

# Existing notional embedding contracts under the new TPM

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Decision

19 July 2022



## Executive summary

The new transmission pricing methodology (TPM) commences on 1 April 2023. The Electricity Authority (Authority) has decided to make an amendment to the Electricity Industry Participation Code 2010 (Code) to support effective implementation of the new TPM.<sup>1</sup>

### Existing prudent discount agreements and notional embedding contract

Transpower is party to two existing prudent discount agreements (PDAs) and a notional embedding contract (NEC) which provide various parties with discounts on their transmission charges. The existing PDAs (Waipori and Aniwhenua/Matahina) and NEC (BlackPoint) were agreed under transmission pricing arrangements that are or will soon be obsolete – as the new transmission pricing methodology (TPM) is due to commence in April 2023.

The Code provides as a general rule that Transpower must charge for transmission services in accordance with the TPM. However, the existing Code also provides that NECs are an exception to this general rule.<sup>2</sup> (PDAs are not an exception to the rule.)

The Authority has decided to amend the Code so NECs are no longer an exception to the rule. The Authority considers that this Code amendment:

- reduces the likelihood of an outcome inconsistent with the intent behind the new TPM, acknowledging that a materially different pricing structure will be in place from 1 April 2023
- treats the existing PDAs and the NEC even-handedly
- recognises the pre-existing contractual (regulatory change) mechanisms in the PDAs and NEC, leaving it to the parties to those contracts to consider what, if any, further discussions they should have.

### The Code amendment promotes the Authority's statutory objective

The Code amendment set out this in decision paper promotes the Authority's statutory objective by enhancing the efficient operation of the electricity industry, including by promoting the durability of transmission pricing arrangements. It does so by reducing the risk that unjustified prudent discounts might continue under the NEC. The Code amendment makes it more likely that parties will pay charges for benefit-based investments that reflect the benefits they receive from the transmission grid.

The Authority expects the Code amendment to result in a transmission pricing regime where prudent discounts are consistent with the purpose of the prudent discount policy under the new TPM, which is likely to be more efficient and more durable. This outcome is consistent with the intent of the new TPM and will contribute to achieving the efficiencies and the long-term benefits to consumers that the TPM as a whole is designed to achieve.

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<sup>1</sup> The Code amendment is published on the Authority's website: [\[Development — Electricity Authority \(ea.govt.nz\)\]](#). This latest amendment follows an earlier decision of the Authority (on 21 June 2022) to make amendments to the Code to support effective implementation of the new TPM. Information on these earlier amendments can be found on the Authority's website: [Decision on TPM-related Code amendments — Electricity Authority](#).

<sup>2</sup> Clause 12.95 of the Code.

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# 1 The Authority has decided to amend the Code

- 1.1 Following consultation with interested parties,<sup>3</sup> the Authority has decided to amend clause 12.95 of the Code so that the NEC is no longer an exception to the general rule that Transpower must charge for transmission services only in accordance with the TPM. As part of this amendment the Authority has also removed redundant references to “input connection contracts” and “new investment agreement contracts” from that clause.<sup>4</sup>
- 1.2 This Code amendment addresses the following issues and potential issues that have been identified during the TPM reform process:
  - (a) Removes the (unjustified) different treatment of the PDAs and NEC under the Code.
  - (b) Aligns pricing outcomes under the PDAs and NEC with the intent of the new TPM (to promote more efficient grid use and investments, for the long-term benefit of consumers). It ensures that unjustified economic costs are not imposed on other consumers by providing discounts that are inconsistent with the prudent discount policy in the new TPM. This promotes the durability of the new TPM.<sup>5</sup>
  - (c) Supports prudent discounts being allowed where necessary to avert inefficient bypass under the new TPM.
- 1.3 The Authority considers that the Code amendment strikes the right balance, appropriately respecting pre-existing contractual bargains and risk allocations, while ensuring that the ongoing justification for the existing PDAs and NEC is re-tested (either under their respective contractual regulatory change provisions, or through an application for a new prudent discount).
- 1.4 The Authority continues to support prudent discounts being allowed where that would be consistent with the purpose of the prudent discount policy under the new TPM.

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<sup>3</sup> See the Authority’s consultation paper titled *Status of existing prudent discount agreements and notional embedding contract under new TPM*, published on 26 May 2022 and available at: <https://www.ea.govt.nz/development/work-programme/pricing-cost-allocation/transmission-pricing-review/consultations/#c19183>

<sup>4</sup> Transpower supported the removal of these references – see paragraphs 3.2 and 3.3 of its submission.

<sup>5</sup> As PowerNet notes at 2.6 of their submission, “allowing unjustified prudent discounts to continue under the new TPM risks undermining the durability of the new TPM”.

## 2 The existing PDAs and NEC

### **Our decision**

- 2.1 The Authority has adopted the proposed Code amendment set out as option 2 in its May 2022 consultation paper.

### **What we proposed**

- 2.2 The consultation paper proposed an amendment to clause 12.95 of the Code that would remove the NEC as an exception to the general rule that Transpower must charge for transmission services only in accordance with the TPM. It also proposed to remove two further (redundant) exceptions set out in that clause.

- 2.3 The Authority also consulted on two alternatives:

- (a) Making no change to the Code
- (b) A more prescriptive amendment to the Code providing that the existing PDAs and NEC end at the commencement of the new TPM.

### **Submitters' views and our assessment**

- 2.4 We received seven submissions in response to our consultation. Of those:

- (a) Three supported the Authority's preferred option 2: Transpower; Meridian Energy; Manawa Energy
- (b) One agreed with the Authority's preferred option 2 and also argued that the onus should be on Transpower to identify whether current contracts are no longer appropriate: PowerNet
- (c) One supported the Code explicitly prescribing that the existing PDAs and NEC end at the commencement of the new TPM: Horizon Energy
- (d) Two supported no change being made to the Code or proposed alternative amendments (which to some extent preserved the NEC): Southern Generation Limited Partnership (SGLP) and Network Waitaki.

- 2.5 In the remainder of this section we address concerns with or comments on specific aspects of our proposal raised by submitters, on the following topics:

- (a) Should the existing PDAs and NEC be treated the same under the new TPM?
- (b) Should the Code provide for the PDAs and NEC to end or should the existing terms regarding regulatory change be allowed to apply?
- (c) Will the proposed Code amendment promote regulatory certainty?
- (d) Is the proposed Code amendment consistent with other Authority decisions or guidance?
- (e) Other points made in submissions that are outside of the scope of the proposed Code amendment.

### **The PDAs and NEC should be treated the same**

2.6 There were mixed views from submitters on whether or not the existing PDAs and NEC should be treated the same under the new TPM. Transpower, Manawa Energy and PowerNet all agreed with the Authority's view that these agreements are essentially the same in nature and effect. For example:

“We agree with the Authority that ... existing NEC and PDAs should be treated similarly given they both seek to achieve the same general outcome, i.e. provide prudent discounts on transmission charges”<sup>6</sup>

2.7 By contrast, Network Waitaki submits that the NEC is different due to the fact that it is preserved in clause 12.95 of the existing Code. Network Waitaki's view is that this Code provision reflects an earlier intention that the NEC be treated differently, consistent with its arguments that the NEC parties trusted that the contract would be honoured for its duration.<sup>7</sup>

2.8 As set out in the Authority's consultation paper, the Authority is conscious of the importance of respecting contractual bargains and risk allocations entered into by sector participants. But this also needs to be balanced against the benefits expected from the effective implementation of the TPM that will come into force on 1 April 2023. In our view, the fact that the existing Code preserves the NEC is not by itself enough to justify clause 12.95 remaining unamended; rather, our view is that clause needs to be reconsidered in the context of the overall logic and incentives in the new TPM, and particularly the prudent discount regime. Option 2, as consulted on, best meets this balance by not explicitly overriding the terms of the NEC, but requiring that the circumstances which led to the NEC, in order to allow a TPM-related discount, be tested against the new TPM.

### **Regulatory change provisions**

2.9 Again, there were mixed views from submitters as to whether the Code should provide for the PDAs and NEC to end or whether the existing terms regarding regulatory change should be allowed to apply.

2.10 Manawa Energy considered that the contracts should be allowed to apply on their terms: “The original bargain and risk allocations within the contracts for a prudent discount need to be honoured and the regulatory change provisions within the contracts should be enabled to take effect, if required.”<sup>8</sup> Meridian Energy appears to have a similar view.<sup>9</sup>

2.11 Horizon Energy on the other hand doubted whether the regulatory change provisions were designed for this type of change: “The new TPM repeals the RCPD-based interconnection pricing which underpinned the PDA. Horizon does not consider that such a fundamental change was contemplated by the parties in agreeing with the regulatory change provisions.”<sup>10</sup>

2.12 It is not for the Authority to retrospectively comment on what the parties to the existing PDAs and NEC intended at the time those agreements were entered into. Noting the

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<sup>6</sup> Manawa Energy submission, para 4. See also Transpower submission, para 3.1, and PowerNet submission, para 2.8.

<sup>7</sup> Network Waitaki submission, section 3.

<sup>8</sup> Manawa Energy submission, paragraph 5.

<sup>9</sup> Meridian Energy submission, para 5 and response to question 2.

<sup>10</sup> Horizon Energy submission, response to question 2.

Authority's preference to respect contractual bargains and risk allocations where possible, we consider the regulatory change provisions in each agreement should be left to operate.

- 2.13 While we appreciate Horizon Energy's concern that renegotiation of these agreements may lead to "unnecessary costs to consumers",<sup>11</sup> that presupposes the outcome of any renegotiation, which the Authority will not do.

### **Regulatory certainty**

- 2.14 Network Waitaki submits that amending clause 12.95 of the Code as proposed under the Authority's option 2 would undermine regulatory certainty. Network Waitaki states that:
- (a) The Authority is effectively terminating a valid, negotiated contract (the NEC), that the Code explicitly preserves
  - (b) Doing so would lead to regulatory uncertainty for contracting parties, which in turn undermines investor confidence during New Zealand's transition to a low-emissions economy: "In a time when there is considerable investment to be made in electricity infrastructure, investors need to have regulatory stability and certainty to ensure they can choose appropriate long-term investments, commercial contracts are safe from regulatory interference, and risk can be adequately predicted and managed. Without this, the appetite for investment for the long term could be severely undermined".<sup>12</sup>
- 2.15 Network Waitaki goes on to state that the Authority runs a significant reputational risk if it makes the proposed Code amendment.
- 2.16 By contrast, Horizon Energy submits that the Authority would be promoting regulatory certainty if it went further, and explicitly ended the PDAs and NEC, as this would clarify the status of the PDA and NEC payments without further effort and cost to the contracting parties (and ultimately consumers).<sup>13</sup>
- 2.17 The Authority has carefully considered the balance between fully implementing the new TPM logic as soon as possible, and preserving contractual bargains, hence preferring option 2 to option 3 in its consultation paper. We continue to be of the view that regulatory certainty is best served by the Authority consistently and predictably pursuing policies that promote its statutory objective. We consider that the TPM, consistently implemented, adds to regulatory certainty in the sector by settling a long-running regulatory debate, which in turn provides greater assurance and certainty to investors. We stand by the reasoning in our April 2022 TPM decision paper that the TPM as designed will create better use and investment incentives and will therefore facilitate a lower-cost transition to a low-emissions economy. Furthermore, investors can in future anticipate that the Authority will continue to pursue Code changes that promote its statutory objective.
- 2.18 Regarding the NEC specifically, the Authority does not accept that the balance it has struck with this approach, essentially removing special treatment for one particular form of contract (of which only one remains in place in any event), will in any material way impact on the investment environment in the sector, and notes that:

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<sup>11</sup> Horizon Energy submission, response to question 2

<sup>12</sup> Network Waitaki submission, section 3 and response to question 5

<sup>13</sup> Horizon Energy submission, responses to questions 3 and 5

- (a) Network Waitaki has not produced substantial evidence to support this assertion
- (b) no other submissions make this point.

2.19 We acknowledge that the financial impact on New Zealand consumers of socialising the cost of the NEC for its remaining years is modest. However, we consider that here as elsewhere, regulatory certainty is best served by the Authority consistently pursuing policies that promote its statutory objective. In this case the Authority has decided to implement a new TPM and has put specific transitional arrangements in place. Outside of those arrangements transmission customers (and their customers) will be faced with new TPM charges on 1 April 2023, including in some cases an increase in charges. As set out in the consultation paper, we consider that it is important for the durability of the new TPM that the Authority is even-handed, and does not now allow the Code to effectively single out a specific customer for more favourable treatment.

### **Consistency with other Authority decisions**

2.20 Network Waitaki submitted that the proposed Code amendment is not consistent with:

- (a) the transitional price cap in the new TPM: Network Waitaki argues that the Authority is willing to socialise costs to avoid significant customer impacts in one context, but not in the other<sup>14</sup>
- (b) the Authority's approach to distribution pricing reform, which specifically includes consideration of customer impact within its pricing principles and contemplates distribution pricing evolving over time.<sup>15</sup>

2.21 The Authority acknowledges the value of consistent decision making, including in creating a more predictable environment for stakeholders and investors. However, we do not agree that in either case Network Waitaki has demonstrated an inconsistency.

2.22 The transitional price cap was the regulatory approach the Authority decided on to deal with potential price shocks due to the new TPM. In considering the TPM transitional price cap as part of the TPM Guidelines process, the Authority had to balance the trade-off between a quicker transition to the new TPM and the impact of price increases on customers. Amongst other things, the Authority did consider at the time whether to extend the price cap to large embedded customers (such as the North Otago Irrigation Company).<sup>16</sup> Ultimately it decided not to do so. By removing the protection in the Code for the NEC, the Authority is therefore not acting inconsistently with that Guidelines decision. For the same reason, we do not agree that Network Waitaki's proposed transitional arrangement for phasing out the NEC over the remainder of its term is useful. The Authority considers that no such arrangement is required, as the transitional price

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<sup>14</sup> Network Waitaki submission, section 3. Network Waitaki has expressed concern about the impact of the Code amendment on a large embedded customer that benefits from the existing NEC (the North Otago Irrigation Company).

<sup>15</sup> Network Waitaki submission, section 5. The Authority's approach to distribution pricing reform, including its Distribution Pricing Principles, is set out in its Distribution Pricing: Practice Note, version 2.1, published in May 2022. In relation to customer impact that includes:

"... the Authority is cognisant of the need for prices to evolve on a journey towards efficient outcomes, rather than rush to an endpoint. We will have some patience with price reform once it is clearly underway, to allow customers to adjust, technology to assist, and distributors and retailers to manage good customer engagement and to learn and evolve towards what is best for their networks and customers. The Authority expects to see steady progress to smooth customer bill changes over progressive years to move closer to an acceptable level of cost-reflectivity"

<sup>16</sup> Refer para 13.17, 2020 TPM Guidelines decision paper



cap already decided is the best approach to managing transmission charge increases due to the new TPM. In the context of considering the transitional price cap in making its 2020 decision on the TPM Guidelines, the Authority considered a gradual transition or phase-in period, but decided against it.

- 2.23 Nor do we consider that Network Waitaki’s comparison between this proposed Code amendment and the distribution pricing reform process is helpful. The decision on the status of the PDAs and NEC is part of a well-signalled regulatory decision process relating to the TPM where there has been over a decade of formal and informal debate.<sup>17</sup> As noted above, the Authority has consulted on and then decided on transitional arrangements for the TPM.
- 2.24 By contrast, distribution pricing is at a different point in its reform process, and subject to lesser regulatory controls. The Authority’s Distribution Pricing: Practice Note is written in the context of guiding and motivating self-initiated pricing change by distributors, and acknowledging the choices they are faced with.

### **Other points**

#### ***No substantial change in network or connection arrangements, or prudent discount test***

- 2.25 SGLP submitted there is no reason why the existing PDAs and NEC should end, given that:
- (a) there has been no change to the location and connection of generation, distribution or transmission assets that influence whether a prudent discount is appropriate
  - (b) the prudent discount provisions under the current and new TPMs are substantially the same.
- 2.26 SGLP then asked the question, implicitly referencing clause 130 of the new TPM, “Has the cost of the transmission grid at the relevant point/s of connection declined so much under the new TPM that an alternative investment (bypassing the grid) would now be more expensive than using the transmission grid?”, and implicitly answered “no”.<sup>18</sup>
- 2.27 The Authority acknowledges that the new TPM does not require any change to the physical configuration of the relevant assets. But the fundamental change to the TPM is relevant to the prudent discount regime, as noted in our consultation paper.<sup>19</sup> This is reflected in the new TPM in the Code:
- (a) Clause 127: “The purpose of an inefficient bypass prudent discount is to help ensure this transmission pricing methodology does not provide incentives for a customer to invest in an alternative project that would allow a customer to reduce its own transmission charges, by bypassing existing grid assets, while increasing total economic costs”

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<sup>17</sup> Given the clear signalling of the TPM reform, over a long period of time, the Authority disagrees with Network Waitaki’s response to question 5 where it states that NOIC’s business environment is changing “almost overnight”.

<sup>18</sup> SGLP submission, paras 3-5

<sup>19</sup> Authority consultation paper, para 2.2, notes the relevance of the financial incentives created by the TPM to prudent discounts.

- (b) Clause 129: the commercial viability test is directly impacted by the TPM that is in place – this was referenced by Transpower in its December 2021 letter to the Authority that was attached to the Authority’s consultation paper.
- 2.28 It is for Transpower, not the Authority, to work through the regulatory change provisions in the existing PDAs and NEC with the counterparties, or to assess any new prudent discount applications. But we do not agree with SGLP’s argument that existing discounts should automatically continue, as it essentially ignores a key part of the prudent discount regime.<sup>20</sup>
- Threshold for terminating PDAs and NEC***
- 2.29 PowerNet submitted that, in working through the regulatory change process in the PDAs and NEC, Transpower should have to clearly identify that the relevant agreement is no longer justified before terminating, ie, there should be an onus on Transpower to justify the invalidity of the current agreements.
- 2.30 As noted above, the Authority is not seeking to determine the way in which the parties to the PDAs and NEC work through the regulatory change process: that is beyond the scope of our Code change and would be interfering with their contractual arrangements. If the NEC cannot continue, then the NEC parties should be treated the same as any other applicant for a prudent discount, with the prudent discount application process in the new TPM applying to all parties equally.
- 2.31 Conceptually, however, we cannot see the basis for the threshold PowerNet is suggesting, and note Meridan Energy’s contrary view about whether parties should reasonably expect the PDAs and NEC to continue:

“The NEC was put in place because of the incentives created by the RCPD charge and HVDC charge under the existing TPM. In effect the NEC provided a discount to the parties to encourage them to remain connected to the transmission grid, rather than bypassing the grid through embedding generation within Network Waitaki. With the removal of the RCPD and HVDC charges under the new TPM, the NEC will become obsolete. In the Authority’s words, “a core part of the bargain these contracts were based on effectively disappears”.<sup>21</sup>

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<sup>20</sup> We consider that Network Waitaki is making a similar argument to SGLP at section 2 of its submission, where it states that the parties entered into the NEC because it was the most efficient solution to avoid potential duplication of assets. Noting that view, the TPM in place and the financial incentives within that TPM are material factors in determining whether or not it would be efficient to provide a prudent discount (and if so, the size of the discount required); hence the value in retesting this when a new TPM takes effect.

<sup>21</sup> Meridan Energy submission, paragraph 3

### 3 Regulatory statement

- 3.1 The May 2022 consultation paper included (in Chapter 4) a regulatory statement in accordance with section 39(1) and (2) of the Act.
- 3.2 The regulatory statement included in the May 2022 Consultation paper:
- (a) noted that the objectives of the proposed Code amendment are described in the preceding chapters of the consultation paper
  - (b) evaluated the costs and benefits of the proposed Code amendment, finding that the benefits were expected to outweigh the costs
  - (c) explained the alternative options the Authority considered and why they are inferior to its proposal
  - (d) summarised how the proposed Code amendment complies with section 32(1) of the Act (see Table 2 on p.18 of the April 2022 Consultation paper)
  - (e) described the Authority’s consideration of the Code amendment principles.

#### **Submitters’ views and our assessment**

- 3.3 Some submitters took issue with aspects of the Authority’s regulatory statement. Having considered these submissions, the Authority remains confident that the regulatory statement in the May consultation paper is robust and appropriate.
- 3.4 PowerNet submitted that: “[t]he Authority only provides an estimate of the incremental costs for a prudent discount application with effect from 1 April 2023 for the Blackpoint NEC. [...] The two PDAs however require an application to be brought forward by more than the three years for the Blackpoint NEC - resulting in higher incremental costs.” Further, PowerNet observes that “the Aniwhenua/Matahina PDA was entered into for a term of 15 years – of which only 9 years will have completed by 1 April 2023. As a result the PDA has only delivered 2/3<sup>rds</sup> of the agreed term.”
- 3.5 PowerNet’s observations are correct: the regulatory statement sets out costs relating to the NEC and not the PDAs. This was a deliberate choice, which reflects that the Code amendment, Option 2, relates to the NEC, not the PDAs.<sup>22</sup> The amendment to clause 12.95 removes the reference to “notional embedding contract”: it does not make any changes in relation to the PDAs. So, the regulatory statement considers neither costs nor benefits relating to the PDAs.
- 3.6 PowerNet also notes the Authority’s statement in the consultation paper that efficiency benefits relating to the proposed Code amendment are likely to be relatively minor.
- 3.7 Our statement needs to be read in its proper context. The Authority considers that the net benefits of this specific Code amendment are relatively minor, especially in the context of the very large net benefits we expect from the overall TPM reform.<sup>23</sup> Benefits that are minor relative to very large net benefits can still be significant. While we have not quantified the benefits of the amendment, the Authority expects that the improved efficiency and durability outlined in the consultation paper would be likely to exceed the

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<sup>22</sup> See footnote 13 of the consultation paper, which explains the Authority’s view that the focus of the cost assessment in the regulatory statement should be solely on the NEC, not the PDAs.

<sup>23</sup> The expected net benefits of the overall TPM reform are approximately \$1.8 billion. See the [2022 TPM decision paper](#), chapter 14.

costs of the amendment. So, the Authority expects the Code amendment to have net long-term benefits for consumers, consistent with our statutory objective.

- 3.8 Network Waitaki submitted that the issue is not material for NZ Inc,<sup>24</sup> but is significant for Network Waitaki and the North Otago Irrigation Company (NOIC) at Black Point.<sup>25</sup>
- 3.9 While we acknowledge that the financial impact on New Zealand consumers of socialising the cost of the NEC for its remaining years would be modest, we do not agree that it is therefore in the long-term benefit of New Zealand consumers for those costs to be socialised. We also acknowledge the materiality of the impact on Network Waitaki and NOIC. However, other customers could similarly make a special case for a more favourable treatment on some aspect of the new TPM, on the basis that it would be not material for NZ Inc but significant for themselves. Such exceptions might not be material in isolation, but in aggregate, could well be material – and result in material inefficiencies. We consider that it is important for the durability of the new TPM that the Authority is even-handed. That is, it would be inappropriate for the Authority to effectively single out a specific customer for more favourable treatment.<sup>26</sup>
- 3.10 Network Waitaki appears also to be arguing that the Authority should take into consideration a wealth transfer (shifting of charges between customers). That is, the new TPM rebalances transmission charges, resulting in higher charges for Network Waitaki,<sup>27</sup> and lower charges for some other transmission customers (compared to the existing TPM).<sup>28</sup> Network Waitaki’s submission suggests that the Authority should take into account this outcome as a drawback of the proposed Code amendment.
- 3.11 However, wealth transfers are not the focus of the Authority’s decision-making, except to the extent they result in changes in efficiency (including considerations of durability), competition or reliability. Having considered potential costs of our decision in these respects, we are confident any such costs are outweighed by expected benefits.
- 3.12 Network Waitaki also submits that the Authority has not undertaken sufficient analysis to clearly demonstrate that its proposed Code change has positive net benefits, arguing that “to prepare a consultation document for a proposed code change on the basis of “unquantifiable” benefits is, in our view, poorly considered regulation.”
- 3.13 We disagree. Section 39(2)(b) of the Act requires “an evaluation of the costs and benefits of the proposed amendment” but does not require that evaluation to be quantified.<sup>29</sup> Good practice guidance on cost-benefit analysis in impact assessments encourages the quantification of all significant costs and benefits where this is possible or meaningful. However, the quantification of unmonetizable and unquantifiable

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<sup>24</sup> Socialising the difference between the payment under the notional discount contract - \$232k - and the 2022/23 indicative charges at Black Point GXP - \$615k - represents approximately 0.05% of overall transmission charges of \$809m in 2022/23.

<sup>25</sup> The change from \$232k to \$615 at Black Point GXP represents a 168% increase in transmission charges.

<sup>26</sup> Note that in its decisions on the TPM Guidelines and the new TPM the Authority has already decided on the transitional arrangements it considers appropriate to put in place.

<sup>27</sup> (and some other transmission customers)

<sup>28</sup> The new TPM does not change total transmission charges.

<sup>29</sup> See the judgment of the High Court on Manawa Energy’s judicial review of the Authority’s 2020 decision on the TPM guidelines *Manawa Energy Ltd v Electricity Authority* [2022] NZHC 1444, paragraphs 115 to 125.

significant costs and benefits is not always possible or meaningful and as such, judgement is required.<sup>30</sup>

- 3.14 The Authority considers that the present Code amendment will have net long-term benefits for consumers, but that these are hard to quantify. Instead, the Authority has exercised its judgement as a regulator and, as required by the Act, in doing so has set out its reasoning on the evaluation of the costs and benefits of the proposed amendment in its consultation paper. In our view, the improved efficiency and durability outlined in the consultation paper would be likely to exceed the costs of the amendment. We have not been presented any new information through the consultation that changes this view. So, the Authority expects the Code amendment to have net long-term benefits for consumers, consistent with our statutory objective.

## **Conclusion**

- 3.15 Overall, the Authority is satisfied that it has met the requirements of a regulatory statement in section 39(2) of the Electricity Industry Act 2010, and that it has had proper regard for the Code amendment principles as required by the Authority's Consultation Charter.
- 3.16 After carefully considering all submissions on the proposed Code amendment, the Authority considers the final Code amendment will deliver long-term benefits to consumers, consistent with our statutory objective.

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<sup>30</sup> See for example para 6.58 of the Green Book [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063330/Green\\_Book\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063330/Green_Book_2022.pdf) or page 15 of the Treasury's Best Practice Impact Analysis guidance note <https://www.treasury.govt.nz/sites/default/files/2018-03/ia-bestprac-guidance-note.pdf>

## Appendix A Submissions received

A.1 The Authority received submissions on our consultation paper from the seven parties listed in Table 1. Submissions are available on the Authority's website.<sup>31</sup>

**Table 1: List of submitters**

<i>Submitter</i>	<i>Category</i>
Horizon	Electricity distribution
Manawa Energy	Electricity generation
Meridian Energy	Electricity generation and retailing
Network Waitaki	Electricity distribution
PowerNet	Electricity distribution
Southern Generation Limited Partnership	Electricity generation
Transpower	Electricity transmission

<sup>31</sup> <https://www.ea.govt.nz/development/work-programme/pricing-cost-allocation/transmission-pricing-review/consultations/#c19183>

## Appendix B Approved Code amendment