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Electricity Authority

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## ***Submission on Further consultation on NDOs, RPCA and uncommitted capacity***

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### **Introduction**

1. Energy Resources Aotearoa is New Zealand's peak energy sector advocacy organisation. We represent participants from across the energy system, providing a strategic sector perspective on energy issues and their adjacent portfolios. We enable constructive collaboration to bring coherence across the energy sector through and beyond New Zealand's journey to net-zero carbon emissions by 2050.
2. We appreciate the opportunity to comment on the Authority's further consultation on the implementation details of the proposed non-discrimination obligations ('NDOs') and the Retail Price Consistency Assessment ('RPCA').
3. Our previous submission outlined significant concerns with the proposed NDO framework. In particular, we noted that the case for intervention had not been clearly demonstrated, the obligations were ambiguous, and there was a real risk of unintended consequences for market efficiency, investment and liquidity.
4. This further consultation reinforces those concerns and highlights the real risks with prescribing pricing methodologies, thus reducing the ability for retailers to flexibly respond to changing circumstances. We accept that the current proposals mitigate these risks to some degree, but further refinement is needed, as discussed below.

### **Key messages**

5. The proposed reforms will result in higher costs and complexity without clear benefits. These costs will ultimately be passed through to consumers and have not been evidently shown to improve competition.
6. The RPCA framework has some notable improvements since the last consultation. On uncommitted capacity, we continue to believe this is a

troublesome concept, but with minor revisions, we support Option 2 (Revised NDO applying to all risk management contracts).

7. However, we continue to believe the proposals will undermine investment in reliable, firm generation, create complexity, and constrain commercial pricing and hedging decisions for dry years and periods of stress. As of today, gas and coal provide the needed firming for our energy system and these will only be reliably supplied if market pricing is allowed to inform decision-making, rather than regulatory price barriers.
8. Any reform must be proportionate and grounded in real-life market conditions. In a volatile global energy market, with increasing proportions of weather-dependent fuels, any intervention should be carefully targeted and evidence-based to avoid inefficiencies. Reforms also need adequate lead time so that systems and processes can be updated.

### **The new operating environment**

9. The Authority's latest consultation on the proposed RPCA and NDOs raises important questions about how competition reforms should be implemented in New Zealand's electricity market.
10. While improving market confidence and transparency is a legitimate goal, the proposed framework risks introducing significant compliance complexity for vertically integrated generator-retailers. New reporting, modelling and audit requirements will not be costless – and those costs ultimately flow through to electricity consumers.
11. This debate is also unfolding against a rapidly changing global energy security backdrop. The escalating conflict involving Iran has already triggered sharp volatility in global energy markets, with oil prices rising and supply disruptions affecting critical infrastructure and shipping routes in the Gulf.
12. Around one-fifth of global oil and LNG trade flows through the Strait of Hormuz, making it one of the most important chokepoints in the global energy system. The conflict has already pushed crude prices sharply higher and raised concerns about disruptions to global fuel supplies and shipping. In this environment, the value of reliable and dispatchable energy supply becomes even more apparent.
13. For New Zealand, the lesson is clear. As our electricity system becomes more reliant on weather-dependent generation, and potentially imported LNG versus domestic gas, maintaining incentives to invest in firm capacity of all kinds will be critical for resilience during dry years or periods of system stress.
14. Competition reforms should remain proportionate and grounded in clear evidence of market failure. Strengthening market confidence is important, but it

should not come at the cost of regulatory complexity or weakened investment signals for the generation assets that ultimately keep the lights on.

### **Compliance costs and regulatory complexity**

15. The proposed RPCA reporting, internal compliance requirements, and audit obligations introduce significant operational complexity for vertically integrated generator-retailers.
16. These requirements will require new systems, modelling and governance processes to demonstrate compliance. Sufficient lead time must be given for implementation.
17. These costs are unlikely to be trivial and will ultimately be borne by electricity consumers.

### **RPCA framework, commercial flexibility and firm generation**

18. The RPCA framework, as first posited, risked second-guessing legitimate commercial decisions about how generation is priced and hedged. For firms operating portfolios that include gas and coal generation, these decisions must account for volatile fuel costs, uncertain hydro conditions, and the need to maintain firm capacity for system reliability.
19. Laudably, the framework will now recognise the validity and value of price smoothing for consumers, and include a diagnostic tool rather than a brightline test for discriminatory pricing.
20. This is heartening, because a regulatory framework that constrains these commercial decisions risks weakening incentives to maintain and invest in dispatchable generation capacity that the system relies on during periods of stress.

### **Uncommitted capacity**

21. The concept of “uncommitted capacity” remains problematic. In practice, generation capacity cannot always be meaningfully separated from broader portfolio risk management strategies, including hedging, fuel procurement and plant availability decisions.
22. Treating capacity as “uncommitted” risks oversimplifying the commercial realities of operating large generation portfolios.
23. To make this workable, we think some refinements are needed to calculations, such as introducing a principles-based obligation that aligns with system-wide

obligations. The recently introduced Over-the-Counter ('OTC') Code of Conduct provides a useful principles-based approach that could reduce complexity, consultation, and help the proposals to be more pragmatic and streamlined.

### **Proportionality and evidence**

24. While we recognise the Authority's objective of improving market confidence and competition, any intervention must remain proportionate and evidence-based.
25. At present, the proposed framework risks introducing significant compliance costs and operational constraints without clear evidence that these measures will greatly improve competition outcomes.

### **Conclusion**

26. Energy Resources Aotearoa continues to support the Authority's objective of improving competition and market confidence. However, the proposed implementation of NDOs and the RPCA framework risks creating regulatory complexity, increasing system costs, and weakening investment signals for firm generation capacity.
27. We encourage the Authority to take a more proportionate and targeted approach that focuses on demonstrable problems and avoids unintended consequences for market efficiency and security of supply.