

Appendix B: Draft Gazette notice

Amendment to exemption under section 11(4) of the Electricity Industry Act 2010 in Connection with Expansion of Ngāwhā Springs Generation Plant

In accordance with section 11(4) of the Electricity Industry Act 2010 (“Act”), the Electricity Authority (“Authority”) gives the following notice.

Notice

1 Principal exemption and commencement

- (1) This notice amends the exemption granted by the Authority on 7 October 2017, and amended on 13 November 2019 under section 90(1)(b) of the Act, entitled ‘Exemption Under Section 90(1)(b) of the Electricity Industry Act 2010 in Connection With Expansion of Ngāwhā Springs Generation Plant’ (“principal exemption”).
- (2) This notice comes into force on the day after the date it is notified in the *New Zealand Gazette*.

2 Amendments to principal exemption

- (1) Delete and replace clause 1 of the principal exemption with the following –
“**Exemption** - The following persons are exempted from the requirement in clause 6A.3(2) of the Code to comply with rules 9 and 10 of Schedule 6A.1 of the Code:
 - a. Top Energy Limited (“Top Energy”);
 - b. Ngāwhā Generation Limited (“NGL”).”
- (2) Delete and replace conditions 2(a) – (e) of the principal exemption with the following:
 - a. This exemption applies in relation to the expansion of Ngāwhā Springs Power Station for geothermal generation up to a nameplate capacity of 117MW.
 - b. The exemption and dispensation from the Authority granted on **[date]** from the requirement to comply with rule 10 only applies to the appointment of management to positions of material influence over NGL or TEL.
 - b. TEL and NGL must not engage in retailing, as that term is defined in the Act, to any customer connected to TEL’s distribution network
 - c. The exemption applies while TEL and NGL are wholly-owned by the Top Energy Consumer Trust
 - d. the exemption expires on 31 July 2052 or the day that any additional generation (other than generation installed for the purpose of providing network support) owned by TEL, NGL any of TEL’s subsidiaries, or any “connected generators” as defined in clause 6A.3 in relation to TEL, is connected to TEL’s network, whichever date is earlier
 - e. TEL must comply with Part 6 and TEL and NGL must comply with all other arm’s-length rules.

Dated at Wellington this ____ day of _____ 2023.

For and on behalf of the Electricity Authority Te Mana Hiko:

Anna Kominik, Chair.

Draft dispensation notice

Amendment to dispensation under clause 6A.9(6) of Part 6A of the Electricity Industry Participation Code 2010 in connection with the expansion of Ngāwhā Springs Generation Plant

In accordance with clause 6A.9(6) of Part 6A of the Electricity Industry Participation Code 2010 (“Code”) the Electricity Authority gives the following notice:

Notice

1 Principal exemption and commencement

- (1) This notice amends the exemption granted by the Authority on 7 October 2017, and amended on 13 November 2019 under section 90(1)(b) of the Act, entitled ‘Exemption Under Section 90(1)(b) of the Electricity Industry Act 2010 in Connection With Expansion of Ngawha Springs Generation Plant’.
- (2) This notice comes into force on the day after the date it is notified in the *New Zealand Gazette*.

2. Dispensation – The following persons are exempted from the requirement in clause 6A.3(3) of the Code to comply with rules 9 and 10 in schedule 6A.1 of the Code:

- a. the directors, from time to time, of Top Energy Limited (“Top Energy”)
- b. the directors, from time to time, of Ngāwhā Generation Limited (“NGL”);
- c. the chief executive officer of Top Energy, or person holding an equivalent position;
- d. the chief financial officer of Top Energy, or person holding an equivalent position;
- and
- e. the general manager corporate services of Top Energy, or person holding an equivalent position.

3. Conditions – This dispensation is subject to the following conditions:

- a. This dispensation applies in relation to the expansion of Ngāwhā Springs Power Station for geothermal generation up to a nameplate capacity of 117MW.
- b. The dispensation from the requirement to comply with rule 10 only applies to the appointment of persons identified in clause 1(c) to (e) to positions of material influence over NGL.
- c. The dispensation only applies while Top Energy and NGL are wholly owned by the Top Energy Consumer Trust.
- d. The dispensation expires on the close of 31 July 2052 or the day that any additional generation (other than generation installed for the purpose of providing network support) owned by TEL, NGL any of TEL’s subsidiaries, or any “connected generators” as defined in clause 6A.3 in relation to TEL, is connected to TEL’s network, whichever date is earlier.

Dated at Wellington this ____ day of _____ 2023.

For and on behalf of the Electricity Authority Te Mana Hiko:

Anna Kominik, Chair.