

1 September 2020

WMID Team
Electricity Authority
P O Box 10041
Wellington 6015

Email: WMID@ea.govt.nz

Dear WMID Team

RE: Review of Thermal Fuel Information Disclosure – Consultation Paper

Ecotricity, Flick Electric and Pulse Energy have joined together to make this submission on the Electricity Authority's (Authority's) consultation paper on proposals to improve thermal fuel disclosure and require regular declarations that material information is being disclosed by major participants. We appreciated the opportunity to discuss our views with you during the consultation period and, as discussed, this submission includes that feedback.

We support the proposals developed by the Authority and agree with the draft Code.

We also acknowledge the Gas Industry Company's efforts to significantly improve disclosure of gas information.

Problem definition

Our interest in improving wholesale market disclosure is motivated by the desire to:

1. enable more efficient price discovery in the spot and hedge markets;
2. enable strong competition in both generation and retail markets for the long-term benefit of consumers; and
3. ensure information is available to participants and the Authority to support robust monitoring of participant behaviour and compliance with the Code.

Our concerns arise because independent retailers are the only 100% net buyers of electricity solely reliant on the spot and hedge markets (vertically integrated gentailers transact internally) AND we are dependent on the generation side of the gentailers' business to market volumes available in both markets at fair prices while we are also competing / gaining market share off their retail business.

We support a change to the problem definition. As discussed at the Briefing, confidence that wholesale prices are efficient is not singularly dependent on disclosure of useful and important thermal fuel information. A range of issues underpin our lack of confidence that prices in the wholesale market are

efficient. This includes elevated wholesale prices relative to the cost of thermal fuel, SRMC of all generation types, the cost of new generation capacity, activity in the reserves market, management of outages etc. UTS claims are an example of this lack of confidence.

We also agree useful and important thermal fuel information is absent from the market. Without implying disclosure on hydro fuel is complete, it is a useful counterfactual when considering the type of thermal fuel information that should be available. The market has continuously updated information (presented in electricity volume metrics) about the current hydro fuel, being storage, and available future hydro fuel, being inflows, snow-pack plus storage. There is also a significant series of historic information on hydro fuel which assists with analysing / forecasting wholesale market prices for risk management.

Costs and benefits of these proposals

Information transparency and reducing information asymmetry can be expected to make abuse of market power more obvious. We urge the Authority to carefully balance the benefits of minimising the potential for abuse of market power against any concerns that granularity of information could enable tacit collusion. We suggest the Authority should not underestimate the benefit from this work in enabling easier and better monitoring by the Authority of participants' behaviour.

Proposal 1: Quarterly reporting of disclosure activities

We strongly support this proposal. We note that the Code disclosure regime is a continuous disclosure process and so quarterly reporting of disclosure activity is an appropriate interval. It is unclear from the Consultation paper¹ whether the Authority plans to publish summary reporting of both the quarterly reports and the annual declaration. We submit there is strong public interest in the content of both these reports and that they should be placed on the Authority's website, in the form received by the Authority.

This reporting will also reveal if information has been disclosed to all participants (including customers) at the same time. A continuous disclosure obligation means everyone should receive the same information at the same time.

Monitoring of the use of particular exclusions for particular types of information will be important. The Authority should be prepared to review the use of exclusions, whether there is consistent non-disclosure of material information and the impacts of this on the efficient operation of the wholesale market. That is, there should be an assessment of whether the disclosure regime is fit-for-purpose once the required declarations are analysed.

¹ Paragraph 4.3

Proposal 2: Update Guidelines regarding thermal fuel disclosure

We suggest this is a no-regrets action that should be prioritised. While revising the Guidelines the Authority should also consider if some of the information in the Guidelines would have greater benefit if the detail was in the Code, that is provide more certainty about what should be disclosed, when and where.

Proposal 3: Implement a disclosure reference website

We agree this reference website should not be limited to thermal fuel information.

Proposal 4: Centralised disclosure website

We strongly support this proposal and timely implementation of this centralised disclosure. Timely access to information is key and features should be added to automate notifications to users. If there is pressure to keep some current disclosure pages unchanged, information that is added to these pages could be automatically populated in the Authority's centralised disclosure.

If a centralised disclosure website is pursued for a wide range of information this may supersede the need for Proposal 3.

We agree that the Code should detail the 'right' location for disclosure of the already required information on whether thermal generation capacity will be impacted by current or expected fuel constraints.²

Other concerns with information disclosure (unrelated to thermal fuels) (response to question 4)

As discussed in our bi-lateral meeting, we suggest the Authority prioritise requiring timely disclosure of information in the following areas:

- **Contracts:**
 - volume of generation covered for vertically integrated retailers by their generation business and the price at which these volumes are sold – that is, disclosure of the internal hedge transactions between gentailers' generation and retail businesses (including price, volume and the hedge profile / type for this volume)
 - when Meridian calls the swaption with Genesis and any other transactions that arise because of these regulated SOE contracts
 - information on large commercial contracts that are not hedge contracts - at a minimum the Authority should get this material information to enable monitoring of abuse of market power

² Paragraph 4.16 of Consultation paper

- ensure timely information is disclosed about OTC trades – to better inform overall price discovery. The Hedge Market Disclosure website is useful and could be enhanced. We suggest the Authority should be regularly undertaking analysis / comparison of CfD contracts with ASX contracts
- Reserves market:
 - information to enable people to understand if the quantity or prices offered for reserves are used to influence spot prices / the least cost generation being dispatched. We also query the reserves offer price stack often has large steps in price over a small change in volume
- Outage information
 - the Authority’s own review of spring 2018 says “*Ideally, generators would have a mechanism to signal when plant is unable to operate at full capacity despite not being on outage*” (para 5.12³). We believe it is important to know not just when but also why a plant is not operating at full capacity and a forecast for when it would be available. We note that generation plant that is not on outage but is not offered was used by the Authority as a measure of competition in the generation market in its regression analysis of spot price drivers⁴
 - include a requirement in the Code so that a generator must provide notice a specific period of time before putting / not putting plant back into service, for example, a TCC outage was extended numerous times with only 1 hours’ notice given and the notice was publicly available after the ASX hedge market closed
 - make use of the System Operator’s POCP platform mandatory⁵

We also support work being undertaken on the concerns listed in paragraph E.2 of the Consultation paper. Once submissions on this Appendix have been received it could be useful to ask participants about prioritisation of all the issues raised by submitters.

Other feedback

The Authority’s Consultation paper also asks:

Q.19 Do you agree that the current Code clearly spells out the disclosure obligations to market participants? If not, why not?

It is difficult to comment on the effectiveness of the current disclosure obligations when ‘you don’t know what you don’t know’. The question of the effectiveness of the disclosure obligations must be revisited once the disclosure activity declarations regime is in place.

³ See: <https://www.ea.govt.nz/dmsdocument/26586-market-performance-review-of-spring-2018>

⁴ See Section 8 in the Market Performance Quarterly Review Q2 2020 Information paper <https://www.ea.govt.nz/dmsdocument/27142-quarterly-review-july-2020>

⁵ Paragraph 3.8(a) of the Consultation paper notes use of this platform is currently not mandatory

Q.20 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)?

It appears some consideration of removing the confidentiality clause has been undertaken. We also support a review of the 'confidentiality' exclusion in this financial year.




With the information the Authority has had so far, we assume it has been impossible/very difficult to assess how often this clause has been relied on to withhold information from disclosure. We suggest the Authority review reliance on this clause when the reporting regime is in place and be open minded to reviewing whether a confidentiality exclusion remains fit-for-purpose.

*Q.21 Do you believe the currently available penalties and remedies are sufficient?
(Maximum penalty \$200,000 with additional amounts possible where damages are awarded)*

This question has much wider application than just compliance with the information disclosure Code (eg, breach of the high standards of trading conduct rules). Any penalty should be commensurate with the level of harm incurred as a result of a rule breach – which may be covered by the ability to award damages. Application of these penalties and awarding damages are untested so it is difficult to comment about whether the penalty is balanced with the harm inflicted. The Commerce Commission's powers should be a useful comparator.

We would welcome the opportunity to discuss our suggestions to improve information disclosure. In our view these suggestions will contribute to improved confidence that price discovery in the spot and hedge markets is efficient and enable strong competition in both generation and retail markets for the long-term benefit of consumers.

Yours,

<p>Al Yates Chief Executive alyates@ecotricity.co.nz</p> 	<p>Steve O'Connor Chief Executive Officer steve.oconnor@flickelectric.co.nz</p> 	<p>Fraser Jonker Acting Chief Executive Officer fraser.jonker@pulseenergy.co.nz</p> 
--	--	--