

**28 NOVEMBER 2025: SUBMISSION TO ELECTRICITY AUTHORITY REGARDING
LEVEL PLAYING FIELD CODE AMENDMENT AND MANDATED SUPER PEAK
PRODUCT**

New Zealand needs highly competitive markets to thrive and prosper

Entrust welcomes reforms to reduce barriers to competition. The Electricity Authority's proposals are long overdue as historically there has not been enough competition in the market, and competition problems have been getting progressively worse.

A well functioning and competitive market is needed to make electricity more affordable for Kiwis, and to put New Zealand businesses on a stronger footing. Competition gives consumers better choice and ability to control their power bills.

The Authority should be concerned Entrust's 2025 consumer survey shows that 82% of Auckland residential consumers think electricity will become unaffordable for some consumers, and only 22% think things will get better in terms of value for money in the next 5 years. It is unlikely the results would be any better elsewhere in the country. This is the reverse of the Authority's strategic objectives and should be its priority focus.

Summary of Entrust's submission

- There is clear evidence that Contact, Genesis, Mercury and Meridian have market power and this market power can cause harm to competition and energy affordability.
- Entrust considers that the Authority's proposals to mandate provision of super-peak hedge products and to prohibit discrimination are long overdue.
- We agree it is not tenable for the gentailers to prioritise self-supply and super-peak hedges are too critical for competition to be left to gentailers' discretion.
- The shift from voluntary to mandatory arrangements for the super-peak product will provide greater regulatory certainty.
- Entrust considers that the access regime should closely mirror the regime that applies to Chorus. The proposed non-discrimination rules should be strengthened given the scale and nature of the problems in the electricity market:
 - The four large gentailers should be prohibited from discriminating in favour of their retail businesses and in relation to hedge products and all their generation capacity. The "uncommitted capacity" provisions should be removed.
 - Entrust supports adoption of more prescriptive non-discrimination rules. This would provide greater certainty in terms of the gentailers' regulatory obligations.
 - Entrust also supports mirroring the limit on the non-discrimination rules in the Telecommunications Act which requires that "a particular difference in treatment is objectively justifiable and does not harm, and is unlikely to harm, competition" [emphasis added].

Entrust's submission

There is clear evidence of substantial competition problems in the electricity market, including that wholesale market concentration has remained unchanged, and growth of small and independent suppliers in retail and generation has been restricted. These problems have become increasingly obvious since the 2018 Pohokura outages.

These problems have been well documented in submissions, the Authority's Wholesale Market Review etc. It is important that Electricity Authority interventions are strongly evidence-based and there is a clear and robust problem definition.

Meridian recently highlighted issues of market power and economic withholding. This is supported by a report from Dr Brent Layton, the former Electricity Authority Chair who is now working on Meridian's behalf. Dr Layton details that Contact and Genesis both have the ability and incentives to artificially restrict generation so thermal needs to run more often and to keep prices artificially high.¹

Stronger competition would provide a guardrail against these kinds of market abuses.

Stronger competition would also help ensure more affordable electricity for Kiwi households and businesses. We are pleased the Authority has prioritised dealing with competition issues and support the work the Authority is doing as part of the Energy Competition Task Force.

Entrust has commissioned an independent representative consumer survey

Entrust considers that consumers need a voice. Entrust commissioned Insights HQ² to survey Auckland residential consumers about electricity issues to help improve awareness of consumer views and concerns.³

The consumer survey results show how far away the electricity industry is from achieving the Authority's strategic objectives of affordability, security and resilience.

The survey listed a range of potential issues and asked whether consumers were concerned about each of them. Nearly 80% of Auckland residential consumers cited affordability/rising prices as their top electricity sector concern. While rising prices are the top concern, this is followed by concerns about resilience (35%) and investment in new electricity generation (30%). Around 15 – 22% mentioned climate change, gas shortages, increasing carbon emissions, and limited competition.

¹ Dr Brent Layton was acting as a consultant for Meridian on this matter:

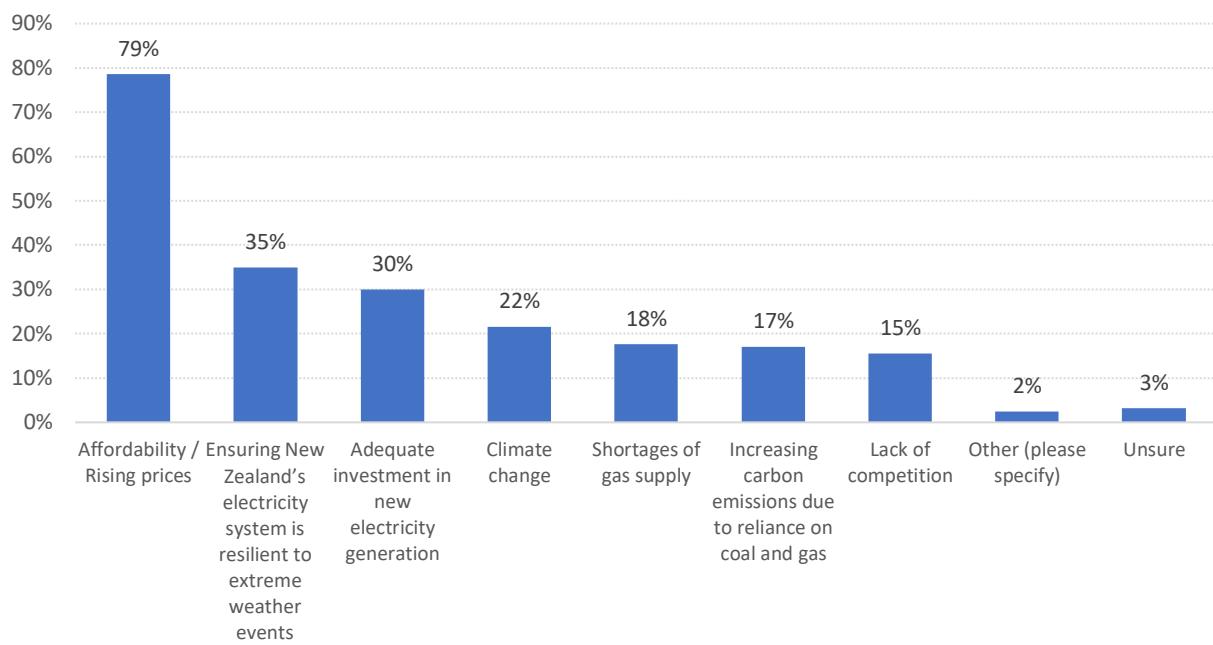
<https://static.transpower.co.nz/public/bulk-upload/documents/Meridian%20submission%20-%20SOSFIP%20Review%202025.pdf?VersionId=prSSTnDQfUh1Uad2Xsf6ax7ud.Ykvwrd>

² <https://insightshq.co.nz/>

³ Insights HQ undertook an online survey among a representative sample of 1019 Aucklanders from within the Vector catchment area matched and weighted to census based on age and gender. The margin of error on a sample of 1000 is +/- 3%.

The survey was conducted from the 16th October to 2nd November 2025.

Which of the following do you think are the biggest problems in the NZ electricity sector right now?



The Authority should be more ambitious for consumers

We agree with the Authority that mandated arrangements for hedge products will provide greater regulatory certainty. It is clear from consumer and independent supplier submissions⁴ that the Authority's earlier proposal to persevere with voluntary arrangements needed to be changed.

We also support introduction of non-discrimination rules. Entrust considers that an orthodox approach to non-discrimination would be to introduce a rule which simply prohibits the gentailers from treating access seekers differently or treating itself differently from other access seekers.⁵ We would support the Authority extending the proposed non-discrimination rules to apply to all of the four gentailers' wholesale-retail activity, and all their generation capacity.

Our main concern with the Authority's proposals remains whether they go far enough. There is a very real risk that the changes will be a case of 'too little, too late'.

For example, principle 1(1) does not prohibit gentailers discriminating in favour of their own retail business. Similarly, principles 1(2) and (3) do not prohibit gentailers discriminating between buyers. The Authority's explanation for these carve-outs essentially comes down to difficulty identifying evidence of discrimination.⁶ Entrust doesn't consider that the solution to difficulty enforcing compliance should be to permit the behaviour. The appropriate solution for dealing with difficulty enforcing principles-based regulation is to introduce mandatory minimum requirements such as the super-peak products, and to ramp up monitoring activity.

⁴ There was also dissension amongst the large, incumbent gentailers, with Mercury supporting mandatory arrangements.

⁵ Drawing on precedent from the Telecommunications Act.

⁶ Stakeholder Q&A – response to written questions, available at:

https://www.ea.govt.nz/documents/8619/2510_Stakeholder_QA_LPF_EA_responses_to_written_questions.pdf.

It appears that the “uncommitted capacity” provisions would have a much more significant impact than the Authority intends, as the drafting could allow the gentailers to allocate future generation capacity to “planned growth” in their own retail internal business units.

Entrust considers that the proposed “uncommitted capacity” provisions should be removed. We agree with the Authority it is not tenable for the gentailers to prioritise self-supply. The “uncommitted capacity” provisions would allow precisely that. The way the provisions are drafted the incumbent gentailers would be able to prioritise their retail businesses’ existing customers and would be able to prioritise “planned growth” whether it eventuates or not. This is contrary to what we understand the Authority’s intention is.

If the Authority retains the “uncommitted capacity” provisions, it should define “uncommitted capacity” in a way that can be objectively measured and explicitly excludes “planned growth”. The Authority should also consider what should happen if an incumbent gentainer loses retail customers.

The “objectively justifiable reason” limit on the non-discrimination rule is also too broad. Entrust supports mirroring the limit on the non-discrimination rules in the Telecommunications Act which requires that “a particular difference in treatment is objectively justifiable and does not harm, and is unlikely to harm, competition” [emphasis added].

More prescriptive non-discrimination requirements would provide regulatory certainty

The Authority should adopt more prescriptive non-discrimination rules as this would provide more regulatory certainty in terms of the gentailers obligations and access to hedge products.

The Authority’s proposals would also be strengthened and complemented by a requirement for the large, incumbent gentailers to disclose separate financial accounts for their retail and wholesale electricity businesses.⁷ Financial disclosure would help identify evidence of whether wholesale prices are excessive and would complement the proposed Retail Price Consistency Assessment (RPCA) requirements by helping provide evidence of price or margin squeezes.

Concluding remarks

Entrust wants to ensure electricity is supplied in an efficient and affordable way to all consumers and its beneficiaries, including the 368,000 households and businesses in its area of central, east and south Auckland.

Wholesale access regulation and non-discrimination rules are common in competition law. There is no need for the Authority to establish new bespoke rules or reinvent the wheel.

Entrust considers that there is significant risk the Authority’s reforms won’t go far enough, and competition problems could continue to worsen.

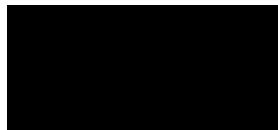
The Authority has been too slow to act, and these delays have harmed consumers.

Weak competition means higher prices. A weak approach to competition problems means prices will remain higher than they should be. This could undermine the transition to a

⁷ <https://www.entrustnz.co.nz/media/hahg4jqi/submission-on-internal-transfer-prices-and-segmented-profitability-18-may-2021.pdf>

lower emissions economy and provision of affordable energy for Kiwis households and businesses.

Kind Regards



Alastair Bell
Chair of Regulation and Policy Committee