

8 August 2017

Electricity Authority
By email: submissions@ea.govt.nz

Application for exemption from arm's-length rules: Top Energy Limited – Draft Decision Paper

Genesis Energy Limited (**Genesis**) welcomes the opportunity to provide comments to the Electricity Authority (**the Authority**) on the draft decision paper *Application for exemption from arm's-length rules: Top Energy Limited – Draft Decision Paper (draft decision paper)* dated 28 June 2017.

Without sufficient evidence of consumer benefit, Genesis does not support the Authority granting an exemption to Top Energy Limited (**Top Energy**) to expand its generation capacity beyond the 50 MW legislative threshold as is proposed in the draft decision paper. We have reviewed the Electricity Retailers' Association of New Zealand (**ERANZ**) submission (in draft) and consider it represents our views on this matter:

- We believe there is a clear legislative intent in Part 3 of the Electricity Industry Act 2010 (**the Act**) that recognises that electricity distribution businesses – including Top Energy - have a natural monopoly in respect of their lines network and this monopoly power cannot be left unchecked;
- We are firmly of the view the Authority's discretion to depart from the provisions of Part 3 of the Act should not be exercised lightly and section 90(2) considers there are limited grounds where the Authority may do so;
- We consider that on this occasion the Authority has not met the threshold for granting an exemption and agree with ERANZ it would create both the incentive and opportunity to prohibit competition in the electricity sector to the detriment of consumers; and
- We also agree that the Authority's proposed decision could create a worrying precedent for future applications of this nature and it is crucial to

consider the 'precedent effect' of this decision, particularly in light of the rapid changes transforming the electricity industry.

Genesis urges the Authority to reconsider its intention to depart from legislation designed to protect and promote competition in the electricity industry for the benefit of consumers.

If you would like to discuss any of these matters further, please contact me by email margie.mccrone@genesisenergy.co.nz or by phone 09 951 9272.

Yours sincerely

A handwritten signature in black ink, appearing to read "M. McCrone".

Margie McCrone
Regulatory Advisor