MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Consultation submission form

The Ministry of Business, Innovation and Employment (MBIE) would like your feedback on:

A proposed reliability obligation to manage dry-year risk.

Please provide your feedback by **5pm, 21 July 2026**

When completing this submission form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address, phone number and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
2. Fill out your responses to the discussion document questions. Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
    i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
    ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
    iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 1993 also applies.
4. Submit your feedback:
    i. By email to *electricitymarkets@mbie.govt.nz*
    ii. By mailing your submission to:

    Electricity Markets Policy
    Building, Resources and Markets
    Ministry of Business, Innovation and Employment
    PO Box 1473, Wellington 6140
    New Zealand

Submitter information

MBIE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE understand how different sectors view the proposals and options for requiring and achieving minimum onshore fuel stockholding. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name:	Alex Macmillan
Email address:	Privacy of natural persons
Phone number:	
Organisation:	Octopus Energy NZ Limited

☐ The Privacy Act 1993 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.

☐ MBIE may upload submissions and potentially a summary of submissions to its website, **www.mbie.govt.nz**. If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because… [insert reasoning here]

Please check if your submission contains confidential information

☐ I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

Questions for the consultation

Q1. Do you agree with the analysis in this chapter of why New Zealand does not currently have sufficient dry-year firming? If not, where do you disagree?

☐ Yes ☐ Yes, with changes ✅ No

Please explain your views.

We disagree with framing dry year risk as a general buyer failure to contract. The bottleneck sits on the supply side due to the high market concentration and vertical integration among the four major gentailers. These incumbents have weak incentives to invest in new firming infrastructure, because a tight market keeps wholesale prices elevated and protects the value of their existing assets. Dry year risk and competition problems reinforce each other and the regulator needs to address both together. This was emphasised in the advice from the OECD, in response they recommended Government underwriting or co-investing in new long duration storage in order to reduce market power and address the dry year risk problem (Refer OECD presentation Commerce Commission, Competition Matters Conference). This is reinforced by the 2026 Transpower Security of Supply Assessment (SOSA) and the Security and Reliability Council's (SRC) FY2026 Year in Review, both of which point to a tight energy and capacity outlook with little margin to absorb plant retirements, outages, fuel shortages or delays to new generation.

Q2. What do you consider to be the principal remaining barriers to investment in additional dry-year firming following the recent reforms to improve fuel adequacy (Government procurement of an LNG importation facility)?

Please explain your views.

Vertical integration and market concentration. LNG fixes fuel supply, not the fact that generation is an oligopoly. Gentailers have little reason to add firming capacity that would lower the wholesale prices their existing plant earns. And independent generators can't get the fair, liquid hedge products they need from incumbents to finance new projects.

Q3. Do you agree that, despite the recent reforms to improve fuel adequacy, information, roles and tools, further measures are still needed to strengthen incentives to invest in dry-year firming? If not, please explain why not?

✅ **Yes, I agree** ☐ I agree in part ☐ No, I don't agree

Please explain your views.

Further measures are required to ensure new investment in generation capacity occurs:

- SOSA and SRC Security Assessments highlight the need for further investment in new generation. Fuel access isn't sufficient on its own.
- We have an aging thermal fleet that needs to be replaced, this needs to be managed in order to prevent disorder.
- OECD highlighted that dry year risk and market power are self-reinforcing, scarcity is highly profitable so there is a lack of commercial incentives to invest in dry year mitigation and significant barriers to market entry.
- There is significant renewable generation in the pipeline, but this capacity still needs to be contracted and built. The "tenor gap" between the long term contracts investors need to make projects bankable and what the market currently offers remains a major

barrier.

Q4. Do you agree that there is value in building new measures on existing regulatory architecture, rather than creating an entirely new regime from first principles? Why or why not?

☐ Yes, I agree ✅ No, I don't agree

Please explain your views.

We have some concerns that the current proposal could lead to liquidity issues in the short term as Gentailers hoard capacity to meet obligations. The Non Discrimination Obligations contain loop holes that allow Gentailers to refuse to supply where it exposes them to unreasonable commercial risk. We think this loop hole will be exploited and competition will be impeded as a result.
You can build on the existing base but only if the EA is motivated to monitor dry year readiness and protect competition. We remain concerned that they are not considering risk objectively and are reluctant to acknowledge shortcomings in the market. Given the implementation challenges of the proposed two-layer decentralised obligation, we would also welcome MBIE giving further consideration to an alternative where new supply is procured directly by the System Operator and the costs levied across the market. This could resolve the underlying dry year problem more quickly and transparently than the proposed regime.

Long-term Obligation

Q5. Do you agree that a long-term obligation should be introduced to strengthen incentives to secure sufficient dependable winter cover in advance where a forecast winter energy adequacy shortfall is identified? If not, why not?

✅ Yes, I agree ☐ No, I don't agree

Please explain your views.

NZ needs a mechanism to secure long duration firm energy ahead of a dry winter, rather than relying on the market to respond after conditions have already tightened. The reliability obligation is a possible approach but not our preferred. We also think it needs to target dry year needs rather than the obligation being set around average expected needs.

The design of the system needs to ensure that obligated gentailers don't just meet their obligation by reducing by selling fewer hedges to third parties, since every MWh sold to an independent retailer increases their own obligation. Left unaddressed, that dynamic would let incumbents meet the letter of the obligation while making wholesale cover scarcer and more expensive for everyone else.

Q6. Do you agree that the long-term obligation should be placed on large wholesale purchasers rather than on, say, generators or the market more broadly? If not, which parties should hold the obligation, and why?

✅ Yes, I agree ☐ No, I don't agree

Please explain your views.

Today the outcome is similar either way, since the 500 GWh threshold already limits the purchaser model to the same four gentailers and NZAS.

Practically parties need to be of a sufficient scale in order to be a viable counterparty to underwrite new generation projects, for this reason a size threshold is necessary.

Q7. Do you agree that a de minimis threshold should apply to limit the obligation to wholesale purchasers with a material winter load? If so, is the 500 GWh threshold appropriate, and should it be measured by reference to aggregate load over the winter period?

✅ Yes, I agree ☐ I agree in part ☐ No, I don't agree

Please explain your views.

We have concerns about a hard threshold. Should an independent retailer or major industrial grow towards this level, it would face a massive compliance burden creating a strong disincentive to expand. We think there should be consideration of an evolution of the model such that there are secondary traded certificates or a phased in obligation.

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Q8. Do you agree with the proposed staged approach under which a warning notification would be issued five years out, a binding obligation would be issued three years out and compliance would be assessed one year out? If not, what timing or trigger approach would be preferable?

☐ Yes, I agree ☐ I agree in part ✅ No, I don't agree

Please explain your views.

Three years out is too rigid. Instead, from 10 years out there should be a graduated obligation with the full need required at year 3.

We are concerned that the obligation is being set around an average year scenario rather than a dry year scenario. In order for the obligation to meaningfully address dry year risk is should be set around the dry year scenario.

Q9. Do you agree that any identified adequacy shortfall should be allocated among obligated wholesale purchasers by reference to their shares of expected winter demand? If not, what allocation approach would be preferable?

☐ Yes, I agree ✅ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Allocating by share of expected winter demand is reasonable in principle. The calculation should use a rolling average of demand to avoid penalising retailers for one off load spikes or losses and should be reviewed regularly as customer books change.

Q10. What forms of cover should be eligible to meet the long-term obligation?

Please explain your views.

Eligible cover must be broad and cover all forms of physical generation that can contribute to dry year supply. Intermittent generation should be eligible but it would be appropriately derated based on the capacity factor in a lower quartile production scenario.

Demand response should only be eligible where it is provided by commercial direct-connect consumers who are themselves under the obligation and willingly engaging in demand response.

We do not think gentailers should be able to use demand response to meet the obligations. Recent anecdotal experience of commercial customers is that unreasonable demand response terms were demanded by gentailers. The regime should encourage the expansion of new supply. This new regime should not entrench pressure on other commercial users to accept unreasonable demand response terms in their supply contracts.

Q11. How should the compliance framework be designed? In particular, what evidential standard should apply, and how should the regime address more difficult issues such as hydro treatment, attribution, portfolio treatment, shared arrangements and double counting?

Please explain your views.

In order to encourage compliance we believe registered participant status should depend on compliance. If a firm chooses not to meet obligations they should not be allowed to operate as a participant, this will avoid obligated parties making commercial tradeoffs around compliance.

The rules need to stop gentailers backing their own retail arm internally while leaving independent buyers exposed to spot prices. If a generator counts an asset toward compliance, it should have to offer a fair, pro-rata share of that firm volume to the open market on non-discriminatory terms. There was room left in the non discrimination rules for gentailers to refuse supply to third parties where it exposed them to unreasonable risk. Unfortunately we think this loophole will be exploited and competition could be damaged. We recommend further strengthening the non discrimination rules by requiring operation of retail and generation businesses at arm's length and removing this loophole.

Q12. Should the regime deal with arrangements that appear compliant in advance but later fail because of counterparty failure, project delay, force majeure or similar events? If so, how?

✅ Yes, I agree ☐ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

Obligated parties should be required to hold contingency or replacement cover, not simply demonstrate compliance at a point in time. Where failure is due to genuine force majeure this should be recognised.

Q13. Should penalties for non-compliance be designed and calibrated to tilt investments to comply without overly encouraging inefficient over-procurement? Please explain your reasoning.

☐ Yes, I agree ✅ I agree in part ☐ No, I don't agree ☐ Not sure/no preference

Please explain your views.

As discussed above we think a high compliance burden would best encourage compliance, we think linking compliance to market participation would encourage compliance.. If market participation is not at stake, penalties need to scale with the size of the participant's exposure.

Q14. What other design features, transitional arrangements, or implementation issues should be considered to ensure that the long-term obligation is workable, proportionate, cost-effective, and beneficial for consumers?

Please explain your views.

MBIE should keep exploring a central counterparty option such as the System Operator procuring supply. We think reserve generation arrangements in Australia or the LTESA model in NSW are examples that should be explored. We also support the OECD recommendation that solving dry years can also be used as an opportunity to support new entrant generation development which would reduce market power.

Short-term Obligation

Q15. Do you support the introduction of a short-term obligation as a targeted backstop where a near-term winter reliability risk emerges despite the operation of the long-term obligation?

✅ Yes, I agree ☐ No, I don't agree

Please explain your views.

A short term backstop makes sense for the large asset owners who actually control physical supply. This will ensure that parties who are relied on to generate have the fuel in place to do it.

Q16. Do you agree that the short-term obligation should apply to large generators whose contribution to annual energy supply exceeds a defined *de minimis* threshold? We welcome views on whether 2,500GWh of expected annual generation is the appropriate threshold.

✅ Yes, I agree ☐ I agree in part ☐ No, I don't agree

Please explain your views.

2,500GWh is appropriate. It targets the gentailers who actually control NZ's physical energy balance, keeping accountability with the parties who can manage fuel storage and hydro risk directly. Independent generators who lack that scale stay exempt.

Q17. Do you consider the proposed trigger – projected hydro storage crossing the Watch Curve within 90 days if it declines at an assumed rate of 18GWh/day – is appropriate? If not, what alternative trigger should be considered?

☐ Yes, I agree ✅ I agree in part ☐ No, I don't agree

Please explain your views.

We are worried that this rigid 90 day trigger will cause the gentailers to conservatively manage the lakes, we support graduate obligations that scale in proportion to the risk over time heading into the 90 days. If they think they are close to tripping a regulatory threshold, their immediate reaction will be to hold onto their power and fuel rather than trading it normally. They will pull back hedge availability for winter or charge independent retailers steep risk fees. If the design was a graduate obligation the impact on liquidity would be less sudden.

Q18. Do you agree with the proposed monitoring period, notification process, three-week response window, and approach to switching off the obligation if conditions improve? If not, what alternative process would be preferable?

☐ Yes, I agree ✅ No, I don't agree

Please explain your views.

Three weeks is too tight. Gentailers can use that pressure to pull back hedge availability or demand steep risk premiums. Should a longer window be considered, plus a rule stopping obligated parties from restricting normal contracting during it.

Q19. Do you agree that each obligated generator's obligation should be determined by reference to the winter load its portfolio is expected to support, including its own retail load and relevant contractual commitments? If not, what alternative basis should be used?

☐ Yes, I agree ☐ I agree in part ✅ No, I don't agree

Please explain your views.

This calculation method heavily entrenches vertical integration and market dominance. Allowing a generator to reduce its net short term obligation by pairing it against its own retail load directly incentivises them to hoard fuel to protect their internal retail books first. This leaves independent retail competitors starved of wholesale cover. Obligations should be calculated physical asset capacity and historical generation.

Q20. What forms of firm energy fuel cover should qualify under the short-term obligation? In particular, how should hydro be treated, including whether, and in what circumstances, existing stored water should be capable of counting toward compliance?

Please explain your views.

Existing stored hydro water must be strictly audited to qualify. If the big gentailers can simply point to standard BAU lake storage to meet their short term requirements, they will avoid making genuine firm fuel switches (like securing extra thermal backup or gas), leaving the underlying dry year risk unresolved.

Q21. How should compliance be assessed? We welcome views on what evidence should be required, and how the Authority should approach questions of firmness, attribution, double counting, and reliance on third-party arrangements (including examples of how these matters are addressed in other jurisdictions).

Please explain your views.

Compliance evidence should be independently verifiable, not self reported with the Authority able to audit underlying contracts and physical asset data. Attribution rules must prevent the same MWh of firm cover being counted by more than one obligated party and any reliance on third party or related party arrangements should require disclosure of the underlying commercial terms to guard against double counting.

Q22. How should the regime deal with arrangements that appear compliant in advance but fail in practice because of upstream supply failure, transport disruption, force majeure, counterparty failure, or similar events?

Please explain your views.

The same principle should apply as in the long-term obligation: obligated parties should be expected to hold a reasonable buffer above their calculated requirement so that a single point of failure (counterparty default, transport disruption, force majeure) doesn't immediately breach compliance. Genuine, well evidenced force majeure events should be taken into account but the threshold for accepting this should be set high.

Q23. How should penalties for non-compliance be designed and calibrated so that they provide a credible incentive to secure genuine firm fuel cover without encouraging inefficient or disproportionate responses?

Please explain your views.

Penalties need to exceed whatever a gentailer could earn by withholding capacity during a tight winter. If the fine is smaller than the windfall from letting spot prices spike, it just becomes a commercial choice and not a deterrent.

Q24. What other design features, transitional arrangements, or implementation issues should be considered to ensure that the short-term obligation is workable, proportionate, cost-effective, and beneficial for consumers?

Please explain your views.

Without wholesale market protections, the compliance costs incurred by obligated gentailers will flow through into the hedge prices paid by independent retailers. To protect consumers the short term layer must be accompanied by:

- Strengthened, mandatory ASX market making rules to guarantee continuous liquidity.
- Anti-discrimination requirements and transparent pricing of all qualifying cover.
- Mandatory disclosure of internal transfer prices between the generation and retail arms of obligated gentailers, to enable fair benchmarking against the prices offered to independent retailers.
- Clear channels that ensure independent generators can connect, compete and deliver new projects to structurally break down the market concentration driving the dry year risk problem.