

## Template requirement to provide information/documents pursuant to s46 of the Electricity Industry Act 2010

20 November 2023

Electric Kiwi

Level 4, Ferry Building

99 Quay Street Auckland 1010 New Zealand

██████████ [@thecollective.energy](mailto:██████████@thecollective.energy)

cc: ██████████ [@thecollective.energy](mailto:██████████@thecollective.energy)

Attention: ██████████

### 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 Electric Kiwi 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. This request sets out what the Authority is requesting for the purposes of monitoring the Over-The-Counter (OTC) market voluntary Code of Conduct (Code of Conduct). As set out in paragraph 31 of the Code of Conduct, the Working Group supports regular monitoring of the OTC market by the Authority to “ensure the market as a whole and the individual participants in it are performing in a manner which is efficient and competitive...”. The Working Group have been consulted on this data request and have asked that the Authority use its section 46 powers for these

requests. As discussed in meetings between the OTC Working Group and the Authority, this provides the simplest approach to providing data that is confidential and commercially sensitive.

6. By signing the Code of Conduct, signatories have committed to a number of underlying principles and behaviours in the OTC market. As set out in paragraph 21.1 of the Code of Conduct, an efficient OTC market is one which provides risk management products on terms and conditions that could be expected in a workably competitive market. The fields set out in the data request templates (including prices of the requested and offered contracts) will allow the Authority to assess whether the terms and conditions in OTC contract requests and responses to those requests appear consistent with a workably competitive market. These fields will also allow the Authority to assess whether all counterparties appear to be acting fairly, consistently, and in good faith.

### **Information required to be provided**

7. The Authority requires you to provide written answers to the questions set out in the information provision portal data request ('Over the counter contracts request').
8. The Authority requires you to provide data as set out in the csv templates attached in the information provision portal data request. This includes all information on the contracts requested (price, instrument and volume requested, and details of the structure of the contract requested), as well as details of all responses received to these requests (including information on contracts offered if they differ from the contract requested, and reasons for declining the request, if applicable) and whether responses were not received from some parties. A copy of these templates are attached within the information provision portal data request.
9. The Authority requires you to produce the documents asked about in question 5 (frameworks or guidelines on how to assess responses) if such documents are used within the organisation.

### **Response to requirement to provide information**

10. The Authority requires Electric Kiwi to answer all questions and fill in the templates in the information provision portal ['Over the counter contract requests' form](#).
11. In the first instance, please provide the information from 1 November 2022 to 31 October 2023, by **5pm on 8 December 2023**.
12. Thereafter, please provide the same information **quarterly until (and including) the last quarter of 2024, by 5pm 10 business days after the end of each quarter**. Reminders will be sent out each quarter.
13. The Authority will only extend these deadlines 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 deadlines outlined above and include your reasons for seeking the extension.

14. All information received as part of this request will be treated as 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 the requirement to provide information, papers, recordings, and documents 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

A handwritten signature in dark ink, appearing to read 'SGillies', with a long horizontal flourish extending to the right.

Sarah Gillies

**Chief Executive**