Genesis Energy's submission on the electricity price review first report

1. Executive summary

1.1 Overview

Genesis is proud of its contribution to an industry that delivers secure, reliable and affordable electricity. Competition is working and the industry is well placed to achieve even better outcomes for consumers while delivering greater penetration of renewable generation and facilitating the uptake of new technologies, without subsidies.

Genesis strongly believes in the benefits of a more customer centric approach for the industry. The primary focus of the Electricity Price Review (EPR) must be on delivering meaningful and relevant improvements to:

(a) better assist those customers in energy hardship in collaboration with Government;

(b) increase industry transparency at the consumer, wholesale and distribution levels; and

(c) simplify and standardise across the market for the benefit of customers.

We look forward to being part of delivering meaningful solutions to these issues and continuing to play an integral role in an electricity sector that delivers for New Zealand and consumers. Our further thoughts and analysis on each of these issues are set out below.

1.2 'Energy Hardship'

Genesis agrees with the panel that affordability for some is an issue and one that we consider requires targeted measures to be addressed more effectively. To facilitate this, we support closer and more effective collaboration between industry and Government to: (a) establish criteria to clearly identify those customers in 'energy hardship'; (b) ensure delivery of targeted support to these customers; and (c) also address the root cause of unaffordable energy bills for some people (recognising that energy bills are a product of both usage and price).

In our view, establishing clear criteria that can be applied to identify a customer in 'energy hardship' with consistency is a critical first step. Once identified, customers in 'energy hardship' can and do enjoy significantly better protection, assistance and value from their retailer.

Industry wide initiatives in collaboration with Government are then critical to ensure help is delivered to those who need it most. A partnership between government, social agencies and industry (including electricity distribution businesses (EDBs)) is required to holistically help those in energy hardship as meaningful change will only happen when all interested parties are 'around the table'.

In the shorter term, we recommend an industry and government funded assistance trust for those who are identified as 'high priority energy vulnerable'. The current Winter Energy Payment (WEP), the intent of which we support, should be better targeted to increase payments to those customers identified as high priority energy vulnerable. The remaining funds could then be used to improve housing quality to reduce usage and energy bills in the longer term. Industry and Government should also consider whether a retailer of last resort is required for this targeted group of customers.

We note that New Zealand has relatively low electricity prices internationally but when combined with high usage levels they result in high energy bills for a relatively small group of households. Collaborative measures to address 'energy hardship' for these households must include

initiatives to assist customers in hardship to manage their payments in the short-term, while also addressing the drivers of high usage in the mid to long-term, for example, home energy efficiency.

To this end, the Government commitment to build new homes should also include a leadership role to be a "best in class" landlord, providing well-insulated homes with appropriate heating standards resulting in more affordable electricity bills in the near-term while providing health and education benefits in the long-term.

1.3 Greater transparency

Greater transparency facilitates more effective competition, more informed choices, and the ability to better control electricity usage; all of which build trust and confidence.

Genesis is working hard to be relevant to our customers who are interested in what electricity provides them and want to better understand what drives their usage and energy costs. Genesis' ongoing focus is on providing relevant, useful and insightful information to customers, rather than simply price and this is driving interest and engagement.

We can see clear trends in the market towards providers giving customers greater transparency and control of their electricity usage, supported by digitalisation. This can be seen in the steady increase in innovative retail offerings in the market - offerings which are driven by genuine and effective competition, not by regulatory interventions.

While trust and confidence in the energy industry in New Zealand is higher than other jurisdictions, there remains significant scope to improve further.

All industry participants, including networks, retailers and generators, can do more to improve transparency. We see an opportunity for significantly greater levels of reporting around the performance of industry segments; most notably, EDBs. As monopoly service providers, consumers of EDBs have no choice to use another network provider, therefore, consumers need to be able to access information that tells them with full clarity how and where EDBs are spending their money.

We further recommend that a central repository for all wholesale and generation disclosures be set up that can be easily accessed and acts as a 'single source of truth'. This repository would encompass the wide range of existing disclosures and be extended to include, for example, details of the transfer pricing by generator-retailers between their generation and retail segments, a baseload equivalent price for Commercial & Industrial (C&I) Fixed Price Variable Volume (FPVV) products and disclosure of segment contributions from generation / wholesale operations.

1.4 Simplify and standardise

Lack of clarity and ongoing industry conflict is distracting the industry. We need simplified pricing structures and tariffs, standardised access requirements, commonality in asset management plan reporting and an industry commitment to treat customers data with respect and to ensure their privacy rights are always met.

Transmission and distribution pricing methodologies must be resolved, putting customers at the centre of the solution. Cost reflectivity is only one element of durable pricing methodologies and must be balanced against simplicity and equity for consumers. Certain customers should not be unfairly impacted due to geography.

If the transmission pricing methodology (TPM) cannot be resolved under the current system, in a

tight timeframe, an independent solution needs to be imposed quickly and without delay.

We recommend homogeneity in distribution pricing. Amalgamation of networks should be considered despite perhaps presenting challenges in the immediate term, however, we must simplify the pricing as soon as practicable. Pricing needs to send clear signals as to where peak demand is causing network constraints while remaining simple and understandable for customers with consistency across New Zealand. Similar time of use (TOU) pricing across the country would remove complexity and costs for retailers and ultimately, improve choice for customers.

In addition, economic regulation of monopolies must ensure competitive market disciplines and accountabilities are in place to control costs, deliver long-term investment efficiencies and provide a high quality and reliable service for all.

To be effective, regulation must be able to flex and adapt as technology evolves to ensure that all consumers can benefit from these developments. It should apply so that all participants are subject to the same rules and requirements to support an even playing field on which to foster and derive the benefits of sustainable and effective competition. This will best support efficient investment in new technologies and the benefit to consumers of more competitive prices, greater choice and innovation.

1.5 Conclusion

We have a well-functioning, competitive market that is well-positioned to continue to efficiently manage electricity costs while further decarbonising the wider economy. Electricity is generally affordable for New Zealanders but there are some that cannot afford to pay, particularly winter energy bills. We must address this and other specific issues as we continue to thoughtfully manage the transition to a decentralised, low carbon industry with the support of clear, cohesive policy guidance. It is crucial that the parts of the market that are working well are permitted to continue to do so and that regulatory intervention only occurs where there is a clear market failure.

2. Consumers and prices

2.1 Consumer interests

2.1.1 Consumers' priorities - *What are your views on the assessment of consumers' priorities?*

Customers want what electricity provides; a warm and healthy home where the lights work, the shower is hot and they can cook a hot meal; followed by a bill they can understand, they can control and they can afford.

For the industry, the well-established trilemma of sustainability, reliability and affordability remains true and reflects these customer priorities.

2.1.2 Greater customer advocacy - *What are your views on whether consumers have an effective voice in the electricity sector?*

While retailers can and do reflect what their customers want in regulatory processes, there is always room for improvement especially in such a complex regulatory environment. We can see merit in a consumer group which includes a cross-section of different types of consumers. Given the complexity of this industry and its regulatory structures, a certain level of understanding is required to allow engagement by customers. We must be mindful, however, not all customers want the same things, not all consumers are driven by price, plus consideration will need to be given as to the best representative for our vulnerable customers, whose voice should not be excluded. We are of the view that a group reflecting the diversity of customers could quickly be established under the current Electricity Authority (the Authority) advisory group regime rather than establishing any new mechanism.

2.1.3 Building trust through transparency - *What are your views on whether consumers trust the electricity sector to look after their interests?*

The paper acknowledges that New Zealand has relatively high levels of trust when compared internationally. However, this trust can erode and it is hard to trust what you feel you don't understand. There is significant ground to be made by the whole industry building more trust with each other and our customers through a commitment to understandable and meaningful transparency and disclosure. This can be introduced across the transmission, wholesale, distribution and retail markets.

Genesis has already committed to increased meaningful transparency for its customers in the retail market (e.g. access to how and where customers are using electricity through its Energy IQ app) and we commit to continuing to improve this.

Electricity Forecast Home Comparison

We acknowledge concerns expressed regarding the cost of servicing different market segments – particularly the difference between the price charged to retail customers and C&I customers. There is an opportunity for greater disclosure across the industry around the contribution to financial performance from key business segments. We have proposed ways to increase this transparency below at section 3.7.

2.1.4 Protecting customer privacy

The paper noted that trust can easily be lost and, while privacy hasn't been specifically raised, access to data has been raised. We are of the view that protection of customer privacy is paramount for customers to trust us as an industry. Increased disclosure and transparency to improve understanding and trust must be balanced against customers' privacy. We, as an industry, are increasingly collecting more data that is more granular and in increased quantities. Access to

customer data is more sought after as increased uses for the data are identified and developed but we must not lose sight of the fact that this data relates to one of our customers. They trust us to treat that data responsibly and we take that responsibility seriously. Globally, there is a move for consumers to reclaim control over their data, especially in light of data use by Facebook and Cambridge Analytica. While this is an extreme case, it illustrates why we must consider data disclosure from customers' perspectives, not what benefits economists and engineers, so that we may have the social licence to use data to deliver better outcomes for our customers.

We also appreciate that, by stating that identifying those in energy hardship is key, we are requiring increasingly sensitive personal information about our customers to be entrusted to us. This means we must continue to prioritise privacy; trying to deliver better and fairer services for customers who, for whatever reason, are currently struggling to access these services is no excuse for failing to adequately protect their privacy.

We understand that information procured by retailers from metering companies can have value for others in the industry, namely EDBs, but the exchange of data between parties in the industry must be done with privacy in mind. We do not agree that disclosed data needs to be identifiable and at a household level, particularly without a contractual undertaking or regulatory obligation as to how that data will be used and protected. And the Privacy Commissioner agrees. Even where data is anonymised and aggregated, we strongly believe contractual requirements or regulatory obligations setting out our expectations of how parties receiving our customer data will protect it are not only prudent from a commercial perspective but are essential if customers are going to trust us to continue to collect it. Not only does Genesis want to be 'best in class' for providing meaningful transparency for our customers, we also want to be 'best in class' for protecting our customers privacy.

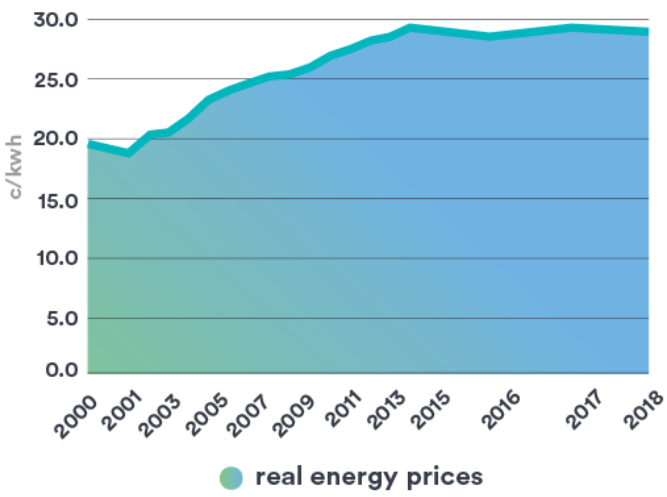
Finally, we would note metering equipment providers (MEPs) can collect vast amounts of varied data. Retailers contract to obtain some, but not all, of this data. We agree, where retailers do collect data, customers should not ultimately bear the cost of this data being collected twice but this does not mean that data should be exchanged without contractual or regulatory obligations for the data to be protected. Further, where retailers do not collect the data, other parties can and should contract directly with MEPs, particularly if having such data would improve the service they provide to our customers. Customers' right to privacy must remain paramount.

2.2 Prices

2.2.1 Current assessment - *What are your views on the assessment of the make-up of recent price changes?*

It is the strong performance of the competitive elements of the electricity sector that are enabling and delivering stable electricity pricing, as per the below graph.

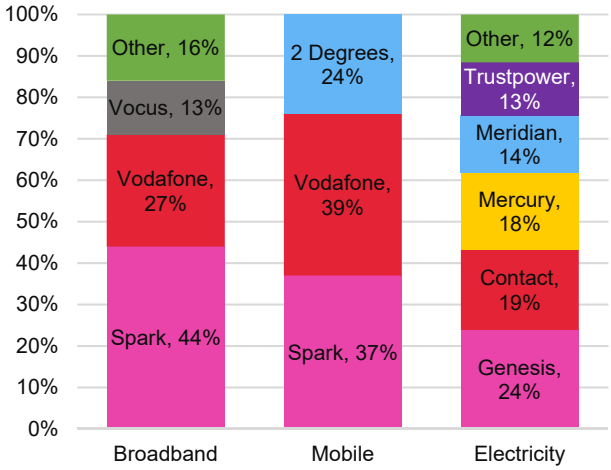
Household Electricity Prices 2000 – 2018 (Real)



MBIE annual residential sales-based electricity cost data

Electricity retail market concentration levels also compare favourably against other consumer driven utility markets. The next graph highlights the level of market concentration in the electricity retail industry as opposed to the broadband and mobile markets, which are generally regarded as being well served by competition. The electricity industry has five large competitors with around 30 'smaller' retailers. These small retailers hold 12 per cent of the market. This compares with broadband and mobile markets that have only two large retailers controlling over 70 per cent of the market.

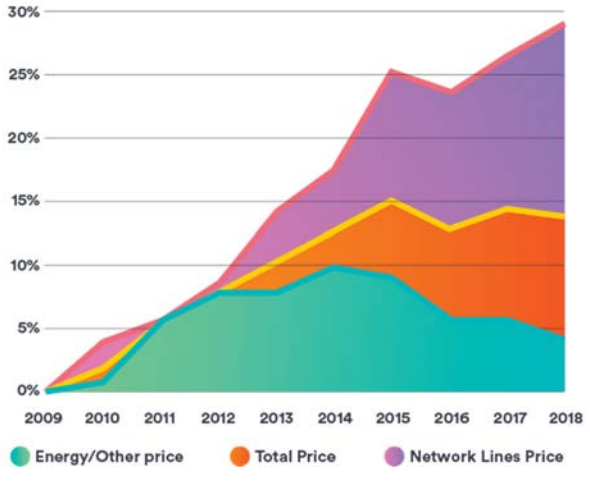
Electricity Market Concentration vs Broadband and Mobile Markets



In addition, there has been the steadily retreating incumbent position of large electricity retailers in major regions over the last 15 years due to competitive pressures. Regional charts are provided at Appendix 1. The fierce competition between the larger retailers, as well as with the smaller retailers, is what is helping to deliver decreasing prices in the competitive parts of the industry. This is real, measurable competition that is delivering real benefits to most customers.

Given the prices in the competitive market are reducing, we must not shy away from the fact that network charges are increasing at ever growing rates and that there are a large number of EDBs for a country the size of New Zealand. It is difficult to ascertain whether the increases in charges are justifiable as transparency and disclosure by EDBs is both inadequate and inaccessible coupled with the resource burden to analyse and assess 27+ disclosures.

Change in Household Electricity Prices by Component (Real)



MBIE annual residential sales-based electricity cost data

The regime is complex and, in our view, oversight needs to continue to probe and challenge in an ever-increasing way; customers are paying for a service that they cannot leave and therefore, rely on the expertise of regulators to ensure the costs of these monopoly businesses are both justified and controlled. The competitive pressure to keep prices efficient must be built into the regulatory regime and applied by regulators because customers have no choice.

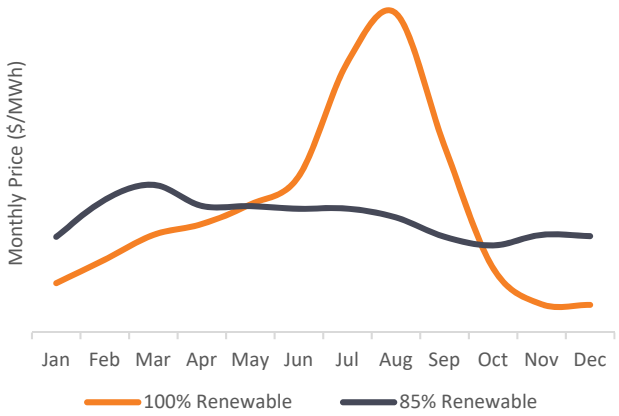
2.2.2 *What are your views on the assessment of how electricity prices compare internationally?*

Out of 33 countries, New Zealand has the twelfth lowest electricity prices and the New Zealand electricity sector is already the third most renewable in the world. However, we have the sixth highest usage in the OECD. This leads to higher energy bills when compared internationally.

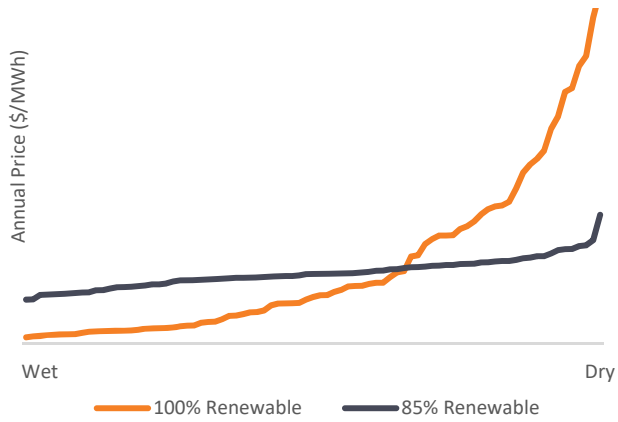
2.2.3 Outlook for prices - *What are your views on the outlook for electricity prices?*

We must consider the outlook for prices in terms of the trilemma and the drive by New Zealand to a net zero economy. The drive to increase renewables in our generation portfolio will impact consumer prices. Renewability increases volatility and volatility usually means periods of higher prices, which drives up the average price and ultimately, the consumer can end up paying more. Therefore, this move to an increasingly renewable electricity sector will require a well-managed transition if we are to continue to balance increased sustainability while maintaining reliability and affordability.

Monthly Price Volatility



Annual Price Volatility



The retail component of the bill will continue to be squeezed by competitive pressures but given new generation build, the likely increase in requests for Customised Price Paths from EDBs and proposed investment from Transpower as the economy relies on electricity to decarbonise, we see increasing upward pressure on what consumers pay.

Further detail of these challenges is set out in section 4.1.2 below.

2.3 Affordability

2.3.1 *What are your views on the assessment of the size of the affordability problem?*

This is a difficult issue to quantify without more sharing of information. The First Report identifies 103,000 households are in energy hardship or 175,000 when housing costs are taken into account. The report by PWC[1], submitted by ERANZ, identifies 44,500 households are high-priority energy vulnerable.

We want to help these customers and already have a vulnerable care package which has measures to address this issue but our biggest hurdle is identifying, at a household level, who needs assistance and at what level. This requires government and social agencies to assist us.

2.3.2 *What is your assessment of the cause of the affordability problem?*

The inability to pay, or for a bill to be 10 per cent or more of income on domestic energy, is the symptom of a wider problem. One of the biggest issues in New Zealand is that usage is much higher than in other comparable countries and this is driven by poor housing quality, which is often more severe for customers with low incomes.

Annual Electricity Bill as a Per Cent of Annual Household Expenditure

* based on an average household income of $100k and low household income of $30k

There is no short-term fix for these two issues. The industry and government must work to alleviate

[1] "Definition of Energy Vulnerability in New Zealand", October 2018 provided to the Panel by ERANZ.

this in the short-term while looking at longer term changes that can stop this cycle. If we don't sort out how to reduce usage while maintaining a warm, healthy home, we will not address the affordability problem in a long-term sustainable way.

(a) Poor quality housing stock

We believe the EPR must consider the impact of housing quality. Cold, damp, draughty and poorly-insulated homes are much harder to heat and will consume much more energy at potentially significant cost to the customer.

As the report notes, New Zealand uses electricity for 70 per cent of households' energy needs. While New Zealand's per unit electricity prices are competitive internationally, what is increasing energy bills, particularly for the most vulnerable customers, is New Zealand's very high rates of electricity consumption – the sixth highest in the OECD. It is not overstating the point to say that quality of housing (or the lack thereof) is a much bigger driver of energy affordability than the price of electricity itself.

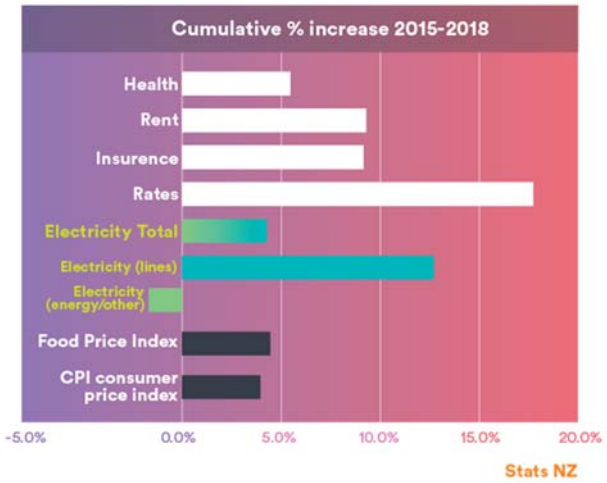
There needs to be a combination of short and long-term measures by industry and Government to address this. A number of short-term industry initiatives already exist. For example, Genesis works with Curtain Banks to provide free, quality recycled curtains to people with a community services card and who are living in housing that has limited or no curtaining. This improves insulation and energy efficiency of the home. These curtain banks service, on average, 1,000 families per year. We sponsored our first Curtain Bank in Christchurch in 2010 and have expanded this to further Curtain Banks in Wellington (2011) and Auckland (2012).

Proposed initiatives are set out in section 2.5.

(b) Low income levels

Incomes have not kept pace with the rising cost of living. Increased rental, food and petrol prices leave little left for other necessities such as electricity bills, which is often post-paid, exacerbating the problem. This means people worry about their bills and either under-consume and don't adequately heat their homes or they over-consume, compared to what they can afford from their income, resulting in a bill that they cannot afford.

Change in household costs



2.3.3 *What are your views of the assessment of the outlook for the affordability problem?*

As set out in section 2.2.3, prices are likely to generally increase as we look to decarbonise the economy. All other living costs are also continuing to increase which makes it even harder for those on low incomes to meet all of these costs. Unless we find a way to help consumers in energy hardship pay their bills in the short-term and provide long-term ways to reduce usage while not compromising on a warm, healthy home, the truly vulnerable will be most impacted.

(a) Identifying customers in energy hardship

As it stands, we simply do not know who within our customer base is in true need unless they have told us. This leads to a far-from-ideal situation in which customer service representatives are frequently having to make judgement calls around balancing continued access to energy with rising debt levels for a small proportion of our customers. These judgement calls are frequently based on phone calls with customers during which they, at times, detail significant hardship and personal difficulty or, more problematically, are reluctant to disclose such personal information in order to access the full range of wrap-around services Genesis and social agencies can provide together. This is neither fair on the electricity company, the customer service representative or, most importantly, the customer.

Genesis is invested in improving this problem. We are of the view that the current ERANZ Vulnerable Customers and Medically Dependent Customer Working Group should evolve and grow into a

cross agency and industry group tasked with agreeing criteria and processes for identifying energy hardship for electricity customers.

Once identified, Genesis supports the development and introduction of an industry-wide system of identifying and tracking the movement and circumstances of customers in energy hardship such that they can be better protected and moved from this status as their situation may improve. Strong support and leadership from Government and its agencies will be required if this proposal is to succeed. Industry cannot do this alone.

Clear criteria would mean that all Genesis customers experiencing energy hardship are able to access the full benefits of the our 'vulnerable customer care package' as we would be able to accurately identify these customers. Genesis believes this package, into which we constantly invest time and resource to improve, is "best in class" and would like to discuss how elements from it could be incorporated into a broader electricity industry response to energy hardship issues. A summary of the initiatives in the Genesis Vulnerable Customer Package is attached as Appendix 2.

By way of one example, Genesis provides proactive credit reporting and believes it should be mandatory for all retailers to do so. Under this regime, a customer's positive payment behaviour is reported to credit agencies. This in turn helps to improve their credit rating, often a barrier to accessing the full range of competitive offerings, consequently improving their access to competition.

A new approach to identifying and then delivering the best value for vulnerable customers represents a cost that needs to be met. Genesis does not shy away from this but notes that all parts of the electricity system must share these costs. For example, particularly given recent pricing trends, it is neither fair nor reasonable for EDBs to be absent from this commitment or these costs. Those that contribute to the cost of a customer's bill must be involved in the solution, regardless of who eventually supplies the customer. In every outcome of this review, a primary objective must be the preservation of a competitive market and level playing field.

We are also of the view that all retailers need to either contribute to the provision of services for these customers or, alternatively, contribute to the cost of helping those most in need. We have set out a variety of solutions below, in section 2.5, which ensure that the industry as a whole is responsible for helping our vulnerable.

(b) Targeting of Winter Energy Payment

Genesis understands the rationale for the Government's WEP but believes that better targeting of these funds is required to address the review's concerns with affordability for some customers. As it stands, the WEP is a poorly targeted policy mechanism that is giving extra to people who do not need it.

If better targeting was achieved, not only could more meaningful sums be given to those in need, but not all of the current $450million government money currently set aside would need to be used for these short-term payments and, instead, investment in assets and infrastructure could be made to achieve an enduring impact on energy hardship. This could include insulation, energy efficient appliances, double glazing, installation of solar and batteries for low income houses, to name a few.

Industry can also assist with the difficulties in managing payments in the short-term. Genesis would support the introduction of the equivalent of the Water Utility Customer Assistance Trust in the electricity sector. Genesis believes that all New Zealanders have a right to a warm, healthy home. We believe that all of industry has a responsibility to assist those in energy hardship to do so. A levy from industry to help fund an electricity customer assistance trust should be a requirement of being a participant in the electricity sector.

Genesis supports the EPR coordinating industry and customer workshops and engagements to determine and make recommendations to the government on more effective targeting of the WEP resources to vulnerable customers.

(c) Improving energy efficiency and literacy initiatives

We would also note that there are currently a range of initiatives in place that support energy literacy and energy efficiency including EECA's EnergyWise and Rightware programmes, Consumer New Zealand (Powerswitch), MSD, initiatives such as "Warm Up New Zealand", local

authorities, as well as other smaller-scale regional budgeting and insulation organisations.

Genesis Energy believes in the importance of energy literacy and we actively support this in the community. Genesis School-gen programme, which has been operating since 2006, has a key focus on supporting energy efficiency education. This is achieved through free, open source educational resources and activities that teach children to consider how they use energy, where it comes from, and how to conserve energy. To date School-gen has connected with over 800 schools nationwide. In addition, the School-gen programme is directly connected to 92 schools via its 'solar schools' initiative, allowing students to see how much solar is being produced and, using specific learning activities, teachers can use this to teach specifically about renewable energy and energy efficiency.

Genesis sees an opportunity for the current energy literacy education about, and provision of, energy efficiency to be extended and more tightly focused on customers in energy hardship to help them understand and reduce their usage while not compromising on a warm, healthy home.

2.4 Key points

(1) Greater transparency is needed across wholesale / generation, distribution and retail sectors of the market.
(2) Collaboration between Government, industry and social agencies is key to addressing energy hardship.
(3) Prices for consumers are going to be impacted as we move to a more renewable electricity sector.

2.5 Solutions to build trust, increase engagement and improve long-term affordability

1. Target Funding and Support

- ***Target Funding***
  - Re-targeting of the current $450million WEP for short-term payments to those in need and investment in assets and infrastructure which would look to reduce bills by reducing usage through energy efficiency measures e.g. retro-fitting insulation, energy efficient heating
  - Government funding and industry levies could be used to fund measures **A-C** below for those identified as vulnerable
- ***A. Electricity Customer Assistance Trust***
  - The establishment of an Electricity Customer Assistance Trust accessible, with the assistance of social agencies, by vulnerable customers struggling to pay their electricity bills.
- ***B. Ensure supply for vulnerable customers***
  - Consider limiting disconnections for customers identified as high priority energy vulnerable, with government agencies and / or an electricity customer assistance trust meeting or underwriting costs of continued supply.
- ***C. Retailer of Last Resort***
  - The government could contract for a white label service for those customers who may continue to struggle with their electricity bills, to ensure they are able to access energy.

2. Home Efficiency

- ***Initiatives targeted at Social Housing***
  - A government commitment to progressively retrofitting all social housing to ensure they meet the very highest standards of energy efficiency, and require all social housing to have smart meters and affordable, effective heating. The government should commit, through Housing New Zealand, to be a 'best in class' landlord.
  - Start immediately with simple, low cost efficiency measures for social housing such as curtains and energy usage education for tenants.
  - Collaboration with energy retailers, EDBs and Housing NZ to pilot access to commercial pricing arrangements (on all parts of the bill) for all Housing NZ homes. This could then be rolled out to other social housing groups.
  - Bulk purchase of electricity by Housing NZ. Housing NZ tenants could then choose to pay higher rent but have it included the cost of electricity. This would provide certainty to the tenants while incentivising Housing NZ, as the landlord, to ensure the home was energy efficient. This could then be rolled out to all social housing.
- ***Drive Energy Literacy and Efficiency***
  - The current programmes providing energy efficiency services could be more tightly focused on vulnerable customers to help them understand and reduce their usage while not compromising on a warm, healthy home. This would see, for example, EECA working with social housing providers to properly insulate all social houses.
  - Government support for the industry-led "energy coach" where coaches can come in and help those most in need to contact agencies to (i) access support, insulation and heaters; (ii) discuss things they can do to make their home warmer and more energy efficient such as access to curtains, airing their home and how to use their heating most effectively.
- ***Longer term housing initiatives***
  - A radical revision of the Building Code which would see all new house builds meeting high international specifications for insulation, double glazing, heating and passive solar design;
  - All new builds, including KiwiBuild, should be designed with the capacity for solar PV, batteries and electric vehicle charging technologies incorporated either for immediate use or for future introduction at minimum cost.

3. Collaborate and Increase Participation

- ***Industry and Government Taskforce***
  - Co-ordinating industry and customer workshops and engagements to determine and make recommendations to the government on much more effective targeting of the WEP resources to vulnerable customers.
  - The ERANZ Vulnerable Customer and Medically Dependent Customer Working Group could evolve into the Vulnerable and Medically Dependent Customer Taskforce with government support to drive change quickly and effectively
- ***Continue to build trust***
  - A consumer advisory group set up under the Authority
  - Transparency to increase understanding of how money is being spent across the various segments of the bill. Refer section 3.7
- ***Positive credit reporting***
  - A requirement for all retailers to report positive payment behaviour to credit rating agencies.
- ***Get Vulnerable Customers on the Right Plans***
  - A requirement to contact, periodically, those identified in energy hardship and discuss whether they are on the right tariff and payment options for their circumstances.

3. Industry

3.1 Generation

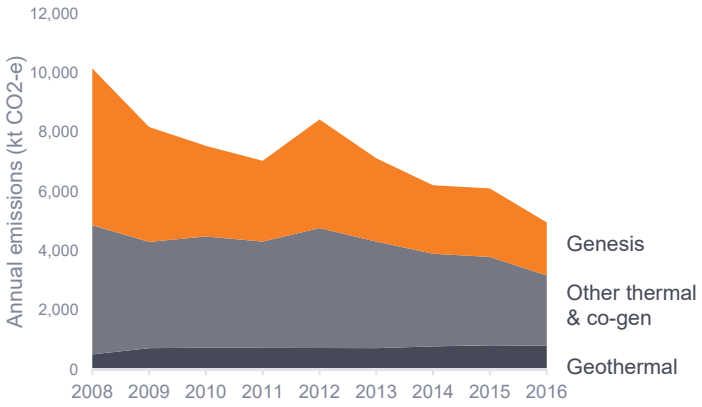
What are your views on the assessment of the generation sector performance?
What are your views on the assessment of barriers to competition in the generation sector?
What are your views on whether current arrangements will ensure sufficient new generation to meet demand?

We agree the generation sector is performing well, delivering increasing investment in the renewable energy New Zealand needs, when it needs it and at appropriate price points. There are very low barriers to new entrants to the generation market, which is now served by 36 individual generators.

We see no substantive barriers to competition in the generation sector and, in fact, as distributed generation and other technologies develop alongside a drive for more renewables, we can only see it being easier to enter the generation sector.

The New Zealand generation market is delivering renewable energy supplies, carbon reductions and energy security where other jurisdictions are not – namely Australia and the UK. The New Zealand market is ranked in the world's top 10 by the World Energy Council for balancing reliability, sustainability and affordability – the key trilemma. The IEA has described New Zealand as a "leading example of a well-functioning electricity market design".

Electricity Sector Emissions



MFE, MBIE and Genesis data

The market has effectively managed drought since 2009, including the 2012 and 2017 dry winters, without conservation campaigns. Over the same time, significant thermal capacity has been retired from the market with commensurate emissions reductions and no impact on security of supply. We strongly believe that the market will continue to adapt to meet changing demand and environmental requirements provided regulatory settings, which are outside of the scope of this review (for example, the Resource Management Act) are fit for purpose.

We do, however, acknowledge the fragility of the market when, for example, we are in periods of restricted fuel supply and this is likely to increase as we achieve ever increasing levels of renewable penetration while anticipating weather changes from climate change. This raises issues around "free-riding" and whether the Customer Compensation Scheme (CCS) provides the right incentives. We believe there are a number of issues that need consideration in the generation market:

(1) inadequate disclosure of all fuel used for generation (for example, there is no central repository for gas outages but this can severely impact security of supply);
(2) the hydro-risk curves do not take account of all fuel requirements to deliver security of supply;
(3) the incentives to manage hydro-generation are not adequately linked to the outcomes of the CCS. The impacts of a CCS are determined by the size of a retail business but whether a CCS is called is determined by how hydro generation is managed;
(4) a reliance by the market that a few participants will pay the costs to ensure that there is fuel to maintain security of supply.

We acknowledge the concerns raised regarding the cost of servicing different market segments. We see this is a perception issue and, therefore, see merit in greater disclosure across the industry around the contribution to financial performance from key business segments. Well managed, this transparency could enhance competitive dynamics across segments of the electricity market and

provide continuous data around the relative contributions to the bottom line over time. We have set out suggestions for greater transparency in section 3.7.

3.2 Retailing

What are your views on the assessment of retail sector performance?
What are your views on the assessment of barriers to competition in retailing?

The competitive market is growing and developing with increasingly innovative and varied service offerings entering the market; competition is fierce and is driving greater cost efficiencies into retailing businesses resulting in declining prices on the energy component of the bill. The retail market is continually looking for ways to engage customers and reward loyalty because it is in our best interests if our customers are actively choosing to stay with us, as their retailer of choice. And competition is much more than the cheapest price; there are many and varied reasons for why a consumer chooses a retailer.

While not all regions in New Zealand are serviced equally, all regions in New Zealand have a clear mix of large and smaller retailers offering all manner of products. However, availability of a retailer does not mean that all offerings are available to all consumers in their geographical area.

Usually with greater competition comes greater segmentation. In addition, not all offerings are available or appropriate to all types of customers. Offerings can include exposure to the spot market, fixed term contracts, pre-paid plans – many consumers in New Zealand have significant choice, if they chose to engage. However, while this is normal in consumer-driven markets, the electricity industry seems to be judged differently. This is concerning. We must be cautious to separate the very real issue of affordability for those suffering genuine energy hardship from the wider competitive market. We must not develop market rules to address a customer's decision to not engage but we can and must do more for these vulnerable customers who may not be able to afford their bill or access a variety of competitive offerings. This about addressing a specific issue, that is, all New Zealanders should be able to afford to heat their home to 18[2] degrees.

While there has been much focus on Prompt Payment Discounts (PPD), it is our view that removing these is an easy act but not a panacea for vulnerable customers accessing energy. At Genesis we have many customers who like the PPD and want it to continue. We also have customers on redirections from Work and Income New Zealand who all have their PPD automatically applied as part of a wider package of measures we take to help these customers. Further, PPDs vary wildly across the industry in terms of size and how they are applied. It is our view that instead of blunt pricing regulation[3], which restricts retail innovation, we need to collectively put help where help is needed most while allowing genuine and sustainable competition to continue to deliver benefits of choice and innovation to customers.

3.3 Vertical Integration

What are your views on the assessment of vertical integration and the contract market?
What are your views on the assessment of generators' and retailers' profits?

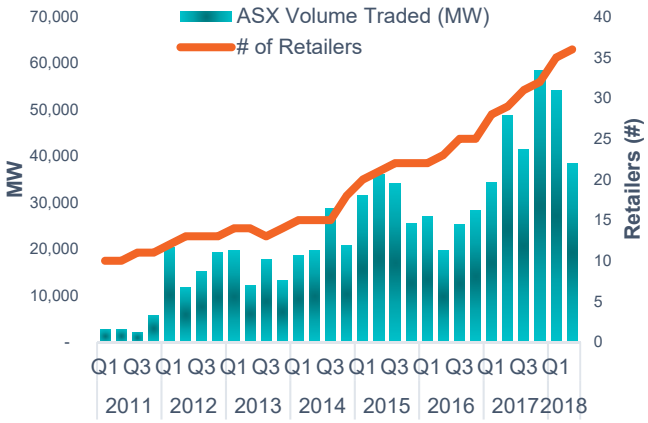
[2] World Health Organization, (1987), Health Impact of Low Indoor Temperatures: Report on a WHO meeting Copenhagen 11-14 November 1985. Copenhagen: WHO

[3] "Pricing regulation" includes the banning of certain pricing practices or the requirement to standardise pricing in the retail market.

As the paper identifies, there are pros and cons to vertical integration. Accordingly, we see it is a strength of the New Zealand market that there are six vertically integrated companies, 30 independent retailers and 34 independent generators. This means customers are being exposed to both the pros of vertical integration and those of independent ownership. This indicates to us that the market is operating well and there are no barriers to entry for a variety of entrant types. It is a positive outcome of the market structure and provides no justification to make substantial, disruptive and costly change for no clearly established or discernible benefits for consumers.

It is often argued that vertically integrated firms allow the retail arm preferential access to generation and hedging products. While we cannot speak to all generator-retailers, we do not believe this is the case. We do, however, believe that greater transparency may help address some of these concerns.

ASX Volume Traded vs # of Retailers



ASX volume data, EA market reporting

Liquidity in the hedge market is often raised as an issue for independent retailers. It is our view that the hedge market is sufficiently liquid to support independent retailing businesses. By way of illustration, the chart above shows that the volume traded on the ASX continues to rise and is clearly linked to the growth experienced in the number of retailers.

Finally, we agree with the report that there are no excessive profits. Furthermore, an industry analyst (UBS Report on New Zealand Electric Utilities Dated 31 July 2018) recently noted that the Return on Capital Employed in the sector is below what investors would typically expect and that poses risk for the industry going forward as ageing infrastructure requires significant capital investment for a relatively low return. However, we are of the view that greater transparency will increase confidence if this is the case. We have provided suggested areas where market transparency could be improved in section 3.7.

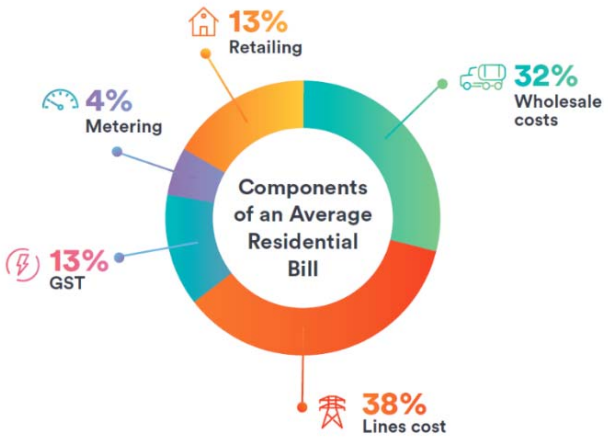
3.4 Transmission

What are your views on the process, timing and fairness aspects of the transmission pricing methodology?

Transmission pricing must be sorted out, and quickly. The process is driving costs and providing a distraction for the industry that has gone on for too long. We are of the view that the current process may have run its course and, in order to achieve a resolution, an independent body should review and consider all of the consultant reports, regulator analysis and industry views to date. They can then reach a decision on what a durable and robust TPM would look like. As noted in the paper in other areas, in order to achieve fairness, we believe residential customers should not bear a disproportionate allocation of these costs and any regulatory outcome must be future focussed and not retrospective.

3.5 Distribution

What are your views on the assessment of distributors' profits?
What are your views on the assessment of barriers to greater efficiency for distributors?
What are your views on the assessment of the allocation of distribution costs?
What are your views on the assessment of the challenges facing electricity distribution?



The performance of this non-competitive part of the industry is concerning and it is financially impacting customers. While all elements of the electricity bill have increased since 1990, we are particularly concerned to see a 548 per cent increase in distribution costs paid by residential customers over that time.

Lines costs, including transmission and network distribution costs, now make up 38 per cent of the average retail bill. These costs have been the cause of 89 per cent of residential electricity price increases since 2012.

Annual Change in Household Electricity Prices

MBIE annual residential sales-based electricity cost data

Further, we can see no evidence to indicate these increases, by the monopoly distribution sector, look to be slowing or stopping. The Auditor General, the Productivity Commission and the IEA have all raised questions as to whether the EDBs are well set up to deliver benefits to customers. Genesis notes the 2009 sector review called for the standardisation of distribution agreements and tariffs but neither of these directives have occurred satisfactorily over the last decade.

Given their role in price escalation over the last five years, Genesis is pleased to see the EPR acknowledge the potential for significant efficiency gains in the operation of EDBs.

3.5.1 Standardisation and simplification

Many of the problems are perceived to arise from the number of EDBs. While we don't disagree, and would like to ultimately see consolidation and amalgamation in the distribution sector, we understand the difficulties this poses. However, the status quo cannot continue. We must see a requirement for greater sharing and collaboration between EDBs and there must be a push for standardisation and simplification across the distribution sector.

There are significant efficiencies to be gained in simplifying the complexities of having 29 different network suppliers with different agreements, standards and tariffs. This drives costs into retailing for no clear benefit to customers and makes it harder to be a national retailer and creates a barrier to entry for new retailers. It is likely that this complexity means those in the regions are missing out on the full benefit of competition.

- We must have homogeneity of network pricing across the EDBs. It is unacceptable for a country the size of New Zealand to have over 2,500 different distribution tariffs. We do not believe there is sufficient evidence to justify the extent of the differences and it is unclear why TOU tariffs that are broadly similar across the country cannot be implemented. It would improve choice for customers because retailers could offer more innovative offerings and it would reduce costs by removing complexity.
- It is unacceptable for EDBs to impose different connection requirements for new technology, for example, battery inverters should be permitted on any network if they meet NZ safety standards and a testing cost should not be imposed on a consumer who wants to use an approved inverter on a network. Testing of this sort is a 'business as usual' requirement, especially in an industry that is trying to increase technology uptake to manage peaks.
- The approach to bespoke operations by each and every EDB is driving unnecessary costs and complexity into the industry which are ultimate borne by customers. It must change.

It creates barriers to the rollout of innovative products and services nationwide detrimentally affecting those in the regions. It limits entry and expansion for smaller market participants. It impacts procurement costs by EDBs because purchasing power is diluted by spreading across a number of different entities.

- Standards of asset management and outage management are inconsistent which sees consumers impacted differently e.g. Powerco returned supply to consumers quickly and efficiently in a recent storm event over a wide and dispersed network region while Vector provided, in our view, a substandard response in the country's biggest urban area.

We must standardise and simplify the distribution sector for the benefit of all consumers. The time is right to impose greater discipline, cost control and accountability on EDBs.

3.5.2 Cost allocation, corporate governance and accountability

Generally, we agree EDBs need to be able to invest in technology solutions to manage their networks – in fact, EDB readiness to embrace future technologies is one of Genesis's concerns.

However, the access to new generation, storage and energy management technologies must be accessible to all participants and new entrants on the same terms. The promise of new technology in revolutionising our energy system will not be realised if advantaged access to technology is provided to one part of the market.

EDB investment in new technologies as part of their regulated asset base (RAB) and receipt of a guaranteed return on those assets must be reviewed. This discussion began in New Zealand in 2015 and the Commerce Commission referred to this as a wider policy issue. This practice represents a fundamental distortion of the market and has the potential to seriously disrupt the potential of new technologies to be widely introduced for the benefit of all customers

Australia ring-fences such activity yet we rely on weak cost allocation accounting practices. No participant in the market should be allowed to use guaranteed cost recovery to make riskless investments in technology, use a monopoly position to procure third party services from related parties, or limit customer choice by dictating what and how technologies can access networks.

There is a perception of increasing focus from EDBs on non-core activities[4], including on what should be contestable markets for emerging technologies, and this is furthering EDB inefficiencies. Now is the time for Government to amend the definition of 'electricity lines services' to ensure that contestable services are provided in contestable markets and not by monopoly providers using their RAB. They must compete on the same basis as others in the market; it needs to be a fair game. We have provided a proposed change in Appendix 3.

We want to see regulation deliver the same incentives and outcomes for efficiency improvements and cost reductions while delivering better product and service outcomes; disciplines that exist in the competitive parts of the market and have delivered new products and services whilst decreasing prices over the past four years.

A guaranteed rate of return for a company is a privilege that should be repaid with the delivery of the highest level of service quality, standard and corporate accountability. Regulators and EDBs must all strive to deliver this for our customers.

3.6 Key Points

(1) Greater disclosure by generator-retailers will address concerns in the market.
(2) Distribution pricing must be simplified.
(3) EDBs must be more transparent and accountable for how they are spending consumers money as we all come under pressure to keep prices affordable for consumers.

[4] https://comcom.govt.nz/__data/assets/pdf_file/0014/100661/Snapshot-of-EDBs-spend-on-e-tech-10-October-2018.pdf

3.7 Solutions to increase transparency building industry trust and driving efficiencies

1. Greater Transparency

- ***Segment Performance***
  - A commitment from industry to understandable and meaningful transparency across the transmission, wholesale, distribution and retail markets.
  - Genesis would be open to a requirement to disclose segment contributions from its generation / wholesale operations, as well as performance from its residential and business operations. This is a level of transparency not currently in the market and would need to be carefully coordinated by an independent and external agency to ensure consistency.
  - Genesis already reports the transfer price between our generation and retail segments in our annual report. We would be willing to share this more widely along with our methodology to aid in comparison with other generator-retailers and ASX traded products
- ***Enhance hedge disclosures***
  - Existing hedge disclosures requirements include the price, term, volume and location for all ASX futures, CFDs, FPVV contracts and options. A simple but useful improvement would be the addition of a baseload equivalent price for FPVV contracts to allow comparison against the ASX.
- ***Create a Central Repository***
  - A wealth of data is already disclosed to the market in various formats, which we believe is underutilised at present. Centralising this data would not only help with transparency but also enhance market participation from those players who don't know where to find the information. We would also like generation fuel availability to be included in these disclosures e.g. gas outages, hydro risk curves, etc.
- ***Evolve PowerSwitch***
  - Refocus away from price comparison only and compare value offerings which will foster the ever growing competition and innovation

2. Market Liquidity

- ***Extension of Virtual Asset Swaps***
  - Genesis believes the virtual asset swaps between Meridian, Mercury and Genesis have been a constructive and effective initiative that has further strengthened competition. Genesis would be open-minded to exploring the continuation of the virtual asset swaps which are due to end in 2025.
- ***Improvements to Market Making***
  - We believe that the best approach to preserve market making is to provide better incentives for companies to provide this service, which would spread the cost to all those who benefit from it.
  - On this, we're currently working with the ASX to support a process whereby companies can bid to be a market maker which will spread the cost in a more transparent and fair manner.

3. Network Pricing Methodologies

- ***Distribution pricing must be resolved***
  - Distribution pricing is stifling innovation in the same way as the Low User Fixed Charge (refer 4.2.2) . It must be resolved in a way that is as simple and standardised as possible to allow retailers to develop and offer innovative products and services that meet customer needs. This can include national tariffs that send signals which can influence consumers behaviour as technologies further integrate into the industry.
- ***Transmission pricing must be resolved***
  - There is more than enough analysis and understanding of industry participants' views on transmission pricing. We would support an independent arbiter reviewing and reaching a decision on the best way forward.

4. Technology and Regulation

4.1 Technology

What are your views on the assessment of the impact of technology on consumers and the electricity industry?
What are your views on the assessment on pricing mechanisms and the fairness of prices?
What are your views on how emerging technology will affect security of supply, resilience and prices?

Technology is a game-changer for customers. It includes software and hardware and it is allowing us to evolve into a customer driven market that is engaging customers in a way the electricity industry has not done before.

4.1.1 Pricing and fairness

The fairness of pricing mechanisms goes beyond technology but is one that hasn't had much focus historically. When using the "fairness lens" a number of distortions can be identified in the current pricing structures;

1. Variabilisation of fixed network charges; consumption charges, based on flat variable prices, are the most prevalent way of charging, making up 83 per cent of an average annual household bill. This not only distorts and weakens price signals but also drives heating costs higher, exacerbating the affordability issue for vulnerable customers;
2. A reliance on pure economic models for cost allocation; the cost-plus approach applied across the supply chain has become blinkered, delivering few efficiencies but often charging more to those who cannot afford it. For example, customers in the Far North (Top Energy) pay approximately $400 per year more for their network costs. These customers have limited ability to influence these costs and it worsens energy poverty in this region; a region that has the greatest number of consumers in the most deprived mesh blocks (31 per cent as per the Electricity Price Review Initial Analysis of Retail Billing Data)
3. Complexity due to the sheer number of price plans; the large number of price plans on offer across the country causes significant confusion for customers and is primarily a derivative of the number and variability of EDB pricing structures (more than 1 per EDB)

Distribution pricing should reflect that most of the network costs are fixed costs while signalling where there are peak constraints. A higher proportion of fixed prices, potentially based on capacity, along with TOU variable prices will signal to a customer when it is cheapest for them to use electricity in order to maximise the capacity of the network throughout the day while minimising rising demand when capacity is constrained, irrespective of technology. This is essential to ensure that networks don't over-invest, and retailers can effectively deliver these price signals to customers simply and clearly.

Technology should be used to empower consumers and technology should be paid for by those who receive the benefit, that is the consumer (the exception is the vulnerable, see below). We do not support the subsidisation of technology in consumers' homes by EDBs where all customers on that network are paying for an individual customer to have the benefit. For example, allocating the cost of in-home batteries to the RAB is inappropriate, even where the network may access it for demand response. EDBs do not buy hot water tanks for ripple control and, therefore, they should not buy batteries for in the home to serve the same purpose. We do support investment in technology by EDBs using their RAB but we believe that, for example, investment in grid scale batteries by EDBs is likely to be a more appropriate investment because it augments the existing network and is more likely to be for the benefit of all consumers, not a select few. These investments should also be procured on a competitive basis, for example, a competitive tender process. Greater transparency and disclosure of these large asset investments and how they are delivering will help the market to assess if this is the case. If EDBs wish to compete in the 'behind the meter' market, they must do so through a ring-fenced entity without reliance on their RAB.

4.1.2 Security, resilience and prices

While the generation market has performed well, the EPR report raises the question as to whether

there are adequate incentives to maintain back-up plant or demand response options to manage future dry year risk. Genesis, as the owner and operator of the Huntly thermal Rankine units, is the biggest operator of back-up capacity and shares the EPR's concerns, particularly in an environment when these units are no longer available.

The wholesale market has worked well through swaptions and direct purchasing but these units remain undervalued. Genesis has signalled that the company will not use coal from 2030 in order to ensure sufficient time for the market to establish contingencies; the recent Government announcement to ban oil and gas exploration will make plans to remove coal more complicated and makes the conversation more pertinent. As an industry, we must together address the future risk of security of supply.

Further, none of the emerging technologies deal with New Zealand's seasonal demand shortage and dry year risk. In fact, some of these emerging technologies, such as solar and wind, will increase these risks to our system. A renewable system, with less diversity of fuel and generation types, will be inherently more volatile and less stable than our current system. It will also be more costly to provide energy to customers. We have discussed this further in section 3.1.

4.2 Regulation

What are your views on the assessment of the impact of the place of environmental sustainability and fairness in the electricity industry?
What are your views on the assessment of low fixed charge tariff regulations?
What are your views on the assessment of gaps and overlaps between the regulators?
What are your views on the assessment of whether the regulatory framework and regulators' workplans enable new technologies and business models to emerge?
What are your views on the assessment of other matters for the regulatory framework?

4.2.1 Fairness and environmental sustainability

As set out above, industry and government need to consider ways to ensure that our vulnerable are not excluded from the benefits of emerging technologies that promote environmental sustainability and, in fact, are net beneficiaries of the changes. We support technology subsidies for the vulnerable so that their bills are cheaper because they reduce their grid delivered usage without reducing, for example, the warmth of their house, which also benefits the economy as a whole.

Increasing levels of renewables

In the context of preparing for a different energy future, Genesis supports increased renewables to 90+ per cent. We have concerns with the costs and impact on reliability of pursuing a 100 per cent renewable electricity system because of the significant levels of complexity and economic risk this could incur. Additionally, with just five per cent of New Zealand's total greenhouse gas emissions coming from electricity generation, pushing to 100 per cent renewables from the current 85 per cent could compromise emissions reductions in other, more material sectors – for example, transport and agriculture – and limit the uptake of new emissions reduction technologies.

New Zealand's limited thermal capacity supports the country to be as renewable as it is currently by providing much needed baseload and peaking electricity generation when the rain stops falling and the wind stops blowing. This is crucial in keeping the lights on for New Zealanders and maintaining a 'reliable' energy supply as per the trilemma requirements.

Retiring all thermal plant to achieve 100 per cent renewable generation capacity, with currently available technologies, would only be possible through significantly overbuilding renewable-only capacity to account for dry periods or weather interruption. This option risks the reliability of our electricity supply and would expose customers to much greater costs, which is inconsistent with the 'affordable' requirement of the trilemma.

The risk to energy consumers during this transition is if policy increases the cost of thermal firming - i.e. back-up for hydro risk - before the alternative technology solutions exist, the cost of providing

secure and reliable electricity for consumers will increase; in turn increasing household bills and reducing New Zealand's competitiveness as a place to do business.

4.2.2 Electricity (Low User Charge Tariff Option for Domestic Consumers) Regulations 2004 ("LUFC")

It is almost universally acknowledged now that the LUFC is not fit for purpose and should be replaced. The LUFC does a poor job of targeting support for all vulnerable customers[5] and creates distortions in the market. It is a blunt instrument that over 60 per cent of residential customers now qualify for; benefitting those with the means to buy energy efficient appliances and invest in reducing consumption without sacrificing comfort, and punishing those who lack the means to do the same, including especially vulnerable customers.

We do not believe there needs to be a new, regulated replacement for the LUFC. Rather, there should be a requirement for all retailers to operate in a socially responsible way towards vulnerable customers struggling with energy costs, and for all EDBs to enhance their pricing methodologies to provide more cost reflective price signals.

As a starting point, the Voluntary Practice Benchmark for Electricity Retailer Credit Management and the Voluntary Practice Benchmark for Electricity Retailer Management of Medically Dependent Customers should be codified. The proposed Vulnerable Customer Taskforce referred to in section 2.5 (an evolution of the ERANZ Working Group for Vulnerable Customers and Medically Dependent customers) could look at other ways to assist vulnerable customers to reduce usage without compromising on comfort, in the short, medium and long-term.

The LUFC also discourages tariff innovation and increases the number of tariffs that are required in the market, both by retailers and EDBs. At a time when we are looking at ways to change when energy is consumed rather than how much is consumed (i.e. move consumption from the peaks to less intensive times of the day) and preparing for the growing demand for technology, such as electric vehicles, a plain and simple tariff structure is needed. The LUFC does not allow for this.

[5] We acknowledge that it may be beneficial for those with low income, a small house, and one to two occupiers. New measures should help all vulnerable, including this group, so this should not be a barrier to removal of the LUFC.

4.2.3 Gaps and overlaps between regulators

We agree that there is benefit in clarifying the respective roles of the Authority and the Commerce Commission, particularly with regard to pricing and access to distributors' networks. These need to be clear so there is no room for frivolous litigation over roles and responsibilities that holds the industry back from driving simplicity into the market. Where there is policy uncertainty, official and government agencies must be brave and provide guidance to resolve issues.

Specifically, there is some uncertainty in section 32(2)(b) of the Electricity Industry Act (EIA) as to what it prohibits the Authority from doing. This section prohibits the Authority from doing or regulating anything that the Commerce Commission is "authorised or required to do or regulate" under Part 3 or 4 of the Commerce Act. This could be amended to be more specific about what the Authority is prevented from doing. For example, it could state more clearly that the Authority cannot set quality or price paths, or input methodologies (apart from transmission and distribution pricing methodologies, unless this is specifically amended). This amendment would allow the Authority to clearly include quality standards in a default distributor agreement.

4.2.4 Access to distribution networks

(a) Amendments to Part Three of the EIA

We propose that the separation rules in the EIA be amended to future proof the regulatory framework in a world of changing technology. It would provide for more effective checks and balances against the ability of a distributor to use its monopoly position to distort competition in contestable electricity markets (such as electricity storage services). We have proposed amendments in Appendix 3 to demonstrate that changes under Part 3 of the EIA would be relatively straightforward.

Key features of the proposed amendments:

a) If distributors are involved in "contestable electricity services" in their network area, such services would need to be undertaken in a separate company;

b) The arm's length requirements in the EIA would apply;
c) If a related entity providing contestable services is to provide services to the distributor, then competitive tender requirements must be complied with; and
d) What constitutes a "contestable electricity service" would be stipulated in a Schedule to the EIA.

This is similar to the approach in Australia where the Australian Energy Regulator classifies "unclassified distribution services", which are not subject to price regulation. This recognises that although contestable electricity services are provided in competitive markets, it is possible that they can also provide network services to distributors (e.g. solar and battery generation).

The requirement for a competitive tender is intended to remove the incentive for a distributor to discriminate in favour of its related entity when purchasing such network services, thereby providing the related entity with an advantage that risks distorting competition for the consumer service markets.

The proposed amendments would not change the definition of distributor, or how electricity lines services are regulated under Part 4 of the Commerce Act. However, the new requirements under the EIA would have flow on effects to Part 4 regulation, as follows:

a) The relevant assets for "contestable electricity services" will not be capital costs incurred by the regulated distributor. Accordingly, they should not enter the RAB.
b) The related entity would not be a regulated EDB itself - it would not meet the definition of providing "electricity lines services" under Part 4.
c) However, if the related entity provided services to the EDB, such as network management, the acquisition of that service would be for the purpose of the EDB's regulated business. This would be operational expenditure incurred by the EDB (and not part of the EDB's RAB).
d) Accordingly, any transaction between the EDB and the related entity would be a "related party transaction" as per the relevant input methodologies. The related party rules are designed to ensure the regulatory cost of acquiring the service in a related party transaction is recorded on an arm's length basis (which should occur in any event under the proposed amendments to the EIA).

The process to change the schedule of contestable services will include relatively broad criteria for the Authority to apply before recommending a service be added – including an assessment of whether it is a competitive market.

The proposed amendment is consistent with the Authority's suggestion to the Productivity Commission as part of its inquiry into a low emissions economy. The Productivity Commission noted in its Final Report[6]:

> Part 3 of the Electricity Industry Act sets out certain thresholds above which EDBs are prohibited from owning electricity generating and retail businesses.
>
> "The EA suggests that the scope of these provisions could be widened to cover other contestable electricity services that rely on access to the distribution network to be competitive. A wider scope, with more effective checks and balances against a misuse of a distributor's monopoly position, would reinforce and give more specificity to the provisions of "use-of-systems" agreements currently required under section 77 of the Electricity Industry Act. Consistent with this, Meridian Energy (sub. DR253) submitted that "distributors should be required to keep new technology services separate from their regulated businesses and that networks should openly tender for network services based on new technology" (p. 13)."

(b) *Contractual or regulatory obligations to protect consumer data and privacy*

As an industry, we must treat data responsibly and respectfully. We would like to see contractual or regulatory obligations when data is exchanged that reflect privacy obligations and respects customer data. As we laid out in section 2.1.4 we are an industry that must retain trust and a social licence to use our customers' data. Such requirements would include:

[6] New Zealand Productivity Commission *Low-emissions Economy: Final Report* (August 2018) at 415.

- Treating the information supplied as "confidential information";
- Use by the party, to whom the information is disclosed, would only be for the purposes for which it was requested and disclosed to that party;
- Where the information is disclosed by a retailer to a distributor, that the information is only used for the purposes of providing regulated "electricity lines services" and is not used for any non-regulated purposes;
- Appropriate security measures and restrictions around dissemination are in place;
- Appropriate liabilities and indemnities for misuse apply;
- A right to conduct periodic audits to confirm the agreed obligations are being met with respect to any information that is supplied;
- Allows for the recovery of reasonable costs.

While previous contractual arrangements have provided for disclosure of information between parties, we are of the view that greater clarity regarding parties' rights and obligations is required. This is due to the ever-increasing detail, quantity and granularity of information being requested, and consumers questioning how and for what purposes their data is being collected and used. We are constantly trying to improve levels of trust from customers and we must do everything we can to protect our customers data and avoid data breaches. This is in the interests of the whole industry, which has the responsibility to act for the benefit of all customers.

4.2.5 MEPs to be subject to economic regulation

We are of the view that economic regulation of MEPs needs to be considered as the potential of data-enabled products and services increases, and industry interest in data grows. Otherwise, the risk is that consumers will pay for the same data to be accessed by multiple parties, with no increased benefit to them; only an increased return for MEPs.

MEPs currently contract directly with industry participants to access the data their meters collect and we are of the view this works well. However, with growing interest in the full range of data that the meters are capable of collecting (e.g. voltage, outage, consumption data), and the fact that customers only want one meter on their premises, we consider that economic regulation of the returns MEPs make as a monopoly provider should be considered to avoid consumers paying more than once for the collection of each specific set of data.

4.2.6 Regulators' workplans and frameworks allowing uptake of technology and business models

A certain and stable regulatory framework allows the market to work to deliver innovations for customers. As such, we believe the primary focus for a regulator's workplan should be where there is (i) a perceived or actual market failure prior to regulatory review, and (ii) a proven market failure prior to regulatory intervention.

Regulators must not look for problems but, where problems are identified in the market, they must act swiftly and responsibly to understand the issues, consult on those issues and intervene only if there is a clear benefit to doing so. Endless tinkering where there is no market failure drives cost and complexity into the market. Innovation is also held back when the settings we operate and develop under are constantly changing.

4.2.7 Other matters

We need to be bold and yet cohesive as an industry; government, participants, regulators. All regulatory matters need to be considered in terms of what it is delivering to customers and we must all push for increasing simplicity in a complex industry. Complexity is a veil behind which inefficiencies flourish. This review needs to call out where the complexity is not justified and set this industry up to continue to deliver sustainable, reliable and affordable electricity in an ever-changing future.

4.3 Key Points

(1) The regulatory framework must flex and adapt. We have proposed some changes.
(2) Regulatory intervention should occur only when market failure is identified.
(3) The LUFC is restricting innovation and is an example of how pricing regulation can have unintended consequences.

4.4 Solutions to ensure the regulatory framework is fit for the future

1. Removal of the LUFC

- The LUFC currently distorts the market and does a poor job of assisting the vulnerable. Its removal will allow new pricing innovations to be developed by the market for all customer segments and should be a priority action in this review.
- Whilst the longer term solutions to energy hardship are being implemented, the Voluntary Practice Benchmark for Electricity Retailer Credit Management and the Voluntary Practice Benchmark for Electricity Retailer Management of Medically Dependent Customers could be codified to provide ensure adequate protections are in place for all vulnerable consumers.

2. Data access

- A regulatory solution may need to be considered if contractual agreements remain difficult to negotiate with some parties. Any solution must put customer privacy at the centre of data disclosure between the industry. Technology uptake will see increased collection and use of data. We must disclose and use this data responsibly if we are to retain a social license to innovate in the interests of customers. Customer privacy must be put ahead of commercial interests.

3. Regulation for MEPs

- Access to data is increasingly important but, in the same way we don't want to duplicate the poles and wires network, we do not want to see a situation where there is more than one meter on a customer's premises. Economic regulation of MEPs would ensure that appropriate cost allocation for access to data was achieved so that consumers don't ultimately end up paying numerous times for the same data to be collected.

4. Future-proofing of the regulatory framework

- The separation rules for distributors in the EIA need to be expanded to reflect the changing nature of the market. We have attached a proposal (appendix 3).
- Part 4 of the Commerce Act should be amended to reflect the telecommunications fibre regulation so that it includes a requirement for the Commerce Commission to promote competition for all consumers. This would allow for monopoly regulation in the electricity industry to be applied in a way that promotes competition in adjacent markets for the benefit of all consumers, not just those of the regulated market.

5. Introduce pricing principles

- Pricing principle input methodologies for electricity distribution and transmission businesses should be introduced to strengthen price signals and reduce unnecessary complexity.

6. Allow benchmarking

- The current restriction on the Commerce Commission use of benchmarking under Part 4 of the Commerce Act should be removed (as recommended by the Commerce Commission).

7. Nexus between the Authority and the Commerce Commission

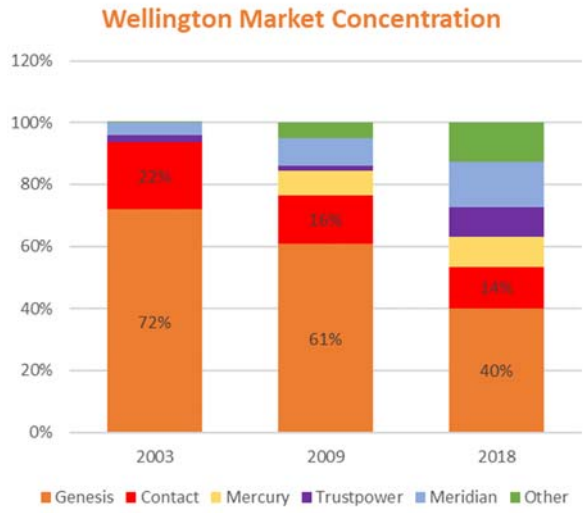
- Clarify and confirm the consumer benefit test versus public benefit test under the Commerce Act and the EIA.
- Amend section 32 of the EIA **or** section 54V of the Commerce Act (or another section introduced) to better clarify the respective roles of the Authority and the Commerce Commission.

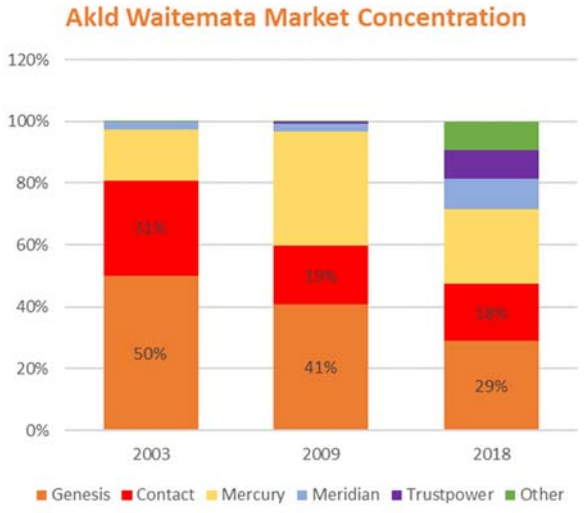
8. Greater transparency of EDBs

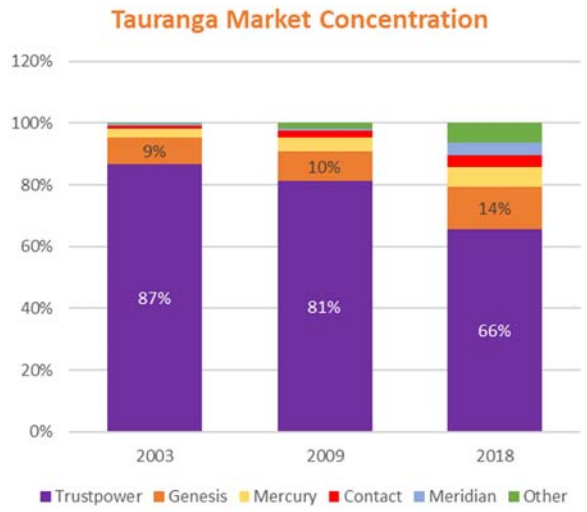
- Consumers have no choice when it comes to their network provider, so providers must be accountable for the showing the costs they require consumers to pay are justified. We need:
  - Clear and accessible asset management plans that set out what an EDB intends to do; a review of how they performed against their previous year's asset management plan including whether or not projects have been completed (and if not, why not);
  - Improved corporate governance and accountability measures. If we are going to pay for executive teams for each EDB, customers have a right to know how they are performing.
  - Removal of two tier regulation. Consumer ownership and information disclosure are inadequate to provide sufficient incentives to achieve efficient and fair pricing. All EDBs should be subject to price-quality regulation.
  - Tightening of cost allocation to ensure that a regulated asset base is appropriately used for delivering the regulated service.

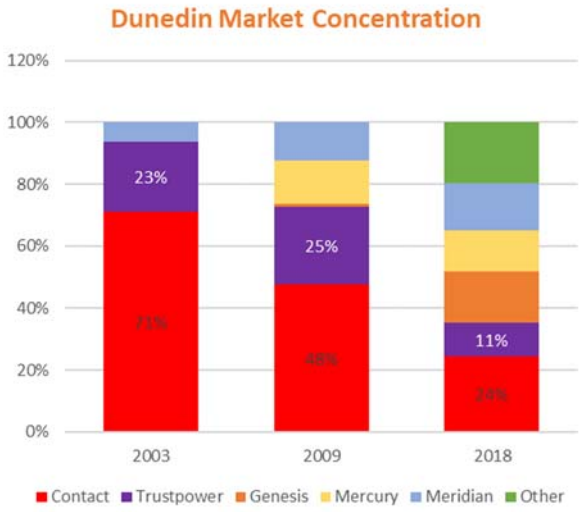
Appendix 1

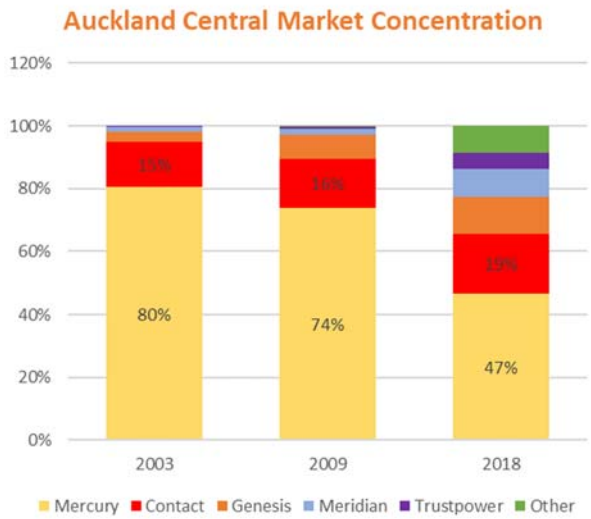
Regional Market Concentration

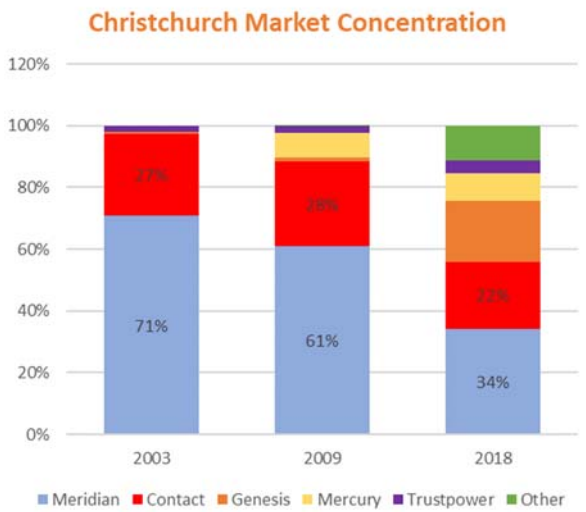








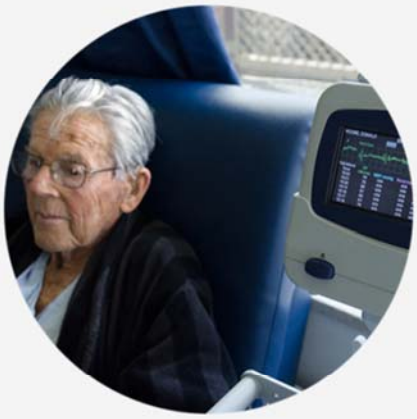




Appendix 2

Vulnerable Care Package

Genesis provides a wide range of services to support those who are medically dependent, or who simply need help controlling and managing their power bills. It's all part of our promise to work with you to make things better for you.



Critical medical supply

If you have critical medical equipment powered by mains electricity, or you rely on electricity supply because of your age, health or disability, we'll flag this on your account.

Then we'll work with you to ensure you're adequately supported. If you've let us know you're medically dependent, we'll contact you to ensure you have an emergency response plan in place. We can visit you at home if that's easier, help with doctors' visits and work with you to sort out your account if it's overdue. To speak with us about critical medical supply, please call us on 0800 300 400.

If you're medically dependent and without power, please read this important information on what to do.

Helping you understand and manage your bill

Many of our customers have chosen to avoid winter payment-spikes with Control-a-bill, a simple and convenient payment option that lets you smooth out the highs and lows of your power bills.

Our free Energy IQ app helps you understand how electricity is used in your home. You can monitor your usage, and even forecast your likely spend for the next week.

Prompt payment discounts incentivise customers to stay on top of their power bills. Our direct debit customers, and those who redirect their Work and Income New Zealand (WINZ) benefit or New Zealand Superannuation to pay their bill, automatically receive their discount every month. If you're struggling to pay we'll work with you to agree a repayment plan, and can put you in touch with budgeting services and WINZ to help get your debt to manageable levels.

Proactive care

Each year we send you a Price Plan Check. This shows you how much electricity you've used in the previous 12 months, and our price plan options, so you can decide if you're still on the best pricing plan for your home.

We send you annual budgeting advice to help you manage your bills and stay connected. If you're medically dependent, we'll contact you regularly to keep our records up to date, and to ensure you have safety arrangements in place if you lose power.

We're currently working with the Ministry of Social Development and Housing New Zealand to improve how we support those who could suffer from energy hardship.

These customers will receive earlier, more proactive care if they get behind in their payments, so their debt doesn't become unmanageable.

Vulnerable Care Package

Genesis provides a wide range of services to support those who are medically dependent, or who simply need help controlling and managing their power bills. It's all part of our promise to work with you to make things better for you.

Better access to energy

We're committed to finding solutions which reduce the barriers some customers face in getting access to energy.

If English isn't your first language, you can have someone call us and speak on your behalf, or we can speak with you with the help of our Language Assist Line.

We're the preferred supplier for New Zealand Red Cross, and refugees can skip the credit check and sign-up automatically.

We'll work with WINZ and other social agencies to see if we can help get you connected if your credit score is an issue.

It's the simple things that help

You can always authorise a friend, family member or a social agency representative to speak on your behalf.

If you need a bit more time to pay your bill, you can easily request a seven-day extension through Energy IQ or call us on 0800 300 400.

You won't be charged for credit extensions, copies of your bill, credit reminders, bills sent by post or refunds.

We won't charge you a bond to sign up with Genesis.

Appendix 3

Proposed Legislative Amendments

Under our suggested approach, set out below:

a. some services will initially be specified in Schedule 7 by the amending legislation. This is on the basis that it is already known that residential solar and battery services are (or should be) competitive, and that distributors have the ability to distort competition in these adjacent markets by including such assets in the RAB of their monopoly businesses;

b. The Minister, following a recommendation by the Authority, could add (or remove) additional services in the future. This will provide flexibility for the separation requirements to be applied, when appropriate, to new services over time for technology that we cannot anticipate.

Consistent with the existing separation requirements under Part 3, the new provisions would govern the structure of the market(s), and how transactions between related parties on the distributor's network must be conducted. The separation and arm's length requirements are the same that apply to connected generation and connected retail (if the relevant thresholds are met). The amendments make it clear that connected contestable services are not connected generation or retail, and therefore the thresholds that apply to generation and retail services will not apply to connected contestable services.

The new requirement introduced by the proposed amendments is that the distributor would be required (under proposed section 77A) to conduct an open and competitive tender if it wished to acquire any services from a "connected contestable electricity service." The directors would be required to certify that a competitive tender took place, and selection occurred on an arm's length basis.

Proposed drafting amendments are provided below:

72 Purpose and outline of this Part

(1) The purpose of this Part is to promote competition in the electricity industry—

(a) by prohibiting a person who is involved in a distributor from being involved in a generator where that may create incentives and opportunities to inhibit competition in the electricity industry; and

(b) by restricting relationships between a distributor and:

(i) a generator;

(ii) a retailer; or

(iii) a business that provides a contestable electricity service.

where those relationships may not otherwise be at arm's length.

(2) In general terms, this Part imposes rules in respect of distributors as follows:

…

(b) corporate separation and arm's-length rules, if a person is involved both in a distributor and in any one or more ~~either or both~~ of—

(i) a generator that generates more than 50 MW of generation connected to the distributor's network:

(ii) a retailer that retails more than 75 GWh per year to customers connected to the distributor's network:

(iii) a business that provides a contestable electricity service:

…

(ca) competitive tender rules, if a connected contestable electricity service is to provide services to the distributor

…

Section 73– Interpretation in this Part

....

contestable electricity service means a service described in Schedule 7.

…

Section 74 – Meaning of involved in

(1) For the purposes of this Act, a person is **involved in** a distributor, ~~or~~ a retailer, or a contestable electricity service if the person…….

Section 76 - Corporate separation and arm's-length rules applying to distributors and connected generators and connected retailers

(1) The person or persons who carry on the business of distribution must carry on that business in a different company from the company that carries on the business of a connected generator, ~~or~~ a connected retailer or a connected contestable electricity service.

(2) Every person who is involved in a distributor, and every person who is involved in a connected generator,~~or~~ a connected retailer, or a connected contestable electricity service, must comply, and ensure that the person's businesses comply, with the arm's length rules.

(3) In this section and section 77A, unless the context otherwise requires,-

connected generator, in relation to a distributor, means a generator—
(a) that has a total capacity of more than 50 MW of generation that is connected to any of the distributor's networks; and
(b) in respect of which the distributor, or any other person involved in the distributor, is involved

connected retailer, in relation to a distributor, means a retailer—
(a) that is involved in retailing more than 75 GWh of electricity in a financial year to customers who are connected to any of the distributor's networks; and
(b) in respect of which the distributor, or any other person involved in the distributor, is involved.

connected contestable electricity service, in relation to a distributor, means a business-
(a) that is involved in providing a contestable electricity service that is connected to any of the distributor's networks; and
(b) in respect of which the distributor, or any other person involved in the distributor, is involved.

(4) For the avoidance of doubt, for the purposes of this section and section 77A, a connected contestable electricity service is not a connected generator or connected retailer.

[Insert] **Section 77A**: **Competitive tender**

(1) Every director of a distributor in respect of which there is a connected contestable electricity service that provides a service to the distributor (whether solely, or in addition to providing services to consumers) must ensure that-

(a) at least one other business that the distributor is not involved in was given a reasonable opportunity to offer to provide to the distributor the contestable electricity service that is being provided by the connected contestable electricity service; and

(b) the selection of the connected contestable electricity service to provide the service to the distributor did not include considerations that the business would usually omit, or omit considerations that the business would usually include, in selecting a party to provide the service that is –

(i) connected or related only by the transaction or dealing in question; and

(ii) acting independently; and

(iii) acting in its own best interests.

(2) If subsection (1) applies, then for each calendar year the directors of the distributor must ensure that there is also publicised, and provided to the Authority, a certificate signed by those directors stating whether or not, -

(a) subsection 1 was fully complied with; and

(b) the services are being provided in accordance with the arm's length rules.

(3) Every director commits an offence who-

(a) refuses or knowingly fails to comply with this section; or

(b) allows a certificate to be publicised or provided to the Authority knowing that it is false or misleading in a material particular.

(4) Every director who commits and offence under subsection (3) is liable on conviction to a fine not exceeding $200,000.

…

[Insert] **Section 90A Process for amending Schedule 7**

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 7 by-

(a) adding a service to Schedule 7 and setting out a description of the service; or

(b) omitting a service from Schedule 7.

(2) The Minister must not make a recommendation under this section unless the Minister accepts the Authority's recommendation, made in accordance with section 90B, that the proposed amendment to Schedule 7 be made.

[Insert] **90B Authority's investigation and recommendation**

(1) The Authority may, on its own initiative or if requested to do so in writing by the Minister, commence an investigation into whether or not Schedule 7 should be amended by—

(a) adding a service and setting out a description of the service; or

(b) omitting a service,

(2) The Authority must give public notice of the commencement of the investigation.

(3) The Authority's investigation process must provide a reasonable opportunity for interested parties to provide their written views on a draft report on the proposed amendment to Schedule 7.

(4) The Authority may, but is not required to, hold a hearing or conference in relation to the proposed amendment to Schedule 7.

(5) For the avoidance of doubt, subsections (3) and (4) do not limit the process or steps the Authority may adopt to develop a proposed amendment to Schedule 7 and to seek views from interested parties on the proposed amendment.

(6) The Authority may recommend to the Minister that a service be added to Schedule 7 only if it is satisfied that:

(a) the service is provided in a market where there is;

(i) workable competition or a likelihood of workable competition; and

(b) little or no scope for the exercise of substantial market power in relation to the service;

(b) the addition of the service to Schedule 7 would promote the purpose of this Part.

(7) The Authority may recommend to the Minister that a service be omitted from Schedule 7 only if it is satisfied that its inclusion in Schedule 7 is no longer necessary to promote the purpose of this Part.

[insert] **90C Decision by Minister on Authority's recommendation**

(1) The Minister may—

(a) accept or reject any recommendation by the Authority under section 90B.

(b) require the Authority to reconsider, for any reasons specified by the Minister, any recommendation, in which case section 90B applies to any such reconsideration.

(2) The Minister must make a decision under subclause (1) within 3 months after the date on which the Minister receives the Authority's recommendation.

[Insert] **Schedule 7 Contestable electricity services**

(1) electricity storage (including battery) services connected beyond the point of supply to a property (for example, to an electricity installation)

(2) electricity generation (including solar generation) connected beyond the point of supply to a property (for example, to an electricity installation)