

Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice

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Submitted: 28/05/2025 4:24:46 pm

Reference: 989e9e4b-6a1a-40b2-a166-b2eb0048b907

Summary of information submitted

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Submission

Introduction (optional)

Genesis Energy Limited (Genesis) welcomes the opportunity to comment on the Electricity Authority's (the Authority) Improving visibility of competition in the over-the-counter contract market: clause 2.16 information notice consultation paper. We support measures to improve transparency and aid efficient price discovery in the electricity hedge market. We note the Authority intends to use the data collected to inform its assessment of whether further regulatory intervention may be required, such as regulation of the standardised flexibility (super-peak) product and to help monitor the effectiveness of any level-playing field measures that are implemented. Given the Authority is yet to finish assessing submissions or to reach decisions on the proposed level-playing field measures, it seems premature to include in the rationale for this paper monitoring the "...effectiveness of any level playing field measures (Task Force initiative 1D) that are implemented". While doubtless unintentional, including this justification here could risk giving rise to an unhelpful perception regarding the consultation process for level-playing field measures. Moreover, if it is true that the data proposed in this over-the-counter (OTC) paper is required to monitor the effectiveness of level-playing field measures, then it would also be required to assess whether these significant regulatory measures are needed or justified in the first place. This is particularly pertinent in light of comments made by Genesis in our submission on the level-playing field paper where we disagree with the Authority's diagnosis of market challenges vis-à-vis hedge markets.

Q1. Do you agree with the Authority's proposed approach of collecting data on OTC bids and offers, including those resulting in trades?

We support measures to improve transparency and efficient price discovery in the electricity hedge market. We agree more detailed information on over the counter (OTC) contracts, particularly in relation to newer emerging products (super-peak, overnight, etc.), will help to improve the regime.

We note the paper identifies 'monitoring competition' as one objective (alongside the objective of promoting transparency). However, we question the extent to which some of this information will be useful for monitoring competition. As noted by MDAG in its Price discovery in a renewables-based electricity system: Final Recommendations Paper, "it will be very hard for a regulator to efficiently identify the best mix and level of resources for the system, especially as the share of renewable supply increases and makes the system much more dynamic". As we stated in our submission to MDAG on this point, "any departure from this approach should be carefully considered and in response to identified market failures, which may arise as the underlying asset and participant mix deviates from what the market was designed for". We reiterate calls made by ourselves and others in industry, in response to various Energy Competition Taskforce consultations, for the Authority to publish the criteria and indicators it will use when assessing the competitiveness of the hedge market.

A related risk is the potential for some of the proposed information to be misunderstood or misconstrued (intentionally or not). As noted in our submission to MDAG, there is relatively limited potential benefit from disclosing unsuccessful bids/offers and these benefits are outweighed by the potential for this information to be misinterpreted or miscommunicated. Given that unsuccessful bids/offers represent a failed price equilibrium (i.e. fall onto the broad spectrum of prices at which demand/supply does not meet), we do not see how this information improves transparency or aids efficient price discovery for the wider market.

We therefore do not support disclosure of price information for declined offers/bids, as this information is open to misinterpretation or miscommunication and may therefore undermine, rather than aid, efficient price discovery.

Q2. Do you agree with the Authority's proposed approach of collecting information from large industrials through this clause 2.16 notice?

Yes. To be effective, the new notice needs to capture information from large industrials as they are a key 'customer' for hedge contracts.

Q3. Do you agree with the Authority's proposed approach of not collecting information from non-integrated generators through this clause 2.16 notice? Do you have any thoughts on alternative ways of collecting information on non-integrated generators requests and responses to those requests?

No. We believe the notice should apply to non-integrated generators as well, to provide a comprehensive view of hedge options available across sector. Given the Authority's aim is to monitor competition, it will be necessary to compare trends in hedging behaviour between integrated and non-integrated generators.

Q4. Do you have feedback on our approach regarding collection of information on PPAs?

We find the reasoning in paragraph 5.22 somewhat confusing. It is unclear why the Authority considers it premature to propose to mandate disclosure of requests for PPA firming/sleeving, while it still considers its related PPA paper under the Energy Competition Taskforce, but it is not considered premature to seek OTC data even while the level-playing field measures paper is still under consideration. This is an apparent inconsistency.

Q5. Do you agree with the Authority's proposed approach of collecting data from all retailers, thus including small, micro, and community retailers?

We note not all retailers will be able to meet the requirements for being a Wholesale market counterparty under the FMCA or have sufficient creditworthiness to be able to transact in the Wholesale OTC market. In principle, it may be counterproductive and impose an unnecessary cost burden on some very small, micro, community retailers to have to report data under this proposed notice. A compromise may be to make disclosure voluntary for micro and community retailers.

Q6. Do you agree with the Authority's proposed approach to collect data on requests made through energy brokers?

Yes.

Q7. Do you agree with the Authority's preference to restrict the data collection to written requests and requests made through brokers but to exclude text messages and phone calls?

Yes, for reasons listed. Including phone calls and text messages would be highly impractical, as it would be difficult to determine when an OTC contract bidding process could be said to start and finish. There is also a risk including this information creates a 'chilling effect' on commercial negotiation processes that are appropriately confidential.

Q8. Do you agree with the Authority's proposed data collection from retailers and large industrials for requests larger than 0.1MW?

We agree data should be collected from retailers and large industrials. Combined with improvements to the stress test regime recently implemented by the Authority, this will improve transparency regarding risk management strategies adopted by market participants.

Q9. Do you agree with the Authority's proposed approach to restrict the data collection to include only buy requests?

No, we recommend the notice include sell requests as well. Optimising a hedge book requires participants to be able to buy or sell their portfolio as their hedge requirements change, so both should be captured to provide meaningful results. To improve transparency, and aid market monitoring, the Authority will need data on both demand and supply for OTC hedge products. Over time, we would expect information on hedge buy/sell requests, as well as other OTC information and information on the ASX and the spot market, will enable the Authority and industry to establish trends correlating demand/supply for hedge products against broader market conditions (for example, the energy supply/demand balance, seasonality, etc.), improving market transparency and predictability.

We urge the Authority to also ensure its notice collects sufficient information to monitor non-integrated retailer hedge behaviour and price responsiveness, and collecting sell requests will support this.

Q10. Do you agree with our suggestion to collect information on the initial bids and final offers only? Or should we include a field to capture the number of negotiation steps?

Yes. We agree that mandating provision of information regarding 'negotiation steps' would likely prejudice the ability of commercial parties to negotiate effectively. It should therefore be excluded, as proposed by the Authority. Given it's highly likely this information would be considered commercially sensitive by respondents, we do not think the Authority would be able to publish or share it anyway. This approach also strikes the best balance between improved transparency without unnecessarily increasing the reporting burden on respondents.

As noted earlier in our submission, we do not support disclosure or publication of unsuccessful bids/offers. Given that unsuccessful bids/offers represent a failed price equilibrium, we do not see how this information improves transparency or aids efficient price discovery for the wider market. Moreover, the risk such information could be misinterpreted means the costs outweigh the benefits of disclosure.

Q11. Do you agree with the Authority's proposal to require quarterly provision of information?

Yes, quarterly seems appropriate.

Q12. Do you have any comments on the changes to the proposed data fields and/or the proposed file structures?

We assume the Authority will provide data reporting templates and necessary guidance to ensure efficient compliance and standardisation.

Q13. Do you have any comments on the proposal to require participants to provide information that might be classified as confidential?

There is a risk that commercially sensitive information could become publicly available from any publication of novel risk management contracts and structures. Where there is an element of novelty or uniqueness, we agree the Authority should take extra care to avoid prejudicial disclosure. Another factor will be time horizon (curve): there is a risk disclosure of OTC contracts with curves that go beyond ASX curves results in disclosure of commercially sensitive information. We therefore recommend the curves for disclosure be aligned to the ASX.

The Authority should inform responding parties of its proposed data management policies and processes to give parties confidence there are robust mitigations in place against improper disclosure of commercially sensitive information.

Q14. Do you agree with the Authority's proposal to publish aggregated information provided by the selected participants, and do you have any comments on how to best maintain confidentiality while providing as much transparency as possible?

We are supportive of the Authority publishing aggregated information as outlined in the table in Appendix A pages 32-33.

Q15. Pursuant to clause 2.21 do you consider that any of the information we propose to collect is confidential? If so, please explain how it is confidential in line with clause 2.21

We regard failed bids/offers to be commercially sensitive.

Q16. Do you agree the benefits of the proposed clause 2.16 notice outweigh its costs? If not, what area(s) of the Authority's preliminary assessment of benefits and costs do you disagree with?

We suggest the benefits have been overstated in the paper. The benefits listed under 7.3 (a) and (b) seem to overlap, given the Taskforce's stated objective is to address perceived competition issues. This also assumes there are 'competition issues' in the market, which Genesis along with others in industry have and continue to dispute. It would therefore be premature to list (a) and (b) as "significant benefits" before the Authority has considered all the evidence and relevant submissions on various Taskforce initiatives.

We accept (c) "efficiency in regulatory oversight" is beneficial and that the data collected will allow the Authority to better assess behaviour in the hedge market. We also accept there will be some benefit from a "competition dashboard", consistent with MDAG's recommendation.

Q17. Do you agree the proposed clause 2.16 notice is preferable to the other options? If you disagree, please explain your preferred option with reference to the Authority's statutory objective in section 15 of Act.

Q18. Should the Authority consider further work to monitor competition in the industry?

We think it worth noting that there is a growing compliance burden on energy businesses (both retail and wholesale). While we support measures to improve market efficiency and address genuine market failures, we encourage the Authority to continue to consider the cumulative impact of regulations on businesses, consistent with the Government Policy Statement to the Electricity Authority.

Q19. Do you have any comments on the proposed data collection or about the notice in general?

Privacy (Please specify which question response require redaction prior to publication)

Does this submission contain sensitive information

No
