

## **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 Electricity Industry Participation Code 2010 (“Code”) to comply with rules 9 and 10 of Schedule 6A.1 of the Code:

- a. Top Energy Limited (“TEL”);
- 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 from the requirement to comply with rule 10 only applies to the appointment of management to positions of material influence over NGL or TEL.
- c. 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;
- d. The exemption applies while TEL and NGL are wholly-owned by the Top Energy Consumer Trust.
- e. 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.
- f. TEL must comply with Part 6 and TEL and NGL must comply with all other arm’s-length rules.

(3) Delete and replace clause 3 of the principal exemption with the following -

**“Reasons for this amendment**—The reasons for amending the principal exemption are.

- a. amending the exemption meets the requirements in section 11(4) of the Act;
- b. competition and reliability is expected to be either not affected or improved by the granting of the amendment, and efficiency is expected to be improved by the granting of the amendment.”

Dated at Wellington this 12th day of December 2023.

For and on behalf of the Electricity Authority:  
ANNA KOMINIK, Chair.