



11 Chews Lane
PO Box 10568
The Terrace
Wellington 6143
New Zealand

Genesis Energy Limited

Fax: 04 495 6363

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Carl Hansen
Chief Executive
Electricity Authority
2 Hunter Street
WELLINGTON

By email: submissions@ea.govt.nz

Dear Carl

Retail Data Project

Genesis Energy Limited welcomes the opportunity to provide a submission to the Electricity Authority (“the Authority”) on the issues paper “Retail Data Project” dated 28 January 2014 (“the issues paper”).

Genesis Energy’s fundamental concern is that the paper suggests the appropriation of customers’ personal information. We are also very concerned that the options proposed in the issues paper will impose unnecessary costs on the electricity retail sector, and risk changing retailer behaviours to the detriment of market competition. More specifically:

- the paper does not provide any evidence to demonstrate that there is a problem with retail market competition. On the contrary, we consider that there is significant evidence that the retail market is competitive and is continuing to become more competitive;
- although we agree that better retail market information has the potential to improve the effectiveness of the Authority’s market monitoring role, we suggest that there will be sufficient information provided to the Ministry of Business, Innovation and Employment (“MBIE”) to meet the Authority’s requirements;

- we do not agree that the Authority, in its role as market regulator, requires additional access to information on retail costs and consumptive data at an individual consumer level. In our view, it is the role of market participants to manage their individual cost and pricing decisions, and the consumer relationship; and
- the proposal for retailers to provide retail tariff data at an ICP level to new entrant retailers is poorly considered and if implemented, will have serious negative impacts on retail competition.

We consider that there are practical ways that could improve both the Authority and consumers perceptions of the competitiveness of the retail market, without unnecessary market disruption and the need to develop a costly comprehensive database. We suggest that:

- a shared market understanding of how consumers can access their own consumption data will be useful; and
- retailers could provide quarterly information on available energy tariffs and current advertised offers to the Authority; and
- that the Authority can help by continuing to promote greater understanding of the electricity market in general.

Is there a problem with information exchange in the retail market?

Genesis Energy does not consider that there is a problem with information exchange in the retail market.

In our view, the current retail market structure facilitates the right level of information exchange between retailers, consumers, and regulators, to enable a competitive retail market. The Authority's own quantitative evidence reinforces this view that the retail market, is in fact, very competitive.

There is no evidence presented in the issues paper to demonstrate that there is any underlying competition issue. However, the paper does provide some evidence of a separate customer perception problem. We suggest that this is most likely a reflection of consumer apathy. In our view, retailers are best placed to motivate consumers so that consumers enjoy more direct benefits from a competitive retail market.

Lack of consumption data is not a barrier to entry

We do not agree that the current level of data on retail prices and costs is an unreasonable barrier to competition in the electricity retail market. First, we do not see any evidence of a lack of retail competition. Secondly, we suggest that there is sufficient information available for new entrants to make rational investment decisions.

No evidence of retail competition problem

In our view, the New Zealand retail market is already highly competitive. This view is supported by a number of quantitative studies that seek to monitor various aspects of competitiveness, including:

- New Zealand has the highest switching rates in the world;¹
- the density of retailers has changed significantly over the last four years. The Authority's own Herfindahl-Hirschman Index analysis consistently highlights a change towards a much more competitive market;² and
- the retail market is absorbing costs. The Authority's analysis that \$190 million of costs have been absorbed by retailers since late 2010.³

More recently, the Authority has confirmed⁴ that electricity is competitive market. We note that the results of the NZIER quantitative research contradicts the perception of consumer competitiveness identified in the UMR work referred to by the issues paper.

Sufficient information is available for new entrants

Any rational decision to enter into a new market requires a comprehensive level of analysis to form a view on the viability of revenue and expected profitability. For most competitive markets, the information for this analysis will come from publically available data including published pricing plans, financial documents, as well as private data collected via research firms (such as that provided by UMR).

¹ <http://www.utilitycustomerswitching.eu/424/>

² Page 7, Market performance review for year 2012 (Electricity Authority N. , 2012). Market performance review for year 2013 is yet to be published, however, it was mentioned that retail market has increase in competition from the Authority stakeholder briefing on the 5th of February.

³ Slide 15, Authority's presentation to the Commerce Committee on 20 February 2014.

⁴ With reference to work completed by the New Zealand Institute of Economic Research.

In the New Zealand electricity retail space, we consider that there is already sufficient information publicly available for potential new entrants to make an informed investment decision about entry. For example, we note the Authority has been in discussions with ten perspective retailers interested in entering the retail New Zealand electricity market. We understand from statements made by the Authority that at least two of these nine parties look fairly certain to enter this year.⁵ In our view, these conversations would not be taking place if there was insufficient information for new entrants to make informed decisions. We suggest that the threat of new entrants is also a good indicator of a competitive market structure.

There is sufficient information for consumers

We acknowledge that some consumers would prefer more information on tariffs when switching. However, in our view, this segment is very small. As identified in the latest UMR report commissioned by the Retail Advisory Group (RAG), only four percent of consumers consider a lack of information on the best deals available as the reason why they are not switching power companies.⁶

We do not agree that the current information provided by the market on tariff options inhibits consumers' ability to make informed decision about electricity and gas purchases. In our view, there is significant information available for consumers to inform their decision on retailer (including price comparison tools such as www.powerswitch.co.nz). Furthermore, retailers are incentivised to provide more information to consumers in response, and as part of, the increased competition in the retail market. For example, personalised marketing (such as door to door sales) often includes guiding consumers through price comparisons in efforts to encourage them to switch.

Information required for effective market monitoring

We consider that better access to tariff and advertised marketing price and tariff information by the Authority is a reasonable request. This information is publicly available, and can be readily provided to the Authority.

However, we do not see the need for additional cost and consumption data to be provided to the Authority. In our view, the Ministry of Business, Innovation and Employment's (MBIE's) revised quarterly electricity and gas retail survey will provide the Authority with a sufficiently-detailed picture of retail market

⁵ From the Authority's Annual Stakeholder breakfast presentation slide 7. (Electricity Authority, Stakeholder Briefing - 5 February 2014, 2014)

⁶ Page 51, UMR. (February 2014). Charge transparency. Wellington: New Zealand Electricity Authority.

performance. We do not support the duplication of this survey, nor do we see any reason for a higher level of granularity than what is provided by this survey. In particular, we note that any request to provide individual consumers consumption data will require us to ask permission of each of our retail customers.

There are some clear issues associated with the Authority seeking greater access to retailer's commercially sensitive cost level information:

- disclosed financial information already aggregates the costs and liabilities inherent for our respective businesses. The finance sector is appropriately qualified to analyse and comment on the effectiveness of our cost management approaches. It is neither efficient, nor necessary, to duplicate this information;
- a market approach to the retail sector encourages multiple parties to take different approaches to managing both risk and costs. Any disclosure of this information encourages these cost approaches to converge and risks promoting a static market approach, and
- there are significant unforeseen consequences that may arise from the Authority's use of such cost information. In particular, the Authority is not qualified nor, in our view, empowered, to provide implicit comments on the management approaches taken by individual competitors.

Customer perception of competitiveness

Genesis Energy agrees with the Authority that improving consumer perception is important.⁷ However, we suggest that it is critical that the Authority properly separate a consumer perception problem from any market structure problem.

Consumers' and stakeholders' perception are not necessarily linked to actual market problems. Consumer perception can be very subjective depending on the sample selected and the environment when and where survey was conducted. More importantly, and as noted above, the consensus from the range of quantitative measures of market competition is that the retail market is competitive. There is, in our view, no evidence of any structural market problem with information flows that requires intervention from the Authority.

We do, however, agree that there is a lack of understanding, and therefore trust, from consumers in the retail market. There are many factors that may influence a consumers' perception of competition in the retail market. The current political and media interest in the sector can be both a response and a cause of this

⁷ (Electricity Authority, Market commentary, 2014)

perception. However, fundamentally we consider that it is a result of the sectors historical focus on producing electricity. This focus is changing. We suggest that, since the reforms of 2010, the retail sector is moving to a customer-focused service industry. Future retailers are unlikely to simply focus on electricity as their only product. For example, retailers are likely to offer services including broadband, security services, insurance, finance, insulation, distributed generation etc.

Options in the issues paper

The Authority identifies three possible options to change the way that the market discloses information:

1. A comprehensive retail database that records each consumer's personal usage and pricing plan. This is nominally only for market monitoring purposes;
2. development of a "tariff and ICP information" database. This database would be accessible by "authorised parties" including third party retailers; and
3. standardisation of how consumers access consumption data.

We consider that Options 1 and 2 go significantly beyond the scope of the problems evident in the way the market exchanges data. However, we agree that Option 3 has merit and warrants further investigation by the sector.

Notably, we do not see any proposed solution that seeks to increase consumers understanding of the market. We see this as a real solution that should be included in any evaluation of options.

Option 1: database of individual consumer information

Genesis Energy is very concerned with the proposal to create a "comprehensive and robust" database of customer retail data and tariffs. A customer's personal information is best protected by the retailer with whom the customer has a direct (and binding) relationship. We are concerned with the proposed appropriation of this personal information by the Authority without a clear purpose or need.

The retail tariff database is significantly broader than the extent of the problem identified in the paper. We fail to see why the Authority requires personal information at a customer level for it to undertake its role as market regulator. For example, individual consumer data can be relevant for allegation of incorrect charging. However, in such cases, the appropriate regulator is either the Commerce Commission or the industry-established Electricity and Gas Complaints Commissioner.

As noted above, the revised MBIE quarterly electricity and gas retail survey will provide sufficient information on retail pricing for the Authority to get an accurate picture of the market. Insofar as there is any information gap, we suggest that the Authority simply ask retailers to regularly report on the products offered to consumers at a GXP or distributor-level will suffice. This option will be much more cost-effective than establishing a new database.

Option 2: tariffs and tariff plan database for third parties

Genesis Energy strongly opposes establishing a comprehensive tariff and tariff plan database for all customers. We are particularly concerned with the implication that this database would be open to third parties, notably competitors.

Enabling easier third party access to consumers' current pricing data will enable new or expanding retailers the ability to quickly target their desired customer profile and undercut incumbent retailers. This will have consequences for those consumers with a less attractive load profile. Enabling new entrants to easily "cherry pick" more desirable customers will inevitably lead to higher prices or decreasing service quality for those customers with unattractive load profiles who remain with the incumbent.

Disclosing full pricing information to third parties will reduce a retailers' ability to innovate. It effectively removes the incentive and desire for new pricing approaches and new cost management approaches. As acknowledged by the Authority, innovation is essential for providing the significant dynamic benefits for consumers. Without innovation, the market is forced to seek an unobtainable perfectly competitive model, which in many ways appears similar to a regulated retail market (limited price competition between retailers, converging rate of return to retailers).

Option 3: standardisation of how consumers access consumption data

Genesis Energy's view is that consumers are the owners of their own consumption data. Therefore, we agree with the Authority that standardisation of how this information can be requested (for example, by adopting a standard CSV format) would increase the ability for consumers to access this information.

New option: Addressing consumer perceptions – improving information about the market

We suggest that there is currently a very low level of public understanding of how the electricity markets operate in New Zealand – including how the retail price is influenced by distribution, transmission and wholesale prices. We consider it is this lack of understanding that is contributing to the negative consumer

perception of retail competition. This issue needs to be addressed directly by the market.

We suggest the Authority can best contribute to this debate by working with trusted consumer services, such as ConsumerNZ and the Electricity and Gas Complaints Commissioner, to prepare information that is both accessible and useful to consumers.

If you would like to discuss any of these matters further, please contact me on 04 495 3340.

Yours sincerely



Jeremy Stevenson-Wright
Regulatory Affairs Manager