

Exemption Application: WEL Part 6A

FINAL DECISION PAPER

26 June 2025

Executive Summary

Exemption

The Electricity Authority Te Mana Hiko (Authority) has approved an amendment to an existing exemption under section 11 of the Electricity Industry Act 2010 (Act) and to existing dispensations for senior management in common. The exemption is from Part 6A of the Electricity Industry Participation Code 2010 (Code) which requires any person involved in a distributor and any person involved in a connected generator to comply with corporate separation and arm's length rules if a connected generator has a total capacity of more than 50MW.

Applicants

WEL Networks Limited (WEL) and NewPower Energy Limited (NewPower).

Summary of application

WEL (the distributor) and NewPower (a connected generator) have an existing exemption and dispensations from compliance with arm's-length rules 3G, 3H, 3I and 3J in Part 6A of the Code for generation assets (battery energy storage systems (BESS) and solar) up to a total capacity of 65.963MW.

WEL and NewPower have applied for an amendment to the existing exemption and dispensations to include the following additional generation assets:

- (a) Two battery sites - a small BESS with a capacity of 50kW (for the purpose of running a trial) and a 2MW BESS (for the purpose of network resilience in the Raglan area)
- (b) Two solar sites – one with a connected capacity of 24MW (for the purpose of NewPower selling into the national wholesale market) and a 1MW rooftop solar opportunity (for the purpose of selling generation directly to the tenant).

(new generation assets).

This would increase the total capacity in the existing exemption to 93.013MW (an increase of 27.05MW).

Summary of final decision

The Authority's final decision is to:

- (a) grant the WEL and NewPower applications under section 11(4) of the Electricity Industry Act (Act) and clause 6A9(6) of the Code for an amendment to the existing exemption and the existing dispensations for the chief executive officer and the chief financial officer, (or persons holding equivalent) positions, to include the new generation assets, subject to the following conditions:
 - (i) the exemption and dispensations apply to the existing and new generation assets up to a nameplate capacity of 93.013 MW
 - (ii) the exemption and dispensations from the requirement to comply with rule 3I only apply to the appointment of management to positions of material influence¹ over WEL and NewPower
 - (iii) WEL and NewPower must not engage in retailing, as that term is defined in the Act, to any customer connected to WEL's distribution network

¹ Section 7, Electricity Industry Act 2010 defines the meaning of "material influence"

- (iv) WEL or NewPower must issue a Request for Proposals (RFP) to develop or provide the proposed 2MW BESS in the Raglan region
- (v) the exemption and dispensations apply while WEL is wholly-owned by the WEL Energy Trust
- (vi) the exemption and dispensations expire on 1 October 2040 or the day that any additional generation (other than generation installed for the purpose of providing network support) owned by WEL, NewPower or any of WEL's subsidiaries, or any "connected generators" as defined in cl 6A.3 in relation to WEL, is connected to WEL's network, whichever date is earlier
- (vii) WEL must comply with Part 6 and WEL and NewPower must comply with all other arm's-length rules in the Code.

A copy of the draft gazette and dispensation notices are attached as Appendix B.

Date of final decision

26 June 2025

Next steps

The Authority will publish the amended exemption in the New Zealand Gazette and publish the amended dispensations on our website. The amended exemption and dispensations will take effect from the day after they are published.

All exemptions and dispensations, including amendments and revocations, are decided on a case-by-case basis and may only be granted where the Authority is satisfied that the statutory test in section 11 of the Act and/or clause 6A.9 of the Code has been met.

Contents

Executive Summary	2
1. Purpose	5
2. Summary	5
3. Feedback on application	6
4. Legal Framework	6
5. WEL and NewPower's application	7
6. The analysis adopted by the Authority	9
7. Summary of Authority's analysis	10
8. Assessing the impact of each market:	10
9. Additional matters	12
10. The exemption meets the tests in the Act and Code	13
11. Attachments	14

1. Purpose

- 1.1 This paper sets out the Authority's final decision on applications by WEL and NewPower (a wholly owned subsidiary of WEL) for an amendment to an existing exemption under section 11(4) of the Act, and to existing dispensations under cl 6A.9(6) of the Code, from the requirements to comply with the arm's-length rules 3G, 3H, 3I and 3J in Part 6A of the Code.

2. Summary

- 2.1 The arm's-length rules require parties that are involved with each other and transact with each other to act as if they were related only by the transaction, act independently, and act in their own best interests.
- 2.2 In October 2024, WEL and NewPower were granted an exemption, and dispensations for senior management in common, from the requirements to comply with specified arm's-length rules with a total generation capacity of 65.34MW (two solar farms, a BESS and various small scale batteries and solar) (existing exemption).
- 2.3 WEL and NewPower have now applied for an amendment to the existing exemption to include additional new generation assets, namely a 50kW BESS, a 2MW BESS, 1MW of rooftop solar and a 24MW solar farm.
- 2.4 The Authority may grant an amendment to an exemption and dispensations under section 11(4) of the Act and clause 6A.9(6) of the Code if satisfied the application of the arm's length rules is not necessary or desirable for the purpose of meeting the Authority's objectives.
- 2.5 In assessing whether the relevant test is met, the Authority has analysed how granting the amendment affects competition, reliability and efficiency in the relevant markets. The Authority has specifically considered whether the increase in capacity sought in this amendment application changes the analysis undertaken at the time the existing exemption was granted.
- 2.6 The Authority has concluded that granting the amendment to the existing application is necessary or desirable as granting the exemption will have no impact on competition and reliability and will result in improved efficiency (compared to the new generation assets being developed without an exemption). Compared to a factual where there is no exemption and the new generation assets are not developed, there would be an improvement in competition and efficiency and no impact on reliability (noting that less efficient resilience options may be used). The analysis supporting the generation assets covered in the existing exemption remains unchanged.
- 2.7 By granting the application for the amendment the total generation capacity will exceed the 50MW threshold by a more than minor amount. However, the overall capacity remains relatively small. Any potential risks can be addressed by the application of the remaining arm's length rules, the application of Part 6 of the Code, Commerce Commission information disclosure requirements and the proposed conditions.
- 2.8 The Authority also recognises the critical role investment in local generation plays in building local resilience. The proposed development of the 2MW BESS in Raglan is intended to improve resilience in a region which is vulnerable to weather events and outages. It is also relevant the BESS is a key component of a broader package aimed at strengthening resilience for this community. The Authority proposes including a new condition in the amendment which requires WEL to issue an RFP for the provision of the 2MW BESS, which further supported competition if an exemption is granted.

- 2.9 It is also relevant that the 24MW solar farm is being sold on the open market by a third party, where WEL's position is the same position as other potential purchasers. The Authority notes that WEL previously approved the solar farm connection to its network before knowing it would be put on the market. The 50kW BESS is too small to have an impact on competition, efficiency or reliability.
- 2.10 The Authority is satisfied that the test in section 11(4) of the Act for WEL and NewPower is met, and the test in clause 6A.9(6) of the Code for directors and senior management is met. The Authority's decision is to therefore to grant the application to amend the exemption and dispensations on the conditions set out in the executive summary.
- 2.11 For completion, if treated as a new application, the Authority would be satisfied the application would meet the test in section 11(1) of the Act on the grounds compliance is not necessary for achieving the Authority's objectives and / or exempting WEL and NewPower would better achieve the Authority's objective (for the same reasons set out in this decision).

3. Feedback on application

- 3.1 The Authority published the WEL and NewPower applications for an amendment to the exemption on 12 June 2025 with feedback sought by 20 June 2025. No feedback has been received as at the date of this decision.

4. Legal Framework

Part 6A requirements under the Code

- 4.1 Clause 6A.3(2) of Part 6A of the Code requires distributors that also own generation connected to their network to comply with the arm's-length rules set out in clause 3A to 3M of Schedule 6A.1 of the Code if that generator has a "total capacity" of more than 50MW of generation. Clause 6A.8 of the Code requires a person to report on compliance with the arm's length rules.
- 4.2 Connected generators and any person involved in both a distributor or a connected generator, must also comply with the arms-length rules and reporting requirements.
- 4.3 The Authority may exempt a participant from compliance with the Code, including Part 6A under section 11 of the Act, if satisfied that:
- (a) it is not necessary, for the purpose of achieving the Authority's objectives under section 15, for the participant to comply with the Code or the specific provisions of the Code; or
 - (b) exempting the participant from the requirement to comply with the Code or the specific provisions of the Code would better achieve the Authority objectives than requiring compliance.
- 4.4 Clause 6A.9(3) of the Code allows the Authority to grant dispensations for individuals from compliance with Part 6A and repeats the test in section 11 of the Act.²
- 4.5 The Authority may amend an exemption under section 11(4) of the Act if it is satisfied that the amendment is necessary or desirable for meeting the Authority's objectives. The Authority may amend a dispensation under clause 6A.9(6) of the Code applying the same test.
- 4.6 The Authority's main objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. We have assessed WEL and NewPower's application against this objective.

² [Explain this was a result of Act referring to participants only]

- 4.7 We do not consider the additional objective in section 15(2) - to protect the interests of domestic and small business consumers in relation to the supply of electricity to those consumers - applies in this instance because the exemptions and dispensations do not involve direct dealings between WEL and NewPower and small consumers³.
- 4.8 In assessing the impact of any exemption on statutory objectives, the Authority also considers the purpose of Part 6A which is to promote competition in the electricity industry by restricting relationships between a distributor and a generator or a retailer, where those relationships may not otherwise be at arm's length.⁴
- 4.9 The Authority may impose specific conditions on an exemption or dispensation to address competition concerns that are identified in the Authority's analysis,⁵ where those conditions allow the Authority to be satisfied the statutory criteria and the purpose of Part 6A of the Code are met.

5. WEL and NewPower's application

The existing exemption

- 5.1 WEL and NewPower have an existing exemption and dispensations for senior management involved in for generation assets with a total rated capacity of 65.34MW:
 - (a) a BESS up to maximum capacity of 32.495MW
 - (b) Taiohi solar farm in Huntly up to a nameplate capacity of 22.4MW
 - (c) Rangimarie solar farm in Maramarua up to a nameplate capacity of 10MW
 - (d) various small scale solar, battery storage with a total capacity of 0.61789 MW.
- 5.2 The WEL and NewPower existing exemption and dispensation exempt compliance with the following arm's length requirements:
 - (a) rule 3G: the requirement to have two independent directors
 - (b) rule 3H: restrictions on cross-directors having input into the day-to-day operations of each business
 - (c) rule 3I: restrictions on managers being involved in each business
 - (d) rule 3J: restrictions on placing obligations on the directors/managers of the other business from time to time.
- 5.3 The remaining arm's length rules continue to apply (rules 3A to 3F and 3K to 3M) which, among other things, impose requirements not to prefer the interests of one business over the other or discriminate or transact on terms other than those that would be agreed by an unrelated party.
- 5.4 The exemption is subject to the conditions as outlined in the Gazette notice.

The amendment sought

- 5.5 The application for an amendment to the existing exemption is to enable the following proposed generation assets to be connected to its distribution network:

³ Section 15(3) *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.*

⁴ Cl 6A.1, Part 6A, Electricity Industry Participation Code 2010.v

⁵ Under Section 11(3) of the Act the Authority may grant an exemption on any terms and conditions that it reasonably considers necessary. Under cl 6A.9(5) of the Code, the Authority may also grant a dispensation on any terms and conditions that it reasonably considers are necessary,

- (a) Two battery sites:
 - (i) WEL is seeking to install a small BESS with a capacity of 50kW and be capable of discharging 100kWh in the Raglan community.
 - (ii) WEL is seeking to install a 2MW BESS in the Raglan community (to be owned by either WEL or NewPower).
- (b) Two solar sites:
 - (i) NewPower is seeking to acquire a consented solar farm site connecting into WEL's network with a connected capacity of 24MW.
 - (ii) WEL is seeking to invest in a 1MW rooftop solar opportunity.

5.6 The primary purpose of these generation assets is stated to be as follows:

- (a) **The small BESS (50kW):** to provide WEL with an ability to run a trial to understand what systems, communication protocols and capabilities WEL needs to invest in to be able to use aggregated small-scale batteries where a non-network solution is more beneficial.
- (b) **The larger BESS (2MW):** for the primary purpose of improving the Raglan area's network resilience. In recent years the Raglan community has been severely impacted by storm events as well as WEL's ability to supply them with a reliable electricity supply during these types of events.
- (c) **24MW solar farm:** to generate and inject electricity into the network, for sale by NewPower into the national wholesale market.
- (d) **Rooftop solar:** to generate and sell the generation directly to the tenant through a Power Purchase Agreement with WEL.

WEL and NewPower submit that the test for an exemption is met

- 5.7 WEL and NewPower submit that the section 11(4) test is met as granting the exemption would have no negative impact on competition or reliability (noting the 2MW BESS is designed to improve reliability of supply in Raglan) and have a positive impact on efficiency. The WEL application submits that:
- (a) the exemption does not create risk of foreclosure in the relevant markets;
 - (b) there is no opportunity or incentive for WEL to leverage its monopoly distribution business to cross-subsidise the contestable activities that it will undertake with the new generation assets; and
 - (c) the estimated cost of compliance is substantial compared to any purported benefits of the arm's length rules and noting that granting the exemption would have no negative on competition (with reference to the Sapere report provided with the application for the existing exemption);
 - (d) the small BESS trial is aimed at improving WEL's understanding of non-network solutions, enabling WEL to go to market for these potential solutions in the future.
- 5.8 WEL refers to the need for increased investment in renewable generation in New Zealand to meet increasing electricity demand, saying this requires support for industry participants, and particularly distributors, to invest in network-level generation and storage. In this respect, WEL notes the Government's proposal to remove current regulatory caps of 50MW and

250MW from being connected to a distributors own network or Transpower's grid⁶ because of:

- (a) concerns the current rules are deterring investment in generation and because removing the rules and would reduce the administrative burden on distributors, increasing opportunities for new generation and developing resilience at a local level
- (b) other safeguards exist in the Code and the Commerce Act which address concerns about the impact on competition.

6. The analysis adopted by the Authority

- 6.1 The Authority has assessed how granting an exemption to the arm's-length rules 3G, 3H, 3I and 3J would affect competition reliability and efficiency in the relevant markets. It has then applied this analysis to the relevant test which is whether the amendment is necessary and desirable for the purpose of meeting the Authority's objectives.
- 6.2 To answer the question, we require:
 - (a) a factual and a counterfactual scenario
 - (b) the relevant markets
 - (c) to make a judgement about the state of competition, reliability and efficiency under each scenario in each market.
- 6.3 For this exemption application, we have assessed the Factual (the exemption is not granted, the BESS and rooftop solar are not built, solar farm not purchased) against two counterfactuals:
 - (a) Counterfactual-1: Exemption not granted and WEL and NewPower proceed with the new generation assets but are not exempt from the arm's length rules so incur the costs of compliance.
 - (b) Counterfactual-2: Exemption granted and WEL and NewPower proceed with the new generation assets but do not have to comply with the relevant arm's length rules.
- 6.4 The impacts on the relevant markets are considered in the section below.

⁶ Cabinet Paper – Investigating Options to Amend or Remove the Amount of Generation that Electricity Distribution Businesses May Own 8 April 2025.

7. Summary of Authority's analysis

- 7.1 Table 1 shows a summary of the analysis. It shows that the new generation assets are beneficial, and that the exemption should be granted because it reduces compliance costs and allows an RFP condition to ensure a competitive process to provide the BESS.

Table 1: Summary of analysis

	Factual: both BESS not built and rooftop solar not built	Counterfactual-1 WEL ownership of solar farm, roof solar and small and large BESS	Counterfactual-2 WEL ownership of solar farm, roof solar and small and large BESS
	Amendment not granted	Amendment not granted	Amendment granted
Network services market	Likely none	Likely none because RFPs routinely used by WEL	Likely none, noting an RFP would be a condition of the exemption
Over the counter forward market	No impact	Improvement in competition	Improvement in competition
Retail market	No Impact	Improvement in competition	Improvement in competition
Spot market	No Impact	Improvement in competition	Improvement in competition
Generation market	No impact	No impact	No impact
Ancillary services market	No impact	Improvement in competition	Improvement in competition
Reliability	Resilience is improved with lines infrastructure at a greater cost, or by a third party owned BESS.	Improved resilience for Raglan community	Improved resilience for Raglan community
Efficiency	Negative impact on efficiency if a higher cost alternative is used to improve regional resilience	Impact of compliance costs - approximately \$1.5M	No compliance cost due to exemption
Cross subsidisation	No impact	Commerce Commission rules make cross subsidies unlikely	Commerce Commission rules and remaining arm's length rules make cross subsidies unlikely

8. Assessing the impact of each market:

Competition

- 8.1 **Network services market:** Granting the exemption with a condition that WEL issue an RFP for the 2MW BESS is a possible benefit for competition in the network services market under Counterfactual-2.
- 8.2 In relation to the 2MW BESS, there is a question whether development of BESS would impact competition in the network services market, for example if WEL foreclosed opportunities for third parties to provide the BESS service. However, WEL has advised that:
- (a) it always looks to the market if this provides the most efficient solution - for example, under the existing exemption, WEL proposed developing the 10MW Rangimarie solar

farm but, ultimately, had this developed and provided by a third party because this was the most efficient solution.

- (b) the amended exemption includes an additional condition that WEL issue an RFP for the 2MW BESS to further ensure there are opportunities for other parties in the market.

- 8.3 The Authority can impose a condition requiring the 2MW BESS to be subject to an RFP and therefore ensure competition for the provision of network services for Raglan. Imposing a condition provides certainty that there will be a competitive process.
- 8.4 **OTC market:** Should WEL choose to offer hedges backed by the new generation assets, then this would improve competition in the OTC futures market under both counterfactuals.
- 8.5 **Retail market:** WEL is not a retailer, but retail competition will improve under both counterfactuals if WEL offers hedges to retailers backed by the new generation assets.
- 8.6 **Spot market.** Spot market competition improves under both counterfactuals particularly if the 2MW BESS is used to arbitrage the spot market.
- 8.7 **Ancillary Services Market:** Should WEL offer the 2MW BESS into the reserve market, this would mean a modest increase in competition in the ancillary services market under both counterfactuals.
- 8.8 **Generation market:** The Authority considers there would be no impact on the generation market under the Factual or Counterfactual. The question is whether WEL could or would foreclose opportunities for other generators to connect to the network. As noted above, the 24MW solar farm was consented and developed by a third party before being placed on the market under a competitive process, meaning WEL is in the same position as any other potential purchaser.
- 8.9 WEL has also supported solar power applications received in its areas, indicating it is unlikely to use the exemption to act in an anticompetitive way. Specifically:
 - (a) WEL had approved an application by the developer to connect the 24MW solar farm to its network and before knowing of plans to put it on the market
 - (b) WEL approved another 4MW solar farm last year, noting it does not receive many applications given the economic land value is in other land uses.
- 8.10 WEL has also confirmed that there is capacity for more generation in that area of its network (noting the solar farm at peak production would use around 50% of the capacity of relevant 33 kV line). It also noted that the relevant substation load is currently supplied at N security (single circuit) but will be supplied at N-1 security in the future which would increase the amount of new solar generation that could be connected. It is also relevant that WEL is unlikely to receive a high number of solar farm applications in its area because the economic land value is driven by dairy.

Reliability

- 8.11 Resilience could improve under both counterfactuals and the factual, but the lowest cost solution is more likely to happen under Counterfactual-2.
- 8.12 The 2MW BESS is primarily intended to support resilience for Raglan, a community which has been severely impacted by storm events. The BESS is a key component of WEL's broader resilience package for Raglan, which includes among other things, undergrounding 5km of lines. The BESS will only be built if it is the lowest cost solution to improve Raglan's resilience.

- 8.13 The 2MW BESS could be built by a third party and resilience services provided to WEL. This could happen under the Factual or Counterfactual-1 and must happen under Counterfactual-2. By granting an exemption with the condition that the 2MW BESS be subject to an RFP, this possibility must be explored.
- 8.14 Under the Factual, resilience could be improved with lines infrastructure. The BESS would only be built if it were the lowest cost solution to resilience for Raglan. Accordingly, if lines infrastructure is built because an exemption is not granted, then this will be more costly than the proposed BESS and therefore a worse solution for consumers.

Efficiency

- 8.15 Under Counterfactual-1, the cost of complying with the arms-length rules would not be incurred. If compliance and these costs are unnecessary, then avoiding them is an efficiency gain. These compliance costs are therefore a cost of Counterfactual-1.
- 8.16 In the application for the existing exemption, WEL estimated the cost of complying with arm's length rules to be in the region of \$1.24 million, largely due to costs of duplicating directors and staff. WEL estimates the costs would now be in the region of \$1.5 million. Given the Authority's assessment on the impacts on competition and reliability, this is an unnecessary cost that could negatively impact on WEL's further investment in new generation and resilience.
- 8.17 There is also a negative impact on efficiency under the factual scenario as resilience may be improved through lines infrastructure at a greater cost than a BESS.

Small BESS

- 8.18 The small 50kW BESS will be used by WEL to run a trial to understand how best to use aggregated small-scale batteries where a non-network solution is more beneficial. While the scale of this BESS is small (so has no direct impact on competition, reliability or efficiency), the Authority recognises trials of this type play an important role, supporting innovation in the electricity industry and promoting the Authority's objectives. The Authority notes that the position is the same under both counterfactuals.

9. Additional matters

Cross subsidisation

- 9.1 The Authority considers there is a low risk of WEL using network prices to subsidise generation investments for the same reasons set out in its decision on the existing exemption. WEL, as a consumer-owned trust, has low incentives to cross-subsidise given this would result in higher prices for its consumers. While not subject to a Commerce Commission default price path, WEL is also subject to information disclosure regulation and the threat of default price path regulation. Information disclosure requirements include the requirement to provide information on cost allocation between related and unrelated parties (as required under the relevant cost allocation methodology).
- 9.2 As set out below, a number of arm's length rules will continue to apply, including requirements not to discriminate or prefer interests of one business over the other.

Remaining arm's-length rules and Part 6 will still apply

- 9.3 The remaining rules that would continue to apply to WEL and NewPower and their directors and senior managers require that the distributor and connected generator:
- (a) take all reasonable steps to ensure the arm's-length objective is met

- (b) ensure transactions between the parties are entered into on terms that are consistent with each party acting independently
- (c) not exercise power or act in a manner they reasonably know prefers the interests of the related party
- (d) not favour the related party when providing services or benefits
- (e) ensure staff not take into consideration their dual capacity across the two businesses when making decisions on behalf of either business
- (f) appoint at least 2 independent directors for each business, and ensure cross directors are not executive directors of the other business
- (g) not disclose information to the related party that they would not reasonably have access to as a separate business.

9.4 In addition to the arm's-length rules, WEL is still subject to the obligations in Part 6. In particular, clause 6.11 requires distributors to act at arm's length and requires a distributor to use, in respect of all distributed generators, the same reasonable efforts in processing and considering applications for connection. This rule applies regardless of whether the distributor has an ownership interest or a beneficial interest in the distributed generator and regardless of who the distributed generator is.

Corrections to existing exemption and dispensation

- 9.5 Some typographical errors have been identified in the existing exemption and dispensation which are now corrected under this amendment decision. Specifically:
- (a) condition 2.(1)a. after the words 'owned by NewPower' – insert 'except for the small scale assets in (iv) which are owned by WEL'
 - (b) condition 2.(1)a.(ii) - change 22.4W to 22.4MW
 - (c) condition 2.(1)a.(iv) – change kW to MW

10. The exemption meets the tests in the Act and Code

- 10.1 The Authority is satisfied that amending the existing exemption is necessary and desirable for the purpose of meeting its objectives and, accordingly, the test in section 11(4) is met.
- 10.2 The application of the relevant arm's length rules is not necessary for the purpose of achieving the Authority's main objective, which is to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers. Granting the exemption would not affect competition or reliability, and there would be efficiency gains as a result of the costs of compliance with the arm's-length rules being avoided.
- 10.3 It is also relevant that the 24MW solar farm is a purchase in a competitive market, and the new generation assets are on a small scale. These factors further reduce any risk of an adverse impact on competition, reliability or efficiency and any justification for the compliance costs.
- 10.4 In addition to WEL's exemption application meeting the test in the Act and Code, there are other checks and balances in place, including the proposed conditions, the remaining arms-length rules and Part 6 applying, and WEL's ownership structure. All of these factors should incentivise WEL and NewPower to act in good faith and avoid anti-competitive behaviours that are not in the long-term benefit of consumers.

11. Attachments

11.1 The following appendices are attached to this paper:

Appendix A.....WEL and NEL’s exemption application

Appendix B.....Draft Gazette and dispensation notices

Appendix A WEL and NEL’s exemption application

Application for an Exemption pursuant to Section 11 Electricity Industry Act 2010

Date: 15 April 2025

Applicant: WEL Networks Limited
114 Maui Street
Te Rapa
Hamilton

Applicant's Contact: Michelle Allfrey (General Manager Commercial Engagement)
<Michelle.Allfrey@wel.co.nz>

Application: Pursuant to section 11(2) of the Electricity Industry Act 2010 (**Act**), application is hereby made to the Electricity Authority (**Authority**) for an amended exemption from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Electricity Industry Participation Code 2010 (**Code**).

CONTENTS

1. EXECUTIVE SUMMARY	3
2. CONTEXT OF EXEMPTION AMENDMENT APPLICATION	3
Changes in the electricity industry	3
3. ENERGY AND ELECTRICITY SECURITY BILL	4
4. DESCRIPTION OF WEL'S BUSINESS	5
New Generation Assets	6
5. DESCRIPTION OF EXEMPTION AMENDMENT SOUGHT	7
Previous similar exemptions by the Authority	7
6. EFFECTS OF THE PROPOSED EXEMPTION ON THE AUTHORITY'S STATUTORY OBJECTIVES.....	9
(a) The exemption does not undermine competition in the electricity industry	9
(b) The exemption does not undermine the reliability of supply by the electricity industry	9
(c) The exemption seeks to promote the efficient operation of the electricity industry	9
(d) The exemption seeks to promote the interests of domestic consumers and small business consumers.	9
7. CONFIDENTIALITY	9
8. DECLARATION	9
APPENDIX 1: DECLARATION.....	10
APPENDIX 2: MAP OF NEW GENERATION ASSETS.....	11

1. EXECUTIVE SUMMARY

- 1.1 In October 2024 WEL Networks Limited ("**WEL**") was granted an exemption by the Authority to Schedule 6A.1 Clauses 3G, 3H, 3I and 3J under Part 6A of the Code for its generation assets to a maximum capacity of 65.963MW which included our network battery ("**BESS**") Rotohiko, our two large solar farms Taiohi and Rangimarie and some incidental generation assets on our own buildings. During WEL's original exemption application we did make note to the Authority that we were exploring more options for generation but did not have any specific information we could provide at the time.
- 1.2 WEL is now able to provide those details and is seeking an amendment to our existing exemption condition (i) *(the exemption and dispensations apply in relation to the solar farms and network battery and various small-scale generation up to a total maximum capacity of 65.963MW as listed in Appendix c)* to include these generation assets as further detailed under paragraph 4.4 and defined together as the "**New Generation Assets**". WEL is seeking our total maximum capacity to increase to 93.013MW.
- 1.3 WEL is also seeking to add another named person, currently David Barnett (WEL CFO) is Acting CEO of NewPower Group and we would request Emma Elliott (WEL Financial Reporting Manager) is added as she is currently Acting WEL CFO. WEL is not seeking an amendment to any other conditions.
- 1.4 On 8 April 2025 Ministry of Business Innovation & Employment ("**MBIE**") released the Cabinet Paper which states that under the upcoming Energy and Electricity Security Bill they are seeking to remove the current generation threshold of 50MW threshold in Part 6A of the Code. However, until the Bill passes and is enacted WEL and the Authority must abide by the existing requirements under the Code.
- 1.5 WEL continues to deem the costs and inefficiencies associated with WEL complying with the full arm's-length rules are material and WEL's exemption does not inhibit competition in the electricity market. The findings of MBIE in their Cabinet paper back this position and through safeguards in other regulatory requirements, such as the Code and the Commerce Act, the intent of Arm's length can be met.

2. CONTEXT OF EXEMPTION AMENDMENT APPLICATION

Changes in the electricity industry

- 2.1 The demand for electricity in New Zealand is increasing significantly due to a range of contributing factors, including population and economic growth, and the electrification of transport and process heat as part of meeting New Zealand's target of net-zero carbon emissions by 2050.¹ The Ministry of Business, Innovation and Employment has stated that achieving the 2050 net-zero emissions target will require "rapid expansion and major acceleration of renewable electricity infrastructure".²
- 2.2 While the rate of investment in renewable generation is increasing, it is estimated that renewable electricity generation needs to increase by 50% to 70% by 2035, and by 170% by

¹ The Climate Change Response Act 2002 was amended in 2019 to set three targets: net-zero carbon emissions by 2050, and biogenic methane emissions reduced below 2017 levels by 10% by 2030 and by 27-47% by 2050.

² Ministry of Business, Innovation and Employment *Strengthening National Direction on Renewable Energy Generation and Electricity Transmission* (12 April 2023) at page 1 (<https://www.mbie.govt.nz/dmsdocument/26387-strengthening-national-direction-on-renewable-energy-generation-and-electricity-transmission-consultation-doc-pdf>).

2050.³ To put it another way, New Zealand must increase its renewable generation capacity by around 400 to 500 megawatts (MW) every year until 2050.⁴ As observed by the Authority, this growing electricity demand will increase the required sizes of distribution networks and "create new challenges for managing the congestion on those networks".⁵

- 2.3 To ensure that New Zealand can achieve this required growth, it is critical that a wider range of industry participants are encouraged and supported to invest in renewable electricity generation. The development of distributed generation assets will help New Zealand to reach its 2050 net-zero emissions target while also creating greater resilience in New Zealand's distribution networks. In the case of distributors, this is especially important given the responsibility on distributors to manage the operation and maintenance of local networks.
- 2.4 While the advancement of new technologies is driving more efficient use of New Zealand's existing generation capacity (such as demand aggregation and increased network visibility), these developments are unlikely to be sufficient on their own to address the inefficiencies associated with centralised generation in New Zealand. Accordingly, industry participants, and particularly distributors, must be supported to invest in network-level generation and storage now, for the long-term benefit of New Zealand consumers.
- 2.5 This has been recognised by the Australian Energy Regulator ("**AER**") as part of its recent decision to introduce a class waiver to its 'ring-fencing guideline' (which we understand is broadly equivalent to the arm's-length rules) for battery assets funded under the Australian Government's Community Batteries for Household Solar Program.⁶ In its decision, the AER acknowledges that "strict adherence to ring-fencing obligations might, in some circumstances, result in outcomes that are not in the long-term interest of consumers", and that waivers provide "flexibility to support opportunities for genuine innovation".⁷ Ultimately the AER determined that "the benefits to consumers of requiring [distributors] to comply with each of the requirements in the Guideline are outweighed by the costs of compliance with these obligations".⁸
- 2.6 As done by the AER in the Australian context, the Authority can similarly support distributors to contribute to the innovation of renewable energy solutions in New Zealand. WEL is committed to dealing with the challenges facing the New Zealand electricity industry alongside other industry participants, including by investing in renewable generation to meet the rapid growth in electricity demand. However, as described in the Sapere Report, the requirement on WEL to comply with the arm's-length rules would have the effect of adding avoidable inefficiencies into the electricity industry, which would be inconsistent with the Authority's objectives under the Act.

3. ENERGY AND ELECTRICITY SECURITY BILL

- 3.1 Recently MBIE, in consultation with the Authority the Commerce Commission and many others was asked to investigate options for inclusion in the Energy and Electricity Security Bill with respect to the amount of generation an electricity distribution business ("**EDB**") may own.

³ *Ibid.*

⁴ Electricity Authority *Promoting competition in the wholesale electricity market in the transition toward 100% renewable electricity – Issues Paper* (2022) at para [4.5] (<https://www.ea.govt.nz/documents/2243/Promoting-competition-in-the-wholesale-electricity-market.pdf>).

⁵ Electricity Authority, *Energy Transition Roadmap* (December 2021) at para [3.17].

⁶ Australian Energy Regulator *Decision, Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program* (February 2023) at page 1 (<https://rb.gy/t2ps6>).

⁷ *Ibid* Page 3.

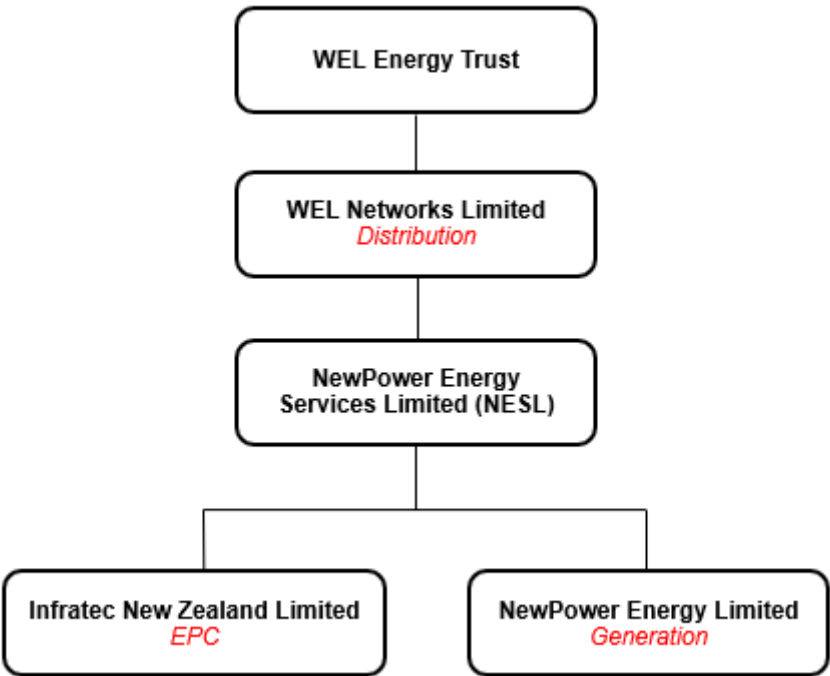
⁸ Australian Energy Regulator *Decision, Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program* (February 2023) at page 14 (<https://rb.gy/t2ps6>).

- 3.2 In the Cabinet paper⁹ released 8 April the recommended options were the removal of the current regulatory caps of 50MW and 250MW from being connected to an EDB's own network or Transpower's grid respectively.
- 3.3 The Cabinet paper noted that the current rules were deterring investment in generation at a time when distributed generation should be encouraged to promote regional resilience of the electricity sector. It noted that removing the rules would reduce the administrative burden on EDB's, increasing opportunities for new generation and assist in developing resilience at a local level.
- 3.4 The justification for the removal was, whilst there was concern on the impact of competition, other safeguards exist in the Code through Part 6 and the Commerce Act which imposes cost allocation, related party and information disclosure requirements.
- 3.5 Whilst the Energy and Electricity Security Bill is looking to be put forward in the first half of 2025, it is currently unknown as to what amendments may be made and when it may come into force. As such both the Authority and WEL must abide by the existing requirements under the Code which currently enforce Arm's Length for over 50MW.

4. DESCRIPTION OF WEL'S BUSINESS

- 4.1 WEL and its subsidiaries (together, the "**WEL Group**") build, own and operate over \$750M worth of electricity network infrastructure. A company structure of the WEL Group is set out in the diagram in Figure 1 below.

Figure 1: WEL Group company structure



- 4.2 The relevant entities within the WEL group are as follows:

⁹ Cabinet Paper – Investigating Options to Amend or Remove the Amount of Generation that Electricity Distribution Businesses May Own 8 April 2025

- (a) **WEL:** WEL, a company incorporated in New Zealand, carries on the business of a regulated electricity distributor and owns and operates a local distribution network in the Waikato region. Through its nearly 7,000 kilometres of lines, WEL services more than 96,000 residential and small business connections and close to 1,000 commercial/industrial sites. Through delivering innovative and sustainable energy solutions WEL has played an essential role in the economic and social development of local communities for over 100 years.
 - (b) **WEL Energy Trust ("Trust"):** WEL is wholly owned by the Trust whose beneficiaries are electricity customers connected to the WEL network. The Trust was established in 1993 and has a Trust Deed to ensure that the company now known as WEL operates as a 'successful company'. Under the Trust Deed, the definition of a 'successful company' includes not only profitability but the need to exhibit a sense of social responsibility by having regard to the interests of the community. The Trust is governed by a board of up to seven trustees, who are elected every three years.
 - (c) **NewPower Energy Limited ("NewPower"):** NewPower is WEL's electricity generation business and is a wholly owned subsidiary of WEL. NewPower owns, operates and maintains WEL's large generation assets. NewPower Energy Services Limited is the holding entity for NewPower.
 - (d) **Infratec New Zealand Limited ("Infratec"):** Infratec conducts the engineering, procurement and construction business of the WEL Group and is a wholly owned subsidiary of NewPower Energy Services Limited.
- 4.3 The WEL Group have had a couple of staff changes recently and David Barnett (WEL CFO) has been appointed Acting CEO of the NewPower Group and Emma Elliott (WEL Financial Reporting Manager) is currently Acting WEL CEO. We request that Emma Elliott be added as a named person in her current capacity as Acting WEL CFO.

New Generation Assets

- 4.4 The WEL Group, in part using its subsidiary Infratec, is developing the following generation assets which will be connected to its distribution network:
- (a) Two battery sites:
 - (i) WEL is seeking to install a small BESS with a capacity of 50kW and be capable of discharging 100kWh in the Raglan community.
 - (ii) WEL is seeking to install a 2MW BESS in the Raglan community.
 - (b) Two solar sites:
 - (i) NewPower is seeking to purchase a consented solar farm site near [REDACTED] connecting into WEL's network with a connected capacity of 24MW.
 - (ii) WEL is seeking to invest in a 1MW rooftop solar opportunity.

(together, the "**New Generation Assets**").

See **Appendix 2** for a map which sets out the approximate locations of the New Generation Assets.

4.5 The primary purposes of the New Generation Assets are as follows:

- (a) In relation to the small **BESS** (50kW), to provide WEL with an ability to run a trial to understand what systems, communication protocols and capabilities WEL need to invest in to be able to use aggregated small-scale batteries where a non-network solution is more beneficial.
- (b) In relation to the larger **BESS** (2MW), this is for the primary purpose of Raglan area network resilience. In recent years the Raglan community have been severely impacted by storm events and WEL's ability to supply them with a reliable electricity supply during these types of events.
- (c) [REDACTED] generate and inject electricity into the network, for sale by NewPower into the national wholesale market.
- (d) **Rooftop**: generate and sell the generation directly to the tenant through a Power Purchase Agreement with WEL.

4.6 For this application, WEL's working assumption is that the combined capacity of the New Generation Assets would take it beyond the 65.963MW of connected generation under our current exemption to a total of 93.013MW.

5. DESCRIPTION OF EXEMPTION AMENDMENT SOUGHT

Why WEL is seeking an exemption from clause 6A.3 of the Code

5.1 Pursuant to section 11(2) of the Act, this application seeks, in respect of WEL's involvement in NewPower, WEL is seeking an exemption amendment to our existing exemption from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Electricity Industry Participation Code 2010 (**Code**). ("**Proposed Exemption Amendment**").

5.2 As mentioned above, and as detailed in our original exemption application, WEL is a suitable candidate for exemption from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J of the Code, because it is not necessary for the purpose of achieving the Authority's objectives under section 15 of the Act for WEL to comply with the arm's-length rules.

When is WEL seeking the amended exemption

5.3 WEL is seeking a decision to our exemption application to be made by 30 June, this will enable us to progress with our plans for our New Generation Assets as soon as possible.

How long the exemption is required for

5.4 WEL is requesting the exemption from the date at which the final New Generation Asset is connected to its distribution network and for a minimum period of twenty-five (25) years (based on the life of the assets being 25 to 30 years) for WEL to make a reasonable return on its investment. Or, until this exemption is no longer required through legislative change.

Previous similar exemptions by the Authority

5.5 The Authority has previously considered applications for exemption from the arm's-length rules, including (for example) a recent application by Top Energy Limited ("**Top Energy**") in

relation to the expansion of its geothermal generation assets at the Ngāwhā Springs Power Station¹⁰ for generation up to 117MW.

What alternatives did WEL seek

- 5.6 An alternative to this exemption would be to move to have complete separation of Governance and Management. The estimated cost of this alternative was substantial compared the purported benefits of Arm's Length. Sapare's report, which was part of WEL's initial exemption application, showed no negative impact on competition from WEL's exemption request to Arm's Length.

Impact on overall scheme of the Code

- 5.7 The purpose of Part 6A the Code is to promote competition in the electricity industry by restricting relationships between a distributor and a generator where those relationships may not otherwise be at arm's-length. We consider that the Proposed Amended Exemption is consistent with the objectives of Part 6A of the Code, given that the arm's-length rules are not necessary to promote competition in the electricity industry in relation to WEL's involvement in NewPower, as described in WEL's original exemption application.

No adverse effects on other participants

- 5.8 As described further below, the Proposed Amended Exemption would not result in any adverse effects on other participants in the electricity industry. In particular:
- (a) The generation capacity added by WEL to the national wholesale market (being the increment by which WEL's generation capacity would exceed the 50MW threshold) is small relative to the total generation in the market. The relative significance of the incremental increase of WEL's generation capacity will be further diminished as the Government continues to fast-track new renewable generation projects to meet New Zealand's emissions reduction targets.¹¹
 - (b) The Proposed Amendment Exemption does not create any risk of foreclosure in any of the relevant markets.
 - (c) Furthermore, there is no opportunity or incentive for WEL to leverage its monopoly distribution business to cross-subsidise the contestable activities that it will undertake with the New Generation Assets. This would effectively require WEL to undermine its business model by overcharging its distribution customers (which are also its owners under the consumer-owned trust model and which would attract increased and unwanted scrutiny from the Commerce Commission) or by operating at below-cost pricing, which WEL clearly has no incentive to do.

¹⁰ Electricity Authority, *Final Decision No. EA 333 in relation to Top Energy Limited* (15 December 2023).

¹¹ For example, since late 2021 the Government has referred five significant renewable generation projects through the COVID-19 Recovery (Fast-track Consenting) Act 2020, including two large solar farm projects in the Waikato region, which could collectively add more than 635MW to the national grid. See *Government refers solar energy projects for fast-track consenting* (14 April 2023) at <https://www.beehive.govt.nz/release/government-refers-solar-energy-projects-fast-track-consenting>.

6. EFFECTS OF THE PROPOSED EXEMPTION ON THE AUTHORITY'S STATUTORY OBJECTIVES

(a) The exemption does not undermine competition in the electricity industry

- 6.1 In WEL's first exemption application a competition impact assessment was sought from Sapare which showed that the exemption would have no negative impact on competition.

(b) The exemption does not undermine the reliability of supply by the electricity industry

- 6.2 The New Generation Assets would be operated and contribute to the supply of electricity under WEL's network connection standards and would not reduce the reliability of supply. The larger BESS is designed to improve the reliability of supply for the Raglan area.

(c) The exemption seeks to promote the efficient operation of the electricity industry

- 6.3 The small BESS trial is designed to improve WEL's understanding of non-network solutions enabling WEL to go out to market for these potential solutions in the future, therefore seeking more efficient use of investments made by WEL and third parties and the operation of the network

(d) The exemption seeks to promote the interests of domestic consumers and small business consumers.

- 6.4 The small BESS trial is designed to improve WEL's understanding of non-network solutions enabling WEL to go out to market for these potential solutions in the future. Therefore, seeking more efficient use of investments made by domestic and small business consumers in distributed energy resources.

7. CONFIDENTIALITY

- 7.1 This application is being provided to the Authority on a confidential basis. WEL requests that it is notified in writing prior to the release of any of the information contained in this application, and that WEL's views on confidentiality are considered before any such disclosure takes place.

8. DECLARATION

- 8.1 Please see **Appendix 1** to this application for a declaration completed by WEL (in the form prescribed under the former section 90 application process).
- 8.2 Please let us know if you have any questions or if you require any further information.

APPENDIX 1: DECLARATION


THIS APPLICATION is made by:

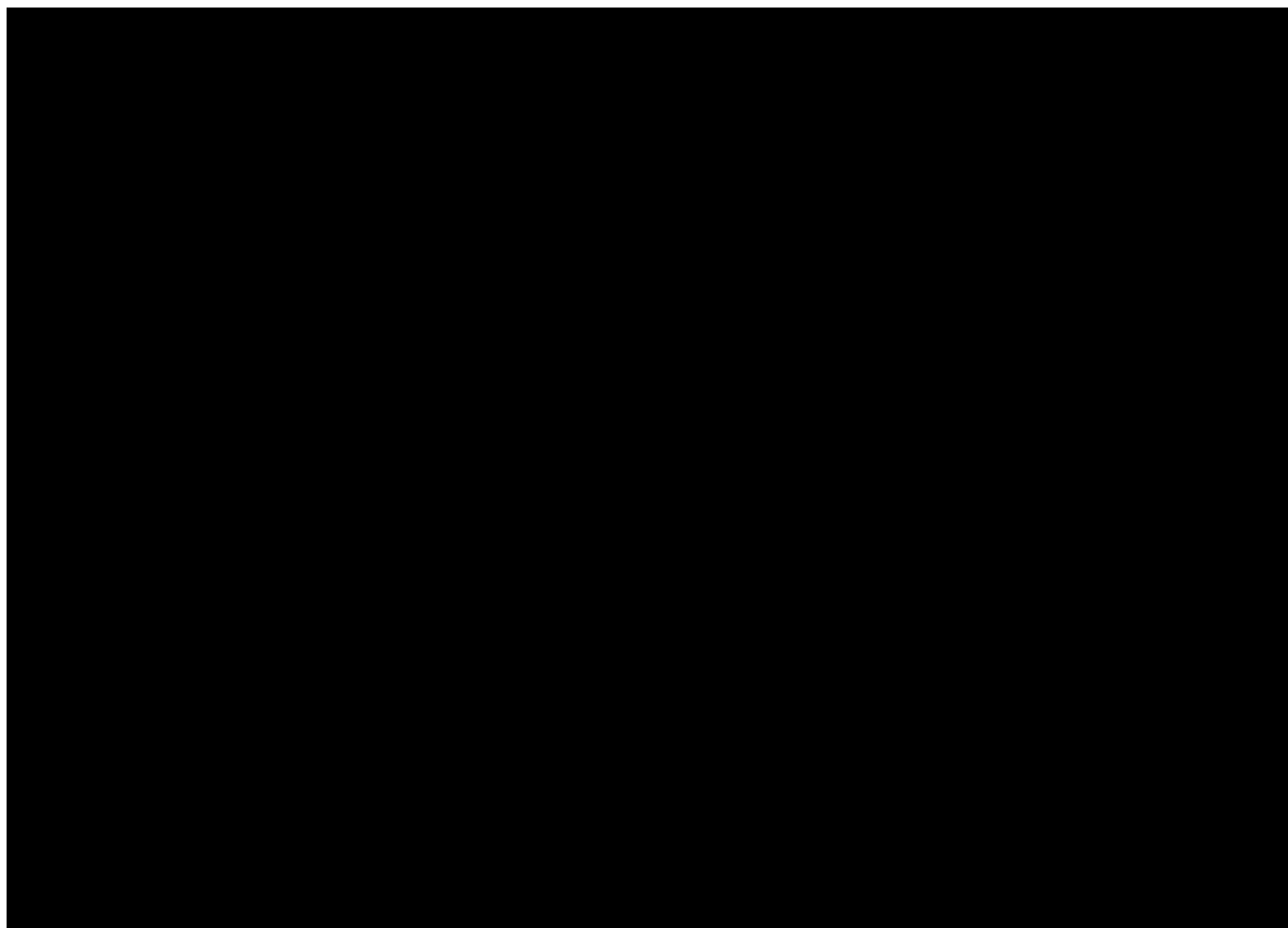
WEL Networks Limited

WEL Networks Limited hereby confirms that:

- all the information requested by the Electricity Authority (**Authority**) is provided;
- all relevant information known to the applicant is provided; and
- all information provided is true and correct as at the date of this application.

WEL Networks Limited undertakes to advise the Authority immediately of any material change in circumstances relating to the application.

Company name:	WEL Network Limited
Date:	15 April 2025
Signed by:	
Position:	GM Commercial Engagement



11 June 2025

Dear Compliance Team

APPLICATION FOR PART 6A EXEMPTION – NEWPOWER ENERGY SERVICES LIMITED

Application

1. Pursuant to section 11(2) of the Electricity Industry Act 2010 ("**Act**"), this application is hereby made to the Electricity Authority (**Authority**) for an amended exemption from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Electricity Industry Participation Code 2010 (**Code**).

Details of the person filing the application

2. This application is made by NewPower Energy Services Limited ("**NewPower**") in respect of its involvement in WEL Networks Limited ("**WEL**").
3. In addition, pursuant to clause 6A.9 of the Code, NewPower makes an application on behalf of the following persons for dispensation from compliance with Part 6A of the Code in respect of their involvement in NewPower and WEL:
 - (a) the directors of NewPower; and
 - (b) the Chief Executive (currently Acting Chief Executive) of NewPower.(together, the "**Dispensation Applicants**").

Background to application

4. WEL has applied to the Authority for an amended exemption from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Electricity Industry Participation Code 2010 (**Code**) ("**WEL Application**"). As set out in the WEL Application:
 - (a) WEL has a current exemption from compliance Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Code up to a maximum capacity of 65.963MW.
 - (b) WEL and NewPower have additional generation they are looking to develop totalling 25.05MW which includes 2 battery energy storage systems, one solar farm and one rooftop solar opportunity on its network (together the "**New Generation Assets**");
 - (c) the total capacity of the New Generation Assets will exceed the current maximum capacity of 65.963 under WEL's current exemption; and
 - (d) NewPower is regarded as a "connected generator" under Part 6A of the Code.
5. For the reasons described in the WEL's initial Application and its amended exemption application, NewPower considers that:
 - (a) it is a suitable candidate for exemption from compliance with clauses Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Code; and

- (b) the Dispensation Applicants are suitable candidates for dispensation from compliance with Schedule 6A.3(2) Clauses 3G, 3H, 3I and 3J under Part 6A of the Code,

in each case, because it is not necessary for the purpose of achieving the Authority's objectives under section 15 of the Act for NewPower or the Dispensation Applicants, respectively, to comply with the arm's-length rules, and, in some cases, granting the exemption and dispensations would better achieve the Authority's objectives under the Act than requiring compliance.

6. If you have any questions or if any part of this application requires explanation, please contact Michelle Allfrey, General Manager - Commercial Engagement at WEL: +64 7 850 3143; michelle.allfrey@wel.co.nz.

Yours sincerely



David Barnett
Acting Chief Executive
NewPower Energy Services Limited

Appendix B Draft gazette and dispensation notices

DRAFT

Amendment to Exemption Under Section 11(4) of the Electricity Industry Act 2010 to Exemption No. 346 (WEL Network Limited and NewPower Energy Limited)

In accordance with section 11(4) of the Electricity Industry Act 2010 (“Act”), the Electricity Authority (“Authority”) gives the following notice.

Notice

1. Principal exemption and commencement

- (1) This notice amends the exemption granted by the Authority on 18 October 2024, under section 11(2) of the Electricity Industry Act 2010 entitled ‘Electricity Industry (Exemption No. 346 (WEL Network Limited and NewPower Energy Limited)) Exemption Notice 2024’ (“principal exemption”).
- (2) This Notice comes into force on the day after the date it is notified in the *New Zealand Gazette*.”.

2. Amendments to principal exemption

- (1) Delete and replace the condition 2 of the principal exemption with the following:
 - a. This exemption applies to the following generation owned by WEL or NewPower (as specified):
 - i. a battery energy storage system up to maximum capacity of 32.495MW (New Power);
 - ii. Taiohi solar farm in Huntly up to a nameplate Te Ohaaki solar farm in Huntly up to a nameplate capacity of 22.4MW (Newpower);
 - iii. Rangimarie solar farm in Maramarua up to a nameplate capacity of 10MW (NewPower); and
 - iv. various small scale solar, battery storage with a total capacity of 0.61789 MW as follows (WEL):

Location	Type	Capacity (kW)
Hamilton (Maui Street)	Solar	15
	Solar	60
	Solar	2
	Solar	59.8
	BESS	91
	Diesel	120
Pukete	Solar	10
Hamilton (Avalon Drive)	Solar	15
	BESS	15
	Diesel	80
Hamilton (McKee)	Solar	110
	Bess	40

- v. BESS up to a maximum capacity of 50Kw (WEL);
- vi. BESS up to a maximum capacity of 2MW (WEL or NewPower);
- vii. a solar farm up to a nameplate capacity of 24MW (NewPower);
- viii. a rooftop solar system to a nameplate capacity of 1 MW (WEL);
- b. the exemption and dispensations apply to the existing and new generation assets up to a nameplate capacity of 93.013 MW
- c. the exemption and dispensations from the requirement to comply with rule 3I only apply to the appointment of management to positions of material influence over WEL and NewPower
- d. WEL and NewPower must not engage in retailing, as that term is defined in the Act, to any customer connected to WEL's distribution network
- e. WEL or NewPower must issue a Request for Proposals (RFP) to develop or provide the proposed 2MW BESS in the Raglan region
- f. the exemption and dispensations apply while WEL is wholly-owned by the WEL Energy Trust
- g. the exemption and dispensations expire on 1 October 2040 or the day that any additional generation (other than generation installed for the purpose of providing network support) owned by WEL, NewPower or any of WEL's subsidiaries, or any "connected generators" as defined in cl 6A.3 in relation to WEL, is connected to WEL's network, whichever date is earlier
- h. WEL must comply with Part 6 and WEL and NewPower must comply with all other arm's-length rules in the Code.

(2) Add new clause 3(b) to section 3 of the principal exemption as follows–

3. The reasons for granting the amendment to the exemption on 26 June 2025 date under section 11(4) of the Act are:

- a. The Authority is satisfied that granting the amendment is necessary and desirable for meeting the Authority's objectives because:
 - i. competition and reliability are expected to be not affected by the granting of the amendment
 - ii. efficiency is expected to be improved by the granting of the amendment
 - iii. while total generation capacity will exceed the 50MW threshold by a more than minor amount, the overall capacity remains relatively small.
 - iv. any potential risks incentives or opportunities to inhibit competition can be addressed by the application of the remaining arm's length rules in Schedule 6A.1 of the Code, Part 6 of the Code, information disclosure requirements under the Commerce Act 1986 and the conditions set out in paragraph 2 of this notice.

Dated at Wellington this day of July 2025
 For and on behalf of the Authority:

ANNA KOMINIK, Chair,
 Electricity Authority

Amendment to dispensation under clause 6A.9(6) of Part 6A of the Electricity Industry Participation Code 2010 (WEL Network Limited and NewPower Limited)

In accordance with clause 6A.9(6) of Part 6A of the Electricity Industry Participation Code 2010 (“Code”) the Electricity Authority gives the following notice:

Notice

1. Principal dispensation –

- (1) This notice amends the principal dispensation granted by the Authority on 1 October 2024 under clause 6A.9(6) of the Electricity Industry Participation Code 2010 (WEL Network Limited and NewPower Limited) (“principal exemption”)

2. Amendments to the principal dispensation –

- (2) Delete and replace the condition 2(a) of the principal exemption with the following:

(2) **Conditions** - This dispensation is subject to the following conditions

- a. This dispensation applies to the following generation owned by WEL or NewPower (as specified):
- i. a battery energy storage system up to maximum capacity of 32.495MW (New Power);
 - ii. Taiohi solar farm in Huntly up to a nameplate Te Ohaaki solar farm in Huntly up to a nameplate capacity of 22.4MW (Newpower);
 - iii. Rangimarie solar farm in Maramarua up to a nameplate capacity of 10MW (NewPower); and
 - iv. various small scale solar, battery storage with a total capacity of 0.61789 MW as follows (WEL):

Location	Type	Capacity (kW)
Hamilton (Maui Street)	Solar	15
	Solar	60
	Solar	2
	Solar	59.8
	BESS	91
	Diesel	120
Pukete	Solar	10
Hamilton (Avalon Drive)	Solar	15
	BESS	15
	Diesel	80
Hamilton (McKee)	Solar	110
	Bess	40

- v. BESS up to a maximum capacity of 50Kw (WEL);
- vi. BESS up to a maximum capacity of 2MW (WEL or NewPower);
- vii. a solar farm up to a nameplate capacity of 24MW (NewPower);
- viii. a rooftop solar system to a nameplate capacity of 1 MW (WEL);

- b. The dispensation from the requirement to comply with rule 3I only applies to the appointment of persons identified in clause 2(c) to (f) to positions of material influence over NewPower.
- c. The dispensation only applies while WEL and NewPower are wholly owned by the WEL Energy Trust.
- d. This dispensation will expire on 1 October 2040 or the day that any additional generation (other than generation installed for the purpose of providing network support) owned by WEL, NewPower or any of WEL's subsidiaries, is connected to WEL's network, whichever date is earlier).

(3) Add new clause 3(b) to section 3 of the principal exemption as follows–

3. The reasons for granting the amendment to the dispensation on 26 June 2025 date under section under clause 6A.9(6) of the Code are:

- a. The Authority is satisfied that granting the amendment to the dispensation is necessary and desirable for meeting the Authority's objectives because:
 - i. competition and reliability are expected to be not affected by the granting of the amendment
 - ii. efficiency is expected to be improved by the granting of the amendment
 - iii. while total generation capacity will exceed the 50MW threshold by a more than minor amount, the overall capacity remains relatively small.
 - iv. any potential risks incentives or opportunities to inhibit competition can be addressed by the application of the remaining arm's length rules in Schedule 6A.1 of the Code, Part 6 of the Code, information disclosure requirements under the Commerce Act 1986 and the conditions set out in paragraph 2 of this notice.

Dated at Wellington this day of July 2025
For and on behalf of the Authority:

ANNA KOMINIK, Chair,
Electricity Authority