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Electricity Authority
by email: WMID@ea.govt.nz

Review of Thermal Fuel Information Disclosures

We appreciate the opportunity to respond to Authority's consultation "Wholesale market information disclosure: Review of Thermal Fuel Information Disclosure," published 21 July 2020. We consider an effective wholesale market requires confidence in both efficient prices and reliability, and we support efforts to ensure market participants disclose relevant information to support this confidence.

Key submission points

In our experience, parties are willing to comply with existing wholesale market disclosure obligations, but there are differences in the interpretation and application of the relevant Code provisions, and the exclusion clauses in particular. On that basis, our submission supports proposals 2, 3 and 4 in the consultation paper. We consider that proposal 1, which would require quarterly and annual reporting, would not be warranted if the other proposals are implemented effectively.

Should the Authority decide to proceed with proposal 1, we consider the obligation to report should only be imposed upon market participants that hold thermal fuel information.

From a reliability point of view, information is needed in some form about the degree of confidence in fuel supply to meet generation capacity. We would like the Authority to consider how best to require participants to provide Transpower in its role as system operator with information on this topic, whether through clarification in revised guidelines or a Code amendment as set out in clause F.38 of the consultation paper.

Detailed responses

Our detailed responses to the questions in the consultation paper are set out in the attached Appendix.

Yours sincerely



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Appendix A: detailed responses to consultation paper questions

<p>Q1: Do you agree with the Authority’s problem definition: “The key outcome for an effective wholesale market is confidence in efficient prices, and currently there is a widespread view that prices are not as efficient as they could be because some useful thermal fuel information is absent from the market?”</p>	<p>We agree, but think the problem definition should refer to better information disclosure providing confidence in both efficient prices and reliability. Prices are forecast out seven days, whereas security of supply indications look out six to twenty months.</p>
<p>Q2: Do you agree that there are concerns with both what thermal fuel information is disclosed and the ability to access, interpret and use thermal fuel information that is disclosed?</p>	<p>We agree, but also support the Authority’s view that information disclosure from both gas producers and gas generators has improved considerably through the Gas Industry Company website notifications as well as increased voluntary disclosure publicly and confidentially.</p>
<p>Q3: Do you agree that thermal fuel information disclosure is the most pressing wholesale information disclosure issue?</p>	<p>Yes, we agree.</p>
<p>Q4: Of the other information disclosure issues listed in Appendix E, which are the priority issues? Are there any issues missing from this list?</p>	<p>We consider standardising information disclosure relating to hydro storage is another opportunity to reduce asymmetries of information relating to the wholesale market. We suggest clause E.2(f) of appendix E should be amended as follows:</p> <p>“the lack of standardisation and clarity around reporting and accessibility of hydrological storage and spill data.”</p> <p>We also note that load forecasting inaccuracies are related to an operational tool rather than information disclosure. The Electricity Authority already has a separate work programme to improve the operational tool.</p>
<p>Q5: Do you agree with the Authority’s stocktake of current thermal fuel information disclosure? Has the Authority missed any information in the stocktake or misrepresented disclosure?</p>	<p>Yes, we agree with the stocktake.</p>
<p>Q6: Are you aware of disclosure information where one of the exclusions in clause 13.2A(2) has been relied on to not make the disclosure information publicly available? If so, what exclusion(s) were relied on?</p>	<p>Yes, the system operator has, on occasion, been the recipient of information relating to its security of supply function that has not been disclosed publicly due to confidentiality clauses in the disclosing parties’ contracts, incomplete</p>



	proposals or negotiations, or information being insufficiently definite.
Q7: Do you agree with the factors leading to nondisclosure of thermal fuel information? Are these factors leading to inefficient prices in the wholesale market?	No comment.
Q8: Do you agree with the barriers to accessing and interpreting thermal fuel information? Are these barriers leading to inefficient prices in the wholesale market?	Yes
Q9: Do you agree the proposed Code amendment captures the appropriate players in the market?	As the problem statement is focused on thermal fuel disclosure and to minimise reporting, we suggest only including participants that hold information on Thermal fuel. If in the future other issues arise with information disclosure outside of thermal fuels, then the definition in the Code can be expanded as needed.
Q10: What requirements in the proposed Code amendment will assist participants to be freely able to disclose the information requested?	No comment.
Q11: Are there any unusual situations (whether arising out of contract, law or otherwise) that the Authority needs to consider in amending the current disclosure regime?	No comment.
Q12: Please provide any feedback on the approach proposed to privilege given the powers (and protections) that exist under sections 46 – 48 of the Electricity Industry Act and the limitations proposed on the use and publication of the information.	No comment.
Q13: Please provide any feedback on the limitations proposed in relation to the use of the information requested.	No comment.
Q14: Please provide any comments on the proposed audit power.	No comment.
Q15: Do you agree with proposal 1: a Code change to require quarterly reporting of disclosure activities, provision of an annual directors' declaration and an annual report on policies? Please explain why or why not.	While we agree that proposal 1 could build confidence in compliance, we don't think it is warranted if there are clear guidelines and obligations. From our observation, the issue is not about willingness to comply but rather differences in the interpretation and application of the exclusion clauses.



Q16: Do you agree with proposal 2: to update the Guidelines regarding thermal fuel disclosure? Please explain why or why not.	We strongly support clearer guidelines as proposed and agree that they would support achievement of the desired effect. Well drafted guidelines would remove the need for a reporting obligation.
Q17: Do you agree with proposal 3: to raise awareness and utilisation of existing disclosures through a disclosure reference webpage? Please explain why or why not.	We support proposal 3 and agree it would assist to achieve the desired effect.
Q18: Do you agree with proposal 4: that thermal fuel information disclosures under clause 13.2A should be made to a central location? Please explain why or why not.	We support proposal 4 and agree it would assist to achieve the desired effect.
Q19: Do you agree that the current Code clearly spells out the disclosure obligations to market participants? If not, why not?	No, more clarity should be given to participants regarding what thermal fuel information they are required to disclose and when. From a reliability point of view, understanding degree of confidence in fuel supply to meet generation capacity is needed in some form. If this is not included in the guidelines, then we would recommend adopting the Code change discussed in appendix F at para F.38 of the consultation paper.
Q20: Do you have any comments on the validity of the exclusions in clause 13.2A(2)? Do you consider there are benefits of removing the confidentiality exclusion in clause 13.2A(2)(c)?	No comment.
Q21: Do you believe the currently available penalties and remedies are sufficient?	No comment.
Q22: Do you agree with the objectives of the proposed amendment? If not, why not?	As stated in our response to Q16 above, we support clear guidelines rather than the creation of reporting obligations.
Q23: Do you agree the benefits of the proposed amendment outweigh its costs?	No comment.
Q24: Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	No. As stated in our response to Q16 above, we support clear guidelines rather than the creation of reporting obligations. However, as stated in our response to Q19, we consider participants should disclose information to the System Operator when requested. This would assist the System Operator to understand the



	<p>degree of confidence in fuel supply to meet generation capacity. Disclosure is currently achieved through good faith, but would be achieved with greater certainty through a Code change or clarification in redrafted guidelines, depending on the Electricity Authority's view about the best approach.</p>
<p>Q25: Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?</p>	<p>No. Although the proposed Code change could assist the Authority to perform its functions, we consider it would impose a high cost for the monitoring benefit it would achieve and would impact unreasonably on the efficient operation of the electricity industry. If the Authority chooses to proceed with creating a reporting obligation we consider it would be possible to achieve the objective with a less onerous reporting approach, and by only requiring parties that hold thermal fuel information to report.</p> <p>For example, Transpower as Grid Owner would be required to report under the current proposed drafting but does not hold any relevant information through the nature of its role in the industry.</p>
<p>Q26: Do you have any comments on the drafting of the proposed amendment?</p>	<p>No comment.</p>