



MAJOR ELECTRICITY USERS' GROUP

16 April 2013

Dr John Rampton
General Manager Market Design
Electricity Authority
By email to submissions@ea.govt.nz

Dear John

Consultation Paper - Review of advisory group administrative arrangements

This is a submission by the Major Electricity Users' Group (MEUG) on the Electricity Authority consultation paper¹ "Review of advisory group administrative arrangements" dated 5th March 2013. Some MEUG members will be making more detailed submissions.

Responses to the questions in the paper follow:

| Question | MEUG response |
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| 1. What is your view of the effectiveness of the current advisory group model? | <p>MEUG does not view the Wholesale Advisory Group (WAG) as always being effective. We have no view on the effectiveness of the Retail Advisory Group.</p> <p>Our response to question 8 considers the root cause of why WAG is not always effective and possible solutions.</p> |
| 2. Do you agree the process for agreeing work plans between the Authority and advisory groups does not need refinement? | <p>Yes.</p> <p>The existing annual consultation on appropriations and strategic planning by the Authority is the appropriate process for prioritising Code amendment and market facilitation work for the year ahead. The Authority then decides how best to undertake those priorities and where appropriate employs an advisory group or a technical group or any other be-spoke or informal means as long as it is effective and efficient.</p> <p>Individuals nominated for advisory groups should clearly understand this.</p> |

¹ <http://www.ea.govt.nz/dmsdocument/14450>

| Question | MEUG response |
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| | <p>If the Authority decided to accede to those that propose² “advisory groups should have a greater influence in setting their work plans and priorities”, then we would require consultation on the scope of the proposed work programme if Authority resources were required to support that work. This would add costs and time. In addition there would be a risk of either duplication of, or gaps in, needed work between what a semi-autonomous advisory group decided was important and the work of the Authority.</p> <p>MEUG notes that, subject to one caveat, there are no barriers to market participants forming voluntary working groups outside of the auspices of the Authority to consider any market improvement policy they wish. The only caveats being those discussions do not breach Part 2 of the Commerce Act.</p> |
| <p>3. Do you agree the range of skills and experience on advisory groups does not need to be broadened?</p> | <p>The attributes and balance of advisory group member skills and experience sought by the Authority are reasonable. It's the implementation that's questionable. There are two key problems. First, that advisory groups are required to address very detailed parts of the Code but not all members have the knowledge to effectively contribute to every issue. Second, those advisory groups must reach consensus on every issue. These issues and possible solutions are considered in response to question 8.</p> |
| <p>4. Do you agree the sizes of the advisory groups do not need to be increased?</p> | <p>We do not support the argument that every key party needs representation because that undermines the philosophy that members are independent.</p> <p>There is a question on just how independent are members. We discuss this in relation to the need to reach consensus in response to question 8.</p> |
| <p>5. Do you agree with the Authority's proposed amendments regarding members' terms of appointment?</p> | <p>More flexibility on expiry of appointments seems reasonable. Three rather than six months would create better incentives to efficiently tidy up transitional matters.</p> |
| <p>6. Do you agree it is not necessary to specify how many Authority staff should be present at each advisory group meeting?</p> | <p>Yes.</p> <p>If advisory group members believe Authority staff members or external consultants present at meetings have more sway over the discussion than they should, then the appropriate way forward is to raise that with the advisory group Chair. The advisory group Chair is responsible for managing the flow of discussion between advisory group members and when appropriate inviting input from Authority staff.</p> |

² Ibid, paragraph 3.1.2

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| | <p>It would be appropriate for advisory groups to conduct discussions on an issue without Authority staff and advisors present to ensure the independent ideas of all group members are facilitated. This will help distinguish between the views of the advisory group and Authority staff and advisors. The role of the Chair is critical in facilitating ideas from advisory group members.</p> |
| <p>7. Do you agree with the Authority's proposed amendment regarding the publication of meeting papers?</p> | <p>No.</p> <p>MEUG supports the status quo whereby advisory group papers are published on the Authority web site as soon as practicable after they have been circulated to members.</p> <p>Our rebuttal of the 3 reasons set out in the consultation paper³ as to why a change should be made follow:</p> <p>(a) "It may not be practicable for the group to determine whether meeting papers should be kept confidential until they are discussed at a meeting."</p> <p>MEUG response: Consideration of confidential material by a working group should be an exception not business-as-usual.</p> <p>Our understanding is that occasionally confidential information does come before advisory groups and members are asked to voluntarily not pre-circulate that material. The confidential papers are not published ahead of the meeting but are subsequently. This has operated on an ad hoc basis to date.</p> <p>Authority staff decides what should be confidential and what shouldn't be. It may be time to develop generic rules around treatment of confidential information.</p> <p>We are very concerned that this excuse for delaying publication of advisory group meeting papers implies the advisory group decides what might be confidential and what isn't. If material is simply controversial then that shouldn't be a reason for papers to be treated confidential. We think this is probably the real reason why some advisory group members wish to control information flows.</p> <p>(b) "Publishing papers before advisory group meetings may open members up to being lobbied."</p> <p>MEUG response: The consultation paper gives no evidence that this has been a problem to date. In any case we believe that all advisory group members</p> |

³ Ibid, paragraph 3.5.4

| Question | MEUG response |
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| | <p>should be sufficiently senior and experienced to know when they are being lobbied and use their own judgement to remain independent. An advisory group member or Chair that cannot manage being contacted and lobbied is probably ill equipped to effectively participate in robust discussion at advisory group meetings.</p> <p>Note lobbying is not necessarily detrimental. Lobbyists can convey new welfare enhancing ideas.</p> <p>(c) "Members may want the opportunity to consider advisory group papers before they are in the public domain."</p> <p>MEUG response: The role of advisory group members is to give advice to the Authority. They are not the only channel of advice. Public comments directly to Authority Board members or staff on an issue are not excluded. This reason for delaying publication of advisory group papers smacks of advisory group members wishing to control the flow of information and how debate on an issue evolves. That is not the role of advisory groups. Advisory groups should be the catalyst for new ideas to be tested. We want people with suggestions to get those before advisory groups earlier rather than later. Publication of agenda papers earlier will assist that process.</p> |
| <p>8. Do you consider any other changes are required to improve the effectiveness of the advisory groups?</p> | <p>Yes.</p> <p>We think there are at least three problems as to why advisory groups are not effective:</p> <ul style="list-style-type: none"> • The influence of Authority staff and advisors may unduly influence debate. The advisory group Chair should better manage the involvement of Authority staff and advisors this as discussed in response to question 6 above. • Advisory groups probably take on too much and expertise is spread too thinly. <p>An alternative may be to retain advisory groups in their current form as an overview of the three to five strategic issues set annually by the Authority, and have advisory sub-groups work on the details of those issues. The advisory sub-group would comprise appropriate members of the advisory group plus seconded experts from the industry. The Chair of the advisory sub-group would be one of the advisory group members and this would be the link back to the primary advisory group.</p> |

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| | <p>Advisory sub-groups would not be bound to hold formal meetings. Conference call meetings and round robin email correspondence, just as most businesses transact, would speed up the process of debate and formulation of advice to the Authority.</p> <ul style="list-style-type: none"> • The requirement for advisory groups to reach consensus on every issue we think may curtail innovative new ideas being developed. <p>MEUG refers the Authority to the submission by Norske Skog Tasman where this argument is more fully considered. We agree with Norske Skog Tasman that should the emphasis on advisory groups having to achieve consensus remain and given our anecdotal view that there is a propensity for advisory group members to take the views of their companies, then greater representation from consumers will be needed.</p> |

This submission is not confidential.

Yours sincerely



Ralph Matthes
Executive Director