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Waikoukou
22 Boulcott Street
PO Box 1021
Wellington 6140
New Zealand
P 64 4 495 7000
F 64 4 495 6968
www.transpower.co.nz

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Rob Bernau
General Manager Market Design
Electricity Authority
By email: submissions@ea.govt.nz

Code review program September 2019

We appreciate the opportunity to submit on the Authority's *Code Review Program number 4 – September 2019,* published on 24 September 2019. We are responding to the following Code change proposals: 2019 – 3, 6, 7, 9, and 13. We are not responding to the proposals 2019 – 1, 2, 4, 5, 8, 10, 11 and 12.

We support Code change proposals numbers nine (clarifying use of "electricity supplied" in clause 15.8) and 13 (broadening the definitions of Generating Unit and Intermittent Generating Station).

We do not support Code change proposals:

- number 3 (requirement to provide complete and accurate information under Part 8);
- number 6 (clarifying Point of Connection);
- number 7 (clarifying definitions of Block Security Constraint and Station Security Constraint).

Our comments on each of the above Code change proposals are in the Appendix A.

In Appendix B we also comment on some of the Authority's proposed technical and non-controversial Code changes. We do not agree all the changes are technical and non-controversial. In some instances, our analysis suggests the proposed changes could create undesirable effects. For example, refer to our comments in Appendix B for number 3 (definition of Good Electricity Industry Practice, GEIP), and number 10 (about connected asset owners). Specifically, for the definition of GEIP we conclude that importing the legal definition for **asset owner** would reduce the application of the GEIP descriptor. Since GEIP plays a significant role in understanding Transpower and Distributors' compliance with performance metrics under Part 4 price-quality regulation, the Commerce Commission should also be consulted on the Authority's proposed change to the GEIP definition.

We consider thorough analysis of the consequential effects is needed when importing defined terms into other defined terms. Where this analysis is absent, we consider the "technical and non-controversial" approach for code change is not justified.

Proposed change # 6 "clarifying' Point of Connection

The **Point of Connection** definition[1] underpins market operation. Measurement equipment connected to the grid records a single value at each point in time that is either an import or export value, importantly these values are just one number at each point in time, as the existing definitions for Grid exit and injection points require.[2] The proposed change to the definition for Point of Connection conflicts with existing policy for how flows are recorded at points of connection to the grid.

We consider the proposal, which we understand is intended as a clarification of the meaning of Point of Connection, needs further exploration of any potential impacts to the market system and its operational definitions before it can be approved. For example, we consider there may be consequences for the definitions for **losses** and **metering information**. We suggest the Code would also need to clarify that a "Point of Connection" is defined differently depending on whether the connection is at grid level or at consumer (ICP) level.

Proposed changes to process to improve Code change omnibus

We want to take this opportunity to raise again two process points we consider would support and improve transparency for future Code review programs.

In previous submissions[3] we have proposed amending the Code change omnibus process to support and improve transparency. We again propose the Authority should:

1. publish criteria for determining whether a Code change is technical and noncontroversial; and
2. identify the source of a proposal for a Code change.

Criteria for decisions on what constitutes a technical and non-controversial change

We continue to advocate for the Authority to publish its criteria for how it concludes that a proposal is a technical and non-controversial change. Publishing criteria would support transparency and industry understanding and facilitate industry participants proposing their own Code changes using the technical and non-controversial approach.

The Authority, through each omnibus program, has proposed many instances of change as "technical and non-controversial", and participants may also provide insight by agreeing or disagreeing with those decisions. We consider the Authority could propose for consultation a set of criteria for a proposed change to be classified as "technical and non-controversial."

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[1] **point of connection** means a point at which electricity may flow into or out of a network and, for the purposes of Technical Code A of Schedule 8.3, means a grid injection point or a grid exit point

[2] e.g. Grid exit point and GXP mean any **point of connection** on the grid—
(a) at which electricity predominantly flows out of the grid; or
(b) determined as being such by the Authority following an application in accordance with clause 13.28,— and such point of connection may, at any given time, be a grid exit point or a grid injection point, **but may not be both at the same time** (emphasis added)

[3] Submission 2018, submission 2016. submission 2015

Our proposal is consistent with the approach taken by the Authority with its foundation documents.[4] The Authority has documented its interpretation of the statutory objectives and the criteria to determine whether to make Code changes.[5] The interpretation of, and criteria for, technical and non-controversial changes should also be documented. Doing so would provide:

- transparency for both the Authority and participants; and
- guidance on the limits of "technical and non-controversial" changes.

Identifying the source of proposed Code changes
We consider identifying a proponent (or class of proponent) for a Code change would:

- create contextual value reflecting the specific expertise and/or interests from which the proposal arose; and
- allow participants to know which proposals result from the Authority's own monitoring and compliance activities.

This approach would enhance transparency for all participants. It also aligns with the open-governance purpose of the Official Information Act 1982, enabling participants to more effectively participate in the development of the Code. It would also provide better alignment with due processes practiced by the Authority's peer regulators in comparable jurisdictions, for example OFGEM and AEMC.[6]

Please contact me if you have any questions about this submission.

Yours sincerely

Micky Cave
Senior Regulatory Analyst

[4] Electricity Authority Foundation Documents
[5] Consultation Charter section 4.10
[6] For example: AEMC (Australian Energy Market Commission) Rule change projects ; OFGEM Decision on Code modification proposal CMP 261 raised by SSE.

Appendix A: Specific code amendments comment

2019 - 3. Requirement to provide complete and accurate information under Part 8
Question 1: Do you agree with the Authority's problem definition? If not, why not?
No. We consider the Authority has not clearly defined the problem it is trying to correct or provided transparent evidence to demonstrate that there is a real problem with the existing approach. Creating new obligations without having done so is not an optimal regulatory approach and risks creating new problems without realising any incremental long-term benefit for consumers. Existing data transfers in Part 8 are covered by accuracy standards and obligations for generator performance (for example refer Schedule 8.3 for generator performance requirements). The extended reserves regime may have required an obligation on participants because the required information accuracies were not being specified in the Code. However, no evidence has been presented that demonstrates existing information provisions under part 8 are failing. The proposed intervention would create additional risk on the System Operator if it receives data it then uses to produce information, such as the System Security Forecast, but that data is claimed by someone to be inaccurate or misleading. If the Authority is to continue with the intervention (which we do not support) then to mitigate the increased compliance risk the Code must be clear that the accuracy obligation is on the originating participant.
Question 2: Do you agree with the Authority's proposed solution? If not, why not?
No. We consider no evidence of any problem with information accuracy has been presented.
Question 3: Do you have any comments on the Authority's proposed Code drafting?
No drafting change is necessary.
Question 4: Do you agree with the objectives of the proposed amendment? If not, why not?
While we do not disagree with the objective to "facilitate complete and accurate intervention" *per se*, we consider no case has been made that a problem exists.

Question 5: Do you agree the benefits of the proposed amendment outweigh its costs? If not, why not?
No. The primary Code obligations have been in operation since 2004. We are not aware of any evidence of a problem with erroneous information being provided. As such we do not agree there is any benefit to be realised by the proposed expanded obligations but there are potential costs associated with unintended consequences.
Question 6: Do you agree the proposed amendment is preferable to the other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.
No. The status quo already provides obligations that ensure information is accurate.

2019 - 6. Clarifying definition of Point of Connection
Question 1: Do you agree with the Authority's problem definition? If not, why not?
No. One example is not sufficient evidence that a wider problem of interpretation exists, and whether that interpretation is creating inefficient operation, reducing competition or reducing reliable supply.
Question 2: Do you agree with the Authority's proposed solution? If not, why not?
No. The proposed drafting goes beyond remedying the specific problem and introduces the new concept that the Point of Connection is flows in and out **at the same time.** The **Point of Connection** definition[7] underpins market operation. Measurement equipment connected to the grid records a single value at each point in time that is either an import or export value, importantly these values are just one number at each point in time, as the existing definitions for Grid exit and injection points require.[8] The proposed change to the definition for Point of Connection conflicts with existing policy for how flows are recorded at points of connection to the grid. We consider the proposal, which we understand is intended as a clarification of the meaning of Point of Connection, needs further exploration of any potential impacts to the market system and its operational definitions before it can be approved. For example, we consider there may be consequences for the definitions for **losses** and **metering information**. We suggest the Code would also need to clarify that a "Point of Connection" is defined differently depending on whether the connection is at grid level or at consumer (ICP) level.
Question 3: Do you have any comments on the Authority's proposed Code drafting?
Yes. Remove the words "at the same time". This drafting at (ii) should be removed because: • market operation is based on only one import or export number (the combined effect of all phases) for the Point of Connection in real time; • it conflicts with the existing definitions and measurement processes for grid injection and grid exit points. Those definitions are clear that a Point of Connection that is a GXP can also be a GIP, but cannot be both at the same time.

[7] **point of connection** means a point at which electricity may flow into or out of a network and, for the purposes of Technical Code A of Schedule 8.3, means a grid injection point or a grid exit point

[8] e.g. Grid exit point and GXP mean any **point of connection** on the grid—
(a) at which electricity predominantly flows out of the grid; or
(b) determined as being such by the Authority following an application in accordance with clause 13.28,— and such point of connection may, at any given time, be a grid exit point or a grid injection point, **but may not be both at the same time** (emphasis added)

Question 4: Do you agree with the objectives of the proposed amendment? If not, why not?
No. While we do not disagree with the objective for clarity *per* se the proposed amendment goes further than is necessary to meet the objective.
Question 5: Do you agree the benefits of the proposed amendment outweigh its costs? If not, why not?
No, because the benefits of the clarity sought may be outweighed by the risks of misalignment or conflict with all the other existing definitions for market operation that haven't (yet) been raised.
Question 6: Do you agree the proposed amendment is preferable to the other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.
No. The problem definition appears overstated. The status quo is our preferred option.

2019 - 7. Clarifying definitions of Block Security Constraint and Station Security Constraint
Question 1: Do you agree with the Authority's problem definition? If not, why not?
We agree with the definition of problem 1. We disagree with the definition of problem 2. The reference to Part 8 in the definitions **is** correct and points to the process for drafting and approval of the Policy Statement. The Policy Statement describes how security constraints are managed by the system operator (in the Policy Statement, refer to clauses 25 through 30H and the definitions in the Glossary of Terms). We also disagree with the definition of problem 3. In respect of the first example, a security constraint may need to apply to an embedded generator or to grid connected generators that own their own transmission. In respect of the second example, the context within which the defined terms are used clarifies the intent that the block or security constraint conveys information to the generator about the limitation of available grid capacity available to convey electricity. In respect of the third example the use of the word “limit” is adequate.
Question 2: Do you agree with the Authority's proposed solution? If not, why not?
We agree only with the solution proposed for problem 1. We do not agree any intervention is needed for the problem 2 and problem 3 as we disagree that a problem exists.
Question 3: Do you have any comments on the Authority's proposed Code drafting?
The drafting to address problem 1 is acceptable. No drafting is needed for problem 2 and problem 3 as no intervention is necessary.
Question 4: Do you agree with the objectives of the proposed amendment? If not, why not?
We agree with the objectives of the proposed amendments to address problem 1. We do not agree with the objectives of the proposed amendments to address problems 2 and 3. These definitions have been in use since 2004 without known issues. The absence of any evidence of problems suggests the benefits are minimal.

Question 5: Do you agree the benefits of the proposed amendment outweigh its costs? If not, why not?
We agree the benefits of the proposed amendment to address problem 1 will likely outweigh its costs objectives. We disagree with there being any benefits from the proposal to address problems 2 and 3.
Question 6: Do you agree the proposed amendment is preferable to the other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.
We agree the proposed amendment to address problem 1 is preferable to the status quo. We do not agree the proposed amendments to address problems 2 and 3 are preferable to the status quo in the absence of evidence of problems or absence of strategic context driving the change.

2019 - 9. Clarifying use of "electricity supplied" in clause 15.8
Question 1: Do you agree with the Authority's problem definition? If not, why not?
Yes. The proposed change will address a non-compliance in the services provided by EMS as an agent to reconciliation participants
Question 2: Do you agree with the Authority's proposed solution? If not, why not?
Yes.
Question 3: Do you have any comments on the Authority's proposed Code drafting?
No.
Question 4: Do you agree with the objectives of the proposed amendment? If not, why not?
Yes.
Question 5: Do you agree the benefits of the proposed amendment outweigh its costs? If not, why not?
Yes.
Question 6: Do you agree the proposed amendment is preferable to the other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.
Yes.

2019 - 13. Broadening the definitions of Generating Unit and Intermittent Generating Station
Question 1: Do you agree with the Authority's problem definition? If not, why not?
Yes.
Question 2: Do you agree with the Authority's proposed solution? If not, why not?
We agree with the intent of the proposed solutions. We suggest drafting changes (in question 3) to ensure: 1. that an intermittent generator with storage isn't excluded by the definition for the intermittent generating station; and 2. that other technologies don't inadvertently get captured by the term e.g. battery, run-of river hydro.
Question 3: Do you have any comments on the Authority's proposed Code drafting?
We consider some of the definitions could be simplified and/or improved as set out below. **Generating unit** means a ~~machine~~ device that generates **electricity** **Variable resource** could be **intermittent primary energy source** **Intermittent generating station** means a **generating unit** for which the primary energy resource is intermittent and forgone if not immediately used to produce **electricity** **bona fide physical reason** includes, — … (ba) in relation to an **intermittent generator**, a situation in which— the nature and/or extent of the primary energy resource prevents the **intermittent generator** from generating at the level previously expected; or
Question 4: Do you agree with the objectives of the proposed amendment? If not, why not?
Yes.
Question 5: Do you agree the benefits of the proposed amendment outweigh its costs? If not, why not?
Yes.

Question 6: Do you agree the proposed amendment is preferable to the other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.
Yes.

Appendix B – Technical and non-controversial proposed amendments

3	We strongly oppose this change as it compromises the definition of GEIP, and existing drafting should be retained. The Commerce Commission should also be consulted on the proposal because of the role GEIP has in Part 4 regulation of Transpower and distribution networks. Importing the legal definition for **owner** will reduce the application of the Good Electricity Industry Practice (GEIP) descriptor. Our analysis concludes the change as proposed would makes the term "**asset owner**"[9] too narrow. In our view keeping only "asset" bolded (defined) but no "owner" allows comparison of New Zealand participants to their international peers. Bolding "owner" and "network" would also limit assessing GEIP to New Zealand participants only. In our view that would not be appropriate given the relatively limited size of the New Zealand electricity industry when compared to other jurisdictions. More broadly, we caution against the Authority assuming that the use of an unbolded (undefined) term, which mirrors the wording of a bolded (defined) term, means the bolded defined term should be used. We consider thorough analysis of the consequential effects is needed when importing defined terms into other defined terms. Where this analysis is absent, we consider the "technical and non-controversial" approach for code change is not justified.
10	We do not support his change. As currently drafted clause 8.25(2) applies to **generators**, the definition of which includes embedded generators. However, bolding the word "connected" would limit the applicability of the clause to "a **direct consumer**, or a **distributor** in its capacity as the owner or operator of a **local network**" (refer definition of **connected asset owner**"). The proposed change makes the definition of "connected" party too narrow, and would exclude parties that fall within the definition of **asset owner** but not **connected asset owner**. As for number 3, we caution against the Authority assuming that the use of an unbolded (undefined) term, which mirrors the wording of a bolded (defined) term, means the bolded defined term should be used. We consider thorough analysis of the consequential effects is needed when importing defined terms into other defined terms. Where this analysis is absent, we consider the "technical and non-controversial" approach for code change is not justified.

[9] **asset owner** means a **participant** who owns an **asset** used for the generation or conveyance of **electricity** and a person who operates such **asset** and, in the case of Part 8, includes a **consumer** with a **point of connection** to the **grid**

12	We do not support for the same reason given to 3 and 10, repeated below. We suggest retaining the existing drafting. We caution against the Authority assuming that the use of an unbolded (undefined) term, which mirrors the wording of a bolded (defined) term, means the bolded defined term should be used. We consider thorough analysis of the consequential effects is needed when importing defined terms into other defined terms. Where this analysis is absent, we consider the "technical and non-controversial" approach for code change is not justified.
45	We do not support this change and query whether it can be classed as technical and non-controversial. The definition of "**losses**" is, effectively, the difference between electricity injected at a **point of connection** and withdraw from another **point of connection**. The definition does not, and cannot, apply to losses that occur within equipment beyond a **connection point.** The proposed bolding of the term "losses" in the definition of **compensation factor** is incorrect. The definition refers to "losses" in a **metering installation**. A **metering installation** is beyond a **connection point**. Therefore, the defined term **losses** cannot apply, because the defined term only refers to losses between two **connection points**. The proposed bolding of the term "losses" in the definition of **generating unit net** and **station net** are also incorrect for the same reason. A **generating unit** or **station** are beyond the **connection point**. Therefore, the defined term **losses** cannot apply, because the defined term only refers to losses between two **connection points**. – We suggest retaining the existing drafting in **compensation factor**, **generating unit net** and **station net**.
143-144	We note there appears to be a typographical error in item 144, as there is no clause 17.129A2. We assume this should be 7.129A. We do not support revocation of clause 17.129A. Removing the clause means two of the four co-generators would not have a status as their approval dates are 31/07/2007.
174	Estimated data may still be in the final pricing schedules from the transition. Consequently, we consider the existing provision should be retained and that there is no risk in retaining it.