Submission by



to the

Ministry of Business, Innovation and Employment

on the consultation

A proposed reliability obligation to manage dry-year risk

21 July 2026

A proposed reliability obligation to manage dry-year risk

– SUBMISSION BY BUSINESSNZ ENERGY COUNCIL—

Introduction

1. BusinessNZ Energy Council (BEC)[1] is pleased to have the opportunity to provide feedback on the Ministry of Business, Innovation and Employments (MBIEs) consultation document titled 'a proposed reliability obligation to manage dry-year risk.'

2. BEC represents a diverse array of leading energy-sector businesses, government bodies, and research organisations dedicated to creating a sustainable, equitable, and secure energy future.

3. As a brand of BusinessNZ, New Zealand's largest business advocacy organisation, we represent the World Energy Council in New Zealand, aiming to shape better outcomes for our wider energy system both locally and globally.

4. With this work MBIE is consulting on a proposed two-layer reliability obligation to give greater assurance that the sector has enduring incentives to manage dry-year risk effectively.

5. BEC supports the objective of maintaining a secure and resilient electricity system and agrees that dry-year risk requires active management. However, we are not yet convinced that MBIE has demonstrated that the proposed Winter Energy Reliability Obligation is necessary, proportionate, or likely to deliver material additional reliability at reasonable cost.

6. While the events of winter 2024 did have a significant impact on the sector and steps should be taken to ensure that they do not happen again, the market conditions have changed. It appears to be the case that recent changes to the market have not been fully taken into account, including the Huntly Strategic Arrangement and extensive pipeline of new build.

Key Recommendations for MBIE and the Government

- BEC recommends MBIE reassess the problem definition before progressing either obligation. This reassessment should account for developments since winter 2024, including the Huntly Strategic Agreement and new generation investment.
- BEC recommends MBIE clearly distinguish between physical security of supply risks and the economic consequences of scarcity.
- BEC recommends not to proceed with the long-term obligation in its current form without reassessing whether it can address the tenor gap. The assessment should take into account the findings of the Nelson Review.

[1] More about BEC in APPENDIX One

- BEC recommends if the SOSA is used as a trigger, that the process for assessment is strengthened and/or independent review is established.
- BEC recommends that MBIE reassess the competition impacts of the long-term obligation on retailer growth.
- BEC recommends that large industrial off-takers should be treated differently from electricity retailers. At minimum large off-takers should receive full credit for existing hedges, demand-response arrangements and other firm cover.
- BEC recommends assessing whether or not the short-term trigger risks distorting water values, and risks raising prices and emissions.
- BEC recommends that MBIE undertake further analysis and reconsult before any decision is made to implement Winter Energy Reliability Obligations.

General discussion

7. BEC supports proportionate and well-targeted measures to strengthen New Zealand's security of supply and improve the electricity system's resilience to dry-year risk. However, it is not clear that the proposed Winter Energy Reliability Obligations represent the right incentives for the conditions now facing the market.

8. The context has changed materially since the 2024 dry year. Developments including the Huntly Strategic Arrangement, the Government's investigation of LNG import options, new generation and storage investment, and wider market reforms may already have reduced some of the most immediate concerns around fuel availability and winter reliability. Long-dated futures have fallen significantly from the elevated levels seen during and after 2024. While the reasons for that decline are not yet fully understood, it suggests that the market may now perceive less acute near-term scarcity risk than it did previously. Before introducing a complex and potentially costly new obligation, MBIE should reassess the remaining problem in light of current market conditions and demonstrate that the proposed mechanism will deliver additional physical reliability rather than duplicating existing measures or imposing unnecessary costs on consumers.

9. There are a number of concerns that BEC currently sees with the proposed obligations, and we will go through these separately through this submission. At a high level these concerns are:

    - The risk of the effective creation of a capacity mechanism, under which the procurement of additional cover would ultimately put more cost onto consumers.
    - Whether or not obligations will create new firming or merely cause participants to reshuffle existing contracts and portfolios.
    - Whether the administrative and regulatory complexity of these obligations means they will be able to be applied in a consistent, transparent manner and within the relevant timeframes.
    - The use of the System Operator's NZ Winter Energy Margin as the trigger for the long-term obligation risks an inherent bias towards conservative forecasting.
    - The risk of free riding, particularly under the long-term obligation.
    - The 500 GWh threshold for the long-term obligation risks discouraging retailer growth.
    - The short-term obligation is designed to respond to low hydro storage, but since the establishment of the competitive market there has never been a physical shortfall in relation to dry year.
    - A national trigger should not mean that all hydro is treated as non-firm. This will require the assessment of every catchment, which will add significant administrative cost.

- There is a risk that the trigger may distort hydro operation as the obligation may encourage generators to conserve water to avoid triggering. This would increase water value and increase thermal generation, which will raise prices and emissions.
- There are very few scalable options to meet the shortfall if the short-term obligation is triggered. While the wording of the obligation is technologically neutral, it will effectively mandate the use of LNG.

General concerns applying to both obligations

10. The obligations as they are currently presented appear to be effectively creating a decentralised capacity mechanism. This represents a material change from the energy only market that we have historically relied on. While there are benefits to a capacity mechanism around system reliability, there are also costs. Namely, the additional costs of securing capacity are usually passed onto consumers, which leads to higher electricity prices.[2] MBIE does not seem to have taken into account the affordability impacts of implementing such a mechanism. While it does not follow the conventional approach to a capacity mechanism, where generators are paid for having MW available, it will require retailers to contract for more than they potentially need.

11. Both the long-term and short-term obligation will require determining what qualifies as dependable cover, how contracts are taken into account, whether fuel is physically available, whether transmission constraints affect deliverability, how double counting is prevented and how outages and forced majeure events are treated. We are unconvinced that given, especially under the short-term obligation, the time constraints, this can be done in a consistent and transparent manner.

Long-term obligation

12. At a high level BEC has fundamental issues with the progression of the long-term obligation as currently drafted. This is based on the experience of the Australian market's retailer reliability obligation.

13. MBIE highlights on page 29 of the consultation document that the Australian retailer reliability obligation (RRO) has a very similar design to the proposed long-term obligation. This design similarity means that, although the RRO addresses a capacity adequacy problem and the MBIE proposed long-term obligation addresses a winter energy adequacy problem, the issues identified during the National Electricity Market wholesale market settings review (Nelson Review) should be taken into account.

14. Within the Nelson Review they recommended a phase out of the RRO in favour of alternative mechanisms, on the basis that it does not address the tenor gap and therefore is not suited to driving new investment to ensure long-term reliability. MBIE explicitly references the tenor gap on page 8 paragraph 9 as one of the reasons that the market has not delivered long-duration firm generation and one of the reasons to introduce obligations. The concept of a tenor gap is also described on page 13 section 30. The experience of the Australian market should be a warning that, as currently designed, the proposed long-term obligation risks not addressing one of the main areas of concern raised by MBIE.

[2] Capacity market vs. energy-only-market: An overview

15. We submit that the fundamental design of the long-term obligation needs to be reassessed based on the findings of the Nelson Review on the effectiveness of the RRO in addressing the tenor gap.

16. Currently, under the long-term obligation, winter energy adequacy would be assessed using the SOSA and the New Zealand Winter Energy Margin. In principle this is a sensible approach for identifying future shortfalls. However, there are risks associated with this approach.

17. The System Operator is responsible for managing security of supply and keeping the system operating reliably. This is a role that Transpower performs to a high standard, but this responsibility can create a natural institutional bias towards conservative assessments because the consequences for getting it wrong are asymmetric. If they understate a shortfall, the system could face scarcity or emergency interventions. This error is much more visible and potentially damaging to the System Operators reputation than if they overstate a shortfall and the market simply procures an inefficient level of cover.

18. Where the SOSA moves from being an informational tool, as it currently is, to a trigger for binding obligations, the institutional bias creates real commercial risks. BEC recommends that if MBIE considers the System Operator to be the appropriate party responsible, that they ensure that the process for assessment is strengthened and/or an independent review is established.

    a. The EA should take responsibility for regularly (every 3-5 years) estimating the value of lost load.
    b. The EA should ensure the security standards are recalculated at least annually.
    c. The EA should maintain records of all available demand forecasts and have reporting comparing forecasts against actuals.
    d. The EA should maintain and publish records of all SOSA results, in a format that enables year-on-year comparisons.

19. The proposed design of the long-term obligation, as a select group of participants would be required to cover the entire system shortfall, creates a risk of free-riding and inequality. While MBIEs identified concern that if smaller wholesale purchasers are included, they would have disproportionate compliance costs may be valid, the 500GWh threshold would effectively disincentivise retail book growth.

20. The inclusion of large industrial off takers under the obligation (at this stage just the NZAS) is an area where BEC has particular concern. MBIEs justification for placing the obligation on large wholesale purchasers is that these are the parties that assemble the portfolio of supply and contractual arrangements on which consumers rely. That justification may reasonably apply to retailers, which procure electricity and manage wholesale exposure on behalf of a customer base. It does not apply in the same way to large industrial off-takers, which procure electricity for their own operations and have no downstream customers who they are responsible for.

21. A large industrial off-taker already has strong commercial incentives to manage its own exposure to dry-year prices and interruptions as failure to secure cover would directly affect production, profitability and in some instances the ability to operate at all. Where a large industrial off-taker has already secured sufficient long-term cover, it is unclear what the justification is to require it to procure a further share of system-wide shortfall,

especially when it is requiring them to contribute to the reliability of customers and purchasers with which they have no commercial relationship.

22. Asking them to contribute to additional procurement when they themselves are already covered actually penalises responsible risk management and duplicates cover, imposing additional costs on trade exposed businesses. BEC recommends that MBIE should distinguish more clearly between retailers and large industrial purchasers. At a minimum, industrials should receive full credit for existing cover and other contributions, any further obligations should be limited to their own uncovered contributions to an identified shortfall.

Short-term obligation

23. Since the wholesale electricity market was established in 1996, New Zealand has not experienced involuntary load shedding caused by prolonged dry-year energy shortage. While there was an instance of involuntary load shedding on 9 August 2021, this was a MW capacity problem not a GWh dry year problem.[3]

24. The events through winter 2024, where wholesale prices rose sharply and some industrial consumers reduced or suspended production, did involve scarcity in fuel and firm electricity availability. Tight hydro conditions and reduced gas supply was reflected through elevated wholesale prices, which required commercial responses, including industrial demand reduction.

25. However, the events of winter 2024 did not reach the point of a physical supply shortfall. The system continued to balance supply and demand. When assessing the case for regulatory intervention this distinction is important. High prices can impose significant economic costs and may justify measures to improve reliability. But they do not necessarily demonstrate that the market failed to maintain physical security of supply.

26. The specific problem the short-term obligation is intended to solve is not sufficiently clear. The obligation would require large generators to demonstrate cover when hydro storage deteriorates yet historically it is not clear that generators have failed to respond to emerging short-term scarcity in a way that threatened physical supply. Existing market incentives already encourage generators to preserve fuel, manage storage and secure/contract for more supply when conditions tighten. As written the short-term obligation risks imposing a highly complex regime without first establishing the market failure it is designed to correct.

27. BEC notes that the existing regulatory framework already includes an Official Conservation Campaign and Customer Compensation Scheme, under which retailers (which includes all of the parties that the short-term obligation would apply to) must compensate qualifying customers if shortage risk becomes sufficient. While this is not identical to the proposed short-term obligation, it is an existing incentive for market participants to avoid deterioration into conservation campaign conditions. MBIE should therefore explain why this framework, together with other commercial incentives, is insufficient before introducing an additional obligation. If it is insufficient, a more effective way of increasing

[3] It was predominantly caused by the unexpected loss of hydro and wind generation, and the withdrawal of offers from the third Huntly Rankine Unit. This developed over several days, from 7 August to the event on 9 August, and was not the result of the depletion of hydro storage or fuel through the winter.

the incentive to avoid a conservation campaign would be to increase the minimum weekly amount under the Customer Compensation Scheme.

28. As MBIE points out in the consultation document, the treatment of hydro under this obligation will be very difficult. The obligation would be triggered if projected hydro storage crosses the Watch Curve within the next 90 days. This is useful to identify the point at which national hydro storage has fallen to a level where the risk of shortage is becoming concerning. However, using a national curve means that it could conceal the difference between catchments across the country. Just because the national hydro storage falls under the Watch Curve does not mean that all catchments should be considered non-firm, which MBIE acknowledges. In practice, this will mean that every catchment and generating unit will have to be assessed individually within the relatively short timeframe before the obligation is triggered in force. While not impossible, this will be very difficult to do.

29. The other issue of hydro within the proposed short-term obligation is that it could encourage generators to conserve water to avoid activation of the obligation. This could increase water values, reduce hydro generation before winter, increase thermal generation and distort efficient dispatch, consequently raising prices and emissions.

30. While it is written in a technologically neutral way, once the short-term obligation is triggered, there are very few scalable options available within the required timeframe. New generation cannot be built that quickly, hydro is likely already under pressure and the Huntly Strategic Energy Reserve may be insufficient.

31. Other potential responses may also be limited. Batteries can provide valuable short-duration flexibility but are unlikely to address prolonged winter energy shortage. Demand response may make an important contribution, but its scale and duration are uncertain, and prolonged curtailment would impose significant economic costs. Domestic gas supply may also be constrained.

32. This will leave LNG-backed thermal generation as one of the only scalable sources of additional firm energy that can be procured within the required timeframe. If compliance is only realistically achievable through LNG, the short-term obligation could function as an indirect mechanism for creating demand for, and use of, the LNG import facility. If LNG is expected to be the primary way of responding, that should be stated explicitly and assessed as part of the policies costs and benefits.

Conclusion

33. To reiterate, BEC supports an objective of maintaining a secure and resilient electricity system and agrees that dry-year risk requires active management. However, as it currently stands, we do not believe that the long-term and short-term obligations that are laid out in this consultation paper are necessary, proportionate, or likely to deliver material additional reliability at reasonable cost.

34. BEC accepts that there are genuine challenges associated with investment in long-duration firming. The tenor gap is significant, and there may be insufficient confidence that plant used to cover dry-year risk will recover costs. These are legitimate issues for policy makers to address. However, the experience of the Australian market's retailer reliability obligation

suggests that the long-term obligation is unlikely to effectively address these concerns and may just add administrative complexity and cost.

35. The long-term obligation appears to present challenges around, allocation and competition. Relying on the SOSA and judgement of the System Operator, whose mandate appropriately favours caution in relation to security of supply, may create an inherent bias towards overstating potential shortfall. This becomes an issue where the assessment becomes the trigger for procurement. The proposed allocation also risks free riding/inequality with a select group being responsible for the entire shortfall, potentially even where an obligated party has already managed its own exposure.

36. BEC has greater concern with the short-term obligation. MBIE has not sufficiently demonstrated the specific market failure it has intended to correct. It is not clear that generators have historically failed to respond to emerging short-term scarcity in a way that threatened physical supply. The treatment of hydro is of particular concern. A national trigger may not reflect the conditions of individual catchments and there is a risk that linking obligations to hydro storage could distort operational behaviour by encouraging generators to conserve water in order to avoid triggering the regime. In addition, although the short-term obligation is formally technology-neutral, the limited range of scalable options available within the required timeframe means that LNG-backed thermal generation may become one of the only practical means of compliance. The proposal could therefore operate as an indirect mandate to procure LNG, with associated costs ultimately borne by consumers.

37. A durable solution to dry year risk must be based on a clearly demonstrated need, a link between the intervention and reliability benefit sought, and confidence that additional costs are justified. BEC does not believe that the consultation document currently meets that standard.

APPENDIX ONE – BACKGROUND INFORMATION ON THE BUSINESSNZ ENERGY COUNCIL

The BusinessNZ Energy Council (BEC) is a group of leading energy-sector business, government and research organisations taking a leading role in creating a sustainable, equitable and secure energy future.

BEC is a brand of BusinessNZ and represents the World Energy Council in New Zealand. Together with its members, BEC is shaping the energy agenda for New Zealand and globally.

BusinessNZ is New Zealand's largest business advocacy body, representing:

- Regional business groups: EMA, Business Central, and Business South
- Major Companies Group of New Zealand's largest businesses
- Gold Group of medium sized businesses
- Affiliated Industries Group of national industry associations
- ExportNZ representing New Zealand exporting enterprises
- ManufacturingNZ representing New Zealand manufacturing enterprises
- Sustainable Business Council of enterprises leading sustainable business practice
- BusinessNZ Energy Council of enterprises leading sustainable energy production and use
- Buy NZ Made representing producers, retailers, consumers of NZ-made goods

BusinessNZ is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

In addition to advocacy and services for enterprise, BusinessNZ contributes to Government, tripartite working parties and international bodies including the International Labour Organisation (ILO), the International Organisation of Employers (IOE) and the Business and Industry Advisory Council (BIAC) to the Organisation for Economic Cooperation and Development (OECD).

