11 April 2025

Cross-submission – Time-varying retail pricing (initiatives 2B and 2C)

Pulse Energy welcomes the opportunity to cross-submit in response to the Electricity Authority's consultation on the Energy Competition Task Force (ECTF) initiatives 2B and 2C.

The large retailers (and their subsidiaries) only should be required to offer TOU tariffs

Pulse Energy does not support regulation of pricing of retailers that do not have market power.

Regulation should be targeted at the large incumbent retailers who have market power and are least likely to have adopted TOU pricing already.

This fits with the Authority narrative that TOU pricing should be seen as beneficial for both consumers and retailers but needs a hurry up because competition isn't working properly and isn't driving pricing reform fast enough.

Submitters, such as Meridian, advocating the retail tariff regulation apply to all retailers misconstrue competitive neutrality. Competitive neutrality does not equate to treating all retailers equally. Competitive neutrality – or creating a level playing field – can require that market participants with market power are treated differently and regulated while market participants without market power are not.

The proposed retail tariff regulation could harm competition

There seems to be universal concern amongst retailers that the proposed retail tariff regulation will harm competition. For example, Genesis submitted "We do not agree the proposal will create the competition benefits cited in the Paper. Indeed, as noted elsewhere in the Paper, the regulatory proposals are just as likely to dampen competition or undermine the competitive advantage of retailers who already offer time-varying consumption or injection plans."

Powerco also caution that UK experience with retail tariff regulation is that it harms competition.

The retail tariff regulation should not prescribe a particular TOU pricing methodology (such as requiring the peak/off-peak differential reflect relative economic costs)

We agree with the Business Energy Council that the Authority should avoid being too prescriptive. Our submission detailed why we consider that the proposals go too far in prescribing mandatory TOU methodology requirements and how this could be fixed.

We agree with Meridian that "There are a variety of … ways to shift electricity demand away from peak periods, including for example load control plans – which do not meet the design requirements set out in the proposal." Powerco similarly commented that "Passing on time of use (ToU) charges isn't the determining factor to customers saving money" and that they have "seen retailers on our networks do innovative things to respond to our prices (and wholesale prices) …"

Meridian's suggestion that "the high-level design requirements being made [be] more flexible and allowing for retailers to be innovative in offering ways to shift demand and rewarding customers for shift" aligns with our recommendation that the regulation specify that retailers "must reward shift in consumption from peak to off-peak (and shoulder periods) and/or reduction in maximum load" without mandating the pricing methodology used to achieve this.

The concerns about over-prescription are reinforced by Nova's submission that some existing TOU pricing may not be compliant with the proposed regulation.

Nova submitted that 'free' power (e.g. Electric Kiwi and Nova) does not reflect "actual cost" and the resulting price differential may be "extreme" and, by inference, not comply with the "relative economic cost" requirement. This reinforces our concern that the draft Code is too prescriptive and could mean retailers have to develop new regulated TOU tariffs to comply, regardless of whether they already offer TOU pricing.

The Authority should heed its own warning that "pass-through could stifle the economic efficiency of the electricity sector"

We do not support suggestions that retailers be required to pass-through distribution pricing signals or that retailers should be required to unbundle distribution and retail pricing.

A requirement that retailers pass-through distribution pricing signals would create a situation where distributors are largely subject to voluntary pricing principles, but retailers' pricing is determined by distribution business pricing. Each distributor would, in effect, as retail pricing regulator.

It has been well canvassed in previous distribution pricing consultations that regulated pass-through would be undesirable and retailers' role is to repackage electricity supply into products that customer want.

We agree with 2degrees and Electric Kiwi that "Electricity retailers are not billing agents for distributors and have a role in managing price risk for consumers."[1]

We similarly agree with Trustpower "… it is important to recognise that not all customers will be able to understand overly complex signals or be interested in responding to real time price signals. In our view many customers prefer price certainty and so it is important that retailers are still able to offer this group of customer's plans that suit them, including plans that insulate them from price volatility."[2]

The Authority has previously commented that different customers will have different appetites for price risk and demand management with many residential consumers preferring the certainty of 'fixed price-variable volume' tariffs, and that "Consumers themselves are in the best position to decide on the level of risk or active management they prefer."bv It is important that retailers are able to cater for different customers and different customer preferences which may not be possible if we are constrained to certain types of pricing determined at the electricity distribution level.

We agree with the Authority's explanation why regulated pass-through of distribution charges by retailers is undesirable:[3]

> "The Authority does not see there is a particular efficiency reason why prices should be passed-through. Instead, pass-through could stifle the economic efficiency of the electricity sector because it reduces consumers' choice on how to manage price risk, and eliminates a dimension on which electricity retailers can innovate and compete for customers. …
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> …
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> "A workably competitive retail electricity sector provides consumers with choice of retailers and innovative retail services and plans that better match consumers' circumstances and preferences. It is better to rely on competition to stimulate solutions and innovation, rather than imposing an administrative solution on price risk."

The Authority should consider shortening the sunset clause

A number of submissions suggested that the sunset clause apply in 3 years rather than 5. Ultimately, how long the proposed retail tariff regulation is 'needed' depends on how long the Authority considers it will take to resolve competition problems in the electricity retail market.

The regulatory justification for retail tariff regulation would not hold if the market was workably competitive and functioning well.

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[1] 2degrees_-_Electric_Kiwi__-_Targeted_Reform_of_Distribution_Pricing_-_Submissi_omjFWC9.pdf
[2] Trustpower, TRUSTPOWER SUBMISSION: MORE EFFICIENT DISTRIBUTION PRICES, 20 February 2019.
[3] Electricity Authority, More efficient distribution prices What do they look like?, Consultation paper, 11 December 2018.

Given the Authority perspective that there have been competition problems since at least 2020, a 5-year sunset clause starting from 2026 would suggest the Authority believes the competition problems could drag out for over the entire 2020s. Pulse considers that this raises some substantive questions about whether the proposed ECTF initiatives to promote competition will be adequate.

Concluding remarks

Pulse agrees with Powerco that “Regulating retail prices … is likely to lead to worse outcomes than doing nothing” and “Competitive markets will deliver better outcomes for customers than what regulatory intervention can.”

Yours sincerely,

Sharnie Warren
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