

4 August 2020

Electricity Authority
Level 7, ASB Bank Tower
2 Hunter Street
Wellington

By email: Part3exemption2020@ea.govt.nz

Dear Electricity Authority,

Draft decision on Top Energy application for an exemption from corporate separation and arm's-length rules

Contact is currently working with commercial and industrial customers as a demand response aggregator. We have previously provided network support to distribution networks through the aggregated control of household battery and hot water systems, and we have recently participated in a number of network support RFPs. Throughout this period we have advocated through numerous regulatory submissions for the development of network support markets.

We make the following comments with respect to Top Energy's application:

- Top Energy notes that a Network Support Services Market does not exist in the Far North region. They have sought suppliers, and no one has been prepared to offer a service for both planned and unplanned outages. Contact previously visited Top Energy in 2017 demonstrating an interest in providing such a service. Since then, we have provided network support proposals in response to Powerco, Aurora and Transpower RFPs, offering to use diesel generation to provide network support for managing capacity and outages. Top Energy's application mentions that they approached potential network support providers, however we were unaware of this process. A public RFP process could have helped identify providers, and in turn supported the development of a network support market in the Far North.
- Top Energy notes that the cost of any (third party) network support would far exceed the costs of Top Energy owning and operating diesel generation. It is unclear how this has been determined. Presumably the business case for Top Energy owning generation relies on the distribution network support value. For a third party, there is the potential to optimise the use of the network support through not only providing a service to Top Energy, but also providing network support services like voltage support and demand response to Transpower, and participating in the wholesale electricity market.
- Top Energy notes that the temporary hire of generators for unplanned outages is operationally unsustainable. This suggests the generators need to be permanently on site. Top Energy also notes that it has not been possible to find generators for hire which meet their availability requirements. Contact has recently worked with multiple generator hire companies who have been able to structure multi-year generator hire deals with differing levels of availability during each year, and over different years. In addition, Contact has expressed its willingness through a distribution network RFP to guarantee the availability of the network support, through assuming the generation outage risk.

We support the EA's approach requiring Top Energy to conduct an EOI/RFP process, as we believe RFP processes increase the likelihood of third party network support being identified. Given the infancy of the development of network support markets in New Zealand, with only a few RFP processes been run to date, we believe these processes are essential to the development of markets, which can help to reduce prices for all consumers.

In our view, the time to run a network support EOI/RFP process is prior to an investment decision being made, when both traditional network and third party support solutions can be evaluated side by side. Ideally this would

have happened in 2018, prior to Top Energy investing in diesel generation. We note that in 2018 Top Energy was hoping for a longer term s90 exemption for Ngawha, and hence assumed the risk of investing in diesel generation without an s90 exemption.

Given the current circumstances, we suggest the EA consider:

- Only applying the draft decision to approve a 1 year s90 exemption to Top Energy's diesel generation which is already operational or under construction (to the extent it is less than the full 18MW). In our view, the required network support EOI/RFP process within the first year is unlikely to deliver competitive third party solutions given they are competing against the sunk cost of already built diesel generation.
- Not approving an s90 exemption for any diesel generation which is yet to commence construction until after a network support EOI/RFP process has been completed. This may increase the competitiveness of third party solutions (although we note that Top Energy has already purchased the diesel generation).
- Requiring Top Energy to offer dispatch rights to the diesel generation, and a network support contract to third parties as part of the EOI/RFP process. This may help to increase competition given Top Energy has already proceeded with purchasing and installing the diesel generation.

Finally, we do not support Top Energy utilising the diesel generation to manage wholesale electricity prices in the Far North. Enabling monopoly distribution assets which have been purchased with regulated capex to participate will influence and distort price outcomes in the market. This should be prevented to facilitate a level playing field for all generation developers who are investing private capital to participate in the market, to ensure the lowest cost generation is built for the benefit of electricity consumers.

We would welcome the opportunity to discuss these issues further with the Electricity Authority.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Chris Abbott".

Chris Abbott
GM Regulatory Affairs & Government Relations