COUNTIES POWER
CONSUMER TRUST

Ownership Report

Prepared by Gail Riddell
30 January 2014

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SUMMARY

Counties Power Ltd (the "Company") succeeded the Franklin Electric Power Board and was incorporated on 10 May 1993.

The Company's main business is that of supplying a network of electricity lines throughout the Franklin District and part of the Papakura District.

At the time of formation, the Company's shares were vested in the Trustees of the Counties Power Trust (the "First Trust"). As part of the transitional requirements, a review of ownership was conducted in 1995. At that time the Trustees of the First Trust and the Directors of the Company unanimously agreed that the Company should remain 100% owned by the First Trust.

Following this decision, all the assets owned by the First Trust were resettled on the Counties Power Consumer Trust (the "Trust"). This occurred on 14 September 1995.

Contained within the Deed of the Trust, a clause requires the Trustees, within 10 years of Resettlement date (before 13 September 2005) to prepare a report considering, amongst other things, the future ownership of the shares of the Company. On 12 March 2003, the Trustees after due consideration for all reports and submissions, unanimously concluded that 100% ownership by the Trustees remains the appropriate form of ownership by the Company.

Also contained within the Trust Deed is a provision that every 10 years thereafter, there is a repeated review of the ownership of the shares of the Company.

A quote for preparing a report for Trustees on the performance of the Company, the performance of the Trustees in their role and current options for ownership of the Company was requested from Utility Consultants Limited (UCL), received and accepted. (This report followed a review of the Company's performance by PricewaterhouseCoopers which had taken place earlier in the year).

At a meeting of the Trustees on 20 June 2012, Mr Phil Caffyn and his firm UCL were engaged to prepare this report. It was duly sent to the Directors of the Company seeking their comments. The Directors responded on 1 June 2013 stating their view that the Trustees should retain 100% of the shares. A further report was prepared and made available to the public who were invited to make their submissions as to the future ownership of Counties Power Ltd.

After due consideration of :-

(i) the views expressed by the members of the public during the 2003 Ownership Review, and no submissions received from the public in 2013; and
(ii) all the reports prepared and compiled by UCL; and
(iii) their own evaluation of various issues raised within those reports; and
(iv) the view expressed by the Directors; and
(v) the seeking and receiving of advice from Simpson Grierson as to the procedure to be followed in the absence of submissions

the Trustees unanimously concluded on 11 December 2013 that 100% ownership by the Trust remains the most appropriate form of ownership of the Company.

The final report was signed off on 30 January 2014 and signatures are included on pages 9-11.

THE SPECIFIC REQUIREMENTS OF THE DEED AND THE ACTIONS TAKEN

The process for the Ownership Review is spelled out in the Deed of Trust as adopted 14 September 1995 and subsequently modified in accordance with the Deed.

The appropriate areas of the Deed setting out the procedures to be followed are found in clauses 13 & 14 and Schedule III.

These are attached as Appendix A.

Once the entire procedure has been completed, the Trustees must obey Clause 14.2 which reads

> **Public Availability:** The Trustees shall make the report available to the public in accordance with Clause 11.

REQUIREMENT (a):

Clause 14.8 (b) of the Deed requires the following:-

Thereafter the Trustees shall initiate further reviews at intervals not greater than ten (10) years after the date of the Trustees' decision on the immediately preceding review, and such reviews shall be completed in accordance with the preceding review provisions of Clauses 14.1 to 14.7.

Clause 14.1 (a)... the Trustees shall prepare a report considering proposals and available options for the future ownership of the shares of the Company and the other assets comprising the Trust Fund. Such report shall contain the following:

(a) An analysis of the performance of the Trust to the date of the report together with a summary of the advantages and disadvantages of Trust ownership and the benefits or otherwise of such ownership to Consumers;

Action(s) Taken:

UCL was commissioned to prepare an in-depth analysis of this requirement. Costs per beneficiary were considered and broken down into the following categories:-

1. Comparison between other Trusts using operating costs per beneficiary
2. Advantages and disadvantages of Trust ownership
3. The benefits and disadvantages available to the consumer/beneficiary of the Trust
4. Other ownership options
5. Performance by the company under Trust ownership

When considering the advantages and disadvantages of Trust ownership, the issues commented on were placed into the following broad categories:-

1. Consumer benefits
2. Governance
3. Industry structure, positioning and ownership,
4. Operating costs

Copies of the appropriate pages (11-15) of the UCL report can be found in Appendix C.

REQUIREMENT (b):
Clause 14.1 of the Deed requires the following:-

(b) an analysis of other ownership options including, without limitation, share and other asset distribution to Consumers, sale of Shares and other assets to the public, sale of Shares and other assets to institutional investors, compared with retention of ownership of the Trust;

Action(s) Taken:

UCL was commissioned to prepare an analysis of this requirement. The following categories of specific options were considered:-

1. Distribute minority stake to the Consumers with the Trust to retain a controlling stake, or
2. Distribute all shares to the Consumers, or
3. Form a co-operative company, or
4. Sell all or some shares to another power company for cash, or
5. Amalgamate with another Lines company, or
6. Transfer the current limited liability company to that of a publicly listed company.

Copies of the appropriate pages (17-22) of the UCL report can be found in Appendix C.

REQUIREMENT (C)
Clause 14.1 of the Deed requires the following:-

(c) a comparison of the Company's performance with the performance of other companies engaged in energy distribution and/or trading;

Action(s) Taken:

UCL was commissioned to prepare an analysis of this requirement. It selected the following:-

1. Operating costs (OpEx) and transmission costs (Tx), and
2. Profitability, and
3. Delivered energy price, and
4. Supply reliability.

The appropriate pages (23-32) of the UCL report can be found in Appendix C

REQUIREMENT (d):
Clause 14.1 of the Deed requires the following:-

(d) the conclusion of the Trustees as to the most appropriate form of ownership together with an indication whether the conclusions are unanimous and, if the decision is not unanimous, a summary of the conclusions of the dissenting Trustees;

Action(s) Taken:

After due consideration of

i) the views expressed by the members of the public during the 2003 Ownership Review, and
ii) all the reports prepared and compiled by UCL, and
iii) their own evaluation of various issues raised within those reports, and
iv) the view expressed by the Directors, and
v) the views expressed by the public at 4 public meetings held during October 2002, and
vi) the lack of any submissions received during this review,

the Trustees unanimously concluded on 12 March 2003 that 100% ownership by the Trust remains the most appropriate form of ownership of the Company.

The following is an extract from the minutes of a meeting of the Trustees held on 11 December 2013.

Resolution	***Moved***	***Mrs C P Rupp***
	Seconded	***Mr D W Thomson***
	That the Trustees of Counties Power Consumer Trust, having given due consideration to the reports and submissions of the current Ownership Review, move to retain 100% Trust ownership in Counties Power Limited and that the appropriate report be prepared in accordance with the Trust Deed and be published.	
		CARRIED UNANIMOUSLY

REQUIREMENT (e):
Clause 14.1 of the Deed requires the following:-

(e) the matters contained in paragraphs (a), (b), (c) and (d) of Clause 14.6 if a distribution of shares and other assets is recommended;

Action(s) Taken:

This clause does not apply because there was no recommendation to distribute shares and other assets.

REQUIREMENT (f):
Clause 14.1 of the Deed requires the following:-

(f) a statement of the view of the Directors of the Company together with an indication whether the conclusions are unanimous, and if the decision is not unanimous, a summary of the conclusions of the dissenting Directors;

Action(s) Taken:

The Chairman of Directors of the board of CPL, in a letter dated 2 July states the following excerpt:-

"...The report was discussed at a Board meeting held on 19 June 2013. At that meeting Directors resolved unanimously that the following statement be provided to the Trustees:-

- The Directors compliment the Trust on the thoroughness of their review
- The Directors agree that the Trust has reached a valid conclusion in deciding to retain the present form of ownership[.
- The Directors look forward to continuing to work with the Trust in the coming years. "

REQUIREMENT (g):
Clause 14.1 of the Deed requires the following:-

(g) A statement as to whether or not the Trustees have had regard to any views expressed by the public with respect to ownership;

Action(s) Taken:

Using the report compiled by UCL, the Trustees made it available to the members of the Public (in accordance with Clause 11) and began the process of consulting the consumers of the Company (in accordance with Schedule III).

The requirements of Schedule III and their outcomes are:-

Requirement (a) Place notice of the proposal before a meeting of the Trustees.

Requirements (b) Give notice of the proposal to Consumers in accordance with Clause 11 of the Deed, and,

&(c) In every notice given under paragraph (b) of this schedule, specify a period within which Consumers interested in the proposal may make submissions on the proposal to the Trustees.

In addition, schedule III requires a minimum of 1 month's notice

Action(s) Taken:- At a meeting of the Trustees held on 18 September 2013, the following resolution was passed:

Resolution	***Moved***	***Mr A D Eyes***
	Seconded	***Mr D W Thomson***
	That the Trustees of Counties Power Consumer Trust adopt and sign off the report inviting the publics' written submissions on the ownership of Counties Power Limited dated 18 September, and that the secretary be authorised to prepare and place advertisements in the local newspapers advising that the report is available at both the office of the Trust and on the Trust's website, with submissions closing at 4 PM 24 October 2013.	
		CARRIED UNANIMOUSLY

Clause 11 requires

1. For the purpose of complying with any requirement under this Deed to make any document or information available to Consumers, it shall be sufficient for the Trustees to make such document or information available for inspection at any office of the Trust or any office of the Company or at any other place in the District during normal business hours on any business day.

2. The Trustees shall give not less than 5 days notice in a principal newspaper or newspapers circulating in the District of the place at which and the times when such documents or information may be inspected by Consumers.

Action(s) Taken:-

1. The report was made available to the public :-
   (a) at the office of the Trust, and
   (b) on the Trust's website.

2. Advertisements were placed in 2 principal newspapers circulating in both the Franklin and Papakura Districts – the Franklin County News and the Waiuku Post – each carrying a half page advertisement with one in colour.

3. The advertisements stated how to contact the Secretary to the Trustees and gave the website URL where the Ownership Review document could be read and/or downloaded and stated the closing time and date for submissions on the future ownership of Counties Power Ltd.

A copy of these advertisements are in Appendix B

Requirements (d) Ensure that any Consumer who makes written submissions on the proposal within the period specified in the notice given under paragraph (b) of this Schedule is given a reasonable opportunity to be heard by the Trustees

& (e) Ensure that every meeting at which submissions are heard are open to Consumers.

Action(s) Taken:-There were no submissions of any description received either before or after the closing date.

Requirements (f) Make all written submissions on the proposal available to Consumers.

Action(s) Taken:-This clause was not actioned because no submissions were received.

The duties required under Schedule III consumer consultative procedure were discharged at this point. Thus we now return to Requirement 7 outlined earlier and the action(s) taken.

Action(s) Taken on the requirement (g) (Outlined earlier):
This clause was not actioned because no submissions were received.

REQUIREMENT (h):
Clause 14.1 of the Deed requires the following:-

(h) a summary of the professional advice (if any) obtained in respect of the preparation of the report;

Action(s) Taken

Kevin Jaffe, a Partner of Simpson Grierson – was approached seeking advice as to the procedure to follow in the absence of any received submissions. A copy of the report made available to the public was supplied for his critique and input.

Summarised, that response dated 20 November 2013 stated the following steps:-

- that the Trustees make a decision on whether to retain or dispose of the shares; and
- notify the public of this decision; and
- include all procedures in the final document and publically notify the final report.

REQUIREMENT (i):
Clause 14.1 of the Deed requires the following:-
(f) A statement of the extent to which any proposals require a modification of the Company's Statement of Corporate Intent;

Action(s) Taken

The conclusion reached at Requirement (g) means that there is no modification required to the Company's Statement of Corporate Intent.

SIGNED by **ALAN DOUGLAS EYES** in the presence of:

Signature of Witness

Signature of **ALAN DOUGLAS EYES**

GAIL RIDDELL
Name of Witness

CHARTERED ACCOUNTANT
Occupation of Witness

PUKEKOHE
Town of Residence

SIGNED by **PHILLIP STANLEY BESTON** in the presence of:

Signature of Witness

Signature of **PHILLIP STANLEY BESTON**

GAIL RIDDELL
Name of Witness

CHARTERED ACCOUNTANT
Occupation of Witness

PUKEKOHE
Town of Residence

SIGNED by **CHRISTINE ~~PATRICIA~~** PHYLLIS **RUPP** in the presence of:

Signature of Witness

Signature of **CHRISTINE ~~PATRICIA~~** PHYLLIS **RUPP**

GAIL RIDDELL
Name of Witness

CHARTERED ACCOUNTANT
Occupation of Witness

PUKEKOHE
Town of Residence

SIGNED by **GANGES SINGH** in the presence of:

Signature of Witness

Signature of **GANGES SINGH**

GAIL RIDDELL
Name of Witness

CHARTERED ACCOUNTANT
Occupation of Witness

PUKEKOHE
Town of Residence

SIGNED by **DONALD WILLIAM THOMSON** in the presence of:

Signature of Witness

Signature of **DONALD WILLIAM THOMSON**

GAIL RIDDELL
Name of Witness

CHARTERED ACCOUNTANT
Occupation of Witness

PUKEKOHE
Town of Residence

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APPENDIX A

Extracts from Trust Deed

OWNERSHIP REVIEW PROCEDURE

14.1 Report: Within ten (10) years of the Resettlement Date the Trustees shall prepare a report considering proposals and available options for the future ownership of the shares of the Company and the other assets comprising the Trust Fund. Such report shall contain the following:

(a) an analysis of the performance of the Trust to the date of the report together with a summary of the advantages and disadvantages of Trust ownership and the benefits or otherwise of such ownership to Consumers;

(b) an analysis of other ownership options including, without limitation, share and other asset distribution to Consumers, sale of Shares and other assets to the public, sale of Shares and other assets to institutional investors, compared with retention of ownership
of the Trust;

(c) a comparison of the Company's performance with the performance of other companies engaged in energy distribution and/or trading;

(d) the conclusion of the Trustees as to the most appropriate form of ownership together with an indication whether the conclusions are unanimous and, if the decision is not unanimous, a summary of the conclusions of the dissenting Trustees;

(e) the matters contained in paragraphs (a), (b), (c) and (d) of Clause 14.6 if a distribution of shares and other assets is recommended;

(f) a statement of the view of the Directors of the Company together with an indication
whether the conclusions are unanimous, and if the decision is not unanimous, a summary of the conclusions of the dissenting Directors;

(g) a statement as to whether or not the Trustees have had regard to any views expressed by the public with respect to ownership;

(h) a summary of the professional advice (if any) obtained in respect of the preparation of the report;

(i) a statement of the extent to which any proposals require a modification of the Company's Statement of Corporate Intent.

14.2 Public Availability: The Trustees shall make the report available to the public in accordance with Clause 11.

14.3 Consumer Consultative Procedure: The Trustees shall not later than one (1) month after the date of the report, implement the Consumer Consultative Procedure contained in Schedule III of this Deed.

14.4 Decision: Following completion of the Consumer Consultative Procedure, and in any event not later than eleven (11) years after the Resettlement Date, the Trustees shall decide (subject to Clause 14.8) whether to:

(a) retain the Shares and other assets of the Trust; or

(b) dispose of a portion of the Shares and other assets and retain the remainder in the Trust; or

(c) dispose of all the Shares and other assets; or

(d) dispose of the Shares in whole or in part in conjunction with or separately from any other part of the Trust Fund;

14.5 Notification of Decision: The Trustees shall notify the public in accordance with Clause 11 of the decision made in Clause 14.4.

A further extract

14.8 Subsequent Reviews: If following the initial review all or any of the Trust Fund is retained by the Trustees, the following provisions shall apply:

(a) Within ten (10) years of the decision of the Trustees on the initial review (referred to in Clause 14.4) the Trustees shall initiate a further review, and such review shall be completed in accordance with the preceding review provisions of Clause 14.1 to 14.7.

A further Extract

11. INFORMATION TO CONSUMERS

11.1 For the purpose of complying with any requirement under this Deed to make any document or information available to Consumers, it shall be sufficient for the Trustees to make such document or information available for inspection at any office of the Trust or any office of the Company or at any other place in the District during normal business hours on any business day.

11.2 The Trustees shall give not less than 5 days notice in a principal newspaper or newspapers circulating in the District of the place at which and the times when such documents or information may be inspected by Consumers.

A further Extract

SCHEDULE III

CONSUMER CONSULTATIVE PROCEDURE

In respect of any provision of this Deed which requires the Trustees to implement a Consumer Consultative Procedure, the Trustees shall:

(a) Place notice of the proposal before a meeting of the Trustees.
(b) Give notice of the proposal to Consumers in accordance with Clause 11 of the Deed.
(c) In every notice given under paragraph (b) of this schedule, specify a period within which Consumers interested in the proposal may make submissions on the proposal to the Trustees.
(d) Ensure that any Consumer who makes written submissions on the proposal within the period specified in the notice given under paragraph (b) of this Schedule is given a reasonable opportunity to be heard by the Trustees.
(e) Ensure that every meeting at which submissions are heard are open to Consumers.
(f) Make all written submissions on the proposal available to Consumers.

The period specified pursuant to paragraph (c) above shall be not less than one month and no more than three months

APPENDIX B

Sample of Advertisement Inviting Submissions – 24 September 2013

COUNTIES POWER
CONSUMER TRUST

OWNERSHIP REVIEW SUBMISSIONS INVITED

CLOSING 4 PM THURSDAY 24 OCTOBER 2013

The Trustees of Counties Power Consumer Trust are conducting a review of the ownership of the shares of Counties Power Limited, in accordance with the Trust Deed.
A report has been prepared on this topic and this includes the Trustees' conclusions on the most appropriate form of ownership for the Trust's assets, which include the shares in Counties Power Limited.

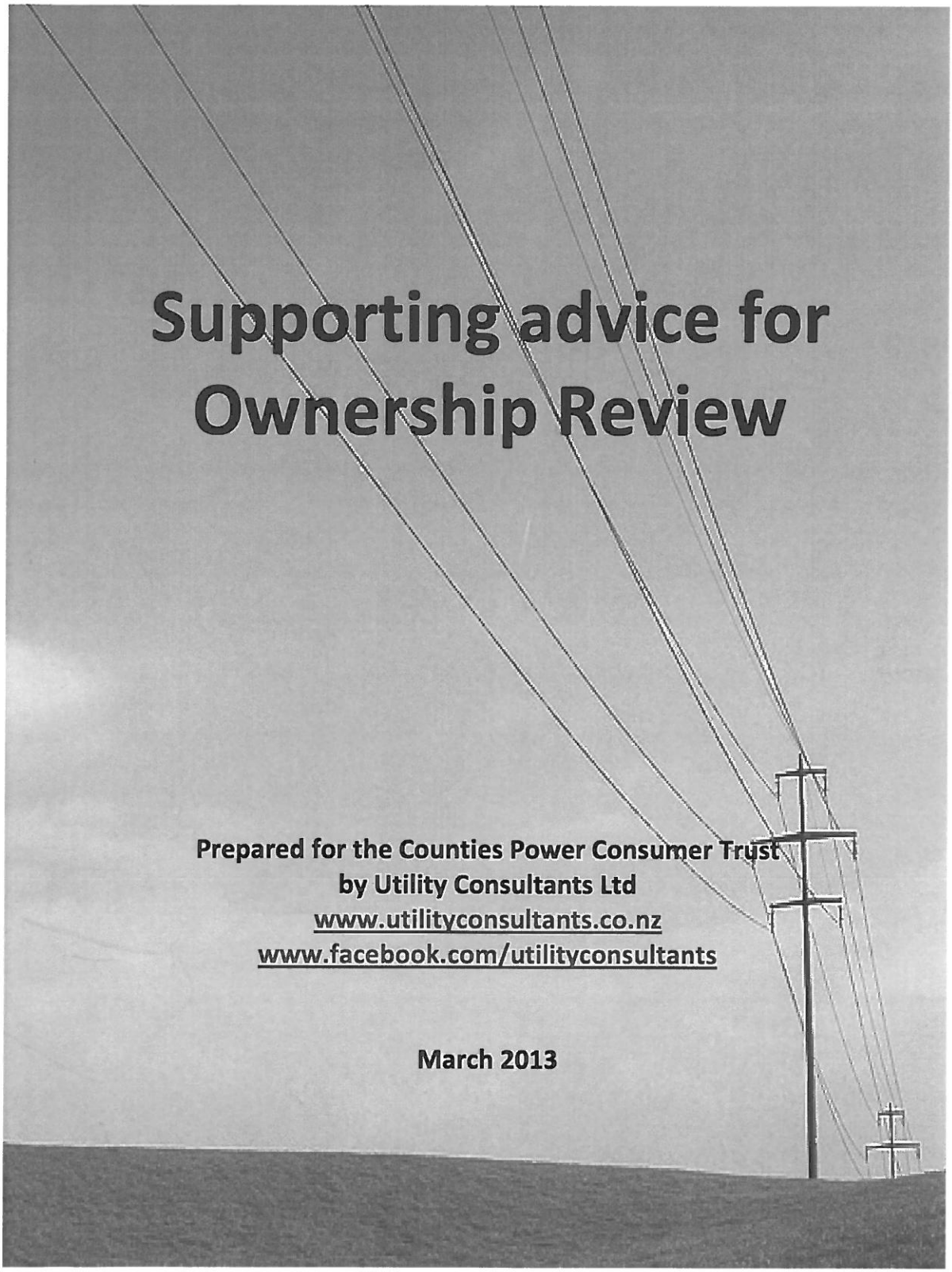
Copies of the Trust Deed and of the Ownership Review report may be inspected at the office of the Trust at the address below. Copies of these documents may be obtained without charge from www.countiespowertrust.org.nz

Written submissions are invited from consumers connected to the Counties Power Network. These must be received by the Trust Secretary by 4.00pm on Thursday 24 October.

All submissions received will be made public (via the website) on or about 31 October. Anyone who makes a written submission will have the opportunity to appear in person to speak in support of that submission at a public hearing to be conducted by the Trustees. Notice of such hearings will be given later, but it is expected to occur during the week of 11-15 November at a venue in Pukekohe. After the hearing the trustees will decide on the future ownership of the trust's assets.

Please address any submissions or queries to the Trust Secretary
Gail Riddell,
PO Box 580,
Pukekohe,
phone (09) 238 3780.

APPENDIX C


Supporting advice for Ownership Review
Prepared for the Counties Power Consumer Trust
by Utility Consultants Ltd
www.utilityconsultants.co.nz
www.facebook.com/utilityconsultants
March 2013

1. Introduction

1.1 Overview of Trust

The Counties Power Consumer Trust[1] ("Trust") is an energy trust formed in 1993 to hold the equity securities ("Shares") in Counties Power Ltd ("Company"). Each of the 5 Trustees of the Trust stands possessed of 3,000,000 Shares in the Company[2] on behalf of each of the Company's 37,000-odd connected electricity consumers ("Beneficiaries")[3].

The Trust's affairs and the Trustees conduct are governed by a Trust Deed[4] ("Deed") that was reviewed in August 2009.

1.2 Trust relationship to Company

The Trustees administration of the Trust is completely separate from the Directors administration of the Company. A key role of the Trustees is to appoint commercially experienced Directors[5], who in turn are responsible for the Governance of the Company[6]. Those Directors are appointed (or re-appointed) by a process that considers the skill sets required by the Directors and the performance of the Directors being considered for re-appointment, and includes the advice of a specialist recruitment consultant.

For the avoidance of doubt, the Trustees do not "run the Company" and their role in the Company's affairs is limited to *inter alia* approving or rejecting the Company's Statement of Corporate Intent. However the Directors consult with the Trustees over the strategic direction of the Company.

1.3 Ownership Review procedure

The requirements of the Ownership Review are set out in clause 14 of the Deed, and include a requirement for the Trustees to report on various matters and seek the views of both the Directors and the public in concluding whether the Trust should retain ownership of the Company.

1.4 Purpose of this report

1 http://www.countiespowertrust.co.nz/

2 http://www.business.govt.nz/companies/app/ui/pages/companies/580531/shareholdings

3 Technically, a distinction should be made between the Income Beneficiaries and the Capital Beneficiaries, because some energy trusts have provided for them to be different parties. In this case, they are the same, the connected network consumers.

4 http://www.countiespowertrust.co.nz/publications/general/TrustDeed_19Aug_09.pdf

5 http://www.countiespower.com/company.htm

6 And in turn, a key role of the Directors is to appoint a Chief Executive.

The purpose of this report is to provide independent advice to the Trustees in regard to the matters set out at clauses 14.1(a), 14.1(b) and 14.1(c) of the Trust Deed.

2. Summary of electricity distribution sector

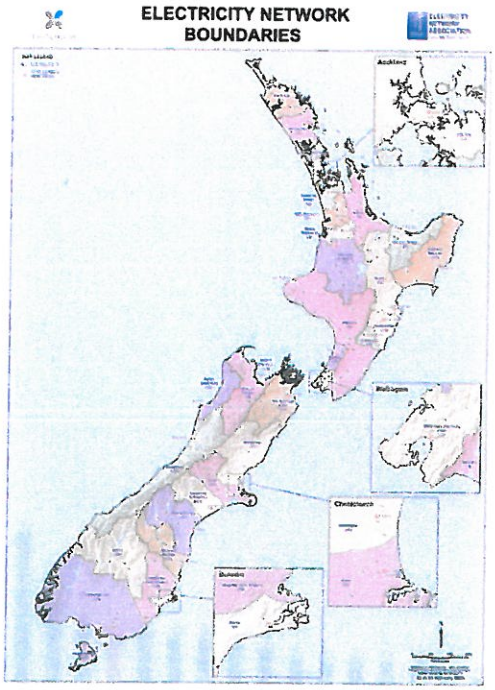
2.1 Trust Deed requirement

The Deed does not contain any specific requirement for the Trustees to consider the electricity distribution industry at large, however this has been included to provide some context for the analysis provided in subsequent sections.

2.2 Distribution sector structure

The NZ electricity distribution sector is comprised of 29 separate electricity distribution companies ("EDB's") as of June 2012, as shown in Figure 2.2(a) below[7].

Figure 2.2(a) – EDB's

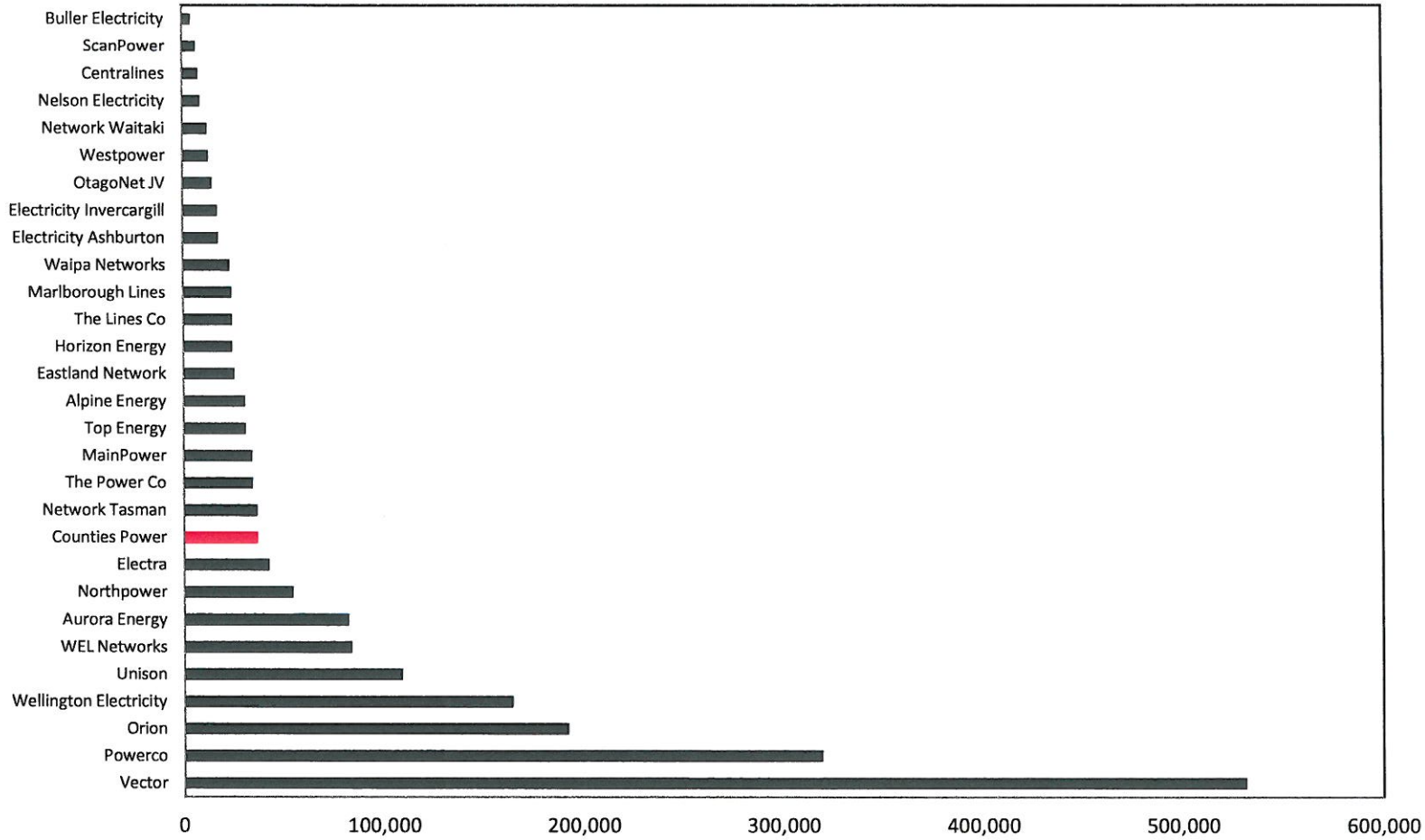


The size of these companies varies substantially with the largest company (Vector) having 526,800 connected consumers[8] and the smallest (Buller Electricity) having 4,400. This is shown in Figure 2.2(b) below, with the Company shown in red.

7 Provided by the Electricity Networks Association.

8 Connected consumers as of 31st March 2011, taken from Commerce Commission compiled disclosure information.

Table 2.2(b) - Distribution business consumer numbers



The period prior to the Trust's 2002 Ownership Review saw a number of amalgamations[9] of EDBs (none of which effected the Trust or the Company), whilst the period since then has seen much less amalgamation activity:

- The sale and subsequent disaggregation of United Networks in 2002[10,11] when US electric company Aquila exited the NZ electricity industry. This led to the following reconfigurations occurring:
    - Vector enlarging its business to include the Waitemata, Wellington and Hutt Valley networks.
    - Powerco enlarging its business to include the Tauranga and Thames Valley networks.
    - Hawkes Bay Network enlarging its business to include the Rotorua and Taupo networks (and rebranding as Unison Networks).
- The sale of the Natural Gas Corporation to Vector in 2005[12].
- The sale of the Wellington and Hutt Valley networks in 2008 by Vector to Wellington Electricity Distribution Network Ltd, a company 50% owned by Cheung Kong Infrastructure and 50% owned by Hong Kong Electric[13].
- The purchase of a non-controlling parcel of shares in Horizon Energy Distribution Ltd by Marlborough Lines Ltd in September 2009, which currently stands at 13.9%[14].

2.3 Ownership models

The distribution sector includes a range of EDB ownership models, as shown in Table 2.3(a) below. By number, most EDBs are fully owned by consumer trusts[15].

Table 2.3(a) – EDB ownership models

Ownership model	Distribution businesses
Full (100%) ownership by Trust	Top Energy, Northpower, Counties Power, WEL Networks, Waipa Networks, The Lines Company[16], Eastland Network[17], Unison Networks, Centralines, ScanPower, Electra,

9 http://www.utilityconsultants.co.nz/library/ODV MultipleAnalysis.ppt

10 This transaction also included a number of gas networks owned by United Networks that have been omitted from this discussion.

11 http://www.utilityconsultants.co.nz/library/pnw/pipeswires10.htm

12 http://www.utilityconsultants.co.nz/library/pnw/pipeswires44.htm

13 http://www.utilityconsultants.co.nz/library/pnw/pipeswires73.htm

14 http://www.business.govt.nz/companies/app/ui/pages/companies/599142/shareholdings

15 A consumer trust is a trust in which individual connected consumers are the income and capital beneficiaries, whilst a community trust is a trust in which the community at large benefits from the income and capital.

16 The Lines Company is actually 10% owned by the King Country Electric Power Trust and 90% owned by the Waitomo Energy Services Trust.

	Marlborough Lines, Network Tasman, Buller Electricity, Westpower, MainPower, Network Waitaki, The Power Company
Part ownership by Trust	Vector (75% owned by Auckland Energy Consumers Trust), Horizon Energy (77% owned by Eastern Bay Energy Trust).
Owned by councils	Orion, Alpine Energy (majority owned by 3 councils, part ownership by a Trust), Electricity Ashburton (council holds non-voting shares)[18], Aurora Energy, Electricity Invercargill
Owned by other EDBs	Nelson Electricity, OtagoNet JV
Owned by private companies	Powerco, Wellington Electricity

It has been observed that full ownership by a (consumer) Trust provides a high degree of alignment between surpluses from the EDB and that EDBs investment in a reliable electricity supply, certainly higher than in non-beneficially owned EDBs where there is a tension between investing in supply reliability and paying dividends to non-beneficial owners.

2.4 Sector regulation

The EDB sector is currently heavily regulated, principally by the Commerce Commission under various mandates stemming from Part 4 of the Commerce Act 1986, but also by other agencies such as the Electricity Authority.

In regard to regulation of revenue, the EDB sector has effectively been subject to 3 significantly different periods of regulation:

- Prior to 2003, EDBs were subject only to "light-handed" regulation by way of an Information Disclosure regime which required all EDBs[19] to publically disclose a wide range of performance information to allow inter-company comparisons ostensibly to ensure that each EDBs price and supply reliability were "fair" and did not include any monopoly profits.

- From the period 2003 to 2008, EDBs were subject to price path threshold regulation under Part 4a of the Commerce Act 1986. This imposed individually calculated price and supply quality constraints on each EDB, and provided for the Commerce Commission to investigate and potentially declare control of an EDB that exceeded either threshold without a sound reason.

- From 2008 onwards, EDBs that meet 4 criteria[20, 21] that have the practical effect of beneficial ownership[22] are exempt from revenue control. Those EDBs that do not meet all 4 of those criteria

17 Eastland Network is owned by the Eastland Community Trust, of which the Gisborne District Council is the ultimate capital beneficiary.

18 http://www.electricityashburton.co.nz/About/Ownership.asp

19 For at least part of that time, lines were part of a vertically integrated energy companies.

20 s54D(1) of the Commerce Act 1986.

continue to have their revenues and supply reliability constrained by a Default Price Path[23] (DPP), with the option of applying for a Customised Price Path (CPP) if that EDB believes that a DPP cannot adequately fund its activities and maintain investor interest.

The Company is currently exempt from the DPP as it meets all 4 of the criteria[24], however s54h of the Commerce Act does provide for an EDB to lose its exempt status under certain circumstances[25].

2.5 Summary of sector changes since last Ownership Review

Key changes to the EDB sector since the last ownership review include:

- The sale and disaggregation of United Networks to 3 other EDBs in 2002.
- A consolidation of gas and electricity following Vector's purchase of Natural Gas Corporation in 2005.
- The formation of Wellington Electricity Lines in 2008.
- The imposition and subsequent repeal of a regulatory regime that needlessly included trust-owned EDBs.

21 It is noted that the Trust needed to substantially revise the Trust Deed by removing all provisions for appointing Trustees. It is also noted that other lines trusts did likewise.

22 It is noted that even though Network Tasman is 100% trust-owned, it did not meet these 4 criteria because the Trust Deed provides for an appointed Trustee. It is understood that similar issues have arisen with other Trust's where the Deed provided for a vacated seat to be filled by co-opting rather than by a by-election.

23 Subpart 6 of Part 4 of the Commerce Act 1986.

24 http://www.comcom.govt.nz/treatment-of-consumer-owned-electricity-distribution-businesses/

25 http://www.legislation.govt.nz/act/public/1986/0005/latest/DLM1940043.html

3. Trust performance & ownership

3.1 Trust Deed requirement

Section 14.1(a) of the Deed requires the Trustees to:

- Analyse the performance of the Trust.
- Summarise the advantages and disadvantages of Trust ownership.
- Summarise the benefits of Trust ownership to Consumers.

3.2 Performance of the Trust

3.2.1 Trusts chosen for comparison

The following energy trusts have been chosen to compare the Trust's performance to:

Trust	Corresponding EDB	Number of beneficiaries[26]
Top Energy	Top Energy Ltd, the EDB in the Far North area.	31,002
Northpower	Northpower Ltd, the EDB in the Whangarei and Kaipara areas.	54,416
WEL	WEL Networks Ltd, the EDB in the central and northern Waikato areas.	83,614
Waipa	Waipa Networks Ltd, the EDB in the Te Awamutu and Cambridge areas.	23,519
Electra	Electra Ltd, the electricity distribution business in the Horowhenua and Kapiti areas.	42,483
Network Tasman	Network Tasman Ltd, the EDB in the Richmond, Stoke, Golden Bay and Murchison areas excluding the metro Nelson area.	36,679
Westpower	Westpower Ltd, the EDB in the Greymouth, Hokitika and Franz Josef areas.	12,876
MainPower	MainPower Ltd, the EDB in the North Canterbury area.	34,247
Southland	The Power Company, the EDB in the Southland area excluding the metro Invercargill area.	34,431

26 Connected consumers as of 31st March 2011, taken from Commerce Commission compiled disclosure information.

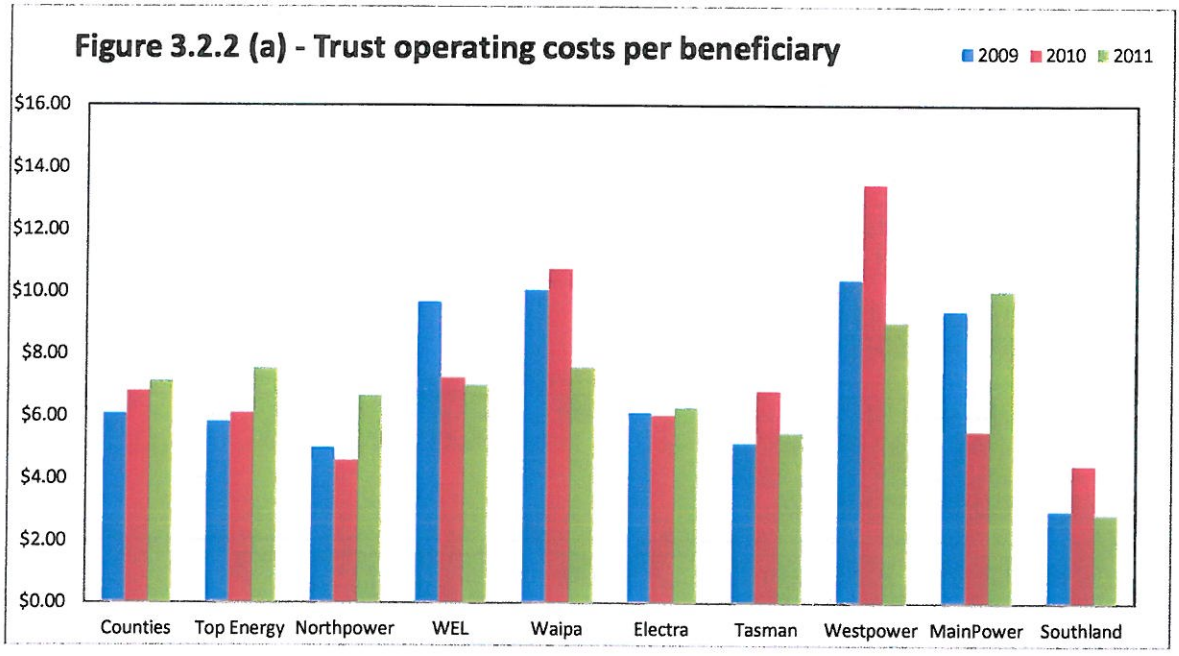
The reasons for choosing these trusts for comparison are:

- Each of these energy trusts' owns 100% of the corresponding electricity distribution business, and is therefore unlikely to have to spend time working with other shareholding entities that may not share a similar view of consumer ownership.

- None of these energy trusts has had to spend time or obtain consultants advice on issues such as unsolicited takeovers.

3.2.2 Operating costs per beneficiary

Figure 3.2.2(a) below shows the operating costs per beneficiary for each of the identified trusts. This indicates that the Trust's operating costs per beneficiary are comparable with similar trusts[27, 28, 29].



3.3 Advantages & disadvantages of trust ownership

27 In making this comparison, it must be noted that these trusts will incur different level of operating costs eg. Counties holds elections every 2nd year, whilst other trusts tend to run on a 3 yearly cycle in conjunction with council and health board elections.

28 It is noted that some of these Trusts such as Top Energy have secretarial services provided by the respective companies at no direct cost to the Trust , so those Trust's costs may not be directly comparable.

29 It is also noted that Southland is charged less than market fees by The Power Company for secretarial and administrative services.

This section examines the advantages and disadvantages of (continued) trust ownership, and identifies whether each respective advantage or disadvantage is dependent on the Trust holding a 100% stake in the Company. These issues are discussed in Table 3.3(a) below:

Table 3.3(a) – Advantages & disadvantages of Trust ownership

Issue	Advantage / disadvantage	Comment	Dependent on 100% trust ownership
Consumer benefits			
• Shareholder value remains totally consumer owned.	Advantage	Avoids the tension between investing in supply reliability and paying dividends to non-beneficial owners.	Yes
• All of the Company's earnings attribute to the consumers.	Advantage		No, but earnings obviously attribute in proportion to stake held
• Any sale of a large tranche of the Company shares by the Trust would be likely to yield a greater per-share value than if small groups of shares were "mopped up" by an acquiror directly from the consumers.	Advantage	A trust would be more likely to take sound advice on whether an offer is fair[30].	No
• The Trust is likely to "look after" consumers interests (particularly pricing), even if the formal governance mechanisms prohibit the Trust influencing pricing policy.	Advantage		No, but would still require a controlling stake
• Properly structured tariffs and views on distributing income (especially via a "break even" approach) may reduce the tax payable by the Company.	Advantage	Less of the "community wealth" leaks out as tax.	Yes
• Further inequities arising from re-defining the eligibility for benefit allocations will be minimised.	Advantage	Dependent on exactly how the distribution role is struck.	Yes

30 There was plenty of evidence from the energy company share give-aways of the mid-1990's that most individual shareholders had little if any understanding of the value of their shares and rapidly on-sold them.

• The consumers' investment is fully exposed to the electricity industry vagaries, particularly the risk of line price control[31].	Disadvantage	This is less of an issue since the repeal of Part 4a of the Commerce Act 1986, but none-the-less some risk remains.	Yes, although proportional to stake held.
• The consumers' investment is fully exposed to the technological risk associated with delivery of mass-produced energy through poles and wires.	Disadvantage	Improved technologies make this an increasing risk.	Yes, although proportional to stake held.
• Capital gains due to the performance of the Company or to other industry factors are unlikely to reflect through to the shareholder value as they could if the shares were tradable.	Disadvantage	Difficult to reflect this with an asset re-valuation.	No, trust could hold listed shares.
• A strong focus on consumer ownership by the Trust could lead to worthwhile amalgamation opportunities being ignored or discarded due to a fervent focus on "local ownership".	Disadvantage		No, a trust holding a lesser but controlling stake could still veto a worthwhile amalgamation offer.
Governance			
• The present Trust Deed requires regular formal reviews of ownership, ensuring that a substantial consumer investment is subject to regular scrutiny.	Advantage		No, a trust holding a lesser but controlling stake could still initiate regular scrutiny
• Resolution of shareholder issues should be easier with a trust than with a widely spread group of potentially conflicting interests.	Advantage		Yes, as a trust holding even a controlling stake may still need to deal with directors appointed by shareholders with different views.
• Any new investors in the Company (should the Trust decide to sell a stake) would probably find it easier to deal with a trust as opposed to a widely spread group of shareholders.	Advantage		No (because by definition if the trust sells, it will hold less than 100%)
• Any minority investor in the Company (should the Trust decide to sell a	Advantage		No (because by definition if the trust sells, it will hold

31 By way of explanation, because the Trust only owns an EDB, all of its investment is exposed to EDB regulatory risk. If the Trust were to sell a stake in the Company and then invest in other sectors (say a balanced portfolio) then the Trust's and hence the Beneficiaries risk exposure would be reduced. A useful example may be Auckland Airport diversifying its shareholders' risk by buying stakes in Queenstown, Cairns and McKay Airports (noting that the commercial and regulatory risk faced by each airport hasn't changed). It is important to distinguish this from the Company's exposure to EDB-sector risk, which is independent of ownership.

stake) would be less likely to successfully force their will upon a trust than upon a widely spread group of small shareholders who lack any obvious "push back" mechanism.			less than 100%)
• All of the directors are accountable to the same shareholder ie. there are no factions on the Board representing different shareholders.	Advantage	Even if the trust holds a controlling stake, directors appointed by other shareholders may cause the Board to deviate from the trust's views.	Yes
• Absence of conflicting goals amongst different shareholders.	Advantage	Although a trust holding a controlling stake would probably gets its way, achieving that could prove more difficult than with a simple 100% trust-owned structure.	Yes
• Directors will probably be more accountable to a trust than to a widely spread group of small shareholders.	Advantage	Each director will be accountable to an appointing shareholder, which may have different views from the trust.	Yes
• The present Trust provides a stable environment for the Board and Management to focus on supply reliability and cost minimisation.	Advantage		Not entirely, but 100% trust ownership provides the smoothest path.
• Present election arrangements helps maintain the accumulated experience of the Trustees.	Advantage	Maintaining trustee experience is not dependent on the trust's stake, however those trustee's influence is.	No
Industry structure, positioning & ownership			
• Provides a more robust defence against unwanted acquisitions of the Company.	Neutral	A trust is more likely to seek sound advice, but then could also reject fair offers.	No, only a controlling stake is required.
• A trust would be more likely to carefully evaluate an acquisition bid than small shareholders would.	Advantage	Could also reject fair offers despite trust beneficiaries wanting to sell.	No, trustee's diligence would not depend on stake held.
• Continued trust ownership would prevent minority interests gaining effective control.	Advantage	Depending on how the company's constitution is written, even a small shareholder may be able to veto Board decisions.	No, requires only a controlling stake.
• Low cost of maintaining the share register and performing other related	Advantage		Yes

activities.			
• May limit the Company's ability to raise equity for future development.	Disadvantage	Hasn't proved to be a problem simply for funding routine electricity distribution works	No, could occur with less than a 100% stake.
Operating costs			
• Existing Trust arrangement incurs election expenses every second year.	Disadvantage	Although this is a disadvantage it is probably a lower cost option than other ownership models	No, would be incurred regardless of the trust's stake.
• The Trust's decisions represent the majority of consumers' wishes, and by default will probably not represent those who would prefer the cash rather than an "on behalf of" stake in the Company.	Disadvantage	A possible advantage is that those individuals who would prefer the cash may be prevented from selling their stakes too cheaply.	No, requires only a controlling stake.

3.4 Benefits of trust ownership to consumers

The benefits to consumers of 100% trust ownership include:

- The discounts and dividends paid by the Company to its shareholder(s) attribute to the connected consumers rather than to a third party[32]. Alternatively, if the Company was to operate on a "break-even" basis, an equivalent value would've attributed to consumers through lower line charges.

- A trust is more likely to seek external advice and more able to afford external advice on either continued ownership or disposing of the shares in the Company, almost certainly more than individual shareholders might.

- A single shareholder is likely to lead to a Board that is more united, and able to give its efforts to improving company performance rather than reconciling potentially competing shareholder interests.

The key disadvantages of 100% trust ownership include:

- All of the trust's investment is subject to regulatory risk, although it is noted that this risk is lower than what it was at the time of the 2002 Ownership Review.

  All of the trust's investment is subject to technology stranding risk. It is noted that advances in new embedded generation technologies, advances in nett metering and a requirement to continue supply post-2013 have increased this risk.

32 This amounts to about $112m that has been retained within the Franklin community.

4. Other ownership options

4.1 Trust Deed requirements

Section 14.1(b) of the Deed requires the Trustees to:

- Analyse other ownership options.
- Compare these options with continued Trust ownership.

4.2 Other ownership options

4.2.1 Ownership options

A range of possible ownership options for the Company are shown in Table 4.2.1(a) below:

Table 4.2.1(a) – ownership options

Decreasing degree of Trust ownership →

Options ↓

	Total	Controlling	Minority	None
Retain full trust ownership	1(a)	1(b)	1(c)	1(d)
Give away shares to recognised capital beneficiaries	2(a)	2(b)	2(c)	2(d)
Give away shares on some other basis	3(a)	3(b)	3(c)	3(d)
Form a co-operative company	4(a)	4(b)	4(c)	4(d)
Sell shares to another EDB for cash	5(a)	5(b)	5(c)	5(d)
Amalgamate the company with another EDB in return for shares in the enlarged company	6(a)	6(b)	6(c)	6(d)
Place shares into some other defined ownership structure (other than cooperative)	7(a)	7(b)	7(c)	7(d)
Publicly list the shares on the NZX, NZAX or similar market	8(a)	8(b)	8(c)	8(d)

4.2.2 Discussion of options

Option 1 - Retain full trust ownership

- Options 1(b), 1(c) and 1(d) cannot physically occur, and are eliminated from any further discussion[33].

Option 2 - Give away shares to recognised capital beneficiaries

- Possible options include giving away shares in the Company to the recognised capital beneficiaries such that the Trust would retain a Controlling stake, a Minority stake or No stake. It was observed during the energy company share give-aways of the 1990's (EnergyDirect and Power New Zealand) that most of those shares were rapidly on-sold at the brokers' caravans parked in shopping malls, and that the accumulated capital of 70 years was largely frittered away.

- If the Trust is of a mind to "cash up" and return the sale proceeds to the capital beneficiaries, Options 5(b), 5(c) or 5(d) wherein the Company is sold for cash to another EDB by competitive tender would probably yield a higher per-share price.

- A further issue that applies to Option 2 (and also to Options 3 and 5) is that of the current capital beneficiaries effectively withdrawing the accumulate capital of past generations (dating back to 1924) rather than leaving that capital for the benefit of future generations.

Option 3 - Give away shares on some other basis

These options would see varying stakes in Counties Power Ltd allocated on some other basis. Possible options for allocation might include...

- Registered electors (as in the case of Power New Zealand in the early 1990's).

- District councils within the network area on some yet-to-be-defined basis. It is noted that the only energy company whose ownership defaulted to a district council as per the 1992 establishment process was Egmont Electricity whose boundaries corresponded to the South Taranaki District Council.

The major difficulties with these options are....

- It may require amendments to the Trust Deed to allocate shares to parties other than those already defined (the capital beneficiaries).

- Any further basis of allocation may not be on the basis of electricity related factors such as number of connections, maximum demand, energy consumption etc, thereby creating a further inequity eg. as noted above, the basis for distributing the Power New Zealand shares was the electoral roll.

- There could be the possibility of legal challenges to an alternative distribution basis.

- The councils may simply sell their shares with no guarantee that the proceeds would be used to compensate the "right" beneficiaries through rate relief commensurate with the expected returns

33 By way of explanation, if the Trust retains a 100% stake in the Company it cannot also hold a lesser stake. Similarly, if shares are given away, the Trust cannot retain 100% ownership.

from the Company. It is noted that when the South Taranaki District Council sold its 100% stake in Egmont Electricity to Powerco, the sale proceeds became subject to additional provisions of the South Taranaki District Council (Egmont electricity Limited Sale Proceeds) Act 1999[34].

Option 4 - Form a cooperative company

- A cooperative arrangement in which a shareholding in the Company is attached to an electricity connection would be a philosophically sound approach, albeit at the additional cost of establishing and maintaining a share register.
- It is noted that in 2002 the then Trustees did not wish to consider these options.

Option 5 – Sell shares to another EDB

- As noted above, this option would be more likely to yield a higher per-share price for capital beneficiaries, as opposed to each beneficiary on-selling their own parcel of shares.
- Option 5(d) would probably yield the highest per-share price as a full amalgamation and release of synergies could occur. This would be difficult to achieve with options 5(b) and 5(c).
- It is not clear that there are any obvious buyers for the Company.

Option 6 – Amalgamate the Company with another EDB in return for shares in the enlarge company

- Option 6(d) is essentially a sub-set of Option 5(d) in which the Trust would receive shares in the enlarged acquiror rather than cash. This would be similar to how the Hutt-Mana Energy Trust exchanged its' 25% stake in Trans Alta for a 10% stake in the enlarged NGC.
- Options 6(b) and 6(c) would be difficult to achieve, and would not release amalgamation synergies.

Option 7 – Place shares into some other defined ownership structure

- This option provides for placing varying stakes in the Company into another yet-to-be-defined ownership structure.
- This is likely to result in additional inequities[35] in distributing benefits (as in Option 3) and is also likely to result in additional costs.

Option 8 – publicly list shares in the Company.

- Listing would provide a truer measure of the Company's value. However this would only occur as the shares actually traded, hence Option 8(a) would be somewhat self-defeating.

34 http://www.legislation.govt.nz/act/local/1999/0005/latest/DLM85301.html

[35] The phrase "additional inequities" is used here to reflect the fact that the current basis of distribution by a roll struck at 1 time includes an implicit inequity by not recognising a consumers duration of connection ie. someone who moves into the area a month before the distribution roll is struck has a greater entitlement than a consumer of 40 years who left the area a month before the roll is struck.

- Option 8(b) would allow potentially unwanted shareholders to gain a stake, possible to the point of being able to appoint 1 director to the Company's Board.

- Option 8(d) runs the risk of no buyers emerging. In this instance, Option 5(d) would probably have lower risks and lower costs.

4.3 Comparison with continued Trust ownership

4.3.1 Identifying a basis for comparison

In order to compare the options set out in Section 4.2.1 above it is necessary to define an objective basis for making that comparison. The following bases have been considered:

- The Deed does not embody any obvious preference for retaining ownership of the Company, but does however set out the procedures to be followed under certain circumstances such as disposal of more than 25% of the Company or any major transaction that would modify the rights of shareholders.

- The Statement of Corporate Intent[36] (of the Company) lists Objective (i)a as "providing a quality service at a competitive price for the benefit of its customers". Whilst other ownership models have demonstrably provided quality service at a competitive price[37], they would arguably not be doing so for the "benefit of its customers".

- The Statement of Corporate Intent lists Objective (i)b as "endeavour to provide its customers with an annual discount...". This would be difficult if not impossible to achieve with any ownership model other than 1(a).

- The Statement of Corporate Intent lists Commercial Performance objective (ii) as delivering an after-tax rate of return of 8% before customer discounts. The effect of customer discounts is to reduce the cost of equity and hence prices which a third-party owner would not be able to do.

- The Statement of Corporate Intent lists Commercial Performance objective (iv) as maintaining a SAIDI of 85 minutes. While this would certainly be possible with other ownership models, it is noted that non-beneficial ownership introduces a tension between paying dividends and investing in supply reliability.

- The analysis in Section 3.3 above notes that all of the Trust's investment is exposed to electricity distribution sector regulatory risk.

- The analysis in section 3.3 above notes that all of the Trust's investment is exposed to technology stranding risks.

- The likely costs of establishing and maintaining each option over and above continuing with 100% Trust ownership.

36 http://www.countiespowertrust.co.nz/publications/financial_statements/2011_Sect_2.pdf

37 The issue of "competitive price" will always be arguable for a monopoly business.

4.3.2 Defining the measures of comparison

The analysis in Section 4.3.1 above has identified several issues that each option can be compared against to derive a score or preference. These issues, along with suitable weightings (on a 1 to 10 scale), are shown in Table 4.3.2(a) below:

Table 4.3.2(a) – defining and weighting the measures of comparison

Issue	Weighting	Reason for weighting
Company works for the "benefit of its customers"	8	This has been assigned a weighting of 8 out of 10 because beneficial (ie. 100% Trust) ownership is more likely to ensure that the Company works for the benefit of its customers.
"Endeavour to provide ... an annual discount"	10	This has been assigned a weighting of 10 out of 10 because it is considered that while any degree of Trust ownership can provide an annual customer discount, that discount would be maximised under 100% Trust ownership.
Reduce effective cost of equity to significantly less than a commercial rate[38], thereby lowering prices	10	This has also been assigned a weighting of 10 out of 10 because it is considered that 100% Trust ownership would maximise this benefit.
Maintaining SAIDI at 85 minutes	5	This has been assigned a weighting of 5 out of 10 as it is considered that other forms of ownership could also maintain SAIDI at 85 minutes.
Minimise exposure of Trust's investment to sector regulatory risk	2	This has been assigned a weighting of 2 out of 10 as it is considered that the sector regulatory risk is now very low.
Minimise exposure of Trust's investment to technology stranding risks	3	This has been assigned a weighting of 3 out of 10 as it is considered to be an emerging risk as technologies advance.
Costs of establishing and maintaining each option over and above that of continuing with 100% Trust ownership.	10	This has been assigned a weighting of 10 out of 10 as it considered that keeping the overall costs of ownership low is a key objective of the current Trustees.

4.3.3 Scoring the measures of comparison

The scores that will be applied to each option (and multiplied by the respective weights) are set out in Table 4.3.3(a) below.

Table 4.3.3(a) – Scoring matrix

+2	Option addresses the principle very well
+1	Option addresses the principle
0	Option does not address or fails to address the principle (neutral)

38 Because the dividends flow back to the consumers at least part of the cost of capital is being refunded, as distinct from flowing to a third party.

-1	Option fails to address the principle
-2	Option significantly fails to address the principle

4.3.4 Scoring each option

The score assigned to each option against each issue, along with the total scores, are shown in Table 4.3.4(a) below.

Table 4.3.4(a) – Scoring of each option

	"Benefit of customers"	Annual discount	Lower prices	Maintain SAIDI	Regulatory risk exp.	Technology risk exp.	Cost of option	**Score**
Weighting	8	10	10	5	2	3	10	
1(a)	+16	+20	+20	+5	-4	-6	0	+51
2(b)	+8	0	-10	0	-2	-3	-20	**-27**
2(c)	0	0	-10	0	+2	+3	-20	**-25**
2(d)	-16	0	-10	0	+4	+6	-20	**-36**
3(b)	-16	-10	-10	0	+4	+6	-10	**-36**
3(c)	-16	-10	-10	0	+4	+6	-10	**-36**
3(d)	-16	-10	-10	0	+4	+6	-10	**-36**
4(b)	+16	+20	+10	+5	+2	+3	-20	+36
4(c)	+16	+20	+10	+5	+2	+3	-20	+36
4(d)	+16	+20	+10	+5	+4	+6	-20	+41
5(b)	+8	+10	-10	0	+4	+6	-10	**+8**
5(c)	+8	-20	-10	0	+4	+6	-10	**-22**
5(d)	+16	-20	-10	0	+4	+6	-10	**-14**
6(d)	+8	+10	+10	+5	-4	-6	-10	**+13**
7(b)	0	-20	-10	0	+4	+6	-10	**-30**
7(c)	0	-20	-10	0	+4	+6	-10	**-30**
7(d)	0	-20	-10	0	+4	+6	-10	**-30**
8(a)	+8	+20	+20	0	0	0	-20	+28
8(b)	0	+10	+10	0	-2	+3	-20	**+1**
8(c)	-8	-10	-10	0	-2	+3	-20	**-47**
8(d)	-8	-20	-20	0	+2	0	-20	**-66**

The above table clearly shows that Option 1(a) – retain 100% Trust ownership best fulfils the identified objectives, with forming a cooperative or listing both falling a distant second choice.

4.3.5 Estimated costs of other options

The estimated costs of establishing and maintaining some of the other options are shown in Table 4.3.5(a) below on a per-beneficiary basis:

Table 4.3.5 – Estimated costs of other ownership options

Option(s)	Establishment cost	On-going cost
1(a) Maintain 100% Trust ownership	Nil	$6 to $7 per Beneficiary per year
4(a) – 4(d) Form a cooperative	About $7 per Beneficiary	$6 to $7 per Beneficiary per year
8(a) – 8(d) List on an exchange	About $9 per Beneficiary	About $8 per Beneficiary per year

The above table indicates that the on-going costs of either a cooperative or listing are similar to that of continued Trust ownership. However the one-off costs to establish either ownership model would be about $7 to $9 per beneficiary.

It is also to be noted that both of those options fulfils the ownership objectives set out in the various governance documents less successfully than continued Trust ownership.

5. Company performance

5.1 Trust Deed requirements

Section 14.1(c) of the Deed requires the Trustees to:

- Compare the Company's performance with that of other companies.

5.2 Company performance

5.2.1 Identifying suitable comparative measures

The following comparative measures have been considered:

- Operating costs (OpEx) and transmission costs (Tx.
- Profitability.
- Delivered energy price.
- Supply reliability.

5.2.2 Identifying suitable peer EDB's

Suitable peers to compare the Company against have been identified as follows[39]:

EDB	Customer density (customer / km)	Customer demand (kVA / customer)	Capital price ($RAB[40] / customer)	SAIDI (minutes)
Company	12.0	2.6	$3,850	120
MainPower	7.5	2.7	$4,750	117
Network Tasman	10.8	4.1	$3,730	136
Waipa Networks[41]	11.2	2.8	$3,101	117

5.2.3 Performance comparisons

Figures 5.2.3(a) to (h) show the identified performance measures, with comparisons as follows:

Fig.	Measure	Basis for adopting measure	Company performance
5.2.3(a)	(OpEx + Tx) per km of	Transmission costs (Tx) have been	Towards high end of peer

39 These calculated measures are 4 year averages of Information Disclosure data. The choice of peer EDB's is based on Utility Consultants' methodology.

40 RAB is the Regulatory Asset Base, which is the EDB's asset valuation.

41 Waipa Networks did not provide additional data to compile more extensive measures.

	system length.	included to ensure that any trade-offs between OpEx and Tx are reflected.	group.
5.2.3(b)	(OpEx + Tx) per consumer.	Transmission costs (Tx) have been included to ensure that any trade-offs between OpEx and Tx are reflected.	Around middle to low end of peer group.
5.2.3(c)	EBIT derived from line charges per ICP per $ of line revenue	When a consumer pays $1 in line charges on a post-discount basis, what EBIT does the company earn from electricity distribution services ?	Around middle to lower end of peer group.
5.2.3(d)	Total company EBIT per ICP per $ of line revenue.	When a consumer pays $1 in line charges on a post-discount basis, what EBIT does the company earn from all sources ?	Toward lower end of peer group.
5.2.3(e)	Average cost per kWh supplied to all ICP's	How much (on average) does a consumer pay on a post-discount basis to have 1kWh delivered to their connection point ?	Lower than peers.
5.2.3(f)	Average cost per kWh supplied to all ICP's excluding the 5 largest.	How much (on average) do consumers (excluding the 5 largest) pay on a post-discount basis to have 1kWh delivered to their connection point ?	Lower than peers.
5.2.3(g)	SAIDI minutes excluding significant natural events.	To remove the distorting effect of significant storms and other natural events from the disclosed SAIDI.	Varies from high to low end of peer group.
5.2.3(h)	Faults per 100km excluding significant natural events.	To remove the distorting effect of significant storms and other natural events from the disclosed faults per 100km.	Significantly lower than the 1 peer for which data was available.

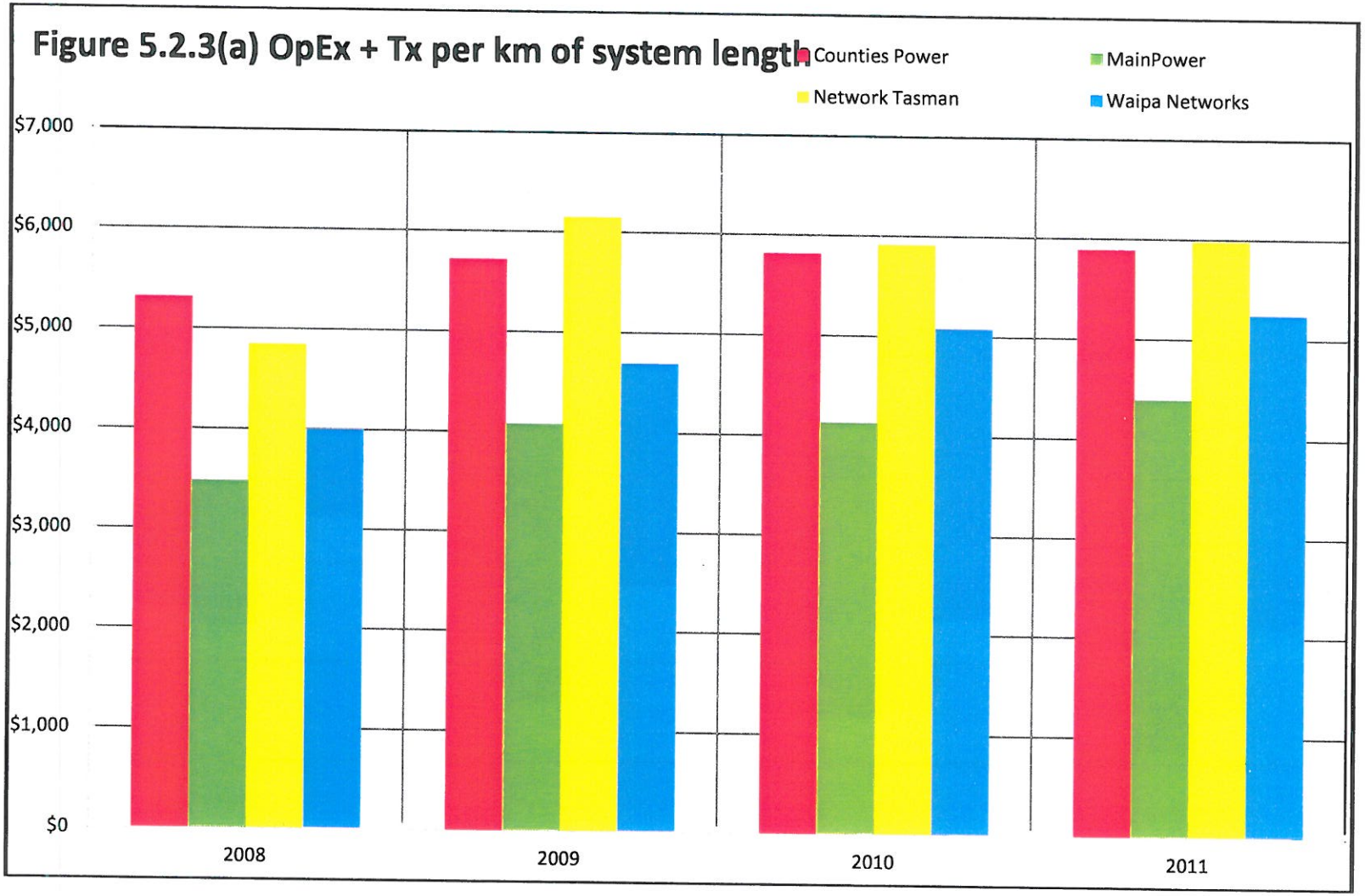


Figure 5.2.3(a) OpEx + Tx per km of system length
Counties Power
MainPower
Network Tasman
Waipa Networks
$7,000
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
$0
2008
2009
2010
2011

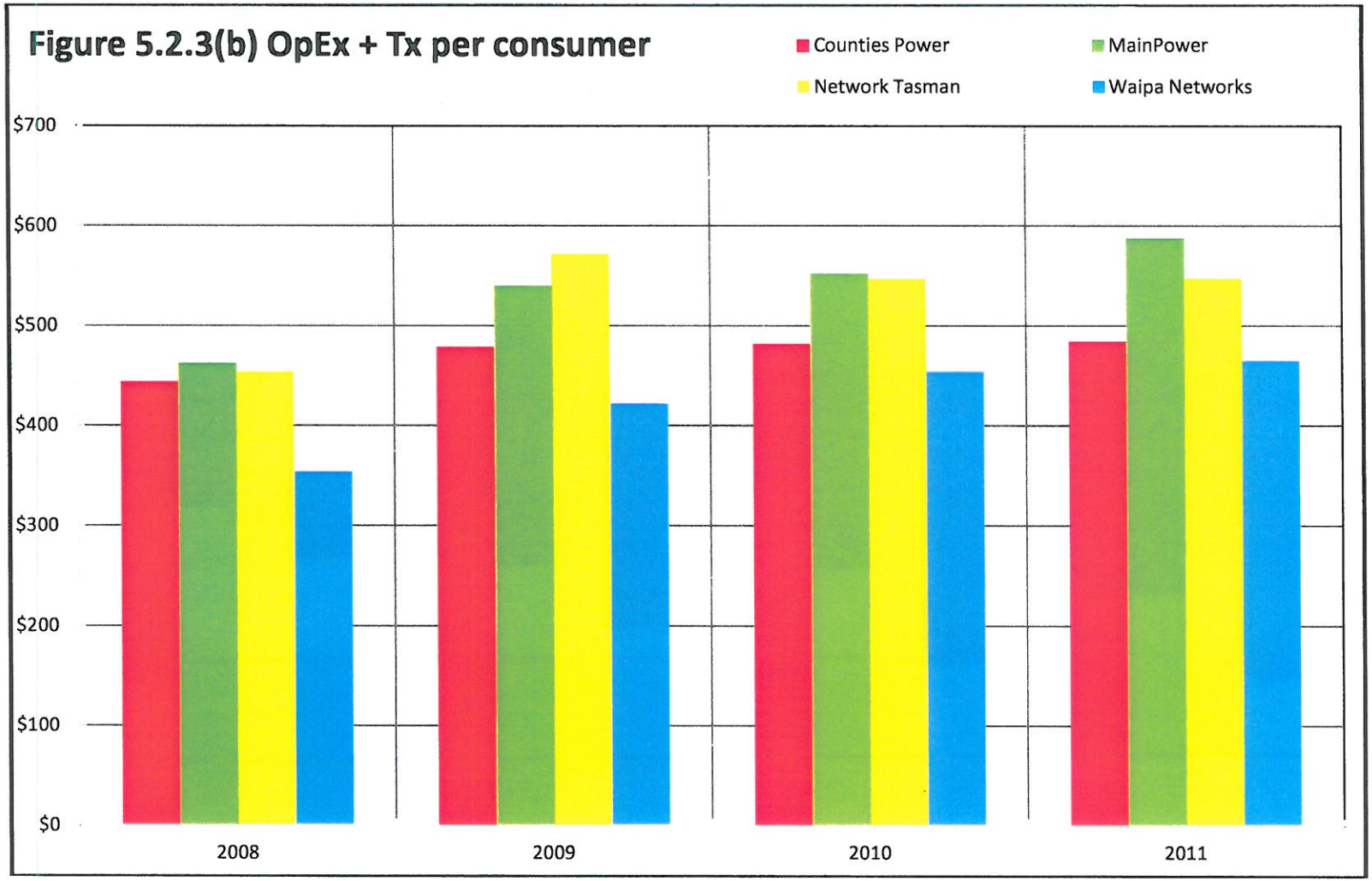


Figure 5.2.3(b) OpEx + Tx per consumer
Counties Power
MainPower
Network Tasman
Waipa Networks
$700
$600
$500
$400
$300
$200
$100
$0
2008
2009
2010
2011

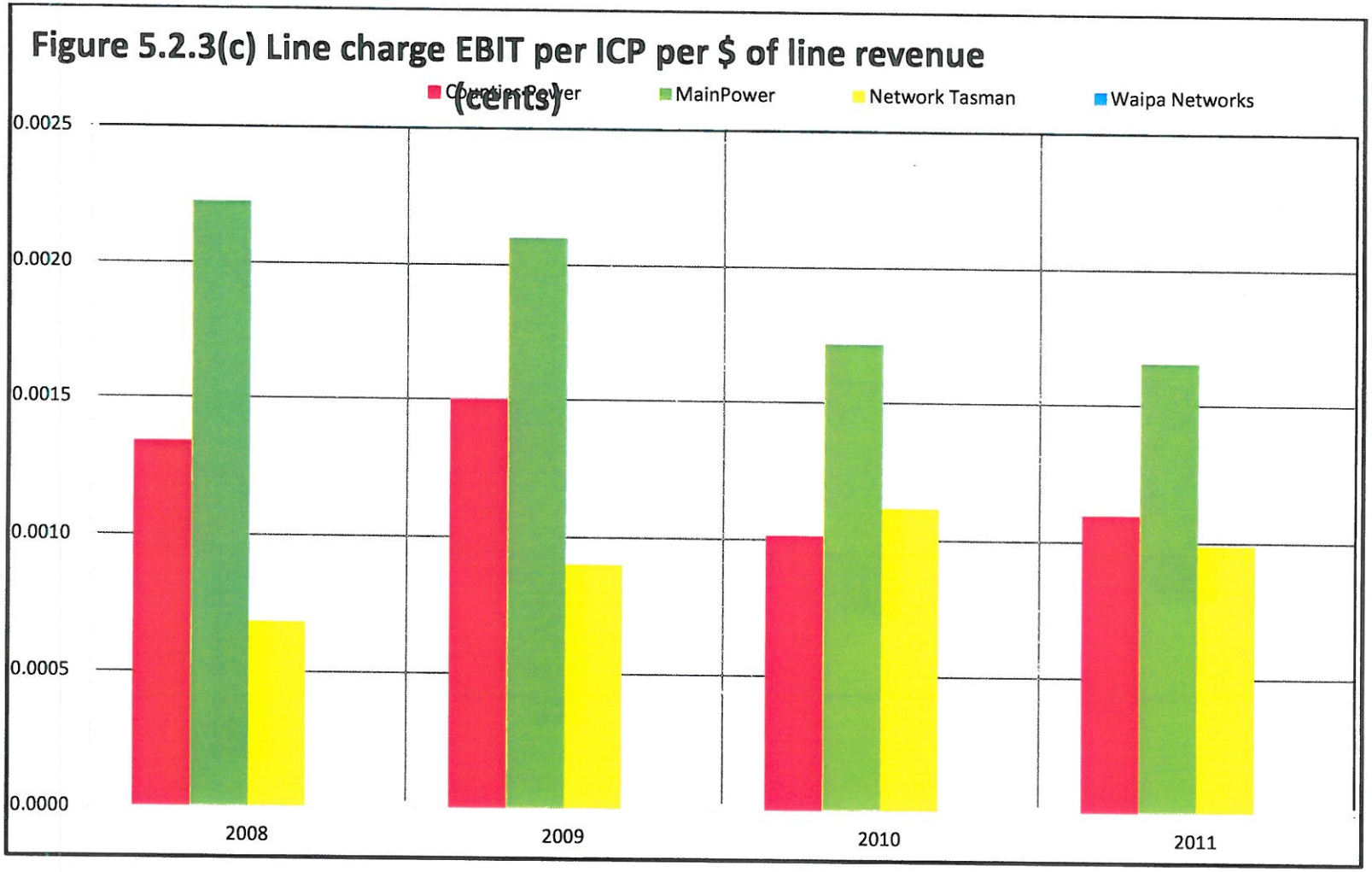


Figure 5.2.3(c) Line charge EBIT per ICP per $ of line revenue (cents)
Counties Power
MainPower
Network Tasman
Waipa Networks
0.0025
0.0020
0.0015
0.0010
0.0005
0.0000
2008
2009
2010
2011

Figure 5.2.3(d) Total EBIT per ICP per $ of line revenue (cents)

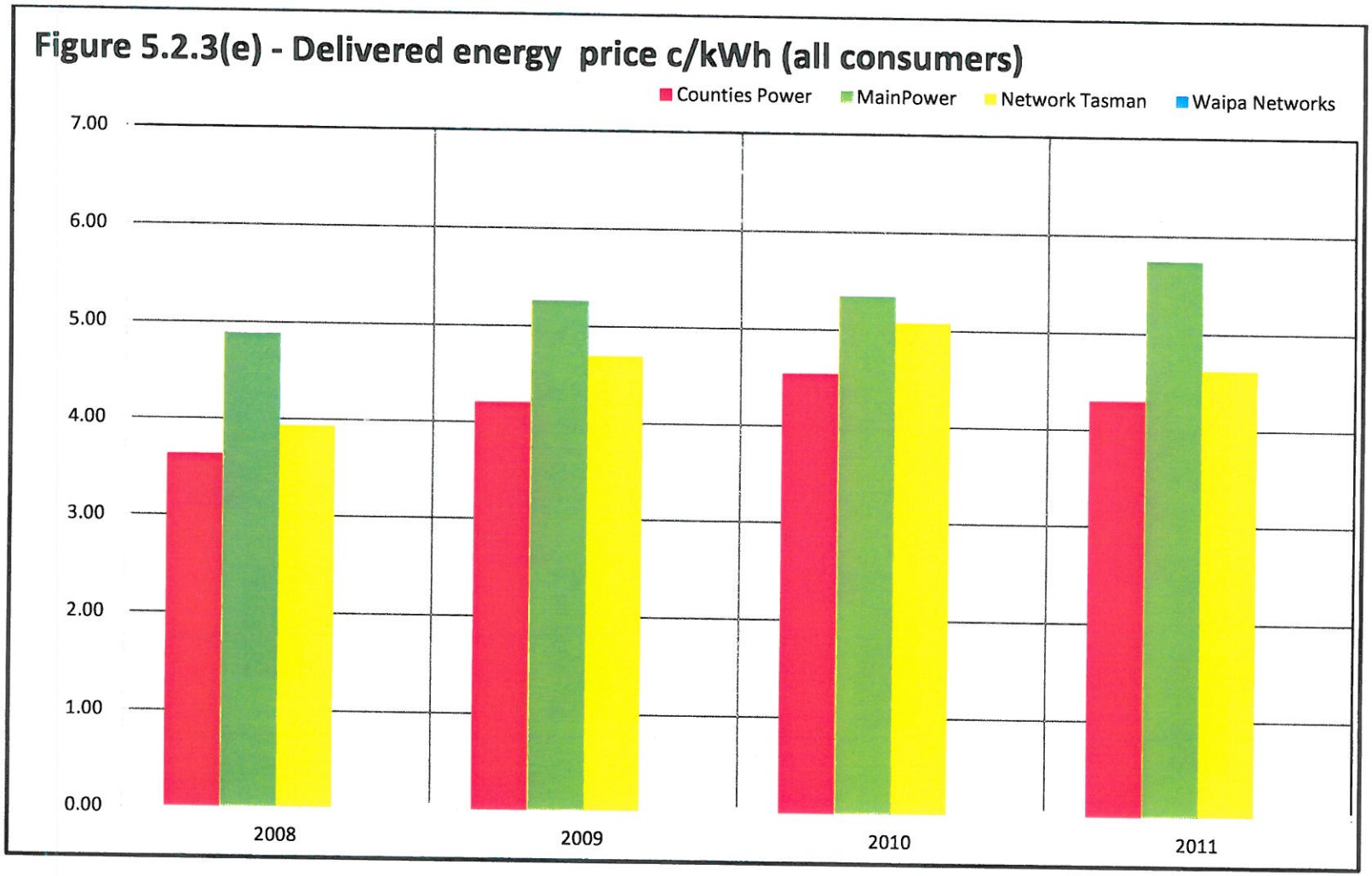


Figure 5.2.3(e) - Delivered energy price c/kWh (all consumers)
Counties Power
MainPower
Network Tasman
Waipa Networks
7.00
6.00
5.00
4.00
3.00
2.00
1.00
0.00
2008
2009
2010
2011

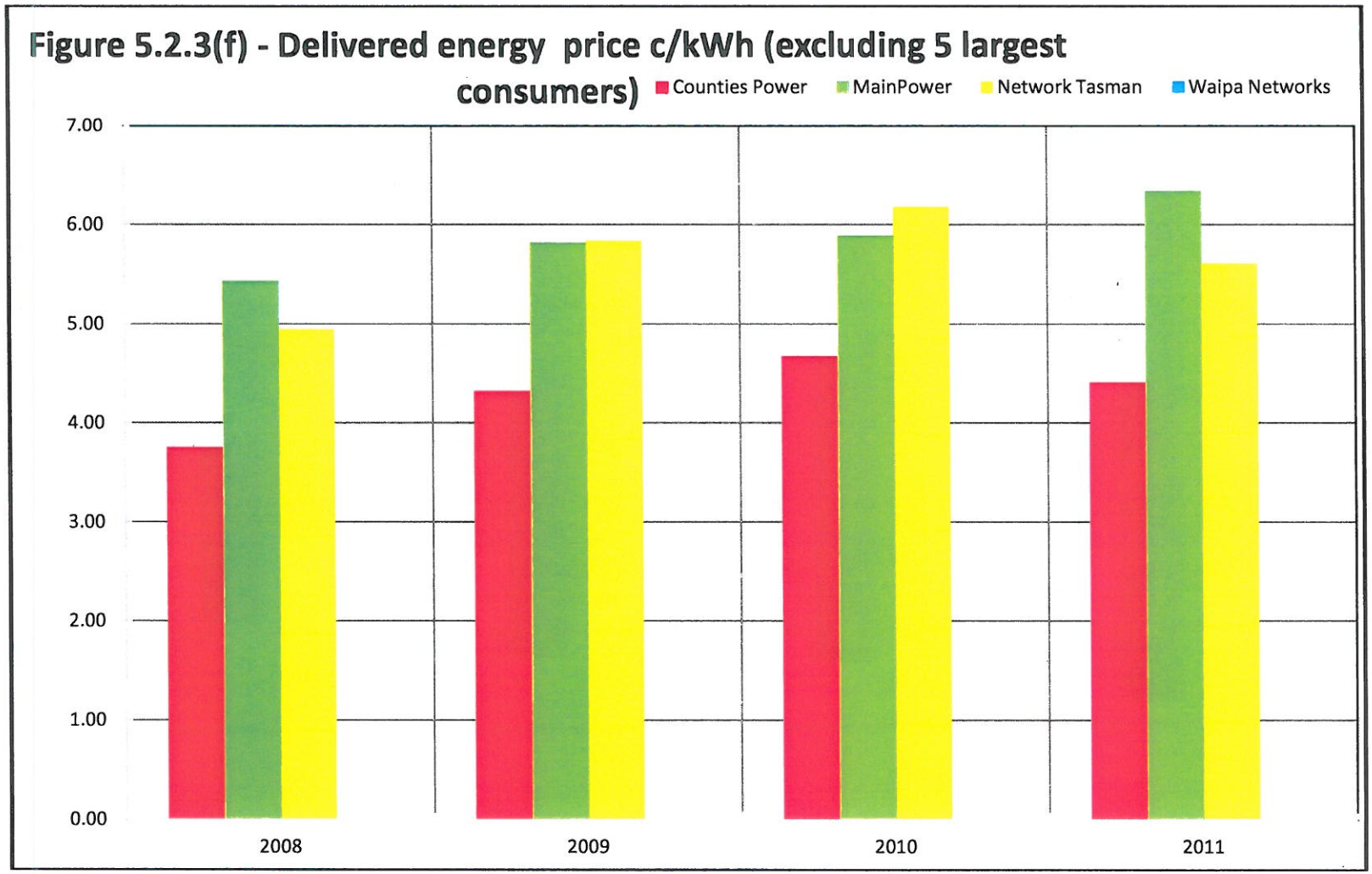


Figure 5.2.3(f) - Delivered energy price c/kWh (excluding 5 largest consumers)
Counties Power
MainPower
Network Tasman
Waipa Networks
7.00
6.00
5.00
4.00
3.00
2.00
1.00
0.00
2008
2009
2010
2011

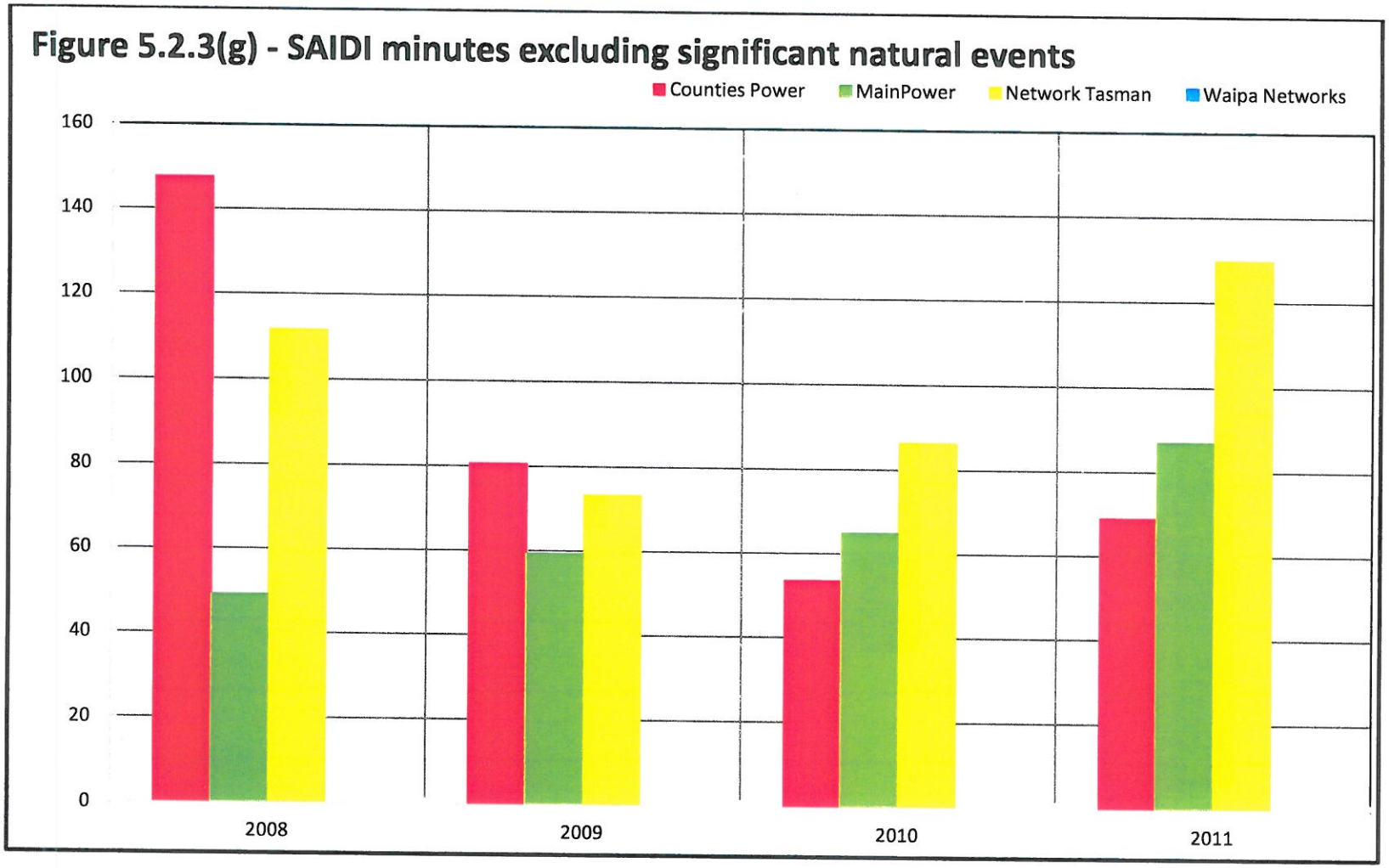


Figure 5.2.3(g) - SAIDI minutes excluding significant natural events
Counties Power
MainPower
Network Tasman
Waipa Networks
160
140
120
100
80
60
40
20
0
2008
2009
2010
2011

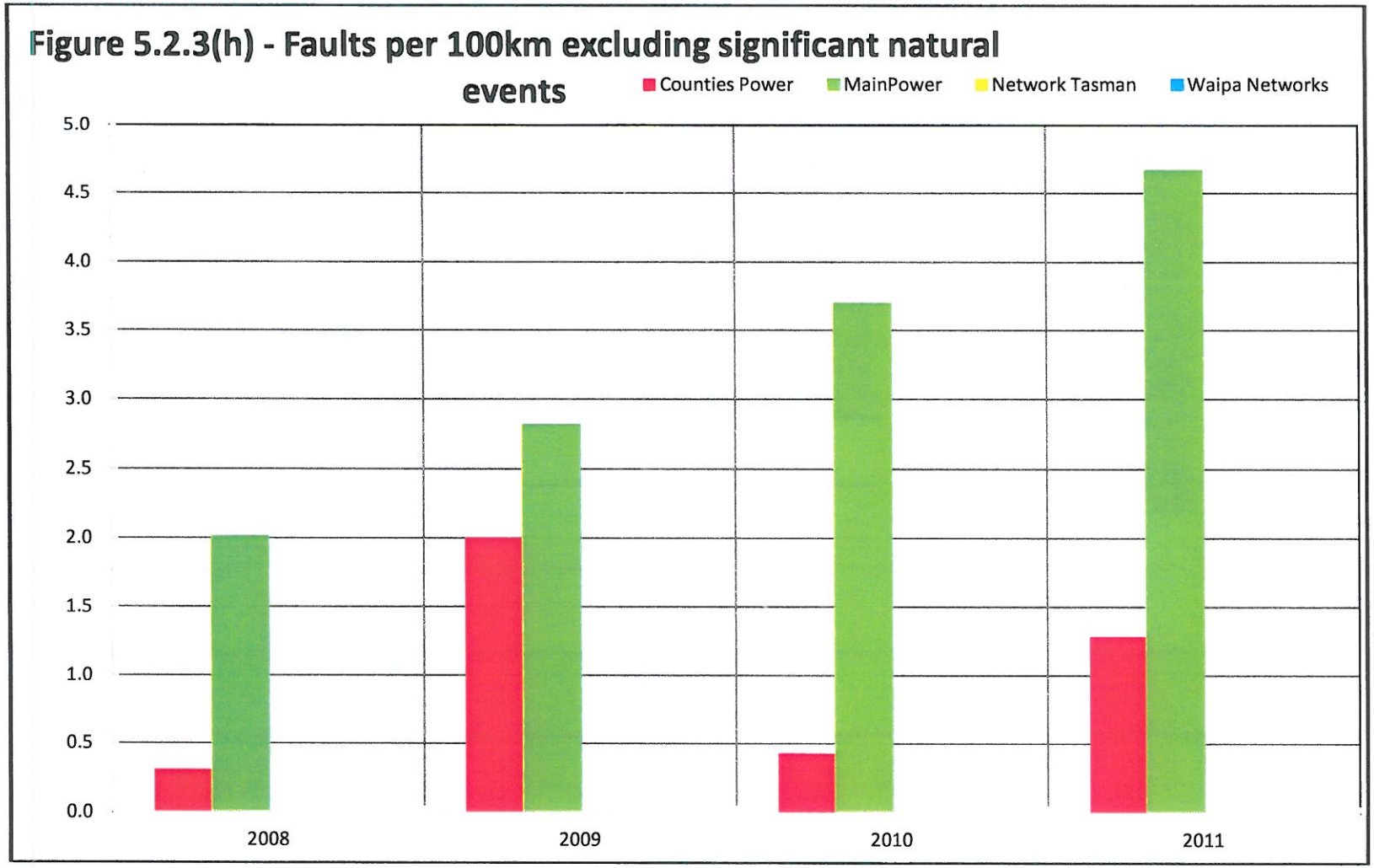


Figure 5.2.3(h) - Faults per 100km excluding significant natural events
Counties Power
MainPower
Network Tasman
Waipa Networks
5.0
4.5
4.0
3.5
3.0
2.5
2.0
1.5
1.0
0.5
0.0
2008
2009
2010
2011

6. Conclusions & recommendations

6.1 Trust Deed requirements

The Deed does not contain any requirement for a consolidated summary to be presented.

6.2 Conclusions

The following conclusions are drawn from this analysis:

- There has been a low level of merger & acquisition activity in the EDB sector since the last Ownership Review in 2002, and that none of this has affected either the Trust or the Company.
- That direct regulatory pressure on total revenue has eased somewhat since the Company became exempt from direct revenue control under Part 4 of the Commerce Act 1986.
- That the Trust's operating costs per beneficiary appear broadly in line with similar energy trusts.
- That the Trust's exposure to regulatory risk appears to have declined since the last Ownership Review in 2002.
- That the Trust's exposure to technology stranding risk appears to have increased slightly since the last Ownership Review in 2002.
- That a single shareholder provides a high degree of alignment for all Directors of the Company that could be very difficult to achieve with other ownership models.
- That a Trust is more likely to seek, and more able to pay for, specialist advice on industry matters such as take-over offers.
- That continued Trust ownership would be the most feasible means of fulfilling the objectives set out in the Company's Statement of Corporate Intent.
- That alternative models of continued consumer ownership such as a cooperative or the listing of the Company would incur one-off costs equivalent to 1 years' Trust operating costs, but would fulfill the objectives set out in the Statement of Corporate Intent less successfully.
- That the Company's performance is comparable with, if not more favorable than, its peers.

6.3 Recommendations

The following recommendations are made:

- That the Trust confirms that this analysis and these conclusions fulfill the requirements of clauses 14.1(a), 14.1(b) and 14.1(c) of the Deed.

- That the Trustees satisfy themselves that the regulatory risk exposure of the Trust is acceptable. Note that the regulatory risk exposure is considered to have declined since the 2002 Ownership Review due to the Company being exempt from the DPP[42].

- That the Trustees satisfy themselves that the technology risk exposure is acceptable. Since the 2002 Ownership Review new technologies have emerged that may strand the Company's line assets. .

42 Noting that at the time of the 2002 Ownership Review, the Price Path Threshold pursuant to Part 4a of the Commerce Act 1986 was being implemented. This applied to all EDB's, regardless of whether they were consumer-owned or not and represented an increased risk to each EDB.