

19 March 2012

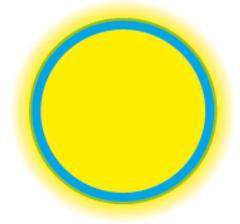
Powerco Limited

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[Sent by email to: RAG@ea.govt.nz]

POWERCO



Dear Peter,

Powerco submission to the *Retailer customers in retailer default discussion paper*

Introduction

1. Powerco welcomes the opportunity to comment on the Discussion Paper: *Retailer customers in retailer default situations*, published by the Electricity Authority (Authority) Retail Advisory Group (RAG) on 7 February 2012.
2. Powerco supports all work that contributes to reducing potential disruption of supply to customers and reducing uncertainty in the market. We hope that this consultation will deliver clear direction for the Authority to take action on an issue that has not been fully addressed since the New Zealand Electricity Market (NZEM) rules transitioned to the Code.
3. This submission is in two parts:
 - key comments on relevant parts of the paper; and
 - responses to the Authority's questions (Annex A).

Powerco supports the need to change in current state

4. It is important that a high degree of certainty around the process following the failure of a retailer is provided. All participants in the supply chain (including customers) would benefit from a change to the current state, and therefore Powerco supports Code amendments to address the issue.
5. The current state of no backstop means that no parties can effectively deal with retailer insolvency, leaving all exposed to a significant degree of risk for an undetermined amount of time and means that consumers can be left connected and consuming electricity, but with no retailer.

Preferred option

6. Powerco recognises that both options two and three have merits, and could be designed to successfully address the issue. As such, a combination of both options could offer the best solution by:
- giving the Clearing Manager the ability to initially appoint a receiver. This will allow a party with a significant stake to be able to trigger a suitable outcome as is the case in any ordinary trading situation; and
 - allowing the Authority to subsequently place provisions for customer allocation (maximum one month exposure for all parties). This also does not preclude a retailer from regaining solvency.

Consideration for entire supply chain

7. The discussion paper is comprehensively written and provides a fair reflection on the issue. However, we would like to see greater acknowledgement of the risks that are faced by electricity distribution businesses in terms of exposure to transmission costs that would be borne by the distributor as a result of retailer insolvency.

Conclusion

8. Thank you for the opportunity to make this submission. If the Authority wishes to discuss any aspects of this submission further, please do not hesitate in contacting me on 06 757 3397 or oliver.vincent@powerco.co.nz.

Yours sincerely,

A handwritten signature in blue ink that reads "Oliver Vincent". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Oliver Vincent
Regulatory Analyst
Powerco

Annex A

Powerco responses to specific consultation questions

#	Consultation document question	Powerco response
1	Does our summary of settlement risk allocation under the NZEM capture the main elements, and are there other lessons from experience for the design of current arrangements?	Yes. The main elements are captured, but more balance may be achieved if insolvency from all participants' perspective is considered. This is due to electricity distribution businesses' exposure only being part of the overall supply chain and currently transmission charge exposure is overlooked in the consultation. While this may be small in comparison to market clearing amounts, it is still a significant amount of revenue (estimated to be anywhere from \$500k to \$13M plus) over the time period it may take to resolve a default, approximately 30% of which is transmission.
2	Do you agree with our summary of the regulatory tools that are available in the case of a failed retailer?	Yes. We consider the summary identifies all the key points and we see it as vital that the right framework for the market is selected. Our preference is to see an option selected that reduces revenue exposure, has a defined allocation method and offers clear timeframes.
3	Do you agree or disagree with our summary of possible scenarios that could develop once a retailer begins to fail? Please provide reasons.	Agree. Important that the Clearing Manager be entitled to place a retailer in receivership as it is likely that it is where the most risk, by the most parties in the supply chain are affected. Further, the CM will be best placed to respond sooner rather than later.
4	How likely, and in what situations, do you think that efforts to secure a transfer of a failed retailer's customer base would prove unsuccessful? Please provide reasons.	No comment
5	Do you think it plausible that customers of a failed retailer would be disconnected from their electrical supply? Please provide reasons.	This is an unlikely due to the reasons that have been correctly stated in the discussion document (s4.2). We recommend that consideration should be given to mandating that all retailers include rights of assignment into agreements with customers. We believe that this will provide security benefits to customers by reducing disconnection risks as

Powerco submission to the Retail Advisory Group *Retail customers in retailer default situations*

	<p>there will be certainty in the assignment to an elected retailer as mandated by the Authority.</p> <p>When considering transferal of ICPs, we are making the assumption that ICPs of all registry statuses will be allocated to another retailer. For example, a vacant rental property may be listed as inactive while waiting for the next tenant to move in. It is important that these ICPs are allocated as well. i.e. Inactive ICPs are captured in on-going meter cycles.</p>	
6	<p>Do you agree or disagree that this summary identifies correctly the problems with the current arrangements for governing a retailer failure; are there additional problems that we have not identified? Please provide reasons.</p>	<p>Agree.</p>
7	<p>Do you consider the problems with the current arrangements for governing a retailer failure are of sufficient magnitude to rule out doing nothing to address the identified problems? Please provide reasons.</p>	<p>Yes.</p> <p>Doing nothing must be ruled out as there is no backstop market/industry provision. The current state of no backstop means that no parties can effectively deal with retailer insolvency, leaving all exposed to a significant degree of risk for an undetermined amount of time.</p>
8	<p>Have we identified the relevant advantages and disadvantages of a mechanism to allow the Clearing Manager to appoint a receiver if a retailer is in default for a period that exceeds its prudential cover?</p>	<p>Yes.</p>
9	<p>Have we identified the relevant advantages and disadvantages of a mechanism to allow the Clearing Manager to transfer a retailer's customers if a retailer is in default for a period that exceeds its prudential cover?</p>	<p>Yes.</p> <p>It should be noted that larger retailers will be required to take up the burden as small to medium retailers will not be excepted to due to characteristics associated with their size.</p>