

3 November 2020

Hannah Hopper
Adviser Wholesale Markets
Electricity Authority
By email to WMID@ea.govt.nz

Dear Hannah

Review of Thermal Fuel Information Disclosure – Guidelines Consultation

1. This is a submission by the Major Electricity Users' Group (MEUG) on the following two documents published by the Electricity Authority (EA) on 20th October 2020:¹
 - Consultation paper, Wholesale market information disclosure (WMID), Review of Guidelines for participants on wholesales market information disclosure obligations.
 - Appendix A to the above consultation paper, Guidelines for participants on wholesale market information disclosure obligations – tracked changes.

2. MEUG members have been consulted in the preparation of this submission. This submission is not confidential. Some members may make separate submissions.

Introductory and broader comments on the WMID project

3. The EA workshop held 8th October ahead of this consultation commencing was helpful. Workshops in addition to bi-lateral discussions are an effective complement to formal consultation to facilitate, as discussed in paragraph 2.1 of the consultation paper, continuous evolution of the guidelines.
4. Section 2 of the consultation paper discusses the WMID Project work to date and prior consultation on four proposals. Proposal 2 is the current consultation on proposed changes to the Guidelines. Proposal 3, a disclosure reference webpage, has since been implemented on EMI. Paragraph 2.4 of the consultation paper states,

“Submissions from stakeholders were broadly supportive of all the proposals, in particular proposals 2 and 3”
5. MEUG is concerned readers may infer from this statement that proposals 1 and 4 also had broad support. Proposal 1 is to have a Code change mandating quarterly reporting of disclosure activities and annual certification by specified participants. Proposal 1 is, in our view, controversial and does not have broad support

¹ Both papers found at URL <https://www.ea.govt.nz/development/work-programme/risk-management/wholesale-market-information-disclosure/consultation/>.

Feedback on the current and proposed changes to and the Guidelines

6. The Code requires participants to publish disclosure information that “will have a material impact on the prices in the wholesale market.” The Guidelines align with the Code by also using phrases such as “material impacts” or “materially affected” etc. The phrase material impact is also used in some of the proposed new text changes to the Guidelines. Section 6.37 and subsections of the current Guidelines refer extensively to “significant” changes etc, rather than material. To avoid uncertainty on whether there should or should not be a difference between “material” and “significant,” MEUG recommends removing references to “significant” or the EA clarify what the difference is between a material and significant impact/change.
7. Genesis Energy explained to MEUG the background to the proposed new example of disclosure information relating to thermal fuel in proposed new paragraph 6.28 (a) (iv) of the Guidelines. We agree the action of Genesis at that time, late 2018, was appropriate and we would expect Genesis to ramp up the level and frequency of disclosures if similar circumstances arose. Once the need for the heightened level of disclosure passed then Genesis ceased publishing updates as presumably the information was no longer material and there is a cost to collecting and publishing the information. Accordingly, MEUG suggests adding the following underlined text to the last sentence of proposed new paragraph 6.28 (a) (iv) of the Guidelines:

“The Authority’s expectations are that this is consistent with clause 13.2A requirements and that this type of disclosure behaviour should continue in similar circumstances.”
8. MEUG suggests adding to proposed new paragraph 6.28 (b) (ii) of the Guidelines the underlined text at the end of the paragraph:

“In deciding what to publish, participants may find it useful to consider the following list of factors (current and future): overall supply and demand balance in electricity and gas markets, likelihood of the generator being required, availability of other fuels, size and location of generator, impact on or response of other gas users, ability to get replacement fuel, and requirements to post offers for pre-dispatch schedules starting a week ahead of real-time.”

The additional text recognises that if a thermal generator has a gas supply problem then volumes offered for pre-dispatch schedules will be less than normal and that will be observable by the market. If a thermal generator has a gas supply problem but does not reflect that in volume offers until at or just before real-time then that would likely be a breach of the Code.
9. The three examples in proposed new paragraph 6.28 of the Guidelines are about material changes in volume of thermal power station fuel. It would be useful to have an example in the Guidelines of how a material change in the price of thermal power station fuel should be communicated by a participant. The answer may be as simple as a change in the price component of offers in the pre-dispatch schedules or may be more nuanced or complicated. Hence the advice of the EA by way of an example in the Guidelines is recommended.

10. MEUG has doubts if the current guideline in paragraph 7.23, expressing the EA's view the continuous disclosure requirements in the NZX and ASX listing rules may not satisfy the requirement to make information readily available to the public, is justified. For major announcements we believe disclosures under those listing rules are sufficient because they will have been well communicated through multiple channels and media and it would be wasteful to require listed parties to have a dedicated channel to also meet the Code requirements. For minor NZX and ASX announcements there is a case that only sophisticated participants will have an interest and they will be aware of and can choose to actively monitor those announcements. There is a question at what point, if any, in the more granular level of disclosed information to meet NZX and ASX listing rules, should a participant be required to use another medium to meet the Code requirements? Some guidance from the EA would be helpful.
11. MEUG notes the example of a tabular format for standardised publication of information in proposed new paragraph 10.8 (a). We think relevant suppliers should discuss options and develop options themselves and as appropriate have consumers present to avoid concerns on possibly breaching Part 2 of the Commerce Act. And where appropriate suppliers should also accept the EA's offer in existing guideline paragraph 10.5 whereby "The Authority is happy to assist participants establish standardised disclosure practices where applicable."

Yours sincerely



Ralph Matthes
Executive Director