



22 November 2022

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

Proposed amendments to the security of supply forecasting and information policy

Meridian appreciates the opportunity to comment on the Electricity Authority's consultation on changes to the security of supply forecasting and information policy (SOSFIP).

Although the consultation has been narrowly framed to just cover the two points where the Authority disagrees with the System Operator (SO), Meridian's submission also includes comments on a range of changes of interest to us. Our submission is therefore framed in two parts:

- Part 1: Our comments on the issues raised by the Authority in the consultation; and
- Part 2: Other comments on the range of changes that have been included in the mark-up of the SOSFIP, post the SO's own consultation in March this year.

Part 1: Meridian's views on the issues raised in consultation

Meridian disagrees that the SOSFIP should be amended to give the Authority the ability to see confidential information

The first issue raised in consultation is a change for the Authority to be able to access confidential information that is provided to the SO by industry participants. The purpose of this change is to enable the Authority to effectively monitor the SO, and so that the Authority is able to provide a level of assurance to itself and industry that the assumptions that underpin the Electricity Risk Curves (ERCs) are accurate. We note that this proposal should also be

viewed in light of the SO's own proposal to encourage the proactive sharing of information relating to security of supply, by writing this into the SOSFIP as an obligation on participants. We comment on this in the second part of this submission.

While it is important that the Authority can monitor the SO, it is not clear from the consultation that sharing information in this way is necessary. The analysis of the problem definition is very limited. The consultation refers to the events of 9 August 2021, and the reviews and information gathering that happened post the event. However, it is not clear whether or how the current powers under section 46 of the Electricity Industry Act are insufficient. The consultation refers to the situation being escalated but gives no information about how or why this happened.

We would also like to note our discomfort with the wording in the Authority's marked-up SOSFIP. Clause 3.3 states that "...the Authority may make confidential information available under this policy in such a way that the subject of the confidential information cannot reasonably be ascertained." The information in issue is often commercially sensitive and is provided to the SO on a confidential basis. Our concern is that, despite the Authority's assurances regarding anonymisation of information, the suggestion that the Authority will publish information could have a chilling effect on the provision of sensitive information to the SO (whether voluntarily or under a disclosure obligation). To ensure that information continues to be freely and proactively shared the assumption should be on non-publication to maintain confidentiality. We request that this proposed amendment to the SOSFIP not be made.

Meridian supports a requirement for the System Operator to use its experience and judgement to assess demand response through the use of scenarios

The Authority also proposes that the SO should use their experience and judgement regarding the way that electricity demand and the market respond to price and power system security signals, for the purpose of determining the ERCs.

Consistent with our submission to the SO earlier this year regarding the gas reallocation assumptions used to inform the ERCs, Meridian considers scenario analysis would be a powerful tool in assessing the impact of demand response. Scenario analysis would be a useful way for the SO to exercise its experience and judgement in the face of uncertainty. As we noted in our submission in April, while it is important for the SO to publish a view of risk, informed by its experience and judgement, that view should not be misinterpreted as the single 'truth' and the SO should always endeavour to communicate the assumptions and

uncertainties underpinning the ERCs. Meridian suggests that the SO develop and publish a range of demand response scenarios or sensitivities so that users of the ERCs are aware of the uncertainty inherent in the model.

Part 2: Meridian's views on the changes signalled by the marked-up SOSFIP

We would first like to state that the short process and narrow scope for consultation is less than ideal. Although a short consultation will allow for policy changes to be made swiftly, we see that there are changes in the marked-up SOSFIP that were not subject to consultation and others that were not supported by submitters. Our view is that the SOSFIP amendment process is inadequate if it allows for changes to be made by the SO when it is not clear to participants what oversight the Authority is exercising or why decisions are being made to proceed regardless of submissions to the contrary. In approving the SO's changes, at a minimum, the Authority should set out why it has done so, especially when there are changes that submitters did not support or were not consulted on by the SO. This is particularly concerning given the proposed change to the SOSFIP to impose a new disclosure obligation on all market participants rather than just matters pertaining to the SO itself as the author of the SOSFIP. This would be a significant change and creep in scope of the SOSFIP. In Meridian's opinion, any obligations on participants and should be codified rather than included in a document incorporated by reference (we discuss this point further below).

The following comments go beyond the narrow consultation contemplated by the Authority and relate to other changes signalled by the marked-up version of the SOSFIP.

Electricity risk curve disclosure information

The proposed changes to the SOSFIP add a new definition of "electricity risk curve disclosure information" and new clause 6.9 places a requirement on all industry participants to make electricity risk curve disclosure information available to the SO as soon as reasonably practicable.

As we noted in our submission to the SO in April this year, there does not seem to be a problem here that would require a proactive disclosure obligation on all participants. As the SO has stated, "participants are generally proactive in informing the system operator with relevant information, and helpful when approached." The overlap with existing wholesale market information disclosure obligations has also not been adequately considered. As we said in our submission to the SO, the problem is not so much what industry participants tell the system operator but rather what information is publicly disclosed. There should in principle be no difference between the two – any information that will have a material impact on the risk

outlook is also likely to have an impact on wholesale prices and therefore should be disclosed publicly, rather than to the system operator alone. Where participants rely on exceptions in the Code to not publish disclosure information, that is now reported to the Authority on a quarterly basis. A more efficient option could therefore be for the Authority to inform the SO if there is disclosure information that has not been published and that might affect ERC assumptions and inputs. The SO could then approach participants for information as required.

Adding a further continuous disclosure obligation on all participants (in addition to NZX continuous disclosures for listed companies, wholesale market information disclosure, and quarterly reporting on wholesale market information disclosure) is particularly onerous and will result in costs to participants. The costs and benefits have at no point been considered by the SO or the Authority, seemingly because the SOSFIP is a document incorporated by reference in the Code and therefore the Authority is of the opinion that a regulatory statement and cost benefit analysis are not required.

This leads us to the broader point that the inclusion of disclosure obligations on all participants in the SOSFIP is an awkward fit (at best) and likely unenforceable. Clause 7.3 of the Code places obligations on the SO to prepare and publish the SOSFIP and lists the matters the SO is required to include. It also places an obligation on the SO to implement and comply with the SOSFIP. The Code does not place any obligation on any other party to do anything in respect of the SOSFIP. It is therefore unclear whether a failure to comply with the disclosure obligation in the SOSFIP would amount to a Code breach or whether the obligation would be unenforceable. The SO is not a regulator and should not have a power to impose obligations on participants via the SOSFIP. If the Authority wants to place obligations on participants that obligation should rightly sit in the Code itself rather than a document incorporated by reference. This is so that due process is followed in consulting and preparing a regulatory statement in respect of the change as is required by section 39 of the Electricity Industry Act. It would seem to be a legally dubious and perhaps indefensible position for the Authority to take if it expected to be able to impose an obligation on all participants without any regard to costs and benefits and other matters in section 39 of the Electricity Industry Act, simply because it used a document incorporated by reference as a back door to impose the obligation (or worse still allowed a third party to impose that obligation without properly testing it).

The imposition of new disclosure obligations on all participants would also go far beyond the power in section 64 of the Legislation Act to incorporate by reference “written material that deals with technical matters” where inclusion in the Code would be impracticable. That would not be a reasonable position to take given other disclosure obligations on participants are in

fact already included in the Code. In Meridian's opinion, such an incorporation by reference would rightly be challenged through the Regulations Review Committee.

In Meridian's opinion, the proposed electricity risk curve disclosure obligation should be deleted from the proposed SOSFIP and the onus should remain on the SO to consult with participants who the SO believes to have information that would have a material impact on inputs and assumptions it uses in the determination of the ERCs. Any wider obligation on participants should only be put in place via a Code change after considering the costs and benefits and following due process.

The proposed new Policy Intent

While a statement of the Policy Intent behind the SOSFIP may be useful, to our knowledge there has been no consultation on this change. Again, in Meridian's opinion, such a statement of policy intent or purpose may also sit better in the empowering Code provisions that set out the scope of matters to be included in the SOSFIP.

More importantly, we are not sure it would be accurate to say that the "sole intent" of the ERCs and other security of supply information is to inform stakeholders of the future risk of an extended emergency. The ERCs were originally developed to put some structure and process behind an otherwise potentially arbitrary decision about when to call an official conservation campaign. This intent is different to informing stakeholders of future risk. Meridian is concerned that a policy intent statement like that proposed could add to the impression held by some observers that the ERCs are an official source of the "truth" about the risk in the market rather than a model based on a range of assumptions and exhibiting the uncertainty that is inherent in any such model of the future.

The proposed gas reallocation assumption

In the March consultation we stated that the SO in determining the ERCs should not make a single assumption about gas reallocation (using only Type 1 and Type 2 response information). As we said previously, we think that there is value in the SO modelling a range of scenarios in respect of gas reallocation assumptions to demonstrate the extent of uncertainty.

It may be that the single assumption proposed for the SOSFIP is appropriate as the central assumption for the ERCs but it would be nice to know whether there is any intention to also look at other scenarios on an ongoing basis.

The contingent storage release boundaries

The proposed SOSFIP would add that:

“A **contingent storage release boundary** that uses a risk of future shortage of 10% is termed the 'Emergency' release boundary. The use of 'Emergency' **contingent hydro storage** is dependent on an **official conservation campaign** being commenced.”

While this addition was not consulted on we have discussed it with the SO. In Meridian's opinion the addition is redundant and could cause confusion. As the new text notes, the use of 'Emergency' contingent hydro storage is dependent on an official conservation campaign being commenced. Therefore an 'Emergency' release boundary is entirely redundant and could cause confusion because the SO does not necessarily commence a conservation campaign when the 'Emergency' release boundary is crossed, it has to also forecast the risk remaining for more than a week (see clause 9.23 of the Code). The SO and Authority also have discretion to agree an entirely different date for the commencement of a campaign.

Furthermore, the 'Emergency' release boundary is now no different to the 'Emergency' status curve, so it is not at all clear what the purpose of the release boundary is supposed to be. It does not trigger access to contingent storage and is no different to the 'Emergency' status. In Meridian's opinion the release boundary could be removed entirely and the result would be simpler and clearer.

The redundancy of the release boundary potentially goes further than just the 'Emergency' release boundary. The concept of contingent storage release boundaries in general was added in a previous iteration of the SOSFIP that separated the 'Alert' status from the percentage risk curves. The 'Alert' release boundary was therefore necessary to ensure resource consents were not disturbed and generators would still have access to contingent storage under those consents when a 4% risk curve was crossed (floors and buffers were also added to address infeasibilities because the available storage trace was also amended to include contingent storage). The SOSFIP was therefore explicit that the 'Alert' release boundary is the subsequent equivalent regulatory arrangement to the use of 'Alert' status for the triggering of access to 'Alert' contingent hydro storage.” Now that the 'Alert' status is reverting back to the percentage risk curves and the floor and buffer are to be included on those curves, there is no longer any need for “the subsequent equivalent regulatory arrangement to the use of 'Alert' status for the triggering of access to 'Alert' contingent hydro storage.” The 'Alert' status itself is the trigger and no subsequent equivalent is required. Put another way, the 'Alert' release boundary and the 'Alert' status are now the same thing and

there is no need for both, in fact a single 'Alert' is clearer and simpler for the purposes of triggering resource consents. We would be happy to discuss this point further with the SO.

Nothing in this submission is confidential. It can be released in full.

Please feel free to contact me if there is anything you would like to discuss.

Nāku noa, nā



Evealyn Whittington

Senior Regulatory Specialist