



Summary of submissions

Strategic directions for market development

6 August 2013

Introduction

- 1 The Electricity Authority (Authority) published a consultation paper on 12 March 2013 on the strategic directions for market development (consultation paper) to obtain feedback on four proposed strategic directions for market development: **reducing barriers** to entry, expansion and exit of parties in electricity markets, **facilitating consumer participation**, **providing efficient price signals** and building **flexibility and resilience** into operating and market systems.¹
- 2 The purpose of the four strategic directions is to further explain the Authority's future focus for market development, and for promoting competition, reliability and efficiency (CRE), and to provide more information about how the Authority might respond to changing circumstances, such as technology change.
- 3 This paper provides a summary of the views and points raised in submissions. The Authority received 11 submissions on the consultation paper, as detailed in Table 1.

Table 1 submissions

Retailers/Generators	Networks	Others
Contact Energy Genesis Energy Meridian Energy Mighty River Power (MRP) TrustPower	Vector Powerco Transpower	Major Energy Users Group (MEUG) Arc Innovations New Zealand Wind Energy Association (NZWEA)

Summary of feedback in submissions

- 4 This section provides a summary of the key comments and themes in submissions. Each of these key comments are addressed in separate sections below:
 - (a) there was broad support for the four strategic directions for market development
 - (b) more detail is required on the role of strategic directions in developing the work programme
 - (c) market development should provide regulatory certainty

¹ The consultation paper is available at <http://www.ea.govt.nz/our-work/consultations/corporate/strategic-directions-for-market-development/>.

- (d) the Authority is responsible for enhancing consumer confidence in the market
- (e) the Authority is responsible for involving consumers' in market processes
- (f) there are numerous challenges facing the electricity sector
- (g) more information is needed on how the strategic directions and regulatory strategy principles interact
- (h) the presentation of the relationships between projects was broadly useful.²

There was broad support for the strategic directions for market development

5 The Authority proposed four strategic directions to reflect the challenges facing the sector. These were:

- (a) reducing barriers, involving facilitating the entry, expansion and exit of parties from electricity markets
- (b) facilitating consumer participation, involving facilitating consumers exercising choice of supplier and product
- (c) providing efficient price signals, involving facilitating informed decision-making by disseminating price data and information
- (d) promoting flexibility and resilience, involving facilitating the efficient operation of the electricity system and markets.

6 Many submitters broadly supported the Authority's strategic directions³. Meridian agreed that there is value in articulating strategic directions but considered they should be more detailed. A number of submitters made specific comments on ways to improve the strategic directions.

7 For example, Genesis submitted that the strategic directions in its current form would not deliver the desired outcomes and should be altered to be: more future focused; take a more "top down" approach; and use a more collaborative approach to identifying key challenges facing the sector.⁴

8 MEUG submitted that the first two strategic directions, 'reducing barriers' and 'facilitating consumer participation', should be combined.⁵ MEUG also considered that 'improving real-time spot price discovery' be included as an activity under strategic direction three 'providing efficient price signals', and that 'recognising opportunities for regulatory innovation' should be included as an activity under strategic direction four, 'promoting flexibility and resilience'.⁶

9 MRP submitted that 'reducing barriers' and 'providing efficient price signals' should be combined and renamed 'facilitating a competitive market' and that there should only be three strategic directions. The other two strategic directions that MRP proposed were 'enabling active demand-side participation' and 'maintaining market confidence'.⁷

² Provided at figure 1 of the consultation paper

³ Arc, Contact, MRP, Transpower, Vector, Meridian

⁴ Genesis, p. 2

⁵ MEUG, p. 4

⁶ MEUG, p. 4

⁷ MRP, p. 4

- 10 Vector submitted that under strategic direction four, ‘promoting flexibility and resilience’, the Authority should consider whether it is more efficient to encourage entry of small retailers or alternatively, encourage more active competition amongst established participants.⁸
- 11 Arc submitted that the Authority should align its strategic directions with the strategic directions of participants.⁹
- 12 The NZWEA submitted that the Authority should acknowledge in the strategic directions document that the electricity market rules can influence the achievement of the Government's target of 90% renewable generation by 2025. NZWEA also submitted that “*it would be helpful and insightful to briefly outline trends in electricity market systems, just as the document looks at technology trends*”.¹⁰

More detail is required on the role of strategic directions in developing the work programme

- 13 The Authority publishes an annual work programme listing the projects to be completed or progressed in the next financial year. The strategic directions are intended to provide guiding principles for developing the work programme.
- 14 A number of submitters considered that more detail was required on how the strategic directions will inform the development of the work programme.¹¹ MRP submitted that the strategic directions needed to be specific enough to be meaningful and guide the identification of potential future work priorities while Vector submitted that more detail needed to be provided on how the Authority prioritises work streams.¹² Meridian questioned whether the Authority intended to report on progress against the strategic directions.¹³
- 15 Meridian submitted that the Authority should identify which market development work streams are likely to involve changes to market systems and show how work streams will be co-ordinated to minimise cost and disruption.¹⁴ Meridian also submitted that the Authority should indicate whether the Authority has a plan to review various parts of the Code, ie, each Part once every 10 years.¹⁵
- 16 Arc submitted that it would be useful to have “*further detail regarding the relationships and the outcomes vis a vis the strategic directions*”.¹⁶

Market development should provide regulatory certainty

- 17 The Authority considered that the proposed strategic directions should give parties greater certainty about how the Authority will respond to emerging circumstances and challenges

⁸ Vector, p. 2

⁹ Arc, p. 2

¹⁰ NZWEA, p. 1

¹¹ Meridian, Powerco, Transpower

¹² MRP, p. 3

¹³ Meridian, p. 3

¹⁴ Meridian, p. 2

¹⁵ Meridian, p. 3

¹⁶ Arc, p. 2

facing the electricity sector, and how the Authority’s market development programme might evolve.

- 18 A desire for regulatory certainty was a common theme in submissions. A number of submitters considered that regulatory certainty and predictability should be included as a strategic direction.¹⁷ Powerco¹⁸ and TrustPower¹⁹ submitted that ‘regulatory stability’ should have a higher priority than other principles.
- 19 Contact submitted that the regulatory environment should be “*sufficiently stable so as not to discourage capital investment*”.²⁰ Genesis submitted that regulatory uncertainty could be reduced by minimising the level of intervention.²¹ Powerco also addressed capital investment submitting that the Authority should take full account of the perceived investment risks created by frequent regulatory changes and on-going regulatory uncertainty.²²
- 20 According to Genesis, the Authority should continue to review the need for existing interventions. MRP submitted that interventions should be subject to a high burden of proof and should be in response to clearly demonstrated market or regulatory failures.²³ MRP considered the Authority should undertake fewer projects and achieve a higher quality of output per project. MRP also submitted that the current market approach has been proven to be robust and that there is little evidence to suggest material changes are needed in the short to medium term.²⁴
- 21 Transpower submitted a similar view to MRP considering that the Authority’s work programme is overly ambitious, and implementing multiple projects at once creates real cost and risk for participants.²⁵ A higher threshold to entry to the work programme might be appropriate, according to Transpower. This view was shared by Powerco whom submitted that large policy changes should be limited to instances where the long-term benefits to consumers can be shown to be reasonably certain and substantial.²⁶
- 22 Powerco and Contact expressed concerns over what they considered to be ‘unnecessary complexity’ which they considered acted as a disincentive to new entrants. Contact submitted that this made the market appear overly complicated to analysts and consumers. Powerco considered this complexity caused a commercial burden.²⁷
- 23 TrustPower submitted that the Authority needed to strike the appropriate balance between stability and flexibility. Powerco²⁸ considered repeated reviews of the TPM contributed to regulatory uncertainty while TrustPower considered the current TPM proposal increased uncertainty.

¹⁷ Arc, Meridian, Vector

¹⁸ Powerco, p. 3

¹⁹ TrustPower, p. 2

²⁰ Contact, p. 1

²¹ Genesis, p. 3

²² Powerco, p. 4

²³ Genesis, p. 3

²⁴ MRP, p. 3

²⁵ Transpower, p. 1

²⁶ Powerco, P. 4

²⁷ Contact, p. 2

²⁸ Powerco, p. 4

- 24 Genesis submitted that the Authority should provide more information about its future intentions for the market to reduce regulatory uncertainty while Meridian suggested that the Authority should allow time for the impacts of existing policies to take effect before progressing further initiatives targeted at the same problem.²⁹
- 25 According to MEUG, suppliers seek to reduce the influence of the Authority because of the threat that an effective Authority will erode their benefits based on legacy rules designed by and for suppliers. MEUG contended the Authority should seek opportunities for regulatory regime evolution such as removing the statutory monopoly of the system operator and merging the Authority and GIC. According to MEUG, the Authority should also:
- (a) develop performance measures and targets for the Authority’s vision to be recognised as a world-class regulator
 - (b) develop policies to better enable customer participation in Code development
 - (c) review the outcomes of the 2010 reforms.³⁰
- 26 Powerco submitted that the Authority needed to provide more robust cost benefit analysis to underpin its activities. Vector stated that initiatives that the Authority undertakes should be shown to have material long-term benefits to consumers, and not merely address competition, reliability and efficiency (CRE).³¹

The Authority is responsible for enhancing consumer confidence in the market

- 27 The Authority considers that consumers generally expect electricity to be available when they ‘turn on the switch’, that is affordable, from a retailer that is flexible, responsive, and understands their needs. The Authority has survey outcomes indicating that consumers have increasing awareness about the ability to “shop around”, are increasingly switching between retailers. However, survey outcomes also suggest that consumers lack confidence in the competitiveness of the electricity sector and see rising retail prices as a symptom of poor competition.
- 28 Arc submitted that the Authority has a role to communicate information to enhance consumer confidence.³² According to Genesis, the Authority should lead debate on the benefits of the market approach.³³
- 29 Meridian noted the Authority’s CRE aspirations include ‘widespread confidence in the competitiveness of markets’ and ‘widespread recognition that markets are efficient’. Meridian submitted that it agreed with these aspirations and encourages the Authority to continue to provide information to industry stakeholders and the public on the performance of the market.³⁴

The Authority is responsible for involving consumers in market processes

- 30 The Authority considered that the regulator’s focus should be on enhancing market processes rather than setting a vision, and should not present plans for market

²⁹ Meridian, p. 4
³⁰ MEUG , p. 3
³¹ Powerco, p. 4
³² Arc, p. 3
³³ Genesis, p. 3
³⁴ Meridian, p. 4

development ahead of undertaking rigorous problem definition analysis, option analysis and cost-benefit analysis. The Authority considered that strategic directions avoids these traps, while providing consumers and participants with a clearer sense of the direction of the Authority's regulatory effort over the next decade.

- 31 MEUG and Arc provided comments on the involvement of consumers in market processes. MEUG, for example, submitted that market enhancing processes themselves needed to be efficient and innovative, and that “*by innovative we mean making pro-active initiatives for improvement that include improved understanding and accessibility for customers to participate in ‘enhancing market processes’*”.³⁵
- 32 MEUG also suggested the Authority develop policies to better enable customer participation in Code development.³⁶
- 33 According to Arc, the Authority needed to change consumer behaviour to take advantage of choices in suppliers or products. As an example, Arc submitted that smart meters provide choice, but without a corresponding change in behaviour around load shifting, the consumer won't get all the benefits.³⁷

There are numerous challenges facing the electricity sector

- 34 The Authority has identified three challenges that are likely to influence the electricity sector in the coming 10 years or so: uncertainty; rapid development of technology; and changing consumer expectations. The Authority considered that these challenges provide a strong pointer towards where the Authority should focus when considering the development of market arrangements.
- 35 Most submitters commented on challenges facing the electricity sector. Some submitters suggested that the Authority should expand on the three challenges that it identified. Submitter's comments on the Authority's three challenges along with submitter suggestions for challenges that should be included in the Authority's list are discussed below.

Uncertainty

- 36 Many submitters commented on the Authority's inclusion of 'uncertainty' as a key challenge facing the sector. Arc submitted that it considered that uncertainty was not a challenge in itself, but rather is a result of defined circumstances, for example, new technologies, increased retailer competition due to a flat demand curve, a change of government and asset sales.³⁸
- 37 Meridian had a similar view considering that uncertainty was an underlying characteristic of the sector and questioned whether it should be identified as a challenge in itself.³⁹ MRP similarly contended that uncertainty is a broad characteristic that applies universally to any outcome in the future.
- 38 Some submitters considered that regulatory uncertainty/risk, due to increasing likelihood of political intervention in the electricity market, should be included as a 'challenge facing the

³⁵ MEUG, p. 1

³⁶ MEUG, p. 3

³⁷ Arc, p. 3

³⁸ Arc, p. 2

³⁹ Meridian, p. 3

industry'.⁴⁰ MRP submitted that regulatory certainty was an area where the Authority has the most direct control.⁴¹

Rapid development of technology and changing consumer expectations

- 39 Genesis submitted that changes in technology and customer expectations are challenges best met by participants, not by regulatory intervention.⁴² Meridian agreed that 'rapid development of technology' and 'changing consumer expectations' are key challenges.
- 40 Meridian also considered that the Authority's analysis of technology development should be further developed.⁴³ Meridian submitted that a "*limited examination of this issue may unintentionally over-emphasise the importance of those technologies that are specifically discussed e.g. the artificial leaf or the electric vehicle*".⁴⁴

Other comments on challenges

- 41 A number of parties submitted that the Authority should expand on its list of three challenges facing the sector:
- (a) Contact submitted that the Authority should consider 'consumer behaviour', ie consumers' ability to pay for electricity will have an impact on the Authority's function of promoting CRE. Contact also submitted that "*politically driven structural change*" was a further challenge to the sector.⁴⁵
 - (b) MEUG advised that the challenges facing the industry were interdependent and that the list provided by the Authority was incomplete.⁴⁶ MEUG submitted that "*the announcements made by the Labour Party last week*" are a reminder of ongoing political uncertainties.⁴⁷ MEUG also identified the ongoing question of whether 29 distributors 'make sense' in New Zealand was an 'incremental uncertainty'.
 - (c) MRP submitted that that the Authority should consider 'transition towards privatisation' as this is likely to bring external scrutiny from the wider investor community.⁴⁸
- 42 Genesis submitted that the challenges were off-target and that the Authority should gain wider industry views on challenges facing the electricity sector through a workshop.⁴⁹

⁴⁰ Contact, Genesis, MEUG, TrustPower

⁴¹ MRP, p. 3

⁴² Genesis, p. 3

⁴³ Meridian, p. 3

⁴⁴ Meridian, p. 3

⁴⁵ Contact, p. 1

⁴⁶ MEUG, p. 2

⁴⁷ MEUG, p. 2

⁴⁸ MRP, p. 3

⁴⁹ Genesis, p. 2

More information is needed on how the strategic directions and regulatory strategy principles interact

- 43 The Authority has adopted the following regulatory strategy principles to guide its approach to regulation, through a combination of Code amendments and market facilitation measures:
- (a) as far as possible adopt regulatory arrangements that move the problem over time to a situation where the first-best solution can be adopted
 - (b) where possible, avoid 'one size fits all' approaches to regulation when regulating parties that may exit the regulated activity
 - (c) adopt regulatory approaches that over time reveal more about the true nature of the problem and the true constraints on regulatory intervention, so that more effective regulation can be designed as the regulatory problem and regulatory constraints are better understood over time. The aim is to address the cause not the symptom
 - (d) avoid as much as possible the slippery slope of ever more intrusive interventions arising from poorly designed regulatory interventions
 - (e) avoid regulatory interventions that are not likely to be credible when adverse events occur
 - (f) strive to achieve regulatory predictability because this is particularly important when regulating high capital investment industries such as electricity.
- 44 These regulatory strategy principles are designed to complement the Authority's overall approach to its role which places an emphasis on a coherent holistic market design, and competition and consumer choice to deliver efficient outcomes, supplemented by effective monitoring of market outcomes, and wide dissemination of information.
- 45 Meridian and TrustPower commented on role of the regulatory strategy principles. For example, Meridian questioned how the strategic principles and the regulatory strategy principles would interact.⁵⁰ Meridian also questioned how the regulatory strategy principles would be taken into account in establishing and prioritising the work programme.⁵¹
- 46 TrustPower considered that regulatory strategy principle (f) should be amended to read "*strive to achieve regulatory predictability and avoid shocks or surprise impacts on the parties being regulated*".⁵²
- 47 TrustPower also submitted that the Authority should add a further three regulatory strategy principles, as follows:
- (a) ensure the timescales applied to regulatory change are appropriate to the subject matter, recognising that, given the longevity and capital-intensive nature of investments in the electricity sector, a stable regime may be one that is material unchanged for a number of years
 - (b) work closely with industry participants to ensure any necessary regulatory changes are knowable, foreseeable and governable

⁵⁰ Meridian, p. 3

⁵¹ Meridian, p. 3

⁵² TrustPower, p. 3

- (c) be pro-active in sharing the reasons, assumptions, calculations and policies that underlie regulatory changes so stakeholders can better understand the context and can respond appropriately to proposed changes.⁵³

The graphical presentation of the relationships between projects was broadly useful

- 48 The consultation paper included a diagram showing ‘Relationships between projects on the 2012/13 work programme’ which illustrated the relationships between projects on the 2012/13 work programme and indicated which of the strategic direction(s) each project addressed.
- 49 MEUG, Meridian, and Transpower provided comments on the diagram.
- 50 While MEUG considered that the diagram was useful⁵⁴, Transpower submitted that it was ‘clumsy’ and should include a temporal dimension to illustrate dependencies, sequencing and indicative timeframes, perhaps treating the direction as work streams.⁵⁵
- 51 Meridian submitted that the retailer default project should also be linked with the ‘resilience’ strategic direction.⁵⁶
- 52 MEUG advised that ‘hedge market development’ appeared twice. MEUG also suggested that ‘stress test’ is missing but considered that this is appropriate because it adds no value and decreases efficiency of the market through compliance costs.⁵⁷

⁵³ TrustPower, p. 3

⁵⁴ MEUG, p. 6

⁵⁵ Transpower, p. 2

⁵⁶ Meridian, p. 4

⁵⁷ MEUG, p. 6