



Top Energy Limited

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Grant Benvenuti
General manager market performance
Electricity Authority
PO Box 10041
Wellington 6143

Dear Grant

Re: Top Energy – Application in respect of network support diesel/bio diesel generation units
Decision EA005

I refer to the Authority's decision 005 which relates to Top Energy's application for an exemption from corporate separation and arm's-length rules in respect of the diesel/biodiesel generation units (**Gensets**) used to provide network support services.

In its decision, the Authority granted an exemption for a period of 365 days from Gazette notification of the exemption. A condition to the consent required Top Energy to undertake a registration of interest and, if any interest was registered, a tender process for the provision of network support services in order to determine whether statements made by Top Energy about the absence of a market for the provision of such services in the Far North region were correct.

Top Energy has completed a registration of interest process which involved the issue of a Call for Registration of Interest (ROI). Before the ROI was issued, the Authority was provided with the document and made three suggestions which it described as minor. Those suggestions were incorporated in the document released.

No registrations of interest were received for the provision of the network support services required.

In its decision, the Authority required the Top Energy board to consider all proposals and report their deliberations to the Authority.

I attach that report which contains the ROI, the registrations received, and the Evaluation Report and Recommendations made in respect of those registrations and the directors' decision not to pursue any further steps in relation to the provision of the required services.

The identity of Respondents, the responses to the ROI and the details of the Evaluation Report and Recommendations contain confidential and commercially sensitive information provided by the registrants. In the ROI, Top Energy undertook to registrants to keep their confidential and commercially sensitive information confidential. The Evaluation Report and the Board

paper of 29 June 2021 together with the attachments to it, also contain confidential and commercially sensitive information. Application is therefore made for the ongoing confidentiality of all of these documents.

As the report and accompanying documents show, there is no market for the provision of network support services in the Far North region, and therefore there are no adverse competition consequences arising from the exemption from the corporate separation and arm's-length rules.

It is noted that the new technology battery solutions proposed, not only represent a considerably more expensive option, but they were also not capable of performing the services to the required service levels. Even incurring the additional cost of installation of the battery proposals received still required the ongoing operation of the Gensets.

In other words, there are no alternatives to the ongoing use of the Gensets by Top Energy to provide electricity supply to its customers in the Far North region. Accordingly, the ongoing ownership and management of these Gensets by Top Energy is the only available practical and economically efficient means by which Top Energy can meet its security of supply obligations under the regulatory regime applicable to it.

In light of the foregoing and in particular the absence of a competitive market, Top Energy submits that the appropriate course for the Authority is to:

- (a) renew the existing exemption;
- (b) remove the conditions relating to the time period and requirement to conduct a procurement process from the exemption; and
- (c) substitute the period of the exemption to reflect the economic life of the Gensets.

In further support of this submission it is noted that in the absence of a market for the required network support services in the Far North, and therefore any adverse competition impacts from the ownership and operation of the Gensets by Top Energy, granting the exemption will not be contrary to the Authority's statutory objective in section 15 of the Electricity Industry Act.

Importantly in the context of the Authority's objective in section 15 requiring Top Energy and therefore the consumers to incur any additional costs which would arise from corporate separation and compliance with the arm's-length rules, regardless of the level of those costs, would clearly be contrary to the long term interests of the consumers in the Far North and requiring those costs to be incurred would provide no long-term benefits to consumers in the Far North.

In light of the results of the approach to market conducted by Top Energy and the matters referred to above it is suggested that there is now no further reason why the exemption granted should not be amended as outlined above.

I will be pleased to discuss this further with you.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Russell Shaw', with a stylized, flowing script.

Russell Shaw
Chief Executive
Top Energy Limited