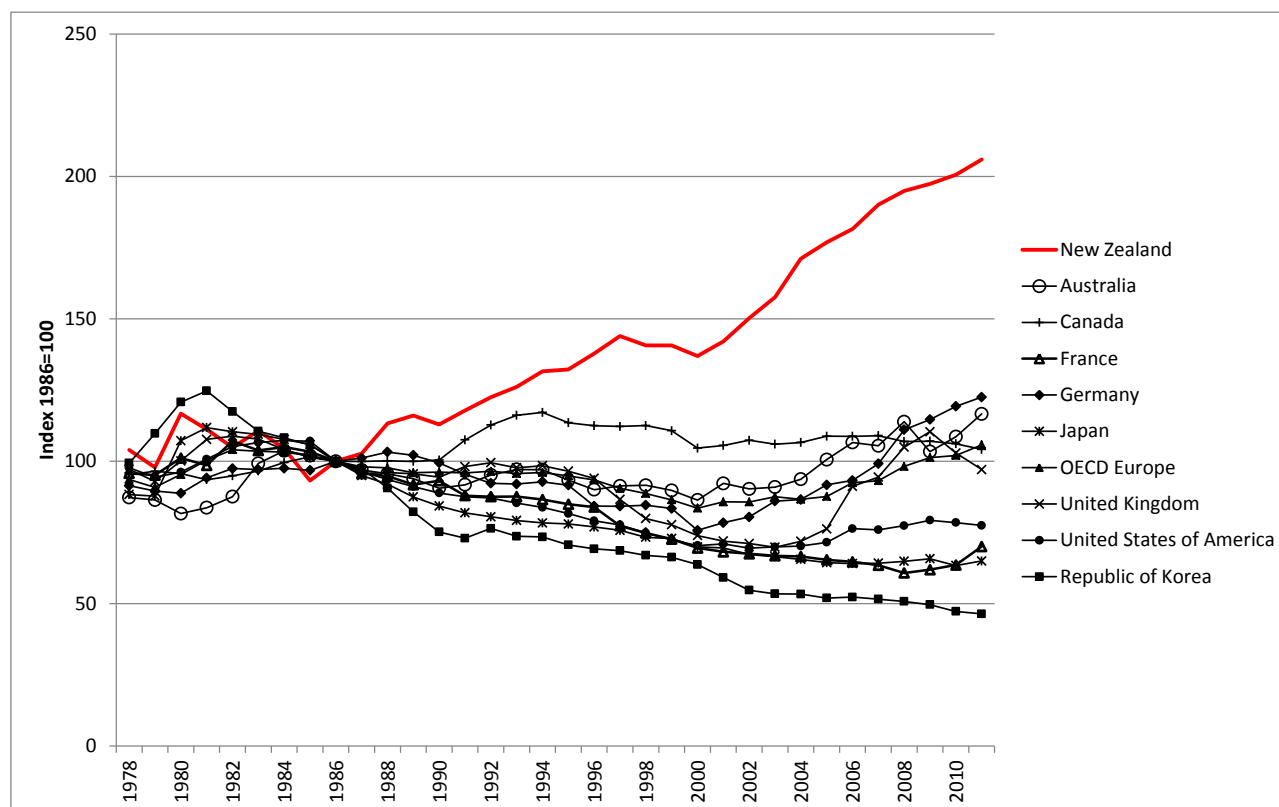


Transcript of Geoff Bertram talk to WEA/DEUN seminar on the household energy affordability, 7 November 2012

A picture is worth a thousand words. I was just going to put the one picture up which I think is the absolute core of the issue of electricity and consumer prices in New Zealand. (Slide 7 of the presentation)



Ian McChesney has been talking about how to make life better in the world as it currently is. I am looking at why the world is how it is. I hesitate to describe the measures that Ian was suggesting as ambulance at the bottom of the cliff; some of them are actually just cushions at the bottom of the cliff. I'm much more interested in the cliff and why people have been falling off it.

To me the central issue has been a matter of energy policy. I think the accountability for what has happened to the NZ electricity market and energy poverty lies squarely with two groups. One group is the politicians who in Parliament have both legislated and allowed changes that have been malevolent from the point of view of ordinary New Zealanders, and the other group is officials, particularly in Treasury, and in the former Ministry of Commerce (later the Ministry of Economic Development and now the Ministry of Business, Innovation and Employment), who have been instrumental in providing advice to ministers which has had given us the current electricity market regulatory regime.

I don't so much criticise the executives and management of the companies set up under those reforms, because once you have corporatised, and especially privatised, a company, its management's duty is to look after the shareholders' interests, and unless they are instructed otherwise, that means maximising profit. If there are constraints on the maximisation of profits, they will work within these constraints; if there are no constraints they will simply maximise profits without regard to social responsibility or anything else.

And a manager in a capitalist economy, in a large company which has market power, who fails to exercise the market power in order to enrich the shareholders, is actually failing their fiduciary duty to the shareholders. The task of government in a capitalist economy is to make sure that the constraints on the behaviour of business are such as to look after the population in general - the public interest.

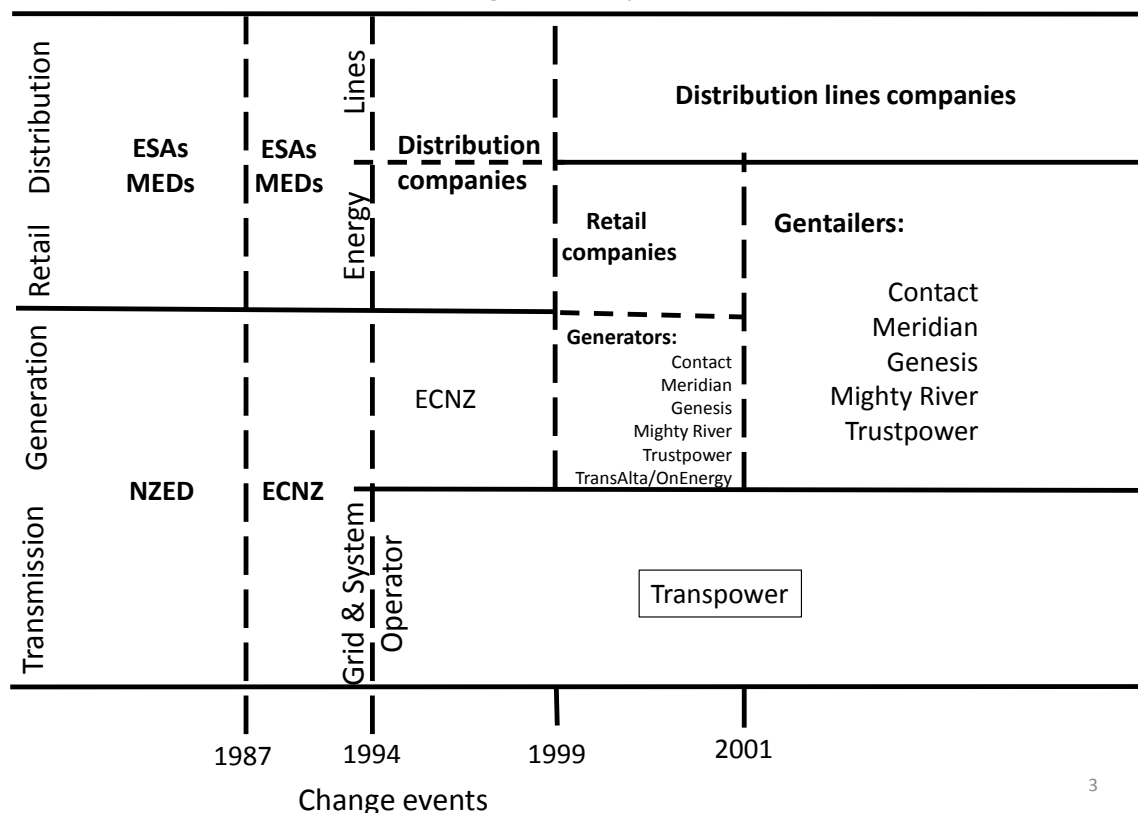
In the case of electricity the issue boils down to one central issue, where it all comes home to roost. The fate of ordinary people, New Zealand's residential consumers and taxpayers, who over the last century put their hands in their pockets to construct the system we now have, and have seen it subsequently taken away from them and put in the hands of business management whose job is to make profit. So let's not blame the management too much - though I think they are grossly overpaid and feed the public with a great amount of false information .

Let's focus on the policy makers and what they have done with the system we have.

So a quick potted history. In the late 19th century when electricity was first brought in to NZ, we had an islanded system, a lot of local initiatives, we built all sorts of generation and supplied local markets with it. And then government, starting with Coates as the Minister of Works, brought in a centralised system where large scale generation and the national grid were built by the state for the benefit of the public of New Zealand. The intention then was to electrify the economy and the goal was to make life better for ordinary people: dairy farmers who could run milking machines and separators on electricity; ordinary households could electrify their appliances. Until the 1980s electricity was not only an essential service, it was also part of the welfare state, and so electricity was supplied at cost, and that meant at average cost, which meant that the revenue that came in in total from selling electricity to consumers across the economy was sufficient to cover the costs of running the system and the costs of investing in new capacity. This was done through the Bulk Supply Tariff, which was announced by the Minister of Electricity and approved by Parliament, so subject to democratic scrutiny; and at local level, the retailers and lines companies were elected subject to democratic accountability. That meant that we got pricing that genuinely delivered electricity as cheaply as it could reasonably be done to the mass of New Zealanders.

The reforms of the 1980s transformed that. Beginning in 1986 there were a series of structural changes that pushed us to corporate management and a profit motivation that has taken us away from central service, and particularly away from providing benefit to the mass of the public. That was the structural change – if you're interested I'm sure there will be slides available that show where we came from and where we went to. Here's one:

Evolving industry structure



3

There are two things with which the current structure is flatly incompatible, and they are, technical progress and the benefit of consumers. When you're running a system that's incompatible with those two goals, it can be compatible with all sorts of others.

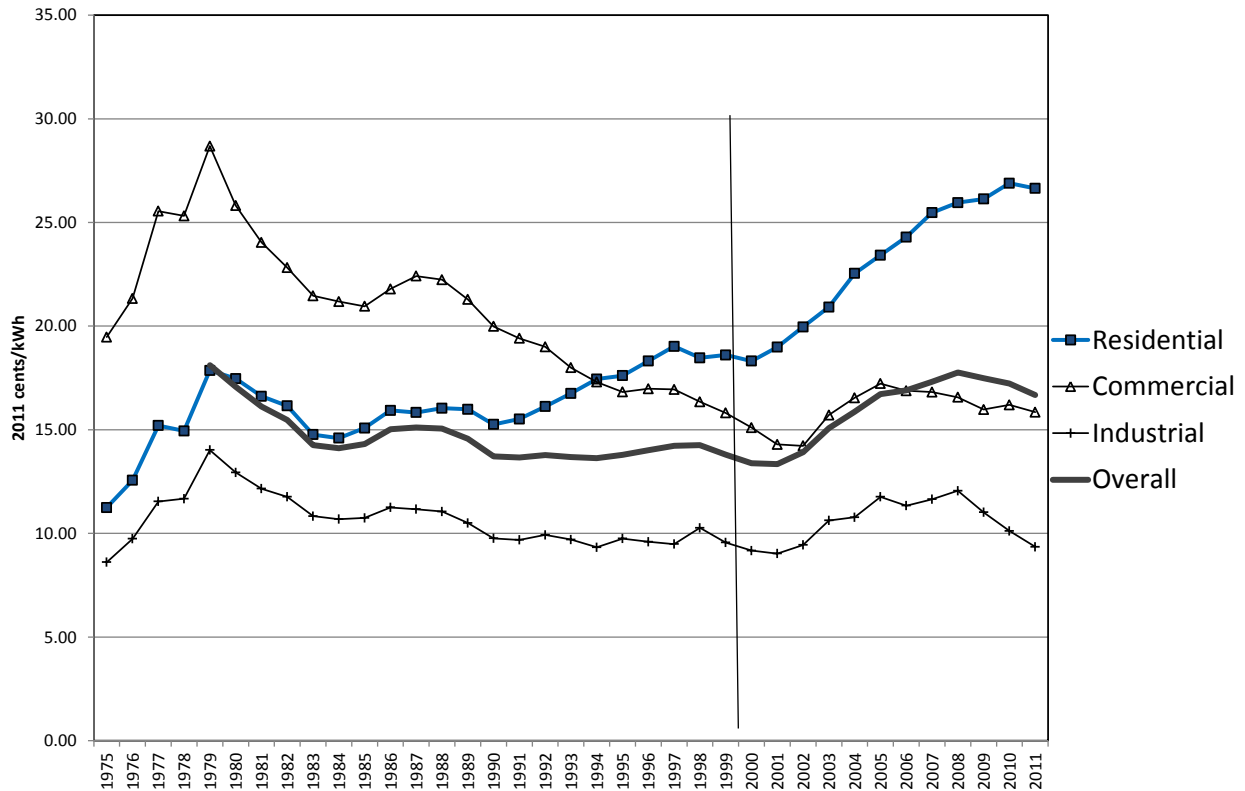
Which goals matter is a matter of political priorities; if you have a Government that doesn't give priority to the benefit of consumers or technical progress, you'll get policies that allow corporate management to go after other priorities

What we have at the moment is a cartel - there are five dominant generator-retailers, with great market power and not subject to any decent regulation with respect to pricing behaviour. They operate in a way that forecloses the entry of the alternatives and competitors that might make a difference in the market. So as a result of the structure of the industry you can't get in as an independent. There's a whole set of interlocking mechanisms that foreclose the market so competitive mechanisms don't get a go.

Regulatory mechanisms are largely absent in the places where it really matters.

So we have a system which isn't moving, we're not getting smart metering, not getting small-scale independent renewables. We're getting renewables only insofar as the large gentailers want to put their feet on profitable wind sites, but we're not getting the renewable small scale distributed, competitive entry that 21st century technology offers us. And just to respond to a question earlier, nationalisation – well you can nationalise those five generator-retailers, or you can privatise them, [but] so long as you let them go ahead running a cartel, foreclosing entry, blocking competitors and blocking technology, it really doesn't matter whether it's state owned or privately owned. It's the behaviour of the companies that matters. If the government really wants to change their behaviour it can do it by regulating private, or by ordering state-owned, to do what it wants to do, Now I have a preference for state owned ownership at the large scale end but I think we could properly regulate and privatise the electricity sector if we wish. It's the lack of policy, of regulation, I'm upset about.

Real electricity price by end-use sector, 1979-2011



Prices and volumes from *Energy Data File 2012* Table I.1a and Table G.5a. Deflated by the author using CPI for residential and PPI (Inputs) for commercial and industrial, but using CPI for years before the PPI series begins.

6

This is the familiar picture that Molly has showed you - the MED data. The things to watch are: the industrial prices are an average of large and small [industries] - large industrial prices actually much much lower than that, the small-industry price is higher than that. Rio Tinto's special deal is in there in the industrial price, which has huge weight on the industrial average. The residential consumer price is going up, as you can see.

Now compare this with the rest of the world (see first chart above). This is the International Energy Agency data base showing real electricity prices to residential consumers. I've based it on 1986 when NZ started doing electricity reforms. Red is NZ.

The others are the rest of the countries in the data set, so Australia is the circles there... Down here is the republic of Korea.

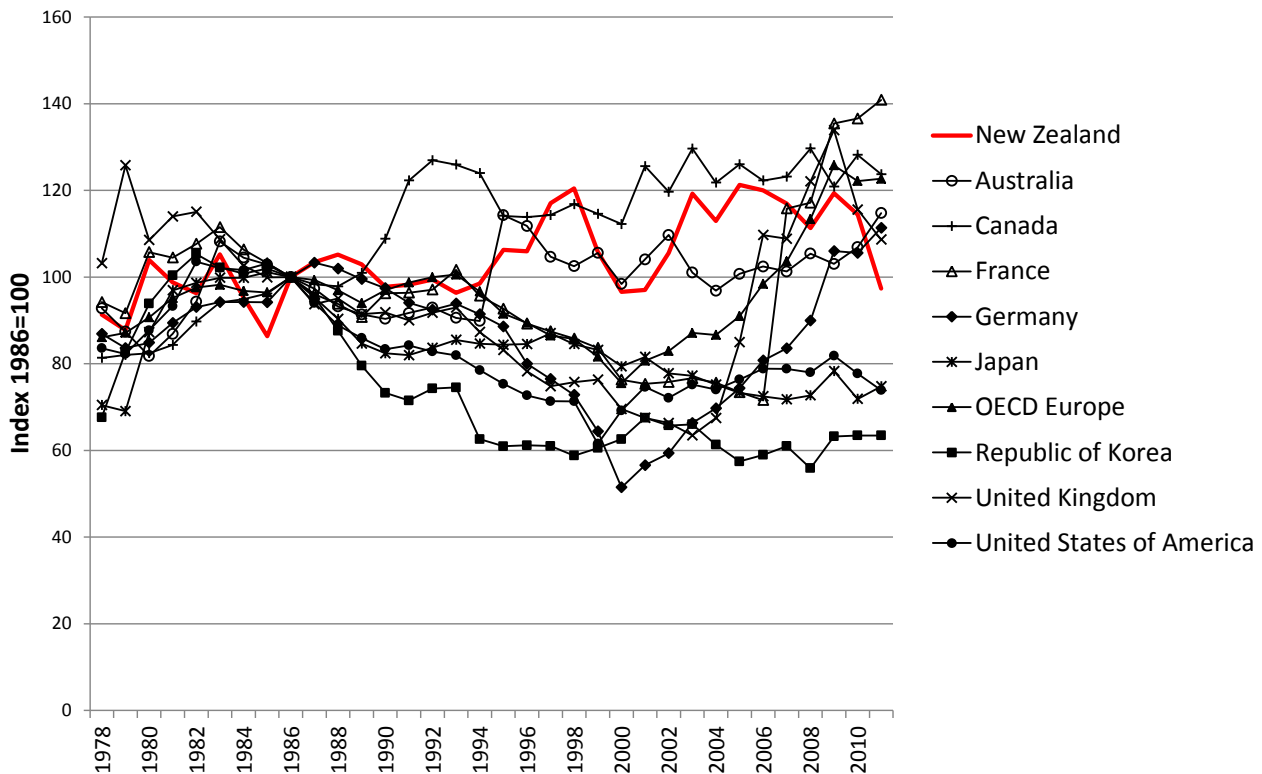
Q: What is the scale?

A: The scale is 100, the index at the 1986 price to residential consumers in real terms, deflated, it's 100 in 1986, so what you see is over the period since 1986, these are all countries that have reformed their electricity sector, what are the outcomes - this is the diagram that sums up what's gone wrong.

The next slide here's industry, here's NZ running through compared with the others 40:40 What you can see is - although there's a bit of upward pressure on industry in terms of this, although NZ started in the middle of the bunch, it has ended up in the top of the bunch rather than the bottom of the bunch. The failure of reform to bring lower prices relatively speaking has applied

to industry as well as residential – but you can see that industry hasn't broken out of the bunch –if you compare that with the residential track that tells you a lot.

Electricity price to industry, 1986=100



Source: International Energy Agency, *Energy Prices and Taxes* online database, accessed July 2012.

What's different between NZ and the rest of the world – the difference is that the rest of the world takes a lot more notice of the exercise of market power and the protection of residential consumers.

NZ is outstandingly extreme in the world in its deregulation and the refusal of its authorities to take steps to protect the small powerless groups in society against the exercise of market power. NZ has allowed the market and the exercise of market power to do their work without restraint whereas almost every other country that has gone through electricity reforms has regulated from the start, and has told its regulators to deliver some benefits through to the residential consumer. Particularly Maggie Thatcher in the UK - this comes back to state ownership for better or for worse - but when Maggie Thatcher privatised, right from the start, she said there will be benefits to small, ordinary, English power consumers and if there aren't we'll come back, and deal to whoever is not providing those benefits, and she did it. Now I'm not saying regulation in the UK is a model but at least they did it. Which we did not in NZ.

Now I'm running out of time . . .

Retail prices – I think there are 3 things in NZ, why do we pay so much, here are 3 reasons:

First, there are inflated asset valuations. The companies in all sectors of the electricity industry that drive asset values up, largely initially at least without restraint. The lines companies did this in 1994

to 2000 under a thing called optimised deprival valuation, the technicalities of which I won't bore you with today. The generators and retailers, once they were vertically integrated in 2001, had driven out On Energy and consolidated their market power, have done it simply by writing bigger and bigger numbers in their balance sheets. They call it fair value, and it basically involves dreaming the future price and revenue stream they'd like, then they capitalise at some discount rate which they don't disclose, and write the result as present-value into their books.

Secondly there are the inflated costs of retailing. The costs of retailing electricity have ballooned compared to what they were before reform, a huge increase in retail costs, and the reasons why that huge increase in retail costs has come about is very hard to untangle because the companies' accounts are not particularly explicit about it, There has as been no regulatory inquiry into it, so we don't have systematic official numbers to go on. And I'll come back to that. And one of the things you can see however is that the alleged risks of the wholesale market have led to an enormous proliferation of financial instruments - derivatives, derivatives, derivatives in all directions; the balance sheets of many of these companies now look like Wall Street merchant bankers rather than those of service providers. Because there are huge costs and losses being taken to book year by year on the book value or the market value or the face value or whatever you call it of financial derivatives in general which are in their books.

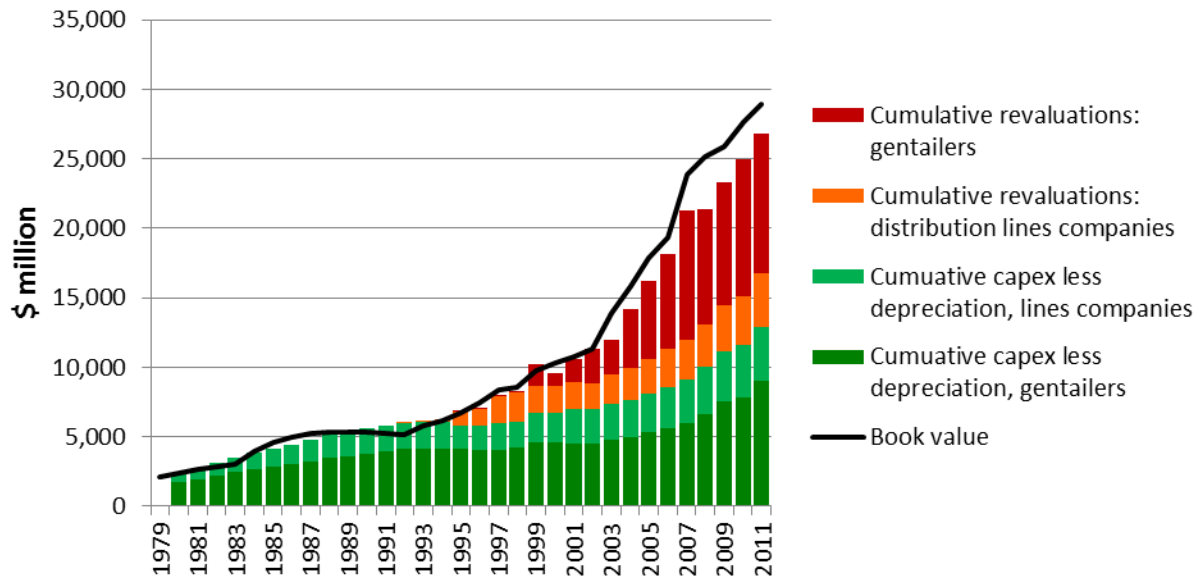
The third thing is small consumers' lack of power; that means they can charge you more so that, year after year after year, the real prices to small consumers who don't have political power go up well ahead of the inflation rate.

Just a small point about political power. Rio Tinto Aluminium is a really interesting company. It has a contract which is the most interesting contract in the electricity market. It's been around for decades. It's compatible with both the nationalised system before and the corporatized and semi-privatised system today. It's a dead simple contract, it simply says, "hey, the system can supply a block of power at a very low price without affecting efficiency at the margin and without prejudicing its ability to continue to supply." Of course they can, they do.

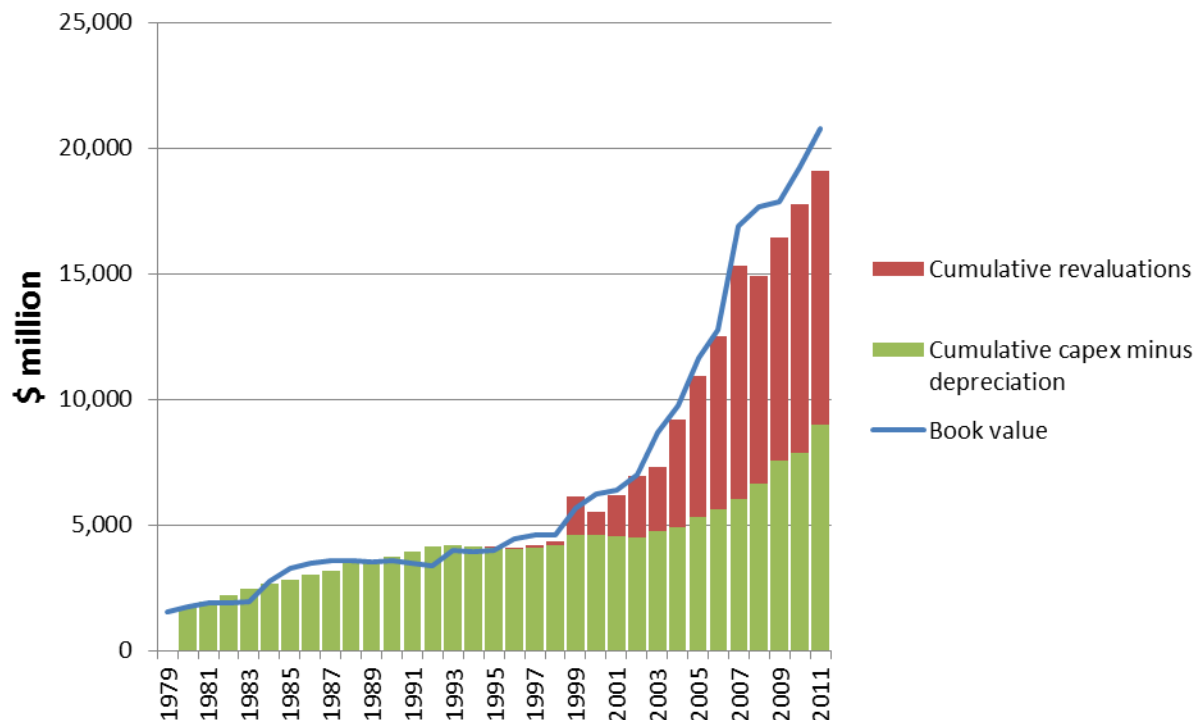
Just a little less than a fifth of electricity is sold under that contract, which is basically the same as the contract that residential consumers should have had at the start of the reforms. A big lot of cheap electricity, and then at the margin you buy a bit on spot, at a higher price.

Moving along, this one [slides 14-15] is about valuations, here are the valuations:

Generation, retail and distribution fixed assets book value decomposed between capital expenditure and revaluations



Generator/gentailer fixed assets book value decomposed between capital expenditure and revaluations



Now this is asset value – remember that what happened to asset value is, there's a number on the balance sheet, against that companies charge depreciation, they gear up to raise loan finance and then they charge interest on the loans as a deductible expense on their profit and loss accounts, and so it all comes through as an apparent rise in cost of supplying the electricity. The actual cost in real economic terms of getting resources into place and then getting them operating is quite different from the reported value on the balance sheet of those assets. And what I've done with the first slide

is to show you, in black, the total value of the fixed assets reported in the company's accounts, in the late 1970s, to 2011, and to break that down into the actual expenditure required to put stuff, equipment in place to provide the service, that's the green, and the revaluations which are written into the accounts by just rubbing out the old number and putting in a new one. About 28 billion of fixed asset valuations in the industry – generation, retail and lines and so on. Of that, about 13 or 14 billion, about half, a bit less, was the actual cost of building stuff to supply you guys, and the rest is revaluations on which capital charges are collected. Of course the effect of driving up asset valuations is to drive down the apparent rate of return so you're all told how terribly unprofitable these companies are, because the return on equity or the return on capital or something else is down to some tiny margin so prices must go up.

Fact of the matter is, if you actually use historic cost valuation (which by the way is how a lot of other regulators elsewhere in the world do the job) you could probably halve electricity prices. But of course in the process you'd be halving asset valuations. If there's one change you could make to the New Zealand system right now, if you want to go back to where you were before, that would be it: you could actually halve the book value of the assets and cut prices (or rather, total revenues) accordingly.

Here's the question. This is a transfer of wealth – that 14-15 billion bucks here is gouged out of ordinary New Zealand consumers, mostly residential, as a wealth transfer from them to the balance sheets of these companies.

On one view it's entirely legitimate. This is how life goes. Another view is that it's highway robbery under gunpoint. Society treats these two transfers in very different ways. Highway robbery - we lock 'm up and try to recover the dough. The other sort, we don't lock 'm up, we give them knighthoods and applaud their business acumen. Now it's really hard to decide which of those we're looking at, when it comes to the electricity industry. If the government gives the highway robber a gun, a horse, a map, instructions as to when the coach is going to come by laden with gold, and tells them that there is no law preventing robbery, and then they're encouraged to go out and help themselves - do you blame the robber? I frankly don't. That's why I say I think that management comes away largely scott-free, if they have gone out with the gun the government gave them, the horse the government gave them, the map the government drew. And they ran at the stagecoach that the government provided, without protection.

One more point... There's slide number 21.

The Public Benefit Test

- Late 1992 joint paper by four key departments (Ministry of Commerce, Treasury, Justice and Department of Prime Minister and Cabinet)
 - the efficiency gains and losses associated with a merger or practice are the principal consideration in the application of the public benefit test
 - in order to remove doubt and to avoid possible future deviation by the Courts or the Commission the Act should be amended to ensure that the principal role of efficiency analysis in the authorization process is explicit
 - there is no reliable economic basis for assessing the relative value of resources in the hands of different individuals. Ultimately such comparisons require a value judgment which we believe to be more appropriately a matter for policy makers than the Commission or courts
- Recommendation: “no account is taken of the identity of those who gain the benefits if the benefits accrue to New Zealand”
 - Translation: monopoly profits gouged from consumers are simply a transfer within the NZ economy and so of no concern

Ministry of Commerce, The Treasury, Department of Justice, and Department of Prime Minister and Cabinet, Review of the Commerce Act 1986, 1992.

21

Now, if you want one document in the record that sums up what went wrong, it's a little-known Officials report, of 4 government departments, called the 1992 Review of the Commerce Act. The departments were Commerce, Treasury, Prime Minister and Cabinet, and Justice. The question before them was: how do you evaluate whether some change is needed in regulatory policy; the answer was you do a public benefit test – that is, is there public benefit from deciding to regulate the monopolist. You have to answer the question: is it in the public benefit or not? In evaluating that you have to decide whether transferring wealth from one group in the community to another group in the community is a detriment, or a benefit, or nothing. And the officials' report says, we don't mind - a dollar is a dollar, so long as it goes from one New Zealander to another New Zealander, there is no public detriment involved, No welfare benefit or detriment.

Next one here's what Justice said:

The Department of Justice dissented unsuccessfully

- “Under the guise of ‘clarifying’ the law and preventing future departures from the current interpretation of section 3A [the majority, led by Treasury] seeks to make significant changes to the test and to shift the focus and effect of the Act as a whole.”
- “[A] statutory instruction to the courts and the Commission to ignore the identity of beneficiaries of gains ... could be detrimental to the public and to the economy, particularly where the goods or services to be supplied are essential.”
- “The idea of valuing resources in the hands of consumers and producers equally could turn monopoly profits into benefits particularly as it would no longer be necessary to show a benefit to the public. Do monopoly profits benefit New Zealand? Most applications for anticompetitive mergers and trade practices are likely to result in very substantial benefits to the companies applying for authorisation. If that is all that is required to displace the pro-competition premise of the Act, the question arises whether the time and expense of a Commission investigation ... will still be justified”

They lost the debate, they were one department among four. And having lost, this view was submerged forever as far as I can make out, in New Zealand officialdom, all the way down to the Electricity Authority's mandate today.

Let me summarise what was going on here. The Department of Justice said, essentially, highway robbery is bad, even though in highway robbery the benefit to the robber exactly matches the detriment to the victim. Treasury and Commerce argued in essence that if robbery takes place and transfers a dollar within the New Zealand economy it has no welfare implications that would call for public intervention. The Department of Justice I think quite correctly said you need to go back to a consumer surplus standard, that is if you're going to benefit consumers you must focus on the consumer surplus. Treasury argued - the standard neoliberal position - that an increase in the economy's total surplus is a gain, regardless whether it's at the cost of consumers, provided there's enough extra profit to offset the wealth taken from consumers, it's sweet, there's no need for regulatory intervention, there is no policy required. That 1992 document flowed through to the public benefits test of the Commerce Commission; it's now the Electricity Authority's argument: efficiency is the only thing they're concerned with, fairness set aside. Their Memorandum of Understanding establishes that fairness doesn't matter any more, unless the Government one day decides otherwise. This is at the heart of the problem.

Chair: time for 2 questions

Q: I was wondering, because we are complaining against asset sales, as well as signing the keep our assets petition – I was wondering if we cannot stop government from signing the TPPA with the clause that allows companies to sue government for profit and loss. Which [type of company] - the privatised power company or state owned, which one is under more risk . . .

A: I'd like to answer that it's terrible that the TPPA opens the way for foreign investors to sue our government and prevent it from regulating as a sovereign state. The difficulty about that is if the government actually bothered regulating it would be a bigger issue. If the government is already in the pockets of the big corporate guys, the loss you get from going to the TPPA is just that, hey, money shifts from one pocket to another, that's no welfare detriment. I mean this quite seriously, I'd be much more upset about the TPPA if I thought we had a government that reserved the sovereign power to regulate in the national interest without overseas interference, but I think our real problem, the reason we're going for the TPPA, or at least partly, is precisely that the government has lost the plot on regulation, and finding the plot is not going to be easy. It's not possible just to say 'hey let's regulate tomorrow', as seems to be suggested for coal mines now after like Rver. The capacity to regulate is gone, the officials, the structures, the core precedents are gone...

Q: we were hoping for a new government, when the new government comes in

A: Which government are you going to elect? .///

Q: I understand the 1993 legislation pretty well, that made energy efficiency illegal in New Zealand in my mind, I understand the 1998 legislation, that made community ownership illegal - what I'm not clear about is this 1986 legislation.

A: There were two things in 1986, the Commerce Act, and the SOE Act. The SOE Act made everything look soft and cuddly; people like me who said 'you're potentially losing the plot on social responsibility for state owned enterprises', were politely told, take a look at section 4 and

section 7, there's provisions for social responsibility to be preserved and so on. In practice the SOE Act gave priority to profit over everything else. There was an early court case which established that point, which has not been overturned, so the SOE Act gave the driver of profit and dropped social responsibility overboard. No amount of verbiage about how soft and cuddly our SOEs are removes the fact that the duty of their management is to make profits, that's it, and Treasury is sitting there with its collecting bag ready for all the profits....

The second one was the Commerce Act 1986; one of the consequences of that was that it suspended the common law with respect to essential services, it removed the common law right to go to court and complain that you're being gouged by a monopolist. The common law has been around for centuries, but it ain't here now. The case that established that is *Telecom v Clear*; subsequently *Transpower vs Vector* and a series of other cases confirmed it. Until Parliament gets in and changes the Commerce Act to clarify what "long term benefit to consumers" means, to specify that the consumer surplus standard must be applied by the courts and by the Commission in regulating, and to bring back the common law that enables ordinary New Zealanders, if they're being gouged, to go to court and complain about it, until we make those legislative changes we're essentially powerless.

Q: Would you say it's number one priority in terms of legislative review?

A: We can't have a number one priority; it's a tangled mess - you unpick one corner of this, another corner will come around to bite you. It took 25 years to construct, and never underestimate how solid, self-sustaining, neoliberal policy is; it's enormously powerful and coherent, and what we've lost, we've lost something we can't get back tomorrow saying 'hey let's go back'. What we've lost is the entire social fabric of the social contract, that has been set aside. Until you're prepared to make a new social contract, which covers a whole lot of stuff, it's not easy. It's all very well for me to say, let's halve their asset values - what happens to the stock market when we do that? What we'd be suddenly doing is abolishing highway robbery and getting the proceeds back as well, it's not that simple. I wish it were.

Q: You mention about the whole involved tangled mess, which I understand. It seems one of the tenets of the neoliberal system is the system of contracts, and they rely a lot on contracts. Once you're bound in a contract you have to follow through. What's to stop a reformist government of a centre left persuasion from using the power of contracts to contract with existing companies, either a SOE or partially privatised or fully privatised [company] to provide electricity at a cheap or discount rate, as for Rio Tinto?

A: One simple thing - a contract requires two parties who have to sign willingly. It's the conclusion of a process of negotiation, in which parties meet and agree to set this price. There is no way in the world you could walk up to Contact Energy and say 'hey we'll sign a contract for electricity at a couple of cents a kWh', Contact would say, have a nice day.

From the private owner's point of view, forcing them to sign unwillingly would be what's called a "taking", a seizing of the value of property which has been acquired, consistent with the law of the land, over a period of time, and those companies are now sitting on great swags of asset value which has been acquired and accumulated under the law. Obviously we can do a taking on ourselves by telling the SOEs to sign long-term cheap-power contracts - that's why privatising these things is a disaster, because it removes all the policy options that would have enabled us to enforce their participation in a contract of this sort we talk about. As soon as 49% is overseas owned, we're up against all the "takings" problems of seizing private property, if we made any policy. My personal belief is that's what the Mixed Ownership Model was designed to do, designed to protect

the privatising of the rather illicitly acquired gains of the last two decades from possible future regulatory movement.

Q: What worries me Geoff , the slight compliment you paid Maggie Thatcher

A: Here's the facts - I never liked Maggie Thatcher, but I try to look at the evidence!

Transcript of afternoon discussion

GEOFF BERTRAM: I think what think what the last speaker said was great. Summing it up, she said the 'bottom up' is people who have information and know what's going on but have no agency. And it seems to me that agency is what we need to be focusing on when thinking about electricity. So given that I've got to be short, because Molly's going to follow, I'm going to give you a little manifesto with a couple of barbs in it to the official presentations that we've heard, because it won't surprise you that I have a whole series of criticisms of those.

I'm going to suggest that what New Zealand needs to do if we're going to stir things along is to take a whole lot of things more seriously, to stop playing games about them. And that means, just to give you a little list:

- we should take competition seriously. Not just say "this is a competitive market" - because it's actually not a competitive market, doesn't look like one, behave like one, produce the results of one. If you're going to say it's a competitive market you've got to make it competitive and that actually means some very, very tough stuff. Competitive markets are not fun and they are not kind. They're slaughterhouses. And some of the people who will get slaughtered in a decently competitive market in this place are the fat cats. Which is why they are the leading force in not having a competitive market, and they have willingly recruited both our public figures and, I have to say, the Electricity Authority, as the spokespeople for their position. I think the Electricity Authority is acting as an agent for the generator retailers, and that's got to stop. I don't know how we stop it. It's in their mandate. It's in the selection of the Authority - the people who run it. It's a Minister's position that's established it. But something has to change in there. So, take competition seriously.
- Regulate properly, not playing with regulation. Get in there and get the best information you can about how to regulate, and look at centuries of experience with regulation. Get the mechanisms in place and do it properly.
- Take democracy seriously. Actually get choices in front of the public that they can vote on, with agency, and see a result come out the other end.
- Take the law seriously. Think about where judicial review might work. And I'm going to come back to this in a minute because I asked Gareth Wilson a question and I think it's one place where, you know, non-governmental organisations can actually get a leg in if they can find a good lawyer.

- Take consumer rights seriously.

All of these things it seems to me get tossed around in public relations slogans in New Zealand without actually being nailed to the wall.

Let me follow up a couple of those. First “take competition seriously”. First and foremost that means freedom of entry. Freedom of entry requires that the barriers to entry be directly identified and addressed. So where do you start in New Zealand? You could have a feed-in tariff. Do a feed in tariff and get it right and you try to open the way for entrepreneurial small scale generators to get into the market on a reasonably even footing. And yes, there are problems with feed in tariffs. That doesn’t mean you don’t do them. Gareth seemed to think that because I said it was hard to change we shouldn’t change at all. No! You should take it seriously and do it right. So a feed in tariff would actually have quite a big competitive impact provided that you’re responsible.

A: What’s a feed in tariff?

GEOFF BERTRAM: Feed in tariff means that independents can sell electricity into the system, which they can’t at the moment. You can put solar panels on your roof, your meter runs backwards when you’re generating more than you use and you’re credited for that.

Q: Oh yeah.

GEOFF BERTRAM: It’s a feed in tariff.

Q: I think they call it something else actually.

GEOFF BERTRAM: It has all sorts of other names around the world but fundamentally in New Zealand this thing has been blocked by an absolute brick wall for over a decade now.

What about –“ take the law seriously”? Judicial review. Now I think that the Electricity Authority is ripe for judicial review. I don’t know how on earth you’d get the case but when they have in their instructions “long term benefit of consumers”, we desperately need a serious Court to rule on what is meant by the long term benefit of consumers. And we’ve got to stop accepting from the Electricity Authority the stuff that we got today.

“The Herfindahl Hirschman Index has come down from 10,000 to 3,000 in a lot of areas.” What does that mean? It means we’ve come down from a monopoly to five. Is a five a competitive market? No it’s not. It’s a cartel. So do we celebrate and leap and shout because the HHI has come down by that amount to that level? No we don’t. We take economic analysis seriously, we say “What does 3000 HHI actually mean? What does it look like in New Zealand? Where can we go to in the Industrial Organisation literature to look in behind that number Let’s do it properly.

When we say the “long term benefit of consumers” supports the switching model - this Powerswitch thing. Where in the record is the cost benefit analysis, conducted to ordinary professional economics standards, that says the Power switch programme is for the long term benefit of consumers? I haven’t seen it.

I've heard a lot of PR spout from the Electricity Authority, which you heard again today. They said "Oh look there's a lot more switching going on so that's competitive." No.

C: Rubbish.

GEOFF BERTRAM: There's just a lot more switching going on, but what does that mean? Get in behind those switching numbers. Do the analytics of it. What goes on in this Power switching programme is the following. There is a short term effect for a lot of consumers of getting power temporarily cheaper. What is the long term effect of that? The long term effect of that is a lot of extra costs --

M: Yes.

GEOFF BERTRAM: -- incurred by the players in the industry who have the power to pass it on.

E: Yeah - yeah that's -

GEOFF BERTRAM: And consumers pay more in the long term because they are the people from whom those costs are recovered. The spill-over effects in the longer term from the short term game playing with churning, in my view, really need to be analysed economically, costs and benefits, with emphasis on making sure you've got the costs in there and not just the supposed benefits.

How do I think about this power switching thing? Look, I think of it as five upward escalators parallel to each other. Inexorably all going up, but going up at differing speeds - they jerk and they're not very efficient. So this one's going up fast at the moment, that one's going up slow so if you jump from one to another for a little while you can enjoy a lower price - until that the new one suddenly does a jerk and catches up with the first one.

And every time you switch you incur serious deadweight costs. You have to think about it - do the calculations. You set aside time that you could productively use in other things in order to worry about whether you should switch now, or switch later, switch from there to there. Your budget advisor becomes burdened down with the need to go through all these individual power bills and sort out advice for people. And in the process they're diverted from doing other much more socially useful stuff that they could be doing. And that needs to be counted in as a cost of running this thing. But what you hear is just - you know - the political vibe of being able to say "we've got a lot of switching" with no attempt to measure the economics of it. So if there's one thing I think we should be doing with the Electricity Authority, it should be finding a way to get a judicial review of their position on the "long term benefit of consumers" and get a proper definition of exactly what that means. And I think it should mean deciding that it is a consumer surplus standard that should rule, and I think it should be very clear that lower prices are for the benefit of consumers with a full stop at the end of that sentence. Without qualifications.

Now take democracy and public ownership seriously. Public ownership, hang onto it at all costs is my advice. Block the Mixed Ownership Model and its consequences at every barricade you can get, because the moment that that thing becomes actual, the moment that the things are sold, we lose the ability to

enter into contracts of the sort that we were talking about before for the benefit of consumers. Because when a contract is made with a publically owned entity on the instruction of the minister and for the benefit of the public, there is a taking but it's a taking of our wealth by ourselves. It's a transfer within the public sector, or between the public sector and the wider public, which does not involve private, corporate ownership interests. The moment we've lost public control of the ownership, and therefore of the asset valuations of these things, we've possibly lost the ability to do (for example) progressive pricing.

As I estimate it at the moment, with the amount of assets we have in public ownership at this stage, we could give 300 kilowatt hours a month free to every household in New Zealand. Just like that. At the margin they would be paying the market price. There's no reason at all why we can't do a "Comalco contract" of that sort. And 300 kilowatt hours a month free does quite a lot to deal with energy poverty. The details need a lot more work, but the fundamental idea is not in violation of a competitive market model, by the way - it's completely consistent with it. As I said before, Rio Tinto, formerly Comalco, has such a contract which has operated successfully, in the previous and the current market environment, for decades. There's no mystery to these contracts. The problem is the political will to do it for the benefit of consumers rather than to keep forking money out for the benefit of large corporates. And that I lay squarely at the door of our politicians and our parliament.

So take democracy seriously. Vote for somebody who will fix this. What's one thing they could do - this is my final point - to fix it? We need an agent. I would like a public prosecutor actually. We haven't got one. I look at what Eliot Spitzer was able to do when he was Attorney General of New York (before he was caught with his pants down). He was doing a great job of actually getting large corporates by the ankle and suing them for improper behaviour. Now I think the Serious Fraud Office in New Zealand, while Adam Feeley was in charge of it, gave us a little taste of what a serious public prosecutorial agency can do in addressing market power and its abuse. I would love to see something in the electricity area, or in fact in the corporate area in general, that had that effect. Yes, we can petition the Commerce Commission to have a go, but do we trust the Commerce Commission? I'd trust the Commerce Commission with a serious inquiry at the moment the same way I trust Tokyo Electricity in relation to nuclear generating stations. And there's the problem. The agency has to have really serious people in charge of it, with a serious mandate, and with the ability to deliver on it.

Could the Ministry of Consumer Affairs be such an agent? Well, I'm not sure. I'm not sure where it's gone at the moment. But you know I'd love to see a Minister of Consumer Affairs take a deep breath, get his or her officials on the job and actually go for the electricity market seriously, to try to find areas where they can drag them out into the open and preferably beat them up until they deliver something more in the interest of consumers. Metering I think is a classic. And I think metering is sticking out a mile as something that requires somebody to bang some heads together hard and effectively, and with enforcement capability in the background to get a result. It's not easy. Nothing's easy. But you can see where the openings lie. There are all sorts of ways in which you could be thinking, politically, as to how we could start addressing the problems that have built up over the last two decades.

And there's one coming over the horizon if the Rio Tinto aluminium smelter closes. I don't think it will, but it's nice to dream. What are the options that opens up? They're massive. Where does the electricity contract go when the smelter closes? This is a really interesting question. I suggest if you're interested you try researching the question: does the contract survive when the smelter closes? The original contract was carefully written to make sure the power is delivered "outside the fence" at Bluff and that the smelter could go without affecting Rio Tinto's control over nearly a fifth of our electricity at a fixed price. But I don't know the situation now, because we don't know the detailed terms of Meridian's new contract. When Meridian goes on the block for sale - and it's going to have to, under due diligence - it should make the detail in that contract available. I'm looking forward to that. I'm not looking forward to having it sold. But if they don't give us the necessary detail about that contract, which is fundamental to the company's long running profitability, I think they'll be in court quite quickly. So think about what happens if the smelter closes and what we could do with that block of power if we could get it north, if we could get it in the hands of the right people. If we were now going to nationalise anything, I think I might nationalise the Comalco contract.