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| **From:** | energymarkets@mbie.govt.nz |
| **To:** | Energy Markets |
| **Subject:** | Electricity Price Review submission |
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**Region**
Wellington

**Category**
Distribution Companies and Associations, Trusts, Transpower

**Do you accept these terms & conditions?**
Yes

**A1. Establish a consumer advisory council**
**A2. Ensure regulators listen to consumers**
**B1. Establish a cross-sector energy hardship group**
**B2. Define energy hardship**
**B3. Establish a network of community-level support services to help consumers in energy hardship**
**B4. Set up a fund to help households in energy hardship become more energy efficient**
**B5. Offer extra financial support for households in energy hardship**
**B6. Set mandatory minimum standards to protect vulnerable and medically dependent consumers**
**B7. Prohibit prompt payment discounts but allow reasonable late payment fees**
**B8. Seek bulk deals for social housing and/or Work and Income clients**
**C1. Make it easier for consumers to shop around**
**C2. Include information on power bills to help consumers switch retailer or resolve billing disputes**
**C3. Make it easier to access electricity usage data**
**C4. Make distributors offer retailers standard terms for network access**
**C5. Prohibit win-backs**
**C6. Help non-switching consumers find better deals**
**C7. Introduce retail price caps**
**D1. Toughen rules on disclosing wholesale market information**
**D2. Introduce mandatory market-making obligations**
**D3. Make generator-retailers release information about the profitability of their retailing activities**
**D4. Monitor contract prices and generation costs more closely**
**D5. Prohibit vertically integrated companies**
**E1. Issue a government policy statement on transmission pricing**
No (although we would not oppose this option if it was rephrased to: Issue a government policy statement on electricity transmission pricing).

We are not able to comment on the challenges of improving electricity transmission pricing. However, it is unclear whether the option being proposed by the EPR would extend beyond electricity to also incorporate gas transmission pricing. This ambiguity arises from the statement in the Options Paper (on pages 22-23) that "we think the extent to which transmission or any other shared national infrastructure prices should vary between users or regions is best settled with clear guidance from elected governments".

While we agree that pricing shared infrastructure has some common challenges, the need for direction under a government policy statement is specific to the services being priced. This is because the content of any government policy statement will need to reflect the specific history, industry structure, investment needs, market dynamics and infrastructure users concerned. In the gas industry, we believe that transmission pricing works reasonably well, and the current allocation of shared infrastructure charges has recently been tested through the process of developing the new Gas Transmission Access Code (GTAC). Our strong preference is to avoid any changes to gas transmission pricing arrangements since they are fit-for-purpose.

**E2. Issue a government policy statement on distribution pricing**

No (although we would not oppose this option if rephrased to: Issue a government policy statement on electricity distribution pricing).

Our opposition to this recommendation is on the same grounds as our opposition to option E1. It is unclear to us whether the government policy statement would apply to gas distribution (as well as electricity distribution).

**E3. Regulate distribution cost allocation principles**

No (although we would not oppose this option if rephased to: Regulate electricity distribution cost allocation principles).

The EPR correctly observes that this option will introduce new compliance costs for distributors. While those costs may be justified for electricity distribution, we do not see the same case for gas. This is because gas distributors face different drivers in their pricing decisions for industrial, commercial and residential customers. This is driven by the need to ensure that gas is competitive with other fuel choices available to different customers (particularly coal, biomass and electricity).

We refer the EPR to the Consumer Energy Options report by Concept Consulting (available here: http://www.concept.co.nz/uploads/2/5/5/4/25542442/consumer_energy_options_2016_v1.0.pdf. This work investigates the competitive price positioning of different fuels to different customer groups – industrial, commercial and residential. Importantly, natural gas and LPG are competitive for particular residential applications but will need to consider how changes in electricity pricing influences that value to consumers.

**E4. Limit price shocks from distribution price increases**

**E5. Phase out low fixed charge tariff regulations**

**E6. Ensure access to smart meter data on reasonable terms**

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

Yes (except higher maximum penalties for quality path breaches).

Our experience with price-quality regulation under Part 4 of the Commerce Act is that the regulatory approaches and tools used for electricity distributors are often also applied to gas pipelines. At a broad level, this makes sense since the regulatory regime is directed at the same legislative objectives and seeks to solve the same underlying natural monopoly problems. However, we always encourage the Commerce Commission to consider the specifics of the gas industry and reflect those differences in its regulatory approach where possible.

Our views on the new powers recommended for the Commerce Commission are as follows:

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. We support the idea of consumer benefits driving the decision between a CPP and a DPP, and we accept that leaving the decision solely in the hands of regulated businesses may not always result in the best outcomes. However, the process for requiring a CPP would need to factor in the time and cost of the CPP process for all stakeholders – in a similar way to the process for determining whether a particular activity should be regulated under Part 4 in the first place (see https://comcom.govt.nz/regulated-industries/part-4/overview-of-part-4-inquiries).

Apply higher maximum penalties to deter big distributors from breaching price-quality regulations. We do not support this option. While Part 4 is now more than 10 years old, there have been very few penalties applied to date for breaching price-quality paths. The Commission is currently seeking penalties for recent price-quality breaches, including from the largest electricity distributor (Vector). Increasing maximum penalties before those cases have been determined seems premature when the Court may comment on the reasons for any differences in maximum penalties applied to different parts of the Commerce Act. One element of the price-quality path that we believe is relevant is that breach is defined against standards set by the Commission, which may not always be robust indicators of service quality.

Compare distributors' performance when setting price-quality regulations. Comparative benchmarking would be used cautiously as one input in setting prices. We support this option. We understand that the legislative prohibition on benchmarking reflected historical experience under the previous Part 4A regime. While we accept that all regulated businesses are different, we have no problem in an expert independent regulator comparing the efficiency and effectiveness of our activities to our peers.

**E8. Require smaller distributors to amalgamate**
**E9. Lower Transpower and distributors' asset values and rates of return**
**F1. Give the Electricity Authority clearer, more flexible powers to regulate network access for distributed energy services**
**F2. Transfer the Electricity Authority's transmission and distribution-related regulatory functions to the Commerce Commission**
**F3. Give regulators environmental and fairness goals**

Yes.

We agree with the EPR that government policy statements are the most appropriate vehicle for directing regulators on the promotion of environmental and fairness objectives. The Government Policy Statement on Gas Governance provides a good

example. Item 9 states that the GIC should take account of fairness and environmental sustainability in all its recommendations by ensuring that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner. Item 12(e) directs the GIC towards achieving the Government's climate change objectives by minimising gas losses and promoting demand side management and energy efficiency.

In our view, the risk of adding more competing objectives to a regulator's task is overstated by the EPR. We found that the fairness objective (in particular) was quite helpful in the GIC's assessment of the proposed new Gas Transmission Access Code (GTAC). It enabled the GIC to consider aspects of the arrangements that clearly matter to system users, but that might not have clear efficiency impacts. See: https://www.gasindustry.co.nz/work-programmes/transmission-pipeline-access/developing/gtac-final-assessment-paper/

While we do not have a strong view that these objectives should be in legislation (as noted above, a GPS can work well), we do believe that there are benefits in making these objectives explicit in regulatory decision making.

**F4. Allow Electricity Authority decisions to be appealed on their merits**
**F5. Update the Electricity Authority's compliance framework and strengthen its information-gathering powers**
**F6. Establish an electricity and gas regulator**

No.

We do not see significant benefits in having a joint electricity and gas regulator, and we are concerned that some of the positive features of gas regulation would be lost in any change.

Our views on the possible benefits of a joint regulator identified by the EPR are as follows:

Developing and enforcing regulations for both industries in a more consistent and coherent way. This benefit depends on the significance of the EPR's observation that the electricity and gas industries have many similarities and links, which we see as relatively minor. While the systems are related, that is also true of many other infrastructure industries as well (such as liquid fuels, telecommunications, water and transport). A good test of the closeness of the regulatory systems is to investigate how many electricity-only companies participated in the GIC's key activities over the past few years (such as the GTAC process), and how many gas-only companies participated in the Electricity Authority's key workstreams (such as the TPM, consumer choice, and the recent UTS decision). The answer is very few electricity participants typically engage in gas regulation topics, and vice versa.

Reducing uncertainty for regulated businesses. We do not see less regulatory uncertainty arising from joint regulation. Instead, we believe that a new source of uncertainty would arise: whether the regulator might choice to simply apply something that seems to work in electricity to the gas industry, or whether it will decide to take a more targeted approach that applies to gas industry circumstances.

Economies of scale are likely to result in lower total costs. Again, looking at the work programmes of the GIC and Electricity Authority quickly discredits the case for any economies of scale or scope in combining regulatory functions. The activities of both regulators are sufficiently distinct, and in the case of the GIC its

fixed costs are relatively low – with its resources focused on delivering its work programme. As a gas levy payer, we believe that value for money would be eroded if we contributed to a joint electricity and gas regulator.

While we object to the idea of a joint electricity and gas regulator, we do consider that improvements can be made to gas regulation. For example, we are concerned that the pace the GIC can move no longer reflects the rapidly changing nature of the gas industry. However, we see the challenges in gas and electricity industry and access regulation as being sufficiently distinct so as to warrant their own dedicated regulators that can address the challenges in each sector.

We are also concerned that the strengths of the existing gas co-regulatory model for gas would be lost in the change to a joint regulator. Some of the benefits of gas industry co-regulation (which we don't observe in electricity regulation) include:
- A genuine industry voice in the decision-making process, while maintaining independence and avoiding regulatory capture. While co regulation could be criticised for fostering relationships between industry and regulator that are too close, in practice we have observed that the GIC is widely respected for its objective voice (including by consumer groups like the Major Gas Users' Group);
- Arrangements that encourage industry participants and consumers to work together to find workable solutions, rather than launching into contentious and expensive regulatory initiatives; and
- A willingness to harness the work and expertise of industry participants and consumers, rather than duplicating activities.

We believe that energy sector planning, rather than regulation, would benefit most from more joined-up thinking. Planning (both near term and long term) currently takes place in siloes across electricity, gas, and transport fuel infrastructure. While we are developing good working relationships with organisations like Transpower, there is nothing hard-coded into any energy sector planning process that requires the least-cost, most effective solutions to be found.

We believe that greater planning and investment coordination will be important to successfully transition the energy system to a lower carbon future. For example, electricity and gas networks will need to co-optimise their infrastructure to facilitate the production and transportation of hydrogen. Electricity and transportation networks will also need to be co-optimised to facilitate the increased use of EVs.

**G1. Set up a fund to encourage more innovation**

Yes.

We support the addition of innovation funding for regulated energy business (both electricity and gas). If the EPR (and Commerce Commission) considers that it is in the long-term interests of energy consumers for regulated businesses to undertake R&D, then we believe that regulated funding sources are the best way to promote these activities. There are well established, proven, successful models of contestable innovation funds for regulated business that can be drawn upon, such as the Network Innovation Allowance administered by OFGEM: https://www.ofgem.gov.uk/network-regulation-riio-model/network-innovation/electricity-network-innovation-allowance.

A funding source that is focused on regulated businesses would be able to address the specific challenges and opportunities arising in that space. For example, since

regulated businesses do not compete, the lessons from trials can be shared among the industry to ensure that all consumers benefit from innovation. This would be more difficult to achieve using the other possible funding sources identified by the EPR (such as the Green Investment Fund or Provincial Growth Fund), which are more likely to preserve the usual commercial sensitivity associated with other R&D investments.

**G2. Examine security and resilience of electricity supply**

Yes.

We support this option because we believe that a better understanding of the risks to security of supply will help to better inform energy planning and policy decisions. In particular, we believe that the proposed review by the SRC would improve understanding of the role that gas supply plays in maintaining the security and resilience of electricity supply and would explore how we might better transfer information and coordinate responses across electricity and gas system operators.

**G3. Encourage more co-ordination among agencies**

**G4. Improve the energy efficiency of new and existing buildings**