

Submissions
The Electricity Authority
via email
retaildata@ea.govt.nz

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Improving retail market monitoring: clause 2.16 information notice

Thank you for the opportunity to submit on the Electricity Authority's (Authority) current consultation "Improving retail market monitoring: clause 2.16 information notice" (Consultation).

Mercury wholly supports the need for accountability and transparency in the retail market. As we submitted back in 2021 in response to the "Improving the framework for the Authority's information gathering" consultation:

*"Mercury has always been responsive to information requests from the Authority regardless of their source – requirements of the Electricity Industry Act 2010 (Act), regulations, the Electricity Industry Participation Code (Code) or voluntary requests. We will continue to treat such requests as important and make every effort to comply promptly and in full."*¹

During that consultation the Authority stated that the new information gathering powers added to the Code would enhance the "efficiency" limb of the Authority's objective through "higher quality monitoring and commentary" in a way that was efficient for both Participants and the Authority and would lower "the transaction costs" associated with information gathering.²

Mercury is concerned however that the current clause 2.16 information notice is neither efficient nor likely to lead to higher quality monitoring or lower transaction costs. It is also unclear how a data request of this scope will benefit consumers. Our submission, including reasons for this view and an alternative approach for the Authority to consider, is set out below.

1. Desired state too broad to be efficient

We appreciate the Authority's intention to consolidate and replace active and inactive regular data requests made to retailers. Mercury agrees that there is currently overlap particularly in relation to the Retailer Financial Stress Notice (RFS Notice) and the voluntary monitoring requests under Part 10 of the Consumer Care Guidelines (CCGs). The Authority states its desire to fill identified information gaps so that the request is "comprehensive" and enables monitoring of "aspects of retail market competition, reliability, and efficiency, and domestic and small business consumer outcomes".³ On the face of it this is acceptable however the tabular data and monthly questions contained in the Proposed Notice⁴ are so wide ranging that the Authority is not simply consolidating existing data requests or monitoring "aspects of retail market competition" but is effectively replicating a retailer's entire data architecture.

¹ <https://www.ea.govt.nz/documents/1497/Mercury-submission-Improving-the-framework-for-the-EAs-information-gathering.pdf>

² <https://www.ea.govt.nz/documents/1487/Improving-the-framework-for-the-Authoritys-information-gathering-Consultation-paper.pdf> at paragraph 1.5

³ https://www.ea.govt.nz/documents/4106/Consultation_paper.pdf at paragraph 4.2

⁴ Ibid , Appendix A

Classification: Confidential



Mercury is confused by the scope creep of this request and does not believe that the Authority has identified a problem that requires an intervention of this scale, or justified their assumption that collecting this data will result in a net positive for the market or consumers. This data request represents a dangerous precedent for the Authority to continuously request data in relation to anything an electricity retailer does now and in the future using its consumer function as justification.

Furthermore, the Authority makes only passing mention of the Commerce Commission's consideration of bundling issues and does not discuss the Retail Service Bundling Guidelines (RSBGS) that were issued in November 2023⁵. The Guidelines set out the Commission's expectations in relation to the bundling of energy and telecommunications services by retail service providers and are intended to ensure that price and other key information relating to bundles is displayed in a clear and transparent manner to allow consumers to make appropriate comparisons and fully informed choices. The Authority's data request represents a duplication of effort for retailers in this regard.

In response to the Authority's specific problem identification at part three we note:

- a. Connecting ICP billing data with Statistics NZ geographical and population demographic information⁶ will not necessarily enable the Authority to establish a complete picture of prices and contract conditions across the retail market. Both data sets lack the context to provide accurate insight. For example, Statistics NZ location data uses household income to determine the demographic. It will not identify that a low-income retired couple is living in the household. The ICP billing data for this couple will tell you what they spend on electricity but the ICP is not the customer. The ICP won't tell you that this is not the couple's primary residence and that they hold two additional ICPs with retailers in other regions across New Zealand. The only reliable way to gather this information is from the customers themselves. If the Authority would like to investigate ways to gather this information from customers Mercury would be keen to collaboratively work towards a solution.
- b. Whilst we agree that there are some overlapping questions and interpretation issues in current information requests⁷, the scope of the data requested in the RFS Notice and part 10 of the Consumer Care Guidelines is magnitudes smaller than the data request proposed by the Consultation. We are not sure where the need for so much more data has arisen and do not think the Authority has justified this need.
- c. Similarly, the Authority has accumulated a huge quantity of data under the RFS Notice and nothing has been made publicly available "because of the potential for published data to be misinterpreted due to the numerous caveats associated with it".⁸ We are confident that this problem will be multiplied given the amount of potentially unreliable data the Authority would accumulate under the proposed clause 2.16 notice.

2. Data integrity will be an issue

The Authority's annual voluntary data requests operating from 2011 to 2021 asked retailers specific questions that varied depending on interest areas. The specificity of these requests enabled retailers to provide efficient and therefore effective responses with the necessary context around the data provided. Conversely, under the current Consultation, the Authority is requesting data in relation to nearly every aspect of the retail business. The "catch all" nature of the proposed clause 2.16 notice is problematic for numerous reasons, some of which we have tried to capture below:

⁵ https://comcom.govt.nz/data/assets/pdf_file/0018/335232/Improving-RSQ-Product-Disclosure-Retail-Service-Bundling-Guidelines-Energy-and-Telecommunications-Bundles-22-November-2023.pdf

⁶ Ibid, paragraph 3.8

⁷ Ibid, paragraph 3.12

⁸ Ibid at paragraph 3.15



- a. Data needs to be seen in context with actual changes in the business otherwise perceived trends/insights may not be real. The level of context that naturally exists within the business won't flow through to the Authority and the resource required to maintain accuracy/context in the system will be too difficult for some retailers to maintain. Without context to provide colour to the data the Authority will have no way to judge its quality and therefore large quantities of data will either be excluded from analysis and/or data irregularities will make it impossible for the Authority to publish reports. Either way, the integrity of the data is at risk.
- b. The data requested stretches into segments such as mobile and internet that are not within the Authority's usual remit. Consequently, the Authority has neither the expertise to understand what data is required to provide a complete picture of those segments nor the expertise to analyse the data it does receive.
- c. The data requested is not necessarily readily available to retailers. We note, for example, that the debt information requested at Table 4 of the proposed notice uses different measures to those we use to calculate customer debt. For Mercury to provide this information we would need to build new data models that have no re-use capability as this would not be our chosen way to model debt. There is no efficiency or value add for Mercury.
- d. There are many "measures" being requested e.g., "Contact attempts missed payments" that in our experience increase effort (delivery time) for this type of data model. This is particularly true if these are not important measures for Mercury's retail business.
- e. The requested datasets are highly "de-normalised", which speaks further to our above point on the request differing from how we would choose to model data. To achieve this de-normalised structure Mercury would need to take the most simplistic view of some of our complex data structures e.g., rates, which would further limit the context required to yield the desired insights.

3. Benefit to consumers not clear

Mercury fully supports the Authority in working towards better outcomes for consumers, especially those experiencing hardship. We support the mandating of the Consumer Care Guidelines⁹ and several of the recommendations made by the Energy Hardship Expert Panel to be consulted on by the Authority later this year. A clear benefit would accrue to consumers once some of these initiatives have been implemented. For example, mandating parts 2, 6, 7 and 8 of the CCG's would have a clear and direct benefit for consumers as every retailer will be required to follow best practice in relation to disconnection processes and the treatment of medically dependent customers.

By contrast, it is difficult to see how the proposed clause 2.16 notice would provide any benefit to consumers. Data integrity aside, we are not convinced that the average consumer is interested in the impacts of electricity pricing on consumers from different socio-economic groups. Vulnerable consumers with lived experience of energy hardship certainly do not need to see data to know there are problems. They are far more likely to care about what the sector is going to do in practical terms to keep them connected to power. Mercury would prefer to continue the work we are doing to help our vulnerable customers at grass roots rather than having to redirect resources towards the proposed monitoring exercise.

Further, as mentioned above, the bundling of electricity with other products and the potential impact for consumers has been considered at length by the Commerce Commission. The Authority has not addressed this issue in any detail and has not identified any additional benefit that would accrue to consumers as a result of the proposed data request.

⁹ https://www.ea.govt.nz/documents/4242/Mercury_x4IYBgF.pdf



If one of the main objectives of this data request is to achieve better outcomes for domestic consumers, this objective would be better served if the Authority and retailers were to focus their resources on initiatives where the benefit is clearly identifiable.

4. Costs not justified

We estimate that setting up the data request in our systems would require us to dedicate a “Data & Analytics Delivery Squad” for a period of 4-6 months. Typical running costs for a delivery squad of this size is [REDACTED] so the cost over a 6-month period would be close to [REDACTED]. There would be on-going full-time resource required to keep the data updated plus the opportunity cost of other projects deprioritised as a result.

The effort (and associated cost) to retailers will be greatly reduced if there is a high degree of conformity in the Interfaces that we are asked to provide. This conformity comes in both the structure of the data and what measurements we are being asked to deliver. Currently we do not foresee a high degree of re-use and are therefore concerned that the introduction of any new (future) interfaces, such as the Consumer Data Right, will negatively impact retailers.

For these reasons and the issues raised above, Mercury submits that the costs to implement the current clause 2.16 information notice far outweigh the benefits both to the Authority and to consumers.

5. Alternative data gathering options should be explored

Mercury would welcome the opportunity to collaborate with the Authority to find a solution that will meet the needs of their statutory objectives and prove efficient and cost effective for retailers. We share the Authority’s desire for transparency and better outcomes for consumers in the electricity sector and have in-house data experts willing to share their knowledge. As a starting point, our experts recommend the Authority adopt an iterative approach like that used in the development of software. Through a process of test and learn the best outcome can be achieved. The Authority could:

- i. Reduce the scope of the data request to focus on one specific area of interest;
- ii. Demonstrate that it is able to generate valuable insight from that data;
- iii. If no, back to base to try a different approach – if yes, extend the request to another specific area of interest and repeat process.

This alternative approach would better align with the Privacy Act’s ¹⁰ key tenet that personal information must not be collected unless (a) it is collected for a lawful purpose connected with a function of the agency; AND (b) the collection is necessary for that purpose. The Authority will need to demonstrate its purpose clearly and show that it is collecting the least amount of personal information necessary. We suspect this would be challenging with the current scope of the clause 2.16 information notice. We will comment further when we have seen the PIA.

Once we have lodged our submission, we would like to see if it is possible to meet with you and our data experts to discuss alternative ways to achieve the Authority’s desired outcomes. In the meantime, if you have any questions, please don’t hesitate to contact me on [REDACTED]

Yours sincerely



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10 Privacy Act 2020, IPP

