



Electricity Authority
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14 December 2022

Manawa Energy submission - Promoting competition in the wholesale electricity market in the transition towards 100% renewables

Manawa Energy (**Manawa**) welcomes the opportunity to provide a submission to the Electricity Authority (the **Authority**) on its Promoting Competition in the Wholesale Electricity Market in the Transition towards 100% Renewables Consultation paper (the **Issues Paper**).

The Issues Paper presents the findings of the Authority's market monitoring review of competition in the wholesale market between 2019 to mid-2021, along with a package of actions to strengthen the settings for competition during the transition to a more renewable market. These include to:

- Ensure competitive outcomes emerge; and
- Facilitate new investment in renewables.

Introducing Manawa Energy

Manawa is New Zealand's largest independent¹ electricity generator and developer, currently responsible for around five percent of Aotearoa New Zealand's existing generation capacity.

Over 99% of our generation comes from sustainable hydroelectricity generated from 26 small to medium schemes around the country. These schemes support economic growth and resilience in local communities across New Zealand. Manawa has a clear strategy to grow this further by building a diverse portfolio of development options and further optimising our existing assets.

Our position is unique among the industry as we made the choice to sell our mass market retail customer base – actively shifting from being a generator retailer to the largest independent generator. This innovative business approach has been enabled due to our ongoing confidence in the wholesale market arrangements and provides us with a unique perspective from which to analyse the regulatory settings in the wholesale market.

Manawa's views

Manawa continues to support the Authority's work programme to review competition in the wholesale electricity market.

Ensuring a competitive, thriving wholesale electricity market will be a cornerstone for supporting the required level of investment in renewable generation to support New Zealand's transition to a low emissions economy.

¹ By independent we mean without an integrated mass market retail business.

The Authority's review identifies that the current wholesale market design and structure provides a good foundation for the transition to a market with significantly more renewable generation, albeit with some further evolution of the arrangements required.

Of relevance are the outcomes of the Authority's post-implementation review of the effectiveness of the newly introduced trading conduct provisions, which identified that the *"rule appears to be resulting in offer prices that more closely reflect underlying conditions and economic costs compared to past years."*

The Issues Paper also identifies that during the transition the market power of generators with storable fuel may increase, especially when the market is relying on flexible generation due to still, cloudy, and cold weather. The Authority find that *"... whether competition will weaken during this transition will depend on the speed and amount of investment by independent developers in alternatives to gas and coal generation and in market innovations that enable increased participation by flexible demand."*

Based on this evidence, we agree with the Authority that:

- reliance on conduct-based measures remains broadly appropriate for the transition;
- there is no current evidence to justify further exploration of more fundamental structural options; and
- entry of new generation, alongside increasing flexibility of demand, will be the most powerful constraint on market power².

Ensuring that the supply of generation can continue to meet the anticipated increased demand due to electrification and closure of thermal plant will be important for ensuring that the best outcomes for consumers can be achieved in the long term. The Lantau Group's expert report, which accompanied our original submission on the review, discussed the importance of maintaining a long-term view:

"Regulation and regulatory bodies have a significant impact on the effectiveness of the electricity sector in meeting broader policies in an efficient and responsible way. The least of which is to ensure that markets are dynamically efficient in order to attract and reward the new investment required."

The remainder of this submission outlines our views on the importance of regulatory certainty and stability and ensuring that excessive regulatory burden isn't created. Our specific comments on the Authority's proposed package of actions are provided in Appendix 1.

Finally, we recognise there are likely to be a range of views on the Issues Paper and recommend a cross-submission period.

The importance of regulatory certainty and stability for material capital investment decisions

We are pleased that the Authority has recognised the significant impact that regulatory uncertainty can have on new generation investment decisions.

Certainty around the market, regulatory and policy settings is an important prerequisite for investment decisions. It is also important for ensuring that consumers are provided with confidence that electricity services will be provided reliably and that the prices they pay are reasonable.

While further evolution of the wholesale market design will be required during the transition, it will be vital that regulators and policy makers:

- provide as much certainty around the likely evolutionary pathway for the market to support new generation investments to be progressed quickly. Where certainty cannot be achieved,

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then investment decision makers need a sense of predictability and stability in order to trust that long-term interests are being appropriately considered in decision making³; and

- continue to ensure the reforms only proceed based on clear evidence of an existing/emergent problem, and a robust regulatory impact assessment.

As Infratil (the majority owner of Manawa) previously noted⁴:

*"We understand that the levels of returns that these investments will earn could change, due to the actions of other market participants. That is a risk we accept. **But we do not believe it good regulatory practice to radically change regulatory settings unless the benefits are clear, demonstrable and material.**"*
{emphasis added}

Any lesser standard being applied for regulatory and/or policy change will likely result in investment decisions in the generation sector being more conservative⁵. This is because, investors will have a higher cost of capital where there is more investment risk, which increases hurdle rates, delays (and in extreme cases may defer) investments and ultimately increases costs to consumers. This may put the sectors' ability to support the Government's decarbonisation objectives at risk.

We recognise that we are living in a time of significant uncertainty and that unprecedented changes that impact on the energy eco-system will occur during the transition.

The progression of reforms will need to move at faster pace than what we have seen in the past, but this shouldn't be to the detriment of robust decision making. There will be a challenge for regulators in striking the right balance between avoiding the risks and costs of leading the market through anticipatory reforms vs being too slow to take action⁶. There will also be challenges in achieving balance between the dimensions of the energy trilemma during the transition which will likely require ongoing monitoring and potential adjustments as the sector evolves.

Key to successfully navigating through the transition will be for regulators and policy makers to ensure any adjustments to the regulatory/policy settings do not undermine long term investment decisions by ensuring that the standard outlined above continue to be applied. This important consideration was highlighted by the Productivity Commission in the final report for its low emissions economy inquiry⁷:

*".. an important theme in this inquiry is that the long-term perspective must be introduced into politics and policymaking, domestically and internationally. Added to the long horizon is deep uncertainty about many aspects of the future. The combination of these two features requires political commitments and durability that spans many generations. Without durable and ambitious policies now, the signals for firms and households to move their production and consumption towards less emissions-intensive options will be weak, at best. **The challenge is therefore how best to design the political and governance architecture in a way that effectively signals future policy intentions and provides a commitment to such intentions.**"*
{emphasis added}

³ As outlined in the expert report from Sapere which accompanied Meridian's submission: "*Levine et al (2005) acknowledge that regulators need to balance their role in supporting investment with their role of protecting consumers against monopolistic exploitation. They point out that investment and innovation is generally beneficial to end-users. Providing a predictable regulatory environment that supports firms' incentives to invest is important for the promotion of competition in the industry for the long-term benefit of end-users*" <https://www.ea.govt.nz/assets/dms-assets/29/Meridian-submission.pdf>

⁴ <https://www.ea.govt.nz/assets/dms-assets/21/21092Infratil.pdf>

⁵ As recognised by the Authority, examples of the types of decisions/processes which can act to impede capital flowing into New Zealand include the Government's recent ban on oil and gas exploration and investigation into the feasibility of Lake Onslow.

⁶ For example, the introduction in December 2021 of revised responsible lending rules which were highly prescriptive and resulted in a much broader capture of lending activities than was originally intended to protect vulnerable borrowers from predatory lenders. This resulted in further review and revisions to the relevant regulations and code being made in mid-2022. <https://www.dentons.co.nz/en/insights/alerts/2022/june/14/final-ccca-regulations-and-responsible-lending-code-amendments>

⁷ Page 3

Finally, we note that the Authority will likely need more internal resource to be able to support reforms during the transition. To assist with addressing this need, we encourage the Authority to adopt a co-design approach (as proposed recently by the MDAG) to new arrangements, thereby more readily enabling the range and depth of experience within industry to be drawn off in market design reform work.

Important to remain cognisant of increasing regulatory burden

In principle, we support the Authority having access to the necessary information to undertake proactive monitoring of market outcomes, including progress with generation investments, and to ensure efficient decision making. However, we encourage the Authority to remain cognisant of the overall regulatory/compliance burden that is developing for participants through its various workstreams, as this adds to the cost and complexity of operating in the NZ electricity market.

There are some aspects of the proposed recommendations from the review which are likely to create additional operational and compliance requirements for participants, for example provision of information on offtake and firming agreements, including declined requests (if feasible).

In recent years there have also been a number of additional disclosure requirements introduced by the Authority which may seem low impact in isolation, but in combination can create significant additional work for a business.

To be clear, we support initiatives to ensure that the Authority can appropriately monitor market outcomes/behaviours and make the best decisions around policy/regulatory changes, but we are simply highlighting the importance of the Authority carefully considering the need for each piece of information being requested, along with who the most appropriate party to access information from would be.

If you have any questions regarding the content in this submission, please contact Fiona Wiseman, Head of Policy, Consenting and Risk

Appendix 1: Manawa’s perspective on the Authority’s Recommendations

Recommendation	Manawa’s perspective
<p>Continue proactive monitoring and enforcement of trading conduct in the spot market, and investigate the application of trading conduct rules to the forward market</p>	<p>We support the recommendation and suggest the Authority also need to consider extending the Trading Conduct provisions to also cover the demand side of the market in the future, particularly if the mechanisms to accelerate demand response/DER prove effective.</p> <p>As a broader observation, there is some uncertainty around what exactly might be intended by the reference to the “forwards market” which would benefit for clarification, i.e. just the ASX futures market or does it include bilateral forward purchases of electricity such as PPAs.</p>
<p>Investigate mechanisms to accelerate the development of the demand response market (in addition to its current work programme directed at this, eg, real time pricing and empowering consumers to participate in the electricity system in new ways)</p>	<p>We support the Authority further exploring how to increase demand side participation in the market. While the new real time pricing arrangements will assist in enabling demand response participation more readily, its uncertain what the likely uptake will be. We strongly support the Authority in actively monitoring uptake of the dispatch notification product.</p> <p>Even with more sophisticated mechanisms to accelerate development of the demand response market, it remains uncertain what the actual potential of demand response in the NZ market will be in reality. We strongly support the Authority testing out the implications of preferred mechanisms to better assess potential of demand response prior to progressing major reforms to the market design. A regulatory sandpit, similar to that being implemented in the NEM, may be appropriate in this case. We suggest it may be appropriate to reflect this intention to “test” options in the description of the recommendation, similar to the recommendation relating to longer-dated futures (i.e. “investigation and test...”)</p> <p>Finally, we note that many other jurisdictions have struggled with efficiently integrating demand response into their wholesale market design. These international experiences provide a great opportunity for NZ to learn from and we look forward the broader conversations in this important area of market development, including when the MDAG’s options paper for 100% renewables work is released</p>
<p>Conclude the current consultation on the proposal to prohibit inefficient price discrimination in very large contracts and, following the consultation process, determine whether to implement a disclosure, monitoring, and voluntary clearance regime</p>	<p>We note this recommendation is already underway and have presented our views on the proposed approach to addressing inefficient price discrimination in our recent submission to the Authority.</p>

<p>Clarify disclosure requirements (and consider amending the Code to provide certainty about such requirements) about current or expected constraints that could impact generation capacity, and arrange a centralised location for disclosure</p>	<p>We are generally supportive of this initiative and consider its likely to support more efficient offers, better security of supply and more effective market monitoring.</p> <p>However, the specific details relating to any additional disclosure requirements will require careful consideration to ensure they are delivering an overall net benefit. This is because there can be many very small operational constraints which don't have any significant implications to the broader market that might otherwise be captured through a reporting requirement. The introduction of a de minimis may assist in managing this issue.</p>
<p>Explore better information sharing processes and obligations with the Commerce Commission on any information the Authority collects that may raise concerns about restrictive trade practices, collusion, or misuse of market power</p>	<p>We are generally supportive of ensuring efficient information flows between the two regulators that monitor competition in the electricity market.</p> <p>We note that the Authority at times collects information that is commercially sensitive and/or confidential in nature. We encourage the Authority to carefully consider how to ensure appropriate treatment of this type of information if it is to be shared with the Commerce Commission. For example, we would expect appropriate protocols around the treatment and sharing of information to be established between the Authority and the Commission, including to outline where information will be shared between regulators and to establish processes which ensure that there is clarity around which staff will be provided any shared information and for what purpose. We consider it would also be reasonable for the Authority to inform a participant if its information is being provided to the Commission via any arrangements.</p>
<p>Undertake regular monitoring of progress on generation investments, and an annual update of the investment pipeline and impediments</p>	<p>We support this initiative and consider that there may be value in producing a statement of opportunities similar to that produced by AEMO in Australia.</p>
<p>Regularly collect information on offtake and 'firming' agreements (and if feasible declined requests) to understand and build the evidence base about the nature and scale of current and emerging access issues reported by developers of new generation</p>	<p>We are generally supportive of this recommendation but note that information on declined requests is not feasible to provide.</p> <p>We can receive numerous requests a day, many of which lack substance and are made via a variety of mechanisms, including phone calls. We consider that the disclosure of this information would place substantial burdens on key members of staff who are attempting to coordinate the new development of renewable generation in New Zealand.</p> <p>If the Authority considers there may be issues in this space that require further investigation, then we recommend an approach of more targeted enquiry based on declined requests that are raised with the Authority.</p>
<p>Investigate and test the case for providing or requiring longer-date futures (for instance products traded on the ASX)..</p>	<p>We support work to further explore longer-dated futures being added to the ASX.</p>

	There is a risk that in offering longer-dated future liquidity becomes split and suggest some consideration to how this could be managed would be required, for example via only offering an annual product for outer years, rather than monthly products
Improve the Electricity Hedge Disclosure System to improve its functionality and make contract details more transparent	<p>We support this initiative and urge the Authority to consider operational improvements to the provision of information to the system alongside any improvements to the functionality for those seeking to utilize the disclosed information. One such recommendation is that ASX transactions should automatically flow through to the hedge disclosure system.</p> <p>We presume that the Authority will seek to address some of the shortcomings with the current disclosure system that were identified in Dr Batstone's paper for MDAG earlier this year as part of this work programme.</p>
Analyse thermal generation transition risks in the context of demand to 2030, its role in hydro firming and more prevalent solar and wind generation, and options to mitigate transition risks	We broadly support this work programme and suggest the Authority will need to work closely with the GIC in understanding the availability and barriers to securing flexible gas supply.
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	<p>We note that information around the gas sector is incredibly important for the efficient operation of the electricity market.</p> <p>We support MBIE considering whether to expand the Authority's information gathering powers under section 46 of the Electricity Industry Act. A core question however to be explored in this work will be whether it's appropriate for an industry specific regulator to be able to compel information from participants that they do not directly regulate. An enhanced information sharing regime between the GIC and Authority might be more appropriate.</p>
MBIE to bring forward the completion of the Gas Transition Plan, Energy Strategy, and NZ Battery project, as reduced uncertainty would contribute to more renewable generation investment, and so lower prices, sooner	As outlined earlier in our submission, we strongly support any steps that the Government and independent regulators can take to reduce regulatory uncertainty.
MBIE to produce an Annual Electricity Generation Investment Opportunities report, targeting international developers, with input from NZ Trade & Enterprise, Transpower, the Electricity Authority, Overseas Investment Office, and Ministry for Environment	We support this recommendation being explored by MBIE.
MBIE to investigate the merit of a providing a one-stop shop for overseas investors in renewable electricity generation, to help navigate and streamline the regulatory requirements and agencies, and advice on relevant stakeholders they should engage with	We support this recommendation being further explored by MBIE and suggest that any engagement should not necessarily be limited to overseas investors only, but rather any potential renewable electricity generation investor that might be not overly familiar with all aspects of the New Zealand electricity market.
The Overseas Investment Office to publish, before the end of 2022, guidance for overseas investors in renewable electricity generation,	We support the Overseas Investment Office further exploring this recommendation.

<p>and consider providing a helpdesk to support developers to navigate the Act's requirements</p>	
<p>MBIE and the Ministry for Environment to bring forward their work to strengthen national direction for renewable electricity to inform local planning and resource management consenting. This should reflect the government's 100% renewable electricity aspiration, electrification and renewable energy goals, and the implications for the amount of investment in renewable generation that needs to occur</p>	<p>We strongly support this recommendation. The ability to obtain consents for new generation projects in a timely manner and to re-consent existing generation is vital for ensuring that new investment is not unnecessarily delayed and that we can continue to optimally access flexibility from our existing hydrogeneration fleet.</p> <p>As a related point, we note that the Natural and Built Environments Act (NBEA) Bill has proposed provisions which will reduce consent durations for distribution connected generation significantly, from a maximum consent term of 35 years to 10 years. Similarly for water permit re-consents lodged during the transition from the RMA to the NBEA there will likely be a consent term of only 3- 10 years granted for distribution connected generation. Exemptions to these reduced consenting terms will however apply for grid connected generation.</p> <p>Introducing substantially different treatment of transmission and distribution connected hydro-generation when granting resource consents to hydro will distort competitive neutrality and lead to inefficient outcomes for the electricity sector, including via distorting locational investment decisions. We encourage the Authority to review the proposed legislation and submit directly on these implications for the electricity market.</p> <p>The NPS:REG needs to be explicit that short term consents are not appropriate for any type of REG, and reinforce that any loss of generation capacity (through loss of access to water) is hugely detrimental to NZ achieving its renewable and decarbonisation objectives</p>
<p>MBIE and the Ministry for Environment to investigate the evidence for, and the merits and feasibility of, applying pro-competitive conditions on consents for renewable generation (eg, use-it-or-lose it)</p>	<p>We support a cautious exploration of this recommendation, noting that there may be unintended consequences with regards to natural resource use, lead-in timeframes for development of projects etc.</p> <p>The philosophical foundations of an anti-competitive approach within the existing resource management arrangements have good merit. It may be preferable to explore the conditions around lapse dates in consents.</p>
<p>Transpower to publish connection enquiries and connection studies and to streamline the application processes</p>	<p>We support this recommendation and note Transpower's current work to streamline its application process remains ongoing. Improving the applications process will help ensure that bottlenecks for connections do not arise and that those generation projects which are most likely to be built are appropriately prioritised by Transpower. Further details of Manawa's views around the connections process were outlined in our recent submission to Transpower.</p>