

Electricity Authority Te Mana Hiko
[REDACTED]

Via email: info@ea.govt.nz

26 May 2025

To whom it may concern,

Thank you for the opportunity to submit on the consultation paper "Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice."

Octopus Energy NZ supports the Authority's objective to improve transparency and competition in the over-the-counter (OTC) hedge market. As an independent retailer, we believe that comprehensive monitoring of both successful and unsuccessful OTC activities will provide valuable insights into market conduct and potential barriers to competition. We support the proposed clause 2.16 notice and offer the following responses to the consultation questions.

Responses to specific questions:

Q1. Do you agree with the Authority's proposed approach of collecting data on OTC bids and offers, including those resulting in trades?

Yes. Collecting data on both successful and unsuccessful bids and offers provides a more complete picture for monitoring of competition, particularly around access and pricing. Current HDO data captures only successful trades, which fails to identify potential issues with market access or discriminatory pricing that may prevent trades from occurring.

Q2. Do you agree with the Authority's proposed approach of collecting information from large industrials through this clause 2.16 notice?

Including large industrials is appropriate as they represent a significant portion of electricity demand and their access to risk management products affects overall market competition. As noted in the consultation paper, industrial customers faced significant challenges accessing hedge products during the winter 2024 energy crisis.

Understanding how large industrials access OTC products will provide insights into whether the same competitive constraints that affect independent retailers also impact other non-integrated market participants.

Q3. Do you agree with the Authority's proposed approach of not collecting information from non-integrated generators through this clause 2.16 notice? Do you have any thoughts on alternative ways of collecting information on non-integrated generators requests and responses to those requests?

We understand the Authority's reasoning for excluding non-integrated generators from this initial notice, given the ongoing work on power purchase agreements (PPAs). However, non-integrated generators aren't just solar developers. Eastland, Nga Awa Purua, TOP Energy, Tuaropaki, King Country Energy etc all regularly participate in the OTC market. As with other participants, including them ensures a broader dataset that would provide a more comprehensive view of market dynamics. We recommend expanding data collection to include these participants to avoid creating data gaps.

Q4. Do you have feedback on our approach regarding collection of information on PPAs?

We understand the Authority's decision to address PPA-related information collection separately, given the specific challenges and ongoing work in this area. But we believe PPAs should be integrated into monitoring, particularly for new entrant generators. As the electricity market evolves with increased renewable generation, understanding the relationship between traditional OTC hedging and emerging PPA structures becomes increasingly important for effective market oversight.

Q5. Do you agree with the Authority's proposed approach of collecting data from all retailers, thus including gentailers and small, micro, and community retailers?

Yes. This approach should make trading conduct more transparent (which is likely to curb poor behaviour in and of itself) and will help the EA to assess whether small participants are disadvantaged. Comprehensive data collection across all participant types may identify structural barriers or pricing disparities affecting smaller market participants. Including all retailer types will highlight these disparities and inform potential policy interventions to level the playing field.

Q6. Do you agree with the Authority's proposed approach to collect data on requests made through energy brokers?

Yes. Broker requests are a common market channel and should be captured to avoid data gaps. Excluding broker-facilitated transactions would create an incomplete picture of market activity and potentially miss important aspects of how participants access risk management products.

Q7. Do you agree with the Authority's preference to restrict the data collection to written requests and requests made through brokers but to exclude text messages and phone calls?

While we understand the compliance burden concerns, excluding phone calls creates a potential opportunity where participants could deliberately shift important negotiations to untracked channels to avoid oversight. We are concerned that participants may game this system by conducting substantive negotiations via phone calls, undermining the transparency objectives of this initiative. The Authority should consider whether some mechanism for capturing phone-based negotiations is necessary to prevent this loophole.

Q8. Do you agree with the Authority's proposed data collection from retailers and large industrials for requests larger than 0.1MW?

Yes. A lot of requests are currently not captured due to the minimum size level, so the 0.1MW level ensures a larger number of transactions are monitored. This threshold aligns with current hedge disclosure obligations while capturing a broader range of market activity that is relevant to smaller market participants. The current Voluntary Code of Conduct only included requests for 1MW and above which meant data for smaller signatories was largely being excluded.

Q9. Do you agree with the Authority's proposed approach to restrict the data collection to include only buy requests?

A lot of concerns relate to access to purchasing hedge contracts, so focusing on buy requests makes sense, but there's potentially an issue in market power and competition when it comes to selling as well. While we understand the practical limitations of scope, the Authority should consider whether expanding to sell-side requests in future iterations would provide valuable insights into market power dynamics. This is where data from the non-integrated generators will be reflective.

Q10. Do you agree with our suggestion to collect information on the initial bids and final offers only? Or should we include a field to capture the number of negotiation steps?

Yes. The proposed approach seems reasonable. Focusing on initial bids and final offers captures the most important elements of the negotiation process while minimising compliance burden. We suggest also including a field to capture the total time duration from start to finish of the negotiation process. This would provide valuable insights into whether certain participants face more protracted or delayed negotiation processes, which could indicate discriminatory treatment or market power issues.

Q11. Do you agree with the Authority's proposal to require quarterly provision of information?

Yes. Quarterly reporting seems reasonable.

Q12. Do you have any comments on the changes to the proposed data fields and/or the proposed file structures?

The alignment with Hedge Disclosure should help with overhead and compliance. Using consistent data formats and fields where possible will reduce implementation costs and allow for integration with existing reporting systems. We support this approach to minimising regulatory burden.

Q14. Do you agree with the Authority's proposal to publish aggregated information provided by the selected participants, and do you have any comments on how to best maintain confidentiality while providing as much transparency as possible?

Yes. Reporting at an aggregated high level should be appropriate to balance transparency with confidentiality concerns.

Q15. Pursuant to clause 2.21 do you consider that any of the information we propose to collect is confidential? If so, please explain how it is confidential in line with clause 2.21.

Price, volume, and counterparty information is sensitive but is already provided in other contexts. Any reporting should be anonymised to protect commercial interests.

The proposed aggregation methods appear sufficient to mitigate confidentiality concerns while providing valuable market insights.

Q16. Do you agree the benefits of the proposed clause 2.16 notice outweigh its costs? If not, what area(s) of the Authority's preliminary assessment of benefits and costs do you disagree with?

Yes. Improved transparency and better competition monitoring outweighs the costs. The regulatory burden appears proportionate to the potential benefits of enhanced market oversight and the identification of barriers to competition that could inform future policy interventions.

Q17. Do you agree the proposed clause 2.16 notice is preferable to the other options? If you disagree, please explain your preferred option with reference to the Authority's statutory objective in section 15 of Act.

Clause 2.16 makes more sense than section 46 requests. The proposed approach provides a more enduring and predictable framework for data collection compared to ad-hoc information requests, reducing uncertainty for market participants while enabling consistent monitoring over time.

Q18. Should the Authority consider further work to monitor competition in the industry?

Yes. Regular reviews of access to risk management tools and deeper investigation into barriers for smaller participants should be continued. This data collection initiative should be viewed as part of a broader programme of work to ensure the electricity market delivers competitive buy and sell across all trades for all participants and ultimately benefits consumers.

The Authority should consider:

- Vertical integration impacts: monitoring how generation-retail integration affects competition
- Innovation and customer switching: analysis of factors affecting consumer choice and market dynamism

Q19. Do you have any comments on the proposed data collection or about the notice in general?

We support the Authority's initiative to improve transparency in the OTC market. While implementation will require some system changes and create additional reporting obligations, we believe the benefits of enhanced market monitoring justify these costs. We encourage the Authority to maintain an open dialogue with market participants during implementation to address any practical challenges that may arise.

Additional comments:

Octopus Energy NZ supports the proposed clause 2.16 notice as a necessary measure to improve transparency and competition in the OTC hedge market. We believe that comprehensive monitoring of both successful and unsuccessful market activity could hopefully provide insights into potential barriers to competition, particularly for independent retailers and other smaller market participants.

Kind regards,

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