

4 August 2020

Submissions  
Electricity Authority  
PO Box 10 041  
Wellington

By email: [Part3exemption2020@ea.govt.nz](mailto:Part3exemption2020@ea.govt.nz)

Dear Christie,

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

Pioneer Energy (Pioneer) appreciated the opportunity to discuss this application with you and, consistent with that discussion, provide this written submission on the draft decision by the Electricity Authority (Authority) on Top Energy's application for an exemption from section 90 of the Electricity Industry Act 2010 in relation to diesel generation plant to be used for network support.

We are surprised about the sequence of events – it appears that Top Energy “has acquired and intends to acquire”<sup>1</sup> gensets prior to confirmation of an exemption from the Authority. While Top Energy may not breach the Part 3 thresholds until later in 2020 (when further commissioning is complete at the Ngawha geothermal power station) it has been clear (probably since 2017) that an exemption for these diesel gensets would be required.

Pioneer supports the Authority's draft decision to grant an exemption to generate electricity without corporate and management separation for a period of only 365 days in relation to the 17.87MW of diesel/bio-diesel generation capacity to allow time for Top Energy to conduct a registration of interest and tender for network support services.

We agree that non-network solutions are, particularly at the network edge, increasingly viable in comparison to investment in traditional distribution network infrastructure. In our view, there are no barriers to a third party:

- locating a non-network solution in close physical proximity to the appropriate network assets; or
- having an agreement with Top Energy that means decisions relating to the need/desirability of running a non-network solution (including diesel/bio diesel generation) align with Top Energy's needs.<sup>2</sup>

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<sup>1</sup> Ibid paragraph 35

<sup>2</sup> Response to statements by Top Energy in paragraph 36, page 6 of their application  
<https://www.ea.govt.nz/dmsdocument/26729-top-energy-application-under-sn90-part-3-exemption>

We also suggest the Authority consider whether the market for non-network services in the Top Energy network is larger, over a period of time, than that implied by this exemption application. The input methodologies and information disclosure determinations for the Part 4 price/quality regulatory regime (managed by the Commerce Commission) requires network companies to provide information about opportunities for non-network solutions. Top Energy's 2019 Asset Management Plan "encourages independent interests to consider" some listed locations where "dispatchable generation (most likely diesel)"<sup>3</sup> could be located. It is not clear if the locations for diesel gensets in this exemption application replace or are in addition to some of the locations listed in the 2019 Asset Management Plan.

Our principles level view is unchanged from our submissions on the 2017 exemption application for the Ngawha expansion. We are concerned about the degree to which Top Energy's total generation investments will exceed the 50MW legislative threshold. This threshold is based on carefully considered public policy and was subject to consultation and the scrutiny of Parliament.

Pioneer has no issue with Top Energy and any other distribution company building local or national generation provided that all generation investors are operating on the same terms and within the current market rules. If the rules no longer apply then they should be changed by consideration of the collective costs and benefits across all players, not changed through individual case exemptions that confer competitive or pricing advantage on individual players.

We would be happy to meet with the Authority to discuss these points in further detail.

Yours sincerely



Fraser Jonker  
**Chief Executive**

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<sup>3</sup> Page 115 <https://topenergy.co.nz/assets/Documents/2019-AMP.pdf>