

# **Improving Hedge Disclosure Obligations**

## **Collection and Publication of Risk Management Information**

Consultation paper

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Submissions close: 5pm 9 August 2023

## Executive Summary

In 2009, the Electricity Commission (the Electricity Authority's predecessor) introduced hedge disclosure obligation (HDO) requirements for the market in Over-the-Counter (OTC) risk management contracts (contracts market). The objectives were to facilitate ready comparison of electricity prices and other key terms of risk management contracts, enable participants to formulate their own historic contract curves, and provide participants with information to assess the competitiveness of the contracts market.

The HDO requirements are in Subpart 5 of Part 13 of the Electricity Industry Participation Code 2010 (Code). Participants who have entered certain risk management contracts must disclose specified information including information on price, quantity, grid zone, trade date, and effective date. The Code requires different information to be disclosed for different types of risk management contracts.

However, the contracts market has materially changed over the past few years. As a result, a growing number of risk management contracts are not captured by the HDO requirements, and this is expected to increase as the sector transitions to 100% renewable generation.

Renewable energy sources such as wind and solar are inherently variable, with their output largely depending on weather conditions. This can lead to increased spot price volatility as forecast supply may not always eventuate. More types of risk management contracts are expected to be traded as participants seek to manage their exposure to spot price volatility.

This inherent variability of generation could reduce market efficiency and discourage investment in renewable energy projects without effective risk management products being available. Moreover, lack of visibility on risk management contracts not captured by the HDO requirements would also limit the Authority's ability to monitor the contracts market and promote effective competition.

The Authority has therefore decided to improve the HDO policy settings to ensure that available information about the contracts market is fit for purpose throughout the energy transition. This will assist the Authority in its strategic focus on creating a competitive market for the long-term benefit of consumers by:

- facilitating entry of new participants and making competition more effective
- providing timely access to contract prices to increase confidence in the market
- supporting investment decisions to attract required investments for the energy transition.

The Authority has identified three areas for improvement in the HDO requirements:

- (a) improving the risk management information collected (*policy issue*)
- (b) improving the risk management information published (*policy issue*)
- (c) improving the hedge disclosure system (*operational issue*).

The Authority is seeking stakeholder views on improving the current HDO requirements to ensure opportunities and potential options are robustly defined. A robust problem or opportunity definition will allow the review to provide maximum benefit to consumers.

After considering stakeholder feedback and any further analysis on the observations in this paper, the Authority will develop preferred options for consultation with stakeholders.

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# 1. What you need to know to make a submission

## What this consultation is about

- 1.1. The purpose of this paper is to engage with interested parties on their perspectives and views on the issues that have been identified with the HDO requirements as currently set out in the Subpart 5 of Part 13 of the Code (Appendix C), and on potential options to improve the risk management information collected and published.
- 1.2. The results of this consultation will inform the Authority's preferred options for addressing the issues identified in this paper. This will assist the Authority in ensuring the contracts market promotes effective competition in the electricity sector for the long-term benefit of consumers in line with the Authority's statutory objectives.

## How to make a submission

- 1.3. The Authority's preference is to receive submissions in electronic format (Microsoft Word) in the format shown in Appendix B. Submissions in electronic form should be emailed to [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) with "Consultation Paper—Improving Hedge Disclosure Obligations" in the subject line.
- 1.4. If you cannot send your submission electronically, please contact the Authority [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) or 04 460 8860 to discuss alternative arrangements.
- 1.5. Please note the Authority intends to publish all submissions it receives. If you consider that the Authority should not publish any part of your submission, please:
  - (a) indicate which part should not be published,
  - (b) explain why you consider we should not publish that part, and
  - (c) provide a version of your submission that the Authority can publish (if we agree not to publish your full submission).
- 1.6. If you indicate part of your submission should not be published, the Authority will discuss this with you before deciding whether to not publish that part of your submission.
- 1.7. However, please note that all submissions received by the Authority, including any parts that the Authority does not publish, can be requested under the Official Information Act 1982. This means the Authority would be required to release material not published unless good reason existed under the Official Information Act to withhold it. The Authority would normally consult with you before releasing any material that you said should not be published.

## When to make a submission

- 1.8. Please deliver your submission by 5pm on 9 August 2023.
- 1.9. Authority staff will acknowledge receipt of all submissions electronically. Please contact the Authority [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz) or 04 460 8860 if you do not receive electronic acknowledgement of your submission within two business days.

## 2. Background

### HDO requirements enable effective risk management and efficient investment

- 2.1. The HDO requirements were introduced in 2009 in subpart 5 of Part 13 of the Code. They require industry participants to disclose specified information about certain risk management contracts.
- 2.2. There are three key markets in the New Zealand electricity hedge market – the trading of futures and options on an exchange, the OTC market, and the financial transmission rights (FTR) market.
- 2.3. The HDO requirements only apply to OTC risk management contracts, which are a type of off-market transaction. Buyers negotiate directly with sellers to agree on a price. The contracts market offers different types of contracts to manage different types of risks: contracts for difference (CfD), fixed price fixed volume (FPFV), fixed price variable volume (FPVV), and other bespoke arrangements. These contracts can be settled directly between parties or lodged with the clearing manager and settled at the same time as the parties' electricity market transaction.
- 2.4. Information collected about risk management contracts is published so that industry participants can:
  - (a) view and compare hedge contract details
  - (b) produce historic contract curves to better understand the market
  - (c) view historic contracts which may assist when negotiating new hedge contracts.
- 2.5. The Authority also uses the contract information for market monitoring purposes, ie, the assessment of offer curves, pivotal supplier analysis, informing policy processes as well as compliance action, among other purposes.
- 2.6. A well-functioning system of collecting and publishing information about risk management contracts is expected to foster competition, reduce costs for generators, and facilitate entry of new retailers, for the long-term benefit of consumers. This contributes to the Authority's strategic ambitions of consumer centricity, trust and confidence, thriving competition, and innovation flourishing.

### NZX collects and publishes information on risk management contracts

- 2.7. Participants disclose information about risk management contracts via the Electricity Hedge Disclosure System (HDO System). Currently the HDO System is a web portal hosted by NZX Ltd (NZX), the Wholesale Information Trading System (WITS) manager. The Authority has full access to the information disclosed via the HDO System. A subset of this information is published weekly by NZX.
- 2.8. **Table 1** below provides a high-level summary of the information participants must disclose about risk management contracts under the Code. Different information must be disclosed for different types of contracts, this is described in more detail in **Appendix A**.

**Table 1: Summary of information required to be disclosed under the Code**

<b>Information requested to be disclosed</b>	<b>Description</b>
<i>Contract type</i> <i>(As defined in the Code)</i>	<p>A <b>contract for differences (CfD)</b>, which means a financial derivative contract:</p> <ul style="list-style-type: none"> <li>(a) under which 1 or both parties makes or may make a payment to the other party; and</li> <li>(b) in which the payment to be made depends on, or is derived from, the price of a specified quantity of electricity at a particular time; and</li> <li>(c) that may provide a means for the risk to 1 or both parties of an increase or decrease in the price of electricity to be reduced or eliminated; and</li> <li>(d) that either— <ul style="list-style-type: none"> <li>(i) relates to a quantity of electricity that equals or exceeds 0.25 MW of electricity; or</li> <li>(ii) is entered into through a derivatives exchange, being a market in which parties trade standardised financial derivative contracts, and contracts containing the right to buy or sell standardised financial derivative contracts, with a central counterparty.</li> </ul> </li> </ul> <p>A <b>fixed-price physical supply contract</b>, which means a contract that provides for the physical supply of electricity, if:</p> <ul style="list-style-type: none"> <li>(a) the buyer is reasonably expected to purchase 1 MW or more of electricity on average during the term of the contract (for the purposes of determining whether a contract meets this 1 MW threshold, the total purchases under the contract should be used despite clause 13.219(6));</li> <li>(b) the contract allows the buyer to purchase either — <ul style="list-style-type: none"> <li>(i) variable amounts of electricity linked to actual consumption of electricity at a fixed price or prices; or</li> <li>(ii) a fixed amount of electricity at a fixed price or prices; and</li> </ul> </li> <li>(c) excludes a contract for the physical supply of electricity, that is generated by an embedded generating station, directly to a consumer.</li> </ul> <p>An <b>options contract</b>, which means a contract containing the right to buy or sell a financial derivative contract.</p>
<i>Parties required to submit information</i>	<p>Participants (as defined under the Code) are obligated to disclose information</p> <p>Seller (P) x Buyer (P) = Seller and Buyer have an obligation</p> <p>Seller (P) x Buyer (NP) = Seller has an obligation</p> <p>Seller (NP) x Buyer (P) = Buyer has an obligation</p> <p>Seller (NP) x Buyer (NP) = no obligation</p>
<i>Quantity</i>	MWh
<i>Price</i>	The contract price only needs to be disclosed if a contract is a fixed-price physical supply contract (FPVV and FPFV) or a CfD that has a term of less than 10 years.

<i>Calculation of contract price</i>	The contract price is calculated in accordance with the formula set out in clause 13.220 of the Code.
<i>Grid Zone area</i>	The grid zone area in which the contract price is determined or applies only needs to be disclosed in relation to fixed-price physical supply contracts (FPVVs and FPFVs) and CfDs. New Zealand is grouped into five grid zone areas. Each grid zone area contains a normalisation node for which contract prices would be normalised (eg, Grid Zone Area A consisting of Northland and Auckland would have its contract price normalised to the node OTA2201). This means location is anonymised.
<i>Trade dates</i>	The date on which legally binding rights and obligations are created between the parties to a risk management contract.
<i>Effective and end dates</i>	Range of dates of the trading periods to which the risk management contract applies.
<i>Other information</i>	Whether the contract has any indexation mechanism and clauses such as force majeure, special credit and suspension clauses. Requirements for other information vary depending on contract type.

### 3. Identified issues

- 3.1. Over the past few years, there have been significant developments in the New Zealand electricity market in terms of systems available to elicit a forward price curve and the types of risk management contracts available. The sector is expected to experience further change as it transitions to 100% renewable generation.

#### **Forward price curve is now available through different sources**

- 3.2. A development that has significantly improved availability of information is the Authority's access to data on New Zealand electricity futures contracts traded on the Australian Securities Exchange (ASX) platform. The ASX platform hosts standardised exchange traded energy CfDs and Options and produces a readily available forward price curve<sup>1</sup> which is published by the Electricity Authority.
- 3.3. In October 2020, the Authority amended the Code to require participants who trade electricity contracts on the ASX to give permission for their de-anonymised trading data to be shared by the ASX with the Authority. A noted benefit of this Code amendment was that it would assist the Authority in its decision-making and benefit participants in their risk management strategy.
- 3.4. The ASX forward price curve reduces the value that participants derive from the current HDO requirements and the information that is subsequently published through the HDO System. This undermines the need for participants to disclose information about CfDs and options contracts, which are currently used to develop a forward price curve.

#### **The HDO requirements do not accommodate the growing diversity in OTC risk management contracts**

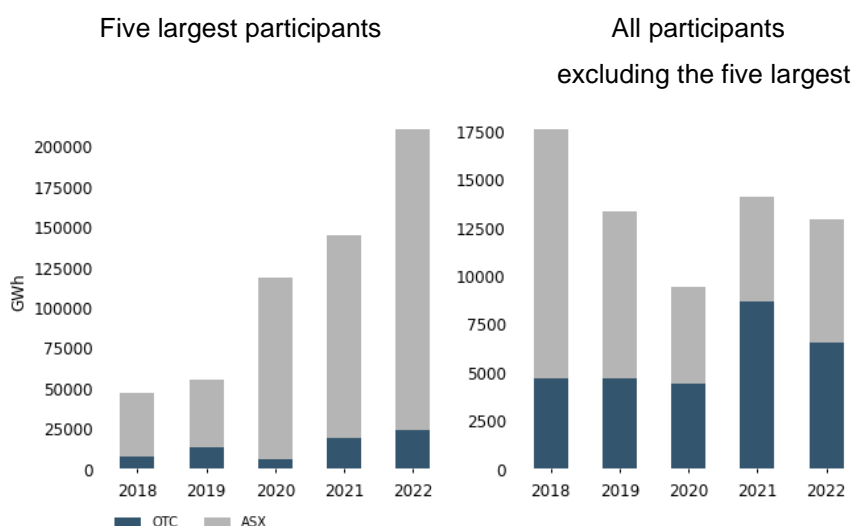
- 3.5. The contracts market promotes competition in the wholesale electricity market for the long-term benefit of consumers. Competition helps ensure New Zealanders have plenty of choice about how they get and use electricity and improves their access to competitive pricing.

<sup>1</sup> Electricity Authority EMI – Forward Markets - [Electricity Authority - EMI \(market statistics and tools\) \(ea.govt.nz\)](https://www.ea.govt.nz/emi/market-statistics-and-tools/)

Despite the growing market trend towards ASX traded contracts over the last 5 years, participants are increasingly relying on the contracts market to manage their risk.

- 3.6. Reliance on the contracts market is expected to amplify because managing risk is becoming increasingly difficult for participants as the share of intermittent renewables increases in electricity generation. Intermittent energy sources such as wind and solar power are inherently variable and can be difficult to predict. As the share of intermittent energy sources in the electricity mix increases, the risks associated with energy procurement and trading become more complex.
- 3.7. Smaller participants may be more likely to rely on the contracts market to manage their risk. This could be due to lack of resources to post clearing margins when purchasing risk management contracts on the ASX, or their preference for bespoke contracts that are available on the contracts market. Moreover, in late 2022, a provider of access services for New Zealand electricity futures on the ASX has placed significant restrictions on the services they offer at short notice to the market, with no viable alternative provider for some market participants at the time. This has resulted in greater focus on the contracts market as an alternative risk management tool. Figure 1 shows participants' relative reliance on the ASX and contracts market across disclosed contracts.

**Figure 1- Volumes of disclosed contracts traded on ASX and OTC (2018-2022)**



Source: Electricity Hedge Disclosure System- NZX, Electricity Authority (2023)

- 3.8. A growing number of risk management contracts are not captured by the HDO requirements in the Code. Currently, the Code only requires participants to disclose specified information about certain types of risk management contracts (options contracts, CfDs, FPFV, and FPVV). Long-term renewable energy contracts such as Power Purchase Agreements (PPAs), shaped products and Swaptions are not captured under the current Code requirements. Table 2 shows the limited type of OTC contracts disclosed in the past 5 years.

**Table 2: Volume share of disclosed contracts by type (2018-2022)**

	2018	2019	2020	2021	2022
CFD	79.83%	83.72%	88.50%	89.98%	93.77%
FPVV	11.00%	8.41%	5.89%	6.48%	4.70%
OPT	9.16%	7.87%	5.52%	3.50%	1.42%
C300	-	-	0.08%	0.05%	0.11%
FPFV	0.01%	-	0.01%	-	-

Source: Electricity Hedge Disclosure System- NZX, Electricity Authority (2023)



- 3.9. As the sector transitions to 100% renewable generation and becomes more complex, market participants will need to use a wider range of risk management contracts to manage their exposure to high price volatility. For example, a greater number of long-term renewable energy contracts such as PPAs are expected to be traded in future to mitigate this risk. Therefore, the HDO requirements needs to improve to address these changes.

## Current information on OTC contracts is not sufficient to evaluate market efficiency

- 3.10. A further concern is that the information specified in the Code for each contract type is insufficient for participants and the Authority to assess the efficiency of the contracts market. Participants are required to disclose a greater level of detail for CfDs and fixed-price physical supply contracts, including price and grid zone location, while for an options contract they are only required to disclose the trade, effective and end dates as well as quantity. **Appendix A** outlines the information required to be disclosed as set out in the Code.
- 3.11. The requirement to disclose contract price and grid zone location varies for CfDs and fixed-price physical supply contracts depending on the term of the contract, as described in Table 3. This information must only be disclosed for contracts with a term of less than 10 years, and if location is required to be disclosed, it is anonymised by the use of grid zones. These limitations were designed to avoid identification of contract parties.<sup>2</sup> They have, however, inadvertently reduced the (non-public) information the Authority collects, hindering its ability to assess the competitiveness of the contracts market. This also limits information that is available to participants to manage their risk.

**Table 3: Disclosure requirements based on contract years for CfD and fixed-price physical supply contracts**

Criteria	Quantity	Price	Grid zone area
<b>Greater than 10 years</b>	Full disclosure	No disclosure	No disclosure
<b>Less than 10 years</b>	Full disclosure	Full disclosure	Full disclosure

## The current HDO System delivers poor user-experience and low-quality data

- 3.12. In addition to concerns with the HDO requirements themselves, there is also a concern that the design of the HDO System used to collect and publish information is not fit to support changes in the contracts market. The HDO System collects information through a manual user-interface with no means to validate inputs, and it has not been significantly modified since its inception.
- 3.13. The HDO System was not designed to accommodate nuances in various contract designs. For example, it requires participants to enter the full value of the contract and does not incorporate different methods of price estimation where the contract price is indexed to spot price at the time of settlement. More innovative types of contracts are expected to be traded in future as the sector transitions to 100% renewable energy, which will require more advanced design in the HDO System.

<sup>2</sup> Consultation paper on the disclosure of risk management contract information, 10 August 2007, Electricity Commission.

- 3.14. Feedback from participants over the years suggests that using the current HDO System is time consuming and increases the compliance burden for participants, taking approximately 30 minutes per disclosure as stated by one participant. The manual data entry is also prone to errors, which risks producing inaccurate information on market transactions.
- 3.15. For these reasons, the current design of the HDO System results in less reliable data which has the potential to undermine the Authority's ability to monitor the contracts market and risks reducing market confidence in the available information. Low quality of data may also disincentivise compliance with the HDO requirements.

## Improving the HDO requirements aligns with recommendations from industry reports

- 3.16. The Market Development Advisory Group (MDAG), established in 2017, is one of the advisory groups that provides the Authority with independent advice on the development of the Code and market facilitation measures. In line with this objective, it has examined how price discovery would work in the New Zealand wholesale electricity market in a renewables-based electricity system and published an options paper in December 2022.<sup>3</sup> One option that MDAG has identified to improve risk management and efficient new investment is:

*Greater transparency of hedge information (esp non-base load) covering offers, bids and agreed prices*

MDAG's high-level evaluation of all risk management and investment options showed that greater transparency of hedge information would bring some of the greatest benefits to the sector with relatively easy implementation and limited scope for unintended harm.

Therefore, MDAG suggested starting work on this option in 2023 to have it in place by mid-2024.

- 3.17. The Boston Consulting Group (BCG) was commissioned to undertake research on behalf of several participants across the electricity sector to investigate how the sector can evolve to best contribute to the country's decarbonisation objectives.<sup>4</sup> It developed a roadmap indicating the best decarbonisation pathway. One of BCG's recommendations is to deepen contract markets to encourage the right energy and capacity mix by improving mechanisms to contract required capacity and energy yet limit central control over outcomes.
- 3.18. The Authority recently completed its review of wholesale market competition. The review was launched in March 2021 to consider if the electricity market is working for the long-term benefit of consumers. In its decision paper, published in May 2023, it outlined the actions the Authority has decided to take to promote competition.<sup>5</sup> One of these actions is improving the HDO System to improve its functionality and make contract details more transparent.

## Improving the HDO requirements supports the Authority's statutory objective

- 3.19. The Authority expects that improved HDO policy settings would support all three limbs of the Authority's main statutory objective.<sup>6</sup>

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<sup>3</sup> Market Development Advisory Group (MDAG). (2022). [Price discovery in a renewables-based electricity system: OPTIONS PAPER 2022 \(ea.govt.nz\)](#)

<sup>4</sup> Boston Consulting Group (BCG). (2022). [Climate Change In New Zealand | The Future Is Electric | BCG](#)

<sup>5</sup> [Electricity Authority. \(2023\). Decision paper - promoting competition through the transition.pdf \(ea.govt.nz\)](#)

<sup>6</sup> The Authority's main statutory objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. The Authority's additional objective is to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers. The additional objective applies only to the Authority's activities in relation to the dealings of industry participants with domestic consumers and small business consumers.

- **Competition** would be promoted because increased transparency will enable market participants to effectively manage their exposure to price volatility and facilitate the entry of new participants.
- **Reliability** would be promoted because increased transparency raises confidence in the market and encourages investment in renewable energy generation. Investors need certainty and predictability to make informed decisions, and a transparent market can provide the necessary information to make these decisions.
- **Efficiency** would be promoted because a transparent contracts market can lead to more efficient price discovery and allocation of resources, which can ultimately lead to lower costs for consumers.

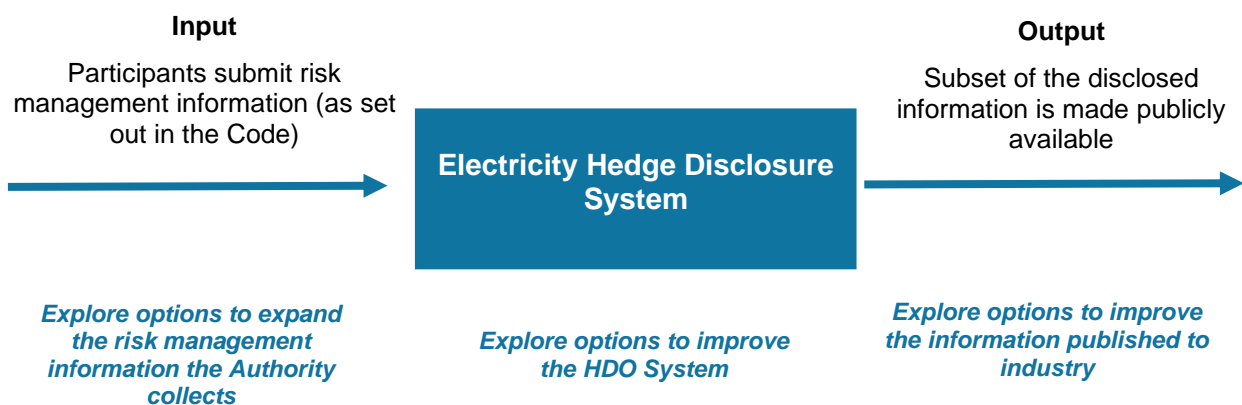
#### Q1: Identified issues

- Do you agree with the identified issues? If not, why?
- Are there other issues with the HDO requirements that we have not identified? Can you please provide specific and quantifiable examples.
- What types of risk management contracts are not being captured under the current HDO requirements as set out in the Code?
- Do you use the published information to elicit a forward price curve and to assess the competitiveness of the contracts market? If not, what do you use it for?

## 4. Areas for improvement

- Based on the issues discussed above, the Authority has identified a number of potential options to improve the HDO requirements. The potential options below are not fully developed or final. The intent is to obtain views on the range of potential options before the Authority develops its preferred options.
- The Authority had identified three areas of improvement:
  - improving the risk management information collected (*policy issue*)
  - improving the risk management information published (*policy issue*)
  - improving the hedge disclosure system (*operational issue*).

**Figure 2- Current hedge disclosure process and opportunities for improvement**



## Q2: Problem definition

- e. Do you agree with the Authority's proposed areas of improvement? If not, why?
- f. Are there other areas of improvement in the HDO requirements that we have not identified?

## Improving the risk management information collected

- 4.3. Drawing on the identified issues, the Authority seeks to create greater transparency of hedge information with the aim of increasing the Authority's ability to monitor market competitiveness and to support participants to better manage their risk in response to spot price volatility. Nevertheless, the Authority will take all the necessary measures to strike a balance between the benefits of collecting risk management information and the compliance cost of disclosing this information (eg, time and cost burden to disclose).
- 4.4. The Authority is proposing to collect more information about all types of risk management contracts. Current HDO policy settings provide limited transparency of the contracts market. The HDO requirements in the Code only require participants to disclose information about three types of contracts – options contracts, CfDs and fixed-price physical supply contracts – and only captures some information which varies by contract type.
- 4.5. The Authority is proposing amending the Code to improve the policy settings to require participants to disclose their quantity in both MWh and MW. Currently the Code only requires participants to disclose quantity of contracts traded in Megawatt hours (MWh). However, for monitoring purposes, the Authority converts this to Megawatts (MW) which can be time consuming and often inaccurate.
- 4.6. The Authority is also considering collecting information about pre-negotiation bids and offers to allow for greater monitoring and oversight of both the contracts market and the wider electricity market. Access to this information is timely given the Authority's need to have greater visibility of the contracts market, especially with the increasing share of renewable generation in electricity supply. The need for greater transparency of hedge information was further highlighted in correspondence from market participants to the Authority in November 2022, following disruptions to exchanged-traded futures.
- 4.7. Information on bidding processes helps to identify competitive constraints. It will be possible to observe behaviour of participants in terms of how frequently they face each other and potential new participants, and whether they do not bid to supply certain customers. This will assist the Authority with its statutory functions in terms of industry and market monitoring.
- 4.8. Overall, the Authority is considering the following potential options for improving the information collected through the HDO requirements. Some of these options introduce completely new obligations and some suggest minor changes to existing ones:

### **New obligations:**

- (a) collect information on all OTC contracts excluding contracts traded on the ASX
- (b) require submission of entire contract
- (c) collect pre-negotiation bids and offers

### **Minor changes to existing obligations:**

- (d) remove grid zone areas and require participants to disclose node
- (e) require participants to disclose MW as well as MWh.

- 4.9. Our preliminary assessment of the advantages and disadvantages of these options, as against the status quo, is set out in Table 4. This assessment suggests that there are benefits to improving the existing information disclosure requirements and collecting more and better targeted data points on each captured contract.

**Table 4: Evaluation of potential options for improving the risk management information collected**

Potential option	Potential disadvantages	Potential advantages
<b>Continue with the status quo</b>	<ul style="list-style-type: none"> <li>Confidence in the OTC market might decline as new types of risk management contracts enter the market and are not captured by the HDO system.</li> <li>Gaps in information collected reduces the Authority's ability to monitor compliance.</li> <li>Lack of transparency in the OTC market may discourage investment required for the transition to 100% renewable electricity generation.</li> </ul>	<ul style="list-style-type: none"> <li>Lower compliance burden as participants are familiar with the current requirements and limited information is required to be disclosed.</li> </ul>
<b>Collect information on all OTC contracts excluding contracts traded on the ASX</b>	<ul style="list-style-type: none"> <li>Increases compliance burden with more time and resources required to comply with information disclosure obligations, especially if required to enter this data manually.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitates the publication of greater information about risk management contracts, which in turn increases confidence in the OTC market and market competitiveness by improving transparency, liquidity, and efficiency.</li> <li>Collection (and publication) of more information about risk management contracts encourages new entry and increases competition by enabling market participants to mitigate their exposure to spot price volatility.</li> <li>Increases the Authority's ability to fulfil its statutory objectives, monitoring market competitiveness.</li> </ul>
<b>Require submission of entire contract</b>		
<b>Collect pre-negotiation offers and bids</b>		
<b>Remove grid zone area and require participants to disclose node</b>		
<b>Require participants to disclose MW as well as MWh</b>		

### Q3: Improving risk management information collected

- g. What are your views on the relative merits or priority of these five options for improving the risk management information collected? What are the compliance costs?
- h. Are there any other options to improve risk management information collected that we haven't identified?
- i. If the Authority were to expand the types of risk management contracts collected:
  - a. What types of contracts should be collected (ie, swaptions, PPA)?
  - b. Should the Authority specify the type of contracts that are required to be disclosed (similar to status quo), or simply amend the Code to capture all existing and any future types of hedge products? Why?
- j. What risk management information on each type of contracts should be collected, in addition to what is already required under the current Code to support risk management strategies?

## Improving the risk management information published

- 4.10. Disclosure and availability of hedge information is key to the contracts market's performance. The Authority acknowledges the importance of publishing timely and precise information to market participants to maintain transparency and foster competition. This is reflected in its efforts to revise the Code in 2009 to introduce the HDO requirements regarding the publication of risk management information.
- 4.11. The Code requires the WITS manager to make certain information submitted under the HDO requirements available at no cost on a publicly accessible approved system. The WITS manager is required to publish the information as soon as practicable. The information will be published after removing commercially sensitive information such as names of parties and contract details.
- 4.12. The Authority expects significant changes in market dynamics as the sector transitions to 100% renewable generation including higher price volatility and greater diversity in risk management contracts. Participants would need better understanding of contract prices and types to design effective hedging strategies in response to growing spot price volatility. Sharing more information on risk management contracts is expected to raise market confidence and enable better risk management strategies.
- 4.13. Depending on what risk management information is collected under proposed changes, the Authority seeks to improve the risk management information that is publicly available. It will take all the necessary measures to strike a balance between the benefits of publicly disclosing participants' risk management activities (eg, greater trust and confidence in the market and more efficient decision making by all participants) and the costs of disclosing such information (eg, potential commercial disadvantage and anti-competitive effects).
- 4.14. The Authority is considering four potential, high-level options to publish information. In all options, information will be anonymised.
- continue with the status quo
  - publish all information collected about OTC contracts
  - publish a select range of information derived by industry needs
  - publish no information.
- 4.15. Our preliminary assessment of the advantages and disadvantages of these options is set out in Table 5. This analysis suggests that publishing a selected range of information that addresses industry needs may be of most benefit to consumers and participants.

**Table 5: Evaluation of potential options for improving the risk management information published**

Potential option	Potential disadvantages	Potential advantages
<b>Continue with the status quo</b>	<ul style="list-style-type: none"> <li>Reduces participants' ability to determine the best risk management strategy as the published information is not reflective of all traded contracts.</li> <li>Limited transparency of hedge products and price signals is less likely to incentivise investments required for the transition to 100% renewable energy.</li> </ul>	-
<b>Publish all information collected about OTC contracts</b>	<ul style="list-style-type: none"> <li>Increases the risk of information overload, reducing participants' ability to elicit future price curve and manage their risk.</li> <li>Might reduce confidence and competitiveness of the hedge market by increasing the likelihood of collusive and</li> </ul>	<ul style="list-style-type: none"> <li>Increases transparency of the hedge market</li> <li>Encourages greater use of OTC products, which in turn may facilitate lower transaction costs and more efficient levels of market trading and liquidity.</li> </ul>



Potential option	Potential disadvantages	Potential advantages
	<ul style="list-style-type: none"> <li>anti-competitive behaviour between buyers and sellers.</li> <li>Potentially increases resistance to information disclosure obligations and provision of misleading information – especially if pre-negotiation bids and offers are released, there is a negligible risk that participants provide pre-negotiation offers/bids that may mislead the market.</li> </ul>	<ul style="list-style-type: none"> <li>Smaller participants and new entrants will benefit from equal access to contracts information and future prices, increasing their bargaining power when negotiating with sellers typically large generator-retailers.</li> </ul>
<b>Publish a selected range of information – derived by industry needs</b>	-	<ul style="list-style-type: none"> <li>Provides accurate, timely and non-discriminatory access to related, useful information that will hopefully lead to efficient decision making and overall increased confidence in the hedge market.</li> <li>Greater transparency of hedge products encourages operators to function with integrity and to address any breaches that may occur.</li> <li>Encourages greater use of OTC products, which in turn may facilitate lower transaction costs and more efficient levels of market trading and liquidity.</li> <li>Increases competition in the market through assisting the buyers to select the most competitive option that will place greater competitive pressure on the contract seller.</li> </ul>
<b>Publish no information</b>	<ul style="list-style-type: none"> <li>Significantly reduces participants' ability to determine the best risk management strategy as the published information is not reflective of all traded contracts.</li> <li>No transparency of hedge products and price signals is less likely to incentivise investments required for the transition to 100% renewable energy.</li> </ul>	-

#### Q4: Improving risk management information published

- k. What are your views on the proposed options? Which one do you think the Authority should adopt when considering what risk management information should be published?
- l. Based on the risk management information suggested above (paragraph 4.8 (a-e)) and any additional suggestions, what risk management information do you think should be published on each type of contract, and why (or why not)?

### Preliminary assessment of potential options against criteria

- 4.16. In this section, the Authority summarises its preliminary assessment of the potential options identified above against a set of criteria, which is based on the objectives of the HDOs. The Authority has evaluated each option against the criteria using a five-point scale from very weak to very strong. The results of this evaluation are set out in Table 6.
- 4.17. In addition to feedback on the options and identified criteria, the Authority is also seeking feedback on how it has applied the criteria to evaluate each potential option. It should be noted that while the assessment in Table 6 shows some options rank higher than others, the Authority has not reached any views on preferred options to improve the HDO policy settings.

**Table 6: Preliminary assessment of potential options against the Authority’s criteria**

	Potential option Criteria <sup>7</sup>	Low compliance burden for participants	Timely market information	Relevant market information	Assist with the EA statutory objective	Low cost for the EA to implement	Assist with the energy transition	Benefit
<b>Information collected</b>	Status quo	x	-	x	x	-	xx	Low
	Collect information on all OTC contracts excluding contracts traded on the ASX	xx	✓✓	✓✓	✓✓	x	✓✓	High
	Require submission of entire contract	xx	✓✓	✓✓	✓✓	x	✓✓	High
	Collect pre-negotiation offers and bids	xx	✓✓	✓✓	✓✓	x	✓✓	High
	Remove grid zone areas and require participants to disclose node	xx	✓✓	✓✓	✓✓	x	✓✓	High
	Require participants to disclose MW as well as MWh	xx	✓	✓✓	✓✓	x	✓	Medium
<b>Information published</b>	Status quo	-	-	x	x	-	xx	Low
	All information	-	✓	✓	✓	xx	✓	Medium
	A selected range of information	-	✓✓	✓✓	✓✓	x	✓✓	High
	No information	-	xx	xx	xx	✓✓	xx	Low

<sup>7</sup> Five point scale: Very weak xx, Weak x, Neutral -, Strong ✓, Very strong✓✓



## Improving the hedge disclosure system

- 4.18. The Authority is proposing to update the design and operation of the HDO System, to improve its efficiency and increase the reliability of risk management information collected and published.
- 4.19. This will be particularly important if the Authority decides to expand the HDO requirements and require participants to disclose more information. Improving the HDO System to reduce compliance burden will be important to create an effective hedge disclosure system.
- 4.20. The Authority is seeking feedback on what improvements should be made to the current HDO System. Design improvements could include greater use of technology to automate the data collection process and improve data quality.
- 4.21. Depending on feedback received on this paper, and the Authority's preferred options for the collection and publication of risk management information, the Authority will then develop preferred options for improving the design and operation of the HDO System.

### **Q5: Improving the Electricity Hedge Disclosure System**

- m. What improvements do you want to see in the current System, and why? Could you provide specific examples where possible?

## 5. Next steps

- 5.1. Feedback received on the issues and potential options discussed in this paper will inform the Authority's analysis and development of preferred options for improving the HDO requirements, including any proposed Code amendments.
- 5.2. The Authority intends to publish a consultation document on its preferred options in late 2023. This document will include an evaluation of the costs and benefits of any proposed Code amendments, in accordance with section 39 of the Electricity Industry Act 2010.

## Glossary of abbreviations and terms

<b>Authority</b>	Electricity Authority
<b>ASX</b>	Australian Securities Exchange
<b>Code</b>	Electricity Industry Participation Code 2010
<b>CfD</b>	Contracts for difference
<b>FPFV</b>	Fixed price fixed volume
<b>FPVV</b>	Fixed price variable volume
<b>FTR</b>	Financial transmission rights
<b>HDO</b>	Hedge disclosure obligation
<b>NZX</b>	New Zealand Stock Exchange Limited
<b>OTC</b>	Over-the-Counter
<b>PPA</b>	Power purchase agreement
<b>HDO System</b>	Electricity Hedge Disclosure System
<b>WITS manager</b>	Wholesale Information Trading System manager

## Appendix A Risk management information disclosure by contract

Data points for each contract	Options	CfD	Fixed-price physical supply contract (FPVV & FPFV)
Trade dates	X	X	X
Effective dates	X	X	X
End dates	X	X	X
Quantity	X	X	X
Whether or not the contract price applies to trading periods within its term		X	X
Adjustment clause		X	X
Force Majeure		X	X
Suspension clause		X	X
Any other clauses providing for the pass-through of certain costs, levies or some form of carbon-related cost		X	X
Contract price (if contract is <10 years)		X	X
Grid zone in which the contract price is determined or applied (if contract is <10 years)		X	X
Special credit clause		X	
Whether the volume of electricity in respect of which payments are required to be made by the floating-price payer is flat or varies for different trading periods		X	
Whether the contract has been traded on the EnergyHedge platform. The EnergyHedge platform is a centralised trading platform. The derivative contracts on electricity prices in New Zealand.		X	
Whether the contract has been prepared based on the standardised schedule, which can be adopted in conjunction with the International Swaps and Derivatives Association Master Agreement, as may be available on EnergyHedge.		X	

## Appendix B Format for Submissions

<b>Submitter</b>	
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Questions	Comment
<b>Q1. Identified issues</b>	
a. Do you agree with the identified issues? If not, why?	
b. Are there other issues with the HDO requirements that we have not identified? Can you please provide specific and quantifiable examples.	
c. What types of risk management contracts are not being captured under the current HDO requirements as set out in the Code?	
d. Do you use the published information to elicit a forward price curve and to assess the competitiveness of the contracts market? If not, what do you use it for?	
<b>Q2: Problem definition</b>	
e. Do you agree with the Authority's proposed areas of improvement? If not, why?	
f. Are there other areas of improvement in the HDO requirements that we have not identified?	
<b>Q3: Improving risk management information collected</b>	
g. What are your views on the relative merits or priority of these five options for improving the risk management information collected? What are the compliance costs?	
h. Are there any other options to improve risk management information collected that we haven't identified?	

<p>i. If the Authority were to expand the types of risk management contracts collected:</p> <p>a. What types of contracts should be collected (ie, swaptions, PPA)?</p> <p>b. Should the Authority specify the type of contracts that are required to be disclosed (similar to status quo), or simply amend the Code to capture all existing and any future types of hedge products? Why?</p>	
<p>j. What risk management information on each type of contracts should be collected, in addition to what is already required under the current Code to support risk management strategies?</p>	
<p><b>Q4: Improving risk management information published</b></p>	
<p>k. What are your views on the proposed options? Which one do you think the Authority should adopt when considering what risk management information should be published?</p>	
<p>l. Based on the risk management information suggested above (paragraph 4.8 (a-e)) and any additional suggestions, what risk management information do you think should be published on each type of contracts, and why (or why not)?</p>	
<p><b>Q5: Improving the hedge disclosure system</b></p>	
<p>m. What improvements do you want to see in the current System, and why? Could you provide specific examples where possible?</p>	

## Appendix C      Sub part 5, Part 13 Electricity Industry Participation Code

### Subpart 5—Hedge arrangement disclosure

#### 13.217 Contents of this subpart

This subpart provides for the disclosure of information about **risk management contracts**, which may be **contracts for differences**, **fixed-price physical supply contracts** or **options contracts**, in order to—

- (a) facilitate the ready comparison of **electricity** prices and other key terms of **risk management contracts**; and
- (b) address the lack of information available to persons to formulate their own historic contract curves for **electricity**; and
- (c) provide a more informed basis for persons to assess the competitiveness of the market for **risk management contracts** in respect of **electricity**.

Compare: Electricity Governance Rules 2003 rule 1 section VI part G

#### 13.218 Parties required to submit information

- (1) The following **parties** to **risk management contracts** are required to submit the information specified in clauses 13.219, 13.222 and 13.223 using an **approved system**:
  - (a) the **seller**, if the **seller** is a **participant**; or
  - (b) the **buyer**, if the **buyer** is a **participant** and the **seller** is not a **participant**.
- (2) Despite subclause (1), a **party** specified in that subclause may, at the Authority's discretion, not be required to submit certain information specified in clauses 13.219, 13.222 and 13.223 using an **approved system** if the **Authority** is satisfied that appropriate consent and arrangements are in place under clause 13.236AA for the **Authority** to obtain such information directly from an exchange and the **Authority** has advised that **party** in writing—
  - (a) that this subclause applies; and
  - (b) what information that **party** is not required to submit.

Compare: Electricity Governance Rules 2003 rule 2 section VI part G

Clause 13.218(2): inserted, on 29 October 2020, by clause 5 of the Electricity Industry Participation Code Amendment (Securing Access to Exchange Data) 2020.

Clause 13.218: amended, on 5 October 2017, by clause 452 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.218(a): amended, on 21 September 2012, by clause 30 of the Electricity Industry Participation (Minor Amendments) Code Amendment 2012.

### 13.219 Information that must be submitted

- (1) The following information must be submitted to the **approved system** in relation to every **options contract**:
  - (a) the **trade date**:
  - (b) the **effective date**:
  - (c) the **end date**:
  - (d) the **quantity**.
- (2) The following information must be submitted to the **approved system** in relation to each **contract for differences** or **fixed-price physical supply contract**:
  - (a) whether the contract is a **contract for differences** or a **fixed-price physical supply contract**:
  - (b) the **trade date**:
  - (c) the **effective date**:
  - (d) the **end date**:
  - (e) the **quantity**:
  - (f) whether or not the contract applies to all **trading periods** within its **term**:
  - (g) whether there is an **adjustment clause**:
  - (h) whether there is a **force majeure clause**:
  - (i) whether there is a **suspension clause**:
  - (j) whether there are any other clauses providing for the pass-through of certain costs, levies or tax or some form of carbon-related cost.
- (3) In addition to the information that must be submitted in accordance with subclause (2), the following information must be submitted to the **approved system** in relation to each **contract for differences**:
  - (a) whether there is a **special credit clause**:
  - (b) whether the volume of **electricity**, in respect of which payments are required to be made by the **floating-price payer**, is flat or varies for different **trading periods**:
  - (c) whether the contract has been traded on the EnergyHedge platform. The EnergyHedge platform is a centralised trading platform for standardised derivative contracts on **electricity** prices in New Zealand:
  - (d) whether the contract has been prepared based on the standardised schedule, which can be adopted in conjunction with the International Swaps and Derivatives Association Master Agreement, as may be available on EnergyHedge.
- (4) In addition to the information that must be submitted in accordance with subclauses (2) and (3), the following information must be submitted to the **approved system** in relation to each **contract for differences** that has a **term** of less than 10 years and each **fixed-price physical supply contract** that has a **term** of less than 10 years:
  - (a) the **contract price** calculated in accordance with clause 13.220:

- (b) the **grid zone area** in which the **contract price** is determined or applies.
- (5) The information specified in this clause must be submitted in the form specified by the **Authority** and in accordance with clause 13.225(1).
- (6) If a **seller** and a **buyer** enter into a **contract for differences** or **fixed-price physical supply contract** that includes more than 1 **contract price schedule**, the **party** required to submit information in accordance with clause 13.218 must do so in accordance with 1 of the following methods:
  - (a) if the contract includes **contract price schedules** relating to more than 1 **grid zone area**, by combining the information relating to all **contract price schedules** within each **grid zone area** and submitting that combined information to the **approved system** as if there were 1 contract for each **grid zone area**;
  - (b) if the contract includes **contract price schedules** relating to more than 1 **node**, by combining the information relating to all **contract price schedules** at each **node** and submitting the combined information to the **approved system** as if there were 1 contract for each **node**;
  - (c) if the **party** does not wish to combine the information in accordance with paragraphs (a) and (b), by submitting the information for each **contract price schedule** to the **approved system** individually, as though each **contract price schedule** was a separate contract.
- (7) To avoid doubt, if a **contract for differences** or **fixed-priced physical supply contract** includes an **adjustment clause**,—
  - (a) the information that must be disclosed in accordance with this clause, in relation to the contract, must only be disclosed once; and
  - (b) the **contract price** to be disclosed in accordance with subclause (4) is that which first applies under the contract.

Compare: Electricity Governance Rules 2003 rule 3 section VI part G

Clause 13.219(1), (2), (3), (4) and (6): amended, on 5 October 2017, by clause 453 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### **13.220 Calculation of contract price**

- (1) The **contract price** to be submitted for the purposes of clause 13.219(4)(a) and (6) is to be calculated in accordance with the following formula:



$$CP = \frac{\sum_{i=1}^n P_i \times TP_i}{\sum_{i=1}^n TP_i} / LF \times LAF$$

where

CP is the **contract price**

n is the number of different prices within the contract

P<sub>i</sub> is the price specified in the contract

TP<sub>i</sub> is the number of **trading periods** during which each price in the contract applies

LF is the **location factor**, for the relevant **node** at which the price is set in the contract, as **published** by the **Authority** in accordance with clause 13.221

LAF means a loss adjustment factor, which is,—

- (a) if the **contract price** for the contract is referenced to a **point of connection** on the **grid**, 1; or
  - (b) for all other contracts, 0.937 (being the difference between 1 and the loss factor of 0.063).
- (2) The **Authority** may issue guidelines on the **approved system** to provide assistance to **sellers** and **buyers** in determining what information must be submitted to the **approved system**, which may include clarification as to how to apply the formula in subclause (1) in the circumstances covered by clause 13.219(6).

Compare: Electricity Governance Rules 2003 rule 4 section VI part G

Clause 13.220(2): amended, on 5 October 2017, by clause 454 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.221 Node and grid zone area information

- (1) The **WITS manager** must **publish** annually,—
  - (a) a list of all **nodes** at which the **pricing manager** makes **final prices** available on **WITS**; and
  - (b) a corresponding **location factor** for each such **node**; and
  - (c) a corresponding **grid zone area** for each such **node**; and

- (d) a list of nominated **zone nodes**, being 1 **node** at which the **pricing manager** makes **final prices** available on **WITS**, within each **grid zone area**.
- (2) For the purposes of subclause (1)(b), the **location factor** for each such **node** must be calculated as follows:

$$LF = A/B$$

where

- A is the average **final price** made available on **WITS** at that **node** over the 12 month period preceding the month before the date on which the **location factors** are **published**
- B is the average **final price** made available on **WITS** at the relevant nominated **zone node**, as **published** in accordance with subclause (1)(d), for the 12 month period preceding the month before the date on which the **location factors** are **published**

LF is the **location factor** to be **published** in accordance with subclause (1)(b).

Compare: Electricity Governance Rules 2003 rule 5 section VI part G

Clause 13.221(1) and (2): amended, on 5 October 2017, by clause 455 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.222 Other information that must be submitted

- (1) The following information must be submitted to the **approved system** in relation to every **risk management contract**:
- (a) each **party's** legal name:
  - (b) each **party's** email address for notice.
- (2) The information must be submitted in accordance with clause 13.225(1).

Compare: Electricity Governance Rules 2003 rule 6 section VI part G

Clause 13.222(1): amended, on 5 October 2017, by clause 456 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.223 Modified or amended information

- (1) If a modification or amendment is made to a **risk management contract**, after the information referred to in clauses 13.219 or 13.222 has been submitted to the **approved system**, and the effect of the modification or amendment is that the information submitted to the **approved system** is no longer correct or complete, the modified or amended information must be submitted to the **approved system**.
- (2) The information submitted under subclause (1) must—
- (a) identify in each case the information that has been modified or amended; and
  - (b) be in the form specified by the **Authority**; and
  - (c) be submitted in accordance with clause 13.225(2).

Compare: Electricity Governance Rules 2003 rule 7 section VI part G

Clause 13.223(1): amended, on 5 October 2017, by clause 457 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.224 Correction of information

Except when clause 13.223 applies, if a **party** to a **risk management contract** discovers that information previously submitted to the **approved system** about that **risk management contract** is incorrect or incomplete, that **party** must—

- (a) seek to agree with the **other party** to the **risk management contract** that the information is incorrect or incomplete and how it should be corrected; and
- (b) when both **parties** have agreed that the incorrect or incomplete information should be corrected, submit the corrected information to the **approved system** in accordance with clause 13.225(3).

Compare: Electricity Governance Rules 2003 rule 8 section VI part G

Clause 13.224: amended, on 5 October 2017, by clause 458 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.225 Timeframes for submitting information

- (1) The information specified in clauses 13.219 and 13.222 must be submitted to the **approved system**—
  - (a) in respect of a **contract for differences** or an **options contract**, no later than 5pm, 5 **business days** after the **trade date**; and
  - (b) for any other type of **risk management contract**, no later than 5pm, 10 **business days** after the **trade date**.
- (2) The modified or amended information submitted under clause 13.223(1) must be submitted to the **approved system** no later than 5pm, 5 **business days** after the amendment or modification to the **risk management contract** is made.
- (3) A **participant** that discovers under clause 13.224 that information it submitted to the **approved system** is incorrect or incomplete must submit the corrected information to the **approved system** no later than 5pm, 2 **business days** after both **parties** to the **risk management contract** have agreed how the incorrect or incomplete information should be corrected.
- (4) The corrected information submitted in accordance with clause 13.227(8) must be submitted to the **approved system** no later than 5pm, 2 **business days** after the **parties** to the **risk management contract** have agreed, in accordance with clause 13.227(5)(b), that the information made available under clause 13.226(1) is not correct, and corrected the information accordingly.

Compare: Electricity Governance Rules 2003 rule 9 section VI part G

Clause 13.225(1) to (4): amended, on 5 October 2017, by clause 459 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.226 WITS manager must make certain information available to the public

- (1) The **WITS manager** must, as soon as practicable, make the information submitted under clauses 13.219, 13.223(1), and 13.224 available at no cost on a publicly accessible **approved system**.
- (2) At the same time that it makes the submitted information available in accordance with subclause (1), for all information other than that submitted under clause 13.224, the **WITS manager** must—
  - (a) indicate on the **approved system** that the information is unverified; and
  - (b) if the contract is a **contract for differences** or an **options contract**, give a written notice to the **other party** to the contract—
    - (i) (if the **other party** is a **participant**) requiring the **other party** to submit a **verification notice** to the **approved system** within 2 **business days** of receiving the notice confirming whether or not the information is correct; or
    - (ii) (if the **other party** is not a **participant**) giving the **other party** the option to submit a **verification notice** to the **approved system** within 2 **business days** of receiving the notice confirming whether or not the information is correct; or
  - (c) if the contract is a **fixed-price physical supply contract**, give a written notice to the **other party** giving the **other party** the option to submit a **verification notice** to the **approved system** within 2 **business days** confirming whether or not the information is correct.
- (3) A **participant** that receives a **verification notice** under subclause (2)(b)(i) must comply with the written notice.

Compare: Electricity Governance Rules 2003 rule 10 section VI part G

Clause 13.226 Heading: replaced, on 5 October 2017, by clause 460(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.226(1): replaced, on 5 October 2017, by clause 460(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.226(2): amended, on 5 October 2017, by clause 460(3) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.226(3): amended, on 5 October 2017, by clause 460(4) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.227 Verification of information

- (1) If the **other party** to a **risk management contract** submits a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2) confirming that the information made available under clause 13.226(1) is correct, the **WITS manager** must indicate that the information made available under clause 13.226(1) is verified.
- (2) The **WITS manager** must indicate on the **approved system** that the information made available under clause 13.226(1) is not disputed, if—

- (a) the **other party** to a **contract for differences** or an **options contract** is not a **participant** and does not submit a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2)(b)(ii); or
  - (b) the **other party** to a **fixed-price physical supply contract** does not submit a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2)(c).
- (3) If the **other party** to a **risk management contract** submits a **verification notice** to the **WITS manager** within 2 **business days** of receiving notice under clause 13.226(2) advising that the information made available under clause 13.226(1) is not correct, the **approved system** must indicate that the information is disputed.
- (4) If the **other party** to a **contract for differences** or an **options contract** is a **participant** but does not submit a **verification notice** within 2 **business days** of receiving notice in accordance with clause 13.226(2)(b)(i), the **WITS manager** must—
- (a) indicate on the **approved system** that the information made available in accordance with clause 13.226(1) is pending verification; and
  - (b) give the **other party** a written reminder notice requiring the **other party** to submit a **verification notice** as soon as possible.
- (5) If the information made available under clause 13.226(1) is disputed, the **WITS manager** must—
- (a) indicate on the **approved system** that the information is disputed; and
  - (b) give the **parties** to the relevant **risk management contract** a written notice requiring the **parties** to use all reasonable endeavours to agree on whether the information submitted in accordance with clause 13.225(1) is correct or not within 10 **business days** of receiving the notice.
- (6) The **parties** must comply with any notice given under subclauses (4)(b) or (5)(b).
- (7) If the **parties** to the **risk management contract** agree in accordance with subclause (5)(b) that the information made available in accordance with clause 13.226(1) is correct, the **other party** must submit a **verification notice** to the **approved system** within 1 **business day** confirming that the information is correct.
- (8) If the **parties** to a **risk management contract** agree in accordance with subclause (5)(b) that the information made available in accordance with clause 13.226(1) is not correct, the **party** that submitted that information to the **approved system** must correct that information in accordance with clause 13.225(4).
- (9) If, within 10 **business days** of receiving the notice sent in accordance with subclause (5)(b), the **parties** to the relevant **risk management contract** are not able to agree whether or not the information made available in accordance with clause 13.226(1) is correct, despite using all reasonable endeavours, the **WITS manager** must indicate on the **approved system** that the information is subject to a long term dispute.

Compare: Electricity Governance Rules 2003 rule 11 section VI part G

Clause 13.227(1): amended, on 5 October 2017, by clause 461(1) and (2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(2): amended, on 5 October 2017, by clause 461(2) and (3) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(3): amended, on 5 October 2017, by clause 461(2) and (4) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(4): amended, on 5 October 2017, by clause 461(2), (5) and (6) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(5): amended, on 5 October 2017, by clause 461(2), (6) and (7) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(6): amended, on 5 October 2017, by clause 461(8) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(7): amended, on 5 October 2017, by clause 461(2) and (9) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(8): amended, on 5 October 2017, by clause 461(2) and (9) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.227(9): amended, on 5 October 2017, by clause 461(10) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### **13.228 Confirmation of information submitted through approved system**

- (1) The **WITS manager** must, using the **approved system**, confirm receipt of any information received by it under clauses 13.21, or 13.222 to 13.224.
- (2) Each confirmation under subclause (1) must contain a copy of the information received using the **approved system**, together with the date and time of receipt.

Compare: Electricity Governance Rules 2003 rule 12 section VI part G

Clause 13.228 Heading: amended, on 5 October 2017, by clause 462(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.228(1): amended, on 5 October 2017, by clause 462(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.228(2): amended, on 5 October 2017, by clause 462(3) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### **13.229 Submitting party to check if no confirmation received**

- (1) If a **party** that submits information to the **approved system** does not receive confirmation from the **WITS manager** under clause 13.228(1) that the **approved system** has received the **party's** information within 6 hours of submitting the information, that **party** must, within 1 **business day** of that 6 hour period ending, contact the **WITS manager** to check whether the **approved system** has received the information.
- (2) If the **approved system** has not received the information, the **party** must resubmit the information.
- (3) This process must be repeated until the **WITS manager** has confirmed receipt of the information from the **party** in accordance with clause 13.228.

Compare: Electricity Governance Rules 2003 rule 13 section VI part G

Clause 13.229(1): replaced, on 5 October 2017, by clause 463(a) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.229(2) and (3): amended, on 5 October 2017, by clause 463(b) and (c) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.230 Certification of information

- (1) Each **participant** that has submitted information in accordance with clause 13.225 in a particular year ending 31 March must, within 3 months of the end of the year ending 31 March, certify to the **Authority** that the information submitted was correct.
- (2) The certification provided under subclause (1) must be—
  - (a) *[Revoked]*
  - (b) in the form specified by the **Authority**; and
  - (c) signed and dated by either—
    - (i) a director of the **participant**; or
    - (ii) the **participant's** chief financial officer, or person holding an equivalent position; or
    - (iii) the **participant's** chief executive officer, or person holding an equivalent position.

Compare: Electricity Governance Rules 2003 rule 14 section VI part G

Clause 13.230(1): replaced, on 5 October 2017, by clause 464(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.230(2): amended, on 5 October 2017, by clause 464(2)(a) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.230(2)(a): revoked, on 5 October 2017, by clause 464(2)(b) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.230(2)(c): replaced, on 5 October 2017, by clause 464(2)(c) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

### 13.231 Audit of information

- (1) The **Authority** may, in its discretion, carry out an **audit** as to whether a **participant** has complied with this subpart.
- (2) If the **Authority** decides under subclause (1) that a **participant** should be subject to an **audit**, the **Authority** must first give written notice to the **participant** requiring the **participant** to nominate an appropriate **auditor**. The **participant** must provide that nomination in writing to the **Authority** within a reasonable timeframe. The **Authority** must appoint the **auditor** nominated by the **participant**. If the **participant** fails to nominate an appropriate **auditor** within a reasonable timeframe, the **Authority** may appoint an **auditor** of its own choice.
- (3) A **participant** subject to an **audit** under this clause must, on request from the **auditor**, provide the **auditor** with a copy of every **risk management contract** that it has entered into in the previous 12 months or within such other period specified by the **auditor**. The **participant** must provide this **audit** information no later than 20 **business days** after receiving a request from the **auditor** for the information.

- (4) The **participant** must ensure that the **auditor** provides the **Authority** with an **audit** report on the **participant's** compliance with this subpart that has been prepared in accordance with subclauses (4A) and (5).
- (4A) The **audit** report must include any comments from the **participant** on any non-compliance found by the **auditor** if the **participant** provided comments to the **auditor** within a time specified by the **auditor**.
- (5) The **audit** report must not contain any **risk management contract** that the **participant** has provided to the **auditor** in accordance with subclause (3), unless the **Authority** has specifically requested that the **auditor** do so.

Compare: Electricity Governance Rules 2003 rule 15 section VI part G

Clause 13.231(2): amended, on 5 October 2017, by clause 465 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 13.231(4): substituted, on 1 February 2016, by clause 86(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2015.

Clause 13.231(4A): inserted, on 1 February 2016, by clause 86(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2015.

Clause 13.231(5): amended, on 1 February 2016, by clause 86(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2015.

Compare: Electricity Governance Rules 2003 rule 20 section VI part G

Clause 13.236: amended, on 5 October 2017, by clause 467 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.