



22 March 2019

Miriam Dean QC  
Chair  
Expert Advisory Panel  
Electricity Price Review  
c/- Ministry of Business, Innovation & Employment  
by email to [energymarkets@mbie.govt.nz](mailto:energymarkets@mbie.govt.nz)

Dear Miriam

### **Electricity Price Review options**

Please find attached feedback on the 41-options in the Expert Advisory Panel's Electricity Price Review Options Paper of 18 February 2019.<sup>1</sup>

MEUG members have been consulted in the preparation of this submission. This submission is not confidential. Some members may make separate submissions.

In preparing this feedback we have benefited from the opportunity to discuss the options directly with you and panel members and to participate in the cross-sector workshops. The workshops have influenced our thinking on and support for the use of trials and pilot processes and for market participants, including MEUG, to take ownership and find solutions to challenges in the sector rather than wait for government intervention.

Attached and to be considered part of this submission on options F6 and D1 is a report by TDB Advisory titled Gas Sector Governance Interim report, 21 March 2019.

Yours sincerely

A handwritten signature in black ink, appearing to read "R. Matthes", with a long horizontal stroke extending to the right.

Ralph Matthes  
Executive Director

---

<sup>1</sup> <https://www.mbie.govt.nz/dmsdocument/4578-electricity-price-review-options-paper>

A1	Establish a consumer advisory council
	<p>MEUG supports establishment of a pilot council using existing Commerce Commission and Electricity Authority resources. From the workshops we understand this is a pragmatic route to trial what a council would work on, how it’s members would be appointed and what final form it might take.</p> <p>The function and form of the council in the longer-term will determine the appropriate levels of and means for resourcing the council. An important design question is whether the voice of consumers requires strengthening across all utilities when regulatory policy decisions are being considered by the Commerce Commission, the Electricity Authority and the Gas Industry Company for electricity, gas, fibre and potentially water?</p> <p>The options paper states, “The Council could be funded by a levy on electricity industry participants ...” and recognises that “... levy funding would require legislation.” The latter will take time not just to amend the legislation but to then conduct consultation on the design and rate of a levy. MEUG does not expect that process could be completed before mid-next year at a minimum. Hence our support for the offer by the Commerce Commission and Electricity Authority to trial a consumer advisory council using their resources. We welcomed the acknowledgement at the workshops by the regulators that the consumer advisory council and any interim trial must be, and be seen to be, independent of the regulators.</p> <p>MEUG suggests it is premature for the options paper to have proposed a consumer advisory council be funded by a levy when the function and form of the council is yet to be determined.</p> <p>Similarly, MEUG is concerned the option paper proposed to use a tax, i.e. levy, on all or some electricity participants for options B1, B2, B5, D2 and G1 without considering which participants will pay the tax, the ultimate incidence on end consumers and the alignment or misalignment (i.e. cross-subsidy) of those benefitting from programmes funded by the tax with those that pay the tax.</p>

A2	Ensure regulators listen to consumers
	<p>This is a given. The question is whether the regulators are listening? If regulators are listening to consumers, then the regulators will have a view on what price-quality and other dimensions of economic utility are important to individual or similar classes of consumers and therefore be able to explain how those might change with proposed regulatory changes. An example of where this might not be the case follows.</p> <p>Meridian Energy have succinctly put the argument that the Commerce Commission in consultation on issues for the current reset of the Default Price-quality Path for non-exempt Electricity Distribution Service providers (DPP3 reset) and Transpower’s Individual Price-Quality Path (IPP 2020 reset) need to demonstrate the proposed effect on consumers aligns with outcomes occurring in competitive markets.<sup>2</sup> MEUG agrees with Meridian that it is not clear that this is the Commission’s measure of success for the DPP3 reset and IPP 2020 reset.</p>

<sup>2</sup> For example, see Meridian Energy submission to the Commerce Commission, Transpower IPP 2020 – Issues paper, 28 February 2019. Refer [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0020/127244/Meridian-Submission-on-Transpowers-IPP-reset-issues-paper-28-February-2019.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0020/127244/Meridian-Submission-on-Transpowers-IPP-reset-issues-paper-28-February-2019.pdf).

B1	<p>Establish a cross-sector energy hardship group</p> <p>Agree worth considering. Non-Governmental Organisations (NGO's) and retailers have noted they already have extensive and intensive engagement with a range of government organisations that use valuable NGO and retailer resources. Hence there needs to be clarity on what gap in the current engagement matrix the proposed cross-sector energy hardship group is intended to fill and a clear articulation of the incremental benefits and costs to NGO's, retailers and their constituents of this new group.</p> <p>In addition to understanding how the proposed cross-sector energy hardship group will add value to the existing myriad engagement processes with government agencies, consideration is needed on how the work of the group will align with:</p> <ul style="list-style-type: none"> <li>• The work of the proposed consumer advisory council; and</li> <li>• Governments work, being managed by the Treasury and Statistics NZ, to develop a range of metrics for measuring well-being to complement existing economic measures of consumer welfare.</li> </ul>
B2	<p>Define energy hardship</p> <p>Agree. MEUG assumes this option will also define consumers that are vulnerable and are medically dependent discussed later in option B6. Option B2 should be a priority because it is a necessary precursor before detailed plans for implementing options B1, B3, B4, B5 and B6 can commence. MEUG would like to be consulted on any work on this option because this is not a trivial exercise, is fundamental to any optimal and successful execution of work programmes reduce energy hardship and requires integration with the government's well-being work programmes.</p> <p>We welcome the helpful contribution by the Electricity Retailers Association of NZ (ERANZ) in commissioning the report by PwC, Definition of Energy Vulnerability in NZ, November 2018.</p> <p>MEUG considers any definition of energy hardship must align with the Governments work, being managed by the Treasury and Statistics NZ, to develop a range of metrics for measuring well-being to complement existing economic measures of consumer welfare.</p> <p>Ensuring work on defining energy hardship is undertaken in the context of the broader well-being reporting and policy development framework is a reminder that care needs to be taken to mitigate unintended consequences. For example, shifting costs where there is no long-term economic efficiency benefit or adding costs (such as new levies discussed in feedback on options 1) to businesses purportedly to help households in hardship. In that a case, businesses in aggregate and over-time will be less competitive because of the higher costs and taxes potentially leading to reduced employment and wages of the very households the options paper is most concerned with.</p>
B3	<p>Establish a network of community-level support services to help consumers in energy hardship</p> <p>Same feedback as option B1 above.</p>
B4	<p>Set up a fund to help households in energy hardship become more energy efficient</p> <p>First step is to complete option B2 Define energy hardship. Then decide what interventions are needed for households that are defined as having energy hardship.</p>

B5	Offer extra financial support for households in energy hardship
	Same feedback as option B4 above.

B6	Set mandatory minimum standards to protect vulnerable and medically dependent consumers
	It's unclear if the reported breaches of the voluntary standards were one-off events and remedial action has been taken to mitigate repeat events, or there is a systemic problem. If the latter, then mandatory standards may be the best solution as a last resort. MEUG notes the observation by retailers at the workshops that they are not well placed to determine the vulnerability and hardship status of consumers and the reliance on customers self-declaring their status. If true, then setting minimum standards will not alleviate the problem. Other solutions are needed such as government agencies and NGOs's using an agreed measure of energy hardship, using that to identify households and relaying that information to retailers.

B7	Prohibit prompt payment discounts but allow reasonable late payment fees
	<p>This is a complex issue. The threshold for prohibiting an action is, necessarily, very high and needs to be clearly in the long-term interests of consumers. Prohibiting behaviours that do not meet the high threshold invites lobbying for prohibition of similarly weakly justified interventions. This is a slippery slope that will undermine confidence in the independence and or quality of decision making by the regulator.</p> <p>The jurisdictions of the Electricity Authority and the Commerce Commission (Part 2 of the Commerce Act) intersect on this issue. Those agencies should decide on the merits of this option. The Commission and Authority we understand are and should continue to consider feedback from the Electricity Price Review expert panel, submitters to the panel and analysis and precedents from overseas regulators.</p>

B8	Explore bulk deals for social housing and/or Work and Income clients
	Housing NZ explained at the workshops that they and other government agencies have been considering this for some time. It's complex. Any insights the Electricity Price Review Expert Panel might give to Housing NZ and other agencies to resolve the complexities of implementation would be welcome.

C	INCREASING RETAIL COMPETITION
---	-------------------------------

C1	Make it easier for consumers to shop around	Worth considering further. MEUG agrees with the EPR panel view to not favour the variation to the primary option that retailers must disclose all “generally available” price offers.
C2	Include information on power bills to help consumers switch retailer or resolve billing disputes	<p>Worth considering further by the Electricity Authority. MEUG does not support an intervention that removed the option for those consumers that preferred to forego having detailed cost breakdowns on their invoice in order to have a low-cost retail service.</p> <p>At the workshops the impression gained was that all parties recognise there is a problem with ensuring consumers know that the dispute resolution service of Utilities Disputes Ltd (UDL) is available given most consumers receive invoices electronically and therefore requiring references to UDL on those is ineffective. Perhaps it’s time to reconsider if we should have a utilities Ombudsman because the public recognition of the Ombudsman brand for the Banking Ombudsman and the Insurance and Financial Services Ombudsman, anecdotally, appears to be higher than for UDL.</p>
C3	Make it easier to access electricity usage data	MEUG supports the Electricity Authority’s current work on this option. Findings from the Electricity Price Review should be relayed to the Authority to assist their implementation of this option.
C4	Make distributors offer retailers standard terms for network access	MEUG supports the Electricity Authority’s current work on this option. Findings from the Electricity Price Review should be relayed to the Authority to assist their implementation of this option.
C5	Prohibit win-backs	MEUG supports the Electricity Authority’s current work on this option. Findings from the Electricity Price Review should be relayed to the Authority to assist their implementation of this option.
C6	Help non-switching consumers find better deals	Worth considering further.
C7	Introduce retail price caps	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.

D1	Toughen rules on disclosing wholesale market information
	<p>MEUG supports the Electricity Authority’s current work on this option. Findings from the Electricity Price Review should be relayed to the Authority to assist their implementation of this option.</p> <p>Options D1 and D2 encompass improvement to information flows (D1) and liquidity in hedges when the market is stressed (D2). There is a third aspect to the wholesale market not considered in the options paper; namely improving how real-time spot prices are discovered. MEUG suggests that issue should be an additional option in the Electricity Price Review’s report to the Minister. The Electricity Authority has in the past focused on improving how real-time spot prices are discovered because the closer those are to true efficient spot prices then the more efficient real-time demand response and efficient hedge markets will develop. Currently the focus of that work is implementation of Real-Time-Pricing (RTP). MEUG agrees with the Electricity Authority’s ranking of implementing RTP as one of the six top priority projects for 2018/19.<sup>3</sup> However RTP will not be in place for several years and hence there is a gap whereby discovery of real-time prices can, when the market is stressed, potentially be poorly aligned with true efficient spot prices. MEUG suggests this is a sufficiently material issue that it should be ranked as a high priority topic equivalent to hedge liquidity (option D2) and information disclosure (option D1).</p> <p>In feedback on option F6 establish an electricity and gas regulator we mention the current work by TDB Advisory for MEUG on, amongst other things, potential key policy and operational issues common to the gas and electricity sectors. The discussion in F6 is also relevant to option D1 in relation to gas sector operating information critical to the electricity sector security of supply.</p>
D2	Introduce mandatory market-making obligations
	<p>There are many ways market making could be designed. MEUG supports initiatives by market participants to find an optimal solution. In parallel and as a back-stop MEUG also supports the Electricity Authority’s current work on considering alternative incentive-based (to discover lowest cost providers) market-making options. Findings from the Electricity Price Review should be relayed to the Authority to assist their consideration of alternatives.</p>

<sup>3</sup> The Electricity Authority’s top priority projects are RTP, equal access, multiple trading relationships, transmission pricing methodology, distribution pricing principles, and extended reserves.

D3	Make generator-retailers release information about the profitability of their retailing activities
	<p>MEUG is not convinced this solution is the best approach if the policy issue is to determine if large vertically integrated suppliers have been earning persistent excess economic profits over time and therefore potentially signalling a systemic policy problem in the relative market power of large vertically integrated suppliers compared to other suppliers and in the industry.</p> <p>If segmented financial information (audited income and financial statements) as proposed or inferred by this option were available, it would allow full accounting and economic analysis to be undertaken. MEUG and others have submitted to the concurrent Commerce Commission Retail Fuel Market Study, as well as the earlier Electricity Price Review issues paper, that margin and ratio analysis are partial and incomplete tools and unlikely to answer the question of whether large vertically integrated suppliers have been earning excess economic profits over time?</p> <p>The recent independent submission by Ireland, Wallace &amp; Associates (IWA) on the Retail Fuel Market Study set out how a conventional regulatory economic model using audited financial information can assess historic economic profits.<sup>4</sup> In that analysis the performance of the industry and the three major fuel suppliers that dominate it were analysed for up to 10 years. It identified a substantial change in the industry after 2015 whereby material excess economic profits have been realised.</p> <p>This conventional regulatory economic model using audited financial information could be routinely conducted by the Electricity Authority to determine if there is a systemic market problem and hence if remedial action is needed. An advantage of this approach is it does not require new disclosure requirements for suppliers and can be implemented quickly. MEUG suggests the Authority scope a possible trial to assess economic profits with a conventional regulatory economic model using audited financial information. We are open to discussing with the Authority undertaking such a trial on a co-funded basis.</p>

D4	Monitor contract prices and generation costs more closely
	<p>Consistent with the feedback on option D3 above, this is an inferior tool and may lead to mis-information compared to assessing of there are persistent excess profits being earned by means of a conventional regulatory economic model using audited financial information.</p> <p>MBIE should resume the routine publication of future energy scenario's using updated estimates of the long-run and short-run costs of existing and potentially new generation and storage devices. Given some forecasters predict the speed of changing economics and adoption of new technologies is likely to accelerate, MBIE should consider updating their energy scenarios every 2-years. The Electricity Authority we see as a source of information for MBIE updating their models and a user of MBIE's models rather than the primary owner and responsible agent for estimating and publishing long-run and short-run supply and storage costs.</p>

D5	Prohibit vertically integrated companies
	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.

<sup>4</sup> IWA, Market study into the retail fuel sector: Invitation to comment on preliminary issues, Commerce Commission NZ, A submission on Question 9: "Trends in Profits", 21 February 2019, refer [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0015/127302/Ireland.-Wallace-and-Associates-Submission-on-preliminary-issues-paper-21-February-2019.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0015/127302/Ireland.-Wallace-and-Associates-Submission-on-preliminary-issues-paper-21-February-2019.pdf)

E1	Issue a government policy statement on transmission pricing
	<p>MEUG does not favour this option.</p> <p>The government can at any-time issue a government policy statement (GPS). We do not support the rationale in the Issues Paper that a GPS will solve detailed contentious issues. Quite the reverse we see a GPS that goes beyond outlining principles will simply move the debate and intensify lobbying to the political level and thereby delay further the current review of the Transmission Pricing Methodology guidelines (TPM review). The draft GPS proposed by Transpower reinforces our view that parties will attempt to capture the detail they seek from the TPM review in the detail of the GPS. If the Electricity Price Review Expert Panel retains the view in the final report to the Minister that a GPS is necessary that will, in our view, reopen the door to other parties seeking detailed GPS interventions for their pet topics. A GPS for the TPM review that has weak rationale for being implemented will increase the risk of a slippery slope where we revert to the problem with the Electricity Commission where detailed and often contradictory GPS were given to the then Commission.</p> <p>The Electricity Authority has announced a discussion paper on the TPM review is imminent. Irrespective of the recommendations of the Electricity Price Review Expert Panel, we would expect that when MBIE are giving advice to the Minister on that paper they would routinely consider options the Minister has including the pros and cons at that point of issuing a GPS.</p>

E2	Issue a government policy statement on distribution pricing
	MEUG does not favour this option for the same reasons set out for opposing option E1 above.

E3	Regulate distribution cost allocation principles
	<p>MEUG does not favour this option for the same reasons set out for opposing option E1 and E2 above because the same arguments that apply to the Minister deciding on and publishing a GPS also apply to the Minister deciding on and intervening with new regulations.</p> <p>For option B2 Define Energy hardship above, MEUG noted, "... care needs to be taken to mitigate unintended consequences. For example, shifting costs where there is no long-term economic efficiency benefit or adding costs (such as new levies discussed in feedback on options 1) to businesses purportedly to help households in hardship. In that a case, businesses in aggregate and over-time will be less competitive because of the higher costs and taxes potentially leading to reduced employment and wages of the very households the options paper is most concerned with." The same applies to option E3.</p> <p>The options paper noted "... some submitters acknowledged merit in a review of how to allocate costs between residential and non-residential consumers. We are keen to explore whether this can be achieved in some other way than potentially heavy-handed regulation." MEUG agrees with the latter recognition that regulation should be considered a last resort. MEUG does not believe there is a significant gap in the regulatory processes between the Commerce Commission, Electricity Authority and industry led initiatives to improve distribution pricing including the treatment of allocating common costs. No new process is required apart from, as a result of the earlier issues paper, a recognition that the treatment of common costs needs to be part of the detailed and interlinked work needed on ensuring all costs are efficient, cost allocation methodologies align with costs and line tariff designs reflect costs as well as value for service in terms discrete consumer segments choice of price-quality trade-offs.</p>



E4	Limit price shocks from distribution price increases
	MEUG does not favour this option.
E5	Phase out low fixed charge tariff regulations
	MEUG is not convinced there are direct benefits that will be attributable to removing the regulations that will exceed the costs to government and the sector of repealing the regulations.
E6	Ensure access to smart meter data on reasonable terms
	MEUG supports the Electricity Authority's current work on this option. Findings from the Electricity Price Review should be relayed to the Authority to assist their implementation of this option.
E7	Strengthen the Commerce Commission's powers to regulate distributors' performance
	Worth considering further.
E8	Require small distributors to amalgamate
	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.
E9	Lower Transpower and distributors' asset values and rates of return
	<p>The phrasing of this option could be misconstrued. Depending on how the option is read MEUG submits:</p> <ul style="list-style-type: none"> <li>• MEUG in various regulatory processes under the remit of the Commerce Commission and the Electricity Authority MEUG has submitted, and we continue to submit, that the regulated cost of capital is excessive given the risks the monopolies bear. Neither have we conceded the argument that there may be an economic benefit, particularly for Transpower, that some sunk asset costs be written off at the cost of Transpower's owner, the government, because they are over-built and under-utilised. On this basis we agree with the option.</li> <li>• If the option were re-phrased "lower Transpower and distributors' asset values and rates of return by resetting asset values to historic costs" then MEUG would not support resetting asset values to historic costs but would continue to argue regulated rates of return are excessive.</li> </ul>

**F IMPROVING THE REGULATORY SYSTEM**

F1	Give the EA clearer, more flexible powers to regulate network access for distributed energy services
	Worth considering further.

F2	Transfer the EA's transmission and distribution-related regulatory functions to the CC
	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.

F3	Give regulators environmental and fairness goals
	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.

F4	Allow Electricity Authority decisions to be appealed on their merits
	MEUG agrees with the Electricity Price Review Expert Panel that this option is not favoured.

F5	Update the EA's compliance framework and strengthen its information-gathering powers
	Worth considering further.

F6	Establish an electricity and gas regulator
	To assist MEUG identify what are the strategic and operational issues between the gas and electricity sectors MEUG has commissioned TDB Advisory to undertake a high-level assessment of potential key policy and operational issues common to the gas and electricity sectors and the advantages and disadvantages of alternative institutional arrangements for governing the gas sector, including the option of establishing a joint gas and electricity regulator, as raised by the EPR. The assessment is relevant to this option F6 and D1, Toughen rules on disclosing wholesale market information. The interim findings of TDB Advisory are attached in a separate report for the information of the Expert Panel. The interim report is public. A final report will be available at the end of April. MEUG welcomes the collaborative assistance of MBIE, the Gas Industry Company, parties in the gas supply chain, users of gas including electricity generators. The Major Gas User's Group, the System Operator, the Electricity Authority and the Commerce Commission are also assisting the assessment by TDB Advisory.

**G PREPARING FOR A LOW-CARBON FUTURE**

G1	Set up a fund to encourage more innovation
	MEUG does not favour this option as it is a matter under consideration by the Commerce Commission in the DPP3 reset.

G2	Examine security and resilience of electricity supply
	<p>MEUG supports the Commerce Commission and Electricity Authority’s current workstreams that encompass having and continuously improving policies on security and resilience.<sup>5</sup> In the future we expect other agencies will also include in their publication’s commentary an advice on security and resilience such as:</p> <ul style="list-style-type: none"> <li>• MBIE should they resume regular publications of energy scenarios. We think they should, as discussed in option D4.</li> <li>• The work of the future Climate Change Commission and the imminent report of the Interim Climate Change Committee.</li> </ul> <p>Therefore, we see no obvious critical gap in current and future government agency and regulatory oversight of security and resilience.</p>

G3	Encourage more co-ordination among agencies
	At the workshops it was clear there was good co-ordination by Housing NZ with other departments, Crown entities, regulators, NGO’s and retailers. MEUG supports the pro-active co-ordination that is already happening.

G4	Improve the energy efficiency of new and existing buildings
	This is already happening with the new healthy homes standards to make rental properties warmer and drier announced by Hon Phil Twyford on 24 <sup>th</sup> February 2019.

<sup>5</sup> The work of the Authority in relation to security and resilience is partly contracted to the System Operator.