

Via email to policyconsult@ea.govt.nz

4 March 2025

Code amendment omnibus #5

Mercury welcomes the opportunity to submit on the Electricity Authority's (Authority's) consultation paper, *Code amendment omnibus #5: stress test update, back-up pricing, trader default amendment*, 4 February 2025.

A notable aspect of the consultation paper is the proposed update to strengthen the stress test regime. Ensuring that the stress test regime is fit for purpose is important as generation capacity becomes increasingly intermittent. Mercury agrees with MDAG problem statement, that *participants may not actively consider and manage their exposure to spot price risk. For example, they might not buy sufficient forward contracts to adequately cover their purchase commitments in the spot market. If such behaviour became prevalent it would undermine the incentives to maintain or invest in adequate physical resources to ensure reliable supply.*¹

The growth in intermittent generation and its impact on spot price volatility means that it is increasingly important that participants inform themselves about how their exposure spot price risk is evolving in order to actively consider and manage their exposure to this risk. In addition, as implied by the above statement, a crucial benefit of participants taking a more active approach to risk management is that it would promote incentives to maintain and invest in resources that ensure reliable supply. Mercury is very focused on ensuring that there is sufficient reliable, secure supply, particularly for next winter.

We, therefore, support the proposed stress test update as it will help encourage disclosing participants to actively consider and manage their risk. This will help promote the Authority's stated purpose for the update which is *to reduce risk to consumers and security of supply*.

We also support that the Authority considers whether it has sufficient information to understand the overall risk exposure of the market, and at times individuals, to a sufficient level when there is a tight period directly. While we appreciate it is not a supervisory regime, a level of information required to support discussions, including with relevant Ministers, during a period of scarcity to ensure there is a full understanding of the underlying issues.

Mercury's comments and feedback on the details of the proposal set out in response to the Authority's consultation questions aim to improve the update so that it better achieves the Authority's stated purpose.

Regarding the omnibus format itself, Mercury considers that it is a good approach for collecting a number of proposed code changes on separate self-contained topics when policy has been decided. As such, the omnibus would consult on the transcription of settled policy into proposed code. This approach relies on the policy having been settled through, say, a prior consultation process or that the proposed changes are relatively minor and do not materially change the underlying policy. Mercury's concern with the present consultation paper is that it seems to short-cut the policy development process and jumps to proposing code amendments. Mercury acknowledges that the sector is developing rapidly and therefore so might regulation. However, this needs to be weighed against an appropriate level of transparency so that decisions are fully informed, particularly when the proposed changes are potentially material.

¹ MDAG, *Price discovery in a renewables-based electricity system, final recommendation paper*, Recommendation 7, page 86.

Classification: Restricted



Our response to the questions raised in the consultation paper addresses our more detailed comments and are set out in the annex to this letter.

We look forward to continuing to engage with the Authority, the industry and stakeholders on development of these code amendments.

Yours sincerely



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Principal Advisor Regulatory Economics



ANNEX: Mercury comments on guiding questions for submissions

Questions	Comments
<i>Feedback on the omnibus format</i>	
Q1.1 Do you have any comments on the omnibus format or suggestions to improve the omnibus format? Please explain your answer.	The cover letter, above, addresses our comments on the application of the omnibus format to the present proposed code amendments.
<i>Updating the stress test regime to reduce risks to consumers and security of supply</i>	
Q2.1 Do you support the Authority's proposal to insert the purpose of subpart 5A before existing clause 13.236A? Please explain your answer.	Mercury supports the Authority's proposal to insert a purpose of subpart 5A. Ensuring that there is a common understanding as to the purpose of the regime will help encourage disclosing participants to actively consider and manage their risk.
Q2.2 Do you support the Authority's description of the proposed purpose of subpart 5A in a new clause 13.236AB (as detailed in Appendix A)?	Mercury has no comment regarding the description of the proposed purpose. We would, however, have welcomed the Authority providing information to support its choice of individual purpose statements, and whether it has considered alternatives.
Q2.3 Do you support the Authority's proposal to amend clause 13.236A of the Code to extend the horizon of the stress test regime from 1 quarter to 12 quarters? Please explain your answer.	<p>Mercury supports the Authority's proposal to extend the time horizon for the stress test from the coming quarter, as present, to 12 quarters (3 years). The stated purpose is to ensure disclosing participants are considering these longer-term risks, which includes a separate methodology for the longer time periods.</p> <p>Mercury, however, is concerned that the Authority's proposal may result in the disclosure of commercially sensitive information even if it is anonymised. Our concern is also noted below in response to question 2.6. We support the Authority continuing with the current EMI dashboard displaying summary results. We consider disclosing data by individual sectors as proposed, such as by generator/gentailer, non-integrated retailer, and industrial purchaser, even if it is anonymised, may inadvertently result in commercially sensitive information being revealed. This should be further explored by the Authority before proceeding.</p> <p>As the regime is not supervisory and the purpose of the extension is to ensure disclosing participants are actively considering these longer-term risks, then presumably disclosing participants may choose to amend their longer term positions over time. The reasons for such actions may not be obvious to an external observer, but these would be choices available to the participant as the regime is not supervisory. We expect that this</p>



Questions	Comments
	information would help the Authority to better understand individual participant's risk management position and the Authority can then seek further information if required to better understand the participant's rationale.
Q2.4 Do you support the Authority's proposal to introduce a simplified and separate methodology for quarters beyond the next quarter? Please explain your answer.	We support a simplified regime for quarters beyond the next.
Q2.5 Do you support the Authority's proposal to require the registrar to send disclosing participants 'you are here' reports? Please explain your answer.	Mercury has no comment.
Q2.6 Do you support the Authority's proposal to change the EMI reporting to provide additional information? Please explain your answer.	<p>Participants should be encouraged to actively assess their risk and determine their options for managing it. As such, their assessment should include conducting the stress test analysis themselves and/or seeking expert advice rather than simply referring to survey data.</p> <p>Reiterating our comment in response to question 2.3 above, we recommend the Authority should further consider the disclosure of information by individual sectors, such as generator/gentailer, non-integrated retailer, and industrial purchaser, even if it is anonymised. Disclosing this information may enable participant's commercially sensitive information to be inferred.</p> <p>Mercury supports the Authority continuing with the current EMI dashboard displaying summary results.</p>
Q2.7. Do you support the Authority's proposal to amend clause 13.236F(1) of the Code to require the board of the disclosing participant to certify that the disclosing participant has complied with clause 13.236E(1)? Please explain your answer.	Mercury appreciates that it is important that boards are kept informed of material risks, including those associated with a participant's risk management position, but the current certification requirements achieve that, and Mercury does not think it is necessary to require the board of the disclosing participant to certify that the participant has complied with the content requirements of the Code. The consultation paper does not provide the rationale for this change.
Q2.8. Do you support the Authority's proposal to amend clause 13.236F(1) to require a disclosing participant to certify that it has complied with the requirement to submit spot price risk disclosure statements in clauses 13.236A and 13.236E as part of the Certificate of spot price risk disclosure statement? Please explain your answer.	See the answer to Q2.7 above. In addition, Mercury does not believe it is necessary to include the "broader qualitative disclosure about company risk management policy" requirements set out in clause 13.236F(c). Internal policy considerations, review and monitoring are not matters that need to be included in the Code.



Questions	Comments
<p>Q2.9. Do you support the Authority's proposed changes to the stress test methodologies? Please explain your answer.</p>	<p>Updating the stress test regime is a priority for Mercury. As noted in the cover letter above, we consider that in general the proposed code amendment will encourage participants that may not have actively considered and managed their exposure to spot price risk to actively consider and manage their exposure. A more active approach across the sector to managing spot price risk would help reduce risk to consumers and promote investment in physical resources to ensure reliable supply.</p>
<p>Q2.10. Do you support the Authority's proposal to require disclosing participants to provide target and actual cover ratios and for the Authority to publish this information anonymously? Please explain your answer.</p>	<p>See our response to questions 2.3 and 2.6.</p>
<p>Q2.11. Do you agree with the transition plan and a quarter-long transition period? Please explain your answer.</p>	<p>Mercury considers that these changes are important and should be implemented as soon as possible. We request, however, that the new tests are introduced in 2026 first quarter (not 2025 fourth quarter as proposed). This request reflects the extent of the work required to design, build and test the required systems and processes.</p>
<p>Q2.12. Do you agree the proposed amendment is preferable to the alternative 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.</p>	<p>Mercury has no comment.</p>
<p>Q2.13. Do you agree with the analysis presented in this Regulatory Statement? If not, why not?</p>	<p>Mercury has no comment.</p>
<p><i>Extending the trader default provisions to all retailers to protect all consumers</i></p>	
<p>Q3.1. Do you support the Authority's proposal to extend the trader default regime to all retailers and prohibit disconnecting consumers during the process? Please explain your answer.</p>	<p>Mercury has no comment.</p>
<p>Q3.2. If you think there is a preferable alternative the Authority ought to consider, please explain that alternative in terms consistent with the Authority's statutory objectives in section 15 of the Electricity Industry Act 2010.</p>	<p>Mercury has no comment.</p>
<p>Q3.3. Do you agree with the analysis presented in this Regulatory Statement? If not, why not?</p>	<p>Mercury has no comment.</p>



Questions	Comments
<i>Introducing a back-up means of calculating wholesale prices to improve market confidence</i>	
Q4.1. Do you support the Authority's proposal? Please explain your answer.	Yes, we support the Authority's proposal.

