

1 September 2020

Electricity Authority
Level 7, Harbour Tower
2 Hunter Street
Wellington

By email: WMID@ea.govt.nz

Vector Limited
101 Carlton Gore Rd
PO BOX 99882
Auckland 1149
New Zealand
+64 9 978 7788 / vector.co.nz

Submission on the Electricity Authority's Review of Thermal Fuel Information Disclosure

Introduction

1. This is Vector Limited's (Vector) submission on the Electricity Authority's (the Authority) *Wholesale market information disclosure – Review of Thermal Fuel Information Disclosure Consultation Paper*, published on 21 July 2020.
2. Vector supports greater transparency that promotes efficiency in the wholesale electricity market and increases the confidence of existing and potential participants in this market. We support cost-effective information disclosure arrangements that contribute to achieving these outcomes by making thermal fuel information more accessible to market participants in a timely and symmetric manner. Such arrangements would enable participants to make more informed operational and planning decisions and more efficient investment decisions that ultimately benefit electricity consumers.
3. In our view, thermal fuel information that has, or may have, a material impact on wholesale electricity prices should be subject to information disclosure requirements, subject to commercial confidentiality restrictions.
4. While we broadly agree with the Authority's proposals in this consultation, we do not consider the inclusion of electricity (or gas) distributors as "major participants" for the purposes of thermal fuel information disclosure to be warranted. As providers of distribution network services, distributors neither supply thermal fuels nor hold information about these fuels that is likely to materially affect prices in the wholesale market. As highly regulated businesses, distributors are already subject to a well-established information disclosure regime under Part 4 of the *Commerce Act 1986*, administered by the Commerce Commission. Distributors are required to disclose financial and network information and publish detailed 10-year asset management plans for any interested parties to access. We discuss this below in our response to Q9.
5. We set out below our responses to questions in the consultation paper that are of relevance or interest to Vector businesses.
6. No part of this submission is confidential, and we are happy for the Authority to publish it in its entirety.
7. Vector's contact person for this submission is:

Luz Rose
Senior Regulatory Partner
Luz.Rose@vector.co.nz
04 803 9051

Responses to selected consultation questions

- Q1:** Do you agree with the Authority's problem definition: "The key outcome for an effective wholesale market is confidence in efficient prices, and currently there is a widespread view that prices are not as efficient as they could be because some useful thermal fuel information is absent from the market?"
- Q2:** Do you agree that there are concerns with both what thermal fuel information is disclosed and the ability to access, interpret and use thermal fuel information that is disclosed?
- Q3:** Do you agree that thermal fuel information disclosure is the most pressing wholesale information disclosure issue?
- Q4:** Of the information disclosure issues listed in Appendix E, which are the priority issues? Are there any issues missing from this list?

8. Vector agrees with the Authority's definition of the problem and proposes the following amendment (in red font). This is intended to highlight the importance of timeliness in the release of thermal fuel information and symmetric access to this information.

The key outcome for an effective wholesale market is confidence in efficient prices, and currently there is a widespread view that prices are not as efficient as they could be because some useful and important thermal fuel information is absent from the market, or is not disclosed in a timely manner or at the same time to those who need the information or benefit from it.

9. We generally agree with the concerns identified in the consultation paper regarding thermal fuel information that is currently being disclosed and the barriers to accessing, interpreting, and using this information. Many of these concerns have also been identified in the Gas Industry Company's (Gas Industry Co) work on information disclosure in the wholesale gas sector, which had input from the Authority and electricity industry participants.
10. We consider the disclosure of thermal fuel information, particularly on planned and unplanned gas production and storage outages, to be among the most pressing wholesale market information disclosure issues. This is widely recognised by stakeholders in their submissions to Gas Industry Co.
11. The disclosure of outage information is a 'low hanging fruit' that will deliver immediate benefits at low cost and should therefore be prioritised. We support the Authority's 'phased approach' which prioritises the disclosure of thermal fuel information, including outage information, to ensure this work stream will not be 'bogged down' by potentially contentious issues associated with other types of information, e.g. potentially confidential or commercially sensitive information.
12. In recent months, gas producers have been disclosing information on planned and unplanned outages on a voluntary basis on Gas Industry Co's website. Gas producers have also developed the *Upstream Gas Outage Information Disclosure Code 2020*. While there are variances in the timeliness of these voluntary disclosures, we consider these initiatives to be 'steps in the right direction' in the promotion of transparency around outages.
13. As stated in our submissions to Gas Industry Co, we support a regulated approach to thermal fuel information disclosure as a backstop should voluntary options be proven to be unsustainable. Under voluntary disclosure, there is always the risk of one or more parties not voluntarily disclosing information (fully or partially) or not disclosing information in a timely manner. As such, we believe the drawbacks of a regulated approach will be outweighed by its benefits, particularly where symmetric access and timeliness are of the essence, e.g. during periods of reduced gas supply. The greater degree of intrusiveness associated with a regulated solution can be mitigated by determining a tight set of well-

defined information that must be disclosed by those who generate or hold it in a uniform and efficient manner.

Q5: Do you agree with the Authority's stocktake of current thermal fuel information disclosure? Has the Authority missed any information in the stocktake or misrepresented disclosure?

Q7: Do you agree with the factors leading to non-disclosure of thermal fuel information? Are these factors leading to inefficient prices in the wholesale market?

Q8: Do you agree with the barriers to accessing and interpreting thermal fuel information? Are these barriers leading to inefficient prices in the wholesale market?

14. We generally agree with the Authority's stocktake of thermal fuel information that is currently disclosed and propose the explicit addition of information on unplanned gas production and storage outages. We note that this information is already disclosed on Gas Industry Co's website, though not in a uniform way. An unplanned outage could have a material impact on the wholesale market, for example, where the unplanned outage has the potential to become a prolonged outage that could have an impact on longer-term gas supply and therefore wholesale prices.

15. Useful information that could be disclosed about an outage, planned or unplanned, includes current estimate and duration of the outage, opportunity for partial restoration, and regular status updates. The information could also indicate the complexity of the restoration process and identify the external factors influencing the timeliness of partial or full restoration, e.g. tidal swells in the case of an offshore gas production outage. The delivery of this information at the same time to all market participants would help address information asymmetry concerns.

Q9: Do you agree the proposed Code amendment captures the appropriate players in the market?

16. As indicated above (section 4), we do not consider the inclusion of electricity distributors as "major participants" for the purposes of thermal fuel information disclosure, as suggested in section 4.18 of the consultation paper, to be warranted. As providers of distribution network services, distributors neither supply thermal fuels nor hold information about these fuels that is likely to affect wholesale market prices; rather, they are potential recipients of this information.

17. Distributors are highly regulated businesses that are subject to revenue cap regulation and a well-established information disclosure regime under Part 4 of the *Commerce Act 1986*, administered by the Commerce Commission. Distributors are already required to disclose financial and network information annually, which is subject to an independent audit before the information is published. Distributors are also required to publish detailed 10-year asset management plans every two years and an update report every year in between.

18. We note that Appendix C.1 of the consultation paper, which identifies parties "with a key interest in the wholesale market" ("interested parties"), based on the Authority's *Guidelines for participants on wholesale market information disclosure obligations* (the Authority's Guidelines), does not explicitly include distributors.

19. We also note that Appendix C.2 identifies the "key holders of thermal fuel information" which are "predominantly thermal fuel generators, but could also include importers, producers, explorers, transporters, and major users, of thermal fuel". This list does not include distributors.

20. We further note Appendix D, which identifies the parties that currently disclose thermal fuel information. Again, this list does not include distributors.

21. The Authority's Guidelines indicate that "not all classes of participants will hold disclosure information (that is, information that is subject to the WMI [*wholesale market information*] disclosure obligation) in the normal course of their business" (clause 5.2). In the Authority's view, "[s]ome classes of participant, such as generators, retailers, and Transpower, are likely to have a number of WMI disclosure obligations due to the nature of their businesses and wholesale market activities" (clause 5.3). That distributors will be subject to the same disclosure obligations as the above parties, or the same level of obligations, does not appear to be contemplated in the Guidelines.
22. In a similar vein, Gas Industry Co's assessment of options for information disclosure in the wholesale gas sector suggested that:¹

The coverage of information disclosure should extend across all parties in the gas wholesale market that could either directly, or indirectly, affect gas volumes and price in the market...

Following this logic, the parties covered by information disclosure obligations should include:

- Producers;
- Shippers;
- Transmission pipeline operators;²
- Major users that have facilities over a certain threshold size...;
- Traders;
- Market operation service providers.

23. The explicit absence of (gas) distributors in Gas Industry Co's list implies that distributors do not hold information that could directly or indirectly affect gas volumes and prices in the wholesale market. It would not be consistent with the principle of proportionality if distributors were subject to the same information disclosure obligations as the parties on the list when there is very little or zero benefit from doing so.
24. We encourage the Authority to engage closely with Gas Industry Co and the Commerce Commission on whether classifying distributors as "major participants" for thermal fuel information disclosure purposes is appropriate. This would help avoid 'gold plated' information disclosure arrangements and unnecessary compliance costs for distributors and other relevant parties.
25. Should the Authority still propose to categorise distributors as "major participants" for thermal fuel information disclosure, we propose a nuanced or tiered approach where parties who do not, or are unlikely to, hold the relevant (or most relevant) information will be subject to less onerous requirements or can make disclosures on a voluntary basis.
26. The Authority could also consider a more targeted approach by identifying thermal fuel information disclosure participants ("TFID participants") rather than the wider category of "major participants" for the specific purpose of thermal fuel information disclosure.

¹ <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation/document/6480>, Executive Summary (Coverage)

² Gas Industry Co subsequently proposed not to include gas transmission outages in a Statement of Proposal for information disclosure. It expects the consistency of transmission outage information to improve when the single Gas Transmission Access Code (GTAC) and its associated IT systems are implemented. <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/problem-assessment-october-2019/cross-submissions-on-problem-assessment/document/6963>, page 20

Q14: Please provide any comments on the proposed audit power.

27. We agree with the proposal granting the Authority the power to audit the process “major participants” follow in conducting their reporting “to ensure it is true, correct and complete”.

Q15: Do you agree with proposal 1: a Code change to require quarterly reporting of disclosure activities, provision of an annual directors’ declaration and an annual report on policies. Please explain why or why not

Q16: Do you agree with proposal 2: to update the Guidelines regarding thermal fuel disclosure? Please explain why or why not.

Q17: Do you agree with proposal 3: to raise awareness and utilisation of existing disclosures through a disclosure reference webpage? Please explain why or why not.

Q18: Do you agree with proposal 4: that thermal fuel information disclosures under clause 13.2A should be made to a central location? Please explain why or why not.

28. We agree with proposal 1 (mandating quarterly reporting through a Code change), subject to “distributors” not being covered by the proposed Code change for the reasons stated in our response to Q9.

29. We agree with proposal 2 (updating the Authority’s Guidelines) which will provide greater clarity on where, when and how thermal generators should disclose information. The Guidelines could also provide guidance around materiality thresholds for some information. Gas Industry Co opines that:

It may be appropriate to include a minimum threshold for disclosure by parties. These thresholds are common in overseas information disclosure regimes. The threshold would be set so that smaller parties, whose actions do not materially affect the market, would not be required to disclose information.³

30. We agree with proposal 3 (establishing a reference webpage), noting that information on planned and unplanned outages is already disclosed on the Gas Industry Co website, and other thermal fuel information (some confidentially) to the Ministry of Business, Innovation and Employment (MBIE). The reference webpage could serve as a ‘gateway’ providing ‘pointers’ to these and other information sources. This would mean “major participants” will only need to disclose information once, preserving the integrity of the information and keeping disclosure costs low.

31. The Authority’s proposal to consider proposal 4 (creating a central location for disclosures) in the second phase of this work makes sense, given this is likely to be more complex and cost much more than proposals 1, 2 and 3. There is a risk of creating a ‘gold-plated’ centralised disclosure platform only for thermal fuel information, a substantial amount of which is already disclosed in various forms. Maintaining and regularly updating a more complex platform would also be more costly. As such, this option could be more appropriately considered as part of information disclosure proposals for the wider wholesale market that also capture information beyond thermal fuels.

Q22: Do you agree with the objectives of the proposed amendment? If not, why not?

32. We generally agree with the objectives of the proposed Code amendment, which mandates the quarterly reporting of disclosure activities by “major participants” who held disclosure

³ <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation/document/6480>, Executive Summary (Coverage)

information during the period. However, for the reasons stated in our response to Q9, we do not believe that distributors, who do not supply thermal fuels or hold information about these fuels, should be captured by this mandatory requirement.

Q23: Do you agree the benefits of the proposed amendment outweigh its costs?

33. We agree that the benefits of the proposed Code amendment outweigh the costs of thermal fuel information disclosure. Market participants could be making less efficient business decisions without the benefit of timely and symmetric access to this information. However, we do not see any benefit from including distributors, who do not produce or hold thermal fuel information, in the proposed Code amendment for the reasons stated in our response to Q9.
34. As indicated above (section 13), the greater degree of intrusiveness associated with a more prescriptive solution can be mitigated by determining a tight set of well-defined thermal fuel information that must be disclosed by those who generate or hold this information.
35. We encourage the Authority to coordinate closely with Gas Industry Co, MBIE, the Commerce Commission, emsTradeport, and other relevant bodies in progressing this work. This would avoid duplication, confusion, and unnecessary development and compliance costs for the regulators and reporting parties.

Q24: Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.

36. We agree with the Authority's decision not to progress the four other (more prescriptive) options at this stage. The Authority's preferred option of mandating quarterly disclosures is already a prescriptive solution. Adding more requirements or raising the level of prescription would only increase compliance costs for the reporting parties and monitoring costs for the Authority without apparent additional benefits to wholesale market participants and consumers.

Q26: Do you have any comments on the drafting of the proposed amendment?

37. We propose that “**(d) a distributor;**” be deleted from the definition of “major participant” that will be subject to the proposed Code amendment (Appendix A, page 43 of the consultation paper). We do not consider it appropriate and proportionate for distributors to be captured by this definition for the reasons stated in our response to Q9.

Concluding comment

38. We are happy to discuss any aspects of this submission with the Authority.

Yours sincerely
For and on behalf of Vector Limited



Neil Williams
GM Market Regulation