

Code amendments to support the implementation of the new transmission pricing methodology

Decision

21 June 2022



Executive summary

The new transmission pricing methodology (TPM) commences on 1 April 2023. The Electricity Authority (Authority) has decided to make some relatively minor amendments to the Electricity Industry Participation Code 2010 (Code) to support effective implementation of the new TPM.¹

Information to calculate gross energy more accurately

Gross energy is used to allocate a core charge under the new TPM – the residual charge. The Authority has identified that obtaining gross energy information on the activity of a small number of generators in locations where energy is produced and consumed behind a point of connection would lead to a more accurate allocation of the residual charge, and therefore better enable the effective working of the new TPM. The Authority has decided to amend the Code to enable requests to be made of participants to provide information about the electricity generated by generating plant with a total capacity of 10 megawatts (MW) or more behind a single point of connection where there is also a material amount of load (greater than 1 MW). Where information is not provided or is unreliable, the Code will enable charges to be calculated as though the relevant generating plant were operating at capacity.

The Authority expects that including this information requirement in the Code now will reduce undesirable incentives for avoiding charges² through the co-location of new or expanded generation with load.

This Code amendment is intended to be a proportionate response to an immediate information issue, allowing Transpower to set more accurate charges, and addressing any inefficient incentives, in the early years of the new TPM. We intend to consult separately on future enduring information requirements for generation co-located with load, including whether to retain or amend the 10 MW threshold for inputs to future charges.

Use of system operator data for transmission pricing purposes

The Authority has decided to make a related amendment to the Code to expressly enable Transpower, as grid owner, to use information held by Transpower in its system operator role for the calculation or adjustment of transmission charges (but not for other purposes). An example of such information is supervisory control and data acquisition (SCADA) information, the provision of which would improve the accuracy of information used by Transpower to calculate the residual charge.

Clarifying the Authority's ability to use sections 39 and 40 of the Act for the TPM

Issues associated with implementing the new TPM may arise that require minor drafting corrections or need to be made urgently. Processes for making minor and urgent amendments to the Code are set out in the Electricity Industry Act 2010 (Act). The Authority has decided to amend the Code to clarify that the process requirements for reviewing the TPM in the Code do not apply to amendments of the TPM under the Act which meet the criteria in section 39(3) of the Act (technical and non-controversial, widespread support, and adequate prior consultation amendments) or section 40 of the Act (urgent amendments).

¹ The Code amendments are published on the Authority's website: [2022 Code amendments — Electricity Authority](#)

² Which would then have to be paid by other transmission customers.

The Code amendments promote the Authority's statutory objective

The Code amendments set out this in decision paper promote the Authority's statutory objective by improving the efficient operation of the electricity industry. This is achieved mainly by:

- a) improving the accuracy of information used in Transpower's charges, which amongst other things reduces any inefficient incentives to co-locate large generation plant with load in order to avoid transmission charges; and
- b) enabling any errors and workability problems with the new TPM identified during its implementation to be addressed in a timely manner.

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1 The Authority has decided to amend the Code

1.1 Following consultation with interested parties,³ the Authority has decided to amend Part 12 of the Code—

- (a) to enable the Authority and Transpower to request information from participants about electricity generated by generating plant with a total capacity of 10 MW or more behind the same point of connection, where that point of connection also has a material amount of load behind it (the total capacity of any relevant consuming plant is greater than 1 MW)
- (b) to enable Transpower, as grid owner, to use any information held by Transpower in its role as the system operator that is needed for Transpower to calculate transmission charges under the new TPM
- (c) to clarify that the Authority may make amendments to the TPM under the Act which meet the criteria in section 39(3) or section 40 of the Act without needing to meet the process requirements for reviewing the TPM in the Code.

1.2 These Code amendments address the following issues and potential issues that have been identified during the development of the new TPM:

- (a) Transpower lacks access to certain information about electricity generated by generation co-located with load and enabling greater access will enable transmission charges (residual charges) to be more accurately calculated. Without this amendment there would be an incentive to inefficiently co-locate additional large generation with load (because Transpower would not necessarily have the same oversight of the level of local generation being consumed by co-located load and therefore the relevant party may be able to reduce their residual charge).
- (b) The Code as it stands may prevent Transpower in its role as the system operator from disclosing to Transpower, as grid owner, certain information that may be relevant to Transpower's calculation of transmission charges.
- (c) The Code as it stands may be read as requiring the Authority to complete the detailed process requirements for reviewing the TPM contained in Subpart 4 of Part 12 of the Code, contrary to the regime set out by Parliament, and even where required changes are minor drafting tidy-ups or need to be made urgently in the public interest. This may adversely impact the Authority's ability to appropriately address issues with the new TPM identified during its implementation despite Parliament's intentions regarding uncontroversial or urgent Code amendments.

³ See the Authority's consultation paper titled *Code amendments to support the implementation of the new transmission pricing methodology*, published on 28 April 2022 and available at: <https://www.ea.govt.nz/assets/dms-assets/30/Code-amendments-to-support-the-implementation-of-the-new-TPM.pdf>.

2 Information to calculate gross energy more accurately

Our decision

- 2.1 The Authority has largely adopted the Code amendment on gross energy that was proposed in the April 2022 consultation paper.⁴
- 2.2 However, in response to a submission, the Authority has decided to explicitly restrict the operation of the amendment so that information requests must be withdrawn in cases where a participant shows that the capacity of the load that is behind the same point of connection as the relevant generating plant is 1 MW or less. The Code will also explicitly provide that a request must be withdrawn where a participant shows that the relevant generation does not meet the requirements of the new provision or is not owned by the participant.
- 2.3 Minor policy-neutral drafting improvements have also been made to remove redundant words, simplify the drafting, and to make clear that the 10 MW generating plant capacity threshold applies to total capacity behind the same point of connection, and to clarify that requests are for information Transpower needs to calculate embedded electricity generally (rather than just in respect of embedded generating plant).

What we proposed

- 2.4 The proposed Code amendment on gross energy provided that, for the purpose of Transpower calculating each transmission customer's gross electricity load (gross energy) under the new TPM:⁵
- (a) participants may be requested to provide Transpower with the quantities of electricity generated by embedded generating plant with a capacity of 10 MW or more at a point of connection with a material amount of load. The purpose of the information request was to enable Transpower to more accurately calculate gross energy under the new TPM for the purpose of calculating the residual charge.
 - (b) Transpower would use a fallback mechanism for the purposes of assessing the gross energy values to be used in calculating the transmission charges where information regarding electricity generated by embedded generating plant was not provided or was determined by Transpower to be unsuitable. This fallback mechanism was based on Transpower assuming generation operated at capacity over the period of the data request.⁶

Submitters' views and our assessment

- 2.5 We received six submissions relating to gross energy. Meridian Energy (Meridian), Nova Energy (Nova), Pan Pac Forest Products (Pan Pac) and Transpower support enabling Transpower to access additional information to more accurately calculate gross energy.

⁴ See chapter 2 of the April 2022 consultation paper: *Code amendments to support the implementation of the new transmission pricing methodology*

⁵ Gross energy comprises all electricity consumption by a customer, regardless of whether the electricity is produced by generation connected to the grid or generation on the customer's side of its point of connection to the grid (ie, generation behind the GXP). This metric is used to allocate the residual charge in the TPM.

⁶ This requirement does not override requirements specified in clause 111 of the TPM to use information disclosed under the *Electricity Distribution Information Disclosure Determination 2012* in calculating a distributor's transitional price cap.

Nova submitted that is important to the integrity of the TPM that Transpower uses the most accurate data available to it, and that Transpower has access to such data.

- 2.6 In the remainder of this section we address concerns with specific aspects of our proposal raised by the IEGA and other submitters. The submissions and the Authority's assessment are split into the following sections:
- (a) Scope of amendment
 - (b) Benefits of Code change vs voluntary information provision
 - (c) Meaning of 'material amount of load at the point of connection'
 - (d) Suitability of fallback mechanisms
 - (e) Minor drafting changes and clarifications
 - (f) Use of gross energy in the TPM.

Scope of amendment

- 2.7 The IEGA sought clarification on whether this Code amendment applies to historical data only, or if it would also apply to future data. IEGA notes that the proposed Code amendment (subclause 12.102B(4)) is open ended.
- 2.8 This Code amendment is intended to enable provision of data required for the first pricing year under the new TPM, but also to be capable of being used to collect data in future pricing years. The subclause to which IEGA refers (now subclause 12.102B(5)) allows the information to be requested "for any trading period or trading periods specified by the Authority or Transpower from (and including) trading period 1 on 1 July 2014 to (and including) trading period 48 on the day immediately before the date of the request under subclause (3)."
- 2.9 As previously signalled, the Authority intends to more comprehensively consider the extent to which it requires disclosure of data relating to generation co-located with load. We will consult with stakeholders on that question in due course. This current Code amendment will in the meantime address current data issues (and will also address future data issues with respect to co-located load and generation above 10 MW).
- 2.10 In its submission, the IEGA specifically noted our statement in this regard that "the Authority considers at this time that [a future Code amendment proposal] would not seek to change obligations around the provision of historical information covered by the Code amendment proposed in this consultation paper".
- 2.11 This statement continues to reflect our current intention. We note though that the Authority has not yet formed a concluded position on any future proposed Code amendment in this area, and we may reconsider our view on this matter.⁷
- 2.12 We would also note that (whatever our ultimate decision may be with respect to obligations around provision of historical data), we do not expect that future Code

⁷ By way of example, were a future Code amendment to require disclosure of data for generation with a capacity of less than 10 MW, in some circumstances customers might receive a disproportionate increase in their residual charges if the baseline measures underlying the residual charge were not also adjusted. We would therefore need to consider whether the baseline measures (which are based on historical data) should be adjusted under a future Code amendment proposal, noting this will need to be balanced against practicality and certainty considerations.

amendment proposals would result in the recalculation of transmission charges that are historical (ie, had already been paid) at the time of any future amendment.

Benefits of Code change vs voluntary information provision

- 2.13 The Authority's consultation paper noted that the Code amendment proposal with respect to gross load was subject to considering further voluntary data disclosures.
- 2.14 Pan Pac submitted that it has voluntarily provided the data (relating to quantities of electricity generated from 1 July 2014 by generation plant behind Pan Pac's point of connection). This raises the question of whether the proposed Code amendment is still required, given that relevant data has already been provided voluntarily.
- 2.15 The Authority acknowledges and appreciates Pan Pac's cooperation in providing this data to us and has further considered the need for the Code amendment in light of this disclosure. The Authority has decided to proceed with the Code change, because in our view it will produce benefits for consumers, regardless of whether current customers meeting the criteria set out in the proposed Code amendment volunteer their data. This is because the Code amendment applies to all participants with large generating plant co-located with load, now or in the future – not just those that currently meet the proposed criteria.⁸ The Code amendment will create useful incentives in relation to large plant co-located with load.
- 2.16 EA networks submitted that *"While the proposal notes that the information deficit relates to 'the generation activity of a small number of generators', this will not remain the case, as grid scale generation co-located with load will expand"*.
- 2.17 The Authority agrees it is possible that the number of generators affected by this Code amendment will increase over time, as new investments in generation and load are made (with a number having been announced recently, such as the Kowhai Park solar farm at Christchurch Airport). To the extent this occurs, the long-term benefits of the Code amendment will be greater, as it will help to ensure connection decisions for such investments have neutral/efficient incentives, and so keep the overall cost of electricity for other consumers lower than it would otherwise be.

Meaning of 'material amount of load at the point of connection'

- 2.18 The IEGA sought clarification on what is meant by "a material amount of load" at the same point of connection as the generating plant.⁹
- 2.19 The Authority considers that there is value to all parties in further certainty about the threshold at which the Code amendment will apply. So, in response to this submission, the Authority has decided to specify what a material amount means, and therefore prevent the Code amendment from operating where the relevant participant satisfies the Authority or Transpower that the total load (ie, the capacity of the mains switchboard) located behind the same point of connection as the relevant generating plant is 1 MW or less.
- 2.20 The Authority considers that where load is 1 MW or less, it is less likely that the benefits of seeking further information will outweigh the costs of gathering and processing it. The 1 MW criterion is consistent with the requirement in the Commerce Commission's

⁸ The Code amendment will apply to new instances of generation greater than 10 MW co-located with material load. These instances may occur not only as a result of new generation build, but also as a result of load connecting behind existing generation, or a combination of the two.

⁹ That is, the generating plant with capacity of 10 MW or more.

information disclosure regime relating to a distributor's asset management plan, whereby any distributed generation with a capacity greater than 1 MW must be identified.¹⁰

Suitability of fallback mechanisms

- 2.21 Transpower, Meridian, and Nova supported the proposed fallback mechanism (which is based on assuming the generation operated at capacity over the relevant period). Nova submitted the proposed fallback mechanism provides a strong incentive for parties to make the data available as there is likely to be a significant difference between the estimated gross energy consumption and the true value.
- 2.22 Pan Pac's submission does not support the proposed fallback mechanism of using the generator capacity if there is missing or unsuitable generation quantities.¹¹ Pan Pac submitted that:
- (a) its own data shows that the fallback would in fact be used¹²
 - (b) in the context of the fallback for the transitional price cap, Pan Pac submitted that assuming generation at capacity is more arbitrary than using some other estimate of the generation¹³
 - (c) assuming generation at capacity will likely lead to an overestimate
 - (d) the application of a fallback provision as proposed could impose much higher cost on a customer than summarised in the cost/benefit analysis.
- 2.23 Having considered these submissions, the Authority's view remains that the fallback mechanism is appropriate, and that no better alternative has been proposed. If a participant is concerned that use of the fallback mechanism might lead to an overestimate or impose higher costs, it will have the opportunity to rectify the situation by providing its own information or estimates. The fallback mechanism set out in proposed subclause 12.102B(8) of the Code is only to be used where information is not provided or is not sufficiently reliable. Further, subclause 12.102B(5) explicitly allows that the information participants may provide includes estimates of generation as well as metered data. We intend to work with participants and Transpower to ensure the participant has the opportunity to provide information to Transpower that is sufficiently reliable and as complete as possible, thereby minimising the need to use the fallback mechanism (which is only intended to be a last resort).
- 2.24 Pan Pac submitted "there is no explanation of data quality provided in [the] consultation document". The Authority has not sought to prescribe data quality requirements for this Code amendment, as this would not be practicable given the historical nature of the data and the fact that requirements may need to be tailored to each party.¹⁴ It is not our intention that the data provided needs to be perfect. Even where data is not of revenue

¹⁰ See clause 4.2.1 of the Commerce Commission's *Electricity Distribution Information Disclosure Determination 2012*

¹¹ Note that Pan Pac voluntarily provided information to the Authority.

¹² Contrary to the Authority's view at paragraph 2.20 of the consultation paper.

¹³ Pan Pac therefore disagrees with our consultation paper view (para 2.25) that in the absence of data, using the fallback approach is more reasonable than alternative approaches, such as selecting an arbitrary percentage of capacity the generation operated at.

¹⁴ Pan Pac also submitted that "it is unknown what costs could apply if improved metering was required". We note that the Code amendment does not require any changes to metering.

quality or is incomplete, we expect that if a party can provide reasonable estimates in place of missing data, the fallback mechanism will not be used.

Minor drafting changes and clarifications

- 2.25 Transpower proposed two minor drafting changes to the Authority's proposed clause 12.102B relating to the fallback mechanism:
- *Clause [12.102B(7)(b)]: The words "to the extent required" at the start of clause [12.102B(7)(b)] are not needed and can be deleted. This is because subclause (8) already deals with situations where the Code, including the TPM, specifies that information from a specific clause must be used. If those words are deleted then there is an opportunity to combine paragraphs (a) and (b) of clause [12.102B(7)(b)] to make the drafting simpler and more efficient.*
 - *Clause [12.102B(8)]: The words "or the transmission pricing methodology" in clause [12.102B(8)] are not needed and can be deleted. This is because the TPM is part of the Code. Alternatively, this could be changed to "including the transmission pricing methodology".*
- 2.26 The Authority agrees with both of these submissions and has redrafted the respective clauses accordingly.
- 2.27 Further, the Authority has decided to clarify the drafting of the Code amendment to make it clear that it applies for points of connection in respect of which Transpower holds insufficient information to calculate embedded electricity. The previous drafting, which referred to embedded generation, was insufficiently clear on this point and could have been misinterpreted so as not to accurately reflect the policy put forward in the consultation paper.
- 2.28 The IEGA queried why the Authority needs to be named in the proposed Code amendment, given that the data is only intended for use [by Transpower] to implement the TPM.
- 2.29 The Authority is named in the proposed Code amendment as a possible requester of information, along with Transpower, because, while it is acknowledged that Transpower is responsible for implementing the new TPM, the Authority has a strong interest in ensuring the initial implementation goes smoothly. Further the Authority might hold useful information about generation that potentially meets the threshold. In the circumstances, and noting the purpose of the amendment, we consider it preferable for both Transpower and the Authority to be able to request this information.
- 2.30 The IEGA agreed that "application of this requirement should be consistent with other obligations in the Code for embedded generation (paragraph 2.16(b) in clauses 8.25(5)(a) and 8.25(6)". However, the IEGA stated that in its view these clauses apply only to "*generation plant greater than 10MW and not plant that is 10MW*", and therefore the Code drafting "*should also apply to embedded generation greater than 10MW*".
- 2.31 While we agree with the IEGA's reading of those Code clauses, our rationale for including generation of 10 MW or greater (as opposed to greater than 10 MW) is consistency with subclause 7(6) of Schedule 11.1, requiring distributors to assign a loss category code to any ICP at which there is a generating station with a capacity of 10 MW

or more.¹⁵ The Authority has decided to maintain the proposed criterion of ‘10MW or more’, but notes that in any case the difference between the two options is marginal.

2.32 The IEGA expressed concern over the use of the word capacity for the fallback mechanism, stating “*capacity is not defined and the only reference to capacity (rather than capacity measurement period) is in Schedule 12.4 clause 25(2)(c) in reference to the capacity of Transpower’s connection asset.*”

2.33 We note that capacity is defined in the new TPM (not the current TPM) and it is this definition that will apply.¹⁶ The Authority considers this definition of capacity to be appropriate for the fallback mechanism.

Gross energy in the TPM and future Code amendments

2.34 EA Networks’ submission makes a number of arguments about the use of gross energy to allocate the TPM residual charge. While these arguments are ‘out of time’ in terms of the TPM decision making process,¹⁷ we have responded to them below, acknowledging that some of the themes EA Networks raise will be of broader interest to stakeholders.

2.35 First, EA Networks submits that the residual charge should not be allocated on a gross energy basis; arguing, for example, that “charging for a service that Transpower is not providing” is likely to be a significant barrier, leading to resistance from distributors’ customers. EA Networks further suggests that the Authority’s approach represents a barrier to electrification.

2.36 Far from being as EA Networks suggests, in fact the residual charge *is* a charge for a service Transpower provides, ie, access to the national grid. It is an access charge, not a usage charge, so the allocation mechanism reflects the value to the customer of being connected to the grid. A large customer therefore contributes more than a small customer, ie, this charge is allocated in proportion to the size of the customer.¹⁸

2.37 By contrast, usage by a customer is reflected in the cost of electricity and a customer’s level of reliance on the grid is reflected in the TPM benefit-based charges – this is where customers with distributed generation are able to save money.

¹⁵ Volume information from such generation is then separately identified in submission information provided to the reconciliation manager (as a result of volume information being aggregated by loss category code).

¹⁶ Refer to Part A (section 3) of the new TPM [Certified-Instrument-TPM-Transmission-Pricing-Methodology-2022.PDF \(ea.govt.nz\)](#):

capacity means the rated capacity of an asset to (as the case may be)—
(a) consume or generate **electricity**; or
(b) take **electricity** from or inject **electricity** into a **network**; or
(c) transmit or **distribute electricity**,
in each case measured in units appropriate for the context

¹⁷ The Authority made a decision on this allocator in 2020, explaining in its 2020 Decision paper on the TPM guidelines (at pp. 62–64) why gross energy/demand, rather than net energy/demand, is the better basis for allocating the residual charge.

¹⁸ The Authority’s view is that the residual charge should be allocated in proportion to a customers’ size (and so be reflective of a customers’ likely willingness and ability to pay). For example, see 2019 Issues paper, Appendix B, paragraph B.209.

- 2.38 To be clear, if a customer with distributed generation is not connected to the grid,¹⁹ they do not pay for any aspect of the grid. If they are connected, there are a range of charges to ensure that they pay their fair share.
- 2.39 EA Networks' statements regarding incentives for the use of locally generated electricity and barriers to decarbonisation are also misplaced. The Authority's TPM approach, including to the residual charge, supports New Zealand's transition to a low-emissions economy by promoting investment in lowest cost generation regardless of where or how it is connected, ie, ensuring that there is a level playing field between generators connected to the system in different ways.
- 2.40 Put simply, all transmission customers need to pay their fair share of transmission charges. However, EA Networks appears to be suggesting that instead the Authority should embed a subsidy for customers with distributed generation into the TPM, which would allow them to shift TPM charges on to other transmission customers (who may not be able to afford distributed generation). The Authority is strongly against this type of tilting of the playing field. We support fair competition between grid-connected and distributed generation, which will result in the most efficient mix of electricity generation being built and so lower electricity prices for consumers and encourage electrification of the economy.
- 2.41 EA Networks also raises a set of concerns about boundary issues²⁰ and safety that appear to relate to a potential Code amendment that the Authority might propose in the future. These submissions do not appear to raise problems with the proposed Code amendment under consideration – which relates to large generation (10 MW and above). They are therefore best considered once there is a relevant live proposal – the Authority will likely in future consider the merits of collecting information from mass market customers with rooftop solar panels and electric vehicles.
- 2.42 For the avoidance of doubt though, the Authority is concerned about any safety risks to distribution network staff and the public, especially where a regulatory decision could unintentionally exacerbate these. We are grateful to EA Networks for raising these concerns early with us.

¹⁹ For example, the customers in the Chatham Islands mentioned in the EA Networks submission are not connected to the national transmission grid, and do not pay for it.

²⁰ Eg, what is the minimum scale of distributed generation that would be measured when determining gross load, and would substitutes also be measured.

3 Use of system operator data for transmission pricing

Our decision

- 3.1 The Authority has adopted the Code amendment on disclosure of information by the system operator for the purpose of calculating transmission charges that was proposed in the April 2022 consultation paper.²¹

What we proposed

- 3.2 The proposed Code amendment on use of system operator information provided that Transpower, as grid owner, be allowed to use information already held by Transpower, as the system operator, for the purpose of calculating transmission charges.
- 3.3 We considered the alternative of requiring participants to provide this information directly to Transpower, as a grid owner, would be inefficient as it would require participants to provide the information to Transpower twice.

Submitters' views and our assessment

- 3.4 We received positive feedback from submitters on the proposed Code amendment on use of system operator information for calculating transmission charges.²² For example, the Independent Electricity Generators Association, Meridian Energy, Nova Energy, and Pan Pac Forest Products all supported the amendment as proposed. Meridian noted its support for the proposed safeguard to ensure that system operator information is not used for any purpose other than calculating transmission charges. Nova considered it important that "Transpower uses the data consistently and does not favour any category of connected or embedded parties because the sources of data are different".
- 3.5 Transpower proposed the Authority should extend the right of Transpower, as a grid owner, to access and use information held in its system operator role to permit that information to be accessed and used for system planning purposes. Transpower proposed that the Authority should consider this extension as part of the Authority's next package of TPM-related Code changes, or as a separate exercise.
- 3.6 Transpower also submitted that the system operator will be able to effectively address the risk of compromising customer confidence in the system operator's handling of confidential information. The system operator will be able to do this by introducing appropriate controls and oversight for the release of information to the grid owner for the permitted purposes and informing participants of these controls when the new requirement commences.
- 3.7 The Authority agrees that the use by Transpower, as a grid owner, of system operator information for system planning purposes is best considered separately from this Code amendment – it was not consulted on and has not been fully considered. The Authority however agrees that the system operator should put in place all appropriate controls and oversight for the release of information to the grid owner for the (sole) purpose of calculating transmission charges.

²¹ See chapter 3 of the April 2022 consultation paper: *Code amendments to support the implementation of the new transmission pricing methodology*

²² Submissions on this proposal were received from the Independent Electricity Generators Association, Meridian Energy, Nova Energy, Pan Pac Forest Products, and Transpower.

4 Use of sections 39 and 40 of the Act for the TPM

Our decision

- 4.1 The Authority has adopted the Code amendment on sections 39 and 40 that was proposed in the April 2022 consultation paper.²³

What we proposed

- 4.2 The proposed Code amendment on using sections 39 and 40 of the Act in respect of the TPM provided that the Authority may amend the TPM under section 38 of the Act using the processes set out in sections 39(3) and 40 of the Act where the thresholds in those sections are met.
- 4.3 Any such amendments to the TPM made under section 38 of the Act would be either:
- (a) technical and non-controversial, or for which there is widespread support or adequate prior consultation (section 39(3)), or
 - (b) necessary or desirable in the public interest to make urgently (section 40).

Submitters' views and our assessment

- 4.4 We received largely positive feedback from submitters on the proposed Code amendment confirming the process for technical and non-controversial, or urgent, amendments to the TPM.²⁴ For example, Meridian Energy, Nova Energy, and Transpower agreed with our proposal. Transpower submitted that it has already identified a number of minor drafting anomalies in the TPM that may helpfully be progressed under the proposed amendment.
- 4.5 Transpower suggested that the Code include an additional provision for the Authority to confirm an urgent amendment to the TPM before it expires through the normal Code-change process under section 38 of the Act (urgent amendments expire after 9 months under section 40(2)(b) of the Act).
- 4.6 We have decided not to accept Transpower's suggestion. We are comprehensively reviewing the provisions in the Code related to reviewing the TPM in the future and this matter can be addressed then. Any urgent amendment can also be confirmed by a further full amendment process using the existing processes in the Act/Code for TPM-related amendments (eg, Transpower can propose a variation to the TPM under clause 12.85 of the Code) if it is intended to endure beyond the 9-month expiry for urgent amendments.
- 4.7 The IEGA submitted that the Authority was introducing a discretion enabling us to determine what is a 'minor' issue associated with TPM implementation so that the Authority could then exempt itself from following the statutory Code amendment process. The IEGA is also concerned that the new clause 12.94A does not have an end date and that the clause also appears to provide the Authority with the ability to unduly influence Transpower's implementation of the TPM Guidelines and may result in Code amendments that are inconsistent with the TPM Guidelines.

²³ See chapter 4 of the April 2022 consultation paper: *Code amendments to support the implementation of the new transmission pricing methodology*

²⁴ Submissions on this proposal were received from the Independent Electricity Generators Association, Meridian Energy, Nova Energy, and Transpower.

- 4.8 We do not agree with the IEGA that the Code amendment introduces a new discretion for the Authority to determine ‘minor’ issues associated with TPM implementation. Rather, the Code amendment simply reflects the thresholds set out by Parliament in sections 39(3) and 40 of the Act.
- 4.9 We consider there is no need to limit the timeframe for Code amendments made under section 39(3). These amendments must be minor and technical, or have widespread support or adequate prior consultation. Any Code amendment that meets these thresholds will necessarily need to be consistent with the TPM that was consulted on, including the TPM Guidelines.
- 4.10 As mentioned above a section 40 (urgent) amendment has a 9-month expiry before which the amendment must be followed up by a further amendment made using the full Code amendment process under the Act if it is intended to endure. Amendments will also need to be consistent with the TPM Guidelines. Any subsequent Code amendment to confirm a section 40 amendment will also need to comply with the usual statutory process, including the requirement for consistency with the TPM Guidelines set out in clause 12.89(1) of the Code – and the requirement for consultation.
- 4.11 In practice, any implementation issues with the drafting of the TPM will, as confirmed in Transpower’s submission, likely come from Transpower as it implements the TPM.²⁵ Noting this, and the clear requirements of sections 39(3) and 40 of the Act, we do not agree with the IEGA that the proposed amendment will enable the Authority to unduly influence Transpower’s implementation of the TPM Guidelines.

²⁵ Refer to paragraphs 17-18 of Transpower’s submission.

5 Regulatory statement

- 5.1 The April 2022 consultation paper included (in Chapter 5) a regulatory statement in accordance with section 39(1) and (2) of the Act.
- 5.2 The regulatory statement included in the April 2022 Consultation paper:
- (a) noted that the objectives of the proposed Code amendments were described in the preceding chapters of the consultation paper
 - (b) provided an evaluation of the costs and benefits of the proposed Code amendments, finding that the benefits were expected to outweigh the costs
 - (c) explained that the Authority had not identified viable alternative means of addressing the proposed Code amendments' objectives
 - (d) summarised how the proposed Code amendments complied with section 32(1) of the Act (see Table 2 on p.18 of the April 2022 Consultation paper)
 - (e) documented the Authority's consideration of the Code amendment principles.

Submitters views and our assessment

- 5.3 Only a few submissions engaged directly with the Authority's regulatory statement. Some submissions supported the regulatory statement.²⁶
- 5.4 Not all submitters supported the regulatory statement. As noted above, Pan Pac submitted that:
- (a) it has voluntarily provided the data
 - (b) the application of a fallback provision as proposed could impose much higher cost on a customer than summarised in the cost/benefit data given
 - (c) there is no explanation of data quality provided in [the] consultation document.
- 5.5 These submissions from Pan Pac have been addressed in chapter 2 of this paper.
- 5.6 Overall, the Authority considers the regulatory statement in the April 2022 Consultation paper is fit for purpose.

Impact of changes to the Code amendment

- 5.7 As noted above, while the Authority has largely adopted the Code amendments that were proposed in the April 2022 consultation paper, we have made some amendments to the proposed Code amendment on gross energy in light of submissions. Specifically, we decided to explicitly restrict the operation of the amendment so that information requests cannot be made in cases where the load that is behind the same point of connection as the relevant generating plant is 1 MW or less. The Code also explicitly provides that participants need not comply with a request where they confirm that the relevant generation/load does not meet the requirements of the new provision.
- 5.8 Further, the Authority decided to clarify the drafting of the Code amendment to make it clear that it applies for points of connection in respect of which Transpower holds insufficient information to calculate embedded electricity. Minor policy neutral drafting improvements have also been made to remove redundant words, simplify the drafting,

²⁶ For example, Meridian.

and to make clear that the 10 MW generating plant capacity threshold applies to total capacity behind the same point of connection.

- 5.9 The Authority has considered whether any of these amendments may have impacted on the assessment provided in the regulatory statement set out in the consultation paper. In our view, these amendments either have no impact, or a positive impact. The clarification and minor drafting changes have no impact. The restriction to load greater than 1 MW is expected to rule out application of the amendment in cases where the potential benefits are small and so might be outweighed by the implementation costs. In our view, this change will either have no impact, or a positive impact (to the extent it rules out application of the amendment that would have negative net benefits).

Conclusion

- 5.10 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.
- 5.11 After carefully considering all submissions on the proposed Code amendment, the Authority considers the final Code amendment will deliver long-term benefits to consumers by promoting the efficiency limb of our statutory objective.
- 5.12 Specifically, the amendment will promote the efficient operation of the electricity industry by:
- (a) improving the accuracy of information used in Transpower's charges, which amongst other things reduces any inefficient incentives to co-locate large generation plant with load in order to avoid transmission charges; and
 - (b) enabling any errors and workability problems with the new TPM identified during its implementation to be addressed in a timely manner.

Appendix A Submissions received

A.1 The Authority received submissions on our consultation paper from the six parties listed in Table 1. Submissions are available on the Authority's website.²⁷

Table 1: List of submitters

<i>Submitter</i>	<i>Category</i>
EA Networks	Electricity distribution
Independent Electricity Generators Association	Electricity generation representation
Meridian Energy	Electricity generation and retailing
Nova Energy	Electricity generation and retailing
Pan Pac Forest Products	Electricity consumer
Transpower New Zealand	Electricity transmission

²⁷ <https://www.ea.govt.nz/development/work-programme/pricing-cost-allocation/transmission-pricing-review/consultations/#c19173>