

26 May 2025

The Electricity Authority
Wellington

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Re: Submission – Improving visibility of the competition in the over-the-counter contract market: clause 2.16 information notice consultation paper

Thank you for the opportunity to submit on this proposal.

We find the paper clear and concise as to the proposed mechanism for the collection of OTC information and alternatives that underpin the detail. It is, however, task focused, and more focus is needed on quantifiable outcomes for consumers.

The justifications for what can be considered an intrusion into bi-lateral contractual negotiation is very light. Benefits seem restricted to the broad claim of improving competition¹, but no evidence to say the information will actually lead to action that will make a difference for consumers.

Lack of action over the years to address the underlying issues with the market², has contributed to the current situation (for various reasons) of a stressed market. Our view is tweaking around the edges, such as this proposal, are not going to contribute to the step-change that is required.

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

NZ Steel's concern is not with the proposed approach per se, but rather identifying what improvements with the Market that will result from the additional resources required to implement and maintain the proposed processes. As identified in our opening comments, information such as being proposed to be collected has been provided to the Authority in basic form in past years. Action back then would likely have assisted in avoiding the stressed market situation the country is now in, and the adverse flow-on effects with closure of larger consumers and resulting social impacts.

¹ Page 4. "This information collection is for the purposes of monitoring competition in the OTC market in line with the Authority's statutory functions (industry and market monitoring and market-facilitation measures) and will promote competition in the electricity industry for the long-term benefit of consumers in line with the Authority's main statutory objective".

² The writer presented Authority staff with information circa 10 years ago pointing out issues with the OTC market.

Without a clearer picture as how collecting, analysing, and publishing such information will improve the market, we cannot agree with the proposed approach.

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

For the monitoring model proposed, it is essential large user information be included. The direct connect criteria probably does not go far enough and should include all consumers in say the >100GWh pa category.

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?

We agree with Genesis and Contact that new generation should be encouraged³. However, firming for intermittent generation is a key issue for the electricity system. In some situations intermittent renewables add questionable value without associated storage. Independent generators should be treated the same as retailers and large consumers.

If these overall proposals are to proceed, then the default should be inclusion (not exclusion). If subsequent work shows good reason to exclude independent generators, that can be dealt with at that time.

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

This intrudes to the depth of bi-lateral negotiations and may be counter-productive inhibiting the advance of innovative and system-enhancing contracts.

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

The fledgling (but diminishing number of) independent retailers is where the Authority has focused commentary for a more competitive market for small retail consumers. To not collect information from this sector would seem counter to the intent of the proposal. However, in doing so we urge the Authority watch for unintended consequences for this group⁴.

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

³ Para 5.21

⁴ Such as factors identified in para 5.28 – 5.47.

It would be inconsistent not to do so. However, the functioning of those relationships questions what should be collected (refer response to Q7 below)

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?

We support this, but for reasons different to those advanced in the paper. It would mean a pragmatic approach involving less work.

However, limiting data collected to formally communicated OTC interaction, does not capture the pragmatic relationships that develop between entities and the less formal means of communication⁵. In the markets that have existed in the past 5+ years, even going into the market is often a pointless exercise – There are informal ways of tracking the market and knowing what is 'on-offer', and that pricing it is not going to fit within an operating business case.

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

Large retailers and large industrials are unlikely to trade <0.1MW. However, to those mentioned in Q5 this may be a very material size of trade and there is reason to say this should be captured.

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

We can understand the logic, and this will likely give more comprehensive information than what would be just provided by the supply side.

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?

Again, this is a pragmatic approach.

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

As per our answer to Q7, quarterly is good for the mechanics, but surely undermines the timeliness of the information. If the Authority is going to proceed with collecting and analysing the data, then consumers have an expectation the outcome reporting

⁵ Refer para 5.25 – 5.27

will be timely. Otherwise, it is going to be little more than historic data presented on a website. The findings need to engender action, otherwise why do it?

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

What the structured data formats cannot do is capture the nuances of offers and final contracts. eg FM clauses, intermittency provisions. These can make the difference between a deal and no-deal.

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

Without complete information there is limited point in proceeding. The Authority needs to weigh very carefully whether the information collected will indeed lead to an improved outcome for consumers, against the potential of 'damaging' the market further through confidentiality concerns.

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?

Aggregation is going to be critical including inability to back-guess nodes and therefore the identity of parties. It will be important however not to lose the context of any differences through the customer size range.

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

There is no doubt information that is proposed to be collected will extend beyond commercially sensitive, to being strictly confidential. The Authority has significant responsibility in exercising its powers.

Without confidence in the confidentiality measures, damage will likely result Inhibiting negotiations.

What is not covered is the how the Authority is going to manage confidentiality internally and by any third-party undertaking collection and analysis functions. This extends beyond sharing of information⁶, through to protocols relating to potential insider trading. The Authority promotes commercial market making⁷ and the futures

⁶ Para 5.49

⁷ [Commercial market making | Our projects | Electricity Authority](#)

market had (or still has?) a 'investor' Market Marker. A previous chair of the Authority saw the futures markets being enhanced by speculator involvement.

These factors make insider trader protocols essential if the proposed disclosures are to be implemented. The Authority may well draw on the work of MfE relating to NZU insider trading and market manipulation studies to initiate discussion for electricity futures⁸

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?

The Authority has not shown any detail on what the costs will be nor demonstrated any tangible benefits.

There will be direct internal cost to NZ Steel as a market participant. We can see that being capped at a 5-figure \$ number pa.

In summary there has not been an acceptable business case built to support the proposal proceeding.

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.

We have nothing to add relating to which provisions of the Code would enable to information to be gathered.

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

Our plea is before diverting resources to collect more information, focus on action based on what is already known. The level playing field option paper⁹ and comments from a senior member of the Authority staff¹⁰ already identify key issues. It is action to address the underlying issues is where the effort is required.

⁸ [impact-summary-nzets-prohibiting-insider-trading-market-manipulation.pdf](#), [Market governance of the New Zealand Emissions Trading Scheme Discussion document.pdf](#), Prohibiting insider trading and market manipulation in the New Zealand Emissions Trading Scheme

⁹ [Level Playing Field measures - options paper](#)

¹⁰ [\(23\) Electricity Authority remains concerned about competition | LinkedIn](#)

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

We commend any action that will assist in addressing underlying issues with the NZ spot and future markets. The Authority's intention with this work is commended. However, we see little real evidence to support the collection of even more data, to conclude what is already known and documented, ie that the markets are not working as they should and disadvantaging consumers.

