

The SRC's interactions with regulatory strategies and monitoring

Report

26 October 2017

Note: This paper has been prepared for the purpose of discussion. Content should not be interpreted as representing the views or policy of the Electricity Authority.

Contents

1	This paper fulfils the SRC's requests to explain its interactions with regulatory strategies and monitoring	2
2	Proposed plan and explanation of monitoring roles	2
	Proposed plan of SRC activities with linkage to Authority and Commission strategies	2
	An explanation of the Authority and Commission monitoring roles	4
3	Questions for the SRC to consider	4
Appendix A	The Council of Energy Regulators	5
Appendix B	The Authority's strategic framework	7
Appendix C	The Commission's strategic framework	9
Appendix D	The functions of the SRC	11

Tables

Table 1:	Planned future SRC activities with linkages to Authority and Commission strategies	3
----------	--	---

Figures

Figure 1	Regulatory functions within the 'energy markets' regulatory system	5
Figure 2:	The Authority's strategic framework	7
Figure 3:	The Commission's strategic framework	9

1 This paper fulfils the SRC's requests to explain its interactions with regulatory strategies and monitoring

- 1.1 The Security and Reliability Council (SRC) functions under the Electricity Industry Act 2010 (Act) include providing advice to the Electricity Authority (Authority) on reliability of supply matters. The Commerce Commission (Commission), among other responsibilities, regulates monopoly electricity lines businesses such as Transpower New Zealand Limited (Transpower) and Vector Limited.
- 1.2 The SRC's secretariat has been assigned the following action.

“The secretariat is to propose a plan that describes the SRC's interactions with the aspects of the Electricity Authority and Commerce Commission strategies that affect security and reliability. The plan is to include an explanation of the relevant entities' roles with respect to monitoring.”
- 1.3 This action is a composite of two actions that were created at separate times. They were subsequently merged together due to having the same parties (the Authority and the Commission) in common.
- 1.4 The information to fulfil the above action is set out in section 2. The following appendices provide relevant background information:
 - (a) Appendix A (The Council of Energy Regulators) sets out information from the Ministry of Business, Innovation and Employment's (MBIE) *Regulatory Stewardship Strategy* that gives context for the recently established Council of Energy Regulators.
 - (b) Appendix B (The Authority's strategic framework) sets out information relevant to understanding those aspects of the Authority's strategy with which the SRC may interact. This includes information from the Act and the Authority's *Statement of Intent 2017-2022*.
 - (c) Appendix C (The Commission's strategic framework) sets out information relevant to understanding those aspects of the Commission's strategy with which the SRC may interact. This includes information from the Commission's *Our Vision and Strategy 2017-2022*.
 - (d) Appendix D (The functions of the SRC) sets out the fundamental basis of the SRC's functions as derived from the Act and the SRC's *Terms of Reference*.

2 Proposed plan and explanation of monitoring roles

Proposed plan of SRC activities with linkage to Authority and Commission strategies

- 2.1 Table 1 below sets out planned future activities of the SRC that have some linkage to either the Authority's or Commission's strategies. It is not an exhaustive list of SRC activities.

Table 1: Planned future SRC activities with linkages to Authority and Commission strategies

Future plan of relevant SRC activity	Past examples of activity	Linkage to Authority strategy	Linkage to Commission strategy
Advice on whether consumers are getting the level of distribution and transmission reliability they demand	None	Directly relevant to strategic objectives, as set out in paragraph B.5	Directly relevant to strategic objectives, as set out in paragraph C.3(b)
Advice on whether consumers are getting the level of generation reliability they demand	Advice on annual assessment of security of supply report Advice on New Zealand Generation Balance report	Directly relevant to strategic objectives. Past advice assisted the Authority interpreting a measure of reliability, as set out in paragraphs B.5 and B.6	No linkage
Retrospective reviews of reliability events	Penrose substation fire AUFLS trips	Directly relevant to 'case-by-case' measures of reliability, as set out in paragraph B.6	Relevant where the event results in a quality standard breach. Systemic problems within a regulated business would be of interest
Proactive requests for information to understand and encourage industry preparedness against adverse reliability	Presentations on information security, black start and grid restoration, GREENGrid, and the Waikato and Upper North Island Voltage Management grid development Papers on HVDC risk management, HV live line work	Relevant to strategic objectives	Usually no linkage, though systemic problems within a regulated business would be of interest Asset management plans (including emergency response and contingency plans) may be used to inform the SRC's requests. ¹

¹ Asset management plans are an example of the Commission strategies highlighted in paragraphs C.4(a) and C.4(d)

An explanation of the Authority and Commission monitoring roles

2.2 The SRC sought to better understand the monitoring roles of the Authority and the Commission. The key points to understand are:

- (a) Not only do the Authority and Commission both have electricity monitoring and evaluation roles, so do MBIE, the Electricity Efficiency and Conservation Authority (EECA) and the Gas Industry Company (GIC).² This is by design.
- (b) In terms of monitoring within the electricity industry, the Commission's interest relates to the lines businesses it regulates whereas the Authority's potential interest is industry-wide.
- (c) While a monitoring overlap exists by design, the Commission and the Authority have a memorandum of understanding in which the parties agree to seek to avoid overlaps and duplication of effort and minimise jurisdictional uncertainty.³
- (d) The parties have ongoing discussions about the Authority's plans to develop monitoring of reliability, to the extent it relates to the Commission's regulated lines businesses. The mutual aim to ensure there is minimal duplication of effort and the monitoring is being established in an efficient way to achieve an effective outcome.
- (e) The Commission's strategy includes making information available (in this case, about the reliability of the lines businesses they regulate) to empower others to—in part—influence the lines businesses.⁴ The Authority's proposed monitoring and the SRC's consideration of it, is consistent with and promotes that strategy.

3 Questions for the SRC to consider

3.1 The SRC is asked to consider and provide advice on the following questions:

- Q1. What further information, if any, does the SRC wish to have provided to it by the secretariat?**
- Q2. What advice, if any, does the SRC wish to provide to the Authority?**

² As illustrated by Figure 1 and paragraph A.3 in Appendix A.

³ As discussed in paragraph A.6

⁴ Refer to paragraph C.4(d)

Appendix A The Council of Energy Regulators

A.1 The Treasury oversees the State Sector Act 1988 requirements relating to New Zealand’s regulatory agencies exercising stewardship of their legislation. The Treasury states that regulatory stewardship involves government regulatory agencies:

“...adopting a whole-of-system, lifecycle view of regulation, and taking a proactive, collaborative approach, to the monitoring and care of the regulatory system(s) within which they have policy or operational responsibilities.”⁵

A.2 MBIE is a government regulatory agency with regulatory stewardship obligations. To this end, MBIE has categorised its ~140 statutes into 16 regulatory systems. ‘Energy markets’ is one of those 16 regulatory systems.

Figure 1 Regulatory functions within the ‘energy markets’ regulatory system

Figure 1: Who carries out each regulatory function across MBIE’s regulatory systems?

	POLICY	OPERATIONAL POLICY/ SERVICE DESIGN	SERVICE DELIVERY	ADVICE/EDUCATION/ INFORMATION	COMPLIANCE AND ENFORCEMENT	MONITORING AND EVALUATION	STANDARD SETTING	DISPUTE RESOLUTION
ENERGY MARKETS								
				ELECTRICITY AUTHORITY				ELECTRICITY AND GAS COMPLAINTS COMMISSIONER
				ENERGY EFFICIENCY AND CONSERVATION AUTHORITY (EECA)		EECA		
				GAS WORKSHEET COMPANY				ELECTRICITY AND GAS HEALING PANEL
		COMMISSIONER			COMMISSIONER			
		MBIE				MBIE		

Note: The above image has the other 15 regulatory systems edited out.⁶

A.3 The overlaps in the ‘monitoring and evaluation’ column illustrates that monitoring is a multi-agency responsibility within the energy regulatory system.

A.4 MBIE proposed the creation of a Council of Energy Regulators (Council) to improve regulatory stewardship in the energy regulatory system. The Council has the following permanent members:

- (a) MBIE
- (b) the Commission
- (c) the Authority
- (d) the GIC.

⁵ Sourced from <http://www.treasury.govt.nz/regulation/stewardship>

⁶ Pages 8-9 of MBIE’s *Regulatory Stewardship Strategy 2017/2018* which is available from <http://www.mbie.govt.nz/publications-research/publications/regulatory-systems-programme/regulatory-stewardship-strategy-2017-18.pdf>

Postscript: The terms of reference were actually in draft at the time this paper was written.

A.5 The Council's terms of reference state that:

"The Council...aims to contribute to the efficiency and effectiveness of New Zealand's energy regulatory system by providing a forum for high level collaboration and information sharing. The Council's main objectives are to:

take a whole-systems view to consider regulatory issues and trends, risks and gaps

share information about any emerging risks on the strategic priorities of member agencies, and

ensure a coordinated response in addressing issues for which there are overlaps or gaps in the regulatory mandate."

A.6 The Council is a multilateral group. Bilateral agreements have existed between energy regulators for years, such as the memoranda of understanding between the Authority and MBIE, and the Authority and the Commission.⁷ Both of those memoranda say the parties agree to:

"coordinate our activities to avoid potential overlaps or duplication of effort, and to maximise efficiency and effectiveness"⁸

"seek to minimise any scope for uncertainties regarding jurisdictional issues."⁹

⁷ These memoranda are available from <http://www.ea.govt.nz/about-us/strategic-planning-and-reporting/mous/>

⁸ Paragraph 3(a) of the Authority-MBIE memorandum. The Authority-Commission equivalent is in paragraph 6(a) of that memorandum, though there are trivial differences in phrasing.

⁹ Paragraph 3(g) of the Authority-MBIE memorandum and paragraph 6(f) of the Authority-Commission memorandum.

Appendix B The Authority's strategic framework

- B.1 The Authority's statutory objective as provided for in section 15 of the Act is "to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers."¹⁰
- B.2 Section 16 of the Act sets out the Authority's functions. One of those functions is "to undertake industry and market monitoring, and carry out and make publicly available reviews, studies, and inquiries into any matter relating to the electricity industry."¹¹
- B.3 The Act prohibits the Authority from making Code amendments that regulate matters regulated by the Commerce Commission under Parts 3 or 4 of the Commerce Act 1986.¹² Monitoring, so long as it does not involve a Code amendment, is not restricted by this prohibition.
- B.4 The Authority published its *Statement of Intent 2017-2021*, which includes its strategic intentions.¹³ Figure 2 below sets out the Authority's strategic framework.

Figure 2: The Authority's strategic framework



¹⁰ Available from <http://www.legislation.govt.nz/act/public/2010/0116/latest/DLM2634339.html>

¹¹ Section 16(1)(g) of the Act, available from <http://www.legislation.govt.nz/act/public/2010/0116/latest/DLM2634340.html>

¹² Section 32(2)(b) of the Act, available from <http://www.legislation.govt.nz/act/public/2010/0116/latest/DLM2634364.html>

¹³ Available from <http://www.ea.govt.nz/about-us/strategic-planning-and-reporting/statement-of-intent/>

- B.5 The Authority's strategic intentions with respect to reliability are to "...seek efficient levels of supply reliability for consumers" where "reliable supply refers to both the reliability of supply (in terms of the physical continuity and quality of supply) and the security of supply (ie, the risk of supply shortages, placing upward pressure on electricity prices)."¹⁴
- B.6 The Authority measures progress against efficient levels of supply reliability.¹⁵ Two sub-measures in the suite of reliability statistics have particular relevance to the SRC:
- (a) Sub-measure two is "Effective management of dry years or emergency events, as measured by case-by-case analysis"
 - (b) Sub-measure three is "Investigation of reliability events does not identify systemic issues, as measured by case-by-case analysis."

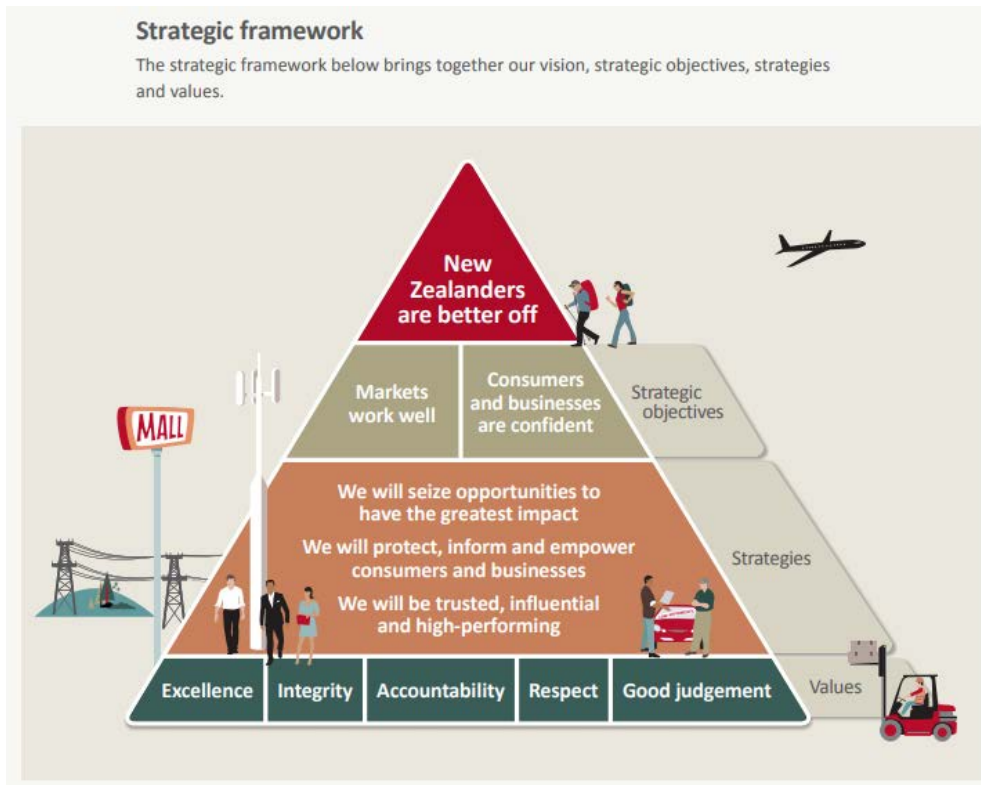
¹⁴ Page 20 of the *Statement of Intent 2017-21*

¹⁵ Page 22 of the *Statement of Intent 2017-21*

Appendix C The Commission's strategic framework

C.1 The Commission sets out its strategic framework (shown in Figure 3 below) in *Our Vision and Strategy 2017-22*.¹⁶

Figure 3: The Commission's strategic framework



C.2 Regulating electricity lines businesses is only one aspect of the Commission's functions. The following excerpts from *Our Vision and Strategy 2017-22* relate to that aspect.

C.3 The Commission's strategic objectives include that:

- (a) "Markets work well when...regulated businesses are incentivised to perform"¹⁷
- (b) "Consumers [and businesses] are confident when they feel that...New Zealand's regulated infrastructure is dependable and efficient"¹⁸

C.4 The Commission's strategies for achieving its objectives include that:

- (a) "We will continue to increase our understanding [including of the performance of regulated businesses] by...monitoring and analysing the information disclosed by regulated businesses"¹⁹

¹⁶ Available from <http://www.comcom.govt.nz/the-commission/about-us/>

¹⁷ Page 8 of *Our Vision and Strategy 2017-22*

¹⁸ Page 9 of *Our Vision and Strategy 2017-22*

¹⁹ Page 11 of *Our Vision and Strategy 2017-22*

- (b) “We will protect New Zealanders by...setting and monitoring price and quality requirements that limit the ability of regulated suppliers to earn excessive profits, while ensuring services are provided at a level of quality consumers demand”²⁰
- (c) “We will inform New Zealanders by...communicating in clear, concise ways about our decisions and the performance of market participants and regulated businesses”²¹
- (d) “We will empower New Zealanders by...making information available in a way that allows consumers and businesses to take action, including to influence the operations of regulated suppliers”²²

²⁰ Page 13 of *Our Vision and Strategy 2017-22*

²¹ Page 14 of *Our Vision and Strategy 2017-22*

²² Page 15 of *Our Vision and Strategy 2017-22*

Appendix D The functions of the SRC

D.1 The SRC's function as specified in the Act is:

"to provide independent advice to the Authority on—

- (a) the performance of the electricity system and the system operator; and
- (b) reliability of supply issues."²³

D.2 The SRC's Terms of Reference state:

"The SRC fulfils its function by providing advice to the Authority on:

- (a) the system operator's performance including against its principal performance obligations, security of supply function and any other function of the system operator important to the performance of the electricity system and/or to reliability of supply
- (b) system operations issues, including industry development needs and priorities relating to system operations
- (c) security of supply issues, including system security assessments and security of supply forecasts
- (d) reliability of supply issues, including planned and unplanned loss of supply and quality of supply issues
- (e) any other matters that the Authority considers to be within the function of the SRC as set out in the Act."²⁴

D.3 The scope of the SRC's advice is limited only by its statutory function, not by who might be interested in the advice or that all of the advice is provided to the Authority. In terms of the parties who may be interested in the SRC's advice:

- (a) The Authority has a strong interest in all of the SRC's advice.
- (b) The Commission has an interest in many of the SRC's areas of potential advice, most obviously when it relates to the reliability of the lines businesses the Commission regulates. However, as the SRC has received scant information about the reliability of lines businesses, it has not yet issued any advice specifically on this topic.
- (c) Individual companies may have a direct interest in particular SRC matters, especially post-event reviews.
- (d) Consumers and their representatives could be interested in the SRC's advice. In practice, it is only the best resourced organisations or their industry groups (such as the Major Electricity Users' Group) who keep themselves informed of the SRC's advice.

²³ Section 20(2) of the Act, available from <http://www.legislation.govt.nz/act/public/2010/0116/latest/DLM2634346.html>

²⁴ The Terms of Reference are available from <http://www.ea.govt.nz/development/advisory-technical-groups/src/charter-and-terms-of-reference/>