour this option.

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<sup>121</sup> Long-run marginal costs account for new-generation costs and include fixed- capital costs and variable operating costs.

<sup>122</sup> Short-run marginal costs refer to the costs avoided (mainly fuel-related) if a generator does not operate. They exclude costs (such as capital costs) that don’t vary with running levels.

<sup>123</sup> Dr Poletti, pg12.

<sup>124</sup> An “energy-only” market refers to a market design where generators receive money for their actual energy production and do not qualify for payments based on capacity provision. Meridian, pg52.

<sup>125</sup> Professor Derek Bunn, pg4, attached to Dr Poletti’s submission.

<sup>126</sup> Vector, pg9.

<sup>127</sup> Major Electricity Users’ Group, pg13.

<sup>128</sup> Electric Kiwi and Haast Energy, pp16-18; Energy Club NZ, pp12-14; Windflow Technology, pg13.

<sup>129</sup> For example, Mercury, pg37.

<sup>130</sup> The Electricity Authority, pg17; and Major Electricity Users’ Group, pg17.



## Section E: Improving transmission and distribution

Our first report examined the profits of Transpower and the 29 distributors and found them not to be excessive. It also looked at the reliability of the national grid, transmission pricing methodology (including timing and fairness), and barriers to greater efficiency in the distribution sector, including the extent of competitive pressures on distributors, their size, governance, planning and asset management, and access to metering data. We also looked at the structure of distribution prices and the impact of emerging technology.

Many submitters agreed electrification of the economy would require significant investment in the electricity network to accommodate more generation of renewable electricity. Many supported the associated need for transmission pricing that encouraged the right investments in the right place at the right time. They also agreed distribution pricing needed to change if consumers were to benefit from emerging technologies, and metering data should be more readily available to distributors so they could better manage their networks.

Submitters had mixed views about distributors' performance, including their effectiveness in managing assets and their incentives to reduce costs and improve performance. Submitters also differed on whether the small size of some distributors affected their performance.

The following options respond to pressing challenges facing the transmission and distribution sectors.

### E1: Issue a government policy statement on transmission pricing

The Government would issue a government policy statement to the Electricity Authority setting out how it should prepare fresh guidelines for setting transmission prices. Such a statement would provide clear guidance on the difficult and contentious issues with which the Electricity Authority is grappling. These include whether or how transmission prices should factor in when and where grid assets are used.<sup>131</sup> This is at the heart of the transmission pricing debate.

The Electricity Authority says its proposed transmission pricing methodology (under development) is designed to more accurately reflect the underlying costs and benefits of using the grid to enhance efficiency, as well as competition, reliability and (although not part of its statutory objective) fairness. However, our terms of reference are broader, requiring us to consider affordability, which includes minimising price shocks, especially as New Zealand moves to a low emissions economy.

Some stakeholders say the Electricity Authority's proposed change (assuming it is similar to earlier proposals) will result in a fairer, more efficient pricing structure, but others say it is either unfair or will result in benefits that are too small to justify changing transmission pricing.<sup>132</sup> Transpower is concerned the new pricing method could lower incentives to reduce grid use at peak times.<sup>133</sup> Others expressed concern that reallocating costs of historic grid investments ("retrospective" reallocation) could undermine the business case for investments made by connected customers.<sup>134</sup>

As we said in the first report, we are not arbiters in the debate about alternative transmission pricing methods. However, given the costly and contentious debate about transmission pricing methodology discussed in our first report,<sup>135</sup> we think the extent to which transmission or any

<sup>131</sup> Meridian, pg55, said a government policy statement could either be so high-level that it offered no useful guidance, or it could descend (deliberately or inadvertently) into the difficult issues that the Electricity Authority is trying to resolve. We think it must face the difficult issues head-on.

<sup>132</sup> The former include Mercury, pg40; and New Zealand Aluminium Smelters, pg6. The latter the TPM Group (representing 11 organisations), pp8-11; and Simply Group, pg13.

<sup>133</sup> Transpower's *The role of peak pricing in transmission*, 2 November 2018.

<sup>134</sup> Any change in measures of network service or benefit, including location or time of use, can be labelled "retrospective", but it is the Electricity Authority's proposed changes in location-based measures that seem to arouse the greatest objection under that label.

<sup>135</sup> First report, pp49-52.



other shared national infrastructure prices should vary between users or regions is best settled with clear guidance from elected governments.<sup>136</sup> A government policy statement is an effective way for the Government to express its policy objectives, in particular whether it is generators or residential and business consumers in poorer regions, such as Northland and King Country, that should benefit from lower charges under the Electricity Authority's proposed transmission pricing methodology.<sup>137</sup>

Transpower's submission set out objectives that could help shape a policy statement, including that any change was simple to understand and implement, and was incremental, thereby minimising the real harm of price shocks. An overriding objective should be to avoid or minimise dramatic price increases. That means they should be phased in.

Transmission pricing decisions should be settled sooner rather than later – a point with which most submitters agreed – and for this reason a government policy statement should be developed in a timely and efficient manner. Therefore, we do not favour proposals by submitters that may prolong decisions, such as transferring jurisdiction to the Commerce Commission, and giving stakeholders a right to appeal transmission pricing matters to the High Court (although there may be other reasons to consider those options, particularly if the process continues to prove unable to reach a conclusion, as discussed below).

We favour this option, and welcome comments on the Transpower draft government policy statement included with its submission to our first report.

### Variation

The Electricity Industry Act 2010 would be amended to require the Electricity Authority to “give effect to” a government policy statement on transmission pricing.<sup>138</sup> Another way to achieve this would be to set out the policy statement in the Act itself. In either case, this legislative course of action would take longer to implement.

The Electricity Authority, as an independent decision-maker, must “have regard to” a government policy statement, which means it must decide how much weight to give it relative to other considerations. Similarly, the courts will have regard to a government policy statement if reviewing a decision by the Electricity Authority.

We are undecided about this variation.

## E2: Issue a government policy statement on distribution pricing

The Government would issue a government policy statement on distribution pricing to the Electricity Authority. This could be with or separate to the transmission pricing statement. We think the Government's policy objectives for distribution and transmission pricing should be broadly similar in terms of fairness and affordability.

The Electricity Authority recently issued a consultation paper on distribution pricing.<sup>139</sup> As with transmission pricing, its aim is to enhance competition, reliability and efficiency generally, and specifically to reflect costs more accurately. Our terms of reference are, of course, broader.

A move to prices that more accurately reflect costs comes with risks, not least the price shock to households in energy hardship. The Lines Company's experience when it changed its pricing methodology in 2007 and again in 2018 highlights the challenges of such a step, which needs to be accompanied by adequate measures to reduce the impact on households in hardship. We have spoken to residents of this region – many of whom are living in hardship – and the impact of price shocks they have experienced is very real.

Such a statement on distribution pricing could encourage the industry to spread the worst effects of price rises over a longer time. It could also encourage changes in distribution pricing to be co-

<sup>136</sup> Some submitters, such as Ian McChesney, pg11, supported this view.

<sup>137</sup> First report, pp49-52.

<sup>138</sup> Proposed by Trustpower, pg25, among others.

<sup>139</sup> The Electricity Authority's *More efficient distribution prices - What do they look like? Consultation Paper*, 11 December 2018.

ordinated with changes to the low fixed charge tariff regulations (E5) and measures to ease energy hardship (section B). As noted in our first report, a government policy statement can be useful to the regulator to guide significant reform, particularly early on in any critical policy and pricing review. Such a statement can also help avoid the slow and costly process that all stakeholders agree has beset the review of transmission pricing methodology.<sup>140</sup>

We favour this option and welcome suggestions on the content of a policy statement that would offer clear and enduring policy guidance for distribution pricing.

### **E3: Regulate distribution cost allocation principles**

The Government would make regulations stipulating distribution pricing principles, including principles for a fair allocation of distribution costs between household and business consumers. The Electricity Authority would monitor distributors' pricing methodologies to ensure compliance with the principles.

As noted in the first report, the allocation of distribution costs between households and businesses could perhaps be fairer without compromising efficiency. We estimated households' average yearly bills could fall by \$90, or about 4.5 per cent, if business and residential allocations on some networks were brought into line with usage on all networks. Businesses' average yearly bills would increase by about 5.5 per cent. Some submitters considered there was merit in such an approach.<sup>141</sup> Others questioned our analysis.<sup>142</sup>

In light of the mixed views on our first report findings, the new regulations should be guided by a detailed review of existing distribution cost allocation models and the implications of changing them. The Electricity Network Association (which represents all but two of the country's 29 distributors) said "there may be merit in a discussion or review of how to allocate costs between residential and non-residential consumers".<sup>143</sup> Distributor Unison Networks supported such a review of network cost allocation models "to provide confidence that network costs are fairly and efficiently allocated".<sup>144</sup>

This option would be a significant change in the regulation of distribution pricing, and would increase regulatory compliance costs for distributors. We are encouraged that some submitters acknowledged merit in a review of how to allocate costs between residential and non-residential consumers. We are keen to explore whether this can be achieved in some other way than potentially heavy-handed regulation.

We are undecided about this option.

### **E4: Limit price shocks from distribution price increases**

Distributors would be required to ensure any price increases did not result in unacceptable price shocks for consumers. The Electricity Authority would approve distributors' proposed changes to ensure they were consistent with a previously approved pricing plan. This would reduce the risk of price shocks. The Lines Company experience, as noted above, is again a case in point.

New regulations could be modelled on those in Australia requiring distributors to publish an approved tariff structure statement and to ensure annual price changes were consistent with it.<sup>145</sup> Each tariff structure statement sets out the distributor's proposed pricing, the consultation process it undertook in developing the statement, how it responded to customer and stakeholder feedback, and the expected impact on consumers. The Australian Energy Regulator must be satisfied each distributor's statement is consistent with regulated distribution pricing principles, and must also ensure proposed annual price changes submitted by a distributor match those in its statement.

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<sup>140</sup> First report, pg50.

<sup>141</sup> For example, Meridian, pg60; Greenpeace Aotearoa, pg7.

<sup>142</sup> For example, the Major Electricity Users' Group, pg16.

<sup>143</sup> Electricity Network Association, pg38.

<sup>144</sup> Unison Networks, pg6.

<sup>145</sup> See the Australian Energy Market Commission, *Rule Determination - National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014*, 27 November 2014.

This option, like E3, would increase compliance costs for distributors. It could also do more harm than good if it discouraged distributors from changing their price structures and slowed the development of distribution pricing that more accurately reflected costs.

We are undecided about this option.

### **E5: Phase out low fixed charge tariff regulations**

Regulations accompanying the Electricity Industry Act 2010 would be amended so the fixed prices distributors and retailers must offer low-use residential consumers would gradually rise over a specified period until the advantage enjoyed by those consumers compared with consumers on other tariffs disappeared.<sup>146</sup> At that point, with any price cap gone, retailers and distributors would no longer have to offer fixed prices to low-use residential consumers – although they could choose to do so.

Our first report found the price cap exacerbated already inefficient price signals to residential consumers and unintentionally shifted costs to households with low incomes and high electricity consumption.<sup>147</sup> Most submitters agreed the regulations were poorly targeted at only one type of household in need and pushed others into greater energy hardship.<sup>148</sup>

The phase-out would need careful co-ordination with the introduction of any extra help for households in energy hardship (B5) and distribution pricing that more accurately reflected costs (E2). Many households on a low-use tariff would be able to afford the resulting fixed price increases, but not those in energy hardship.

The duration of the phase-out would require an assessment of how much fixed charges for low-users might rise once unregulated and how much variable charges might fall in response. Removing the regulations should lead to lower household electricity prices on average, although low-use households are likely to face increased prices. Too fast a phase-out would result in sharp rises for some low-use households. Doubling the fixed daily charge from 30 cents to 60 cents could cost households using 3,000 kWh a year about \$70 more a year. For households using 2,000 kWh a year, the increase would be about \$80.<sup>149</sup>

The phase-out could begin in 2020 when regulated distributors enter their next five-year regulatory period. This would give distributors and retailers freedom to develop plans for low-users that more accurately reflected costs, including combinations of fixed and variable charges. In the meantime it is vital retailers comply with current regulations, given our research shows a large number of consumers are not on the right plan and therefore may pay higher power bills as a result.<sup>150</sup>

We favour this option.

### **E6: Ensure access to smart meter data on reasonable terms**

The Electricity Authority would amend the Electricity Industry Participation Code to guarantee distributors access to smart meter data on reasonable terms. It would, if necessary, spell out what constituted reasonable terms. Submitters broadly agreed distributors could identify and fix faults and outages more quickly if they had access to such data. Planning maintenance and expansion of distribution networks would also be easier. In addition, metering data is valuable to any company looking to develop products or services, so any obstacles are potentially hampering innovations that may benefit consumers.

Two difficulties stand in the way. One is those holding the data, either metering companies or retailers, haven't been able to agree with distributors on a reasonable price for access. Secondly, retailers require distributors to agree not to use the data to compete with them in other markets, such as selling solar panel equipment. This source of competitive tension also impedes progress

<sup>146</sup> The New Zealand Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004.

<sup>147</sup> First report, pg56.

<sup>148</sup> For example, Aurora Energy, pg14; Nova Energy, pg26; Marlborough Lines, pg14.

<sup>149</sup> We assume the regulations continue to require equivalent annual costs under low-user and standard tariff plans for a household consuming 8,000 kWh annually.

<sup>150</sup> See First report, pg75; and the Initial Analysis on Retail Billing Data, 15 October 2018.

on agreements.<sup>151</sup> Since 2018, an industry working group has been looking at the question (including access to more technical data such as voltage measurements that metering companies hold). If the working group can't find a satisfactory solution (say within six months), the Electricity Authority should regulate.

Some distributors have already negotiated access to the data or have invested in smart meters. But others aren't in a position to use smart meter data because they haven't invested in the integrated business systems necessary to benefit fully from the automated information the meters provide. Some distributors are concerned about whether they will be able to access meter data on reasonable terms.<sup>152</sup> The Electricity Authority is considering how to ensure better access to meter data. This should be finalised quickly.

To foster innovation and competition, other competitors in energy markets should also have access to smart meter data. Regulatory safeguards like those described in F1 may be necessary.

We favour this option as a matter of priority.

## **E7: Strengthen the Commerce Commission's powers to regulate distributors' performance**

The Commerce Commission would have greater powers to improve distributors' efficiency, particularly their management of assets, their operational performance, and their investment in infrastructure and business systems. The Commission has wide-ranging powers to investigate problems with distributors, but limited powers to make them fix any problems. For example, it can only advise the Minister of Energy and Resources to remove the exempt status of a community trust-owned distributor if a certain proportion of customers gather a petition. The country's 12 community-owned distributors are exempt from the default price-quality regulations that apply to the other 17 distributors.

Some submitters wanted more comprehensive information disclosure requirements and stronger incentives for all distributors to lift their efficiency.<sup>153</sup> The Commerce Commission said there is value in considering whether to broaden the range of its tools in responding to concerns about the performance of exempt distributors where its existing tools are ineffective.<sup>154</sup> As an example, it favoured the ability to introduce enforceable quality standards to help ensure community-owned distributors were providing appropriate levels of service.

The Commission would have the power to:

- advise the Minister of Commerce and Consumer Affairs to remove a distributor's exempt status if an investigation found this would be better for consumers
- require a distributor to move from compliance with default price-quality regulations to more stringent customised price-quality regulations if an investigation found this would be better for consumers
- apply higher maximum penalties to deter big distributors from breaching price-quality regulations<sup>155</sup>
- compare distributors' performance when setting price-quality regulations.<sup>156</sup> Comparative benchmarking would be used cautiously as one input in setting prices.<sup>157</sup>

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<sup>151</sup> For example, Mercury, pp48-49.

<sup>152</sup> Distribution Group, pg18.

<sup>153</sup> For example, the Electricity Retailers Association of New Zealand, appendix *EDB Efficiency and Performance*, 13 August 2018.

<sup>154</sup> Commerce Commission, pp8-9.

<sup>155</sup> To align with maximum penalties Part 2 of the Commerce Act 1986.

<sup>156</sup> Such comparative benchmarking was prohibited in 2008 because its previous application was considered opaque and eroded confidence in the regulatory regime.

<sup>157</sup> The Commerce Commission supports removal of the prohibition, saying it would use benchmarking cautiously as one input in setting prices, pg9. Several submitters opposed benchmarking, saying it was a good idea in theory but hard to apply in practice because distributors' services were not a homogenous product. Unison Networks, pg5; and Distribution Group, pp15-16.

In addition to these new powers, the Commerce Commission could make greater use of its existing powers by:

- applying a “minimum practice” or “good practice” standard to distributors’ asset management plans (every distributor would have to get an independent, accredited assessment of its plan, measured against a risk management or asset planning standard, such as ISO 55000 or similar)<sup>158</sup>
- developing forward-looking quality standards for distributors under price-quality regulation, enabling it to identify any risks associated with poor asset management practices before they became a breach of backward-looking quality standards<sup>159</sup>
- assessing and publishing details of collaboration between distributors, such as joint management of assets and shared services, to encourage others to follow suit where there is evidence of benefits to consumers.<sup>160</sup>

We favour this option.

## **E8: Require small distributors to amalgamate**

New legislation would compel small distributors to merge to cut costs and lower prices for consumers. Affected trusts would still maintain an ownership interest, and receive and distribute income, but would have less influence over governance matters. They could protect key services for beneficiaries through a trust deed or similar legal instrument.<sup>161</sup> Amalgamation and similar measures have also been called for to reduce the number of district health boards, local authorities and drinking water and wastewater providers.<sup>162</sup>

Our first report suggested the relatively small scale of some distributors could be pushing up operating costs, which consumers ultimately pay for. Some submitters said low population density affected operating costs more than small scale, a view we accept. However, some submitters suggested larger scale was important in dealing with future technology, such as systems automation and the need for better risk management of cyber threats.<sup>163</sup>

Amalgamations could have industry-wide benefits. Meridian said greater standardisation of processes, contract terms and prices among distributors would significantly lower retailers’ costs. One study found cutting the number of distributors to five could reduce network operating expenses by \$50 million a year and capital expenditure needs by \$64 million a year.<sup>164</sup> Despite these benefits, trust-owned distributors have not merged. Some trust-owned distributors clearly value the close connection to their communities and fear an ownership change would lead to higher prices or lower service. Amalgamation does not have to be at the expense of profits or consumers’ interests.

We consider legislatively imposed amalgamations would be heavy-handed and would trample on existing property rights.<sup>165</sup> Nonetheless, we encourage more contracting and joint ventures between distributors, as well as greater collaboration more generally between them – points made in our first report.

We do not favour legislatively imposed amalgamations.

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<sup>158</sup> Unison Networks, pg7.

<sup>159</sup> Existing quality standards are based on measures of how frequently and how long consumers are without power in a given period. Compliance can be assessed only after that period has passed, and the standards are therefore “backward-looking”. A forward-looking quality standard would apply to some measurable aspect of the business that affects future quality.

<sup>160</sup> Major Electricity Users’ Group, pg15.

<sup>161</sup> For example, Entrust and Vector have entered into a Deed Recording Essential Operating Requirements for this purpose.

<sup>162</sup> See Amy Downs, *From Theory to Practice: The Promise of Primary Care in New Zealand*, September 2017; and Department of Internal Affairs *Three Waters Review: High level outline*, 2017. <https://www.dia.govt.nz/Three-waters-review>.

<sup>163</sup> Unison Networks, pg7.

<sup>164</sup> Meridian, pg58 referring to Strata Energy Consulting’s *Summary Report on Potential economic gains from restructuring electricity distribution*, 2014.

<sup>165</sup> First report, pg58. Note that some distributors, as well as the Electricity Networks Association, acknowledged collaboration among distributors is increasing and has resulted in efficiencies, but more remains to be done, pg36.

## Variation

An energy trust commission, much like the Local Government Commission, could be established to support the merger of small distributors, while ensuring consumers and communities retain an ownership interest in their distribution business. However, this approach would still need to overcome the inherent resistance to amalgamation that appears to exist in many communities with a trust-owned distributor.

We do not favour this variation.

## E9: Lower Transpower and distributors' asset values and rates of return

The Commerce Commission would require owners of transmission and distribution assets revalued in the 1990s to reset them to their historic costs. This would lower the regulated asset values of Transpower and some distributors. The Commission would also lower the regulated rate of return on investment, known as the weighted average cost of capital, or WACC. The combined effect of these changes would be to lower transmission and distribution charges, and ultimately electricity prices.

Submissions to our first report were evenly split on whether Transpower and distributors were making excessive profits. Distributors and the Commerce Commission saw no problem with profit levels, but other submitters disagreed, mostly on the grounds that asset values and rates of investment return were too high.<sup>166</sup>

Submitters Ian McChesney, Brian Leyland and Geoff Bertram said Transpower and some distributors revalued their assets in the 1990s to justify charging more for the use of their assets (the national grid and local lines).<sup>167</sup> Furthermore, they said these new asset values were now an integral part of their regulatory asset bases, perpetuating higher charges until the revalued assets were fully depreciated.

The Commerce Commission's view was "setting a starting asset valuation involved the exercise of judgement". It went on: "As highlighted by the [Electricity Price Review's panel], our approach was subject to extensive consultation, expert analysis and was tested in the High Court. We also note that there are costs, in terms of investment certainty, to trying to unwind historic revaluations."

Many investors have bought distribution businesses based on current asset valuation rules. Changing the rules now could impose unexpected losses on such investors and harm New Zealand's investment reputation. This would raise future infrastructure investment costs and ultimately hurt consumers.

We consider current price-quality regulations manage the valuation question satisfactorily, and there is little to gain in trying to unwind revaluations more than two decades old – even if a practical way to do so could be found.

Some submitters thought the current regulated rate of return was too high and should be reduced. The Commerce Commission justifies its calculations on the grounds the risk of under-investment (and resulting deterioration in quality of supply) is greater than the potential harm of over-investment.

In considering this option, we are conscious of our terms of reference, the technical complexity of the issues involved, the need for investment and regulatory certainty, and the Government's inevitable caution about considering changes to the Commerce Commission's input methodologies.

We do not favour this option.

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<sup>166</sup> Major Electricity Users' Group, pg14.

<sup>167</sup> Submitters Ian McChesney, pg10; Brian Leyland, pg2; and Geoff Bertram, pp1-6.

## Comment

It is apparent from interviews and submissions that some beneficiaries of trust-owned distributors do not fully appreciate the various ways in which they can benefit from trust-generated income, such as through lower electricity prices, annual lump-sum cash payments or funding of community services or projects. This is particularly apparent in the case of household consumers. Some beneficiaries do not know how elected boards of trustees are making decisions about the distribution of income, and beneficiaries may not be making well-informed decisions when considering alternative ownership and governance structures for the distribution business in which they have a stake.

We encourage all trusts to be certain they are providing clear and comprehensive information about the decisions they make so beneficiaries can understand and properly scrutinise them. They could provide information, for example, that compares the benefits of a lower electricity price with a relevant national average price, or the benefits of upgrading lines and other infrastructure compared with the returns on comparable investments. We have stopped short of suggesting regulation as an option to require this. Rather, this is something trusts should do voluntarily.

On a related note, we think trusts could greatly benefit, too, from reviewing and updating their trust deeds so any performance or ownership reviews take into account the benefits of new technology for beneficiaries and consumers generally. We also think trustees should have direct oversight of any ownership review and should examine the trust's role in the governance of the distribution business they own. These steps would anticipate the pending Trust Bill, which aims to encourage trusts to be more active in working for their beneficiaries. Again, we would hope trusts take this step voluntarily.



## Section F: Improving the regulatory system

The electricity sector's regulatory framework generally works well. Our first report did not identify significant gaps or overlaps between regulators that would justify significant change in their roles, although the regulation of access to distribution networks needs attention. In particular, it is unclear whether the Electricity Authority can regulate terms and conditions for use of the transmission and distribution networks by retailers, generators and others (referred to as network access). We also have concerns about the regulation of distributors' involvement in providing distributed energy services, such as the control of batteries and consumer appliances (including water heaters and electric vehicle chargers). Our first report also considered whether regulators should have fairness and environmental objectives, especially in relation to energy hardship and carbon emissions. In response to these concerns and ambiguities – and drawing on issues raised in submissions in response to our first report – we have developed six options.

### **F1: Give the Electricity Authority clearer, more flexible powers to regulate network access for distributed energy services**

An amendment to the Electricity Industry Act 2010 would confirm the Electricity Authority can regulate terms and conditions for use of transmission and distribution networks. This would remove the uncertainty about the scope of the Electricity Authority's powers in the legal challenge to its right to establish default agreements between distributors and retailers for access to distribution networks (see C4).<sup>168</sup>

Secondly, obligations in section 54V of the Commerce Act 1986 would be refined to ensure effective co-ordination of the functions of the Electricity Authority and Commerce Commission.<sup>169</sup>

Thirdly, the provisions in Part 3 of the Electricity Industry Act 2010 restricting relationships between a distributor and a generator or retailer that are not at arm's-length would be able to be tightened, if necessary.<sup>170</sup> Distributors can limit competition in some new distributed energy services that may not be covered by existing provisions, which refer only to generating and retailing electricity. In particular, there is a concern distributors can exploit information advantages (such as household consumption data not available to competitors) and use monopoly services to subsidise competitive services in emerging markets (such as offering discounted battery services by recovering any losses through monopoly lines charges).<sup>171</sup>

Some submitters wanted these restrictions specified in the Electricity Industry Act 2010 to remove any doubt about the rules and to give greater certainty to potential investors in these emerging markets.<sup>172</sup> However, such a step assumes complete knowledge today of how the industry will look tomorrow, and could inadvertently discourage or prevent the emergence of different business models.<sup>173</sup>

We think flexibility to deal with unforeseen developments in the future is important. A better approach would be to enable the Electricity Authority to develop and apply any such restrictions in a targeted way, based on evidence of benefits to consumers and using a more principles-based test focused on promoting competition, reliability and efficient operation of markets.

<sup>168</sup> This issue remains the subject of proceedings in the Court of Appeal.

<sup>169</sup> Section 54V of the Commerce Act 1986 relates to the interface with the Electricity Industry Act 2010.

<sup>170</sup> The term arm's-length is defined in Schedule 3 of the Commerce Act 1986. The provisions are designed to enable competition by ensuring distributors operate independently from generators and retailers, without special deals or relationships.

<sup>171</sup> See Meridian, pg71; and the New Zealand Wind Energy Association, pg12.

<sup>172</sup> Genesis, pp24-25; Powerco, said it was "up to Government to determine the appropriate policy settings and, if necessary, adjust the Act. The future structure of energy markets should not be purely a matter of regulatory discretion for the [Electricity Authority]", pg17.

<sup>173</sup> The Distribution Group said "there is some uncertainty over the distribution business models that will emerge due to industry changes ... Early regulatory intervention is therefore not recommended", pg23.



This approach would give the Electricity Authority flexibility to develop and refine the rules for distributors' involvement in distributed energy markets, as and when any problems emerge. Amendments to the Commerce Act 1986 may be necessary to ensure Commerce Commission decisions about distributors' involvement in distributed energy services align with Electricity Authority decisions.<sup>174</sup>

We favour this option.

## **F2: Transfer the Electricity Authority's transmission and distribution-related regulatory functions to the Commerce Commission**

The Government would transfer the regulatory functions relating to transmission and distribution from the Electricity Authority to the Commerce Commission. The Commerce Commission would also take over responsibility for enforcing Part 3 of the Electricity Industry Act 2010, which relates to separation of distribution from retailing and generation.

As part of this option, certain sections of the Electricity Authority's Electricity Industry Participation Code (such as grid reliability standards and distribution pricing) could become Commerce Commission input methodologies or quality standards under Part 4 of the Commerce Act 1986. The purpose of Part 4 would be extended to include promoting competition, reliability and efficient operation of markets for goods or services requiring access to the regulated networks.<sup>175</sup> Provisions would be added to ensure effective co-ordination between the two regulators.

Some submitters said concentrating all this regulation with the Commerce Commission could reduce the costs and delays that result from co-ordinating work between two regulators.<sup>176</sup> Transpower said the transfer of jurisdiction for transmission pricing, benchmark agreements and grid reliability standards would provide a "clearer delineation of roles than the status quo". We note, like Transpower, this transfer would create a new regulatory boundary between transmission and the wholesale market arrangements that would remain with the Electricity Authority.<sup>177</sup>

We think this option would be complex and time-consuming to implement, and the benefits are unclear. We also think it would delay important work such as resolving transmission and distribution pricing issues. However, it could be explored later if the Government decides to consider establishing a single electricity and gas market regulator.

We do not favour this option.

## **F3: Give regulators environmental and fairness goals**

The statutory objectives and/or functions of the Electricity Authority and Commerce Commission would be amended to include environmental and fairness goals. The regulators' amended objectives would make clear the long-term benefit of consumers included environmental considerations, such as reducing greenhouse gas emissions. This would help ensure, for example, incentives for electricity generation and network investment were aligned with carbon reduction objectives. A more flexible alternative would be to require regulators to have regard to objectives or targets for greenhouse gas emissions set out in regulations or a government policy statement. The Electricity Authority's objectives could also be amended to make clear the long-term benefit of consumers included protecting consumer interests, particularly vulnerable consumers and those in energy hardship.

Submissions were mixed on the pros and cons of changing or extending regulators' objectives. We think adding to their existing objectives could pull them in too many directions, require difficult trade-offs between competing objectives and blur their accountability. This is the very reason the

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<sup>174</sup> Contact said "consultation processes often lead to distributors referring to the relevant Commerce Act clauses to prevent reform, rather than enabling an objective assessment of what's best for consumers", pg36.

<sup>175</sup> Distributors exempt from price-quality regulations could either be subject to the transferred regulatory functions or they could remain exempt from them. Exemption might make it harder to achieve more standardisation of distribution agreements, as discussed in C4.

<sup>176</sup> For example, Electricity Networks Association, pp45-47; Vector, pp70-72.

<sup>177</sup> Wholesale market arrangements include the rules for scheduling and dispatch of generation and demand, operation of the electricity spot market, and the performance and outage management of transmission and other assets.

Authority's statutory objectives were narrowed as a result of the 2009 review.<sup>178</sup> We think environmental and social policy objectives are better directed through other regulatory and policy means such as government policy statements.

But we are concerned at the regulatory gap in the protection of household and small business consumers. We think protection of their interests should be an explicit function of the Electricity Authority, and included in the Electricity Industry Act 2010 alongside its existing functions. We think this function could be added without changing the Electricity Authority's objective because consumer protection is consistent with "the long-term benefit of consumers".<sup>179</sup> Adding this function would also make clear that the Electricity Industry Participation Code could include provisions promoting the protection of vulnerable consumers and consumers in hardship.

We favour giving the Electricity Authority a consumer protection function.

#### **F4: Allow Electricity Authority decisions to be appealed on their merits**

The Electricity Industry Act 2010 would be amended to allow certain regulatory decisions of the Electricity Authority to be appealed on their merits. This would extend the current grounds of appeal and would be consistent with appeal rights on certain decisions by the Commerce Commission. Several submitters supported this, and none proposed removing such appeal rights on Commerce Commission decisions.<sup>180</sup>

No person or organisation is infallible, and rights of appeal to a second decision-maker can reduce the risk of regulatory errors or poorly reasoned decisions that undermine confidence and increase investment risk. But appeals can be costly and may best serve the interests of those with the financial means to afford such legal action.

A better way to promote regulatory accountability is to ensure regulators have clear statutory objectives and principles to guide any trade-offs between objectives, and that where appropriate there are government policy statements to guide them. Additionally, the risk of regulatory errors can be reduced by requiring regulators to consult comprehensively, with opportunities for input at various stages from interested parties and independent experts.

We do not favour this option.

#### **F5: Update the Electricity Authority's compliance framework and strengthen its information-gathering powers**

The Government would review the compliance framework in the Electricity Industry Act 2010 and related enforcement regulations to bring them up to date with best practice. The Electricity Authority's information-gathering powers would also be increased so it had the power to undertake any review, study or inquiry requested by the Minister of Energy and Resources, regardless of whether the request related to the Authority's statutory objectives. This would ensure the Minister could request the Authority to undertake reviews or studies of, for example, fairness or environmental matters relating to the electricity industry.

Several submitters called for enforcement measures that were proportionate to the impact of the breach or type of offending. Some agreed with observations in our first report that there could be merit in separating the functions of rule-maker and rule-enforcer.<sup>181</sup> Trustpower noted the risks associated with this practice were exacerbated by the design of the compliance regime, which gave the Rulings Panel a very limited role in relation to the investigation and settlement of disputes.<sup>182</sup>

The compliance framework review should consider ways to separate rule-making functions from monitoring and enforcement functions (like the separation between Parliament, police and courts).

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<sup>178</sup> First report, pg51.

<sup>179</sup> The Electricity Authority's objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. (section 15 of the Electricity Industry Act 2010).

<sup>180</sup> Vector said "it is unbalanced that no [Electricity Authority] decision is open to legal challenge on its merits while Commerce Commission decisions are open to challenge in the courts", pg67.

<sup>181</sup> For example Aurora Energy, pg15.

<sup>182</sup> Trustpower, pg28.

In principle, such separation of regulatory functions reduces the risk of a regulator using these powers and functions inconsistently, creating uncertainty for those who have to follow its rules. We acknowledge that separating regulatory functions could increase administrative costs and lose the benefits of consolidating knowledge and expertise across the functions. However, our view is the advantages of separation outweigh the disadvantages.

We favour this option.

### **F6: Establish an electricity and gas regulator**

The Government would establish an electricity and gas regulator, incorporating the functions of the Electricity Authority, with comparable regulatory functions for the natural gas industry. The new regulator would make electricity and gas market rules, just as the Electricity Authority does in the electricity industry.<sup>183</sup> It could develop and enforce regulations for both industries in a more consistent and coherent way, which would reduce uncertainty for regulated businesses. Economies of scale are likely to result in lower total costs.

The two industries have many similarities and links: most gas consumers are also electricity consumers, many buy electricity and gas from the same supplier, and some electricity generators buy gas for their power stations from the gas market. Although our terms of reference do not ask us to review the gas market, we are interested in views on this option.

We are undecided about this option, although we favour preliminary exploration of the costs and benefits of such a move.

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<sup>183</sup> This would replace the way that gas market rules are made now. Currently the Minister of Energy and Resources makes gas market rules (and regulations) following recommendations from the Gas Industry Company (the industry body under Part 4A of the Gas Act 1992 that performs a number of regulatory functions for the gas market).



## Section G: Preparing for a low-carbon future

Our first report found the electricity sector is on the threshold of significant change. The current one-way supply of electricity to a waiting base of passive consumers will become a two-way flow as consumers generate power from solar panels and install more sophisticated battery technology. Offsetting this greater self-reliance will be the more widespread use of rechargeable vehicles and the electrification of the economy generally. This will substantially increase demand for electricity and test the reliability and security of the power supply.

The following options aim to encourage innovation, ensure a broader, more co-ordinated approach by government agencies and ensure a stable, resilient supply of electricity in the face of these looming challenges. Some options discussed in previous sections will also help the electricity sector embrace new technology and business models. To achieve New Zealand's climate change objectives, the electricity sector will need to see the proactive adoption of new technologies, and new roles for consumers, distribution networks and new service providers.<sup>184</sup>

### G1: Set up a fund to encourage more innovation

The Government would establish and administer a contestable fund to foster innovations such as new technologies and business models in the electricity sector. The fund could support new technology not yet commercially proven. It could also support projects that incorporated technology in use overseas but would not take off here without help. An industry levy could pay for the fund.

New technologies and business models are already emerging in New Zealand's electricity system. The trend is expected to continue.<sup>185</sup> However, some innovations may struggle to gain momentum because of New Zealand's fragmented electricity supply chain, large number of industry participants, complex trading arrangements and regulations, and an unwillingness by the industry to take risks, especially regarding electrical safety and reliability.

The fund should give priority to technologies that respond to New Zealand's particular circumstances, an obvious example being the challenge of maintaining reliable supply from renewable generation at reasonable cost when there is little rain or wind for long periods. Another example is meeting the battery recharging needs of a growing electric vehicle fleet without big investment in network capacity. Another is encouraging more innovation to lower power bills for residents in energy hardship in poor regions, such as those in The Lines Company's distribution area (discussed elsewhere in this paper).

Regulated distributors could access the fund because their price caps limit how much they can spend on innovation.<sup>186</sup> In such cases, the Commerce Commission would administer their applications to trial new services or approaches and would adjust their price caps if necessary.<sup>187</sup>

There is already support for innovation in the sector, including tax credits for business research and development, financial support from Callaghan Innovation, contestable research grants through the Endeavour Fund and Innovation Partnership programmes, and funding from the Provincial Growth Fund and Green Investment Fund. Given the funding available from these sources, we are not certain there is great value in a new contestable innovation fund for the electricity sector.

We are undecided about this option.

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<sup>184</sup> Transpower, pg26.

<sup>185</sup> First report, pg62.

<sup>186</sup> Powerco said "there may be a role for regulatory involvement in this area to maximise the chance of realising efficiency benefits across all consumers (via distributors). What this looks like (e.g. incentives, competitive R&D investment pool) is unclear – what is clear is that a holistic and consistent view from policy makers is needed sooner rather than later", pg15.

<sup>187</sup> Reliability standards could, for example, be relaxed for a distributor trialling micro-grid services that might otherwise breach price-quality regulations.

## G2: Examine security and resilience of electricity supply

The Minister of Energy and Resources would ask the Electricity Authority to conduct a thorough review of the security, reliability and resilience of the electricity supply, in response to the range of technological and other developments that, as noted in our first report, have the potential to profoundly alter the way the electricity sector works. A review would examine whether the electricity supply was positioned to meet those challenges in the decades ahead.

The Electricity Authority would assign the task to the Security and Reliability Council to complete within 12 months. The review should include the Council's own terms of reference and work programme; Transpower's policies and procedures for risk monitoring (as system operator responsible for managing the power system and operating the wholesale electricity market); the Electricity Authority's market development work programme and market performance monitoring functions; and other relevant matters, including matters overseen by agencies such as the Commerce Commission and Gas Industry Company.

Some submitters said security of supply should not be taken for granted, particularly in light of the many uncertainties facing the sector.<sup>188</sup> Others emphasised the need to focus less on security and more on resilience.<sup>189</sup> We think both are important.

We favour this option.

## G3: Encourage more co-ordination among agencies

The Government would encourage officials and regulators to be more aware of, and responsive to, wider government policy and regulatory changes aimed at implementing New Zealand's move towards a low emissions economy. This could be achieved through, for example, forums like the Council of Energy Regulators.

The Council was established in 2017 to promote communication between agencies that regulate or advise on matters relevant to the electricity industry and electricity consumers – the Electricity Authority, Gas Industry Company, Commerce Commission and Ministry of Business, Innovation and Employment. Its work has dealt with greenhouse gas emissions, energy efficiency, energy hardship, health and safety, disaster resilience and resource management. However, many of the challenges in these areas have links well beyond the electricity sector. Solutions will require more “joined up” thinking, clearer communication and more co-ordinated action among a range of agencies, not solely energy regulators – a point many stakeholders emphasised to us.

We favour this option.

## G4: Improve the energy efficiency of new and existing buildings

The Government would amend the building code to strengthen the energy efficiency of new buildings and strengthen regulations governing the quality of rental housing.

Many submitters said our first report understated the importance of energy efficiency in improving energy affordability, reducing greenhouse gas emissions, improving security of supply, promoting health and wellbeing, and improving business productivity.<sup>190</sup> We agree this is an area with enormous potential. Improving the energy efficiency of both new and existing buildings should be

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<sup>188</sup> For example, BusinessNZ Energy Council said that question was not simply whether current arrangements would ensure sufficient new generation to meet demand, but whether there will be sufficient generation to meet demand and maintain security of supply, especially if very low emissions are planned for the electricity sector, pg6.

<sup>189</sup> Vector's view was that the industry had always focused on security of supply, and attention had shifted only recently to the resilience of the energy system. “Recent events both locally and internationally reinforce the need for more innovative thinking around the principles of resilience”, pg73.

<sup>190</sup> Greenpeace Aotearoa said it fully supported improved home energy efficiency, “including through rigorous upgrades to the building code, legal requirements on landlords to meet strong energy efficiency standards in their rental properties and a significant extension of Government support schemes to help insulate the 600,000 under-insulated homes in New Zealand in the next 10 years”, pp4-5.

given a high priority, although it is important to bear in mind the extra costs this will impose on new housing and rental accommodation.<sup>191</sup>

We favour this option.

### Comment

One matter that does not fit neatly into any one section of this paper is concerns raised by King Country and Ruapehu residents serviced by distributor The Lines Company. It is the only distributor to bill customers directly. All others pass on their costs via retailers. This arrangement means customers can be disconnected if they don't pay their distributor's bills, even if they have paid their retailer's bills.

Until recently, most customers' pricing structure was based on peak demand for electricity over a year. This caused huge anomalies and stress for residents, many of whom face significant hardship. Many residents are on benefits or superannuation. We heard concerns from residents including health problems caused by poorly heated homes, such as: black mould infection; wide variations in distribution charges for residents with similar consumption levels; and smart meters that were inoperable because of mobile black spots, resulting in consumers receiving bills based on estimates rather than actual usage. Some residents – particularly those in the south of the region – are pressing for a 30 per cent cap on the distribution portion of their electricity bills.

The Lines Company's distribution area has unique features: a small customer base (24,000 connections, of which only 14,000 are residential); a large, remote rural terrain that imposes high network costs; a high proportion of holiday homes (15 per cent of all connections); and a large proportion of residents living in high-deprivation areas (up to 60 per cent).<sup>192</sup> Also, customers in the north of the region receive an annual distribution discount of about \$350 from the Waitomo Energy Services Consumer Trust, whereas those in the south receive a dividend of between about \$40 and \$100 from the King Country Electric Power Trust.<sup>193</sup>

The Lines Company's recent response to residents' concerns includes: switching from a peak demand to time-of-use pricing structure; a 20 per cent cap on any increase in a customer's bills compared with the previous year's bills; and offering a smooth pay option to help even out price volatility.<sup>194</sup> The company is helping residents with energy efficiency measures and insulation support through a recently established charitable trust. It is also reviewing its practice of direct billing because itemising the distribution cost may have exacerbated perceptions of overcharging and is exploring opportunities to reduce operational costs. The King Country Electric Power Trust has stepped in, too, distributing 35,000 LED light bulbs in December 2018 to help beneficiaries in the south lower their power bills.

Last year, residents using 7,500kWh with Trustpower as their retailer paid on average \$2,765 for their power.<sup>195</sup> The trust dividends just discussed lowered that slightly. Many residents struggle to pay their electricity bills and disconnections are common – 1,875 last year. Retailers initiated 71 per cent of disconnections. Most were residential. Our analysis of nationwide retail data also indicates a sizeable number of households may be on the wrong retail plan and paying more than they need to. We are investigating this matter.

Plainly more needs to be done. This is not a problem for The Lines Company only and why we conclude with this comment. We welcome submitters' ideas on solutions to the problem.

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<sup>191</sup> Genesis suggested all new homes, including those constructed through KiwiBuild, should be designed so they could accept solar panels, batteries and electric vehicle charging technology for immediate use or later on at minimum cost, pg13.

<sup>192</sup> Holiday homes and residential homes have similar connection costs. However, holiday homes typically use much less electricity over a year than a residential home, so the connection cost cannot be recovered by billing for electricity usage alone. Owners of holiday homes on The Lines Company network pay a higher fixed charge to ensure these costs are recovered and not passed to other customers.

<sup>193</sup> The King Country Electric Power Trust sold the area's southern network to the Waitomo Energy Services Consumer Trust. Southern network customers remain beneficiaries of the King Country trust and receive annual cash distributions from the resulting capital.

<sup>194</sup> The 20 per cent cap relates to the period from 1 October 2018 to 30 September 2019.

<sup>195</sup> This consisted of transmission, distribution and retailing charges, metering charges and GST.

## Have your say

As noted in the introduction, we welcome your feedback on the options contained in this paper. In order to help our analysis of your feedback, we would appreciate short, clear submissions.

In particular, we would like to know:

- if you favour the option (yes or no); and
- briefly why.

All submissions will be due by **Friday 22nd March at 12-noon**. Submissions received after this time are unlikely to be considered.

You can make a formal submission to us by filling in our new online submission form on the MBIE Electricity Price Review webpage <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-consultations-and-reviews/electricity-price/>.

This online form is compatible with your computer, laptop, tablet and smartphone. Please note, you will need to fill this online form out in one session as there is no save or pause function.

If you have difficulty using the online form, or wish to make a confidential submission (in either word .doc or .pdf format) please email us on [EnergyMarkets@mbie.govt.nz](mailto:EnergyMarkets@mbie.govt.nz)

If you submit via email, please clearly indicate which option you are commenting on.

Submissions will be published on the MBIE website, in compliance with the Official Information Request 1982 and the Privacy Act 1993.

Thank you for taking the time to read our paper. We look forward to reading your submission.