

Electricity Authority  
By email: WMID@ea.govt.nz

1 September 2020

### **Review of Thermal Information Disclosure – Consultation Paper**

Thank you for the opportunity to comment on the Authority's review of thermal information disclosure, no part of our submission is confidential. Mercury supports the review. We agree robust information contributes to an efficient, well-functioning electricity market. The information disclosure requirements have not been reviewed for three years, the Electricity Price Review recommended a review and information gaps were highlighted during the extended Pohokura outages that resulted in high wholesale electricity prices in the spring of 2018.

#### *Prioritising thermal fuel information disclosure is appropriate*

Mercury supports prioritising thermal fuel information and addressing other wholesale market disclosure issues in phase two. Thermal fuel availability is a key driver of electricity spot prices particularly in dry years when hydro storage is low. Equal access to this information will give market participants better visibility across market activities and facilitate better risk management. We acknowledge the recent work undertaken by the Gas Industry Company (GIC) resulting in improved gas information disclosure. For example, the publication of monthly updates of gas storage levels of Ahuroa have been provided by Flex Gas and published on the GIC website since May 2020. We agree with the Authority's assessment that there remains scope for improvement in disclosure of availability of thermal fuels for electricity generation to provide a clearer picture to market participants on the likely impact that fuel constraints will have on short term electricity prices. The timeliness of this information disclosure is also critical as is a central information repository to ensure the information is not only available but easily accessible.

#### *Mercury supports the proposed Code changes*

Mercury supports the general thrust of the Authority's proposals including the proposed Code change to introduce mandatory quarterly reporting of disclosure activities and annual certification by some participants. We agree this should help participants focus on their clause 13.2A obligations along with facilitating better monitoring of compliance. We support updating the thermal fuel disclosure guidelines to provide clarity around obligations and to better reflect recent changes in practice including the fact that gas producers now disclosing planned outages does not negate electricity participant obligations under clause 13.2A. We support the introduction of a disclosure reference webpage which links to published information and clarity around where participants should disclose information so all participants can easily access information. While not ideal, a disclosure reference webpage is a pragmatic solution until a specific disclosure platform, (including detailed functionality requirements), is developed as part of phase two of this project.

#### *Priorities for the next phase*

In addition to the items identified in Appendix E of the consultation document, Mercury considers the Authority could investigate the option of re-establishing the practice of hydro generators classifying spill events and providing this information to the market. In particular, the option of requiring hydro generators to publicly notify when and why they spill in real time. Mercury would also like to see more comprehensive and speedier posting of all market trades



for electricity and gas. This should include all over-the-counter trades and derivatives. It is crucial that gas trades are disclosed to the same level as electricity trades. The speed of information we are referring to would be the equivalent to trades posted through the NZX for equities and debt instruments: in other words anonymised trades are posted as soon as they are completed with, as a minimum, price and volume information. Publicly posting all trades in real time would level the playing field for all other participants. As a suggestion this should require disclosure within 24 hours if the trade's start date is within seven days or disclosed within 168 hours if the trade's start date is beyond seven days.

If you have any questions about this submission please contact me directly at [sharron.came@mercury.co.nz](mailto:sharron.came@mercury.co.nz)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sharron Came', with a horizontal line extending to the right.

Sharron Came  
**Regulatory Strategist**



## Appendix One Consultation Questions

Question	Mercury Response
1. Do you agree with the Authority's problem definition: 'The key outcome for an effective wholesale market is confidence in efficient prices, and currently there is a widespread view that prices are not as efficient as they could be because some useful thermal fuel information is absent from the market.'	Yes.
2. Do you agree that there are concerns with both what thermal fuel information is disclosed and the ability to access, interpret and use thermal fuel information that is disclosed?	Yes.
3. Do you agree that thermal fuel information disclosure is the most pressing wholesale information disclosure issue?	Yes.
4. Of the other information disclosure issues listed in Appendix E, which are the priority issues? Are there any issues missing from this list?	We consider the priority issue to be consistent and timely disclosure of thermal fuel information. This information needs to be disclosed in one place that is accessible to all market participants. Of the items listed in Appendix E, we see monitoring and compliance as a priority along with re-establishment of the practice of hydro generators classifying any spill events and providing this information to the market. In particular, the option of publicly notifying when and why they spill in real time could be considered. Finally, comprehensive and timely trade disclosures is important, as mentioned in our cover letter.
5. Do you agree with the Authority's stocktake of current thermal fuel information disclosure? Has the Authority missed any information in the stocktake or misrepresented disclosure?	Yes.
6. Are you aware of disclosure information where one of the exclusions in clause 13.2A(2) has been relied on to not make the disclosure information publicly available?	No.
7. Do you agree with the factors leading to non-disclosure of thermal fuel information? Are these barriers leading to inefficient prices in the wholesale market?	Yes.
8. Do you agree with the barriers to accessing and interpreting thermal fuel information? Are these barriers leading to inefficient prices in the wholesale market?	Yes.
9. Do you agree the proposed Code amendment captures the appropriate players in the market?	Yes.
10. What requirements in the proposed Code will assist participants to be freely able to disclose	All of them.



the information requested?	
11. Are there any unusual situations (whether arising out of contract, law or otherwise) that the Authority needs to consider in amending the current disclosure regime?	No.
12. Please provide any feedback on the approach proposed to privilege given the powers (and protections) that exist under sections 46-48 of the Electricity Industry Act and the limitations proposed on the use and publication of the information.	The approach proposed by the Authority seems reasonable.
13. Please provide any feedback on the limitations proposed in relation to the use of the information requested.	No comment.
14. Please provide any comments on the proposed audit power.	No comment.
15. Do you agree with proposal 1: a Code change to require quarterly reporting of disclosure activities, provision of an annual directors' declaration and an annual report on policies? Please explain why or why not.	Yes. This seems like a pragmatic way to ensure the Authority has better information to monitor compliance while also providing a stronger incentive for participants to disclose information.
16. Do you agree with proposal 2: to update the Guidelines regarding thermal fuel disclosure? Please explain why or why not.	Yes.
17. Do you agree with proposal 3: to raise awareness and utilisation of existing disclosures through a disclosure reference website? Please explain why or why not.	Yes.
18. Do you agree with proposal 4: that thermal fuel information disclosures under clause 13.2A should be made to a central location? Please explain why or why not.	Yes.
19. Do you agree that the current Code clearly spells out the disclosure obligations to market participants? If not, why not?	Yes.
20. Do you have any comments on the validity of the exclusions in clause 13.2A(2)? Do you consider there are benefits of removing the confidentiality exclusion in clause 13.2A(2)(c)?	We share the Authority's concerns about the exclusions particularly the confidentiality exclusion. We agree however that it is appropriate to gather evidence using the proposed quarterly reporting requirement and make a decision whether to remove the exclusion after this process has been in place for a period of time, for example a year.
21. Do you believe the currently available penalties and remedies are sufficient?	Yes. To date the issue has been lack of monitoring and enforcement.
22. Do you agree with the objectives of the proposed amendment? If not why not?	Yes.



23. Do you agree the benefits of the proposed amendment outweigh the costs?	Yes.
24. Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	Yes.
25. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Yes.

