



1 September 2020

Submissions
Electricity Authority
PO Box 10041
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By email: WMID@ea.govt.nz

Review of Thermal Fuel Information Disclosure – Consultation Paper

Contact welcomes the opportunity to submit on the Electricity Authority's (the Authority) consultation on Thermal Fuel Information Disclosure. Proposed improvements to the Code will ensure consistent and accessible information for all market participants.

We support the proposal to update guidelines on thermal fuel disclosure to provide greater clarity on disclosure obligations. This includes clarification that gas producers' disclosure of planned outages does not override obligations under clause 13.2 of the Code. While Contact agrees in principle with the approach, it has been challenging to assess the impact of proposed changes in the absence of revised guidelines themselves.

While Contact supports reasonable measures to ensure all participant comply with the information disclosure requirements, we consider the proposed annual report and declaration is unnecessary for publicly listed companies such as Contact, and will drive cost and complexity, without commensurate benefit. Quarterly reporting of disclosure activities to the Authority is sufficient to demonstrate that Contact is meeting its obligations under these proposed provisions.

Contact supports the proposals to make thermal fuel information easier to find and use, by raising awareness of existing disclosure through a centralised repository, and disclosing information about their availability being impacted by fuel constraints.

Responses to the specific questions are set out overleaf.

Should you have any questions, please contact us.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Chris Abbott".

Chris Abbott
GM Regulatory Affairs & Government Relations



Annex: Contact responses to specific consultation questions

Question	Contact Response
<p>Q1. Do you agree with the Authority’s problem definition: <i>“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?”</i></p>	<p>Contact agrees that a key outcome for an effective wholesale market is confidence in efficient prices.</p> <p>Recent improvements to disclosure from the Gas Market is likely to have resolved much of the concern around disclosure.</p> <p>Additional examples of where disclosure is lacking would help to further inform the discussion.</p> <p>The Guidelines would be useful to understand what specific information the Authority believes is needed that is not currently available.</p> <p>While relevant information is currently generally available from most parties, we support the information being in a single repository.</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>As a publicly listed company, Contact’s listing obligations meet what is required under 13.2A of the Code. In general, we consider the right information is being disclosed at present. However it is difficult to locate. A central repository will address this.</p> <p>Consistent disclosure requirements would improve the value of information disclosure considerably. Some unlisted companies do not supply the level of information that Contact does as part of its disclosure obligations – information that would be useful for all parties.</p> <p>It is the responsibility of each market participant to have sufficient resourcing and expertise to interpret and use this information. There are many external resources available to assist with this.</p> <p>To be of value, timely information must be available promptly.</p>
<p>Q3. Do you agree that thermal fuel information disclosure is the most pressing wholesale information disclosure issue?</p>	<p>Thermal information disclosure has been an important issue, particularly over a period of gas field unreliability. Improved disclosure through the GIC has gone a long way to</p>



	<p>informing the market of thermal fuel availability.</p> <p>As mentioned above, including the proposed guidelines within this consultation would have helped submitters to fully understand what additional information the EA believes should be disclosed.</p> <p>Another pressing issue is the poor disclosure of demand response by major users. At present, this leads to significant inaccuracies in the demand forecast which has a major impact on spot price forecasting. This would help address a few issues with the system operator's demand forecast and improve efficient market outcomes.</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>As noted in response to question 3, we consider that poor disclosure of demand response by major users is a priority issue.</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>Contact considers that most appropriate information is already being disclosed in respect to thermal plant availability, however it may be difficult to locate or interpret. There may also be a lack of awareness or interpretation of what is required or already being disclosed.</p> <p>Some of the barriers listed in table 4 may be a participant's misinterpretation or perception of the issue, rather than the actual cause itself. Contact acknowledges and supports the Authority's view and decisions on the alleged breaches to date.</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>No comment.</p>
<p>Q7. Do you agree with the factors leading to non-disclosure of thermal fuel information? Are these factors leading to inefficient prices in the wholesale market?</p>	<p>As noted above, it is unclear whether this is the view of the participants supplying the information, or participants accessing this information. The main issue is whether a participant considers the information to be</p>



	<p>material to the market and/or how to interpret that it is.</p> <p>We do not consider that the intention of section 13.2A of the Code is to require the disclosure of commercially sensitive information.</p>
<p>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?</p>	<p>As per our response to question 2, the inability of a participant to correctly interpret the information disclosed is not sufficient reason to amend the obligation under section 13.2A of the Code. We agree that the way existing information is presented and located could be improved to assist with this.</p>
<p>Q9. Do you agree the proposed Code amendment captures the appropriate players in the market?</p>	<p>Current information disclosure currently includes significant market participants. Hedging by smaller players is currently disclosed, so Contact does not consider it is necessary for their inclusion here.</p>
<p>Q10. What requirements in the proposed Code amendment will assist participants to be freely able to disclose the information requested?</p>	<p>Reporting is confidential under section 4.20 of the Code. This information is confidential and would be commercially prejudicial if released. As a result, the Authority must confirm the protection of information provided under this provision, and withhold this confidential information under the Official Information Act.</p>
<p>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?</p>	<p>No comment.</p>
<p>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.</p>	<p>No comment.</p>
<p>Q13. Please provide any feedback on the limitations proposed in relation to the use of the information requested.</p>	<p>No comment.</p>
<p>Q14. Please provide any comments on the proposed audit power.</p>	<p>No comment.</p>



<p>Q15. Do you agree with proposal 1: <i>A Code change to require quarterly reporting of disclosure activities, provision of an annual directors' declaration and an annual report on policies?</i> Please explain why or why not.</p>	<p>Contact supports reasonable measures to ensure all participants comply with information disclosure requirements. However, we do not support compliance activities that drive cost and complexity, without commensurate benefit.</p> <p>As a publicly listed company, Contact considers that quarterly reporting of disclosure activities is likely to be sufficient to demonstrate compliance. Contact has existing disclosure and compliance obligations that provide assurance that such obligations are being met.</p> <p>Contact recommends that the additional requirements of annual director sign-off are only required for unlisted entities.</p>
<p>Q16. Do you agree with proposal 2: <i>To update the Guidelines regarding thermal fuel disclosure?</i> Please explain why or why not.</p>	<p>Yes. It would be particularly useful to have understood the types of information and the form the Authority anticipates should be disclosed at the same time as this consultation. There will be significant nuances around the impact of gas outages that will need to be worked through.</p>
<p>Q17. Do you agree with proposal 3: <i>to raise awareness and utilisation of existing disclosures through a disclosure reference webpage?</i> Please explain why or why not.</p>	<p>Contact agrees this should be hosted by the Authority.</p>
<p>Q18. Do you agree with proposal 4: <i>that thermal fuel information disclosures under clause 13.2A should be made to a central location?</i> Please explain why or why not.</p>	<p>Contact agrees. However it is unclear the additional work that will be required to provide this information on an, as yet, unscoped repository.</p>
<p>Q19. Do you agree that the current Code clearly spells out the disclosure obligations to market participants? If not, why not?</p>	<p>Increased clarification and guidance would assist market participants to comply with the current code requirements.</p>
<p>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)?</p>	<p>Contact considers these exclusions should remain. Contact does not consider that disclosing prices, for example, would be appropriate and would potentially provide an unfair advantage to specific producers.</p>



Q21. Do you believe the currently available penalties and remedies are sufficient?	Yes.
Q22. Do you agree with the objectives of the proposed amendment? If not, why not?	Contact partly agrees. It is unclear whether there is an issue with current disclosure, as explained in our response to question 7, and whether imposing additional costs from the proposed annual reporting obligations are warranted.
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.	Somewhat agree as per our response to question 22.
Q25. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Agree.
Q26. Do you have any comments on the drafting of the proposed amendment?	Yes. Remove the annual reporting obligation of 13.2E.