

350 Aotearoa Submission

MANDATORY NON-DISCRIMINATION OBLIGATIONS – MAY 2025

350 Aotearoa welcomes the Electricity Authority's proposal to introduce mandatory non-discrimination obligations for vertically integrated electricity companies (gentailers). We strongly support regulatory measures that level the playing field, improve competition, and remove systemic barriers to an affordable, decarbonised, and people-powered energy system.

This reform is long overdue. Independent retailers and generators have operated at a structural disadvantage for years, constrained by gentailers' dominance of flexible generation and ability to preference their own retail arms in hedge markets. The result: higher prices, suppressed renewable investment, and poor outcomes for communities across Aotearoa.

Our Position

We strongly support the introduction of mandatory non-discrimination obligations (Option 2) and urge the Authority to adopt a time-bound, progressive approach that escalates quickly to Steps 2 and 3 if any anti-competitive behaviour continues.

Rationale and Urgency

New Zealand households are facing a worsening energy crisis. Winter 2025 is shaping up to be one of the hardest yet, with energy hardship at record highs and power prices continuing to rise, while gentailers post record profits and pay out large dividends.

As documented in our [Generating Scarcity report series](#) (with FIRST Union and NZCTU), gentailers have:

- Withheld flexible generation to drive up spot prices
- Locked-out independent players from fair hedge access
- Undermined energy decarbonisation and affordability goals

The current system entrenches monopoly power and stifles innovation. This proposal is a necessary step to rebalance the electricity system in favour of people and the planet.

Why Swiftly Advancing to Steps 2 and 3 Matters

While principles-based obligations (Step 1) may set a foundation, they lack enforceability. The market has had ample opportunity to self-correct and hasn't.

- **Step 2** introduces clear rules and stronger protections
- **Step 3** creates a regulated hedge market, the gold standard for transparency and fairness

Together, they:

- Lower barriers for new and community-based entrants
- Create competitive tension in the hedge market
- Accelerate renewable energy development
- Deliver better outcomes for consumers

Our Position on the Level Playing Field Options

We support Option 2 (mandatory non-discrimination obligations) as the most timely and effective intervention available. It will:

- Improve hedge access for independent and community actors
- Reduce gentailers' unfair market advantages
- Increase transparency and market confidence

From a climate justice perspective, this reform can enable more equitable participation by iwi, hapū, communities, and local generators, all essential to a just and distributed energy transition.

It Must Not Stop Here

Non-discrimination obligations are a first step, not a final fix. If they fail to deliver meaningful change, the Authority must be ready to:

- Tighter obligations if discriminatory behaviour persists
- Consideration of structural separation if the hedge market remains opaque or exclusionary
- Clear compliance incentives and regular review of the impacts on equity and competition

We also recommend that the Authority apply equity-based impact assessments to its market design decisions, ensuring that Māori, community, and smaller actors are not only protected from

discrimination but proactively supported to thrive in a decarbonised energy system. Our documentary, [We can produce our own power](#) showed how powerful community-led initiatives are for an equitable energy transition.

Conclusion

We commend the Authority for this bold and necessary proposal. But the time for soft reforms has passed; we are in a climate and affordability crisis.

We urge the Authority to:

- Implement mandatory non-discrimination obligations without delay
- Move swiftly to Steps 2 and 3, with clear timelines
- Ensure robust enforcement and regular monitoring
- Centre energy equity, climate justice, and community ownership in future reforms

A fairer electricity system is not only possible, it's essential.

Thank you for the opportunity to contribute to this critical process.