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Improving access to thermal fuel information

Genesis welcomes the opportunity to provide feedback on the Electricity Authority's (**Authority**) consultation paper "*Improving access to thermal fuel information: clause 2.16 information notice*" dated 20 January 2025 (**Paper**).

Introduction

1. The Authority proposes to use a "clause 2.16 notice" to collect thermal fuel information from large thermal generators on a regular basis. The Authority's rationale is that the existing information disclosure requirements - as they relate to thermal fuels - do not:
 - (a) provide sufficient information for the Authority to effectively monitor security of supply risk and detract from market competition monitoring; and
 - (b) promote confidence due to concerns about the timeliness and access to information, and information asymmetry between participants, which may undermine competition in the electricity market.
2. Genesis supports the Authority's mandate to monitor security of supply and competition in the electricity market. However, we have concerns about the proposed approach to information gathering and disclosure.
3. The sanctity of private contractual arrangements is a cornerstone of efficient markets. This core principle is reflected in the design of disclosure regimes in capital and energy markets. For example, using materiality thresholds and disclosure exceptions to calibrate disclosure.
4. In the context of the Authority's proposal, imposing an obligation to disclose commercially sensitive information from private transactions must be:
 - (a) clearly justified by specific security of supply or competition risks;
 - (b) proportionate to the risks and limited to information directly relevant to those risks; and

- (c) protected by robust confidentiality safeguards.

As we discuss in more detail below:

- (i) It is not clear that the existing information disclosure requirements are defective, and the Paper does not present compelling evidence that demonstrates (a) and (b).
- (ii) If there were justification for imposing obligations in addition to the obligations in Part 13.2A of the Code, a proportionate and targeted approach should be used. Specifically, the Authority should use section 46 of the EIA to obtain the information it requires to support its statutory function, as it did (and continues to do so), following the events of winter 2024.
- (iii) The section 46 notices have already demonstrated effectiveness, providing the necessary information when required and has worked as intended. The collection of thermal fuels information through to the end of winter 2025 is scheduled to cease in April 2025, indicating that the Authority considers this timeframe sufficient. This targeted and proportionate approach has been successful, and could be used again if necessary for winter 2025. There is no justification for abandoning this for more intrusive permanent ongoing disclosure under a clause 2.16 notice.
- (iv) The electricity market is very aware (and has been for some time) of the coming winter's security of supply risks and New Zealand's ongoing gas supply constraints.
- (v) Market participants can make informed decisions, including in relation to the coming winter, using the currently available thermal fuels information and forward price signals. The 2024 winter should have eliminated any complacency among market participants who failed to properly appreciate and manage wholesale market risk. These participants, along with those who knowingly retained material wholesale market risks over the period, should have already made significant progress preparing for the coming winter.
- (vi) While we consider that there is sufficient thermal fuels information available to market participants, we ask that the Authority establish a single platform / bulletin board where participants can make disclosures to the market under Part 13 of the Code or voluntarily. This would eliminate the need for market participants having to monitor announcements made to the NZX/ASX, on participant websites or through the media. The disclosure platform

established by the Gas Industry Company on its website provides an example of what can be developed quickly and effectively.¹

Section 46 provides the Authority with the ability to access the information that it requires

5. The Paper describes perceived inadequacies of the disclosure requirements as they relate to thermal fuel for: (a) the Authority; (b) market participants and (c) the system operator. These include the nature and timeliness of disclosures, the different formats and places where information is disclosed, claims of information asymmetry and the ability of electricity market participants to make informed decisions.
6. The Paper also states that:

*current arrangements make it difficult for the Authority to access information, and we share the concerns held by some participants about limited information available to make well informed decisions during periods of system stress.*²
7. While not its preferred option, the Authority has the ability under section 46 of the EIA to obtain the information that it requires in a systematic and timely manner, at the granularity required, and in a proportionate and targeted way.
8. This has been clearly demonstrated by the requests made by the Authority under section 46 for energy margin and thermal fuels information following the events of the 2024 winter. The requested information was disclosed weekly, at the granular level and in the format required by the Authority. When a category of information was no longer required by the Authority, for example, energy margin information, collection ceased. Similarly, the collection of thermal fuels information covering winter 2025 continues on a weekly basis and is scheduled to cease in April 2025. This is entirely consistent with the intent of the disclosure framework in the EIA and the Code, and the principles discussed earlier.
9. We query, therefore, the assertion that the current arrangements are not sufficient to provide the Authority with access to the information it needs.
10. Further, in relation to whether the Authority has the thermal fuels information it requires for monitoring security of supply risks for winter 2025, this must be the case given the Authority advised in October 2024 that the collection and disclosure would cease from 7 April 2025. The decision to end section 46 disclosures in April 2025 is inconsistent with arguments based on ongoing necessity. In any event, if the Authority's view has changed or a specific risk has arisen since the Authority made its decision, the information required can,

¹ See <https://outagedisclosure.gasindustry.co.nz/>.

² Paper at [4.8].

and should, be obtained through section 46 of the EIA rather than a clause 2.16 notice under the Code.

11. In summary:

- (a) Section 46 has provided a targeted, proportionate and effective approach to supporting the Authority's statutory function, terminating collection and disclosure when no longer required. In contrast, a disclosure process under clause 2.16 notice continues even though the specific risk or need that it seeks to address may have subsided.
- (b) The section 46 notices have already demonstrated effectiveness, providing the necessary information when required, and have worked as intended. The collection of thermal fuels information through to the end of winter 2025 is scheduled to cease in April 2025, indicating that the Authority considers this timeframe sufficient. This targeted and proportionate approach has been successful and could be reused, if necessary, for the coming winter. There is no justification for abandoning this for more intrusive permanent ongoing disclosure under a clause 2.16 notice.

Regulatory intervention (if merited) should be targeted and proportionate

- 12. Regulatory intervention, when merited, should be proportionate and tailored to the specific circumstances of each case. This is clearly established in Treasury's Best Practice Regulation model, which identifies proportionality as a core regulatory principle, stating that "the burden of rules and their enforcement should be proportional to the benefits that are expected to result" and that this principle should be supported by "an empirical foundation".³ Additionally, we note that proportionality is likely to be a key principle under the proposed Regulatory Standards Bill, which is currently under development and aims to "reduce the amount of unnecessary and poor regulation", should it be enacted.⁴
- 13. As discussed above, section 46 provides a targeted and proportionate approach to supporting the Authority's statutory function in contrast to a process under a clause 2.16 notice. Where the Authority compels disclosure using section 46, we ask that the Authority consider:
 - (a) Less frequent and streamlined reporting: Requiring both weekly and event-based reporting creates unnecessary duplication and burdens participants. A proportionate approach would involve less frequent reporting, supplemented by existing material change notifications under Part 13. It is already acknowledged by the Authority that weekly reporting

³ Treasury, *Best Practice Regulation: Principles and Assessments* (February 2015) at page 80. See <https://www.treasury.govt.nz/sites/default/files/2012-08/bpregpa-feb15.pdf>.

⁴ See <https://www.regulation.govt.nz/our-work/regulatory-standards-bill/#:~:text=This%20Bill%20aims%20to%20reduce,meet%20principles%20of%20responsible%20regulation.>

would support its intended monitoring activity, including during periods of system stress.⁵ Event-based reporting could be avoided, as material changes are already covered under existing disclosure mechanisms. There is likely no meaningful distinction between a generator disclosing information under the Part 2 notice that would “significantly change its thermal fuel position”⁶ and information required to be disclosed under Part 13 because it was reasonably expected to have “a material impact on prices in the wholesale market”.⁷

- (b) Targeted collection of sensitive information: Sensitive data, such as gas transaction details, should only be collected, when necessary, rather than through routine disclosures. This would reduce the risk of exposing commercially sensitive information while ensuring the Authority receives critical data when needed. The Authority has acknowledged the commercial risks of disclosing price-sensitive information,⁸ supporting a more focused and as-needed approach.
- (c) Concentrated reporting during periods of market stress: Continuous reporting under normal market conditions offers limited value, as risks primarily arise during periods of supply shortages or price volatility. The Authority itself emphasises the importance of timely information during system stress⁹ and section 46 has been used in this way as discussed above in relation to thermal fuels information for Winter 2025. Focusing reporting on these periods would enhance market monitoring while minimising compliance burdens.

The clause 2.16 Notice Proposal

14. In relation to the Authority’s proposal to use clause 2.16 of the Code in preference to section 46 of the EIA, we observe that:

Not a legitimate purpose

- (a) Under clause 2.16(2) of the Code, the Authority can only require disclosure of information for the purposes of one of the specified statutory functions under the EIA. The Authority claims the notice would be for the purposes of undertaking:
 - (i) market-facilitation measures (such as providing education, guidelines, information and model arrangements), and to monitor the operation and effectiveness of market facilitation measures (section 16 (1)(f) of the EIA); and

⁵ Paper at [5.18].

⁶ Paper at page 26.

⁷ Paper at [4.12].

⁸ Paper at [5.49].

⁹ Paper at [4.8].

- (ii) industry and market monitoring, and carry out and make publicly available reviews, studies and inquiries (section 16 (1)(g) of the EIA).
- (b) However, the Authority has not identified a specific market-facilitation measure it proposes to undertake under section 16(1)(f) of the EIA. The Authority appears to assume that publishing information to “create a more level playing field” by reducing information asymmetry and improving market confidence is a legitimate market-facilitation measure.
- (c) We consider however that:
 - (i) This statutory function requires targeted interventions that involve the Authority using its own initiative, work and expertise to produce an output that will facilitate the operation of the market. The example of providing "information" under section 16(1)(f) of the EIA must be interpreted in its proper context and in light of the surrounding words in the section. The examples of providing education, guidelines and model arrangements demonstrate that the intention is for the Authority to undertake its own work to produce an output. Simply obtaining and publishing participants' data in aggregate form does not meet this function.
 - (ii) If it was permissible for the Authority to require disclosure of participants' information simply so it could be published, then clause 2.16(2) would be largely redundant. Any notice would be justified on the basis that the Authority has a purpose of wishing to publish the participant information it gathers under the notice, which would also allow it to circumvent the carefully calibrated disclosure requirements that already exist under the Code (discussed below).

Market monitoring is a legitimate purpose, but does not justify the price information sought

- (d) Gathering participant information to assist the Authority to monitor security of supply is a legitimate purpose. However, this purpose does not justify all of the information sought:
 - (i) The proposed disclosure requirements under the clause 2.16 notice include details on stored fuel volumes, contracted volumes, and pricing. While volume information is relevant for the purpose of monitoring security of supply, price information is not.
 - (ii) Security of supply depends on the availability and volume of fuel - specifically, whether sufficient fuel is physically available to meet demand during periods of market stress. The price paid for gas or coal purchased by the generator, by contrast, is influenced by

broader market dynamics that do not directly determine whether supply shortages will occur.

- (iii) The Authority itself recognises that price-related information, including gas contracts, "is likely to be particularly sensitive for thermal generators and other gas users". While the Authority rightly proposes not to publish this data, we consider that the sensitivity of this information, together with such data being irrelevant to security of supply, supports the conclusion that such information should not be collected in the first place.

Circumvention or duplication of established disclosure obligations

- (e) There are grounds under clause 2.21 of the Code to classify much of the information as confidential due to the risk of significant commercial prejudice. Contracted gas volumes, minimum and maximum delivery ranges, and storage details are central to negotiations with fuel suppliers, where knowledge of a thermal generator's forward commitments could provide counterparties with leverage to dictate unfavourable terms. Additionally, given the information relates to three generators and the concentrated nature of the gas supply market, public access to such information would enable competitors to infer commercial strategies, placing the thermal generators at a strategic disadvantage.
- (f) The proposed collection and publication of pricing data and other commercially sensitive information under the clause 2.16 notice is at risk of circumventing or duplicating established disclosure mechanisms, particularly those under Part 13 of the Code, which already govern the disclosure of material information held by participants. As noted by the Authority, Part 13 specifically requires the disclosure of information that is reasonably expected to have "a material impact on prices in the wholesale market".¹⁰
- (g) The Authority's proposal is to effectively use clause 2.16 to override the mechanisms designed under Part 13 to address the same concerns. Part 13 already requires participants to disclose information regarding material security of supply risks, given such supply risks would inherently impact market prices.
- (h) We acknowledge that Part 13 disclosure may not always provide sufficient information for the Authority to undertake market monitoring functions, such that it requires further information under a Part 2 notice. Our concern, however, is that much of the Authority's proposal appears to be predicated on reducing information asymmetries in the market – which is the exact purpose of Part 13 disclosure.

¹⁰ Paper at [4.12].

- (i) The Authority's justification that additional collection under clause 2.16 is necessary due to "the scope limitation (wholesale pricing) and limits on specificity (principles based)"¹¹ of Part 13 suggests that the Authority's principal purpose is to enhance or supplement Part 13 disclosure. This is not a legitimate reason for a notice under Part 2 of the Code.

Incomplete cost-benefit analysis

- (j) Under clause 2.19 of the Code, the Authority must satisfy itself that the benefits of the proposed disclosure requirements outweigh the associated costs. However:
 - a. *Identified benefits are not relevant to purpose of disclosure and / or information sought:* Most of the purported benefits revolve around reducing information asymmetry. As discussed above, reducing information asymmetry is not a legitimate purpose for a Part 2 notice. Even if they were relevant, it can only be relevant to the information the Authority proposes to publish. Accordingly, it does not justify the proposed disclosure of commercially sensitive pricing information.

The Authority identifies that disclosure will "enhance the Authority's ability to proactively monitor security of supply and market competition". This is potentially a legitimate purpose. However, as set out above, this purpose is not rationally connected to the proposal to require disclosure of fuel price information. It potentially makes sense for volume and availability information.

- b. *Lack of evidence to justify benefits:* We agree that it is "difficult to attribute specific benefits" to the proposal, as the Authority has not provided evidence or detailed quantification of benefits as part of its assessment. Instead, its benefit analysis relies on unsubstantiated assumptions about improved market operation. The Authority asserts but fails to explain what the "significant benefit" to the market entails, beyond generally stating that the proposed disclosure will support consumer and market participant decision making, and the system operator's electricity risk curve modelling. Further, it remains unclear how consumers would use the proposed disclosures, and to what extent, given the nature of this information and its relation to what is essentially a wholesale market and security of supply issue. If it was self-evident that there a significant benefit to the market (which it is not), then appropriate thermal fuel information disclosure requirements, in addition to existing requirements, should already be in place.
 - c. *Costs not considered:* The Authority's justification fails to adequately account for the potential harm to individual

¹¹ Paper at [6.20].

participants and market dynamics. The narrow focus on low "transaction costs" disregards broader and potentially more significant costs, including:

- i. Loss of negotiating power: The disclosure of sensitive information, such as forward contract data, may weaken participants' negotiating positions with fuel suppliers and competitors. This could hinder their ability to achieve market-competitive outcomes in securing essential inputs.
 - ii. Market inefficiencies contrary to the Authority's statutory objectives: Unnecessary disclosure risks creating market distortions through information about participants' commercial positions, leading to coordination risks or anti-competitive behaviour. As highlighted by the Authority, there is a risk that competitors in the upstream gas acquisition and supply market, as well as downstream electricity supply competitors, may gain access to competitively sensitive information regarding their rivals' market positions.
 - iii. Administrative and operational burdens: Frequent and detailed disclosures, including weekly reporting for solid fuel, place compliance costs on participants. The Authority justifies these requirements based on the "importance of coal to security of supply", but without clear evidence that current processes are inadequate and that the benefits outweigh the burdens. In the absence of such evidence, further compliance obligations are not justified.
 - iv. Cumulative burden of overlapping requirements: The Authority's assessment fails to account for the compounding effects of multiple overlapping reporting obligations, which could amplify administrative and operational burdens. The weekly and event-based reporting requirements further duplicate existing disclosure obligations under Part 13, creating unnecessary inefficiencies.
15. Although publication is proposed in an aggregated format, participants remain vulnerable to competitors deducing key elements of their operational strategies through reverse engineering, particularly given the concentrated nature of the gas supply market. This risk further justifies a cautious and protective approach under clause 2.21 of the Code. Without addressing these deficiencies, it is not clear that the benefits of the proposed disclosure requirements outweigh their costs.

The electricity market is aware of winter 2025 security of supply risks and the gas supply constraints

16. Fundamentally, the Authority's proposal assumes that current disclosure requirements under the Code do not or will not allow participants to make informed decisions regarding winter 2025. However, the Authority has not provided detailed information to substantiate this claim, and we have not observed market behaviour suggesting this is the case.

17. Genesis considers that:

(a) the electricity market is aware (and has been for some time) of the 2025 winter security of supply risks and the gas supply constraints facing the electricity sector and New Zealand more generally:

(i) Winter 2025 was identified by Transpower and Genesis as a period of concern for some time,¹² and Transpower's August and September 2024 updates expressed concern over security of supply for the period January to August 2025;

(ii) market participants, including Contact, Mercury, Meridian have publicly noted New Zealand's gas supply constraints, including at their respective annual shareholders meetings in the case of Mercury and Meridian¹³ and at its February 2025 half year results investor presentation, in the case of Contact.¹⁴ Similarly, various financial and energy market commentators have discussed the risks surrounding winter 2025, with one stating:

The chaos of winter 2024 is now in the rear vision mirror, but winter 2025 is now coming into view and on our numbers provides at least as much reason for concern.

(iii) forward ASX electricity futures prices over the period remain elevated;

(iv) the continuing decline in New Zealand's gas production, and consequent supply constraints have been, and continue to be, well publicised. There are also regular updates from the Gas Industry Company, which show that gas production has declined quicker

¹² See *Winter 2024 Outlook*, Transpower, 31 January 2024; Genesis submission on the *Potential Solutions for Peak Electricity Capacity Issues* consultation dated 1 March 2024; Genesis CEO interview published on 1 December 2023 at <https://www.nzherald.co.nz/business/genesis-boss-malcolm-johns-warns-of-risks-in-power-system/YTBHLR2C3BBSTP3Y7ZAR7GRU6A/>

¹³ See: <https://api.nzx.com/public/announcement/439980/attachment/429449/439980-429449.pdf> and <https://api.nzx.com/public/announcement/438345/attachment/427528/438345-427528.pdf>

¹⁴ <https://api.nzx.com/public/announcement/446771/attachment/437530/446771-437530.pdf>

than anticipated, and MBIE has recently advised that gas production is likely to fall below gas demand by 2027;¹⁵

(v) the events of Winter 2024, the continuing tight gas market and Winter 2025 supply risks, has resulted in, amongst other things:

(aa) the Government:

- a. directing the establishment of the Gas Security Response Group, comprising a wide range of market participants and stakeholders) to identify and respond to any issues around gas security of supply;
- b. introducing legislation to repeal the ban on offshore gas exploration;
- c. announcing its intention to remove regulations impeding the construction of facilities to import liquefied natural gas;

(bb) industry discussions and initiatives concerning alternative fuel sources including biomass and LNG; and

(cc) electricity market participants making plant and portfolio decisions such as:

- a. Meridian's exercise of Tiwai demand response options.
- b. Contact's decision not to retire its Taranaki Combined Cycle thermal plant at the end of 2024 as previously announced.
- c. Genesis decisions concerning coal purchases and making a third Rankine available to the market for Winter 2025 if required.¹⁶

There is sufficient thermal fuels information available for participants to make informed decisions

18. The market has access to a wealth of thermal fuel information. In addition to information disclosed by Transpower, MBIE and the Gas Industry Company,

¹⁵ See: <https://www.gasindustry.co.nz/assets/DMSDocumentsOld/quarterly-reports/Quarterly-Report-June-2024.pdf>; *Energy in New Zealand 2024*, September 2024, Ministry for Business, Innovation and Employment; <https://www.mbie.govt.nz/about/news/gas-production-forecast-to-fall-below-demand>.

¹⁶ See: <https://www.genesisenergy.co.nz/about/news/genesis-prepared-for-winter-demand>

Genesis and other thermal generators publicly disclose a range of thermal fuels information. They provide this information:

- (a) to fulfil wholesale information disclosure obligations under Part 13 of the Code, which requires information material to spot and futures prices to be disclosed;
- (b) to meet financial and stock exchange reporting obligations; and
- (c) voluntarily.

19. Genesis, for example, provides:

- (a) Quarterly coal stockpile updates, coal and gas volumes used in generation, discloses the weighted average cost of the fuel used and announces material agreements, such as the gas supply agreements with Methanex announced in May 2021 and August 2024.¹⁷
- (b) Where appropriate, its targeted coal stockpile levels for the summer and winter periods, information on coal supply arrangements and availability of additional Rankine units to manage winter and security of supply risks.¹⁸

It is important to note that:

- (i) Actual fuel needs and purchases are, however, uncertain and heavily dependent on hydrology.
- (ii) Genesis can only forecast the thermal fuel demand for its portfolio, and its fuel planning focuses on this demand. The exception to this is the Huntly Firming Options¹⁹ where future fuel needs are forecast by holders of those options. Without greater transparency of third-party trading plans and firm forward commercial commitments from those parties, it is impossible to forecast and therefore pre order thermal fuel to cover third party generation risk in the system. Requiring third parties to forward purchase sufficient options to cover their own risks, especially

¹⁷ See for example: Genesis Energy FY24 Q4 Performance Report and FY24 Integrated Report at <https://www.genesisenergy.co.nz/investor/results-and-reports/reports-and-presentations>; Methanex gas contract announcements at <https://www.genesisenergy.co.nz/about/news/genesis-secures-additional-gas-for-huntly-power-station>, <https://www.genesisenergy.co.nz/about/news/genesis-and-methanex-work-together-to-improve-energy-security>

¹⁸ See: <https://www.genesisenergy.co.nz/about/news/genesis-prepared-for-winter-demand>

¹⁹ Around 85 MW of Rankine capacity is currently allocated to counterparties via capacity-based security contracts known as Huntly Firming Options (HFOs). The HFOs offer electricity market participants two-year contracts on flexible generation at Huntly Power Station. The counterparties are responsible for preordering the fuel they determine they need to hold to exercise their generation options (with Genesis managing ordering and delivery logistics on their behalf).

those with non-dispatchable generation risks, would be a better way of securing thermal generation capacity and ensuring energy is available when needed.

20. Given the above, market participants can make informed decisions, including those related to winter 2025, using the currently available thermal fuels information and forward price signals.
21. We note that winter 2024 should have eliminated any complacency among market participants who failed to properly appreciate and manage wholesale market risk. These participants, along with those who knowingly retained material wholesale market risks over the winter, should have already made significant progress in preparing for the 2025 winter. Further, the Government's Policy Statement issued to the Authority on 11 October 2024 has made clear that:
 - (a) individual wholesale market participants are responsible for managing their supply risks.
 - (b) they must have appropriate risk management arrangements in place, and regularly sign off on their company's risk management position.
 - (c) the Government, the Authority and Transpower will not insulate wholesale market participants from risk or their failure to manage risk.

Proposed disclosure prejudices Genesis commercial position and risks unintended consequences

22. The Paper refers to concerns of information asymmetry but does not provide any detail around the specific concerns.
23. We presume that underpinning these concerns is the idea that equivalent hydro information is already publicly available. If so, this is not correct:
 - (a) Participants do not provide forecast hydro storage volumes (analogous to future contracted but undelivered fuel volumes) or water values (analogous to fuel contract prices) for their stored water.
 - (b) The attempt to draw parallels between thermal fuels and hydro in this manner is misguided. There are fundamental differences:
 - (i) No market exists for the supply of water for hydro-generation. Rainfall and snow melt determine supply - generators do not purchase it from a third-party supplier, and water has no unit purchase price. Consequently, hydro storage information lacks

competitive sensitivity, and disclosing it would not harm a party's commercial position.

- (ii) In contrast, a market exists for gas supply, involving electricity market participants and a large number of diverse non-electricity market participants. Given the nature of this market, publishing information about Genesis' forecast gas and coal positions would significantly harm our negotiating position with gas suppliers potentially raising thermal fuel costs and consequently, wholesale electricity prices. Even if the gas information is aggregated as proposed, others could derive the fuel books of the three individual generators given the small number of generators, their relative thermal generation capacity and the concentrated nature of the gas supply market.

24. We note that:

- (a) The proposed disclosure effectively reveals individual thermal generators fuel books. The Authority considered this issue in detail during the 2018 and 2020 consultations on the wholesale information disclosure obligations in Part 13 of the Code.
- (b) The Authority's wholesale information disclosure guidelines reflect the conclusion that was reached: a generator's fuel book is highly commercially sensitive, and a reasonable person would not expect this information to be disclosed.²⁰ The proposed disclosure would not only reveal this information but do so on a rolling basis.
- (c) The Authority has previously recognised the potential risks to competition of publishing information that is too broad in scope. For example, in the context of the Authority's consultation on "improving hedge disclosure obligations",²¹ the Authority noted that:
 - (i) publishing too much information about Over-the-Counter risk management contracts "might reduce confidence and competitiveness of the hedge market by increasing the likelihood of collusive and anti-competitive behaviour between buyers and sellers";²²
 - (ii) even if data is aggregated and anonymised, disclosing overly granular details such as fuel type, price and location "can facilitate

²⁰ Electricity Authority, *Guidelines for participants on wholesale market information disclosure obligations*, at [7.11 – 7.12].

²¹ Electricity Authority, *Improving the Hedge Disclosure Obligations: Collection and Publication of Risk Management Information – Consultation Paper* (11 July 2023).

²² Electricity Authority, *Improving the Hedge Disclosure Obligations – Consultation Paper* (11 July 2023) at [4.15].

the identification of involved counterparties and potentially reveal sensitive business details such as the strategic partnership or market positions", and this could "disadvantage parties by making their negotiating positions more transparent to competitors";²³ and

- (iii) therefore, "to promote market competitiveness and safeguard participants' commercial interests, it's important to carefully manage the level of detail disclosed for these types of contracts, particularly when contract volumes are relatively low".²⁴

(d) A potential way forward would be for:

- (i) The Authority to request the information that it requires under section 46 of the EIA where it and / or the system operator, considers that the security of supply risk is materially elevated.
- (ii) Provide the system operator with aggregated thermal fuels information so that this can be considered in its electricity risk curve modelling and scenario analysis.²⁵

25. In summary:

- (a) The proposed disclosure raises the risk that industry participants could use the information in ways that may undermine competition and the prospect of unintended consequences.
- (b) The Part 13 disclosure obligations is the principal mechanism for ensuring participants receive information to make informed decisions. We strongly disagree that additional disclosure is necessary. If there is compelling evidence that supports concerns about Part 13's effectiveness, we ask that the Authority present that information and consult on the matter.

Need for a centralised disclosure platform

- 26. While we consider that there is sufficient thermal fuels information available to help participants make informed decisions, market participants should not have to monitor multiple sources (e.g. NZSX disclosures, industry news sources and participant websites) to obtain this information.
- 27. We ask that the Authority urgently establish a single platform / bulletin board where participants can make disclosures to the market under Part 13 of the Code or voluntarily. This would eliminate the need for market participants having to monitor announcements made to the NZX, on participant websites or

²³ Electricity Authority, *Improving the Hedge Disclosure Obligations – Decision Paper* (6 June 2024) at [3.79].

²⁴ Electricity Authority, *Improving the Hedge Disclosure Obligations – Decision Paper* (6 June 2024) at [3.80].

²⁵ This may require a change to the Code and the Security of Supply Forecasting and Information Policy.

through the media. The disclosure platform established by the Gas Industry Company on its website provides an example of what can be developed quickly and effectively.

Please contact me if you have any questions or would like to discuss any of the matters in this submission further.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Williams', with a stylized, cursive script.

Warwick Williams
Senior Regulatory Counsel and Group Insurance Manager