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Submission on the Electricity Authority Consultation Paper in respect of the Status of Existing Prudent Discount Agreements and Notional Embedding Contract under new TPM	
Submitter:	**HORIZON ENERGY DISTRIBUTION LIMITED** 52 Commerce Street Whakatane
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Question	Comment
Q1. Has the problem with the existing PDAs and NEC been correctly identified?	Yes. If payments continued to be made to generators under the existing PDA and NEC contracts, such payments would be imposing unreasonable economic costs on electricity consumers.
Q2. What are your views on the Authority's proposal to amend the Code so the NEC is no longer an exception to the general rule that Transpower must charge for transmission services only in accordance with the TPM?	The Authority should amend the Code to ensure that the NEC and existing PDAs end at the commencement of the new TPM. (Option 3). Horizon supports the proposed wording of the Code for option 3. We do not have a view on the status of the NEC however, to avoid unnecessary costs to consumers we consider that the PDAs should be expressly brought to an end on the date of commencement of the new TPM.
Q3. Do you agree with the objectives of the proposed amendment? If not, why not?	Horizon understands that the objective of the proposed Code amendment is to clarify the status of the existing PDAs and NEC before Transpower completes its calculation of transmission prices that will apply for the first year of the new TPM. Horizon agrees that clarification is necessary however option 3 better achieves the objective by providing regulatory certainty of the status of NEC and PDA payments.
Q4. Do you agree the benefits of the proposed amendment would outweigh its costs?	Yes

Q5. Do you agree the possible alternatives are inferior to the proposed amendment? If you disagree, please explain your preferred alternative option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	No. We consider option 3 will deliver greater consumer benefit by providing certainty as to the status of the PDAs. Option 3 will avoid legal costs that may arise if one or more parties seek to re-negotiate the contract under the regulatory change backstop provisions with no net benefit accruing to consumers. **Consumers will pay for any regulatory uncertainty** The annual value of these contracts may make it desirable for parties to claim they are suffering a loss as a result of the changes to the TPM. This will complicate what should be a simple, regulator-initiated termination process. The costs of clarifying the status of each PDA outside of the Code will ultimately be borne by consumers and are avoidable by amending the Code now, at no extra cost. **The regulatory backstop provisions are designed for changes of a different nature** The Authority claims that: "*given that the existing PDAs and NEC have regulatory change provisions within them, it is clear that the parties did contemplate at least considering whether the contracts could appropriately continue if there was a relevant change in the rules (such as a new TPM).*" The regulatory change provisions are designed to allow the contract to continue in the event that there are unforeseen changes to the law that materially affect the parties' benefits and burdens under the contract. 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. It is inefficient to rely on these provisions, and each participants' respective interpretation of them, to resolve the status of the contracts. **Option 3 provides more certainty as to the status of the PDAs under the new TPM** Option 3 is better for consumers and provides the parties with a certainty of an outcome which aligns with the underlying policy of the TPM, without expending time and effort following contractual processes. Option 3 will save legal costs and reduce management effort.

	Option 3 will better achieve the Authority's statutory objective of efficiency in the operation of the industry with a long-term benefit to consumers.
Q6. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Yes
Q7. Do you have any comments on the drafting of the proposed Code amendment?	No, draft clause 12.95A in respect of option 3 is satisfactory.