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Date: 23 April 2025
To: Electricity Authority Te Mana Hiko
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Subject: Feedback on Task Force Level Playing Field Measures - Options Paper

Neoen, a global leader in renewable energy and an Independent Power Producer (IPP) welcomes the opportunity to provide feedback on the Electricity Authority's "Level Playing Field measures - Options paper" (dated 27 February 2025).

By way of background, Neoen (website) entered Australia in 2012 and we have grown rapidly, becoming the country's largest renewable energy company. We own and operate 20 wind, solar and battery storage assets, representing 4.3GW of capacity and a local investment of over AU$7 billion. We are hoping to build on this track record and bring our expertise to the New Zealand market.

We support the adoption of Option 2: Non-discrimination Obligations with a **staged rather than escalatory implementation pathway** as the preferred Level Playing Field measure.

This submission outlines our reasoning, focusing on why this measure is critical for IPPs like Neoen and how it will enable an increase in Power Purchase Agreements (PPAs) and Virtual PPAs (VPPAs) in the New Zealand electricity market, fostering competition, investment, and long-term benefits for consumers, including Commercial and Industrial (C&I) customers and independent retailers.

Support for Option 2: Non-discrimination Obligations

Among the four options presented—ranging from Accounting Separation (Option 1) to Corporate Separation (Option 4)—Neoen advocates for Option 2 as the most balanced and effective response to the competition risks posed by the vertical integration of the four large generator-retailers.

Non-discrimination Obligations, requiring gentailers to offer hedge contracts on fair and equitable terms, supported by a staged implementation pathway, directly address the root causes of market distortions that hinder IPPs by stifling the growth of PPAs and VPPAs.

This approach ensures rapid progress toward a competitive market while minimizing disruption, offering IPPs like Neoen the certainty needed to invest in renewables.

Why non-discrimination obligations are critical for IPPs

New Zealand faces a critical juncture with its waning natural gas supply, a key fuel source of flexible generation, and an urgent need to accelerate the growth of new renewable generation to meet rising demand and ensure energy security.

The reviewing risk management options for electricity retailers - Update paper notes that sustained high wholesale prices in August 2024 were driven by fuel shortages, underscoring the vulnerability of the current system.

The Ministry of Business, Innovation & Employment's (MBIE) latest data from July 2024 confirms a stark reality: natural gas production is declining, with annual supply projected at 140 petajoules (PJ) against a demand of 150 PJ for at least the next three years, a 10 PJ shortfall that has consistently underperformed earlier forecasts.

In a hydro-dominated market like New Zealand, where flexible generation is critical to manage intermittency, fair access to hedging products is essential to support renewable projects amidst this gas decline.

Unlike baseload hedges, which benefit from greater visibility on the ASX's energy derivatives market, shaped hedges critical for managing renewable intermittency—such as super-peak contracts—lack comparable transparency, exacerbating gentailer dominance and limiting IPPs' ability to secure PPAs and VPPAs.

Even if Methanex, a significant gas consumer, exits the market in 2029 when its long-term contracts expire, the ongoing production decline is expected to more than offset its normal market consumption, leaving New Zealand in a worse position than today.

Moreover, we need to act now because it takes 3 to 6 years to bring renewable projects to market—from planning and permitting to construction and commissioning—requiring IPPs to have certainty today to commit to development investments that will deliver capacity in time to address this escalating shortfall.

Additionally, the construction industry needs certainty on growth today to invest in labour, machinery (e.g., tall cranes), and capability, ensuring we have not just projects in the pipeline but the capacity to deliver them at the rate needed to solve our energy shortfalls.

By prioritizing domestic renewable generation, New Zealand can enhance energy security and resilience, reducing exposure to volatile global markets and supporting long-term economic stability.

By advocating a staged implementation pathway—starting with principles-based rules, advancing to standardized contract terms, and culminating in regulated market integration—this proposal ensures steady progress toward a competitive market, offering PPA buyers predictable access to critical hedging products without the risks that derailed past entrants.

The natural gas supply outlook demands strong and immediate action to break down barriers to investment and competition, enabling IPPs to enter the market and deploy renewable projects.

Non-discrimination Obligations with a staged pathway are the most effective mechanism to provide certainty and achieve these outcomes, as outlined below:

Benefits of a staged implementation pathway

The staged pathway for non-discrimination obligations ensures a structured progression toward a competitive market, offering predictability crucial for IPP investment.

- **Stage 1: Principles-based non-discrimination:**
  Implement mandatory rules requiring gentailers to offer hedges on non-discriminatory terms, with internal transfer prices (ITPs) disclosed through quarterly reporting to ensure compliance.

  This stage prioritizes transparency for shaped hedges, such as super-peak contracts, which lack the greater market visibility of baseload hedges traded on platforms like the ASX, enabling IPPs to secure fair terms critical for renewable project viability.

- **Stage 2: standardized contract terms (6 months):**
  Introduce standardized contracts for key hedging products, such as super-peak and baseload hedges, with pre-defined terms and pricing formulas approved by the Electricity Authority. These contracts ensure consistency, transparency, and comparability, preventing gentailers from offering potentially unfavourable or discriminatory terms to IPPs.

  By simplifying access and reducing negotiation complexity, standardized contracts make it easier for independent retailers and C&I customers to secure firming products essential for enabling PPAs and VPPAs subsequent generation investment. The Authority's oversight ensures compliance, with full disclosure of gentailer hedging activities to monitor adherence.

- **Stage 3: regulated market integration (24 months):**
  Transition to a regulated platform for trading all gentailer-supplied hedges from existing assets to maximize liquidity and ensure fair access for all market participants.

  To maintain transparency and ensure fair market behaviour, this stage would include full disclosure of gentailer hedging activities, including any buybacks or internal transfers, and robust regulatory oversight by the Electricity Authority to monitor compliance and ensure equitable market behaviour.

  Special emphasis is placed on ensuring transparency for shaped hedges, which, unlike baseload hedges with greater visibility on the ASX, remain opaque.

This staged approach is preferable to an escalation pathway because it provides a clear timeline for implementation, avoiding the uncertainty of reactive triggers. It ensures IPPs like Neoen can plan investments with confidence, knowing that hedging access and PPA demand will improve steadily.

1. **Breaking the gentailer dominance**
   The gentailers' dominance of flexible hydro and thermal generation creates a structural barrier for IPPs seeking to develop renewable projects, such as wind and solar.

   Flexible generation is essential for firming intermittent renewable projects. Gentailers' dual role as both suppliers of this critical input and competitors in the retail and wholesale markets allows them to prioritize their internal retail arms and projects over that of external parties, including IPPs.

   Non-discrimination obligations would address this market imbalance, ensuring C&I customers and independent retailers have equitable access to firming contracts to manage price volatility, which are vital for underpinning both physical PPAs and VPPAs.

2. **Enabling PPAs and VPPAs as a pathway to market entry and competition establishment**
   PPA and VPPAs are a cornerstone of renewable energy investment, providing IPPs with the stable revenue streams needed to secure financing for new generation projects. In New Zealand, however, the gentailers' dominance and the potential for discriminatory practices limit these opportunities for IPPs.

   The Options paper acknowledges that access to flexible generation is crucial for parties buying PPAs to support independent generators. Corporate buyers and IPPs, in submissions to the Task Force's PPA working paper, have emphasized the need for fair hedge access to unlock VPPAs, supporting our staged approach to non-discrimination.

   Non-discrimination obligations would compel gentailer generation entities to compete fairly in offering firming and hedge contracts to all market participants. This would unlock a surge in PPA and VPPA activity, enabling IPPs like Neoen to bring more renewable capacity online.

   For C&I customers and independent retailers, they will enter into VPPAs enabling intermittent generation because they can hedge against wholesale price volatility without relying solely on gentailer-controlled products.

   Moreover, providing flexibility to the PPA market through non-discrimination obligations would foster innovation, such as the development of shaped and baseload PPAs.

   These products could better tailor PPAs to specific customer needs—whether C&I customers seeking peak load price stability or independent retailers aiming for baseload reliability—ensuring the market pursues the optimal choice of projects, shapes, negative correlations, and regions.

   This adaptability would encourage diverse renewable developments, leveraging regional strengths and optimizing generation profiles to balance supply and demand, addressing the urgency of replacing gas-fired generation and reducing coal dependency.

3. **Addressing market power and discrimination**
   Non-discrimination obligations eliminate the incentive and ability for gentailers to potentially favour their own retail arms, ensuring that generation entities offer contracts on equitable terms. This is a more decisive solution than the weaker alternatives like accounting separation, which risk being undermined by compliance loopholes or delays in escalation.

   Enhanced access to firming contracts would also empower C&I customers and independent retailers to better risk manage VPPAs tied to intermittent sources, creating more buyer-side flexibility and reducing dependence on gentailer-dominated hedge markets.

4. **Driving Investment in a Transitioning Market**
   New Zealand's electricity sector is transitioning to greater reliance on intermittent renewables, with flexible generation expected to decline relative to total capacity.

   This shift, compounded by the reduction in gas-fired generation, heightens the strategic importance of the gentailers' flexible assets, increasing their market power and the competition risks for IPPs.

   Non-discrimination obligations would redistribute access to these assets, fostering a competitive environment where IPPs can confidently invest in wind, solar, and battery projects, knowing they and their customers can secure firming to mitigate PPAs and VPPA price risk.

   This aligns with the government's policy priorities for a diverse, competitive market, delivering innovation and downward pressure on prices for consumers.

   For C&I customers and independent retailers, this increased supply of VPPAs would provide more options to manage the intermittency risks of renewable energy, enhancing their ability to participate in a flexible, decarbonized energy system.

Why other options fall short

While Neoen acknowledges the Authority's proposed options, including accounting separation and negotiate-arbitrate regulation, we believe they are insufficient to address the urgency and scale of the competition issues facing IPPs, C&I customers, and independent retailers.

- **Accounting separation:** While it enhances transparency through separate regulatory accounts and improved ITP disclosures, it lacks enforceable mechanisms to ensure fair access to hedging products, leaving C&I customers and independent retailers without reliable VPPA options at a time when rapid renewable deployment is critical.

- **Option 2 with progressive escalation:** This approach delays urgent action, relying on potentially subjective, reactive triggers that postpone measures like mandatory trading until market failures are evident. Such uncertainty hampers IPPs' hedge access and may stall renewable project investment.

- **Negotiate-arbitrate Regulation:** While imposing fair, reasonable, and non-discriminatory (FRAND) obligations with arbitration for disputes offers stronger oversight, it introduces complexity and potential delays through arbitration processes.

These alternative measures, while offering some benefits, are too limited or complex to fully address the market's challenges.

Non-discrimination obligations with a staged pathway, by contrast, is a proactive, structured fix that immediately begins to level the playing field, enabling IPPs to accelerate PPA and VPPA-backed projects through a clear progression of implementation phases —starting with principles-based rules, advancing to standardized terms, and culminating in regulated market integration—without waiting for reactive interventions—action that is urgently needed now to provide certainty to ensure future projects are advanced to construction-ready status and the construction sector is poised to execute thanks to investments made today.

Critics may highlight the potential for initial compliance challenges with non-discrimination rules, or argue that they could reduce gentailer efficiencies, but the staged approach mitigates these by building progressively based on market feedback, ensuring effective implementation without overwhelming the system.

Benefits for consumers and the market

The adoption of non-discrimination obligations with a staged pathway aligns with the Authority's mission to promote competition, reliability, and efficiency for the long-term benefit of consumers. By enabling more PPAs and VPPAs, it will:

- Increase renewable generation capacity, enhancing security of supply as demand grows and gas production declines, while reducing reliance on coal.

- Intensify retail competition by empowering independent retailers with access to IPP-backed PPAs and VPPAs, offering consumers—including C&I customers and independent retailers—more choice and potentially lower prices.

- The market would have the ability to craft shaped and baseload PPAs enabling innovation, tailoring offerings to diverse customer needs and ensuring the market optimizes project choices, shapes, negative correlations, demand response capabilities and regional diversity for maximum efficiency and resilience and countering the loss of gas-fired flexibility.

- Independent retailers, in particular, would gain the ability to offer innovative retail products backed by VPPAs, managing intermittency risks more effectively.

- Mitigate the risk of gentailers exercising market power as flexible generation becomes, ensuring affordability and resilience. For C&I customers, this translates into greater flexibility to enter VPPAs with IPPs, securing stable pricing despite renewable intermittency, and reducing reliance on volatile spot markets or gentailer-controlled hedges as gas availability declines.

Response to specific questions

- **Q5:** We agree there are good reasons to introduce a proportionate Level Playing Field measure, but proportionality must reflect the severity of the competition risks, the urgency of replacing waning gas production, the 3-to-6-year timeline for new projects and the need for construction industry capacity. Non-discrimination obligations are justified by the evidence of market power risks and illiquid hedge markets, which directly impact IPPs, C&I customers, and independent retailers seeking VPPA solutions, and are essential to provide investment certainty now.

- **Q20:** We advocate for certainty provided by a staged approach as opposed to the use of triggers.

Conclusion

Neoen urges the Electricity Authority to adopt Option 2: Non-discrimination Obligations with a **staged implementation pathway** as the cornerstone of its Level Playing Field measures.

This balanced but necessary intervention is critical for IPPs, as it addresses barriers to PPA and VPPA growth imposed by gentailer vertical integration—barriers that are increasingly challenging given New Zealand's declining natural gas production, the urgent need for rapid renewable generation growth, the lead time to bring projects online and the need for investment in a robust construction industry to deliver future projects

By ensuring equitable access to flexible generation and firming contracts, including the trading of all hedges on a regulated platform with full disclosure and regulatory oversight, non-discrimination obligations will unleash a wave of renewable investment, enhance competition, and deliver affordable, reliable electricity to New Zealand consumers.

It will also empower C&I customers and independent retailers with the tools to better risk manage intermittent VPPAs and foster innovation through flexible, tailored PPA structures, creating a more dynamic and optimized market.

We encourage the Authority to act decisively to implement this measure, ensuring New Zealand's energy future is secure, sustainable, and equitable.

We stand ready to collaborate with the Authority and stakeholders to refine and implement this transformative measure.