**17 October 2022: SUBMISSION TO ELECTRICITY AUTHORITY REGARDING INEFFICIENT PRICE DISCRIMINATION**

# Entrust welcomes ban on electricity generator contracts which increase prices for consumers

Entrust welcomes the Electricity Authority's (the Authority) finding that Meridian and Contact's arrangements with Tiwai Smelter artificially keep prices up for all other consumers in New Zealand.

Entrust has raised this issue on many occasions in recent years as we have concerns about Tiwai Smelter getting cheap electricity and Contact and Meridian keeping electricity prices on the spot market artificially high and stifling competition.

Tiwai Aluminium Smelter is 100% foreign-owned so the benefits of these subsidies are going straight off-shore at the expense of hard-working New Zealanders.

## Executive summary

- Entrust welcomes the Authority's focus on "inappropriate wealth transfers". The $200 annual subsidy Kiwi households pay to subsidise the Tiwai deal is a substantial contributor to energy affordability issues.
- Entrust supports the proposal to prohibit 'Tiwai-type' discriminatory practices which favour one consumer at the expense of other consumers. Entrust agrees an interim Code change was needed given Tiwai Smelter is seeking to negotiate a new commercial contract and that this should now be made permanent.
- The Authority's Code changes should make it clear to Meridian and the other large, incumbent generators that they cannot enter into new contracts which harm Kiwi households and smaller business consumers.
- The Authority can draw on the large amount of international precedent to determine the appropriate scope of the ban on discriminatory practices.
- The underlying problem is that Meridian and the other large generators have substantial market power. The broader wholesale market review should consider the best way to directly address this problem. We remain of the view that wholesale structural reform is needed.

## Entrust's submission

### The current Tiwai arrangements would fall foul of the new rules

Meridian has said there is a "massive gap" between the current price and a "sustainable price".[1] This can be seen by using the forward price curve as a benchmark for the

[1] https://www.stuff.co.nz/business/129680732/meridian-says-if-tiwai-smelter-stays-it-should-be-for-at-least-another-15-years

appropriate contract price. The Authority has noted "the forward price curve provides an unbiased indication of future spot prices".[2]

## Meridian is downplaying the harm it is causing

Meridian has made contradictory statements about the impact of the Tiwai contracts on retail prices, downplaying the harm it is causing.

In the last consultation, Meridian claimed "Household electricity prices may not have been significantly affected by a smelter exit".[3]

This is in stark contrast to Meridian's previous observation that if Tiwai closed, or significantly reduced its electricity consumption, "the impact on Meridian may be severe" and would result in a reduction to its revenue "largely caused by a reduction in electricity prices (both wholesale and retail)".[4]

## The underlying problem is a market power problem

Entrust considers the underlying problem to be that Meridian and other large generators have substantial market power. If they did not have substantial market power, they would not be able to use the Tiwai supply arrangements to increase prices for everyone else. Meridian controls 30% of the market (Concentration Ratio 1 (CR1)) which is too big for a competitive market.

Our concerns about market power are supported by the thresholds the Authority and the Commerce Commission use to determine whether a market is concentrated.

The Herfindahl-Hirschman Index [HHI] for generation is around 2,000. The Authority's latest wholesale market review consultation indicates the HHI could potentially increase over the next decade and could end up above 2,300 by 2030. This is well above the 1,500 threshold the Authority uses to determine whether a market is concentrated.

The wholesale market also meets the Commerce Commission's definition of a concentrated market as a market where the three largest firms have a total market share of 70% or more (Concentration Ratio 3 (CR3)).

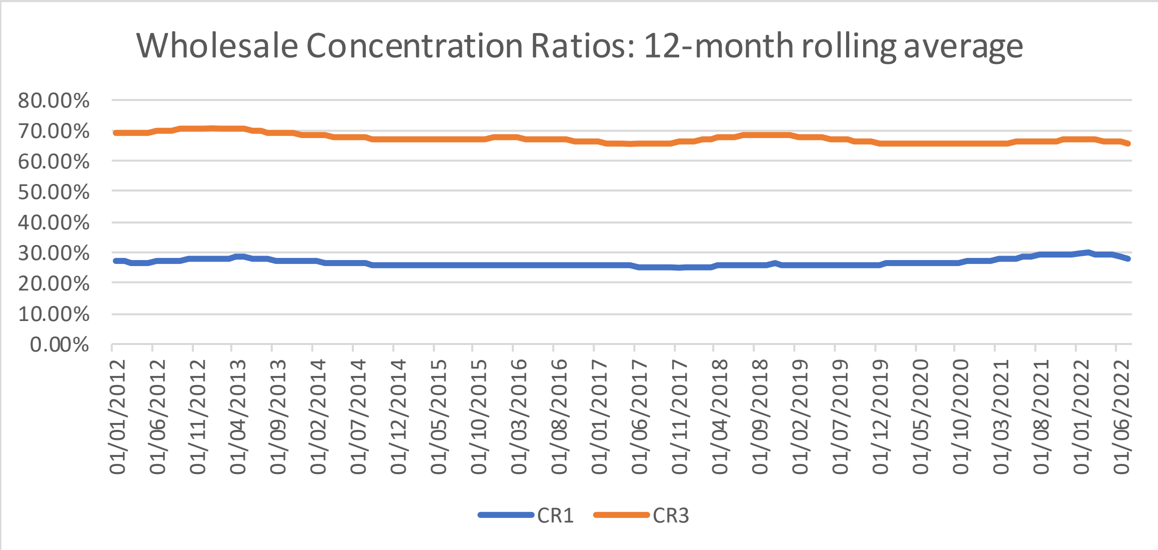
The following graph confirms the Authority's observation that, other than seasonal fluctuation, the level of market concentration has remained largely unchanged since 2012.[5]

[2] https://www.ea.govt.nz/about-us/media-and-publications/market-commentary/market-insights/accuracy-of-the-forward-price-curve/

[3] Meridian, Review of competition in the wholesale market, 22 December 2021.

[4] Meridian, Annual Report for the year ended 30 June 2015, page 32. Meridian made essentially the same comments in its 2016 Annual Report.

[5] Electricity Authority, The Authority's response to submissions on the 2021 Market Monitoring Review of Structure, Conduct and Performance in the Wholesale Electricity Market, released 12 October 2022.




### The wholesale market review needs to be prioritised

Submissions that Entrust has made to the Authority and the Electricity Price Review have advocated consideration of structural reform, such as the break-up of the large, incumbent generators or a cap on their size. We welcome that the Authority has acknowledged the Tiwai issue "could lend weight to a need for structural reform" and this "may be considered as part of the wider wholesale market competition review".

Entrust is concerned the Authority appears to have walked back from these views and is now suggesting it would be "inappropriate" to propose structural reform.[6]

### Consultation should be required before clearance

The draft Code change provisions would allow large, incumbent generators to seek advance clearance from the Authority for potentially discriminatory contracts. These provisions appear to be intended to mirror the Commerce Commission merger clearance provisions under the Commerce Act.

The Commerce Commission includes public consultation in its merger clearance process. Entrust considers that the Authority's Code change should also provide for public consultation before any decision is made.

## Concluding remarks

Entrust welcomes the high standard of the Authority's review of the Tiwai arrangements. The Authority's finding that current Tiwai supply arrangements cause substantial inefficiency and are detrimental to all other consumers is robust and consistent with the analysis we previously commissioned.[7] The $200 annual subsidy Kiwi households and

[6] Electricity Authority, Promoting competition in the wholesale electricity market in the transition toward 100% renewable electricity, released 12 October 2022.
[7] Submission from Entrust on the Electricity Price Review First Report, 24 October 2018 at: https://www.entrustnz.co.nz/media/a5qot50y/submission-on-the-electricity-price-review-first-report-24-october-2018.pdf.

small businesses pay to prop up the Tiwai deal is a substantial contributor to energy affordability issues and reduces consumer confidence in the market.

Propping up Tiwai Smelter so it would stay in New Zealand has been the cause of a large amount of thermal generation and coal burn, undermining the country's low emissions aspirations.

Kind Regards,

Alastair Bell
**Chair of Regulation and Policy Committee**

**About Entrust**
Entrust (formerly Auckland Energy Consumer Trust) is a consumer trust that owns the majority of Vector on behalf of its 351,000 beneficiaries.

Entrust owns 75.1% of shares in Vector. The shares are held in trust for energy consumer beneficiaries in the Entrust District of central, east and south Auckland who are paid a cash dividend each year.

The organisation was created in 1993 to make sure power lines remained in the control of electricity consumers and was established under a trust deed on behalf of electricity consumers in the area previously served by the Auckland Electric Power Board.