

30 September 2025

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Electric Kiwi – Submission on proposed voluntary Super-Peak hedge product

1. Electric Kiwi recommends the Electricity Authority mandate supply of the super-peak hedge product. We agree with the [‘Baldwin’ Expert Panel](#) that the Authority should depart from MDAG’s recommendations by implementing mandated arrangements, rather initial voluntary arrangements with a ratchet mechanism.[1]
2. Electric Kiwi has observed current limitations of the super-peak market platform. For example, once orders are placed it is neither straightforward nor quick to amend them; most market makers upload bids via CSV files and rarely amend them during the session. We believe it is important that these platform issues are addressed as a matter of priority. Establishing a fit-for-purpose trading platform is a necessary condition for mandated arrangements to be effective and for genuine improvements in competition, transparency, and price discovery.
3. Regulation is required to ensure reliable supply at efficient prices. Improving liquidity and price discovery is a building block for competition and the efficient operation of the electricity market.
4. Electric Kiwi does not consider that the Authority’s proposed voluntary arrangements are a proportionate response to the size and scale of the problems in the electricity market. The Authority’s proposals would delay resolution of the long-standing competition problems.

Wider market-making settings

5. Electric Kiwi welcomes that the Authority is undertaking a wider review of market making to ensure policy settings are appropriate to ensure access to risk management contracts and efficient price discovery.

The consultation does not include a problem definition

6. The consultation paper explains why independent suppliers need access to hedge products, and details some of the symptoms of the problems in the

market (“standardised super-peak market is not deep” etc), but does not include an actual problem definition i.e. the consultation does not discuss what the market or regulatory failures are.

7. It has been well canvassed that vertical-integration, when coupled with market power, [2] causes competition problems, including in relation to supply of hedge products.[3]
8. Market power is only briefly mentioned in the consultation. There are just three mentions of market power and one reference to vertical-integration. The consultation paper also makes a non-committal statement that “competition issues may exist in this market”. The problem definition needs to be inferred from other documentation such as the Level Playing Field consultation.

The Authority has provided limited justification for preferring voluntary arrangements

9. The consultation provides limited consideration of different options for regulatory intervention. The options that are evaluated are two variants of voluntary arrangements (one relying on ASX, the other on OTC).
10. ASX versus OTC is a second order policy design choice compared to whether market-making should be mandated or voluntary.
11. There is only a cursory, single paragraph, explanation why the Authority prefers voluntary arrangements over mandated options. The justification is limited to the Authority’s view that more time is needed to allow the market to “develop naturally”.
12. There is nothing ‘natural’ about arrangements which rely on the threat of regulation.
13. The high level of vertical-integration in the market means liquidity is entirely dependent on regulation and the threat thereof. The Authority should be cognisant that the incumbent gentailers are incentivised to remove liquidity from the market as it lessens the competitive threats they face, and they will rationally do so if they perceived regulatory threat from the Authority diminishes or is weak.
15. There has been voluntary trading of the super-peak product since January, and the results have been very poor.
16. The experience with market-making being withdrawn last year also highlights how fragile availability is and the risk that gentailers could cut supply, leaving

retailers exposed particularly as growth in market share necessitates access to this super-peak product or similar products.

17. Electric Kiwi considers that a full assessment of voluntary versus mandatory options would reasonably be expected to show substantially greater competition benefits and regulatory certainty from mandated arrangements.

Electric Kiwi does not support voluntary arrangements

17. The super-peak product is a potentially useful addition to the hedge market. Electric Kiwi telegraphed in March the reasons we do not expect that the voluntary super-peak hedge product will resolve the issues with the availability of shaped hedges.[4],[5] Our concerns remain, including that:
 - a. Participation is voluntary, there is no obligation for gentailers to offer any products, meaning availability remains uncertain.
 - b. It requires an International Swaps and Derivatives Association (ISDA) agreement between counterparties. In Electric Kiwi's experience, independent generators are far more willing to negotiate ISDAs than the gentailers. [REDACTED]
 - c. It only provides for a maximum three-year term, whereas longer-term hedge products are required to meet the needs of market participants.
 - d. There are serious concerns about long-term availability—Electric Kiwi has doubts about whether it will be able to secure super-peak hedge products consistently. The current heightened regulatory focus may have temporarily incentivized gentailers to participate, but there is no certainty that they will continue to do so once the regulatory spotlight fades.
18. Even if gentailers complied with the voluntary arrangements, the Authority's expectations appear to only necessitate gradual increase in availability of the hedge products; leaving supply well short of retailer needs and continuing to act as a 'hand-brake' on competition.

The proposed thresholds for regulation lack clarity

19. Adopting voluntary arrangements would create substantial and unnecessary regulatory uncertainty which would undermine their effectiveness in promoting competition and improvement to the efficient operation of the electricity industry.
20. The Authority's proposed assessment framework does not provide a clear basis for when the Authority might decide to adopt additional regulatory measures to support liquidity and price discovery:

- a. There would be considerable uncertainty about the actual triggers for the Authority to consider moving to regulation, and about what would need to happen for the Authority to move to regulated/mandated arrangements.
- b. There is a lack of clarity over what the gentailers would need to do collectively and/or individually to ensure that the Authority is satisfied voluntary arrangements are working effectively.
- c. It is also unclear what would happen if some performance metrics are satisfied but others are not given the Authority statement that “any measure on its own cannot determine whether there is sufficient liquidity and price discovery.”

Confidentiality

- 21. A public (redacted) version of these submissions is provided for publication on the Commission’s website.
- 22. Confidentiality is sought over the highlighted information in these submissions (redacted in the public version) which is confidential and commercially sensitive. We request that it be treated as such.
- 23. We appreciate these submissions are subject to the Official Information Act 1982 (OIA), but that consistent with usual practice, you would notify Electric Kiwi of any request made to the Commission under the OIA for release of the confidential version of these submissions (or any part of them) and seek our client’s views.
- 24. Electric Kiwi consider that any request for disclosure should be declined based on sections 9(2)(b)(i), 9(2)(b)(ii), 9(2)(ba)(i), and 9(2)(b)(ii) of the OIA.

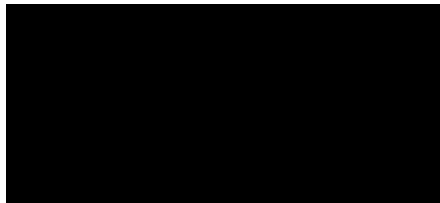
Concluding remarks

- 25. The decisions the Authority makes on hedge market reform will be the most significant determinants of whether the ECTF reforms are successful and result in a needed, substantial improvement in competition for the long-term benefit of consumers.
- 26. The Authority has already persisted with the voluntary arrangements for too long. The experiment has been an abject failure. Voluntary arrangement don’t work. They run counter to the natural, profit-maximising motives of the incumbent gentailers.
- 27. The Authority’s suggestion that “it is too soon since the introduction of the [voluntary super-peak] product to draw firm conclusions about how

successful it has been”, begs the question how long NZ Inc can afford to wait before the Authority determines mandated market-making should be adopted.

28. If the Authority adopts voluntary access arrangements, the consequent continued uncertainty over access, would mean hedging arrangements can be reasonably expected to continue to act as a ‘handbrake’ on competition and growth by independent suppliers. This would come at considerable cost to consumers (less choice, less innovation and higher, less affordable, prices) which would outweigh any purported benefits from allowing supply of hedges to “develop naturally”.

Yours sincerely,



Huia Burt
CEO, Electric Kiwi

[1] The consultation paper documents support for mandatory arrangements, including from Mercury and Meridian (on the gentailer side), the ‘Baldwin’ Expert Panel, and independent retailers. Other stakeholders, not referenced in the consultation, such as Vector, also support mandating the product.

[2] Our recent [submission](#) to the Commerce Commission on the application seeking Authorisation for Proposed Arrangements between Genesis, Contact, Meridian and Mercury detailed that “evidence provided in the application helps substantiate that there are significant problems in the wholesale electricity market, including that ... Genesis has substantial market power and, by inference, that Contact, Mercury and Meridian also have substantial market power”.

[3] The consultation paper’s lack of grounding, based on a clear problem definition, is seen in the commentary where the Authority indicates it would be open to expanding market-making beyond Contact, Genesis, Mercury and Meridian. It should be apparent that if the problem is a market power problem, then the solution should be directed at suppliers with market power only.

[4] [Electric Kiwi - Submissions on the SOI Contact/Manawa Clearance Application](#), 5 March 2025.

[5] See also the concerns the Independent Electricity Retailers have raised about the super-peak product in [our joint Level Playing Field submission](#) (paragraphs 53 and 54).