



# Submission on the proposed reliability obligation to manage dry-year risk

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To Energy Markets Policy, Ministry of Business, Innovation and Employment

## Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

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## Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

## Introduction

Thank you for the opportunity to submit on the proposed winter reliability obligations to manage dry-year risk.<sup>1</sup>

I have previously written to the Minister for Energy expressing my concern that the consultation document lacked sufficient information to allow considered comment on the proposals. Following conversations between my staff and Ministry of Business, Innovation and Employment (MBIE) officials, I now feel I am better placed to comment on some of the issues. This submission focuses on three such matters:

- Shortcomings of the options analysis, particularly the limited consideration that has been given to alternative approaches to strengthening incentives for managing dry-year risk.
- The need for modelling assumptions underpinning the Security of Supply Assessment (SOSA) to be reviewed if the New Zealand Winter Energy Margin (NZ WEM) is to be given regulatory effect.
- The importance of setting the trigger for any short-term obligation within a rigorous cost-benefit framework.

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<sup>1</sup> A proposed reliability obligation to manage dry-year risk – Energy package – action 2.5.  
<https://www.mbie.govt.nz/dmsdocument/32058-a-proposed-reliability-obligation-to-manage-dry-year-risk-discussion-document>

## The options analysis has shortcomings

### Scope of consultation limited from the outset

The options analysis in the consultation document includes six alternative approaches that could help to achieve the underlying policy goal of “strengthen[ing] incentives for market participants to secure enough long-duration firm energy to efficiently get the electricity system through a dry winter”.<sup>2</sup>

According to the consultation document, these approaches may have been effective at preparing the market for future dry-year risks. Some of them – capacity markets and investment de-risking mechanisms, for example – have also been implemented internationally (albeit with varying degrees of success). Notably, however, all of these options were deemed out of scope because “they could not meet Government direction for the dry-year framework”. Three specific criteria are nominated:

- [Not] undermining current investment signals, which are currently working well.
- [Not] introducing ongoing Crown (or a public body/entity) participation in the market.
- [Not] conflicting with other elements of the Energy Package.

Excluding options that may well meet the desired policy goal at a relatively low cost for these reasons seems at odds with well-established policy principles. Why not incorporate these considerations into a multi-criteria or cost benefit analysis of all the options?

Equally, it is reasonable to ask why these same considerations were not applied to the Government’s recent decision to procure LNG infrastructure. It seems unlikely to me that the LNG proposal would have met either of the first two considerations.

### Some options omitted altogether

Other potential approaches to improving dry-year risk management are excluded from the consultation altogether. Strengthened consumer compensation settings are one example. Increasing the payments required when electricity is scarce could encourage more conservative fuel management and improve the case for investment in new capacity and fuel storage. We understand that officials undertook considerable policy work on consumer compensation settings, but that this approach was ruled out because of ministerial concerns that responsibility is only assigned *after* scarcity has emerged.

While that is certainly true, strengthened consumer compensation settings offer benefits that the proposed winter energy obligation (or capacity markets, strategic reserves or investment de-risking mechanisms for that matter) do not. Most importantly, they avoid the need for a government authority to decide how much capacity or energy is necessary, a decision that has often resulted in over-procurement (and increased cost) internationally.

Again, if ex-post vs ex-ante responsibility is a concern, why not just incorporate that into a multi-criteria or cost benefit analysis of all the options?

## Modelling assumptions underpinning the SOSA need review

The consultation document proposes that the long-term winter energy obligation would be built around the New Zealand Winter Energy Margin (NZ WEM).

The NZ WEM is set by the Electricity Authority. It has been developed within an economic framework that incorporates the idea that a small annual energy shortfall may be optimal

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<sup>2</sup> A proposed reliability obligation to manage dry-year risk – Energy package – action 2.5, p15.

from a system wide perspective.<sup>3</sup> The current objective is that expected nationwide winter energy supply exceeds expected nationwide energy demand by 14–16%.<sup>4</sup>

In recent years, the NZ WEM has been used in a purely informational capacity. Transpower publishes forward-looking assessments of how the margin is evolving in its annual Security of Supply Assessment (SOSA). In situations where the energy margin falls below that specified by the NZ WEM, Transpower provides guidance on the actions market participants could take to improve matters.

The proposal in the consultation document is to give the NZ WEM regulatory effect. Large retailers and industrial users would be required to secure additional cover if the electricity supply-demand balance was projected to fall below the required standard.

The associated compliance costs may well be significant. The consultation document notes, for example, that “the long-term obligation would involve non-trivial compliance, administration and monitoring costs”. Analysis undertaken by Concept Consulting suggests that these costs could increase average wholesale prices by 13–42%.<sup>5</sup> Whether such a premium is warranted depends in large part on the extent to which the obligations result in lower prices during dry periods. However, the consultation document lacks any analysis of how prices might evolve under the status quo – or the effect the winter energy obligations being consulted on might have.

If this is indeed the preferred approach, the robustness of the assumptions that underpin the SOSA will become critical.

I understand that modelling undertaken for the SOSA has tended to err on the conservative side in recent years. On the supply side, only those projects where final investment has been committed are included in short term analysis (+3 years) of the NZ WEM.<sup>6</sup> On the demand side, electrification and demand growth are assumed to play out at a medium rate – an assumption that has resulted in short-term demand growth being routinely overestimated in recent years.<sup>7</sup>

It is understandable that an organisation tasked with monitoring electricity security would err on the side of caution. However, the consequences of doing so – and getting it wrong – are much more material in a system where those judgements have regulatory effect. In my view, a thorough review of the assumptions that underpin modelling undertaken for the SOSA is warranted if the long-term obligation is to proceed.

## The proposed short-term obligation requires more thought

Whereas the long-term obligation benefits from a well-established trigger calculated within a robust economic framework, the same cannot be said for the short-term obligation. The approach taken in this consultation has therefore been to test different triggers against historic hydro records. As the consultation document notes, “the aim was to identify a trigger that would have captured years in which the system was moving into a genuinely concerning dry-year position, without also catching years that clearly did not warrant intervention.”

In lieu of information about the costs and benefits of alternative triggers, that seems a reasonable approach to take. With that said, given the proposed regulatory application of the short-term obligation and the associated compliance costs, consideration should be given to testing different triggers within a formal cost-benefit framework. Among other things, this would need to account for the cost of storing fuel that was procured but not necessarily required.

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<sup>3</sup> Reflecting the fact that, at some point, the cost of additional security starts to exceed the cost of shortage.

<sup>4</sup> Security Standards Assumptions Document 2012. Winter is defined as the period from 1 April to 30 September. [https://www.ea.govt.nz/documents/166/Security\\_standards\\_assumptions\\_document.pdf](https://www.ea.govt.nz/documents/166/Security_standards_assumptions_document.pdf)

<sup>5</sup> Review of proposed dry-year reliability obligation concept 2026.

[https://www.concept.co.nz/uploads/1/2/8/3/128396759/reliability\\_obligation\\_review\\_1.0.pdf](https://www.concept.co.nz/uploads/1/2/8/3/128396759/reliability_obligation_review_1.0.pdf)

<sup>6</sup> Draft Security of Supply Assessment 2026. <https://static.transpower.co.nz/public/bulk-upload/documents/2026%20SOSA%20-%20Draft%20Report.pdf>

<sup>7</sup> Review of proposed dry-year reliability obligation, p.17.

[https://www.concept.co.nz/uploads/1/2/8/3/128396759/reliability\\_obligation\\_review\\_1.0.pdf](https://www.concept.co.nz/uploads/1/2/8/3/128396759/reliability_obligation_review_1.0.pdf)

## A final thought

I agree that an intervention like the proposed reliability obligations could help to improve incentives for investment in dry-year risk management, and support further policy development in this area. However, it continues to be unclear to me why public procurement of LNG infrastructure is necessary *in addition* to such a policy. If a winter energy obligation – or something similar – is to be created, why not let the market decide how best to meet that obligation?

I find the explanation recently offered by Minister for Energy unconvincing:<sup>8</sup>

“LNG and the proposed Winter Energy Reliability Obligation are complementary measures. LNG helps address near and medium-term risks, while the obligation is designed to encourage longer-term investment in reliability.”

There is a body of emerging evidence that New Zealand's electricity system is unlikely to be energy constrained in the near to medium term.<sup>9</sup> Furthermore, there is no obvious reason why the sort of obligation currently being consulted on could not be effective in the near to medium term. What is stopping market participants from pursuing LNG import infrastructure (or indeed whichever solution they see fit) in anticipation of such an intervention?

If – as the Minister indicates – LNG infrastructure is being procured to shore up New Zealand's electricity system in the short to medium term, then the duration of the contract the Government is negotiating should be timebound to that period or renegotiable within it. Any longer-dated contract would suggest that the LNG initiative is aimed not at back-stopping the electricity market, but back-stopping industrial gas consumers. If that is indeed part of the supporting justification, then it should be clear that industrial consumers are required to contribute to the cost of the import facility.

Kind regards



Rt Hon Simon Upton  
**Parliamentary Commissioner for the Environment**  
**Te Kaitiaki Taiao a Te Whare Pāremata**

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<sup>8</sup> <https://newsroom.co.nz/2026/07/03/environment-watchdog-questions-rushed-energy-decision-making>

<sup>9</sup> ASX, NZ Electricity Futures. Energy AU / NZ - Electricity Gas Enviro ([https://www.asxenergy.com.au/futures/nz\\_electricity](https://www.asxenergy.com.au/futures/nz_electricity)); Concept Consulting Outlook for the New Zealand Gas Market, EnergyLink modelling for the New Zealand Climate Foundation; LNG decision not justified by 2024 dry year repeat scenario ([https://www.linkedin.com/posts/christina-hood-71a1b024\\_if-we-have-a-repeat-of-2024-dry-year-inflows-activity-7469677286418718720-w2w-/](https://www.linkedin.com/posts/christina-hood-71a1b024_if-we-have-a-repeat-of-2024-dry-year-inflows-activity-7469677286418718720-w2w-/)).