

Second update report on the disclosure of risk management contract information proposal

Prepared by the Electricity Commission

16 May 2008

Executive Summary

1. This second update report has been released to brief participants and interested parties on the comments received in response to the update report on the disclosure of risk management contract information proposal (Earlier Proposal) and to provide an overview of proposed changes which have subsequently been made (Latest Proposal).
2. The Latest Proposal represents the Electricity Commission's (Commission) desire to ensure that the proposed disclosure regime can be implemented with the minimum disruption to participants' existing operating processes. The Commission does not want participants to be overburdened in their adherence to the proposed rules and wants the proposed regime to be practicable from the outset.
3. The Commission wants to keep the lines of communication open and make certain that participants and interested parties are aware of the changes that have been made to the proposed regime as a result of submitters' comments.
4. Comments on the first update report were received from three different parties: Contact Energy, Genesis Energy and Meridian Energy. The comments received suggested minor, rather than extensive, changes to the proposed regime. In the main, submitters provided further comments on how the Earlier Proposal could be fine-tuned to best meet their individual risk management trading needs.
5. The Commission considered all of the comments received and decided to amend the Earlier Proposal in the following areas:
 - (a) The contract price calculation in the proposed rules has been amended to allow for accurate calculation of contract price where losses have already been excluded.
 - (b) The definition of load threshold has been altered to apply to load per grid exit point for fixed-price physical supply contracts.
 - (c) The volume threshold has been raised to 1MW for physical supply contracts and linked to the volume of the electricity purchased under the contract rather than the total electricity consumption of the purchaser. The threshold for CfDs and Options remains unchanged.
 - (d) The proposed rules have been amended to clarify that fixed-price fixed-volume (FPFV) contracts are also subject to disclosure.
 - (e) The proposed rules have been altered to state that for contracts with an adjustment clause only the starting price needs to be disclosed.

6. In addition, the Commission has amended rule 3 of the proposed rules. It identified that clauses 3.2.11 and 3.2.12 in the proposed rule amendments related to contract for differences contracts, not fixed price contracts. These two clauses have been moved to rule 3.3 and are now rules 3.3.3 and 3.3.4.
7. Other aspects of the Earlier Proposal have been retained. The proposed rule changes, including amendments associated with the Latest Proposal are outlined in Appendix A.
8. The Commission would like to clarify that the implementation timeframe is still in the process of being finalised and that no start date has been set. The Commission will communicate with participants in advance of any rule changes to ensure that they have enough time to make any changes to their processes. User Acceptance Testing (UAT) will be part of the implementation process.

Glossary of abbreviations and terms

CfD	Contracts for differences.
Commission	Electricity Commission.
Earlier Proposal	The disclosure of contract information proposal outlined in the first update report (dated 28 February 2008) on the disclosure of risk management contract information proposal
first update report	The disclosure of risk management contract information paper in which the Earlier Proposal was outlined.
FPFV	Fixed-price fixed-volume contract (a type of physical supply contract).
FPVV	Fixed-price variable-volume contract (a type of physical supply contract where the volume is linked to the actual consumption).
hedge market	The market for trading wholesale electricity derivatives.
Information system	The system or systems required for the conveyance of information between persons in accordance with the Rules as may be approved from time to time by the Board.
Latest Proposal	The amended disclosure of contract information proposal outlined in this second update report on the disclosure of risk management contract information proposal.
Minister	Minister of Energy.
Participant	As defined in the Electricity Governance Regulations 2003: (a) means any of the following (within the meaning of section 2(1) of the Electricity Act 1992): (i) an electricity distributor: (ii) an electricity generator: (iii) an electricity retailer: (iv) a line owner (b) includes a person who uses electricity that is conveyed to the person directly from the grid: (c) includes a person who buys electricity from the clearing manager: (d) includes a service provider: (e) includes a metering equipment owner: (f) includes an ancillary service agent: (g) revoked (h) includes an approved test house: (i) does not include the Commission (even to the extent that the Commission is acting as a service provider after an

	<p>appointment under regulation 35):</p> <p>(j) does not include the Rulings Panel.</p>
Physical supply contract	A contract that provides for the physical supply of electricity, either a FPFV or FPVV contract.
risk management contracts	Instruments used to change the risk position of the parties in relation to electricity spot prices.
Rules	Electricity Governance Rules 2003.
second update report	This report - the second update report on the disclosure of risk management contract information proposal in which the Latest Proposal is outlined..

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1. Introduction and background

- 1.1.1 On 10 August 2007 the Commission published a consultation paper on the proposal to disclose risk management contract details. The aim of the proposal was to increase transparency and liquidity within the hedge market. Under the proposal participants would be required to disclose key details of their risk management contracts, enabling ready comparison of prices and other key risk management terms.
- 1.1.2 Ten submissions were received in response to the consultation paper. Eight parties supported the proposal, with some amendments, while two opposed. Of the two parties who opposed, Norske Skog was against disclosure of risk management contract information in any form, while Meridian Energy favoured disclosure but wanted a pilot regime to be implemented.
- 1.1.3 The main issue voiced in the submissions was that some participants were concerned that the proposal did not adequately protect their anonymity. The Commission considered participants' varying positions and decided to amend the proposal in order to find an appropriate trade off between maintaining anonymity and providing a useful level of disclosure.
- 1.1.4 An update report outlining a summary of submissions and detailing the amended proposal was released on 5 March 2008. Interested parties were asked to provide comments to the Commission.

1.2 Purpose of this second update report

- 1.2.1 The purpose of this second update report is to:
- a) provide a summary of the comments received on the earlier proposal outlined in the first update report;
 - b) highlight topics where views support or diverge from the Earlier Proposal;
 - c) provide analysis of comments;
 - d) provide suggested amendments to the Earlier Proposal (Latest Proposal);
and
 - e) outline the next steps.
- 1.2.2 This report is divided into three sections: the first section provides an overview of comments; the second section outlines the changes which have been made to the Earlier Proposal; and the final section details the next steps in the process.

1.3 Summary of comments

1.3.1 The first update report invited interested parties to make comments on the Earlier Proposal.

1.3.2 Submissions were received from 3 parties:

- (a) Contact Energy (generator/retailer);
- (b) Genesis Power (generator/retailer); and
- (c) Meridian Energy (generator/retailer).

1.3.3 The responses outlined in this second update report are paraphrased versions of the original comments. The Commission's analysis addresses the issues raised in the comments.

1.4 Overview of comments

The Disclosure regime and EnergyHedge

1.4.1 Genesis Energy and Meridian Energy made a number of comments regarding the roles of EnergyHedge and the proposed disclosure regime.

1.4.2 Both companies raised concerns about the need for contracts which had been traded on EnergyHedge to be disclosed on the information system.

1.4.3 Genesis believed EnergyHedge provided full transparency and there was no need for these contracts to be disclosed again.

1.4.4 Meridian questioned whether the inclusion of EnergyHedge contracts jeopardised EnergyHedge parties' confidentiality. Meridian requested a sunset clause be included in the disclosure regime to exclude EnergyHedge contracts once EnergyHedge was fully developed and operational.

Commission's response

1.4.5 The Commission wants a central point of reference for disclosure of contract information and does not want participants to have to access a number of different websites in order to obtain information.

1.4.6 The Commission has no control over EnergyHedge and the information it contains. The information currently displayed on EnergyHedge may not be available in the future; hence the Commission would prefer that all contracts,

including those struck on EnergyHedge, are displayed on the information system.

- 1.4.7 With regards to Meridian's concern about confidentiality, the Commission appreciates this concern, but stresses that all EnergyHedge contracts are based at the Hayward's grid reference point. This should prevent identification of the parties involved. In addition, information on these contracts is already available on the EnergyHedge platform, suggesting that the level of detail provided does not threaten parties' anonymity.
- 1.4.8 The Commission does not favour the inclusion of sunset clauses in the proposed disclosure regime. It would prefer that the regime implemented is robust enough to meet participants' needs now and in the future. Should these needs evolve, changes to the regime could then be considered.

Timeframes for implementation

- 1.4.9 Genesis Energy raised a concern that the end of June 2008 was an unrealistic timeframe for implementation of the proposed disclosure regime. It felt that this proposed start date would not allow sufficient time for parties to develop the systems and processes required to support the proposal.
- 1.4.10 Genesis suggested that the end of September was a more suitable starting date or, as an alternative, a three month compliance grace period from June until September should be considered.
- 1.4.11 Meridian indicated that the starting date of the proposed regime was unclear and requested that the introduction date be discussed with industry well in advance of the rule changes taking effect.

Commission's response

- 1.4.12 The timeframe for the implementation of the proposed regime is still being finalised. The Commission is currently involved in discussions with the Wholesale Information and Trading System service provider about the software changes which would need to be made to the information system.
- 1.4.13 The Commission intends to discuss a reasonable starting date with interested parties once the changes have been finalised. Parties will be given sufficient time to complete process or software changes and testing.

1.4.14 The Commission does not agree that the use of a compliance grace period should be considered. Once any rules are in place participants must make every effort to adhere to them.

Calculation of contract price

1.4.15 Contact Energy commented that the calculation of contract price outlined in the proposed rules would result in it underreporting the contract price as (for fixed-price variable-volume (FPVV) contracts) it passes through losses as a separate charge.

1.4.16 Contact requested that the proposed rules state that the contract price calculation results in a loss-exclusive price, allowing participants to apply the loss adjustment factor (LAF) if required.

1.4.17 Meridian commented that getting a purchaser to agree to a calculated price which differed from the price on the contract (as required by the verification process outlined in the proposed rules) could be problematic.

1.4.18 Meridian suggested that the Commission should calculate the contract price from the actual reference point of the contract. It stated that if the Commission carried out this function then the need for third party verification would be removed.

Commission's response

1.4.19 The Commission agrees that the definition of loss adjustment factor in the proposed rules should be amended to allow for accurate calculation of contract price where losses have already been excluded.

1.4.20 The Commission has amended the proposed rules to state that when a contract is struck at a node (that is there are no losses) the loss adjustment factor would be 1.

1.4.21 The Commission thinks it would be inefficient for it to calculate the contract price as this would require it to have a working knowledge of every contract that is struck. In addition, the Commission would be required to liaise with participants to obtain missing information or clarify any ambiguous information. The Commission does not see this as being a workable solution.

Load thresholds

1.4.22 Meridian commented that the load definition in the proposed rules was open to misinterpretation and needed to be clarified. It also stated that a distinction needed to be made between the size of the load and multiple location contracts.

1.4.23 Meridian suggested that the proposed rules should only apply to contracts with a load greater than the threshold, rather than to smaller subsets of contracts whose total summed load exceeded the threshold.

Commission's response

1.4.24 The Commission has considered Meridian's assertion that the load threshold definition is open to misinterpretation and needs to be tightened.

1.4.25 The load threshold was set at a level which would allow the majority of deals to be captured.

1.4.26 The threshold level of 2.19GWh equates annually on average to 0.25MW which is linked to the size of deals on the EnergyHedge platform. This actual consumption level was chosen to avoid parties contriving to make a number of smaller deals in order to avoid having to disclose contract information.

1.4.27 The Commission recognises that the probability of participants contriving to avoid disclosure is low and if such behaviour is occurring it should be captured through the auditing process.

1.4.28 The Commission has therefore decided to raise the threshold for physical supply contracts from 0.25MW to 1MW and will link the threshold to the actual size of the deal rather than the parties' consumption. The threshold for CfDs and Options remains unchanged

1.4.29 The Commission has decided that for fixed price contracts the load threshold should be enforced at a nodal level. This amendment would allow smaller subsets of a contract to be exempt from the disclosure rules, provided they did not exceed the threshold.

Fixed-price fixed volume contracts

1.4.30 Meridian queried whether FPFV contracts were part of the proposed disclosure regime and requested that the proposed rules be clarified.

Commission's response

1.4.31 FPFV contracts are included in the proposed disclosure regime. The Commission appreciates Meridian's assertion that this may have been unclear under the Earlier Proposal.

1.4.32 The proposed rules have been amended to ensure that this is clear. A definition of fixed-price contracts encompassing both FPVV and FPFV contracts has been included in the proposed rules.

Escalator Contracts

1.4.33 Meridian Energy queried how escalator contracts (or contracts with an adjustment clause) would be treated under the proposed rules. It sought clarification on whether parties were only required to disclose the contract's starting price and the fact that the contract had an adjustment clause, or whether additional information was also necessary.

Commission's response

1.4.34 The Commission agrees with Meridian's comment that the treatment of contracts with an adjustment clause was unclear in the proposed rules.

1.4.35 The Commission has amended the proposed rules to state that for contracts with an adjustment clause, the price to be used in the calculation of contract price is the starting price.

1.4.36 The presence of an adjustment clause is already covered in proposed rule 3.2.7.

Timeframes for disclosure

1.4.37 Meridian Energy suggested that the proposed timeframes for the submission of contract information are still too tight and that it would prefer to have ten working days following the conclusion of a contract to submit information.

Commission's response

1.4.38 The Commission notes that the timeframes for disclosure have already been extended as a result of submissions received in the previous consultation period.

1.4.39 The Commission believes that five working days should be sufficient and observes that none of the other submitters has raised this as an ongoing concern.

2. Latest Proposal

2.1.1 After considering all of the comments received the Commission has amended the Latest Proposal in the following areas:

- (a) Amend the contract price calculation to allow accurate calculation of contract price where losses have already been excluded.
- (b) Clarify the proposed rules to state that fixed-price fixed-volume contracts are also subject to disclosure.
- (c) Clarify that for contracts with an adjustment clause only the starting price needs to be disclosed.
- (d) Raise the volume threshold to 1MW for physical supply contracts and link it to the volume of the electricity purchased under the contract rather than the total electricity consumption of the purchaser. The threshold for CfDs and Options remains unchanged.
- (e) The requirement to specify whether a contract has been traded on the Energy Hedge platform and whether the contract is based on an ISDA Master Agreement now only applies to contracts for difference.

2.1.2 In addition to the above changes, the Commission has identified that rules 3.2.11 and 3.2.12 in the Earlier Proposal should be shifted to rule 3.3 which deals with contracts for differences.

2.1.3 These rules have been moved in the Latest Proposal and can be found as 3.3.3 and 3.3.4.

3. Next Steps

Comments on amendments

3.1.1 Should participants or interested parties have any comments on the Latest Proposal, the Commission requests that these be sent through by 5pm on 16 June 2008. Please note that comments received after this date may not be considered.

3.1.2 The Commission requests that comments are provided in electronic format (Microsoft Word). The electronic version should be emailed with 'Amended disclosure of risk management contract information' in the subject header to: info@electricitycommission.govt.nz.

3.1.3 Any queries should be directed to:

Maree McGregor

Tel: (04) 471 8631

3.1.4 The Commission will acknowledge receipt of all comments electronically. Please contact Maree McGregor if you do not receive electronic acknowledgement of your submission within two business days of sending your submission.

3.1.5 Your comments are likely to be made available to the general public on the Commission's website. Submitters should indicate any documents attached, in support of their comments, in a covering letter and clearly indicate any information that is provided to the Commission on a confidential basis. All information provided to the Commission is subject to the Official Information Act 1982.

Review of comments

3.1.6 The Commission believes that it has considered all comments and amended the Earlier Proposal appropriately. The Commission will take further comments into consideration, but must receive these by the date specified above.

3.1.7 The timing of the rule change recommendation to the Minister and the eventual implementation of the Latest Proposal (if the Minister accepts the recommendation) is dependent upon the time required to make any necessary software changes to the information system. The Commission is currently in discussions with the Wholesale Information and Trading System service provider on the software development required to implement the Latest Proposal. If the

Minister approves the recommendation, it is expected that user acceptance testing could begin in mid to late July 2008.

4. Appendix A: Latest Proposal proposed rule amendments

PART K: HEDGE MARKET RULES

Section I Hedge Arrangement Disclosure Rules

1. Purpose of this section

The purpose of this section is to provide for disclosure of information about **risk management contracts**, which may be **contracts for differences**, **fixed-price physical supplyvariable-volume contracts** or **options contracts**, in order to:

- 1.1 facilitate the ready comparison of **electricity** prices and other key terms of **risk management contracts**;
- 1.2 address the lack of information available to persons to formulate their own historic contract curves for **electricity**; and
- 1.3 provide a more informed basis for persons to assess the competitiveness of the market for **risk management contracts** in respect of **electricity**.

2. Parties required to submit information

The following **parties to risk management contracts** are required to submit the information specified in rules **3, 6** and **7**:

- 2.1 the **seller**, if the **seller** is a **participant**; or
- 2.2 the **buyer**, if the **buyer** is a **participant** and the **seller** is not a **participant**.

3. Information that must be submitted

3.1 The following information must be submitted to the **information system** in relation to every **options contract**:

- 3.1.1 **trade date**;
- 3.1.2 **effective date**;
- 3.1.3 **end date**; and
- 3.1.4 **quantity**.

3.2 The following information must be submitted to the **information system** in relation to every **contract for differences** or **fixed-price physical supplyvariable-volume contract**:

- 3.2.1 whether the contract is a **contract for differences** or a **fixed-price physical**

supplyvariable-volume contract;

3.2.2 **trade date;**

3.2.3 **effective date;**

3.2.4 **end date;**

3.2.5 **quantity;**

3.2.6 whether or not the contract applies to all **trading periods** within its **term**;

3.2.7 whether there is an **adjustment clause**;

3.2.8 whether there is a **force majeure clause**;

3.2.9 whether there is a **suspension clause**; and

3.2.10 whether there are any other clauses providing for the pass-through of certain costs, levies or tax or some form of carbon-related cost;_

~~3.2.11 whether the contract has been traded on the EnergyHedge platform. The EnergyHedge platform is a centralised trading platform for standardised derivative contracts on **electricity** prices in New Zealand; and~~

~~3.2.12 whether the contract has been prepared based upon the standardised schedule, which can be adopted in conjunction with the International Swaps and Derivatives Association Master Agreement, as may be available on EnergyHedge.~~

3.3 In addition to the information that must be submitted in accordance with rule **3.2**, the following information must also be submitted to the **information system** in relation to every **contract for differences**:

3.3.1 whether there is a **special credit clause**; ~~and~~

3.3.2 whether the volume of **electricity**, in respect of which payments are required to be made by the **floating-price payer**, is flat or varies for different **trading periods**;-

3.3.3 whether the contract has been traded on the EnergyHedge platform. The EnergyHedge platform is a centralised trading platform for standardised derivative contracts on **electricity** prices in New Zealand; and

3.3.4 whether the contract has been prepared based upon the standardised schedule, which can be adopted in conjunction with the International Swaps and Derivatives Association Master Agreement, as may be available on EnergyHedge.

3.4 In addition to the information that must be submitted in accordance with rule **3.2** and rule **3.3**, the following information must also be submitted to the **information system** in relation to each **contract for differences** that has a **term** of less than 10 years and each **fixed-price**

physical supplyvariable-volume contract that has a **term** of less than 10 years:

- 3.4.1 the **contract price** as calculated in accordance with rule 4; and
- 3.4.2 the **grid zone area** in which the **contract price** is determined or applies.
- 3.5 The information specified in this rule 3 must be submitted in the form specified by the **Board** and in accordance with rule 9.1.
- 3.6 If a **contract for difference** or **fixed-price physical supplyvariable-volume contract** provides for payment at one or more **nodes**, the information for each **node** must be provided under this section I, as if payment for each **node** were a separate contract.
- 3.7 To avoid doubt, if a **contract for differences** or **fixed-priced physical supply contract** includes an **adjustment clause**:
 - 3.7.1 the information that must be disclosed in accordance with this rule 3, in relation to the contract, must only be disclosed once; and
 - 3.7.2 the **contract price** to be disclosed in accordance with rule 3.4 is that which first applies under the contract.

4. Calculation of contract price

The **contract price** to be submitted for the purposes of rule 3.4.1 is to be calculated in accordance with the following formula:

$$CP = \left\{ \frac{\sum_{i=1}^n P_i \times TP_i}{\sum_{i=1}^n TP_i} \right\} / LF \times LAF$$

Where:

- CP means the **contract price**
- n means the number of different prices within the contract
- P_i means a price specified in the contract (for contracts with an **adjustment clause** it is the starting price)
- TP_i means the number of **trading periods** during which each price in the contract applies
- LF means the **location factor**, for the relevant **node** at which the price is set in the contract, as **published** by the **Board** in accordance with rule 5
- LAF means a loss adjustment factor, which is: for a **contract for differences** the LAF is 1, for a **fixed-price variable-volume contract** the LAF is
 - (a) if the **contract price** for the contract is referenced to a **point of connection on the grid**, 1; or

(b) for all other contracts, 0.937 (being the difference between 1 and the loss factor of 0.063).

5. Node and grid zone area information

5.1 The **Board** will **publish** annually, on the **information system**:

5.1.1 a list of all **nodes** at which the **pricing manager publishes final prices**;

5.1.2 a corresponding **location factor** for each such **node**;

5.1.3 a corresponding **grid zone area** for each such **node**; and

5.1.4 a list of nominated zone **nodes**, being one **node** at which the **pricing manager publishes final prices**, within each **grid zone area**.

5.2 For the purposes of rule **5.1.2**, the **location factor** for each such **node** will be calculated as follows:

LF = A/B

Where

A means the average **final price published** at that **node** over the 12-month period preceding the month prior to the date on which the **location factors** are **published**

B means the average **final price published** at the relevant nominated zone **node**, as published in accordance with rule **5.1.4**, for the 12-month period preceding the month prior to the date on which the **location factors** are **published**

LF means the **location factor** to be published in accordance with rule **5.1.2**.

6. Other information that must be submitted

6.1 The following information must be submitted to the **information system** in relation to every **risk management contract**:

6.1.1 each **party's** legal name; and

6.1.2 each **party's** email address for notice.

6.2 The information must be submitted in accordance with rule **9.1**.

7. Modified or amended information

7.1 If a modification or amendment is made to a **risk management contract**, after the information referred to in **rule 3** or **rule 6** has been submitted to the **information system**, and the effect of the modification or amendment is that the information submitted to the **information system** is no longer correct or complete, the modified or amended information must be submitted to the **information system**, as appropriate.

7.2 The information submitted under rule **7.1** must:

7.2.1 identify in each case the particular information that has been modified or amended;

7.2.2 be in the form specified by the **Board**; and

7.2.3 be submitted in accordance with rule 9.2.

8. Correction of information

If a **party** discovers that any information submitted by it to the **information system** in accordance with this section was incorrect or incomplete, that **party** must submit the corrected information to the **information system** in accordance with rule 9.3.

9. Timeframes for submitting the information

9.1 The information specified in rule 3 and rule 6 must be submitted to the **information system** no later than 5pm, 5 **business days** after the **trade date**.

9.2 The modified or amended information under rule 7.1 must be submitted to the **information system** no later than 5pm, 5 **business days** after the amendment or modification to the **risk management contract** is made.

9.3 The **party** who discovered, in accordance with rule 8, that any information was incorrect or incomplete must submit the corrected information to the **information system** no later than 5pm, 2 **business days** after the error or omission is discovered.

9.4 The corrected information submitted in accordance with rule 11.8 must be submitted to the **information system** no later than 5pm, 2 **business days** after the **parties** to the **risk management contract** have agreed, in accordance with rule 11.5.2, that the information made publicly available under rule 10.1 is not correct, and corrected the information accordingly.

10. Information system will make the information publicly available

10.1 The **information system** will make the information submitted under rules 3, 7.1 and 8 publicly available as soon as practicable.

10.2 At the same time that it makes the submitted information publicly available in accordance with rule 10.1, the **information system** will:

10.2.1 indicate that the information is unverified; and

10.2.2 either:

10.2.2.1 for a **contract for differences** or an **options contract**, send a notice to the **other party** to the contract either:

- (a) if the **other party** is a **participant**, requiring the **other party** to submit a **verification notice** to the **information system** within 2 **business days** of receiving the notice confirming whether or not the

information is correct; or

- (b) if the **other party** is not a **participant**, giving the **other party** the option to submit a **verification notice** to the **information system** within **2 business days** of receiving the notice confirming whether or not the information is correct; or

10.2.2.2 for a **fixed-price physical supply~~variable-volume~~ contract**, send a notice to the **other party** giving the **other party** the option to submit a **verification notice** to the **information system** within **2 business days** confirming whether or not the information is correct.

10.3 Any **participant** that receives a notice under rule 10.2.2.1(a) must comply with that notice.

11. Verification of the information

11.1 If the **other party** to a **risk management contract** submits a **verification notice** to the **information system** within **2 business days** of receiving notice under rule 10.2.2, confirming that the information made publicly available under rule 10.1 is correct, the **information system** will indicate that the information made publicly available under rule 10.1 is verified.

11.2 The **information system** will indicate that the information made publicly available under rule 10.1 is not disputed, if:

11.2.1 the **other party** to a **contract for differences** or an **options contract** is not a **participant** and does not submit a **verification notice** to the **information system** within **2 business days** of receiving notice under rule 10.2.2.1(b); or

11.2.2 the **other party** to a **fixed-price physical supply~~variable-volume~~ contract** does not submit a **verification notice** to the **information system** within **2 business days** of receiving notice under rule 10.2.2.2.

11.3 If the **other party** to a **risk management contract** submits a **verification notice** to the **information system** within **2 business days** of receiving notice under rule 10.2 advising that the information made publicly available under rule 10.1 is not correct, the **information system** will indicate that the information is disputed.

11.4 If the **other party** to a **contract for differences** or an **options contract** is a **participant** but does not submit a **verification notice** within **2 business days** of receiving notice in accordance with rule 10.2.2.1(a):

11.4.1 the **information system** will indicate that the information made publicly available in accordance with rule 10.1 is pending verification; and

11.4.2 the **information system** will send the **other party** a reminder notice requiring the **other party** to submit a **verification notice** as soon as possible.

11.5 If the information made publicly available under rule 10.1 is disputed:

11.5.1 the **information system** will indicate that the information is disputed;

11.5.2 the **information system** will send the **parties** to the relevant **risk management contract** a notice requiring the **parties** to make all reasonable endeavours to agree on whether the information submitted in accordance with rule 9.1 is correct or not within 10 **business days** of receiving the notice.

11.6 The **parties** must comply with any notice issued under rules 11.4.2 or 11.5.2.

11.7 If the **parties** to the **risk management contract** agree in accordance with rule 11.5.2 that the information made publicly available in accordance with rule 10.1 is correct, the **other party** must submit a **verification notice** to the **information system** within 1 **business day** confirming that the information is correct.

11.8 If the **parties** to a **risk management contract** agree in accordance with rule 11.5.2 that the information made publicly available in accordance with rule 10.1 is not correct, the **party** that submitted that information to the **information system** must correct that information in accordance with rule 9.4.

11.9 If, within 10 **business days** of receiving the notice sent in accordance with rule 11.5.2, the **parties** to the relevant **risk management contract** are not able to agree on whether the information made publicly available in accordance with rule 10.1 is correct or not, despite making all reasonable endeavours, the **information system** will indicate that the information is subject to a long term dispute.

12. Confirmation of information submitted to the information system

The **information system** must confirm receipt of any information received by it under rule 3, or rule 6, or rule 7, or rule 8. Such confirmation must contain a copy of the information received by the **information system**, together with the date and time of receipt.

13. Submitting party to check if no confirmation received

If a **party** that submitted information to the **information system** has not received a confirmation that its information has been received by the **information system** within 6 hours of submitting the information to the **information system**, that **party** must, within 1 **business day** of the expiry of that 6 hour period, contact the **market administrator** to check whether the information has been received by the **information system**. If the **information system** has not received the information, the **party** must resubmit the information. This process must be repeated until such time as the **information system** has confirmed receipt of the information from the **party** in accordance with rule 12.

14. Certification of information

14.1 Every **seller** who has submitted information to the **information system** in accordance with rule 9 in a particular **year** must provide, within 3 months of the end of the **year**, a certificate to

the **Board** verifying that the information submitted was correct.

14.2 The certificate must be:

14.2.1 in the form of a declaration; and

14.2.2 in the form specified by the **Board**; and

14.2.3 signed and dated by either:

14.2.3.1 2 directors of the **participant**; or

14.2.3.2 the chief financial officer, or person holding an equivalent position, of the **participant**; or

14.2.3.3 the chief executive officer, or person holding an equivalent position, of the **participant**.

15. Audit of information

15.1 The **Board** may, in its discretion, decide to carry out an **audit** as to whether any identified **participant** has complied with this section.

15.2 If the **Board** decides under **rule 15.1** that an identified **participant** should be subject to an **audit**, the **Board** must first require that **participant** to nominate an appropriate **auditor**. The **participant** must provide that nomination within a reasonable timeframe. The **Board** must then appoint the **auditor** nominated by the identified **participant**. However, if the **participant** fails to nominate an appropriate **auditor** within a reasonable timeframe, the **Board** may appoint an **auditor** of its own choice.

15.3 Each **participant** subject to an **audit** under this rule **15** must, on request from the **auditor**, provide the **auditor** with a copy of any **risk management contract** that it has entered into in the previous 12 months or within such other period as specified by the **auditor**. The **participant** must provide this **audit** information within 20 **business days** of receiving a request from the **auditor** for any such contract.

15.4 The **auditor** will produce an **audit** report on the **participant's** compliance with this section. Before the **audit** report is submitted to the **Board**, any non-compliance will be referred back to the **participant** for comment. The comments of the **participant** will be included in the **audit** report.

15.5 The **auditor** will not provide the **Board** with a copy of any **risk management contract** that the **participant** has provided to the **auditor** in accordance with **rule 15.3**, unless the **Board** has specifically requested that the **auditor** do so.

16. Payment of costs relating to audits

16.1 If an **audit** establishes, to the reasonable satisfaction of the **Board**, that a **participant** may not have complied with this section (irrespective of whether or not the **Board** appoints an

investigator to investigate the alleged breach under regulation 69 of the **regulations**), the **participant** will pay for the **audit**.

- 16.2 If the **Board** considers that the non-compliance of the **participant** is minor or relates to some (but not all) of the rules in this section, the **Board** may, in its discretion, make an assessment regarding the proportion of the costs of the **audit** that are to be paid by the **participant**, and those costs will be paid by the **participant** accordingly.
- 16.3 If the **audit** establishes to the reasonable satisfaction of the **Board** that the **participant** has complied with this section, the **participant** will not be required to pay any of the **auditor's** costs.

17. Information system and Board must not publish certain information and may use information only under this section

17.1 The **Board** must itself keep, and ensure that the **information system** and any **auditor** appointed under rule 15.2 keeps, the information submitted to the **information system** under rule 3, or rule 6, or rule 7, or rule 8 and copies of any **risk management contract** provided to the **auditor** under rule 15 confidential except where:

17.1.1 that information is provided by the **Board** to any subcontractors or **service providers** that the **Board** appoints to provide services for the purposes of this section and those subcontractors or **service providers** have agreed to keep that information confidential, on the same terms as apply to the **Board** under this clause;

17.1.2 that information is required to be disclosed by **law**;

17.1.3 the **party** or **parties** to whom the information relates have provided prior written consent to the disclosure; or

17.1.4 any of the information in a **risk management contract** is made publicly available in accordance with rule 10.1.

17.2 The **Board** may use the information submitted to the **information system** under rule 6 and copies of any **risk management contract** provided to the **Board** by an **auditor** appointed under rule 15.2 only for purposes related to this section and the enforcement of this section.

18. No misleading information

No **party** may submit any information that, at the time the information was submitted, was misleading or deceptive or likely to mislead or deceive.

19. Risk management contracts must be lawful

No **party** may submit any information if that **party** knows or ought reasonably to know that the **risk management contract** to which that information applies would contravene any **law**.

20. Availability of information

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The information that is submitted under rule 3, or rule 7, or rule 8 may only be removed from the **information system** after 12 months following the termination of the **risk management contract**.

Definitions

The following terms are proposed to be added to part A of the rules:

adjustment clause means a clause in a **contract for differences** or **fixed-price physical supplyvariable-volume contract** under which the price or prices of a specified volume of **electricity** may be adjusted, including an adjustment relating to the Consumer Price Index, the Producers Price Index or any other index

buyer, for the purposes of section I of part K, means:

- (a) in respect of a **contract for differences**, the fixed-price payer, being the **party** obligated to make payments at a fixed price from time to time during the **term** of the contract;
- (b) in respect of a **fixed-price physical supplyvariable-volume contract**, the purchaser of **electricity**; or
- (c) in respect of an **options contract**, either:
 - (i) the **party** paying the **premium**; or
 - (ii) if there is no **premium**, the **party** who agrees to be the **buyer** for the purposes of section I of part K; or
 - (iii) if neither **party** agrees to be the **buyer**, the **party** whose name is the first alphabetically

contract for differences, for the purposes of section I of part K, means a financial derivative contract:

- (a) under which one or both **parties** makes or may make a payment to the other **party**;
- (b) in which the payment to be made depends on, or is derived from, the price of a specified **quantity of electricity** at a particular time;
- (c) which may provide a means for the risk to one or both **parties** of an increase or decrease in the price of **electricity** to be reduced or eliminated; and
- (d) in which the quantity of **electricity** that the contract relates to equals or exceeds 0.25 **MW of electricity**

contract price means, in respect of a **risk management contract**, a single price that has been calculated, time weighted, adjusted to a location factor for the relevant **grid zone area**, and corrected for losses, for the purposes of section I of part K

effective date, for the purposes of section I of part K, means the date of the first **trading period** to which the **risk management contract** applies

end date, for the purposes of section I of part K, means the date of the final **trading period** to which the **risk management contract** applies

fixed-price physical supplyvariable-volume contract means a contract that provides for the physical

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supply of **electricity**, if:

~~(a) the **buyer** is reasonably expected to purchase 1 **MW** or more of **electricity** on average during the **term** of the contract (for the purposes of determining whether a contract meets this 1 MW threshold, paragraph (d) of this definition does not apply); and which~~

~~(b) the contract allows the **buyer** to take purchase either:~~

~~(i) variable amounts of **electricity** linked to actual consumption of **electricity** at a fixed price or prices; or per unit of **electricity** where:~~

~~(ii) a fixed amount of **electricity** at a fixed price or prices.~~

~~(a) the **buyer** consumed 2.19GWh or more of **electricity** in the 12-month period before the **effective date** whether under the contract or otherwise; or~~

~~(b) if sub-clause (a) does not apply, the **buyer** is reasonably expected to consume 2.19GWh or more of **electricity** in the 12-month period after the **effective date** whether under the contract or otherwise-~~

but:

(c) excludes a contract for the physical supply of **electricity**, that is, generated by an **embedded generating station**, directly to a **consumer**; and

(d) if a contract provides for payment at more than one **node**, the information for each **node** must be treated as a separate contract

floating-price payer means the **party** obligated to make one or more payments, from time to time during the **term** of a **contract for differences**, of a floating amount for a **quantity** of **electricity**

force majeure clause, for the purposes of section I of part K, means a clause in a **risk management contract** under which some or all obligations may be suspended and/or the **risk management contract** may terminate due to events beyond the control of the **party** and that could not reasonably have been foreseen:

(a) including any event or circumstance occasioned by, or in consequence of, any act of God (being an event or circumstance:

(i) due to natural causes, directly or indirectly and exclusively without human intervention; and

(ii) which could not reasonably have been foreseen or if foreseen, could not reasonably have been resisted); or

(b) including strikes, lockouts, other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, or civil disturbances; or

(c) including the binding order of any court, government or a local authority beyond the control of the **party**;

(d) but not including an event specified in a **suspension clause**

grid zone area means a geographical area, which includes many **nodes**, as determined by the **Board** and **published** under rule 5.1.2

location factor, for the purposes of section I of part K, means the location factor calculated in accordance with rule 5.2

options contract means a contract containing the right to buy or sell a financial derivative contract

other party, for the purposes of section I of part K, means the **party** to a **risk management contract** who did not submit the information under rule 3.1, or rule 3.2, or rule 3.3, or rule 3.4, or rule 7.1 or rule 8 of section I of part K, as the case may be

party, for the purposes of section I of part K, means either the **buyer** or **seller** under a **risk management contract** or both the **buyer** and **seller** under a **risk management contract**, as the case may be

premium, in relation to an **options contract**, means the dollar amount paid by the **buyer** of the **options contract** to the **seller**

quantity, for the purposes of section I of part K, means:

- (a) for a **contract for differences** or **options contract** the total volume in **MWh** of **electricity** to which the contract relates: or
- (b) for a **fixed-price physical supplyvariable-volume contract**, the volume in **MWh** of **electricity** reasonably likely to be supplied under the contract

risk management contract, for the purposes of section I of part K, means:

- (a) a **contract for differences**;
- (b) a **fixed-price physical supplyvariable-volume contract**; or
- (c) an **options contract**

seller, for the purposes of section I of part K, means:

- (a) in respect of a **contract for differences**, the **floating-price payer**;
- (b) in respect of a **fixed-price physical supplyvariable-volume contract**, the **party** selling the **electricity**; or
- (c) in respect of an **options contract**, either:
 - (i) the **party** receiving the **premium**; or
 - (ii) if there is no **premium** under the **options contract**, the **party** who agrees to be the **seller** for the purposes of section I of part K; or
 - (iii) if neither **party** agrees to be the **seller**, the **party** whose name is the second alphabetically

special credit clause means a clause in a **contract for differences** that specifies that, in the event that

a **party** defaults during the **term** of the contract, the **party** that is not in default will be paid a specified amount or that on execution of the contract, the **party** that is not in default, is provided with a guarantee that payment will be made when the settlement amount reaches a certain threshold

suspension clause means a clause in a **risk management contract** under which some or all of the obligations may be suspended due to an event directly relating to the **supply** (including transmission) or generation of **electricity** or the price at which **electricity** is supplied, including an inability to inject **electricity** into the **grid** as a result of an **outage** of or damage to the **grid** or a **grid injection point** or the price of **electricity** exceeding a level specified in the contract

term, for the purposes of section I of part K, means the term of a **risk management contract**, being the period between the **effective date** and the **end date**

trade date, for the purposes of section I of part K, means the date on which legally binding rights and obligations are created between the **parties** under a **risk management contract**

verification notice, for the purposes of section I of part K, means the notice provided by the **other party** in accordance with rule 10.2.2 of section I of part K