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John Rampton
Electricity Authority
86 Customhouse Quay
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By email: submissions@ea.govt.nz

Dear John

Wholesale Market Disclosure: Draft 13.2 Guidelines

Thank you for the opportunity to submit on the Electricity Authority's (the Authority) consultation paper *Draft 13.2 Guidelines*, published 26 March 2012. Our interest in this matter lies both as an asset owner, as the provider of grid capacity and outage information; and as system operator, who uses the information for operational functions of security of supply forecasting and outage planning.

We support the policy objectives for disclosure information

Transpower continues to support the Authority's objectives for disclosure information to:

- Build confidence in the electricity market
- Promote efficient monitoring and information provision
- Reduce information asymmetry between informed and uninformed participants and interested parties.

From the benefits described through the consultation process we consider the last objective to be the main driver for the disclosure information. However, since information asymmetry is a feature of market transactions, we consider the proper scope for 'interested parties' to be only those whose trading decisions could be affected by the information being disclosed e.g. by current and potential market participants. We have concerns therefore with the changes to the disclosure policy, evident through this guidelines consultation, that have been made following the industry workshop in February 2013.

Concerns with grid information being made 'readily available to the public'

In our previous submission we agreed with the Code drafting that meant we would not need to make disclosure information publicly available if '*the information is reasonably available in a useable form to other participants, regardless of whether the information is publicly available*' (clause 13.2A (3)(e)). We considered that our outage information we provide to the system operator via the planned outage co-ordination protocol (POCP) platform would satisfy this exclusion, thereby meeting our disclosure obligation at no additional cost.

Following the workshop on the 13.2 guidelines, the policy now mandates the disclosed information be made 'readily available to the public' (which the Authority indicates as 'open access') and exclusion 13.2A (3) (e) has been removed.

We do not support the concept of open access which we think is an undesirable feature for the provision of critical infrastructure outage information, and does not appear to be

necessary to achieve the policy objective. For example, there is a real, if not easily quantifiable, risk of inappropriate use of this information with potential safety and/or system security impacts. We recommend below an alternative, lower risk, way of meeting the policy objective.

Concerns about open access to POCP

As system operator we are the recipient of much asset owner information, some of it hosted through the POCP. Some of this information may be identified by asset owners as disclosure information. The Authority has requested that the system operator removes its access controls to the POCP to make the information 'readily available to the public'.

The POCP is a system operation planning tool and is effective and inexpensive because of its 'simple' nature and agreed business rules that have been set by a cross-industry working group. The system operator is concerned with the potential impacts on participants' incentives to use POCP of making it open access to the public. There could be a reduction in the amount and quality of data provided to POCP if it was viewed primarily as the disclosure vehicle for the obligation and stops being used for all other information provision.

To mitigate that risk the System Operator would need to reach agreement with participants on any changes to the POCP data as a result of discussions with the Authority (alternatively this would need to go out for industry consultation). Any material costs associated with the changes should be met either by the parties with the disclosure obligation to disclose or by the Authority.

Taking all of the above points into account, we recommend:

- the exclusion 13.2A (3) (e) is reinstated (but may need redrafting to recognise the broader scope of interested parties)
- the system operator consults with the industry on options for using information hosted by POCP. Options include granting login access to interested parties as well as current market participants (if exclusion 13.2A (e) is reinstated and redrafted as above) or pushing the disclosure set of POCP information to a separate platform.

We consider these recommendations would achieve all the benefits sought from the disclosure information requirement, at some additional administrative cost, without incurring the potential economic costs from discouraging use of POCP or the risks associated with uncontrolled 'open access' to critical infrastructure information.

If you wish to clarify any of the points raised in this submission please contact me on 04 590 7544.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JC' followed by a long horizontal stroke.

Jeremy Cain
Chief Regulatory Advisor

Appendix A – Responses to Consultation Questions

Question No.	Question	Response
1	What comment do you have on the application of the disclosure obligations to all participants?	<p>We agree with the obligation on all participants to disclose information, as per our previous submission. Also, as per our previous submission, we supported the proposal to make information the position of making information 'publicly available'.</p> <p>We consider the change from 'publicly available' to 'readily available to the public (open access)' has created new implementation and policy consistency issues that we discuss in our cover letter.</p>
2	What comments do you have on the impact of the disclosure obligations for information a participant holds about itself?	<p>We agree that disclosure information should only apply to information a participant holds about itself.</p> <p>With reference to POCP, the information is 'owned' by participants and therefore disclosure decisions on each item of information stored within POCP is the responsibility of the participant who owns the data and not that of the System Operator.</p>
3	Do you think that information a participant holds about associated entities (its wholly owned subsidiaries, incorporated joint ventures, and incorporated special purpose vehicles) should fall within the definition of disclosure information?	<p>We agree with what is outlined in the guidelines e.g.</p> <p><i>Information a participant holds about its wholly-owned subsidiaries is not information the participant holds about itself because wholly owned subsidiaries are separate legal entities.</i></p>
4	What comments do you have on the impact of the disclosure obligations for information a participant holds about itself and another party?	<p>Disclosure obligations apply to information held by the participant about itself, so we consider that the participant would only disclose information that had a material price impact arising from its own business.</p>

Question No.	Question	Response
5	What comments do you have on the factors the Authority suggests should be considered when applying the “material impact on prices” test?	<p>The factors seem reasonable.</p> <p>As asset owner, we consider that our outage information has an effect on the day to day decision-making of interested parties and thus all of our outage information could be expected to fall under information disclosure.</p>
6	What other factors could usefully be included?	<p>At this stage the list provides a good indication of the type of information that may be expected to be relevant to the material impact test.</p> <p>A guideline on what is considered a material impact on price would be useful. Assessing the material nature of a change to a vertically integrated generator is very different to assessing a material change to a small stand-alone retailer or generator.</p>
7	What comments do you have on the list of interested parties the Authority considers the disclosure obligations are targeted at benefitting?	We consider the list is broader than the parties that will benefit from the reduction in information asymmetry.
8	What comments do you have on the set of decisions the Authority considers are relevant when holders of information are assessing the materiality of the impact on prices?	They are useful examples of what decisions may change subject to disclosed information.
9	What other decisions should be included?	Nothing to add.
10	What comments do you have on the guidelines for relevant markets?	They appear reasonable.
11	What comments do you have on the set of factors for a participant to consider when determining how much detail should be disclosed?	<p>Participants should disclose only the detail necessary to inform other interested parties.</p> <p>They are not responsible for analysis and interpretation of the information i.e. the way in which it will have a material impact.</p>

Question No.	Question	Response
12	What comment do you have on the examples provided to assist participants determine whether Information they hold is disclosure information?	They are reasonable.
13	Can you suggest some other useful examples to be written up and included here?	No, but it is likely that other examples may become apparent as the regime operates.
14	What comments do you have on the Authority's view of the exclusions?	<p>In our previous submission we agreed with the drafting (clause 13.2A (3) (e)) that meant we would not have to make outage information publicly available if '<i>the information is reasonably available in a useable form to other participants, regardless of whether the information is publicly available.</i>' Transpower as asset owner could meet its disclosure obligations at no additional cost through POCP.</p> <p>This exclusion has been removed without any explanation or analysis of the consequences.</p> <p>We recommend that the exclusion is re-instated, although perhaps needing amendment to reflect information is made available to both current participants and other interested parties.</p>
15	What comment do you have on the Authority's view of demonstrating that exclusion applies?	We agree that the onus of demonstrating an exclusion applies lies with the holder of the disclosure information.
16	What comments do you have on how to define "becomes aware of"?	We agree that participants should create appropriate systems and procedures for disclosure information to be identified and disclosed.
17	What comments do you have on whether disclosure should be on a 24/7 basis or only during normal business hours?	We agree with making information 'as soon as reasonably practicable', which in most cases will be during normal business hours – not 24/7. 24/7 information provision is likely to impose additional costs.

Question No.	Question	Response
18	What comments do you have on the proposed timeframe for information remaining readily available?	<p>It should be available for the same time period as it is required to correct for information asymmetry i.e. it is a dynamic timescale.</p> <p>The Authority could record and store disclosure information to support its market analysis function.</p>
19	What comments do you have on the draft guidelines for “readily available to the public, free of charge”?	<p>We have noted in the cover letter our concerns relating to the ‘readily available to the public’ provision.</p> <p>We consider it reasonable for those disclosing information freely to choose to require a login, as is acceptable for many networks of web-provided information. No legitimate user could reasonably complain that such login requirement is a barrier to access.</p> <p>We think open access is an undesirable feature of provision of critical infrastructure outage information, given the potentially low probability but high safety / security impact risk of malicious use of such information.</p>
20	What are your expectations of how you would meet the obligation for making information “readily available to the public, free of charge”? What would you expect of other participants?	<p>We support the Authority’s consideration of the use of existing disclosure platforms to reduce the costs of meeting the obligation.</p> <p>Specifically for the use of PCOP data, options could include granting POCP login access to interested parties as well as current market participants (if exclusion 13.2A(e) is reinstated and redrafted) or pushing a subset of the POCP information (the disclosure information) to a separate platform.</p>
21	What comments do you have on the merits of, and prospects for, establishing standardised disclosure practices where several participants are disclosing similar information?	<p>There is merit in a standard disclosure practice, but this needs to be counterbalanced by the cost involved to achieve this.</p> <p>This should be discussed once there is a better understanding of what disclosure information will look like.</p>

Question No.	Question	Response
22	What comments do you have on the possible interaction between meeting the disclosure obligations in clause 13.2A of the Code and others elsewhere in the Code for substantially similar information (e.g. hedge information and the hedge disclosure obligations, disclosures via WITS)?	The guidelines could point to information under other Code provisions that would meet the purpose of 13.2 and avoid duplication of existing disclosures.