

7 May 2025

Pulse supports Level Playing Field measures, but a wider suite of reforms is needed

Pulse Energy welcomes the opportunity to submit in response to the Electricity Authority's consultation on the Energy Competition Task Force (ECTF) Level Playing Field measures Options Paper. Responses to the consultation questions are provided in the Appendix to this submission (with some covered in more detail in the main body of the submission).

Pulse Energy is fully supportive of the ECTF joint-initiative

Pulse reiterates that we fully support the Electricity Authority and Commerce Commission working together as part of the ECTF, and the focus of the ECTF on "enabling new generators and independent retailers to enter and better compete in the market"¹ and "providing more options for consumers". Our view is that providing more choice for consumers is best achieved through increased and stronger competition.

Opening comments

Pulse welcomes the Authority's recognition retail competition has "stalled" and there are "Barriers to expansion by new entrants" that "merits investigation".

Recognition of the serious competition problems in the market is an important step in addressing long-standing and increasing problems that are undermining the electricity market.

We also welcome the Authority's acknowledgement of the importance of risk management/hedge products to help "ensure retailers and major industrial users against wholesale electricity price volatility" including the need for "super-peak hedge contracts which provide morning and evening price cover, when residential demand is highest and wholesale electricity prices can get very high."

¹ Including that existing independent generators and retailers can better compete in the market.

We agree the Authority cannot conclude the prices for super-peak hedge contracts are competitive and agree “The market for this type of hedge contract is neither deep nor liquid, with some gentailers not offering hedges when requested. While alternatives are emerging, that will take time. To support retail competition, we need to increase the liquidity of this type of contract and increase price transparency.”

Concept Consulting’s observation that the large incumbent generators “are primarily pivotal during morning and afternoon peaks”² reinforces the importance of provision of shaped hedge products to manage spot market price risk/to mitigate potential (mis)use of market power.

It is important to ensure the reforms address both the way that wholesale market power can manifest in downstream markets (such as through non-discrimination rules) but also that the reforms address and reduce the size of the market power/market concentration problem (such as through virtual disaggregation). The focus of the initial suite of reforms is principally on the former but won’t address the level of wholesale market power, or its impact on spot and forward contract price levels.

Pulse considers that the scale of the competition problems that have been identified, and the prolonged period of time they have developed over, means that a wider suite of reforms should be adopted in the near-term rather than adopting a ‘wait and see’ approach. Any further delays in the long-standing competition problems will come at the expense of the interests of consumers and energy affordability.

Regulation should be targeted at market failure only

Q2: Do you agree with our description of the competition concerns that can arise from the combination of Gentailer vertical integration and market power? Why/why not? ...

Q3. To what extent does vertical integration of smaller gentailers, such as Nova and Pulse, raise competition concerns? Should these smaller gentailers be subject to any proposed Level Playing Field measures?

It should be self-evident that vertical-integration isn’t a problem in-of-it-self. If a supplier doesn’t have market power, it cannot harm competition by being vertically-integrated.

In such circumstances, if vertical-integration provides a competitive advantage it will be purely because of legitimate efficiency benefits.

The Authority explains well that “vertical integration would generally not be expected to lead to competition concerns where it is not combined with market power” and “Vertical-integration is not an issue per se – it is a legitimate business approach, pursued in many sectors.”

These observations should not be contentious.

² https://comcom.govt.nz/data/assets/pdf_file/0028/362638/Appendix-2-Concept-Consulting-report-28-August-2024.pdf

The Authority's consultation unsurprisingly provides no basis on which to suggest there would be a market failure that would justify or be remedied by imposing non-discrimination rules on market participants like Pulse that do not have market power. All the Authority would be doing is creating an artificial disincentive for firms other than the existing large gentailers to vertically-integrate. This would harm and not promote competition.

Vertical-integration is only a problem when the supplier has market power or is dominant and can harm competition in downstream or related markets.

As the Authority explains "competition issues can arise where vertical integration is combined with market power. Competition can be harmed where a vertically integrated firm, with at least some degree of market power in one of the markets in which it operates, can leverage its position at one level of the supply chain to benefit its operators at another level of the supply chain."

The European Union has detailed that "Where [a supplier] has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the [supplier]".³

The Authority has been clear that New Zealand's electricity is "dominated by four vertically integrated generator-retailers" and there is "concern ... that large generator-retailers might be motivated to withhold supply (through either price or non-price barriers) to their competitors. This would be possible because the large generator-retailers control most generation capacity in New Zealand, and so were the largest group of natural sellers of hedge products to independent retailers." [emphasis added]⁴

The Authority made similar observations 4 years ago that "... integrated generator-retailers' controlling the bulk of electricity generation can raise competition concerns" and "Confidence in the industry, and the regulation of the industry by the Authority, may be undermined by dominant vertically integrated generator-retailers behaving strategically to increase the costs of rivals, thereby limiting competition and increasing their own profitability."⁵

The Authority has done a good job of detailing the risks to competition from the large, incumbent gentailers. This is similarly mirrored in the Commerce Commission's Statement of Issues in relation to Contact's proposed acquisition of Manawa. There is nothing in the Risk Management Review/ECTF work, or the issues that have been raised about competition problems in the market, to suggest suppliers that do not have market power are part of the problem or need to be regulated.

³ Article 14(3) of Directive 2002/21/EC: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32002L0021>

⁴ Electricity Authority, Consultation paper, Expiry of Urgent Code regarding market making under high stress conditions, 17 March 2025.

⁵ Electricity Authority, Internal transfer prices and segmented profitability reporting, Consultation paper, 8 April 2021.

Any regulatory interventions the Authority adopts to promote competition should be tightly linked to the underlying market failure and apply to suppliers with market power only.

There are substantial competition problems in the electricity market

Q5: Do you agree with our preliminary view that the evidence indicates there may be good reasons to introduce a proportionate Level Playing Field measure to address competition risks in relation to hedging/firming? Why/why not?

Pulse agrees with the Authority's concerns about competition in the electricity market, including liquidity and price risks, "the high level of concentration in the supply of hedging contracts", "thinning of competition in the supply of flexibility", "generators may have been exercising market power in the wholesale market", "Gentailer actions may be negatively impacting both wholesale and retail competition", "The limited growth of competing retailers and generators" and the competitive impact of small and independent retailers "appears to have stalled."

There are very clear signs problems in the wholesale market are adversely impacting downstream retail competition. This has become increasingly apparent since the Pohokura outage in 2018 with, by way of example, the fall-off in switching rates and growth of independent retailers; followed by flatlining or deteriorating retail competition metrics.

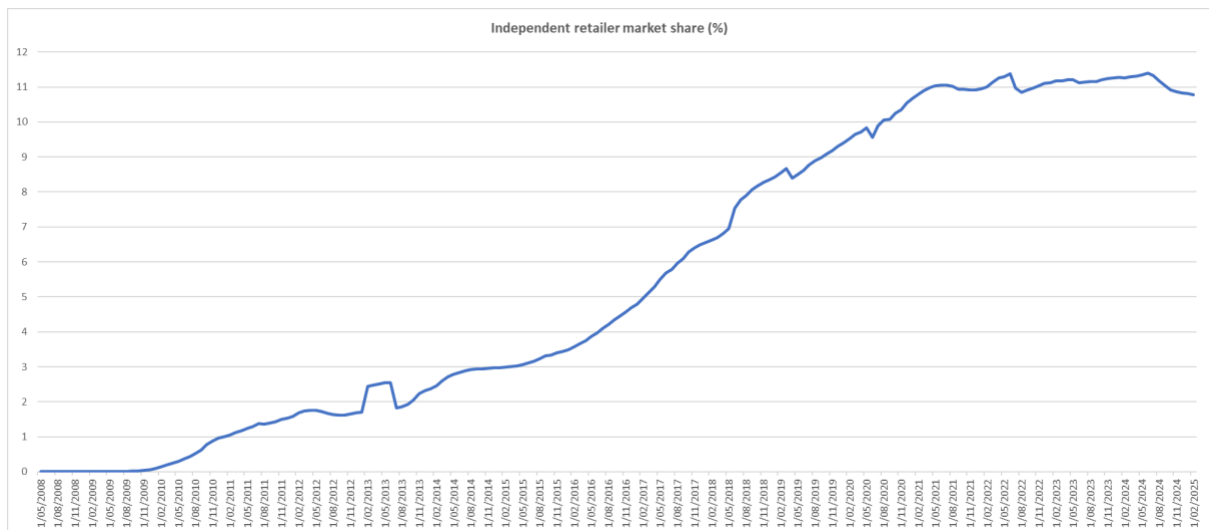
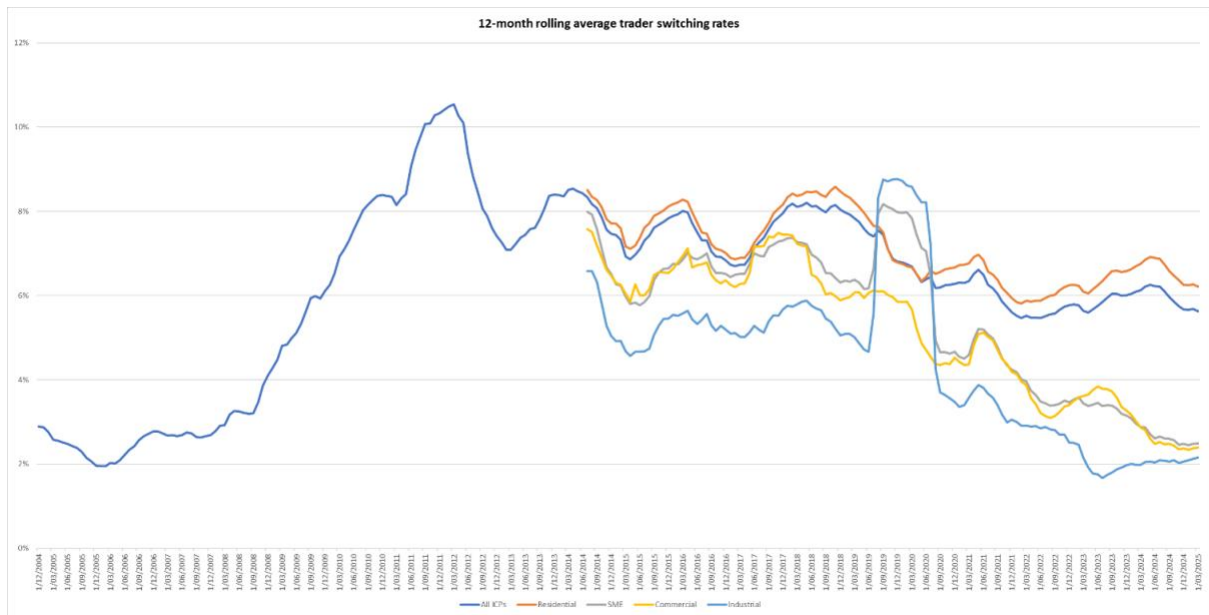
While the consultation relies on evidence from wholesale and retail market shares, which clearly shows there has been "limited growth of competing retailers and generators", there is a wide range of evidence and competition metrics that support the Authority's concerns. The joint independent retailer submission to the Authority on 2024/25 appropriations, for example, provides evidence competition has either stalled or gone backwards.⁶

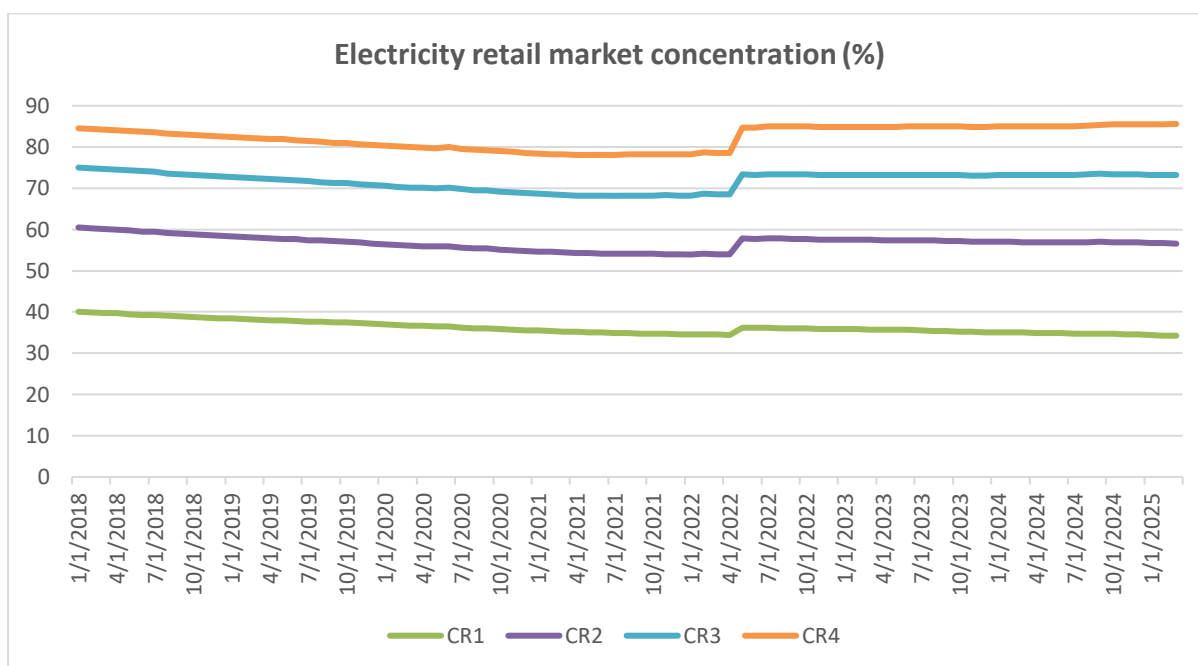
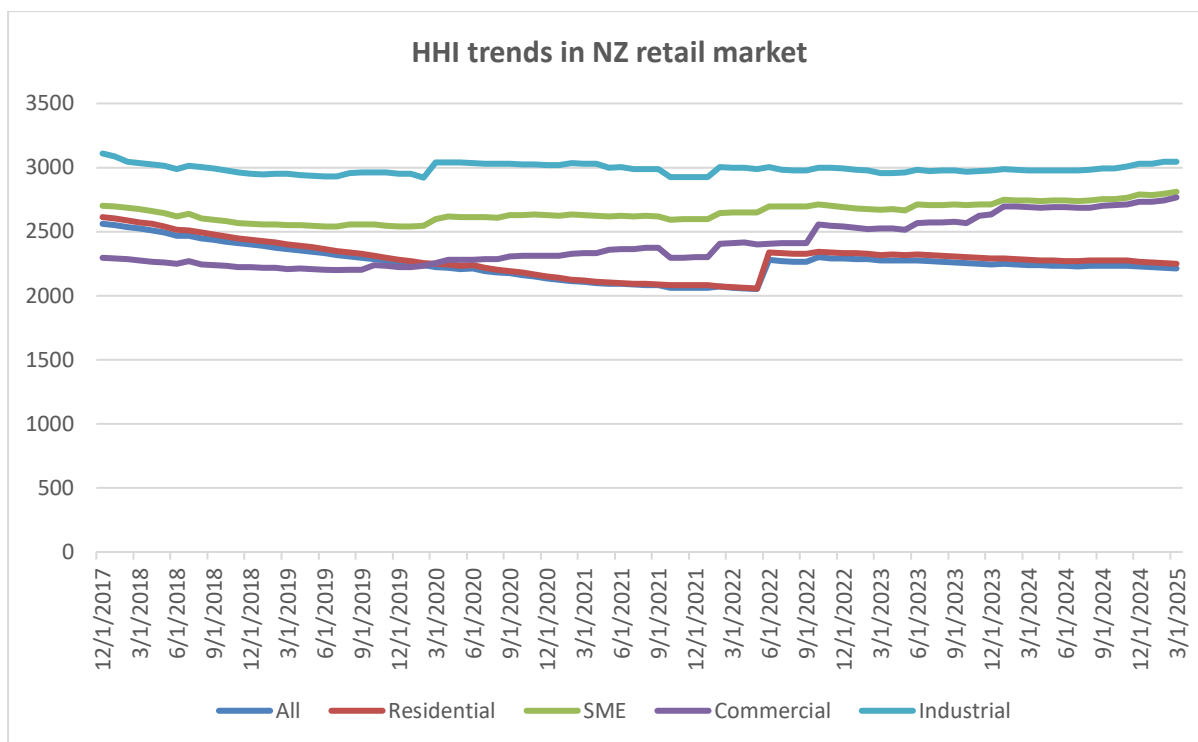
Our recent submission on the Authority's proposals to regulate retail tariff options similarly provided details of the decline in residential switching rates from a peak of 8.58% in 2018 (based on a 12-month rolling average) to around 6% since 2021.⁷

⁶ [Independent_Retailers_email.pdf](#)

See also, by way of example, [Haast Independent Retailers - WMR2 - 2022 12 14 - 1382982.pdf](#).

⁷ Pulse Energy, Competition should be the driver for innovation and choice, 26 March 2025, available at: https://www.ea.govt.nz/documents/6813/R_Pulse_Energy_2A2B2C_submission_2025.pdf.





Pulse supports reforms aimed at creating a more level playing field and increasing competition

Q6: Have we focused on the right Level Playing Field options? Are there other options we should add or remove to the list in paragraph 4.1?

Pulse supports the Authority's proposals including applying non-discrimination rules for access to large, incumbent gentailer hedge products, enhanced internal transfer payment

disclosure requirements,⁸ and increased monitoring of the conduct of the large, incumbent gentailers.

We support these changes being introduced as soon as practicable.

If the Authority adopts a staged approach to regulation, Pulse considers it sensible and prudent to develop the potential additional options, including more prescriptive non-discrimination rules, mandated super-hedge products and virtual disaggregation, now. This would provide greater regulatory certainty and enable the Authority to act relatively quickly if it becomes evident the previous interventions aren't working or aren't sufficient.

Q16. Do you agree that escalation options are needed if principles-based non-discrimination obligations are implemented initially? Why/why not?

While introduction of non-discrimination rules would be positive, there are grounds for caution about the extent to which they would eliminate undesirable discriminatory practices. Non-discrimination rules aren't a 'silver bullet' and are generally a component of broader regulated wholesale access regimes. They provide useful guidance, for example, on how mandated requirements to provide wholesale access services should be complied with.

Based on commentary from the Authority, including at the 26 March Auckland workshop, we worry the Authority has more confidence than warranted that harmful discriminatory practices would be able to be identified and eliminated.

Principles-based non-discrimination rules would inevitably be subject to considerable interpretation and dispute. We think it is likely there would be considerable information asymmetry problems and uncertainty and dispute about what is and is not justified conduct. It was evident from Mercury commentary at the workshop that there is uncertainty about what non-discrimination rules mean for how the gentailers should operate and what they should do differently going forward.

This would delay the prospect of stronger and more healthy competitive market.

Pulse considers that the level playing field reforms will need to go further than has been proposed for the Authority and the ECTF to be able to provide surety the reforms are "proportionate" and will resolve the competition problems in the electricity market.

The Authority and the ECTF should consider the harm caused to consumers from further prolonged competition problems and to the attractiveness of New Zealand as a place to

⁸ The issues that are raised in the Internal Transfer Price and Retail Gross Margin post implementation review (PIR) were not new or unexpected. The Authority raised the main issues/shortcomings at the time it was consulting on the implementation of the ITP and retail gross margin disclosure regime but choose not to address them.

The Independent Electricity Retailer submissions – independently and jointly – highlighted that these issues were simply a problem with the way the Authority had designed the disclosure requirements, e.g. allowing disclosure of accounting ITPs rather than ITPs used for actual retail pricing, and not fully implementing the Electricity Price Review recommendation for full financial separation of incumbent gentailer retail and wholesale businesses. Refer, for example, to: [Independent Retailers_email.pdf](#) and https://www.ea.govt.nz/documents/2593/Independent-retailers-submission-Internal-Transfer-Prices-and-segmented-profit_UdEkS62.pdf.

invest if competition and market problems are not seen to be dealt with decisively and promptly.

We have previously submitted a suite of options which should be considered, including different types of separation requirements (accounting, corporate and ownership separation) for the large, incumbent gentailers, price squeeze testing requirements, wholesale access rules that go beyond non-discrimination and include arms'-length rules and equivalence of inputs, and mandated hedge products including access to flexibility products, shaped products and longer-term products etc.⁹ With the exception of separation options, these options could be adopted relatively quickly.

We also note that the non-discrimination rules etc the Authority is proposing may help with access to hedge products needed to manage spot market volatility but won't do anything to address that prices may be set by the large, incumbent gentailers using market power.

The MDAG virtual disaggregation recommendation was intended to address market power and ensure competition in flexible supply. Pulse supports virtual disaggregation in the form that MDAG envisioned; specifically, the requirement that the large, incumbent gentailers are required to offer a portion of their flexible supply capacity by a defined process and on approved terms effectively creating one or more additional sources for the supply of longer duration flexibility products.

A stronger, 'get it right first time', approach to regulatory intervention may mean greater initial change but with the benefit of more rapidly resolving long-standing competition issues and providing greater regulatory certainty going forward. Leaving open the risk that problems may grow, and fester is not a successful formula for creating a regulatory environment that encourages the new entry and investment the electricity industry needs.

We agree with MDAG about the importance of “beefed up” hedging arrangements

The MDAG final report makes very clear one of the key pillars, which needs to be “beefed up”, for a well-functioning wholesale market is that “market participants need tools to efficiently manage their risks. These tools can be physical options (e.g. an ability to increase supply or reduce demand) or financial arrangements where parties contract with others who can manage the underlying risk at a lower cost.”¹⁰

MDAG was very clear the issue of access to flexibility products, including shape and cap products, “could tear at the fabric of the broader market” and “undermine competition in the retail and new investment market”.

We agree with MDAG that: “The importance of flexibility contracts to the electricity system is expected to increase even further in future as the proportion of supply from intermittent sources rises. Indeed, we think flexibility contracts will become the market’s ‘secret sauce’ – enabling a range of wholesale market processes to function effectively” and “... the contract

⁹ 2degrees, Electric Kiwi, Flick Electric, Octopus Energy and Pulse Energy's joint submission “Level playing field measures critical for promotion of effective competition”, 5 November 2024.

¹⁰ MDAG, Price discovery in a renewables-based electricity system FINAL RECOMMENDATIONS PAPER, 11 December 2023.

market must be strengthened so it can do more of the heavy lifting in future. In particular, the market for ‘flexibility contracts’ needs to develop significantly.”

Pulse does not have confidence the voluntary, limited shaped hedge product that was introduced earlier this year will be sufficient – even if combined with non-discrimination rules – to meet the expectations of MDAG or to address the level playing field concerns in the market.

Protecting the market does not mean protecting vested interests

Pulse welcomes the Authority CEO’s recent commentary that the Authority “will not be deterred or distracted by the efforts of vested interests hoping to preserve the status quo.”¹¹

The ECTF initiative should be about protecting the integrity of the electricity market.

Meridian couldn’t put it better that “Preserving what is good about the market system we have today while aligning behaviours and encouraging market outcomes towards what is achievable should be the goal for regulatory efforts”.¹² Likewise, Mercury has previously been clear it is undesirable for a generator to be able to “exploit” market power “to charge whatever it likes either in the wholesale or hedge markets as a means to artificially boost returns across their portfolio or for an individual station”.¹³

It is important not to confuse the protection of the market with protection of the large, incumbent gentailers’ own commercial interests.

It is the continued (and/or increasing) exercise of market power that undermines confidence in the market. If there is a lack of confidence or loss of confidence it can undermine investment, particularly from potential new entrants, and result in further consolidation and protection of incumbency advantages.

The ECTF and Risk Management Review is a significant step forward in recognising the problems of significant or substantial market power. Acknowledgement of a problem is the first, important, step in resolving the problem and protecting the market.

Concluding remarks

The Authority needs to be seen to act without fear or favour in addressing market and regulatory problems to build “trust and confidence”.

Confidence and trust in the electricity market from non-incumbents and large consumers is low.

In May 2024, the OECD stated concerns relating to competition in our electricity markets.

¹¹ [Sarah Gillies: Consumer interests front and centre of sector transformation | Electricity Authority](#)

¹² Meridian, MDAG engagement, The future of the NZ power system with 100% renewables, 23 August 2021.

¹³ Mercury, UTS on 26 March 2011 - Cross submission in response to Submissions made 13 May 2011, 19 May 2011.

It isn't just independent retailers that have substantial concerns about the state of competition in the electricity market.

The electricity market is highly concentrated.

The four incumbent gentailers have significant and/or substantial market power. Meridian is now gross pivotal all the time.

This market power is likely to increase, particularly for holders of hydro storage capacity, as the electricity sector becomes more reliant on renewable electricity.

The market power in the wholesale market has resulted in elevated prices (and incumbent gentailer profits) for an extended period of time, most notably since the Pohokura outage in 2018. The incumbent gentailers have disclosed record profit after record profit off the back of their respective wholesale businesses and are using this to fund (cross-subsidise) losses in their retail businesses.

The price of base-load hedge products that are available mirror the elevated prices in the spot market. As Meridian has explained "When high [spot] prices result from market power, hedge prices will also reflect market power – the same rents are extracted, but in a different way."¹⁴

While the plight of individual retailers isn't something that the Authority should be concerned about per se, the fact that our collective market share has gone back to the level it was in 2017 is illustrative of the problems in the electricity market.

The problems new entrant and independent retailers face are symptomatic of markets where access to an essential input is provided by a supplier that has market dominance (e.g. a natural monopoly) or significant/substantial market power and also competes in downstream/closely related markets.

The interventions the Authority is proposing are orthodox and conservative.

The proposed reforms are welcome and needed to unlock the benefits of competition but Pulse is of the view that they will need to go further – including prescriptive non-discrimination rules/arms-length relationship rules, mandatory market-making for a range of shaped hedge products and virtual disaggregation – in order to provide reasonable surety the problems in the electricity market will be resolved.

Yours sincerely,

Sharnie Warren
Chief Executive

¹⁴ Meridian, Draft Decision regarding alleged UTS on 26 March 2011 - Cross Submission, 19 May 2011.

Appendix: Responses to Electricity Authority questions

Q2. Do you agree with our description of the competition concerns that can arise from the combination of Gentailer vertical integration and market power? Why/why not? Do you have any evidence to better specify and quantify the competition risks of vertical integration?

See main body of the submission.

Pulse agrees with the description of the competition concerns outlined in the consultation paper.

We note that independent generators, independent retailers and non-incumbent integrated generator-retailers like Pulse/Pioneer are buyers of firm supply and reliant on access to risk management/hedge products supplied by the incumbent gentailers.

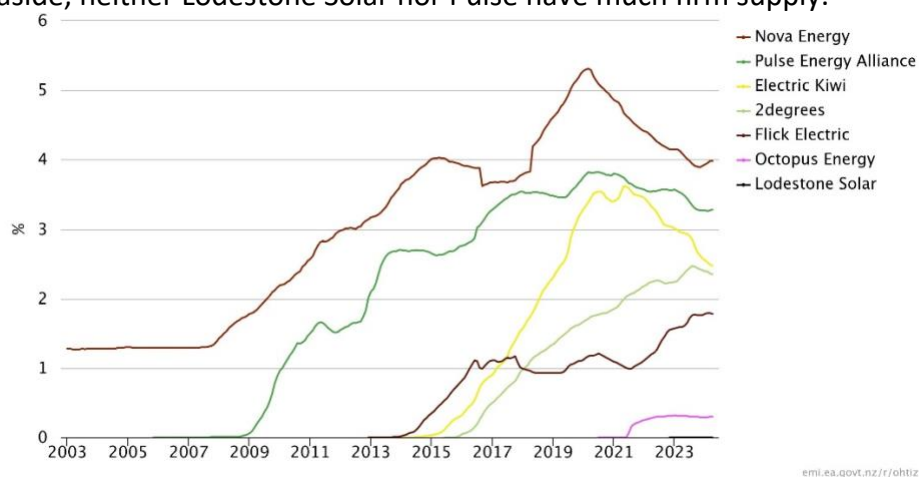
It is also important to recognise the market power problems will still be an issue even if non-discrimination rules are successful at addressing issues with the incumbent gentailers favouring their own retail businesses to the detriment of retail competition. Market power will continue to manifest in the form of elevated/inefficiently high spot and forward contract prices.

Q3. To what extent does vertical integration of smaller gentailers, such as Nova and Pulse, raise competition concerns? Should these smaller gentailers be subject to any proposed Level Playing Field measures?

See main body of the submission.

It should be self-evident that vertical-integration isn't a problem in-of-it-self. If a supplier doesn't have market power, it cannot harm competition by being vertically-integrated and should not be regulated.

We also note that: (i) the retail market share of both Nova and Pulse have declined from early 2021 (around the same time as other independent electricity retailers); and (ii) Nova aside, neither Lodestone Solar nor Pulse have much firm supply.



Imposing the non-discrimination rules on Lodestone and Pulse would not result in any additional firm supply to the market.

The benefit of vertical-integration of a small gentailer is much smaller compared to the big 4 as they have no market power to exercise. If the Level Playing Field measures are imposed on smaller gentailers, it may result in them choosing to quit one side of the market or splitting up as the cost of additional obligations/compliance risks may outweighs the benefits of being a small gentailer without much market power. This would result in less competition against the big 4 gentailers as there would be a reduced number of businesses competing on the same vertically-integrated business model.

Q4. Are there other specific areas (other than access to hedges) where Gentailer market power and vertical integration are causing competition concerns?

The proposed new non-discrimination rule would NOT necessarily prevent the incumbent gentailers giving preferential treatment to their retail arms.

The incumbent gentailers would only be prevented from giving preferential treatment in relation to hedge products.

This is a substantive carve out.

Non-discrimination rules typically preclude access providers from treating themselves or one or more access seekers more favourably or less favourably than another access seeker.

There are any number ways in which an incumbent gentailer may favour its own retail business.

Access to hedge products should be considered an example only of the issues with incumbent gentailer market power and vertical-integration.

The proposals don't include rules limiting the sharing of information between the wholesale and retail businesses. It might not be a breach of the non-discrimination rules for the internal retail business to have access to or be involved in wholesale business decisions which could impact the value of hedge products, including negotiations for long-term contracts with customers like Tiwai Smelter.

We also note concerns have been raised concerns about internal transfer payments (used for pricing purposes) and incumbent gentailers' using monopoly rents from their wholesale businesses to cross-subsidise their retail activities. Both can result in price-squeezes and undermine competition.

Q5. Do you agree with our preliminary view that the evidence indicates there may be good reasons to introduce a proportionate Level Playing Field measure to address the competition risks in relation to hedging/firming? Why/why not?

See main body of the submission.

Pulse supports introduction of “proportionate” Level Playing Field measures.

We expect that there will be disagreement between the incumbent gentailers and other market participants about what “proportionate” means.

From Pulse’s perspective, the reforms need to be proportionate to the scale of the problems in the electricity market and sufficient to provide surety they will address the problems. The Authority proposals are relatively incremental and conservative so there is substantial likelihood or risk that they won’t be sufficient to fully address the problems and additional reform will be necessary.

Our expectation is that the big gentailers will execute strategies to limit the effectiveness of the non-discrimination measures. The result could be delay in addressing the market failures and unnecessarily prolonged harm to consumers

Q6. Have we focused on the right Level Playing Field options? Are there other options that we should add or remove to the list in paragraph 4.1?

See main body of the submission.

Refer also to 2degrees, Electric Kiwi, Flick Electric, Octopus Energy and Pulse Energy’s joint submission “Level playing field measures critical for promotion of effective competition”, 5 November 2024.

This submission outlined a suite of options independent retailers have advocated including different types of separation requirements (accounting, corporate and ownership separation) for the large, incumbent gentailers, price squeezing testing requirements, wholesale access rules that go beyond non-discrimination and include arms’-length rules and equivalence of inputs, and mandated hedge products including access to flexibility products, shaped products and longer-term products etc.

Q9. Have we identified the right criteria for assessing Level Playing Field options (Figure 6)? Is there anything we should add or remove?

When considering whether regulatory intervention and reforms are to the long-term benefit of consumers, the Authority should consider: (i) how certain the expected benefits are e.g. what is the likelihood that the option(s) would be effective at addressing the underlying market failure; (ii) the risk of unintended consequences, including from policy inertia and the risk of not intervening (sufficiently) where the intervention would have been to the long-term benefit of consumers; (iii) whether the regulatory intervention is proportionate to the problems they are intended to address; and (iv) the extent to which the regulatory intervention is targeted at the underlying problem and not just the symptoms.¹⁵

¹⁵ 2degrees, Electric Kiwi, Flick Electric and Pulse Energy, There is substantial opportunity for the Electricity Authority to improve its consultation and feedback processes, 21 March 2023.

Q14. Which products should any non-discrimination obligations apply to? Should all hedge contracts be captured, or should the rules be focused on super-peak hedges only? Are there are other interactions between Gentailers and their competitors which would benefit from non-discrimination rules?

See response to Q4. The non-discrimination rules should apply to all incumbent gentailer hedge products and retail activity.

Q16. Do you agree that escalation options are needed if principles-based non-discrimination obligations are implemented initially? Why/why not?

See main body of the submission.

While introduction of non-discrimination rules will be positive, there are grounds for caution about the extent to which they will eliminate undesirable discriminatory practices. Non-discrimination rules aren't a 'silver bullet' and are generally a component of broader regulated wholesale access regimes. They provide useful guidance, for example, on how mandated requirements to provide wholesale access services should be complied with.

Pulse considers that the level playing field reforms will need to go further than is being proposed for the Authority and the ECTF to be able to provide surety the reforms are "proportionate" and will resolve the competition problems in the electricity market.

We support a stronger, 'get it right first time', approach to regulatory intervention but absent that we would support the Authority/ECTF developing escalation options that can be adopted if or when it is established that the principles-based non-discrimination obligations are not having the impact that was hoped for. Development of escalation options with clear markers for intervention may also help strengthen the 'threat of regulation' and moderate gentailer conduct.

Q17. Are prescribed non-discrimination requirements and mandatory trading of Gentailer hedges via a common platform suitable escalations given the liquidity, competitive pricing and even-handedness outcomes we are seeking? Why/why not? What alternatives would you suggest (if any)?

See response to Question 16. Pulse would support adopting of mandatory trading of gentailer hedges via a common platform as an initial reform option in preference to leaving it as an escalation option. We consider that mandatory trading via a common platform is a good and balanced solution. It gives maximum transparency and even-handed access to all parties. It will eliminate the economic costs of gentailer under-pricing internal needs and over-pricing external needs.

Q18. What costs and benefits are likely to be involved in setting more prescriptive regulatory accounting rules which detail how ITPs should be calculated? What would be appropriate triggers for introducing more prescriptive requirements for ITPs?

We believe the cost of setting more prescriptive regulatory accounting rules for ITPs calculations is relatively low if it's designed to rely mainly on externally verifiable inputs. We consider the triggers for introducing more prescriptive requirements for ITPs would be like cases that ITPs between gentailers are materially different, ITPs is materially different from forward market prices and retail arm/generation arm of the gentailers being materially over-hedged or under-hedged.

Q19. Do you have any views on how the non-discrimination requirements should best be implemented to ensure that Gentailers are no longer able to allocate uncontracted hedge volumes to their own retail function in preference to third parties? What are the key issues and trade-offs?

Full trade disclosure on price, structure, contract terms and timing for internal trades would help provide transparency for the market to monitor whether or not gentailers are allocating uncontracted hedges fairly. Another area to look at is probably the hedge percentage of the generation arm and retail arm to detect whether gentailers are under selling volume available to them.

Q20. Do you have any views on the triggers or implementing the stronger regulation proposed in our roadmap?

We consider the triggers can be the following:

- When ITPs is materially lower or higher than contracts sold to external parties.
- When volume weighted TP shape factor is materially different between contracts sold to external parties and internal retailer arm.
- When generation arm or retailer arm of Gentailers are materially under-hedged or over-hedged.
- Percentage of generation volume is sold to internal or related parties.

In theory, if even-handedness is delivered, any of the gentailers should have over 70% of generation output volume sold to external parties as they can be transacting with each other. Anytime when a gentailer is trying to sell generation output, the chance that its own retail arm is putting up the best bid should be lower than 25% as there are at least 3 more other buyers in the market including the retail arms of other gentailers.

Q21. Does our proposed approach to implementing non-discrimination obligations (as set out in the roadmap in Figure 7) sufficiently address the underlying issue that originally led to MDAG recommending virtual disaggregation?

No.

The non-discrimination rules may help with access to hedge products needed to manage spot market volatility but won't do anything to address that prices may be set by the large, incumbent gentailers using market power.

The MDAG virtual disaggregation recommendation was intended to address market power and ensure competition in flexible supply.

Q22. Do you have any views on whether virtual disaggregation provides a useful response to the competition risks we have identified (relative to the proposed roadmap) and, if it does, how it should be best applied?

Pulse supports virtual disaggregation in the form that MDAG envisioned; specifically, the requirement that the large, incumbent gentailers are required to offer a portion of their flexible supply capacity by a defined process and on approved terms effectively creating one or more additional sources for the supply of longer duration flexibility products.