



# MAJOR ELECTRICITY USERS' GROUP

20 August 2013

Dr John Rampton  
General Manager Market Design  
Electricity Authority

By email to [submissions@ea.govt.nz](mailto:submissions@ea.govt.nz)

Dear John

## Consultation Paper – Arrangements to manage a retailer default situation

1. This is a submission by the Major Electricity Users' Group (MEUG) on the Electricity Authority (EA) consultation paper<sup>1</sup> "Arrangements to manage a retailer default situation" and "Guideline for managing retailer default situations" both dated 18<sup>th</sup> June 2013. This submission should be read in conjunction with MEUG's submission on the Authority consultation paper "Settlement and Prudential Security Review" dated 18<sup>th</sup> June 2013.
2. MEUG supports the proposed changes in managing retailer default situations.
3. Members of MEUG have been consulted in the preparation of this submission. This submission is not confidential.
4. Responses to questions in the consultation paper follow:

Question	MEUG response
1. Has there been any development since submissions were received on the problem definition developed by the RAG that might warrant the Authority reconsidering its view as to the nature of the problem?	None that MEUG is aware of.
2. Do you agree with the objectives of the proposed amendment? If not, why not?	Agree.
3. Do you agree with the proposed Code amendment which would introduce a new category of default when the following conditions are satisfied:	Agree.

<sup>1</sup> <http://www.ea.govt.nz/dmsdocument/15140> and <http://www.ea.govt.nz/dmsdocument/15139> found at <http://www.ea.govt.nz/our-work/consultations/retail/arrangements-to-manage-a-retailer-default-situation/>

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<ul style="list-style-type: none"> <li>a. the retailer is no longer entitled to trade on a distribution network because its use of system agreement has been terminated due to a 'serious financial breach' by the retailer</li> <li>b. no unresolved disputes remain between the retailer and the distributor</li> <li>c. the retailer has not taken timely steps to arrange a customer switch</li> <li>d. the distributor has been unable to remedy the situation</li> <li>e. the distributor requests the Authority to initiate its process for managing an event of default.</li> </ul>	
<p>4. Do you agree that the proposed Code amendment should apply not only to the network or networks across which the event of default has occurred? If not, why not?</p>	Agree.
<p>5. Do you agree that the trigger for the actions to be undertaken by the Authority should be limited to a breach of sub-clauses 14.55(a), 14.55(b), 14.55(f), and (the new) 14.55(h)? If not, why not?</p>	Agree.
<p>6. Do you agree that the process for managing a retailer default should ensure that responsibility for all ICPs of the retailer in default, active and inactive, are transferred to another retailer? If not, why not?</p>	Agree.
<p>7. Do you agree that the process should accommodate situations where the default might not be resolved but an acceptable resolution has been agreed and all payments that should have been made have been made? If not, why not?</p>	Agree.
<p>8. Do you agree with the judgement arrived at by the RAG that a total period of 17 days for managing an event of default would provide a reasonable balance between the costs of too short a period and the costs of an extended period? If not, why not?</p>	No reason not to accept RAG judgement.

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9. If a period of 17 days is maintained, should this time be allocated as follows: seven days for a retailer to resolve the dispute or transfer its customer base, seven days for customers to voluntarily switch to another retailer, and a maximum of three days for communication with customers and ensuring all switches are processed?	See response to Q8.
10. Do you agree that the Code should be amended to require a retailer in default to provide information on its customers to the Authority and for the Authority to obtain this information from distribution networks and the registry if the information is not forthcoming from the defaulting retailer? If not, why not?	Agree.
11. Do you agree that the Code should be amended to provide for the registry to complete the switch of any customer of a retailer in default that chooses to switch to another retailer, if the retailer in default does not meet its obligations under the switching rules? If not, why not?	Agree.
12. Do you agree that the Code should be amended to provide for the Authority to direct the registry not to complete the switch of any customer to a retailer in default after the Authority has advised the customers of that retailer that their retailer is in default and they should transfer to another retailer? If not, why not?	Agree.
13. Do you agree that the Authority should advise retailers and other interested parties that an event of default has occurred, and if it considers appropriate, identify the entity in default, to enable these parties to make necessary preparations? If not, why not?	Agree because cannot see any other cost effective way to contact most customers of a retailer in default other than naming that retailer and using as many communication channels as possible including public media.
14. Do you agree that the Code should provide for the Authority to communicate directly with the customers of the retailer in default, including via mass media? If not, why not?	See response to Q13.
15. Do you agree that the Code should provide for the Authority to provide customer information to the retailers to	Agree provided guarantees on privacy of personal information of customers are not de-graded.

Question	MEUG response
whom it transfers customers, should a mandatory transfer be required? If not, why not?	
16. Do you agree that the Code should be amended to require that contracts between the retailer and its customers provide for the Authority to assign the contract to another retailer if an event of default is unresolved after 17 days? If not, why not?	Cannot see any other way to ensure the proposal as a package can be implemented. Therefore agree.
17. Do you agree that the terms offered by recipient retailer (who is assigned customers by the Authority) should be those terms (including price) normally offered by the recipient retailer at the date the Authority was notified of the default? If not, why not?	This is pragmatic for all parties concerned because it ensures customers are no worse off immediately and does not unduly restrain recipient retailers with due notice advising customers of changes to contract terms and conditions. At that point and indeed at any time in the whole process customers are free to switch to any retailer.
18. Should the arrangements for managing an event of default provide for the Authority to tender the remaining customer base of the retailer in default after the Authority had exercised its rights to assign the contract on the terms of the recipient retailer? If not, why not?	Agree.
19. If a tender arrangement is provided for, should the Authority invite tenders on the basis of the prices that would be charged to the customers by the recipient retailer (but no higher than standard terms offered by that retailer) with the Authority assigning the customers on the basis of the lowest priced retailer? If not, why not?	See response to Q18.
20. Do you agree that, should the Authority be required to allocate customers of the retailer in default, it should do so on the basis of market share in the relevant networks but without any de minimus threshold? If not, why not?	Agree and accept the argument that a set de minimus may become unworkable if competition erodes market shares so that few if any retailers exceed the de minimus (paragraph 3.2.46) and the proposed provisions (appendix A) of new Schedule 11.5, cl. 5(4) allowing  <i>“the Authority may decide not to assign rights and obligations of the defaulting retailer under a contract to a recipient retailer if the recipient retailer satisfies the Authority that the assignment would pose a serious threat to the financial viability of the recipient retailer.”</i>

Question	MEUG response
21. Do you agree that the arrangements for managing a retailer default should provide an opportunity for any retailer that is assigned customers to object on the basis that the assignment would threaten its financial viability, with the onus on the retailer to substantiate such a claim? If not, why not?	Agree.
22. Do you agree that the Code should require that the recipient retailer is responsible for notifying their assigned customers that they were now a customer of the recipient retailer, and advising the terms and conditions of their new contract? If not, why not?	Agree.
23. Do you agree that the Code should require that contracts between retailers and their customers should include provisions that: provide for the retailer to give customer details to the Authority in the event of a default; allow the contract to be assigned by the Authority in the event of default, with the terms and conditions to be replaced by the recipients retailers terms and conditions; provide for the retailer to assign the contract? If not, why not?	Agree.
24. Do you agree the proposed amendment is preferable to the other 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? If not, why not?	<p>Agree the alternatives of either the Clearing Manager to appoint a receiver or a full retailer of last resort are both inferior compared to the proposals in the consultation paper.</p> <p>MEUG suggest another option is for the Authority to offer to larger half-hour (HHR) metered customers the option to be fast tracked to become a direct market participant meeting daily calls from the Clearing Manager on the basis of spot purchases. Some investigation of whether a fast track process could be designed to keep within the 17 day maximum process for the proposal as a whole should be considered because while there is an implementation cost, there may also be benefits to HHR customers to be a direct participant even on an interim basis before they decide a preferred retailer rather than be assigned a retailer.</p>

Question	MEUG response
25. Do you agree that a period of 17 days strikes the right balance to achieve the benefits of an arrangement for managing an event of default while minimising the costs of achieving those benefits? If not, what period of time should be specified and why?	Have no quantitative data on the height and slopes of the curves in figure 2 in paragraph 4.3.11 and therefore need to rely on the judgement of RAG.
26. Do you agree that the benefits of the proposed arrangements would exceed the costs? If not, why not?	The costs are probably overstated because we don't believe many consumers will take the time to understand what the change means for them and therefore the indicative cost to the economy of \$1m in table 1 (paragraph 4.3.17) can be removed.
27. Do you agree that the proposed arrangements meet the Authority's Statutory Objective? If not, why not?	Assessment is fair.
28. Do you have any comments on the drafting of the proposed amendment?	No comments.

5. We look forward to considering the submissions of other parties on this proposal and the response of the Authority to submissions.

Yours sincerely



Ralph Matthes  
Executive Director