

5 February 2025

Competition policy team
Ministry of Business, Innovation & Employment
Via email: competition.policy@mbie.govt.nz

Tēnā koe,

Settings for energy are an important part of the Commerce Act review

The Commerce Act 1986 (the Act) is key legislation regulating electricity distributors. Powerco is one of Aotearoa's largest gas and electricity distributors, supplying around 359,800 (electricity) and 113,600 (gas) urban and rural homes and businesses in the North Island. These energy networks provide essential services to nearly 1 million kiwis and will be core to Aotearoa achieving a net-zero economy in 2050. Further information about Powerco and our network is attached.

We fully support the purpose of this Commerce Act review to "*ensure our competition settings remain fit for purpose. This is the first time many of these provisions have been reviewed in over 20 years and coincides with major reforms of competition law underway in Australia. The aim of this review is to enhance competition to help deliver the Government's objectives of rebuilding the economy, decreasing the cost of living and lifting productivity.*"

The scope of the discussion document is too narrow, ensuring competition settings are fit for purpose requires a broader review. Our interests in the discussion document are limited to topic 4a industry codes or rules, with our primary interest being the need for a review of the regulated goods and services Part 4 of the Act:

Part 4 of the Commerce Act is overdue for review

- We are disappointed that this review does not include any consideration of Part 4 of the Act. Part 4 is well overdue for review as identified in the Electrify NZ policy¹.
- There is opportunity to use the last 20 years of practice in the energy sector to build on the traditional economic approach of Part 4, and enable investment through a more flexible and proportionate response, ensure oversight is consistent across the sector, and reassess where regulation is or is not required.²

Industry codes are a valuable tool

- Codes and rules are an important part of electricity and gas sector operations, and we support use of this type of tool to efficiently guide more operational or technical requirements. As well as Part 4 of the Act, other Acts such as the Electricity Act 1992 and Gas Act 1992 provide for these tools, and any enabling provisions in the Commerce Act must avoid duplication with existing sector code or regulatory making powers.

¹ National Party Policy Electrify NZ, page 5-6: [Electrify NZ.pdf](#)

² For example the changing gas sector warrants review of regulated vs unregulated services.

- Industry codes are often more efficient and appropriate than relying on primary legislation, however, can create significant impact and/or cost for business which ultimately is paid by consumers. The powers for making or amending codes must be implemented judiciously with clear pre-requisites for consultation, cost-benefit analysis and a principle-based approach. For example, the Electricity Authority's Consultation Charter sets out the principles, processes and consultation for Electricity Industry Participation Code amendments.³ An industry charter such as this should be required as part of any enabling provisions in the Act.

This submission does not contain any confidential information and may be published in full. If you have any questions regarding this submission or would like to talk further on the points we have raised, please contact Irene Clarke (Irene.Clarke@powerco.co.nz).

Nāku noa, nā,



Emma Wilson

Head of Policy, Regulation and Markets

POWERCO

³ [Electricity Authority Consultation Charter](#)

Attachment 1 – Information about Powerco and our network

Providing an essential service

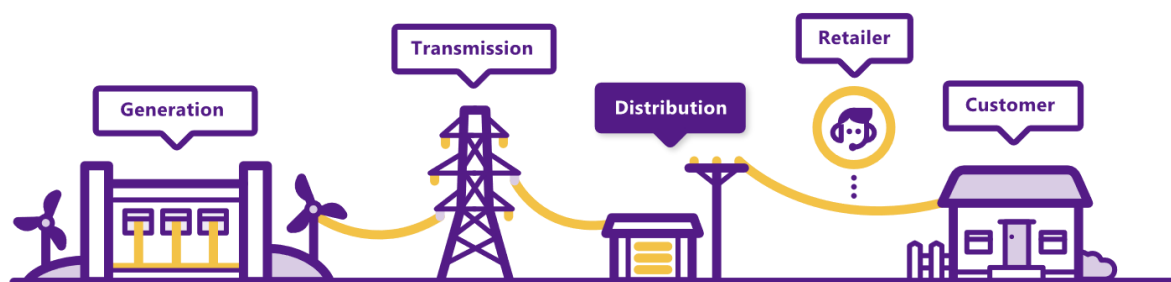
We bring electricity and gas to around 1 million kiwis across the North Island. We're one part of the energy supply chain. We own and maintain the local lines, cables and pipes that deliver energy to the people and businesses who use it. Our networks extend across the North Island, serving urban and rural homes, businesses, and major industrial and commercial sites. We are also a lifeline utility. This means that we have a duty to maintain operations 24/7, including in the case of a major event like an earthquake or a flood.

The cost of operating our business is not dependent on the amount of gas or electricity we distribute in our networks. These costs reflect the need to maintain the safe operation of the network and are mostly driven by compliance with safety regulations. This includes replacing assets when they reach their end of life. Additional costs to grow the size or the capacity of the network are often met by customers requiring the upgrade or new connection.

Under Part 4 of the Commerce Act, Powerco's revenue and expenditure are set by the Commerce Commission as part of monopoly regulation. We are also subject to significant information disclosure requirements, publicly publishing our investment plans, technical and financial performance, and prices. The regulatory regime allows us to recover the value of our asset base using a regulated cost of capital (WACC) set by the Commission, and a forecast of our expenditure. Every five years, the Commission reviews its forecasts and resets our allowable revenue. This process is designed to ensure the costs paid by customers for us to manage and operate our network is efficient given we are a monopoly and an essential service.

Our electricity customers

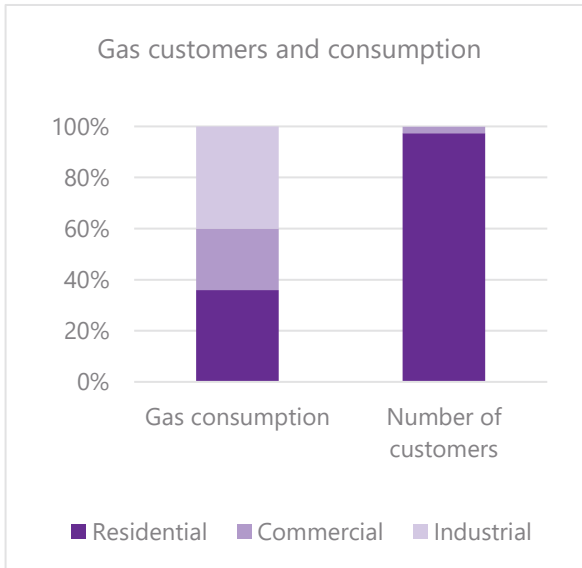
Powerco is New Zealand's largest electricity utility by the area we serve. Our electricity networks are in Western Bay of Plenty, Thames, Coromandel, Eastern and Southern Waikato, Taranaki, Whanganui, Rangitikei, Manawatu and Wairarapa. We have over 29,000 km of electricity lines and cables connecting around 360,000 homes and businesses. Our place in the electricity sector is illustrated below.



Our network contains a range of urban and rural areas, although is predominantly rural. Geographic, demographic, and load characteristics vary significantly across our supply area. Our development as a utility included several mergers and acquisitions that have led to a wide range of legacy asset types and architecture across the network.

Powerco is one of 29 electricity distribution companies. Our customers represent around 13% of electricity consumption (similar in magnitude to the Tiwai aluminium smelter) and around 14% of system demand. Powerco's network is almost three times the size of Transpower's in terms of circuit length. The peak demand on our combined networks (2023) was 974 MW, with an energy throughput of 5,225 GWh.

Our gas customers



Powerco is New Zealand's largest gas distribution utility. Our gas pipeline networks are in Taranaki, Hutt Valley, Porirua, Wellington, Horowhenua, Manawatu and Hawke's Bay. We have over 6,200 km of gas pipes connecting to around 114,000 homes and businesses. Our customers consume around 8.1 PJ of gas per year.

Our industrial customers are less than 1% of our customer base and consumer approx. 40% of gas on our network. Our residential customers are 97% of our customer base and consume approx. 35% of gas on our network. The remaining 25% of gas is consumed by our commercial customers.

Around 30% of our larger customers are in the food processing sector, around 20% in the manufacturing sector and around 10% in the healthcare sector.

Our network footprint

Our network represents 46% of the gas connections and 16% of the electricity connections in New Zealand. We operate assets within six regions and across 29 district or city council areas.

