

From: Julia Hall
Sent: Wed, 1 Nov 2023 16:03:19 +1300
To: Reuben Irvine; Luke Archer; Doug Watt
Cc: Jenna Bernstein; Alexandra Parker
Subject: RE: EA price squeeze project

No that's fine Reuben – we won't be sending out the request until after testing has been done on the info prov questions, so not until late next week at the earliest.

Thanks for the heads up

From: Reuben Irvine [Section 9(2)(a) Privacy]
Sent: Wednesday, November 1, 2023 4:00 PM
To: Julia Hall [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]; Doug Watt [Section 9(2)(a) Privacy]
Cc: Jenna Bernstein [Section 9(2)(a) Privacy]; Alexandra Parker [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Hey Julia

Luke is now on leave until Monday, so while that all looks fine to me, I should probably hold off on a final confirmation until he, and/or our legal team, give us the thumbs up. Or will that timing hold you up?

Also, just a heads up, a potential process issue may have arisen at our end, which we are going to dig into a little more. My understanding is that this shouldn't affect our plan for the immediate term, but before too long there may need to be some discussions between our two organisations at levels above my pay grade. We'll let you know more as soon as we do ourselves.

Cheers
r

From: Julia Hall [Section 9(2)(a) Privacy]
Sent: Tuesday, October 31, 2023 9:15 AM
To: Luke Archer [Section 9(2)(a) Privacy]; Doug Watt [Section 9(2)(a) Privacy]
Cc: Reuben Irvine [Section 9(2)(a) Privacy]; Jenna Bernstein [Section 9(2)(a) Privacy]; Alexandra Parker [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project [CCNZ-IMANAGE.FID371436]

Hi all,

Here are the changes to the sentence made by our legal team:

In accordance with section 47A of the Electricity Industry Act 2010 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. This includes the Commerce

Commission, which may use the information and documents in the performance or exercise of its functions, powers or duties under any of the legislation it enforces (including but not limited to the Commerce Act 1986).

Let us know if that is still ok with you.

Re: info on our confidentiality protection process – our information provision portal has strict procedures for access and only certain people within the Authority have access (there are also limits on access for those participants inputting the data). Once the data is received, it will also go into our delta lake (in the cloud) – within this we have a “sensitive data” area which will restrict access to only named people within the Authority. We are currently in the process of updating our information management policy which we will share with you as soon as its finished.

Nice to meet you all yesterday and thanks for your thoughts and input.
Julia

From: Luke Archer [Section 9(2)(a) Privacy]
Sent: Monday, October 30, 2023 5:14 PM
To: Doug Watt [Section 9(2)(a) Privacy]; Julia Hall [Section 9(2)(a) Privacy]
Cc: Reuben Irvine [Section 9(2)(a) Privacy]; Jenna Bernstein [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project [CCNZ-IMANAGE.FID371436]

Kia ora Doug and Julia

Thanks for your time earlier, much appreciated. Great to get onto the same page with where we're both at and to share ideas.

We mentioned we'd send through some language on information-gathering. You might like to run this by your legal team, but how's this as a starter:

The information and documents we receive in response to this request may be provided to the Commerce Commission, which may use the information and documents in the performance or exercise of its functions, powers or duties under any of the legislation it enforces (including but not limited to the Commerce Act 1986).

The new section of our Act we mentioned that gives us a broader information sharing power is [section 99AA](#). It looks like an equivalent section was added to your Act last year, too: [section 47A](#). Both of those sections require the agency that shares information to be satisfied that “appropriate protections are or will be in place for the purpose of maintaining the confidentiality of anything provided” (s99AA(2)(b) and 47A(2)(b) respectively).

Before we send through the draft RFI question list received from one of the retailers, we wondered whether you had any info handy about your confidentiality protection process? From our side, we conduct ourselves in accordance with our *Competition and Consumer Investigation Guidelines* (online [here](#)) in undertaking competition enforcement work, even before an investigation is opened. Our approach to confidentiality is set out at pp.30—34 of the *Guidelines*.

Ngā mihi nui
Luke

From: Doug Watt [Section 9(2)(a) Privacy]
Sent: Friday, October 27, 2023 2:37 PM
To: Reuben Irvine [Section 9(2)(a) Privacy]; Julia Hall [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Cool, we can do that 3:30 time. I'll send a teams invite.

Doug

From: Reuben Irvine [Section 9(2)(a) Privacy]
Sent: Friday, October 27, 2023 2:34 PM
To: Doug Watt [Section 9(2)(a) Privacy]; Julia Hall [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Yep. We can start the bidding with 3:30pm (or later) on Monday?

Failing that, Luke and I are free between 12 and 1pm on Monday which is our next preference.

From: Doug Watt [Section 9(2)(a) Privacy]
Sent: Friday, October 27, 2023 1:25 PM
To: Julia Hall [Section 9(2)(a) Privacy]; Reuben Irvine [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Hi Reuben and Luke
Do you have time to meet next week to discuss this work?
Doug

From: Julia Hall [Section 9(2)(a) Privacy]
Sent: Thursday, October 26, 2023 3:18 PM
To: Reuben Irvine [Section 9(2)(a) Privacy]; Doug Watt [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Hi both,
Below are the proposed questions for independent retailers, and attached template csv's related to 3 of the questions. We've sent these questions and templates to the OTC working group to check, and asked them to provide feedback to us on the scope of RFPs/ROIs to include (see email below). (we are sending out the data request in our information provision portal – if you'd like to see that let me know and we can add you as testers I think).

1. Please provide details for all RFP and ROI requests sent out for electricity OTC contracts between 1 July 2023 and 31 October 2023 [dates tbc] as set out in the attached csv template.
2. Please provide details for all responses received to the above requests using the attached csv template.

3. *Does your organisation have any framework or guidelines on how to assess these responses? If yes, please attach any documentation you have on the framework or guidelines.*
4. *In the situations where you declined an offer, what price would you have accepted? Please provide all prices for each declined offer as in the attached csv template.*
5. *Please provide any workings and/or methodology used in arriving at the prices listed in question 4 (if the methodology is the same for all cases, please give details of that one methodology. If the methodologies differed for different cases, please provide all unique methodologies)*
6. *Have you considered any other avenues for risk management that are not covered by your RFP and ROI requests? Please give details.*

The plan is to talk to Gentailers after we get data back from the independent retailers, so we can ask gentailers any questions that the data we receive raises. We could take certain transactions and ask them how they priced their response with worked examples. If credit is used as a reason not to reply or to make a non-conforming offer then we could then go down the path of having the gentailers explain their credit policies.

Julia

Email sent to OTC working group:

Dear all,

Thank you for the meeting on Tuesday. This email covers what was mentioned in the meeting and actions from the meeting.

Scope of the requests

As mentioned in the meeting, the scope of the request should be limited to named requestors/issuers only. It was also mentioned in the meeting that larger contracts – for example inter-gen requests (between the major gentailers) - should be excluded as these parties do not have the same issues with the competitiveness of the market, as independent retailers and others might.

If the preferred approach is to focus this monitoring exercise on conduct with respect to certain counterparts - notably Independent retailers (and possibly industrials and independent generators?) - then one pragmatic approach is that those parties with concerns about access and the general competitiveness of the OTC market self-select, by declaring themselves as a “Disclosing Party”.

These “Disclosing Parties” would commit to:

- a. complying with data requests for all RFPs/contract requests (within the agreed scope) they issue (they can't be selective in their compliance and responses)
- b. completing the templates in the data request for all RFPs/contract requests (within the agreed scope) they issue, and sharing those with the Authority through regular data requests

The scope exclusions could include:

1. requests with response times less than 2 days

2. transactions below a certain size (eg less than 2MW)
3. phone or other non-written requests

Could you please provide feedback on what these exclusions should be?

Would restricting the data request to “Disclosing Parties” only and applying these exclusions capture all transactions that would indicate the competitiveness or otherwise of the OTC market?

Right to review accuracy

Given the information will be provided to the Authority by only one party to the RFP/contract request, and some of this information is sourced from third parties (eg gentailers) and could be used to assess these parties’ conduct, the Authority would give these third parties (eg gentailers) an opportunity to assess the accuracy, completeness etc of this information before using it for decision making or reporting purposes.

Data request draft

You will all receive a follow-up email shortly that will provide a step-by-step guide to log in to our information provision portal (info prov), and to navigate to the data request. Once this is set up you will be able to see the questions and csv templates as shown in the meeting on Tuesday.

Could you please provide feedback on the questions and csv templates. This would be a regular data request, so the dates in the first question would change accordingly each time it is sent out.

Next meeting

The next meeting will be to confirm scope and data requests for monitoring.

Marcie to schedule meeting for 9.30 am, Tuesday, 7th November.

Best

Murray

From: Reuben Irvine [Section 9(2)(a) Privacy]
Sent: Friday, October 20, 2023 4:14 PM
To: Doug Watt [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Cc: Julia Hall [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Sounds good. Send through your draft questions whenever and we'll have a look at them and see whether there's any value we can add.

Cheers

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From: Doug Watt [Section 9(2)(a) Privacy]
Sent: Friday, October 20, 2023 1:17 PM
To: Reuben Irvine [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Cc: Julia Hall [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

You don't often get email from [Section 9(2)(b)(ii)] [Learn why this is important](#)

Hey Reuben

That sounds all fine. I am in the same group as our lawyers, so I'll check them so we don't end up in prison.

We're getting close having some finalised research questions and an initial data request which we will be happy to share, most likely next week.

The week after might be OK for a chat, but we will have likely sent our information request out by then. So it might be good to get any feedback email.

Cheers

Doug

From: Reuben Irvine [Section 9(2)(a) Privacy]
Sent: Friday, October 20, 2023 11:38 AM
To: Doug Watt [Section 9(2)(a) Privacy]; Luke Archer [Section 9(2)(a) Privacy]
Subject: RE: EA price squeeze project

Hey Doug

Yes, Luke and I appear to be the prime victims.

My experience at the Commission is that we'll probably need to keep half an eye on proper protocols and info sharing/confidentiality requirements (I see there's a [MOU](#) between the EA and ComCom which hopefully smooths things), but I'm all for having conversations/emails on an as and when useful basis.

I reckon a catch up soon is a good idea. We've started to formulate some thoughts about defining relevant markets and what info could be helpful to assess competition, but as the saying goes, electricity is not our day job, so we (mainly me) have a bit to learn.

I'm based in Auckland whereas Luke is in Wellington, so Teams is the 'go to' medium for us. (I'm Wgtn next Wed/Thurs but am fully subscribed). Next week is probably too tight a squeeze for us, maybe we could pencil in something for the week after?

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From: Doug Watt [Section 9(2)(a) Privacy]
Sent: Friday, October 20, 2023 8:12 AM
To: Luke Archer [Section 9(2)(a) Privacy]; Reuben Irvine [Section 9(2)(a) Privacy]
Subject: EA price squeeze project

Hi Luke and Reuben

It would be good from my perspective to understand who from the ComCom to engage with on the empirical part of what we are doing, and how you would like to be engaged.
I am just emailing you two as you seem the most likely candidates/victims.

If I am correct, should we catch up at some point, coffee or teams and kick this thing around a bit.

Let me know

Doug



Doug Watt
Manager Monitoring



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