

David Riley:
[] Tauranga
13 Sep 2021

The Commissioners Commerce Commission
Response to Mercury Comments on Third-Party SOPI Submissions

My submission noted in response to the SOPI;

- the market definition must consider Tauranga as a distinct market given the unique problems
- the assessment of the risks to competition should not use the Tauranga status quo as the counterfactual given the failure of the current market and current compliance concerns
- I did not express a view on the national electricity situation beyond noting the importance of the issue and concerns with the recent decline in retail choice
- I did not express a view on the gas market

1. Mercury seeks to characterise my submission simply as crusade against TECT. TECT is very important to many local community organisations and the TECT distribution is very important to many local consumers, I wish to see the true value of the TECT investments available for my community without the electricity price penalty. I quite clearly stated my concerns are for the residents of Tauranga/WBOP who have long been forced to pay electricity prices substantially higher than expected, I made a special mention of how the disadvantaged in society are affected the most by high electricity prices and this is what motivates me to strive for change.

2. My claim that the Tauranga electricity market is distinctly different to the markets in other regions is evidence based and evidence was provided, a normal competitive electricity market has never developed in Tauranga, I suggested that the only plausible explanation is the payment structure of the TECT benefit to customers of just one retailer, I am not the first to suggest this. For Tauranga it is simply not true to claim that all electricity retailers face the same barriers to entry and expansion (Mercury 19.2 (b))

3. Mercury claims that the TECT and the TECT trustees proposed restructure is not part of the Acquisition (Mercury 18.2 & 33). Clearly this is fudging the facts, the SPA condition requires that "the proposed TECT restructure is complete". (Mercury 10.2) Mercury is very aware that the TECT arrangements have been of value to Trustpower, and seeks to guarantee the transfer of the benefit to Mercury. The TECT Trustees have provided a pathway to ensure this can continue for up to 30 years despite knowing of the ongoing Commerce Commission investigation and concerns of others. Mercury, Trustpower and TECT are clearly parties to the acquisition contrary to the claim by Mercury (Mercury 33.1). Tauranga consumers seem destined to be denied competitive retail electricity pricing until the concerns around substantially lessening competition are resolved. This issue needs to be recognised and sorted before the acquisition is tested.

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