



BRIEFING

Improving institutional arrangements for the regulation of gas and electricity markets

Date:	12 August 2025	Priority:	Medium
Security classification:	Sensitive	Tracking number:	BRIEFING-REQ-0018888

Action sought		
	Action sought	Deadline
Hon Shane Jones Minister for Resources	Agree to seek Cabinet agreement to create a new independent Crown entity that combines the functions of the EA and GIC and to undertake a targeted review of those functions.	19 August 2025
Hon Simon Watts Minister for Energy	Agree to seek Cabinet agreement to create a new independent Crown entity that combines the functions of the EA and GIC and to undertake a targeted review of those functions.	19 August 2025

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Tamara Linnhoff	Manager, Electricity Markets Policy	Privacy of natural persons	
Dominic Kebbell	Manager, Gas and Fuel Policy		✓
Sarah Holdem	Principal Advisor, Electricity Markets Policy		
Caroline Ryder	Principal Advisor, Gas and Fuel Policy		

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Improving institutional arrangements for the regulation of gas and electricity markets

Date:	12 August 2025	Priority:	Medium
Security classification:	Sensitive	Tracking number:	BRIEFING REQ 0018888

Purpose

To seek your direction on the approach to changing institutional arrangements to amalgamate the Gas Industry Company and the Electricity Authority, and to review their functions, as recommended by Frontier Economics in its report on the performance of the electricity market.

Executive summary

Updating institutional arrangements: a new energy regulator

New Zealand's gas and electricity markets are regulated by two entities: the limited liability company Gas Industry Company (**GIC**) and the Electricity Authority (**EA**), an independent Crown entity.¹ Frontier Economics (**Frontier**) found in its electricity market review that having two regulators was outdated, no longer fit-for-purpose and missed opportunities for coordination and harmonisation across two sectors that have converged over the past 20 years.

Frontier recommended amalgamating the GIC and EA into a new entity that it called the Energy Authority, which would enable more streamlined and harmonised functions across the energy sector, potentially leading to cost-efficiencies and greater consistency. Frontier recommended it be based on the EA model.

We agree with Frontier's recommendation to create a **new combined gas and electricity (energy) regulator**. The new combined regulator would be an independent Crown entity established through legislation. You have several options for how to achieve this and we seek your direction on your preferred way forward.

Updating regulator functions: a targeted review

Frontier highlighted the need to update the powers and functions of the new regulator. Our recommended approach is to **carry out a targeted review of GIC and EA functions** while creating a new combined regulator. The targeted review would identify which of the GIC's functions and processes could be harmonised and which need to remain distinct. We also propose considering changes to the EA that Frontier recommended, some of the legislative changes proposed by the EA itself, and areas where we think there is an opportunity for improvement.

Simply rolling the GIC into the EA precludes updating regulatory functions

We also considered two other options for how to enact changes to institutional design of the GIC. There is a power in the *Gas Amendment Act 2004* that enables regulations to be made to create an Energy Commission, which would roll the GIC into the EA. This power was intended as a backstop regulatory power in case the co-regulatory model for the gas sector failed.

¹ The energy regulatory system also includes other agencies that have regulatory roles, such as the Commerce Commission, the Energy Efficiency and Conservation Authority and Worksafe.

We strongly advise against this option. Taking it would preclude a review of the functions of the GIC and EA and would miss the opportunity for improvements. The new single regulator would also then operate under two different regulatory regimes, reducing the opportunities for integration and undermining the rationale for a combined regulator.

A broad review would take too long

You could also choose to undertake a broad and comprehensive review (instead of targeted) of the electricity and gas regulatory system. It would encompass the roles of other relevant regulators such as the Commerce Commission or adding significant new functions to the new regulator.

We do not recommend this option. It would take significantly longer and cost more than the preferred option, with implementation unlikely until 2029. A longer review could create uncertainty and impact on investor confidence.

Next steps

We seek your direction on your preferred option and would welcome a discussion with you. We will update the draft Cabinet paper *Improving Regulatory Efficiency* to reflect your decisions. The current draft paper includes discussion of Option 2 as a placeholder.

We will update timelines following Cabinet decisions on the overall electricity market review package, expected to be in September 2025. We intend to provide you with further advice on detailed design before the end of this year.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that Frontier Economics recommended amalgamating the EA and GIC as part of its review into the electricity market's performance.

Noted

- b **Note** that creating a new independent Crown entity that combines the functions of the EA and GIC, and a targeted review of those functions, would best give effect to Frontier's recommendations.

Noted

- c **Note** that there is a power in the *Gas Amendment Act 2004* to roll the GIC into the EA but that using this power would increase complexity and costs and would likely not deliver the benefits of amalgamation, and would preclude updating the regulator's functions.

Noted

- d **Agree** to seek Cabinet agreement to create a new independent Crown entity that combines the functions of the EA and GIC.

Agree / Disagree

- e **Agree** to seek Cabinet agreement to carry out a targeted review of the functions of the new Crown entity.

Agree / Disagree

Tamara Linnhoff
Manager, Electricity Markets Policy
Energy Markets, MBIE

..... / /

Dominic Kebell
Manager, Gas and Fuel Policy
Energy Markets, MBIE

..... / /

Hon Shane Jones
Minister for Resources

..... / /

Hon Simon Watts
Minister for Energy

..... / /

Background

1. In November 2024, Cabinet agreed to review the electricity market's performance in response to cost of living concerns and the significant stress that our electricity and gas sectors experienced in 2024. Frontier, a global economics consultancy, was subsequently selected as the independent reviewer.
2. In June 2025, Frontier delivered its report. It made a number of recommendations to improve the operation of the electricity sector. Among them was a recommendation to amalgamate the functions of the EA and the GIC into a new entity, which it called the **Energy Authority**.
3. Frontier considers this new entity would streamline and harmonise regulatory functions across both sectors, enabling more consistent and urgent action on the energy transition. It would also allow for cost-efficiencies to occur from integrated operations. Frontier recommends the Energy Authority should replicate existing electricity arrangements for gas, where appropriate, and use tailored approaches where it is necessary to reflect the gas sector's distinct characteristics. Frontier also noted the opportunities for greater alignment of regulation and policy.
4. The Cabinet Strategy Committee is currently scheduled to discuss the issues in the electricity sector on 18 August 2025. Following this meeting, you intend to seek Cabinet decisions on next steps, including on Frontier's recommendation to establish a new energy regulator. MBIE is drafting two Cabinet papers covering all aspects of the review recommendations and next steps. The second paper, *Improving Regulatory Efficiency*, contains advice to Cabinet for a new energy regulator. You will receive drafts of this Cabinet paper for your consideration this week.
5. You have specifically asked us for advice on the proposed approach to give effect to Frontier's recommendation for a new energy regulator and updates to the gas and electricity regulatory functions. This paper provides that advice.

Frontier's review of institutional arrangements

6. Frontier was asked to advise on the impact of market structure, market design and market rules on electricity market performance. One element of this was the roles and responsibilities of the relevant market institutions. New Zealand's electricity and gas sectors have three key regulators – the EA, Commerce Commission and the GIC.

New Zealand's separate electricity and gas regulators

7. The EA is responsible for developing, amending, administering, monitoring and enforcing the *Electricity Industry Participation Code 2010 (the Code)*, which are the rules that govern nearly every aspect of the electricity industry. The EA was established as an independent Crown entity (**ICE**) so that it would operate at arm's length from the government. Its board is appointed by the Governor General on the recommendation of the Minister for Energy.
8. The Commerce Commission, although not an electricity-specific regulator, is the primary competition, fair trading, consumer credit and economic regulatory agency. It is also an ICE. The Commission is responsible for overseeing quality of service for all electricity networks and sets the revenue cap for Transpower and 16 distribution businesses.
9. The GIC is a limited liability company that is responsible for implementing an array of legislative, regulatory and other statutory instruments that govern how the downstream gas industry functions. The *Gas Act 1992* provides for a model whereby the industry co-regulates the sector with government. When the co-regulatory model was introduced in 2004, the intention was to balance government oversight with industry expertise and participation in a small and relatively complex gas market.

Frontier recommends changing the regulatory model for gas

10. Frontier reviewed whether the regulators have the right roles and responsibilities to promote security of supply and affordable prices, including the delineation of roles between the EA and the Commerce Commission, and the EA and the GIC. In doing so, it considered whether the institutions avoided conflicts of interest, had clearly defined responsibilities and were appropriately independent from government.
11. Frontier considers the current delineation between the electricity and gas regulator is outdated and no longer fit-for-purpose. It recommends amalgamating the GIC with the EA to create a new regulator but does not recommend any substantive changes to the Commerce Commission, because it considers its role appropriate.
12. Frontier recommends a new Energy Authority because the context that originally justified separate governance models for gas and electricity has changed sufficiently to warrant reconsideration of the existing governance arrangements. Frontier also cited other factors to justify this recommendation:
 - **Industry convergence and interdependence:** Over the past 20 years, the gas and electricity sectors have seen significant convergence. This highlights the need for coordinated development and management of both sectors to support a smooth energy transition and deliver the best outcomes for consumers. The existence of separate governance arrangements for gas and electricity may no longer be well-suited to achieving these objectives.
 - **Potential for institutional efficiencies:** The EA has almost equivalent roles and responsibilities for electricity as the GIC has for gas but under different regimes. Bringing both roles under a single governance framework could generate operational efficiencies and reduce duplication.
 - **Opportunities for harmonisation:** There is scope for greater alignment of regulatory and policy settings across the gas and electricity sectors in areas such as consumer protection, information disclosure, and the development of consistent frameworks for policy and regulatory assessment.
 - **Governance and public confidence:** While the GIC operates under strong oversight from MBIE and the Minister for Energy, it is not a Crown entity like the EA and instead functions under a co-regulation model. This structural distinction may erode public confidence if it gives rise to perceptions that the GIC's interests are not fully aligned with those of consumers or government policy.

Frontier recommends changes specific to the electricity regulatory regime

13. Frontier identifies a “general level of dissatisfaction with the EA and its decision-making processes” during its engagement with the sector. Frontier finds how the EA deals with issues raised by stakeholders is entirely at its own discretion, and this leads to some stakeholders feeling ignored or lower priority. It also finds there are concerns about the EA's decisions “lacking a firm evidentiary basis”.
14. Frontier comments that it does not consider the EA had always undertaken the necessary analysis to back up its conclusions, and where it had, it could do a better job of communicating this to stakeholders.
15. Frontier recommends two changes to address these concerns:
 - **A formal Code change process** that obliges the EA to assess proposals for Code changes recommended by the sector, modelled on the approach taken by the Australian Energy Market Commission.

- **A targeted review of the EA's performance** to identify whether it is using its resources effectively and whether its internal decision-making processes have enough checks and balances.

Frontier also recommends wider updates to the EA's functions

16. Frontier also recommends changes to the EA's functions including for how the EA monitors the market and electricity lines services are regulated. Frontier advises:

- The EA should leverage Transpower's specialised expertise and access to data to improve its market monitoring capabilities. The EA should adopt a more sophisticated approach to competition analysis by assessing market power and barriers to entry so it can effectively direct pro-competitive changes.
- The EA (rather than the Commerce Commission) should determine the scope of input methodologies under Part 4 of the *Commerce Act 1986*, which impacts on how electricity lines services are regulated.
- The Commerce Commission should be permitted to use comparative efficiency benchmarking when setting price-quality paths for electricity lines businesses. It should include a financeability test in its regulatory framework.

Implementing Frontier's recommendations

We support Frontier's recommendation to create a new energy regulator

17. We agree that the existing governance arrangements need revisiting in the light of the convergence and interdependence of the gas and electricity sectors. A combined regulator would be more efficient and enable more consistent and coordinated decision-making across the gas and electricity sectors than the current arrangements.

You have choices on institutional design, scope of updates to function, and timing

18. We have identified three options that span choices on the form of the regulatory body, its role and remit, and timing. These options are summarised in Table 1 and are described further below. We seek your direction on your preferred approach.

Table 1: Options for improvements to institutional arrangements

	Option 1	Option 2	Option 3
Change	<p>Transfer the GIC’s functions and powers directly into the EA via Order in Council</p> <p>No change to functions</p>	<p>Create a combined regulator</p> <p>Targeted review of EA and GIC functions to integrate into the new regulator</p>	<p>Create a combined regulator</p> <p>Broad review of electricity and gas regulation, including system governance and regulator functions</p>
Institutional design	Gas regulation functions transferred into EA (entity renamed as the Energy Commission)	New entity	New entity
Scope of review of function	<p>Very narrow</p> <p>No harmonisation of, or updates to, functions</p>	<p>Targeted</p> <p>Harmonisation of, and updates to, functions in new regulator</p>	<p>Broad</p> <p>Comprehensive review of electricity and gas regulation</p>
Timing for final decisions	2026	2026 - 2027 (depending on legislative priority)	2027-2028 (depending on legislative priority)
Timing for implementation	2026	2027 (depending on legislative priority)	2029 (depending on legislative priority)

Option 1: Transfer the GIC’s functions and powers into the EA via Order in Council but with no functional changes

19. This option would transfer the existing functions and powers of the GIC into the existing EA without change (although it would be renamed the Energy Commission).
20. The *Gas Amendment Act 2004* provides for an Energy Commission to be established that would become responsible for gas regulation. The Energy Commission would be the same body as the Electricity Authority and would regulate both gas and electricity.
21. The part of the *Gas Act* that creates the Energy Commission is not currently in force. It would need to be brought into effect by an Order in Council. The Energy Commission would keep the Electricity Authority’s current entity form as an independent Crown entity. The legislation allows for two additional board members to be appointed.
22. The provision to transfer the functions and powers of the GIC into an Energy Commission was intended as a backstop in case the co-regulation model (introduced at the same time) failed.² The idea was that the Electricity Commission (the predecessor of the Electricity Authority) would be converted into an ‘Energy Commission’. It would have the functions and powers of both the GIC and the former Electricity Commission.
23. In 2010, the electricity regulatory regime was modernised and substantially reformed. The EA replaced the Electricity Commission, an independent Crown entity empowered to make and enforce secondary legislation. The *Gas Amendment Act 2004* was not substantively updated after the 2010 reform so it does not take those changes into account.
24. The current electricity regulatory model under the *Electricity Industry Act* is very different to the gas regulatory model under the *Gas Act*. Because of this, this option would create a

² See, for example, [Duynhoven, Harry: Electricity and Gas Industries Bill — Second Reading - New Zealand Parliament](#).

single regulator that is operating under two very different regimes. The benefits of amalgamation espoused by Frontier – greater efficiency, coordinated development, integrated view of energy – would be very difficult to achieve under this option.

This option could be implemented in 2026

25. We anticipate that Cabinet could make decisions for the merger this year with an announcement made at that time. The Order in Council to establish the Energy Commission could be approved by the Governor General in 2026.

We strongly advise against this option, given it has significant drawbacks

26. Option 1 would be the fastest option, but it also has several significant disadvantages that mean we strongly advise against it. This option would:
- Retain two quite different regulatory regimes within a single regulator. This would likely increase the complexity of regulating the gas and electricity sectors, risking inefficiencies, duplication of functions and potential conflicts of functions.
 - Miss the opportunity to harmonise and streamline the functions and powers of the regulator.
 - Not allow you to progress any of the changes Frontier proposed to the Electricity Authority's functions, including changes to market regulation and the development of the Code.

Option 2: Create a combined regulator, and carry out a targeted review of EA and GIC functions ready for the new regulator (recommended approach)

27. This option would create a new ICE that brings together and rationalises the functions and powers of the EA and the GIC. The EA and GIC would be disestablished. In addition to the governance changes, there would be a targeted review of the EA and GIC functions to:
- Identify which GIC functions can be harmonised and updated with those of the EA and which need to be kept distinct (as recommended by Frontier).
 - Consider other improvements to the EA's functions or decision-making framework, such as changes to the Code making process, sharpening enforcement powers and improving market monitoring.
28. Option 2 is our preferred approach. This option is the most effective and follows Frontier's recommendations. It would likely result in a new regulator with a coherent set of functions and powers. It allows other changes recommended by Frontier to be considered, as well as some targeted changes we have identified that could deliver on the objectives.
29. The targeted review could consider most recommendations by Frontier as well as improvements suggested by the GIC, EA and MBIE. The matters within this option span system governance, market regulation functions and consumer protection functions. Examples of possible changes within the scope of Option 2 could include targeted changes to:
- Increase the new regulator's incentives and agility. This would consider changes to how the Code is developed, Frontier's recommendation to provide a formal process for proposals for Code changes, and fine-tuning requirements for the cost-benefit analysis of Code changes.
 - Sharpen the new regulator's enforcement powers. This would include consideration of a new criminal offence, and how breaches of exemptions are treated.
 - Improve market operations and market performance monitoring. This would include how the new regulator can require information from participants in the market, more flexibility

for the regulator about how the electricity System Operator undertakes forecasting, developing a more sophisticated approach to assessing market power, and identifying and measuring barriers to entry.

We expect that legislation to implement this option could be introduced in 2026

30. We anticipate that Cabinet could make in-principle decisions this year (in the upcoming Review Cabinet paper) to create a new entity that combines the functions of the GIC and EA, with an announcement made at that time. Advice with more detailed proposals would then follow, including targeted sector consultation. A Bill could be drafted and introduced in 2026 and, if considered a priority, could be passed before the end of the year. The new entity could be formally established soon after enactment, if the necessary elements were planned in parallel with the passage of legislation. This would include selection of new board members to be formally appointed as inaugural members of the new regulator.

Option 2 could be phased, but we recommend a one-step process

31. Option 2 could be split into two phases, with the first phase being the creation of a combined regulator and the second phase being the targeted review of functions. It would mean that a combined regulator would exist in name more quickly.
32. However, a two-step process would require two legislative vehicles and could see changes made in phase one being amended in phase two. A one-step process would likely be faster, create a more coherent regulator from day one and minimise regulatory uncertainty.

Option 3: Create a combined regulator, and carry out a broad review of gas and electricity regulation functions that also covers wider roles and legislation

33. Option 3 would also create a new regulator combining the functions of the EA and GIC. It differs from Option 2 as it would undertake a broader review of the electricity and gas regulatory system.
34. Option 3 would allow us to consider the changes needed to create a new Crown entity alongside the new entity's roles and functions and the broader energy regulatory system. For instance, it could include:
- a more substantive review of system governance, such as the role of the Commerce Commission
 - considering adding new significant functions to the new regulator, for example, a function relating to climate change
 - reviewing whether some or all of the EA's functions should be transferred to MBIE
 - considering changes to Part 4 of the *Commerce Act 1986* (note that changes could also be considered as part of a broader review of Part 4).
35. We do not recommend this option. It would take two to three years to implement, significantly longer than our preferred option (Option 2) and would prolong regulatory uncertainty. Adding uncertainty to the market at this time could have a chilling effect on investment. The benefits of having a combined regulator – more streamlined and harmonised functions and cost-efficiencies and greater consistency – would take much longer to be realised.
36. However, if you prefer this option, we propose you seek in-principle decisions from Cabinet on the governance arrangements in 2025. A more substantive review of the new entity's functions would require at least one round of consultation and potentially two. Cabinet decisions on the outcomes of the review would likely not be able to be made until 2027 or 2028 with implementation in 2029.

Next steps

37. We seek your direction on your preferred option and would welcome a discussion with you. We will then update the draft Cabinet paper *Improving Regulatory Efficiency* to reflect your decisions. The current draft paper includes discussion of Option 2 as a placeholder.
38. Following the Cabinet Strategy Committee discussion on 18 August, and subsequent Cabinet decisions in September, we will update our timelines for progressing this work depending on the overall timing for the electricity review package.
39. We will provide you with further advice before the end of 2025.