



PO Box 106165,  
Auckland 1143, New Zealand  
NZBN 9429041132524 | GST 113618701

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Anna Kominik  
Chair  
Electricity Authority

Dr John Small  
Chair  
Commerce Commission

By email: [TaskForce@ea.govt.nz](mailto:TaskForce@ea.govt.nz)

To the Energy Competition Task Force

### **Submission on Power Purchase Agreements (PPAs) Working Paper**

We're encouraged by the Energy Competition Task Force's (ECTF) clear intention to support new generation development, as we believe this is vital for a healthy electricity market. Like the ECTF, we are concerned that gentailers, through their control of firming resources, could be stifling competition, which ultimately hurts consumers

Electric Kiwi agrees with the Electricity Authority's sentiment that "We know change will be uncomfortable for some players... we will not be deterred or distracted by the efforts of vested interests hoping to preserve the status quo."<sup>1</sup>

### **Objectives of the Review**

Electric Kiwi supports the primary goal of Package 1, which is to "enable new generators and independent retailers to enter and better compete in the market". We concur that "PPAs have the potential to intensify competition - between business models, for the supply of new generation, and for electricity retail services," and that "PPAs can provide an avenue for broadening the pool of parties investing capital in New Zealand generation expansion".

While the potential benefits identified in the PPA Paper are substantial relative to the potential risks, we urge the ECTF to prioritise investigating and implementing at haste level-playing field measures. These are currently "back Stop" measures, but should be elevated to a key reform initiative.

### **PPA Paper vs. Risk Management Review (RMR)**

There is strong evidence suggesting that a more competitive wholesale electricity market would encourage earlier generation investment and result in lower average

<sup>1</sup> <https://www.ea.govt.nz/news/general-news/sarah-gillies-consumer-interests-front-and-centre-of-sector-transformation/>

wholesale prices. However, this contrasts with the Electricity Authority's recent Risk Management Review (RMR), which indicated that its market monitoring suggests wholesale prices are sufficiently competitive.

This discrepancy may arise from limitations in the market monitoring analysis or reflect the ECTF's longer-term perspective. The analysis does not fully consider how generation levels in a truly competitive market—compared to an oligopolistic or monopolistic one—would influence prices. Additionally, the Commerce Commission's Statement of Issues regarding Contact's application to acquire Manawa highlighted potential weaknesses in the Authority's market monitoring approach.

### **Market Power and Discrimination**

We agree with the PPA Paper's assessment that market concentration creates challenges in the supply of access products and flexibility resources. Large incumbent gentailers currently generate 85% of total electricity and control 95% of flexible generation. We share the concern that "gentailers could potentially impede competition, to the detriment of consumers, through their control of access to firming (i.e., pricing for residual demand)" and acknowledge that the existing market structure "creates an opportunity for incumbent generators to restrict new generation entry by limiting access to PPA firming."

A more competitive wholesale market could foster a more dynamic and competitive retail sector. While the PPA Paper does not explicitly address discrimination, it remains a crucial aspect of the broader issue.

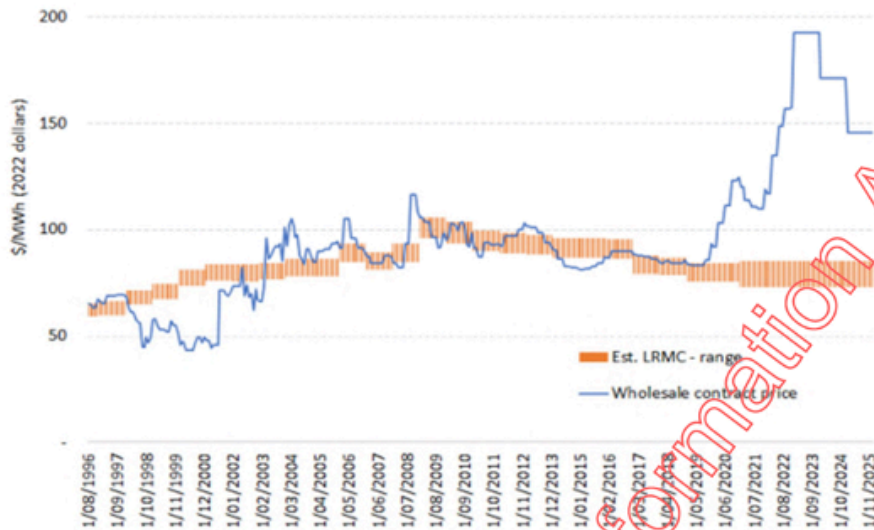
### **A More Competitive Market and Lower Electricity Prices**

We strongly believe that enhancing competition in the wholesale electricity market will lead to earlier generation investment, lower average wholesale prices, and greater security of supply. We share concerns that gentailers have the ability to influence the timing of new generation entry.

The PPA Paper's assertion that a more competitive market would drive earlier investment and reduce prices aligns with findings from the Authority's Wholesale Market Review (WMR). The WMR concluded that wholesale prices could not be fully explained by supply and demand alone and may reflect the exercise of market power. It noted that while "spot prices reflect underlying supply conditions," this was true only "to some extent," and that generators "may have been exercising market power."

This observation is also consistent with MBIE's concerns regarding wholesale electricity prices remaining above Long Run Marginal Costs (LRMC) for an extended period. MBIE stated, "One indicator of whether competition in the wholesale market is effective is how closely the wholesale price of electricity compares to the long run marginal costs (LRMC) of new generation. Figure 3 illustrates that prices for wholesale futures contracts have risen significantly above the LRMC of new generation in recent years."

**Figure 3: Baseload electricity futures contracts**



Source: Electricity Authority

Additionally, reports from Concept Consulting—commissioned by the Authority—support the PPA Paper’s concerns that generation investment is not occurring at the most optimal and efficient times. Concept raised concerns that gentailers may have incentives to underinvest or delay investment in new generation and that incumbent generators may be slowing their “investment pace” due to concerns about cannibalizing their existing assets.

### PPA Paper vs. Risk Management Review (RMR)

While there is strong evidence that a more competitive wholesale electricity market would lead to earlier generation investment and lower average wholesale prices, this contrasts with the Electricity Authority’s recent Risk Management Review (RMR), which suggested that its market monitoring indicates wholesale prices are workably competitive.

This discrepancy may stem from limitations in the market monitoring analysis or reflect the ECTF’s longer-term perspective. The analysis does not account for how generation levels in a truly competitive market—compared to an oligopolistic or monopolistic market—would impact prices. The Commerce Commission’s Statement of Issues regarding Contact’s clearance application to acquire Manawa highlighted potential shortcomings in the Authority’s market monitoring approach.

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generation. We share the concern that "gentailers could potentially impede competition, to the detriment of consumers, through their control of access to firming (i.e., pricing for residual demand)" and acknowledge that the existing market structure "creates an opportunity for incumbent generators to restrict new generation entry by limiting access to PPA firming."

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### Improving Access to PPAs

While the PPA Paper outlines a wide range of potential solutions, we believe the primary focus should be on directly tackling the fundamental market failures—particularly issues related to market power and discriminatory behavior by incumbents.

In this context, two of the more promising options for further exploration are flexibility trading and requiring holders of critical firming resources to allocate volumes in support of PPA transactions. If well-designed, these measures may enhance access to essential products on a fair and non-discriminatory basis, potentially addressing some concerns that "gentailers could potentially hinder competition by controlling access to firming (i.e., pricing for residual demand)."

However, our view is that investigating level-playing field measures as part of package 1D should be prioritised as these have the most potential to improve access to PPAs.. These measures should not be relegated to backstop measures and should be implemented with urgency.

### Specific Feedback on PPA Working Paper Questions

Here is our feedback on the specific questions posed in the PPA working paper, formatted as requested in Appendix B:

#### Questions

Q1. Is there any other related work that you think is relevant to our consideration of PPA issues?

#### Comments

The Electricity Price Review (EPR) and Market Development Advisory Group (MDAG) reports provide context and support for the position that urgent structural change is necessary. Also, the review of electricity market performance being undertaken by the Ministry of Business, Innovation & Employment. The Commerce Commission's Statement of Issues regarding the Contact-Manawa merger provides valuable insights into the importance of firming products and competition concerns. We also suggest reviewing international best practices in PPA facilitation and risk mitigation.



Q2. Do you have any suggested additions or modifications for PPA terms and concepts?

The PPA Paper does not explicitly mention discrimination, but it is an important element of the problem definition emerging from the paper. Addressing issues with access to PPAs should focus on the underlying market failures related to market power and incumbent discriminatory practices. Consider adding definitions for "PPA firming obligation" (a requirement to provide firming services alongside a PPA) and "Sleeving facilitator" (an entity that specialises in providing sleeving services). Also clarify the distinction between "physical" and "virtual" PPAs.

Q3. Do you agree with our definition of PPAs?

Yes, the definition is comprehensive. However, it may be helpful to explicitly state that PPAs can be structured with varying degrees of "firmness" (i.e., with or without firming obligations).

Q4. Have we correctly identified buyer and seller motivations for PPAs?

No comment.

Q5. Have we correctly identified how PPAs may fit with other contracts?

No comment.

Q6. Do you agree with our characterisation of how PPAs may impact system evolution?

No comment.

Q7. Have we correctly identified and understood PPA headwinds?

The main headwinds relate to market power and incumbent discriminatory practices. 85% of overall electricity and 95% of flexible generation is currently produced by the large incumbent gentailers. Gentailers could potentially impede competition to the detriment of consumers through their control of access to firming. We emphasise the challenges faced by smaller, independent generators in securing PPAs due to their limited scale and creditworthiness. Also, the need for standardisation of PPA contract terms to reduce transaction costs and encourage wider participation in the PPA market.





Q8. Do you agree with the potential benefits we have identified?

Electric Kiwi supports the goal of enabling new generators and independent retailers to enter and better compete in the market. Intensified competition could result in earlier and lower cost generation investment, lower prices, better security of supply, retail innovation and support demand growth as part of the energy transition. The potential benefits identified in the PPA Paper could be large relative to the potential risks

Q9. Do you agree with the potential risks we have identified?

Electric Kiwi questions why an option which targets underlying market failures from market power and discrimination should be assumed to carry “the most significant risk of undermining efficient investment and risk management”. The option is likely to result in a more efficient allocation of firming resources than the status quo favouring incumbent gentailers.

Q10. Do you agree with the potential options we have identified?

Yes, and we would give the highest priority to the initiatives that focus on flexibility trading and levelling the playing field for access to firming.

Q11. Do you agree with our comments on potential options?

We reiterate our earlier point about giving the highest priority to the initiatives that focus on flexibility trading and levelling the playing field for access to firming.

Q12. Do you have a view on the most promising options?

Addressing issues with access to PPAs should primarily focus on directly addressing the core market failures—specifically, issues related to market power and discriminatory practices by incumbents. Two of the more promising options for further exploration are flexibility trading and requiring holders of critical firming resources to allocate volumes to support PPA transactions. However, the best solution would be to fix the market structure by requiring corporate separation of the gentailers and requiring trading on arm’s length terms. This could be easily done via a simple Code change.

## Conclusion

Electric Kiwi is committed to working with the ECTF to develop effective policies that promote a more competitive and efficient electricity market. We believe that by addressing the barriers to PPA uptake and ensuring fair access to firming products, we can unlock significant benefits for consumers and support the transition to a cleaner, more sustainable energy future. We urge the ECTF to prioritise measures that promote competition, transparency, and innovation in the PPA market, and are eager to contribute to the ongoing dialogue. We reiterate our view that investigating level-playing field measures as part of package 1D should be prioritised. These





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measures should not be relegated to backstop measures and should be implemented with urgency.

We thank you for considering our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "H. Burt".

Huia Burt  
CEO  
Electric Kiwi



