



REVIEW OF THERMAL FUEL INFORMATION DISCLOSURE

Submission to the Electricity Authority

PUBLIC VERSION

31 August 2020

INTRODUCTION

1. Vocus welcomes the opportunity to submit in response to the “*Wholesale market information disclosure: Review of Thermal Fuel Information Disclosure*”, consultation paper, 21 July 2020.
2. We consider that the consultation paper and the Authority proposals are fundamentally sound, and there is opportunity to build on and enhance the Authority’s proposals.
3. While we acknowledge the good work the Authority has done, the timing for delivery/project completion could be brought forward. The Authority should aim to complete all elements of the current consultation and review of the Guidelines before Christmas. We support prioritisation and prompt implementation of all elements of the Government’s Electricity Price Review reform package.
4. If you would like any further information or have any queries about this submission, please contact:

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REFORM OF WHOLESALE MARKET INFORMATION DISCLOSURE REQUIREMENTS WILL IMPROVE CONFIDENCE IN THE MARKET

5. Vocus supports the work that both the Authority and the GIC are undertaking to improve wholesale market information disclosure (WMID), in relation to gas and thermal fuel supply requirements, and the coordination of work that has been done.
6. We agree that addressing information asymmetries and gaps in the WMID requirements will help improve confidence in the market and in pricing outcomes.
7. Improved information disclosure, including related wholesale-retail financial separation requirements, should also help make any abuses of market power more transparent e.g. artificial raising of wholesale electricity prices, discriminatory treatment of related and third parties, and potential retail market price squeezes.

VOCUS SUPPORTS THE AUTHORITY’S PROPOSALS

8. Vocus supports the Authority’s proposals, including:
 - (i) The requirement for correction of disclosed information, certification and the power for the Authority to audit disclosed information are all important for ensuring accurate and reliable information is disclosed. These are the foundations of any good practice disclosure regime. The Authority should undertake random audits, as well as audits where there is reasonable suspicion that there may be problems with disclosed information.

- (ii) The Authority's intention to undertake more active compliance monitoring. Improved (mandatory) reporting of non-disclosure including the basis on which the exemption provisions have been relied, for example, will assist identification of non-compliance/incorrect interpretation of the WMID requirements.
- (iii) The introduction of a disclosure reference webpage and clarification where parties should disclose information should help make information more accessible.

SOME ELEMENTS OF THE GUIDELINES BELONG IN THE CODE

9. Vocus recognises that principles-based and prescriptive disclosure requirements can both have useful roles.
10. It may not be possible to identify all information that should be required to be disclosed in prescriptive disclosure requirements. Sapere has provided the analogy that "*the road code prohibits dangerous driving without attempting to identify all possible forms of driving dangerously*".¹ It is worth noting that the Land Transport Act 1998 contains a mix of prescriptive rules, including in relation to speeding or driving under the influence of alcohol, in conjunction with the principles-based rules in relation to reckless or dangerous driving.
11. The approach the Authority has taken with the current WMID requirements is to specify the disclosure requirements in the Code at a principles-based level, and provide more prescriptive detail on a voluntary basis in Guidelines. Some of the limitations of the voluntary approach were discussed at the WMID workshop including the Authority's submissions to the GIC that parties won't disclose when they don't have the incentive to do so, and that this is why the Authority recommended the GIC adopt a regulated approach.
12. There is no reason why the Code could not include non-comprehensive examples of information that is required to be disclosed even if it is not possible to prescribe everything that would need to be disclosed.
13. Vocus considers the best way to balance principles and prescription is to move some elements of the Guidelines into the Code as a non-comprehensive list of disclosure requirements e.g. all the examples in Guideline 6.27 of information "*the Authority considers ... could reasonably be expected to have a material impact on prices in the relevant markets and therefore be disclosure information*". The update of the Guidelines regarding thermal fuel disclosure should include a reconsideration of what content best belongs in the Code or the Guidelines.

¹ Kieran Murray and Toby Stevenson, Sapere, Cross-submission comments: draft decision of the Electricity Authority: alleged UTS on 26 March 2011, 19 May 2011.

COMPLIANCE MONITORING IS CRITICAL FOR ENSURING THE BEST RESULTS FROM WMID

14. Regardless of the changes the Authority makes to the WMID requirements, compliance monitoring and enforcement has an important role. This comment is not specific to the WMID requirements and has been raised in relation to other matters such as the Undesirable Trading Situation (UTS) and High Standard of Trading Conduct (HSOTC) rules. The MDAG review of the HSOTC rules, for example, identified various prima facie evidence of historic breaches that went undetected or weren't investigated at the time.
15. If the Authority requires additional resources to ensure robust compliance monitoring and enforcement we would support consideration of an increase Authority budget or reprioritisation of Authority budget (excluding work on Electricity Price Review implementation and other projects that would increase retail/wholesale competition).