

Requirement to provide information/documents pursuant to s46 of the Electricity Industry Act 2010 – to gentailers

11 March 2024

s9(2)(a)

Mercury NZ Limited

s9(2)(a)

Requirement to provide information under section 46(2)(a) and section 46(2)(c) of the Electricity Industry Act 2010

1. The Authority is requiring Mercury to provide information under section 46(2)(a) and 46(2)(c) of the Electricity Industry Act 2010 (the Act) for the purposes of undertaking industry and market monitoring pursuant to section 45(a)(iii) and section 16(1)(g) of the Act.

Authority's power to require information

2. Under section 46(2)(a) of the Act, the Authority may require an industry participant to provide, within any reasonable time specified by the Authority, any information, papers, recordings, and documents that are in the possession, or under the control, of the participant and that are requested for the purpose.
3. Under section 46(2)(c) of the Act, the Authority may require an industry participant to give all other assistance that may be reasonable and necessary to enable the Authority to carry out its functions and exercise its powers.
4. The Authority may exercise its section 46 powers for a purpose described in section 45. The purpose for which this section 46 request is being made, is pursuant to section 45(a)(iii), to undertake industry and market monitoring, and carry out any other function referred to in section 16(1)(g). The section 16(1)(g) functions are: *to undertake industry and market monitoring, and carry out and make publicly available reviews, studies, and inquiries into any matter relating to the electricity industry.*

Reasons for requirement

5. The Authority is conducting a review of risk management options for electricity retailers (Review). As part of the Review, the Authority is seeking to better understand the availability and accessibility of risk management solutions to non-integrated retailers through the over-the-counter (OTC) market, the pricing relationship between the ASX and OTC market, and the supply and pricing of shaped solutions. This letter is a request by the Authority for information for the purposes of the Review.

6. To investigate the competitiveness of risk management practices, we need more information on how the OTC market is currently functioning, including the gentailers approach to this market. We would therefore like to gather information under the following themes:
 - a. Credit approach and consistent treatment of participants
 - b. RFP responses and pricing
 - c. Expectations on the OTC market to provide risk solutions for independent retailers

Information required to be provided

7. The Authority requires you to provide written answers to the questions set out in the "Risk management review (gentailers)" information provision portal data request.
8. The Authority also requires you to produce documents that support the approaches and methodologies asked about in the data request, where such documents exist.
9. Where a timeline is not otherwise specified, we would like documentation and data spanning 1 November 2022 to 31 December 2023. That is, for methodology and process documents, please provide the documents that were applicable over this period. If the documents were changed during this period, please provide the old and new versions. For RFPs - if the date an RFP was initially received or being considered falls within this interval then all documentation associated with that RFP is requested.
10. At this stage our focus for the data requests is on understanding whether the availability of OTC contracts, in the context of other risk management options, is creating a barrier to entry or expansion in the retail electricity market. If the scope of the Review widens then additional information may be required. The Authority is cognisant of the potential administrative costs of further information requests. We will endeavour to ensure that any additional information requests are appropriately targeted.

Response to requirement to provide information

11. The Authority requires Mercury to answer all questions and provide supporting documentation as set out in the attached questionnaire.
12. Please provide the information by **5pm on 5 April 2024**.
13. The Authority will only extend the deadline in exceptional circumstances. If you wish to seek an extension of time, please apply for one in writing no later than 5pm two working days before the deadline outlined above and include your reasons for seeking the extension.
14. Please identify as part of your response any information that you consider to be confidential, including the reasons why you consider the information is confidential. The Authority will not disclose confidential information except to the extent that disclosure is required to enable the Authority to carry out its obligations and duties

under the Act (including but not limited to carrying out and making publicly available reviews under section 16(g) of the Act), the regulations or Code, or is otherwise compelled by law.

15. In accordance with section 47A of the Act the information and documents we receive in response to this request may be provided to other public service agencies, statutory entities, the gas industry body and overseas regulators, where the Authority considers the information may assist those entities in the performance of their functions, powers and duties under any legislation. The Authority will only share this information if it is satisfied that appropriate protections are or will be in place for the purpose of maintaining the confidentiality of anything provided.

16. The Authority may be requested to release the information under the Official Information Act. The Authority needs to consider each request on a case by case basis. If the Authority receives a request, staff will endeavour to consult with you before the Authority makes a final decision as to whether to release any of the information.

Compliance with requirement to provide information

17. Failure to comply with a requirement under section 46 of the Act is treated as if it were a breach of the Code. In the event of such failure to comply, the Authority may apply to the Rulings Panel for any order under section 54 of the Act (under section 46(4) of the Act).

Further information

18. If you have any questions about this letter, please contact: Julia Hall Electricity Authority Telephone: 04 462 0612 Email: Julia.Hall@ea.govt.nz.

Yours sincerely



Sarah Gillies

Chief Executive