

14 December 2022

Submissions

Electricity Authority

PO Box 10041

Wellington 6143

By email to [reviewconsultation2022@ea.govt.nz](mailto:reviewconsultation2022@ea.govt.nz)

1. This is a submission from the Major Gas Users' Group Inc (MGUG) on the Electricity Authority Issues Paper – *Promoting competition in the wholesale electricity market in the transition toward 100% renewable electricity*.
2. MGUG was established in 2010 as a consumer voice for the interests of a number of industrial companies who are major consumers of natural gas.
3. Membership of MGUG comprises large industrials using natural gas for process heat and in transformation:
  - a) Ballance Agri-Nutrients Ltd
  - b) Oji Fibre Solutions (NZ) Ltd
  - c) Fonterra Co-operative Group Ltd
  - d) New Zealand Steel Ltd
4. Members have been consulted in the preparation of this submission. Nothing here is confidential and some members may choose to make separate submissions.

#### Comments related to Information Disclosure in the Gas Market

5. We do not support an expansion of EA powers to scrutinise gas agreements for non-electricity market participants. We consider this measure as unsupported by any evidence, unnecessary in the context of existing gas market arrangements, outside of the EA's jurisdiction, and likely harmful to investor confidence.
6. Much of the EA's Issues paper is spent on speculating whether or not market power is being abused in the *electricity market*. In "*bringing the key findings together*"<sup>1</sup> the EA's only link to gas disclosure appears to be that in its WMR<sup>2</sup> report there was "some evidence that market power **may** have been exercised over the review period"<sup>3</sup>, and that other major factors in play such as ongoing uncertainty about gas supply **may (or may not)** be evidence of exercise of significant market power<sup>4</sup>.
7. Whilst acknowledging that there is now more information available on gas supply through initiatives undertaken by the GIC<sup>5</sup> to address the findings of the WMR, the EA then says

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<sup>1</sup> Chapter 5

<sup>2</sup> The Authority's Market Monitoring Review of Structure, Conduct and Performance in the Wholesale Market covering the period 2019 to mid 2021

<sup>3</sup> Para 5.1

<sup>4</sup> Para 5.2

<sup>5</sup> Para 6.33

this isn't sufficient for their purpose. The EA claims that it needs visibility on the allocation of gas to different consumers outside of the electricity sector when a gas producer cannot meet contracted volumes<sup>6</sup>. The EA says "*The information needed goes beyond outages and reserve and production forecasts, to cover information on supply agreements with parties outside the electricity sector*".

8. The EA seems to consider that it needs to know how delivery between customers is prioritised when gas supply is constrained in order to manage dry year risk or to monitor trading conduct<sup>7</sup>.
9. These assertions are unsupported and appear to be the only link in support of the recommendation that<sup>8</sup>:

*MBIE to progress work to improve disclosure of information on availability of gas for electricity supply, in particular an amendment to the Electricity Industry Act 2010 so that section 46 powers include parties in industries critical to security of electricity supply, **and in particular the gas industry***

10. It is not clear to us why the EA believes it is within their scope of duties to consider access to information outside of the electricity market or what the EA intends to do with this information. Aside from whether it is appropriate to scrutinise private contracts outside of the electricity sector, we are concerned that it is laying the groundwork to override the normal competitive functioning of the gas market.
11. Our concerns are founded on previous suggestions that gas should have priority for electricity generation, including a cabinet paper which floated the idea of gas reallocation to secure electricity supply<sup>9</sup>. This received further attention in the WMR where the included Martin Jenkins (MJ) report<sup>10</sup> expressed the view that established contractual frameworks were needed to **reallocate resources within the gas market**<sup>11</sup>.
12. These suggestions imply that commercial contracts negotiated outside of the electricity market should not only be made visible to unrelated parties, but that the information be used to override or modify contracted terms. We consider that this will have a chilling effect on investor confidence and investment, not just for gas, but for wider investor assessment of New Zealand sovereign risk.
13. Efficient, market-based gas reallocation mechanisms already exist. Supplementary measures are unnecessary and economically distorting.

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<sup>6</sup> Para 6.32

<sup>7</sup> Para 6.33

<sup>8</sup> Table 6 – p31

<sup>9</sup> Cabinet Paper 13 February 2020 – MBIE Energy and resources portfolio - Progressing the Electricity Price Review's Recommendations – para 107 "*A possible option is the provision of emergency powers to reallocate electricity or gas in situations of acute electricity or gas shortage*"

<sup>10</sup> Martin Jenkins – "*2021 Dry Year Event – An independent review commissioned by the Electricity Authority*" 27 October 2021

<sup>11</sup> *Ibid*– p15

- a) Generators can alter their gas contracting strategies and choose to be long in gas and sell what they don't need, vs what appears to be the case at the moment of being short and looking to buy at a time when the market might be stressed.
- b) Generators can create bespoke bilateral arrangements amongst various gas market participants to facilitate the reallocation to the party that values the gas the most.
- c) There is an active gas trading market platform to adjust gas portfolios. Generators requiring more gas outside of their negotiated supply agreements are free to place bids on emsTradeport or place offers where contingent gas is surplus to need.

If generators fail to agree on a price within these market mechanisms this is not evidence of excessive market power that needs investigation or addressing by the EA. Rather, any concerns around exercise of market power in the gas market should be left to the appropriate regulator to investigate.

- 14. In conclusion, the EA's case that not having visibility over the entirety of gas supply agreements across the gas sector is somehow creating market power in the electricity sector is not evident in the issues paper. The proposed solution to inspect gas supply arrangements outside of the electricity sector exceeds the EA's purpose, has no clear benefits, and carries a significant cost to New Zealand's investment reputation and investor confidence.
- 15. MGUG strongly advocates against the recommendation *that MBIE progresses policy work to amend the Electricity Industry Act 2010 so that section 46 powers include parties in industries critical to security of electricity supply, such as the gas industry.*

Yours sincerely,



Richard Hale/Len Houwers  
Hale & Twomey Ltd/Arete Consulting Ltd  
Secretariat for the Major Gas Users' Group (Inc)