ELECTRICITY AUTHORITY
TE MANA HIKO

30 October 2024

s9(2)(a) [redacted]

Tēnā koe s9(2)(a) [redacted]

Thank you for your request, received on 1 October 2024, under the Official Information Act 1982 (the OIA) for the following information:

1. *"*A list of external consultants and/or contractors engaged by the Authority on the Risk Management Review (including consultants engaged on other work who are also working on the risk management review), the purpose for which they were engaged, and fees, for the period from 1 January 2024 to 1 October 2024.
2. Correspondence between the Authority and the Commerce Commission relating to the current risk management review including emails, letters, summary documents briefings and presentations in relation to:
    a. substantive matters in the conduct of the review such as (but not limited to) terms of reference, scope of the review, assumptions, as well as updates on progress.
    b. the complaint which the Commerce Commission referred to the Electricity Authority alleging abuses of market power, which is referred to in this NBR article from December last year https://www.nbr.co.nz/business/comcom-passes-competition-complaint-to-electricity-authority/
3. A list of all meetings between the Authority and industry participants where the risk management review was the subject, and any summaries of those meetings from the start of the risk management review to 1 October 2024.
4. All correspondence between the Authority and the Minister of Energy between 1 January 2024 and now, including but not limited to emails, briefings, aide memoires, minutes, regular/weekly updates, talking points, etc. in relation to the risk management review, competition issues and market power issues.*"*

<u>Request 1</u>

The Electricity Authority Te Mana Hiko (Authority) engaged only one external consultant in relation to the risk management review. That external consultant was A&B Competition Lawyers who provided legal advice on the Risk Management Review. The total expenditure between 1 January and 1 October 2024 is $15,225.

<u>Request 2</u>

Correspondence with the Commerce Commission in scope of your request dated between 13 March 2023 and 16 April 2024, has been published on our website. This correspondence was published as it was requested under the OIA on 31 January 2024 and 9 April 2024. You can find the correspondence on our website here: [Request official information | Electricity Authority (ea.govt.nz).](Request official information | Electricity Authority (ea.govt.nz))

The Authority intends to provide you with the remaining correspondence within the scope of your request from 17 April to 1 October 2024. However, it will not be possible to meet the time limit of 20 working days after the day we clarified your request. We are therefore notifying you of an extension of the time to make our decision in respect of this part of the request, to 11 December 2024.

This extension is necessary because your request necessitates a search through a large quantity of information and consultations are necessary to make a decision on this part of your request.

Request 3

The Authority has provided a list of the meetings it held in relation to the risk management review in Appendix A. There were no meeting summaries made per se, but there were some limited notes taken. The majority of these meetings were held on a confidential basis, therefore those meeting notes are withheld under s9(2)(ba)(i) of the OIA because disclosure would likely prejudice the supply of similar information and it is in the public interest that such information continues to be supplied.

However, two meeting notes are disclosed. Some information from is being withheld under:

- Section 9(2)(a) of the OIA to protect the privacy of natural persons
- Section 9(2)(ba)(i) because disclosure would likely prejudice the supply of similar information and it is in the public interest that such information should continue to be supplied.

Request 4

The Authority is releasing six documents within scope of this part of your request. Some information is being withheld under:

- Section 9(2)(a) of the OIA to protect the privacy of natural persons
- Section 9(2)(g)(i) of the OIA to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty

Some information has also been redacted as it is out of scope of your request.

The Authority provides fortnightly reports to the Minister for Energy. Some of these may be in scope of your request. These reports are proactively published regularly here: Fortnightly reports | Electricity Authority (ea.govt.nz).

I am satisfied, in terms of section 9(1) of the OIA, that the need to withhold the information referred to above is not outweighed by other considerations that render it desirable, in the public interest, to make the information available.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact us by emailing oia@ea.govt.nz.

Nāku noa, nā,

Airihi Mahuika

GM Legal, Monitoring and Compliance

Delivering affordable electricity through a competitive electricity market

Electricity Authority meeting with the Minister for Energy – 26 June 2024

ELECTRICITY AUTHORITY
TE MANA HIKO

Key points

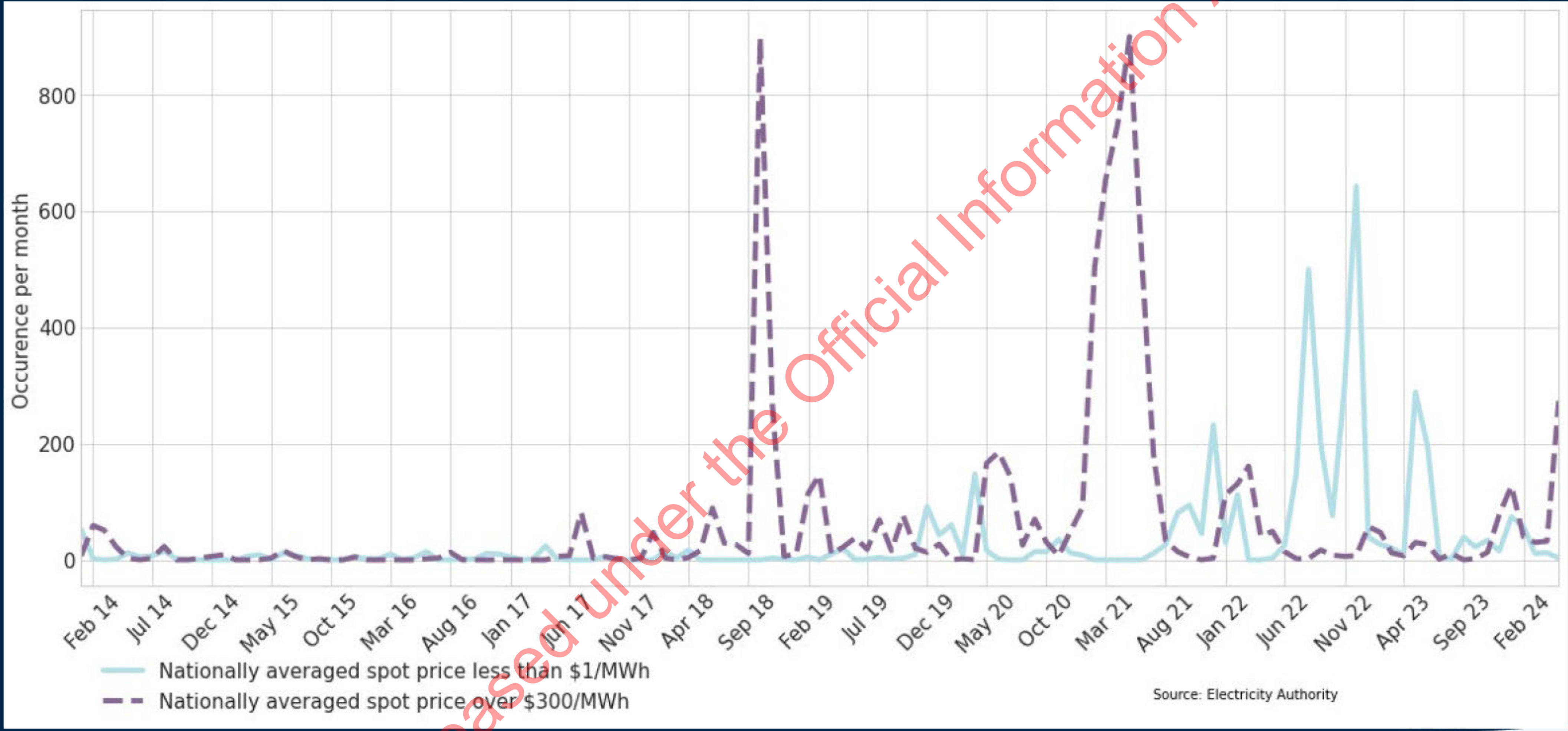
- Strong competition in different markets and unlocking more investment (in demand response, generation and flexibility) are key to ensuring consumer access to secure and increasingly affordable electricity.
- Evidence shows generation offers and spot prices continue to make sense: they follow fuel costs and value and respond to scarcity and abundance. But the Authority is not complacent. We are increasing our monitoring, reporting and forward planning.
- The Authority is supporting investment and competition and continually tuning market settings as conditions evolve, including:
  - Strengthening the wholesale market to respond to the evolution of the electricity industry
  - Increasing regulatory certainty and transparency
  - Enabling the emerging demand side flexibility market
  - Reducing barriers to competition and to new connections to the network
  - Actively monitoring competition and investigating key stakeholder concerns – right now we are focused on whether the pricing and availability of risk management options is creating a barrier to retail competition.

Volatile and elevated spot prices since 2018

- The wholesale market tightened during a period of substantial adjustment and uncertainty:
  - Future fuel: gas supply uncertainty, changing weather patterns
  - The New Zealand Battery Project
  - Uncertainty about the long-term future of the Tiwai Point aluminium smelter
- 2023-24: Increasing investment in generation and innovation in response to reduced uncertainty
- However, the system faces challenges as new generation, and the system, becomes more intermittent.

Volatile and elevated spot prices since 2018

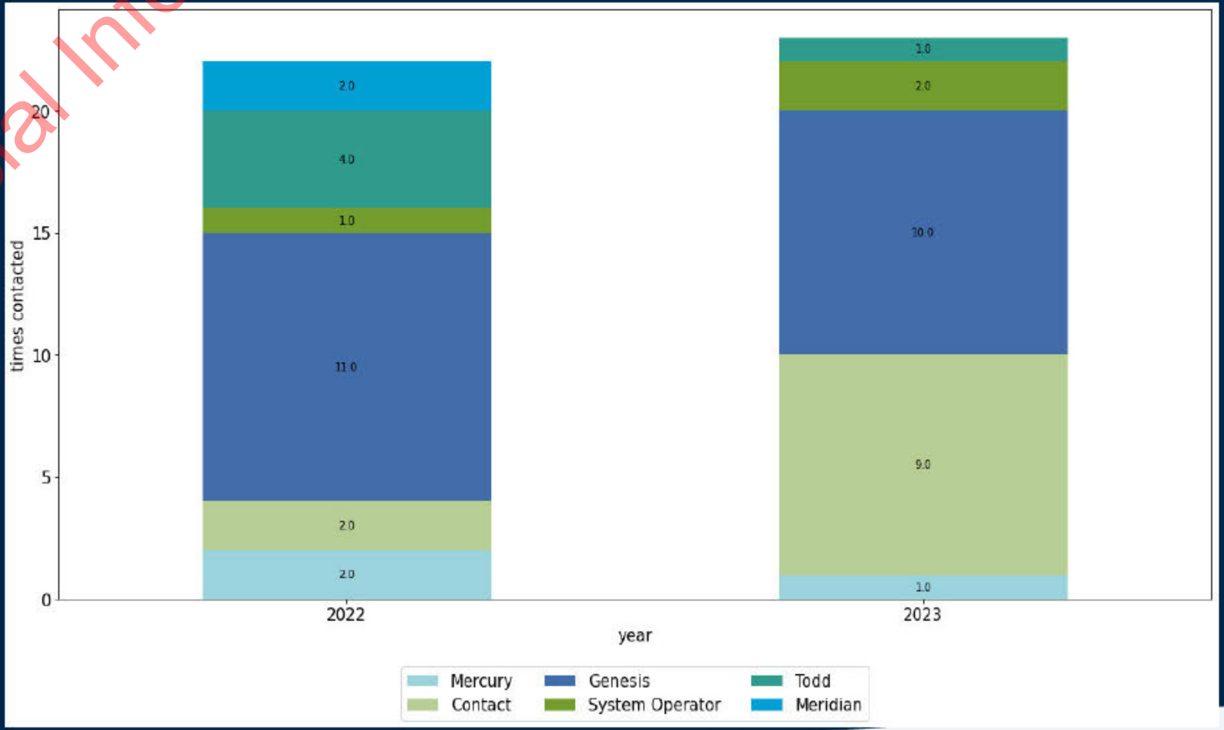
Number of occurrences where nationally averaged spot prices were greater than $300/MWh or less than $1/MWh



Increasing volatility led to some participants questioning market design

- Since 2018, some stakeholders have questioned the market design, expressing concerns about potential market manipulation by gentailers and excessive profits.
- The Authority vigilantly and visibly monitors trading conduct in the wholesale market.
- Generators with market power can potentially economically withhold (offer at a very high price) some of their generation to drive higher (less competitive) spot prices.
- New trading conduct rules took effect in 2021 and since then, the Authority has not observed this behaviour.
- Offers and spot prices make sense: they follow fuel costs/value; respond to scarcity and abundance.
- The Authority is confident the spot market is workably competitive. But we do not take this for granted, and under workable competition gentailers can still earn some higher profits, especially when supply is tight.
- More competition is the best long-term safeguard for this.

Times the Authority was contacted about whether certain behaviour is consistent with the Code



Market 2.0: delivering a stronger market designed for the future

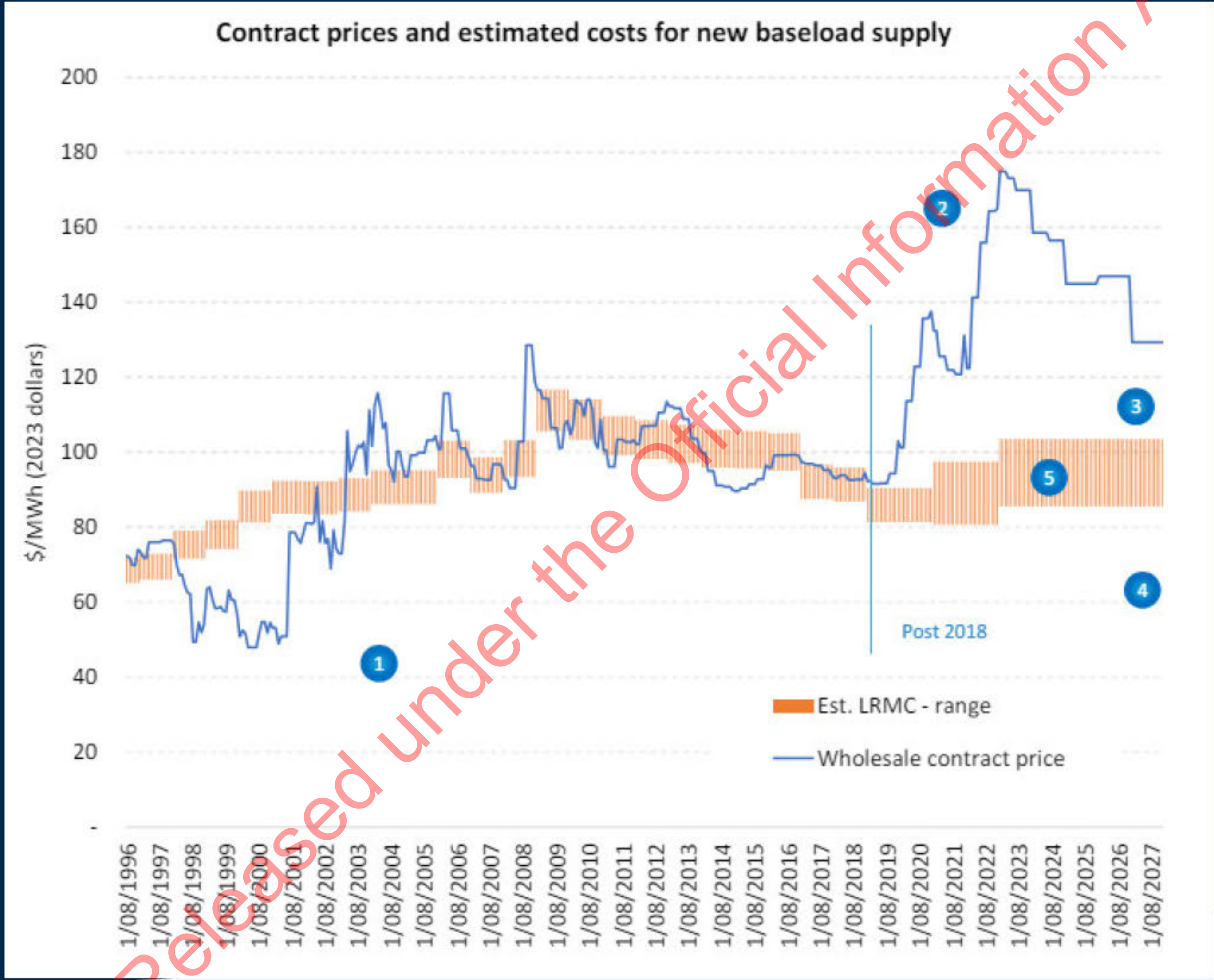
- The electricity market will need to evolve to respond to increasing intermittency as well as enable many more and diverse participants.
- Electrification will drive an increase in demand and new technologies will enable demand response to be a game changer for security of supply.
- We're working on changes to equip the market to deliver reliable and affordable electricity now and in the future.
- To deliver Market 2.0, the Authority is focused on making changes to:
  - Support new investment and innovation
  - Strengthen competition
  - Enable enhanced consumer choice and mobility
  - Increase system resilience and adaptability
  - Open up data for greater consumer benefit

Market 2.0: New investment will best enable reliable and more affordable electricity

- Increasing investment in generation and innovation in response to reduced uncertainty
- To keep costs as low as possible, we need to have optimal conditions for efficient investment through:
  - Accurate price signals
  - Regulatory certainty and increased transparency
  - Promoting emerging markets, particularly for demand side flexibility
  - Ensuring markets are open to competition, with any barriers to entry addressed, to maintain investor confidence (this is discussed on slides 11-15).
- The market is already responding:
  - Forward prices for the 2026 and 2027 years are substantially lower
  - New generation investors are entering
  - Demand side flexibility is increasing, at the large end of the market (Tiwai), and the small (residential).
- But there is more work to do.

Forward curve (estimate of future spot prices) vs cost of new solar/wind generation

- Future prices of electricity are falling in response to significant generation investment.

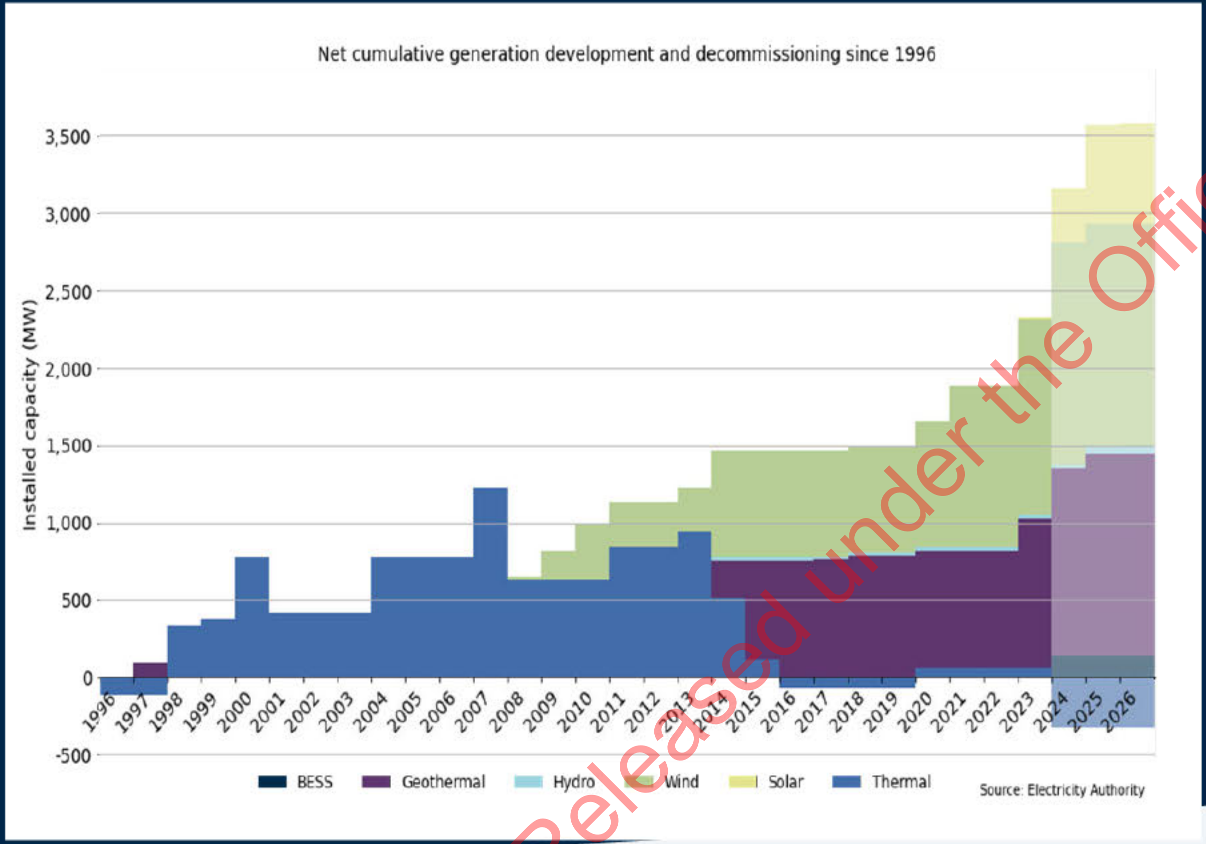


This graph was produced prior to the recent NZAS contract which has led to a further drop in the forward price curve.

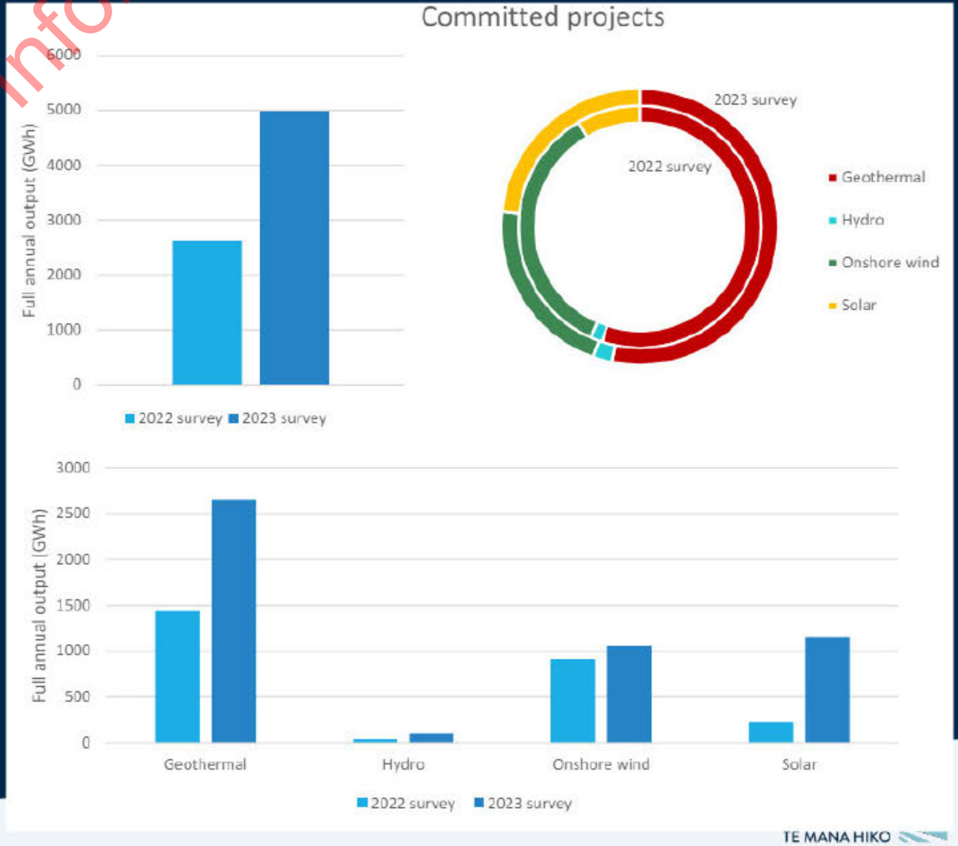
The success of the wholesale market in promoting investment

- The wholesale market is designed to provide accurate price signals for new generation, and increasingly for demand side participation. For nearly 20 years the market has enabled investment in new generation. After a lag, we are seeing investment ramping up (current and planned) across the system.

New generation delivered since market established



Committed projects in the generation pipeline



Market 2.0: Investment in demand response and flexibility is critical

- New generation, and the system overall, is becoming more intermittent.
- Firming is necessary to ensure reliability. In Market 2.0, firming options include:
  - Demand response
  - Demand dispatch
  - Batteries and other technologies
- Consumers and industry benefit from increased flexibility – more innovation leading to more choice, better use of existing infrastructure and downward pressure on prices.
- It is the Electricity Authority's role to enable these changes, so consumers can access affordable, secure and reliable electricity as the New Zealand economy electrifies.

Market 2.0: Promoting competition as the market evolves

- Delivering MDAG's recommendations is a top priority for the Authority.
  - We are implementing the recommendations as quickly as possible.
  - We are holding ourselves accountable for delivery. We will publish a quarterly dashboard in July to update stakeholders on our implementation.
  - We are working across agencies, including MBIE and the Commerce Commission, to ensure future optionality and the most efficient and effective delivery.
  - We are commencing other streams of work that augment the MDAG work, including data for performance.

Market 2.0 - delivery of MDAG's priority recommendations

PROJECT	Q4: 23/24	Q1: 24/25			Q2: 24/25			Q3: 24/25			Q4: 24/25		
	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Improve short-term forecasts of wind, solar and demand (MDAG rec 1)		Board decision	Code consultation and procurement process							Board decision	Implementation commences		
Improve transparency of hedge information covering offers, bids and agreed prices (MDAG rec 2)	Board decision	Implementation			Code change		Publication of information and insights						
Monitor provision and uptake of DSF rewarding activity (MDAG rec 3)		Publication of DSF survey		Board decisions on retail data project			Implementation commences						
Use Part 4 of the Commerce Act to require distribution pricing signals for DSF (MDAG rec 4)	This measure is captured within our distribution pricing work programme												
Develop new reserve product to cover sudden reduction from intermittent sources (MDAG rec 6)		Board decision	Further policy work with system operator								Consult		
Improve visibility of DSF for system operator and remove Code barriers to DSF offering ancillary services (MDAG rec 11)		Two consultations on Part 8 Code review, common quality requirements						Board decisions and Code changes early 2025					
Develop new standardised flexibility products (MDAG rec 8) – **industry co-design**		Targeted engagement	Industry co-design process				Voluntary trading of new flex product(s)						
Develop new standardised flexibility products (MDAG rec 8) – **Authority reference contract if required**			Monitoring				Develop reference contract and mandatory market making provisions			Board decision	Implementation		
Develop a high-level outline of 'virtual disaggregation' as a backstop measure if other measures are not effective (MDAG rec 13)		Develop outline				Board consider outline			Publish outline				
Publish aggregated information on pipeline of new developments, energy and capacity adequacy (MDAG rec 17)		Board decision and consultation		Consider submissions	Decision				Begin publication				
Sunset profiling if smart meters in place (MDAG rec 18)						Board decision and consultation		Consider submissions			Board decision		Code change
Update parameters for scarcity pricing (MDAG rec 16)					Policy development							Board decision and consultation	

Market 2.0: Ensuring competition in the forward contract market

- Risk management underpins workable retail competition.
- Since the 2018/19 Electricity Price Review, concerns have been raised about the availability and pricing of forward contracts. These are some of the core risk management options for retailers.
- Underlying these concerns is a view that gentailers, in their dual role as suppliers of forward contracts and retail competitors, are favouring their own businesses, and therefore skewing competition against newer retail only entrants.
- In response, the Authority:
  - Has made substantial improvements to the exchange based (ASX) forward contract regime – we consider that market making on that platform is robust
  - Has facilitated improved transparency for bilateral over-the-counter (OTC) forward contracts through the OTC Code of Conduct
  - Is currently investigating whether risk management options are creating a barrier to retail entry or expansion – focused on OTCs, but taking account of ASX contracts, batteries, demand response, virtual power plants. This *risk management review* responds to the 2023 complaints by non-integrated retailers. We expect to reach initial views in September 2024 (market sensitive).

s9(2)(g)(i)

[redacted]

s9(2)(g)(i)

[redacted]

Market 2.0: Efficient connection prices

- To keep electricity affordable, and support the electrification of the New Zealand economy, transmission and connection pricing needs to enable cost-effective, efficient connection of new renewable generation resources and electrification of load. This includes:
    - reviewing charge allocation under the Transmission Pricing Methodology to ensure batteries are on a level playing field with other types of generation and remove any potential barriers to investment
    - reconsidering the network pricing rules for generation connecting to distribution networks, to ensure these settings provide the right incentives for the country to electrify at the least cost to consumers
    - reviewing the rules and processes for connecting generation to distribution networks, ensuring connection-ready generation can progress and there is information on available network capacity
    - developing a draft Code amendment to mandate efficient connection pricing for load customers. This will address barriers so consumers can benefit from investment in electric vehicle charging, process heat electrification and more affordable new housing.

Delivering consumer mobility and increased reliability in 2025

- Our work programme addresses key areas of concern in the New Zealand electricity system. This allows the system to support the Government's coalition commitments and deliver secure, reliable and affordable electricity to all consumers.

- The following initiatives will make a material contribution to security of supply and increasingly affordable electricity in 2025 and beyond:
  - **Standardised flexibility contracts,** supporting competition
  - **Open data programme,** promoting innovation and greater consumer mobility
  - **Improved forecasting of intermittent generation,** increasing the accuracy of generation offers and putting downward pressure on consumer prices
  - **Enhanced retailer stress testing,** supporting participants to manage their exposure to spot price risk
  - **New switching service,** supporting informed consumer choice and mobility
  - **Battery energy storage solutions participation enhancements,** ensuring a level playing field with other technologies
  - **Enhanced hedge disclosure obligations,** increasing transparency of risk management products and electricity futures pricing
  - **Improved information on the generation investment pipeline**

Next steps and upcoming milestones

- Immediate work programme milestones include:
  - S18 Review into Northland
  - Levelling the playing field in transmission pricing for batteries – *July/August*
  - Engagement on the non-price Code provisions to connect generation to local networks – *July/August*
  - Engagement on pricing to connect generation to local networks –*August*
  - Publication of information paper on the risk management review – *September*
  - Commence review of regulatory settings for market making – *October*
  - Consultation on amending the Code to regulate load connection pricing – *October/November*

Talking points and Q&As – meeting with the Minister for Energy on 26 June 2024

Title slide

- Introductions
- We welcome the opportunity to discuss how the Authority's wholesale electricity market and connection pricing work programmes contribute to the Government's coalition commitments
- The slides are an aid the discussion; we are happy to respond to questions along the way

Slide 2 – Key points

- *Talk to the slide, briefly only – colour gets added later*

Slides 3 and 4 – We are still in a period of substantial change; volatility and elevated prices reflect underlying conditions

- 2018 was a breakpoint – the unexpected Pohokura field outage led to scarcity concerns in the market for the first time in many years. This led to a period of adjustment, exacerbated by uncertainty, eg, gas supply; Tiwai
- With a tighter supply and potentially some investment hold up – any uncertainty will likely have been priced into business cases – the spot price became more volatile, and the spot and future prices have been elevated
- *Refer to the two graphs on slide 3*
    - As well as volatility, the chart on the left shows periods of abundant fuel and low prices in 2022 – what we would expect to see given the conditions, and not consistent with claims that the market is broken
    - The forward curve graph on the right has been repeatedly put forward as evidence of a problem. We aren't saying everything is perfect, but this graph is consistent with workable competition in a period of adjustment. In the circumstances it makes sense the forward curve has been well above the price of new build solar/wind, ie, that new build intermittent generation cost, by itself, has not been the expected cost of a secure electricity supply in times of shortage and uncertainty
- This volatile period has real and practical consequences – we appreciate that. Wholesale energy prices have been, and remain, higher. Most consumers are on fixed price contracts and have been sheltered from this volatility until now. But retailers can no longer absorb all of the cost, especially with network costs also increasing from April 2025
- The tight balance also contributes to the supply warnings Transpower has had to issue at times over the past few years. We haven't run out of electricity in any periods though (except where Transpower made a mistake – 9 August) – the system is responding as it should
- The sector is very capable of responding to these challenges, and is already doing so, but it does need guidance, clear and timely information, and a vigilant watchdog

Back-pocket re the market conditions post-Pohokura

- A substantial economic transition is occurring:
    - Demand for electricity is increasing substantially as the New Zealand economy electrifies, including during peak demand periods

        - Eg, Contact Energy's May operating report stated that national electricity demand is up 6.6% on May 23 and up 8.3% on May 22
    - Fossil fuels currently remain essential to firm supply, but face high emissions costs and investment uncertainty
- New Zealand's gas supply got tighter, and the future less certain
- Electricity supply is increasingly sensitive to weather conditions – hydro storage; intermittent solar and wind
- Two key supply (NZ battery) and demand (Tiwai) questions have been hanging over the sector

Slide 5 – New investment will best enable a secure and more affordable electricity supply

- The key issue from this period of change remains the need to grow supply and shave peak demand – to prevent extra, unnecessary network and generation cost. We need investment – in more generation and importantly in new technology to harness the potential of demand-side flexibility
- Core to that is a focus on the wholesale market – our briefing sets out our work on certainty, transparency and managing price risk – all factors that create a better investment environment
- We are also doing substantial work on demand side flexibility, with an immediate emphasis on freeing up the data that flexibility traders need to grow their businesses; and ensuring distributors are not hindering the development of this critical emerging market; removing barriers to network connections
- We are seeing substantial new investment and more focus on flexibility (refer to slide 7 and backpockets if need be)
- The diversity of investors is also increasing – of that committed new generation, 20% is backed by international investors; 28% is from independent generators such as Lodestone. That's a good sign for increased competition, but we appreciate that competition is still something we need to keep a close eye on

Back pocket re new investment

- Recent examples:
    - Mercury's announced expansion of their Kaiwera Downs wind farm from 43MW to 198MW
    - New generation investors are entering, eg, Lodestone
    - Octopus and Contact both putting demand response offers into the market (Octopus *savings sessions*; Contact *hot water sorter*)
    - The Ara Ake/SolarZero virtual power plant trial
    - The new Tiwai contract including a substantial demand respond component
- These are not isolated announcements. Our latest investment survey shows:
    - Committed new generation investment will add roughly 5,000GWh of electricity annually
    - Uncommitted but actively pursued projects have a potential combined output of over 20,000GWh
        - Our tracking pipeline of committed and uncommitted projects lists 145 generation projects across the country
- To put that into perspective, the total generation in the 2023 year was roughly 43,500GWh

Likely question: *we get that intermittent generation investment is happening; flexible generation seems to be where there is an investment issue – should the Government step in and incentivise that?*

- Flexible generation – primarily thermal – is likely to become scarce
- The risk management review will help us to better answer this question (how much of a problem is flexible generation supply?)
- But flexibility doesn't just come from generation. We see increasing investment in batteries, and demand response, at an industrial and consumer scale. It is pricing volatility that drives the development of these solutions. Any incentives being considered should ideally not get in the way of that development

Back pocket details

- Hydro is flexible, but can only help retailer risk management to a limited extent, due to year by year inflow uncertainty, ie, it is less able to back long-term firming contracts
- The Government's policy approach to gas will also help in the near term (gas peakers)

Slide 6 – the success of the wholesale market

- *The slide largely speaks for itself*
- The wholesale market has delivered a lot of new, unsubsidised generation in the last 25 years, with plenty more committed or being actively pursued. NZ is unusual in this regard – comparator countries operate wholesale markets, but also tend to subsidise
- The 2022/2023 MDAG study kicked the tyres of the wholesale market, to test whether it was fit for the future; whether a market is needed at all. MDAG advised that the wholesale market is the best approach for the future. MDAG's work is the only truly robust, independent, and comprehensive response to this market design question
- We are not blind to its imperfections though. We know it needs to evolve alongside the industry to stimulate the necessary (and most efficient) investment and continue to promote competition. MDAG has suggested a number of changes to improve the market, which we are implementing, and we are constantly monitoring the market, and listening to industry concerns

Back pocket: why MDAG said the wholesale market is the best approach (3 reasons)

- "Harnessing innovation will be critical to meeting New Zealand's electrification goals. A well-structured wholesale market is the best platform to spur and deploy such innovation
- Changes in technology make it technically feasible for new types of players (including households) to provide generation, energy storage and demand response services. It would be very hard (if not impossible) for these new players to participate commercially in the future system without a wholesale market platform
- Competition is the most reliable way to put downward pressure on costs and prices – because suppliers with the best solutions win more customers (and vice versa). A wholesale market remains the best platform to enable competition."

s9(2)(g)(i) [redacted]

- Operating two markets is one possible response to profit concerns – we understand the logic
- But it's not that simple – electricity market design is about more than profit limitation. Having two markets substantially changes the investment signal, including (for example)

to invest in batteries as a substitute for flexible generation. It is not clear how participants would change their offer behaviour in response to a split wholesale market

- [We are happy to develop a detailed response to this]

Slide 7 – Is there a competition problem in the wholesale market?

- Various parties have expressed concerns about the wholesale market over the years, particularly in the face of volatility driven by factors such as a dwindling gas supply and increased uncertainty due to potential Government supply solutions and the future of Tiwai
- New Zealand's electricity market is competitive but there's always room to improve particularly as we see more investment, increased participation in the market and the opportunity for diverse business models to offer more consumer choice through new product and services
- However, there are four relatively large, integrated gentailers; with Meridian particularly often being pivotal with its substantial South Island hydro assets
- Perfect competition is nirvana – not the standard we hold any New Zealand markets to. We are a small, isolated country; this is a capital intensive industry experiencing a major energy transition
- Our focus is on *workable* competition. We think competition in the wholesale market is workable and we test this regularly, as set out on the slide. We run a rigorous and transparent trading conduct review every week to test whether generators are offering in the way we would expect in a workably competitive market, ie, offers reflecting underlying supply conditions
- We:
    - Look at prices – low prices, high prices, price separation between islands
        - We are specifically looking at whether high priced offers may indicate economic withholding
    - Test against supply and demand conditions
    - Consider costs, both known costs and opportunity costs, including the relationship between hydro storage and cost
- We are not seeing the concerning behaviours of the past, eg, hydro lakes spilling fuel rather than using it
- We are talking regularly to the big generators and they know we're watching all trading behaviour closely

s9(2)(g)(i) [redacted]

- We've heard this concern from MBIE
- It's hard to test at this detailed level – involves judgements about things like the future value of stored water that are inherently subjective
- [We are happy to scope up this work, ie, whether it is possible to robustly test this point, and to test this with MBIE]
- We consider more investment and competition are the best answers to this – including competition in both supply and demand

Slides 8 and 9 – Is there a competition problem in the forward contract market? ITPs

- Managing risk is a critical component of participating in the electricity market

- Risk management helps insulate market participants from the financial consequences of high and low spot prices. Ensuring retailers have access to risk management tools is an important enabler of retail market competition
- The Authority has facilitated the development of a number of standard risk management products over the years to support participants to manage their risk particularly as participants operate in an increasingly volatile market
- Non-integrated retailers however consider there is not a level playing field when it comes to risk management, particularly for bespoke products
- That's why we are working through the risk management review at pace
- s9(2)(g)(i) [redacted]

Back pockets on specific points

- *Breadth of our work:* we are also seeking further perspective from brokers and independent generators to ensure we aren't missing anything – they have a stake in risk management too
- *Risk management market definition parameters include:*
    - To what extent does it include any substitutes for OTCs: potentially demand response, batteries, generation/quasi-integration/PPAs, ASX, other business models?
    - To what extent are different risk management options – baseload vs super peak – different markets?
- *There is an underlying risk allocation question:* while our work is focussed on the price and availability of risk management options, underlying this is a question of allocation of risk. There is finite flexible generation to back risk management contracts, and other potential tools for managing that risk, but they come at a cost (eg, batteries). If retailers want the gentailers to manage all of their price risk, they will realistically pay a higher price than if they carry some of risk themselves and make their own investments in flexibility

ITPs

- Non-integrated retailers have focused particularly on the gentailer ITPs. That makes sense given their underlying concerns that gentailers are discriminating against them (compared to the gentailer retail arms)

- s9(2)(g)(i) [redacted]

Extracts from Octopus letter:

The current electricity market structure, dominated by vertically integrated generator-retailer incumbents, is impeding development of the market, raising security of supply challenges and causing electricity prices to be higher than they need to be.

MDAG has highlighted that competition problems under the current settings will only get worse as the country moves towards greater electrification and more renewable generation. The MDAG has highlighted that competition problems under the current settings will only get worse as the country moves towards greater electrification and more renewable generation.

There are limited operational synergies between generation and retail activities. Within a vertically integrated organisation the benefits are almost purely financial and relate to insulation of revenue against market price risk. There is no apparent public benefit from this. Arguably the increasing importance of demand side participation in reducing costs across the value chain would suggest it has a negative impact on the market.

Slide 10 – Connection pricing for distribution and transmission must ensure efficient connection of new renewable generation and electrifying load

- An important and aligned focus is making sure there are no barriers to connecting new renewable generation resources. This means making sure the rules enable connection of new energy sources. We have a raft of measures underway to encourage further investment in and connection to the grid and networks including:
    - We're looking at how transmission charges are allocated, to make sure batteries are not disadvantaged when they connect to the grid
    - We're looking at the rules for distributed generation – the existing rules were designed years ago when the landscape was quite different, so are likely not fit for purpose in the new environment
    - We're looking hard at the rules and processes that can slow down connections to the network
    - And we are developing a draft Code amendment to address issues with prices for connecting to the network for electrifying load (like EVs)

Ministerial Briefing

Wholesale Electricity Market Competition and Connection Pricing

Date:	Wed, 29 May 2024	**Priority:**	Medium
Security classification:	In Confidence	**Electricity Authority reference number:**	BR-24-0020

Action sought – This briefing is for noting.		
	Action	**Deadline**
Hon Simeon Brown Minister for Energy	**Note** the information provided on the Authority's work to strengthen competition in the wholesale electricity market and connection pricing.	Mon, 10 June 2024
Appendices included	Appendix A: Wholesale electricity competition and connection pricing work programmes	

Contact for telephone discussion (if required)				
Name	**Position**	**Telephone**		**1st Contact**
Andrew Millar	General Manager, Market Policy	s9(2)(a) [redacted]		✓
Kirsty Hutchison	Manager, Wholesale Market Policy	s9(2)(a) [redacted]		

Author	James Goodchild	**Position**	Senior Analyst

The following departments/agencies have been consulted

Minister's office to complete:

☐ Approved
☐ Noted
☐ Seen
☐ See Minister's Notes

☐ Declined
☐ Needs change
☐ Overtaken by Events
☐ Withdrawn

Comments

Key Points

- New Zealand's electricity system is undergoing unprecedented change. Transformation is underway to enable an increasingly electrified economy in which there will be a more diverse mix of energy sources fuelling our country, and greater choice and control for consumers.

- The move to electrify the economy, along with changes to technology and the availability and cost of fuels, is driving significant adjustment in the electricity market. This is contributing to recent volatility in prices and concerns about affordability and security of supply.

- More investment in generation and new technologies is needed to deliver a secure, reliable and affordable electricity supply in the future and to help address this volatility. The wholesale electricity market is designed to do just that and has successfully enabled private sector led investment in generation over multiple decades.

- The Electricity Authority (the Authority) has an active programme of work underway to strengthen competition in the wholesale electricity market and connection pricing. This programme builds on the reforms of recent years and is underpinned by our active monitoring of the market.

- The Authority is working at pace to enhance regulatory certainty and enable investment through measures to increase transparency, improve the accuracy of price signals and increase participation, and therefore competition, in the market.

- We are confident our work programme is addressing the key areas of concern in the New Zealand electricity system, which in turn best allows that system to support the Government's coalition commitments and deliver secure, reliable and affordable electricity to all consumers.

- At the same time, we continue to work closely with other regulators and stakeholders to respond to concerns about the market to ensure that it delivers sustained benefits for consumers over the long term.

Purpose

This briefing informs you of the Electricity Authority's work to strengthen wholesale market competition and improve connection to the grid and networks. It outlines key projects, deliverables and milestones.

Summary

New Zealand's economy is rapidly electrifying. To support this process, we need regulation to keep pace and successfully navigate the challenges, so that the electricity system continues to provide secure and reliable electricity supply that consumers can afford.

The move to electrify the economy, along with changes in the availability and costs of technology and fuel, is driving significant adjustment in the electricity market and this is contributing to recent price volatility. Stakeholders are rightly asking questions as the sector wrestles with affordability and security concerns – the same concerns referenced in the Government coalition agreement.

The best response to these affordability and security questions is increased investment – the right amount, in the right place and at the right time – in generation and flexibility services. The wholesale electricity market is designed to do just that. It has successfully enabled private sector led investment in generation over multiple decades. As our external environment becomes increasingly volatile, the Authority has reviewed and developed market settings to respond to challenges and continue to attract investment and innovation in New Zealand's electricity system.

We have worked hard over the last five years (since gas availability concerns began to drive higher prices and more volatility) to:

- Strengthen the market rules to support competition and efficiency, eg, significantly improving and closely monitoring the market trading conduct rules
- Test whether the market approach and settings remain fit for purpose for a future of much more intermittent, renewable generation, including commissioning the independent Market Development Advisory Group (MDAG), made up to independent experts and senior industry figures, to undertake a multi-year study on that question.

The Authority is continuing to develop and enhance the wholesale electricity market, with three key workstreams underway:

- Enhancing market transparency – more and better information is critical for investment certainty
- Investigating concerns about competitive market behaviour – having completed our wholesale market review, we are now looking closely at concerns raised by independent retailers about the availability of wholesale price risk management options
- Implementing the three tranches of recommendations from MDAG's study to strengthen the foundations of the wholesale market, noting MDAG's view that "[a]fter careful consideration of the options, including experiences in other countries, our conclusion is that a wholesale market is the best approach for the future".

We are also reviewing the price and non-price terms for new network connections. We recognise these connection arrangements can become a substantial barrier to entry for new generation, new technology such as grid scale batteries, or electrifying load: ensuring they are rightly calibrated is another key aspect of sending the right investment signals for generation and flexibility.

The specific projects and milestones for this programme of work are set out in Appendix A.

We are confident our work programme is addressing the key areas of concern in the New Zealand electricity system, which in turn best allows that system to support the Government's coalition commitments.

We are open to considering suggestions for market improvements. However, any proposals would need to deliver enhanced investment and innovation for the long-term benefit of consumers.

Recommended action

Hon Simeon Brown, Minister for Energy

It is recommended that you:

1.	**note** key initiatives on our competition and connection work programmes	**Noted**
2.	**invite** Electricity Authority staff to address any questions you may have about our work programme, and how this responds to emerging issues in the electricity market	**Agree/Disagree**

Sarah Gillies
Chief Executive
Electricity Authority

29 / 05 / 2024

Hon Simeon Brown
Minister for Energy

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Background

1. On Wednesday 15 May, you requested a briefing from the Electricity Authority (the Authority) on wholesale market competition and connection pricing, covering the work that is underway and timeframes, especially for key decisions.

2. You also requested that the briefing address how the Authority's work programme will contribute to the following Government coalition agreement commitments being actioned:

   - Require the electricity regulator to implement regulations such that there is sufficient electricity infrastructure to ensure security of supply and avoid excessive prices.
   - Examine transmission and connection pricing to facilitate cost effective connection of new renewable generation resources, both on-shore and off-shore.

Wholesale market competition

Background

3. The New Zealand wholesale electricity market is a critical component of the country's energy infrastructure, where electricity is sold by generators and bought by retailers to deliver electricity to New Zealand homes and businesses.

4. The wholesale electricity market provides clear and transparent signals of the status of the demand-supply balance over multiple time periods. Hour by hour and month by month these signals help generators determine how much electricity is required to meet demand. Over the longer term these signals determine how much new generation or storage is needed, to which generators respond by making investment in new energy infrastructure. Prior to the market being established, there was no transparent way to signal these investment needs to potential investors.

5. The demands on the wholesale electricity market are also changing due to a range of factors. These include growth in demand as the economy electrifies, increased diversity of electricity participants offering innovative products and services, new technologies that enable consumers to be suppliers as well as users of electricity, and increased price volatility driven partly by diminishing gas supply and the increased participation in the market of more intermittent generation sources such as wind and solar.

6. The wholesale electricity market continues to experience increased price volatility that commenced in response to the Pohokura gas outage in 2018. Prices have also been elevated since that time: between 2014 to 2018 the mean wholesale spot price was $80 per MWh, while from 2019 to 2023 it was $133 per MWh. However, during 2024, forward prices have started to trend downwards as new generation enters the market and further investment is announced.

7. Over recent years, in response to increased price volatility, elevation and other concerns, the Electricity Authority has delivered a series of changes to strengthen the wholesale market. The key changes are outlined below.

Trading conduct rule changes

8. In June 2021 the Authority introduced new trading conduct rules designed to ensure appropriate behaviour in the wholesale electricity market. These changes made the trading conduct rule tighter, as well as easier to understand, comply with, and to enforce.

Wholesale Market Review

9. The Authority completed a review into competition in the wholesale electricity market in May 2023. It concluded that proactive trading conduct monitoring and enforcement, and promoting

entry by new generation and more flexible demand and demand-side participation are currently the best ways to mitigate risks from market power in the transition.

10. It also concluded that some market settings will need to evolve to support the transition, and recommended a range of measures to promote competition, including accelerating mechanisms to support flexibility markets, and undertaking regular monitoring of new generation investment. The Wholesale Market Review also led to the introduction of a new Code amendment to address the potential for inefficient price discrimination in very large electricity contracts through the subsiding of large load customers at the expense of general consumers.

Market making

11. In 2021 the Authority amended the Code to include provisions for a mandatory market-making backstop, requiring the four large generator-retailers to become regulated market makers. In 2022 the Authority introduced a new commercial market maker to provide 20% of the total volume of market-making contracts, increasing liquidity, competition, and transparency in the forward market, which ultimately provides better price risk management for all retailers.

Over-the-counter code of conduct

12. In 2023 the Authority initiated the over-the-counter (OTC) market working group to develop industry led solutions to improve the efficiency and performance of, and conduct within, the OTC market. The working group included gentailers, independent retailers, major energy users, and independent traders.

13. The group collectively developed and signed a voluntary Code of Conduct for participants in the OTC market. The Code of Conduct commits parties in the market to follow a set of consistent and transparent trading processes that enable more efficient and effective trading. Wider concerns about the availability and price of the OTC products like hedge are being considered as part on the risk management review (paragraph 22 below).

Authority's current and future focus

14. The Authority is continuing to prioritise work to develop and enhance the wholesale electricity market, building on the work of recent years to address the increase in price volatility, and test the causes of price elevation.

15. Below are some of the key initiatives that the Authority currently has underway to enhance the wholesale electricity market. Further detail of the Authority's wholesale electricity market work programme is included in Appendix A.

Investment in new generation and related market information

16. Additional generation capacity is the most effective and sustainable way to increase competition in the market and lower electricity prices for consumers. Increasing transparency of this information to the market helps to improves investment confidence and can help attract new domestic and international participants to New Zealand. It also improves visibility of longer-term security of supply.

17. We are actively tracking committed and planned investment in new generation and new demand. Our latest investment survey published in January this year shows a significant pipeline of committed investment in new generation.[1] We will shortly publish a dashboard to give increased transparency of what is in the pipeline, what has been consented and what is

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[1] This latest survey reflects 5,000 Gigawatt hours (GWh) of new generation committed, compared with 2,600 GWh in the previous survey in July 2022. Of the committed new generation, 20 percent is from international investors and 28 percent from independent New Zealand generators. This includes from new entrant generators.

underway to give consumers and the industry visibility and confidence. We will be updating this regularly.

18. We are also improving how we track and publish information about committed and planned new generation, and market information (including new load and available demand response) more broadly. The Authority intends to consult on this new approach in mid-2024, and collect enhanced information throughout the latter half of 2024 to enable us to continuously improve the information we publish.

Enhanced market monitoring activities

19. The Authority closely monitors the spot market using the tools we have right now including the enhanced trading conduct rules. Based on our assessment of conduct and performance indicators and the findings in our proactive regular monitoring, the new provisions appear to be having an impact on generator behaviour. We have found prices tend to reflect underlying conditions, indicating competitive outcomes.

20. For example, price separation[2] and very low prices have become more frequent since the introduction of the provisions (where previously generators avoided price separation by offering at higher prices). The percentage of high-priced offers has decreased, and offer prices appear to be reflecting underlying conditions and economic costs more closely. Since June 2021, when the new trading conduct rules were introduced, there have been 72 instances identified for further analysis under the Authority's proactive regular monitoring. Out of the 72, two cases progressed to fact finding with the Authority declining to take further action under regulation 11(1)(b) of the Electricity Industry (Enforcement) Regulations 2010.

21. Market monitoring is an ongoing process. We are developing increased monitoring of the OTC market, and other options for risk management. We have recently collected information on contract requests from the OTC working group and we are analysing this data with initial results expected in July 2024 – including the proportion of requests that were responded to and how many resulted in signed contracts, by type of contract. Our risk management review (discussed below) will also inform what indicators we might develop from this data for monitoring and publishing in the future.[3]

Risk management review

22. The Authority initiated this review in December 2023 in response to its own observations and concerns from some non-integrated electricity retailers, including complaints made to the Commerce Commission. Risk management options help retailers to manage the difference between the price volatility of the wholesale market, and the generally fixed prices that their mass market customers expect.

23. Independent retailers have told us that OTC risk management contracts are not available, not suitably 'shaped', or too expensive, and that the four large gentailers (both competitors of the non-integrated retailers and suppliers of core risk management products to them) are also impacting competition via their internal transfer prices and retail pricing.

24. We are currently investigating these claims, and their impact on retail market competition. This includes considering how these contracts compare against other risk management options, such as investing in batteries or demand response. We are also working with the Commerce Commission to draw on their competition analysis approach and staff expertise.

25. As part of these issues, we are aware of concerns about the efficacy of disclosure of retail gross margin (RGM) and internal transfer pricing (ITP) data. We will shortly provide you with

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2 Price separation occurs when spot market prices between the South Island and North Island are different.

3 MDAG also recommended that the Authority develop rules requiring disclosure of process steps by parties negotiating OTC contracts (Recommendation 9, Tranche 1). The information and insights from the risk management review will help to inform the development of these rules.

additional information on the latest RGM / ITP results. We will also provide you with information on our post-implementation review of these measures.

26. Phase 1 of the review is on track to be completed in the second half of 2024 with the publication of the Authority's detailed analysis, including any material problems identified in the investigation phase.

Implementing the recommendations of the Market Development Advisory Group (MDAG)

27. MDAG undertook an extensive two-year study into the transition to a high-renewables electricity system and recommended a series of sequenced measures to strengthen the electricity market.

28. In its final report to the Authority, MDAG noted that "After careful consideration of the options, including experiences in other countries, our conclusion is that a wholesale market is the best approach for the future."

29. This assessment was based on three key factors: a well-structured wholesale market is the best platform to encourage innovation, the wholesale market enables participants (including households) to participate commercially as new technology emerges, and that competition is the most reliable way to put downward pressure on costs and prices.

30. The Authority is implementing MDAG's measures as a sequential package. We are currently prioritising work on seven of the fifteen recommendations in Tranche 1 and three in Tranche 2, which were in progress prior to MDAG finalising its report. An update on these recommendations is provided in the table below.

Table 1: Key workstreams addressing MDAG's recommendations in Tranches 1 and 2

Recommendation	**Purpose**	**Status/Timing**
In progress – Tranche 1		
Recommendation 1 – Short-term forecasts	Improve short-term forecasts of wind, solar and demand	Authority decisions on a new intermittent forecasting arrangement will be published in June 2024. The new arrangement is planned to be in place by Winter 2025.
Recommendation 2 – Hedge market transparency	Improve transparency of hedge information (especially non-base load) covering offers, bids and agreed prices	Authority decisions on new disclosure rules will be published in June and take effect from October 2024.
Recommendation 3 – DSF activity monitoring	Monitor provision and uptake of demand-side flexibility (DSF) rewarding activity (including tariffs)	The Authority's project on improving retail market monitoring supports this recommendation and will be completed by the end of 2024, with data available from mid-2025. Consultation has recently closed on the demand-side flexibility survey. Code changes to improve monitoring, if needed, will be in place by the end of 2024.
Recommendation 4 – Pricing to optimise distribution investment	Monitor provision and uptake of DSF rewarding activity. Use Part 4 regime of the Commerce Act to require distribution pricing signals for DSF.	The Commerce Commission's DPP4 decisions will be made in November 2024, with the next reset due in 2029. The Authority is working with the Commerce Commission to investigate shorter-term options to set requirements or incentives

		for distribution pricing signals for demand-side flexibility.
Recommendation 6 – New reserve product	Develop new reserve product to cover sudden reduction from intermittent sources	Consultation on potential solutions (including a new reserve product) for peak capacity issues closed in March 2024. The Board will take final decisions in June 2024.
Recommendation 11 – FSR Project (as it relates to DSF)	Improve visibility of DSF for System Operator and remove Code barriers to DSF offering ancillary services	This recommendation is being addressed through the Authority's review of parts 6 and 8 of the Code. Consultation on demand-side flexibility survey closed in March 2024. A review of ancillary services will commence later in 2024, including participation of demand-side flexibility in ancillary service markets.
In progress - Tranche 2		
Recommendation 17 – Information on development pipeline	Publish aggregated information on pipeline of new developments, energy and capacity adequacy	The Authority intends to consult on a new approach to gathering information in July 2024 and publish annual results starting in January 2025.
Recommendation 18 – Sunset profiling	Sunset profiling if smart metres in place	Rule change in place by the end of 2024/25 financial year (subject to Board decision).

31. The remaining recommendations from Tranche 1 are part of the Authority's work programme from 1 July 2024.

32. The Authority favours strengthening the electricity hedge (futures) market, through measures to provide transparency around pricing and improve access to risk management tools to enable participants to better manage their exposure to price volatility in the spot market.

33. Some of the measures listed in the table above will help to provide greater transparency of the electricity futures market. For example, improving hedge disclosure obligations (Recommendation 2 above) will improve participants' visibility of the different types of contracts being used to manage risk, and provide valuable information about the forward price curve.

34. We are shortly starting work on a project to develop standardised flexibility products (Recommendation 8 – Tranche 1). This is the first measure in a progressive chain of actions to safeguard competition for flexible supply. As per MDAG's recommendation, this work will be carried out using a co-design process with industry. This will help ensure that the product is not designed to meet the risk profile or needs of a particular group, and that it has utility for buyers and sellers.

35. Decisions on the supplementary pro-competitive measures that are required (ie, Market making for flexibility products, Recommendation 24 – Tranche 2; and Virtual disaggregation, Recommendation 31) will depend on whether the previous measures have been sufficiently effective. The broad indicators that will inform this decision (Recommendation 12 – Competition dashboard) will be developed and set out in advance so that participants and other stakeholders have sight of the key competition factors that they need to work on.

This work supports the coalition agreement commitment

36. The Authority's wholesale electricity market work programme contributes directly to the Government coalition agreement commitment to "implement regulations such that there is sufficient electricity infrastructure to ensure security of supply and avoid excessive prices."

37. Particularly in the context of the electrification of the New Zealand economy, it is new investment in generation and flexibility[4] that will best deliver on this commitment:

    - A core component of the wholesale electricity market design is signalling the need for, generation investment when demand is close to exceeding supply. Price signals have played an essential role in supporting new investment in generation since the introduction of the wholesale market in 1996 and will continue to do so.

    - We note that in the first 25 years of the operation of the wholesale market, it delivered over 4,500MW of new private sector led generation, around half of which was renewable. New investment in renewable generation, storage, or flexibility services continues to be announced.

38. Much of the Authority's work described earlier in this briefing is directly focussed on providing the price signals, transparency, level playing field and certainty that is required for new generation investment, as well as identifying and reducing any barriers to entry.

39. We are continuing to improve the market to ensure it keeps pace with the change required and continues to attract the industry investment and innovation necessary to electrify New Zealand.

40. We are open to considering suggestions for market improvements. However, any proposals would need to deliver enhanced investment and innovation for the long-term benefit of consumers. .[5]

41. In addition, the Authority is enhancing the regulatory settings of the distribution network with a key driver being the development of the flexibility services market.

Connection pricing

Background

42. Connection pricing plays a critical role in the electrification of New Zealand's economy, as it impacts decisions by generators and access seekers to connect to the grid and to distribution networks. The Authority works to ensure connection pricing is at the right level and non-price connection barriers are minimised, so investment in generation and new technology happens at the right time and in the right place on the network.

43. Previously, the Authority has focused on the efficiency of new connections to the grid. Completion of the Authority's transmission pricing review in 2022 improved certainty for investment in new renewable generation and addressed first mover disadvantages affecting connection to the grid, levelling the playing field between early and later investors.

44. Better transmission pricing signals support the right investments being made at the right time and in the right places, and result in New Zealanders being able to access new, cheaper renewable generation earlier. This is helping to ensure the best use of existing and future

4 Essentially, changing demand or supply, usually to respond to peaks, eg, through batteries, or demand response.

5 For example, we are aware of some suggestions that the wholesale market be split into renewable and thermal markets. We have concerns that this could potentially adversely impact the generation investment pipeline by creating regulatory uncertainty.

infrastructure and better position New Zealand for electrification of the economy at the least cost to consumers.

Authority's current and future focus

45. The Authority has a range of initiatives under way aimed at facilitating connection to the grid and local networks – including the following.

We are working to ensure a level playing field in transmission pricing for batteries

46. The Authority is preparing a consultation paper looking into how transmission charges are allocated to battery storage under the new transmission pricing methodology (TPM). We consider these changes to the TPM will ensure batteries are on a level playing field with other types of generation. We are working with stakeholders who are investing in batteries to inform our work. Getting the pricing right will remove any potential barriers to investment in battery storage and so will improve grid reliability and reduce grid infrastructure costs. We are on track for consultation in July 2024; decisions by December 2024.

We are reviewing the Code provisions on pricing to connect generation to local networks

47. The Authority is on track to release an issues paper in July 2024 to review whether the current network pricing settings in Part 6 of the Code promote or hinder efficient investment and operation of distributed generation. Our aim is to ensure efficient cost-reflective network pricing and related incentives, to help support decisions for investment in and use of distributed generation that are in the best interest of consumers. We expect to decide on next steps in this review by December 2024. This review is timely, given the significant amount of investment in distributed generation taking place currently as the economy becomes more electrified. Our work will help to ensure the country electrifies at the least cost to consumers and will lead to better outcomes for consumers over time, such as lower network and electricity costs.

We will work with industry on a draft Code amendment to regulate load connection pricing

48. We have decided to develop, for consultation, a draft Code amendment to mandate efficient connection pricing for load customers. We are concerned that inefficiently high upfront charges will act as a barrier to access seekers looking for the best option to connect to the network or existing consumers wanting to upgrade their connections. This could result in consumers losing out on the benefits of new investment and services (such as vehicle charging, heating electrification and more affordable new housing).

49. On the other hand, we do not want to see upfront charges set so low that existing consumers have to pick up the bill for additional or upgraded connections. Access seekers' upfront and ongoing payments should at least cover the costs they add to the network. This will ensure existing consumers are not made worse off and incentivise access seekers to ensure their connections are efficiently sized and configured.

50. We have established a technical group, with industry and stakeholder involvement, to work alongside us as we develop a Code amendment for consultation in late 2024. We will assess the impact of proposed amendments, being mindful of the effects on consumers, including those in hardship. We will also consider the impact on financing of distributors' investments. Following consultation, we expect any decisions to amend the Code to be made in the first half of 2025.

We are reviewing the non-price Code provisions to connect generation to local networks

51. We are reviewing the rules to connect generation to networks. This includes proposals to make the pipeline of network application public (as Transpower does for the grid) and to provide more information on available network capacity. This information will assist investment decisions. We will also propose changes so 'connection ready' generation is more likely to progress ahead of unfirm applications. An industry group is assisting the Authority with the work. We are on track for consultation in late 2024, and decisions to be made in 2025.

We are closely watching the development of offshore generation

52. While we are focusing primarily on onshore connections currently, we are mindful of the need to also support new offshore generation, such as offshore wind. Our programme of work is agnostic to whether new connections are on or offshore, meaning we can support the efficient connect on new generation wherever it may develop.

53. We are working closely with Transpower as grid owner and MBIE as it develops the regime for offshore wind. We also meet regularly with offshore wind developers.

This work supports the coalition agreement commitment

54. These initiatives are consistent with the Government coalition agreement commitment to examine transmission and connection pricing to facilitate cost-effective connection of new renewable generation resources. We agree that it is important to ensure that monopoly networks are not impeding consumer and business access to new, cheaper generation, either through slow or unreasonable processes, or through over-charging.[6]

55. We are conscious also of the need for balance – if connection charges are too low, then everyday consumers are likely to end up effectively funding the connecting business, and regulation intended to facilitate connection becomes a subsidy.

Media interest/current issues

56. Non-vertically integrated retailers have raised concerns about competition in the electricity market which have become prevalent since the Pohokura issues in 2018. Media have been interested in the issue and have reported extensively on competition issues including:

    - the complaints by non-vertically integrated retailers to the Commerce Commission;
    - the Authority's review into competition in the wholesale market and its outcomes; and
    - the review of risk management options for electricity retailers.

57. Media are also interested in the pipeline of new generation, the affordability of electricity, and the pricing of new connections.

Next steps

58. Authority staff welcome the opportunity to discuss with you further our work programmes on wholesale market competition and connection pricing. We will also keep you regularly updated on significant milestones related to these work programmes.

6 And to new investment and services, such as vehicle charging, and heating electrification and more affordable new housing.

Appendix A Wholesale market and Connection pricing work programme

PROJECT	Q4: 23/24	Q1: 24/25			Q2: 24/25			Q3: 24/25			Q4: 24/25		
	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Improve shortterm forecasts of wind, solar and demand (MDAG rec 1)	Publish decision		Procurement process								Implementation commences		
Improve transparency of hedge information covering offers, bids and agreed prices (MDAG rec 2)	Publish decision				Implementation			Publication of information and insights					
Monitor provision and uptake of DSF rewarding activity (MDAG rec 3)	Publication of DSF survey						Board decisions on retail data project						
Use Part 4 of the Commerce Act to require distribution pricing signals forDSF (MDAG rec 4)													
Develop new reserve product to cover sudden reduction from intermittent sources (MDAG rec 6)	Board decision					Consult						Code change	
Improve visibility of DSF for System Operator and remove Code barriers to DSF offering ancillary services (MDAG rec 11)	Two consultations on Part 8 Code review, common quality requirements							Board decisions and Code changes early 2025					
Develop new standardized flexibility products (MDAG rec 8)			Industry co-design process				Prototype		Board decision if needed		System changes if required		
Develop a high-level outline of 'virtual disaggregation' as a backstop measure if other measures are not effective (MDAG rec 13)		Policy development			Board consider options		Publish information paper						
Publish aggregated information on pipeline of new developments, energy and capacity adequacy (MDAG rec 17)		Consult			Decision			Begin publication					
Sunset profiling if smart meters in place (MDAG rec 18)							Consult						Code change
Update parameters for scarcity pricing (MDAG rec 16)				Policy development					Decision	Consult			

PROJECT	Q4: 23/24	Q1: 24/25			Q2: 24/25			Q3: 24/25			Q4: 24/25		
	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
Review of risk management for electricity retailers			Information paper to Board										
Review of regulatory settings for market making					Implementation review			Consultation			Decision		
New MOU for information exchange and cooperation with the ASX			Sign MOU										
Review of financial transmission rights market funding				Options paper	Consult				Decision			Implementation	
Level playing field in transmission pricing for batteries		Consult					Decision						
Reviewing the Code provisions on pricing to connect generation to local networks		Consult on issues					Decide next steps						
Draft Code amendment to regulate load connection pricing						Consult late 2024							Decision
Reviewing the non-price Code provisions to connect generation to local networks		Consult						Decision					

Ministerial Briefing

Background on Materially Large Contracts (MLCs) Code provisions

Date:	Fri, 31 May 2024	**Priority:**	Medium
Security classification:	In Confidence	**Electricity Authority reference number:**	BR-24-0022

Action sought – for noting		
	Action	**Deadline**
Hon Simeon Brown Minister for Energy	**note** the background information on the Code provisions relating to materially large contracts	Fri, 14 June 2024
Appendices included		

Contact for telephone discussion (if required)				
Name	**Position**	**Telephone**		**1st Contact**
Airihi Mahuika	GM, Legal, Monitoring and Compliance	s9(2)(a) [redacted]		✓

Drafter	Sean Martin	**Position**	Principal Communications Advisor

The following departments/agencies have been consulted

Minister's office to complete:

☐ Approved
☐ Noted
☐ Seen
☐ See Minister's Notes

☐ Declined
☐ Needs change
☐ Overtaken by Events
☐ Withdrawn

Comments

Key points

- On 31 May 2024 Mercury publicly announced they have entered into a contract for difference with the New Zealand Aluminium Smelter (NZAS) commencing January 2025. The Authority reviewed and cleared the draft contract.
- On 31 May 2024 Meridian and Contact publicly announced they are applying for regulatory approval of their new contracts with NZAS commencing 1 July 2024. The Authority is currently reviewing these contracts for clearance.
- Both Meridian and Contact announced contracts include demand response options to assist in to support security of supply.

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Recommended action

Hon Simeon Brown, Minister for Energy

It is recommended that you:

1.	**Note** the background information on the Code provisions relating to materially large contracts	**Noted**

Airihi Mahuika
GM – Legal, Monitoring and Compliance
Electricity Authority

31 / 05 / 2024

Hon Simeon Brown
Minister for Energy

..... / ...... / ......

Background

1. During our review into competition in the wholesale market, *Market monitoring review of structure, conduct and performance in the electricity market*, the Authority observed that there was the potential for electricity contracts of a certain size to have adverse impacts on other consumers.

2. In October 2021 the Authority released the *Inefficient Price Discrimination in the Wholesale Electricity Market – Issues and Options* paper.

3. It drew attention to the incentives on generators, which in combination with current market design and regulation, can potentially lead to arrangements which at the system level reduce benefits to consumers.

4. The arrangements announced in January 2021 to extend operations by New Zealand's Aluminium Smelter (NZAS) at Tiwai was used to highlight the potential issue of inefficient price discrimination.

5. The Authority did not make any determination that the 2021 Tiwai contracts were definitively inefficient – however it was estimated the potential impact of the contract could lead to households paying up to $200 extra on their electricity bills each year.

6. This was because the negotiated terms to keep the smelter operating could have been less than the cost of producing the electricity, effectively maintaining demand and keeping prices high in the wholesale market.

7. The Authority made an urgent change to the Code on 18 August 2022 to protect consumers from potentially paying more than they should due to the impact of very large electricity contracts on wholesale prices in the wake of an announcement by NZAS that it was seeking to negotiate a new deal with generators when its current contract expires at the end of 2024. This introduced the MLC provisions that prohibited generators from giving effect to a contract of net 150 MW or more unless certain conditions were met.

8. A permanent Code change with minor amendments took effect from 19 May 2023.

The MLC provisions in the Code

9. Under provisions of the Code, parties must not give effect to materially large contracts (MLCs) unless certain tests are met. Parties must pass one of two tests:

    a) An economic test of whether the value of the MLC to the generator is greater than the value to the generator of its best alternative (net value test); or

    b) A legal test of whether the MLC allows electricity to be on-sold by the purchaser to a third party, on no worse terms than if the purchaser had consumed the relevant quantity itself (on-selling test).

10. Generators are required to disclose new or modified MLCs to the Authority as well as supporting information e.g. the rationale underpinning pricing or the implications of resale conditions.

11. If a generator opts for voluntary clearance, it must provide the Authority with the proposed unsigned contract, or a contract which is conditional on clearance and the same supporting information as required under the disclosure regime to allow the Authority to determine whether it is eligible for clearance.

12. The Authority generally has 45 business days to make its decision, and a generator needs to enter the contract within 20 business days of clearance (where the contract was provided un-signed), otherwise clearance lapses.

13. The Code provisions also provide the Authority with greater visibility of MLCs for monitoring and compliance purposes through the disclosure obligations.

MLCs applications to the Authority

14. The Authority has cleared two MLCs:

    a) On 8 June 2023 the Authority cleared a new demand response agreement between Meridian Energy and NZAS, which included two associated amendment letters that modified the existing supply contract between Meridian and NZAS to provide for the addition of a demand response to the contract. The clearance application was made under the urgent Code provisions and relied on the on-selling test for clearance. The Authority determined the arrangements satisfied the on-selling test.

    b) On 31 May 2024 the Authority cleared a draft contract for difference between Mercury and NZAS. Mercury had sought clearance for a contract commencing Jan 2025 for a period of up to 20 years, with baseload volume initially 50MW before lifting to 75MW in 2027. It relied on the on-selling test for clearance. The Authority determined the draft contract for which clearance was sought satisfied the on-selling test.

15. Also on 31 May 2024 Meridian Energy and Contact separately announced they signed new long-term agreements with NZAS. Both stated they are applying for regulatory approval for their contracts. They also announced demand response options formed part of the negotiated terms.

16. Under the terms of the Meridian agreement there are four demand response options ranging from 25MW to 185MW.

17. Under the terms of the Contact agreement NZAS will provide demand response of up to 46MW.

Next steps

18. The Authority will consider any clearance applications made under the MLC Code provisions.

19. The Authority will publicise any decisions on applications as soon as practicable.

[redacted]

- RMR → end of FY.

- Retail competition

[redacted]

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Fron au@ea.govt.nz>
Sent 2024 4:02:39 AM
To: au@ea.govt.nz>
Subj rated retailers - 12 February - thematic feedback re RMR

Present: s9(2)(a) [redacted] (EK); s9(2)(a) [redacted] (Flick); s9(2)(a) [redacted] (Octopus) s9(2)(a) [redacted] (2degrees); s9(2)(a) [redacted] (Consultant)
Andrew, Kirsty, Rob

Themes for RMR:

- Providing feedback on the PID once released
  - RB: no formal feedback process, but open to any comments
- Release of s46 requests (the questions)
  - RB: confirmed that this was being discussed (but not yet committed)
- Timeline
  - RB: no committed timeline beyond information gathering/initial analysis; will update stakeholders regularly as the next phase of work is settled
  - RA: drew comparison to 12-month timeline for Commission market studies
    - RB: statutory requirement; RMR will take time required, noting importance of both timeliness and robustness
  - s9(2)(a) [redacted]: any early interventions (quick wins) would be useful, cf, sequencing all policy change at the end
- Discussed ITP monitoring – noted MBIE comment on ITP disclosures

From: Rob Bernau
To: Rob Bernau
Subject: RMR - calls with four gentailers - 20.02.24
Date: Friday, 23 February 2024 8:44:26 pm

Calls with s9(2)(a) [redacted] (Contact); s9(2)(a) [redacted] (Meridian); s9(2)(a) [redacted] (Mercury); s9(2)(a) [redacted] (Genesis)

- Primarily to advise gentailers that the Authority would be releasing the PID, and sending voluntary information requests, likely within the next week
- s9(2)(ba)(i) [redacted]
    - [redacted]
    - [redacted]
        - [redacted]
        - [redacted]
        - [redacted]