



COVERSHEET

Minister	Hon Simon Watts Hon Shane Jones	Portfolio	Energy Resources
Title of Cabinet paper	Progressing the Energy Package: Building Better Markets	Date to be published	23 February 2026

List of documents that have been proactively released		
Date	Title	Author
December 2025	Progressing the Energy Package: Building Better Markets	Offices of the Ministers for Energy and Resources
9 December 2025	Progressing the Energy Package: Building Better Markets EXP-25-MIN-0132 Minute	Cabinet Office
1 December 2025	Regulatory Impact Statement: Strengthening the Electricity Regulatory Regime	MBIE

Information redacted

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- Maintenance of the law
- Privacy of natural persons

Office of the Minister for Energy
Office of the Minister for Resources
Cabinet Economic Policy Committee

Progressing the Energy Package: Building Better Markets

Proposal

1. This paper progresses two of the Government's Energy Package actions agreed by Cabinet in September 2025. It:
 - 1.1 provides an update on the work on policy uncertainty for investment in long-duration firming (Action 2.1)
 - 1.2 seeks approval to policy decisions to strengthen the Electricity Authority (EA) (Action 2.2).

Relation to government priorities

2. This paper supports the Government's Going for Growth plan by contributing to efficient and proportionate energy market regulation. The paper also addresses elements of the National/NZ First coalition commitment to:
 - 2.1 assess and respond to the impact that energy prices have on inflation including consumer led institutional improvements;
 - 2.2 require the electricity regulator to implement regulations such that there is sufficient electricity infrastructure to ensure security of supply and avoid excessive prices.

Executive Summary

3. Building better markets is a central pillar of the Government Energy Package. We are progressing two actions under this pillar and are seeking Cabinet's agreement to:

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- 3.2 bolster the EA so that it becomes a decisive regulator focused on ensuring a competitive market, good outcomes for consumers, with a credible deterrent to non-compliance (Action 2.2). These enhancements will be delivered through changes to the Electricity Industry Act 2010 (the Act).

Background

4. The Government commissioned an independent review of electricity market performance in late 2024 in response to high wholesale prices linked to a shortage of fuel for electricity generation. The review was undertaken by consultants Frontier Economics. In September 2025, the Cabinet Business Committee agreed to policy recommendations arising from the Review of Electricity Market Performance [CBC-2025-MIN-0054]. Appendix 1 provides a status update on each of the actions.
5. Cabinet agreed to develop options to reduce market concerns about changes in policy, such as contracting and indemnities, recognising policy risk as a barrier to firming investment (Action 2.1).
6. Frontier, as part of its market review, recommended amalgamating the EA and the Gas Industry Company into a new “Energy Authority”. Cabinet agreed not to pursue this because such a restructure would disrupt investment and create uncertainty at a critical time. However, Cabinet agreed to “*strengthen the Electricity Authority by giving it modernised functions, faster rule-making powers and stronger levers to ensure compliance, and an enhanced role in ensuring timely decisions on security, competition, pricing, and consumer participation.*” (Action 2.2).

Addressing Policy Uncertainty (Action 2.1)

7. Action 2.1 of the Energy Package commits the Government to reducing market concerns about future policy changes, recognising that the Frontier report identified that policy uncertainty has deterred investment in firming generation and the wider energy system. Confidential advice to Government

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Building a stronger Electricity Authority (Action 2.2)

We need a stronger electricity market regulator

14. The electricity industry needs a powerful, decisive regulator focused on ensuring a competitive market and the best outcomes for consumers. Weak enforcement tools and slow rule-making have hampered the EA's ability to effectively regulate the industry:
 - 14.1 Incentives to comply with the rules are not strong enough: current penalties for Electricity Industry Participation Code 2010 breaches are too weak. The maximum penalty that is available - \$2 million - is modest compared to the potential commercial gains in some situations, and comparable regulatory regimes such as Telecommunications, Groceries, and Competition.
 - 14.2 It does not have the right tools to enforce compliance with the rules, or to obtain information to determine whether industry participants are complying with the rules.
 - 14.3 It spends too much effort and resource on progressing minor rule changes. This slows it down, diverts resources from other, more important issues and increases consultation fatigue in the electricity industry. Cabinet agreed in principle in September 2025 to Frontier's recommendation to have a formal process to respond to Code change proposals from industry participants.
 - 14.4 Frontier recommended that the EA do a better job of market monitoring and competition analysis. Cabinet also agreed in principle to this objective in September 2025.
15. In September, Cabinet agreed to these areas of change, in principle [CBC-2025-MIN-0054]. We now propose a targeted package of changes to address these issues and make the EA a stronger and more effective regulator. We have developed a focused package with legislative change that can be delivered before the Election with a focus on ensuring that the EA can credibly deter non-compliance in the electricity sector.

Ensuring there is a credible deterrent to non-compliance in the electricity system

16. The EA needs the right tools to incentivise compliance. There must be a credible deterrent to the most serious breaches, and it should be able to efficiently and

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effectively address minor breaches to ensure they do not clog up the system unnecessarily. It needs the right tools to fulfil its compliance and enforcement roles. We propose:

- 16.1 To increase the maximum pecuniary penalty to align with those in the Commerce Act 1986, and part 3 of the Act: up to \$10 million, three times the commercial gain, or 10 per cent of turnover. This will apply to the most serious breaches of the Code: the details of which I propose will be specified through regulations.
- 16.2 That penalties greater than \$2 million will be decided by the High Court, rather than the Electricity Rulings Panel (which currently hears cases of penalties up to \$2 million) because it routinely considers remedies of this scale. Alongside this, we also propose increasing the daily penalty that the Electricity Rulings Panel can impose for ongoing non-compliance from \$10,000 to \$50,000.
- 16.3 To introduce a new criminal offence for knowingly misleading or attempting to deceive the EA. It will provide a strong incentive for participants to provide accurate information through self-reporting e.g. in the proposed 'level playing field' measures under consideration by the Energy Competition Task Force.
- 16.4 To allow the EA to issue infringements to industry participants of no more than \$2,000 for minor and repetitive non-compliance. The offences for these will be specified in regulations that I will bring to Cabinet for approval in mid-2026.
- 16.5 To enable the EA to publish enforcement outcomes where it considers this is desirable.
- 16.6 To allow the EA to suspend an industry participant for 15 working days to protect the integrity, reliability or security of the market.
- 16.7 To enable the EA to compel information from any person when ensuring compliance with the Electricity Industry Act or carrying out a Ministerial review.

More effective best-practice monitoring of competition in the electricity industry

17. Promoting competition in the electricity industry is one of the EA's core statutory objectives. However, monitoring competition is not however directly referred to as one of the EA's functions in section 16 of the Act. An explicit mention of competition within its list of functions will provide clearer awareness of and confidence in its role as regulator and better reflect the significance of its work to monitor competition and ensure non-network markets are competitive, providing greater confidence to consumers.
18. To further improve transparency and confidence in the EA's monitoring of competition in electricity markets, we also recommend the EA is required to integrate best practice into its approach to market monitoring, informed by international approaches to competition assessment, and international and domestic hydro valuation methodologies. It should publish reports on the state of competition in at least the wholesale, contract and retail markets, on at least an annual basis.
19. We also recommend some minor changes to:
 - 19.1 **Speed up code-making:** Reduce the amount of time that the EA is spending on minor Code changes and reduce unnecessary legal risk. When taken together, these will allow it to spend more resource on other, important issues.

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19.2 **Streamline the EA's levy funding process:** To reduce the administrative burden and consultation fatigue, streamline the process to set the levy for funding the EA by requiring consultation every three years instead of annually.

20. These are detailed in Appendix 2.

Timing and process for next steps

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22. Public announcements on the changes to strengthen the EA (Action 2.2) will be made pre-Christmas.

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24. Under Action 2.2, regulations will need to be developed to set out the specific breaches of the Code that will attract the maximum level of pecuniary penalties, and to prescribe infringement offences. We will report back to Cabinet in mid-2026 on these regulations.

Cost-of-living Implications

25. The proposals in this paper will make the development and enforcement of electricity rules more effective, which may have a small indirect impact on the cost-of-living.

Financial Implications

26. There are no financial implications associated with the proposals in this paper.

Legislative Implications

27. To give effect to the policies proposed in this paper that require legislative change, we intend submitting a bid for an Electricity Industry Act Amendment Bill to strengthen the EA (Action 2.2) with a status of *Category 2 – must be passed before the election* as part of the 2026 legislative programme.

28. These Acts will bind the Crown.

Impact Analysis

Regulatory Impact Statement

Action 2.2 – Building a Stronger Electricity Authority

29. The impact analysis requirements apply to some of the proposals described in this paper. A Regulatory Impact Statement (RIS) has been prepared for the proposals under Action 2.2 to strengthen the EA and is attached to the Cabinet paper.

30. MBIE considers the information and analysis summarised in the RIS **partially meets** the quality assurance criteria.

31. The Ministry for Regulation has determined that the proposals for minor amendments as listed in Appendix 2 are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that these proposals have no or only minor economic, social, or environmental impacts.

Human Rights

32. To the extent that any of these proposals raise issues of consistency with the New Zealand Bill of Rights Act 1990, officials will work with the Ministry of Justice to ensure they are given effect in a manner that is a justified limitation on the rights and freedoms protected by that Act.

Consultation

33. The Treasury, Ministry of Justice, Department of Prime Minister and Cabinet, Ministry for Regulation, Ministry of Foreign Affairs and Trade, Parliamentary Counsel Office, Electricity Authority, and the Office of the Ombudsman were consulted on the development of the policy proposals in this paper.

Communications

34. The Minister for Energy will announce the decisions through a media release pre-Christmas.

Proactive Release

35. The Minister for Energy intends to release the Cabinet paper proactively in whole, with redactions consistent with the Official Information Act.

Recommendations

The Minister for Energy recommends that the Committee:

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Action 2.2: Strengthening the Electricity Authority

- 5 note that in September 2025, the Cabinet Business Committee agreed to strengthen the EA by giving it modernised functions, faster rule-making powers and stronger

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levers to ensure compliance, and an enhanced role in ensuring timely decisions on security, competition, pricing and consumer participation [CBC-25-MIN-0054 refers];

6 agree that the Electricity Industry Act 2010 should be amended to:

Providing a credible deterrent to non-compliance

7 introduce a maximum pecuniary penalty for a breach of the Code of up to \$10 million, three times the commercial gain, or 10 per cent of turnover, within the jurisdiction of the High Court;

7.1 introduce an enabling provision for breaches that attract the above pecuniary penalty to be specified in regulations;

8 increase the maximum daily penalty that the Electricity Rulings Panel can impose for a continuing breach from \$10,000 to \$50,000;

8.1 introduce a new offence for knowingly misleading or attempting to deceive the Electricity Authority;

8.2 introduce an infringement offence scheme that includes:

8.2.1 a maximum fee of \$2000;

8.2.2 the Electricity Authority as the issuing authority;

8.2.3 that the fee is payable to the Crown Bank Account (not the regulator);

8.2.4 an enabling provision for infringeable offences to be specified in regulations;

8.3 allow the Electricity Authority to publish final enforcement outcomes where it considers this is necessary;

8.4 allow the Electricity Authority to suspend an industry participant for no more than 15 working days where the industry participant's activities are threatening the integrity, reliability or security of the electricity market;

8.5 enable the Electricity Authority to compel information from any person when:

8.5.1 monitoring and investigating compliance with the Code and the Electricity Industry Act;

8.5.2 satisfying a request made by the Minister for the Electricity Authority under section 18 to review and report on a matter relating to the electricity industry;

8.6 create new powers for the Electricity Authority to impose entry requirements on participants in the Code;

Monitoring competition

8.7 include an explicit function to monitor competition in the Electricity Authority's functions;

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- 8.8 introduce requirements for the Electricity Authority to integrate international best practice to competition assessment, integrate international and domestic hydro valuation methodologies into its market monitoring, and publish reports on the state of competition in at least the wholesale, contract and retail markets, on at least an annual basis;

Amendments with minor impact

- 8.9 make the minor and technical amendments listed in Appendix 2;
- 9 delegate to the Minister for Energy the authority to:
- 9.1 make further policy decisions consistent with the scope and direction of these decisions
 - 9.2 make further policy decisions on whether to defer or discontinue specific amendments having regard to the complexity of the drafting and the time constraints associated with progressing the proposed Bill;
 - 9.3 make minor and technical changes to the policies in this paper;
 - 9.4 determine the threshold for the Electricity Authority to suspend an industry participant for 15 working days;
- 10 invite the Minister for Energy to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above through a bill to amend the Electricity Industry Act 2010;
- 11 invite the Minister for Energy to report back to Cabinet in mid-2026 on:
- 11.1 a review of the limits on liability in the *Electricity Industry (Enforcement) Regulations*;
 - 11.2 the specific breaches of the Code that will attract pecuniary penalties greater than \$2 million to be included in regulations;
 - 11.3 the offences that will form part of the infringement offence scheme to be prescribed by regulations;

Hon Simon Watts

Minister for Energy

Hon Shane Jones

Minister for Resources

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Appendix 1: Status update on New Zealand’s Energy Package actions

WORKSTREAM 1: Invest in Energy Security		WORKSTREAM 2: Build Stronger Markets	
Action	Next Steps	Action	Next Steps
Action 1.1 LNG Import Facility	Confidential advice to Government	Action 2.1 Policy uncertainty	<ul style="list-style-type: none"> December 2025: report back to Cabinet (this paper) Confidential advice to Government
Action 1.2 Remove capital constraints on Mixed Ownership Model (MoM) companies	<ul style="list-style-type: none"> Ongoing: Ministers of Finance and SOEs to respond to proposals as MoMs present them 	Action 2.2 Stronger Electricity Authority	<ul style="list-style-type: none"> December 2025: report back to Cabinet (this paper)
Action 1.3 Leverage Government purchasing power to increase New Zealand’s energy supply	<ul style="list-style-type: none"> RFI completed December 2025: Briefing to Ministers on next steps 	Action 2.3 Electricity market transparency	<ul style="list-style-type: none"> December 2025: EA Code amendment for non-discrimination
		Action 2.4 Gas market transparency	Confidential advice to Government
Action 1.4 Supercharge renewable energy – Electrify NZ	<ul style="list-style-type: none"> November 2025: Fast track amendment Bill introduced December 2025: RMA replacement legislation introduced 	Action 2.5 Dry-year regulatory framework	
		Action 2.6 Improve electricity distribution business (EDB) efficiency	<ul style="list-style-type: none"> February 2026: EDBs respond to Minister for Energy’s letter of expectations

Appendix 2: Minor amendments proposed relating to Strengthening the Electricity Authority

Recommendation	Policy intent
<i>Efficient and responsive rule-making by the Electricity Authority</i>	
Require the Electricity Authority to publish, annually, a list of all proposals received, its criteria for how it is prioritising across proposals, and a progress report.	Cabinet agreed in principle to Frontier’s recommendation that there should be a formal Code change process for the Electricity Authority to respond to stakeholder concerns that it does not take enhancements proposed by the sector seriously. A formal Code change process would take significant resources and jeopardise the Electricity Authority’s ability to advance its ‘own’ Code changes or changes that align with Government priorities.
Enable the Electricity Authority to amend the Code without consulting on a regulatory statement (which includes a cost-benefit analysis) for amendments to the Code where the effect is no more than minor.	
Extend the time period that urgent Code amendments can remain in place from nine months to 12 months, with the ability for the Electricity Authority Board to extend this by two subsequent six-month periods.	
Increase the number of members of the Electricity Rulings Panel that consider a complaint or appeal.	This change would ensure that the Electricity Rulings Panel is able to have the required specialist expertise to make a ruling.
Amend the wording ‘necessary and desirable’ in sections 32 and 40 of the Act.	This change would reduce legal risk for the Electricity Authority and enable it to make decisions more effectively.
Amend section 32 to clarify that the Code may contain any provisions that are consistent with one or both of the objectives of the Electricity Authority.	This change would reduce legal risk for the Electricity Authority and enable it to make decisions more effectively.
<i>Credible deterrence</i>	
Amend the Act to enable improvement notices requiring an industry participant to remedy a breach.	This change would enable the Electricity Authority to specify actions that will put a participant back on the pathway to compliance if their breach is inadvertent.
Empower the Electricity Authority to agree enforceable undertakings with industry participants.	This change would enable the Electricity Authority to agree enforceable undertakings, which specify actions that the regulated party must undertake to remedy a breach and avoid further breaches.

General changes	
Amend the Act to expressly refer to multi-year funding as an option for the Electricity Authority, similar to the Commerce Act.	This would allow for the option of multi-year funding to be used in future (subject to agreement from the Minister for Energy), making the levy-setting process more efficient.
Amend the Act to change the requirement for annual consultation on the Electricity Authority's levy (including where no increase is being proposed) to at least once every three years.	This change would make the levy-setting process more efficient and reduce consultation fatigue.
Allow a quorum of board members to vote on a resolution outside a meeting process.	This change would enable faster and efficient decision-making and would be of particular value for urgent or unanticipated matters.
Enable the Electricity Authority to issue a confidentiality order temporarily protecting the release of certain information under the Official Information Act.	This change would improve the Electricity Authority's access to information that is otherwise withheld by parties concerned about commercial harm or retaliation.
Create a new offence for failure to comply with a confidentiality order.	This change would ensure that confidentiality orders are effective.

**Appendix 3: Regulatory Impact Statement – Strengthening the Electricity
Regulatory Regime**