



10 October 2014

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Dear Sir or Madam

Mighty River Power (MRP) welcomes the opportunity to respond to the Electricity Authority's Consultation Paper: *Proposed Code amendments: Implementing retailer default*. No part of the submission is confidential and we are happy for it to be made publicly available.

We agree with the first three issues discussed in the paper and support the Authority's proposed amendments to these. We disagree with the proposal to address the fourth issue, namely provision of customer information by all retailers to the Authority, for the reasons stated below.

Firstly, most of the information which the Authority proposes to harvest from retailers (at significant cost to the industry and our customers) is not required in order to achieve the objective. The Authority will only ever need to have reliable access to the small proportion of total industry customer data which relates to the defaulting retailer. It would seem much more efficient to concentrate on harvesting this in a robust and reliable way than harvesting a much larger pool of data in a less reliable and less robust way.

Secondly, the proposed amendment gives rise to a number of complexities that appear not to have been properly considered at this stage. Providing visibility of customer information only to a responsible retailer, and allowing that visibility to be turned on and off based on switching activity and responsibility for an ICP, will require a highly sophisticated database. Such a database holding large amounts of personal information and is a complicated proposition with inevitable security, privacy and other legal and practical issues to consider.

Some of these issues include:

- a heightened risk of hacking and other such cyber activity;
- legal questions such as who is responsible for a breach of security or unauthorised disclosure arise;
- what additional security steps need to be considered to safeguard information, what are the costs (which will ultimately be borne by customers);

- How would a customer access and correct their personal information and what other privacy issues arise;

We note that a consumer's "*right to be forgotten*<sup>1</sup>" is currently under consideration as part of New Zealand's privacy law reform. If such a right was adopted into law, customers could require the Authority to delete their personal information making the database incomplete.

Thirdly, with New Zealand having one of the highest switching rates in the world, a retailer's customer information is continually changing. Customer information submitted at the beginning of the month<sup>2</sup> would be quite different to our customer information at the end of the month. This inaccuracy alone will put into serious doubt the usefulness and reliability of information from the proposed database.

A more practical, efficient and workable option would be for the Authority to mandate that a 'defaulting retailer' must provide its customers' information to the Authority, at the start of the retailer default process (i.e. within the first seven days of or phase 1 of the process). This would allow the Authority to identify and resolve any gaps in customer information before the Authority commences contacting customers as part of phase 2. By phase 3, all customers that may be part of a mandatory allocation process should be able to be reached.

Our further responses are set out in Appendix B. If you require additional information or wish to discuss our response further, please contact me on (09) 308 8271 or [monica.choy@mightyriver.co.nz](mailto:monica.choy@mightyriver.co.nz)

Yours sincerely

**Monica Choy**

Market Operations Manager

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<sup>1</sup> A right recently recognised by the European Union in May 2014.

<sup>2</sup> As is the case under option 2 standardised format scenario set out on page 13 of the consultation paper

## Appendix B

Question no	Question	Comment
1	Do you agree with the issues identified by the Authority? Please give reasons.	<p>Partially agree. We disagree that traders should be required to advise the Authority or registry of customer information.</p> <p>We expect this customer information is likely to prove unreliable for the reasons stated in our covering letter.</p> <p>The expense and operational complexity of the database is not justified given that the data the Authority will require for this purpose is only the small proportion of data relating to the defaulting retailer.</p>
2	Do you have any comments on the functional specification provided in Appendix C for issue 3: information about ICPs at which traders cannot trade?	We have no concerns with the functional specification provided in Appendix C
3	Which option would you prefer (option 1 or option 2) if providing customer information to the registry? Please give reasons.	We disagree with this proposal in its entirety. Please see our covering letter in this regard.
4	Do you have any comments on the proposed draft format for providing customer information in Appendix D?	See our response at 3.
5	Do you agree with the objectives of the proposed amendment? Please give reasons.	We generally agree with the objectives. However we think the fifth objective stated at 3.1.2(e) can be achieved through a much simpler, more robust and less costly solution such as proposed in our covering

Question no	Question	Comment
		letter.
6	Do you agree with the proposed implementation timeframes for the proposed amendment? If not, why not?	We agree with the proposed timeframes in relation to (a). We disagree with the entire proposal in relation to (b) as noted above.
7	Do you agree the benefits of the proposed amendment outweigh its costs? Please give reasons.	<p>Disagree. Costs in relation to dealing with the security, legal and privacy concerns noted in our cover letter appear not to have been considered.</p> <p>The cost of having all retailers periodically provide such a large amount of data is far greater than is needed to accomplish the Authority's objective.</p>
8	Do you agree with the Authority's assessment of costs in Appendix E? Please give reasons.	See our response at 7.
9	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 2010.	We partially agree. See our response at 1 and our covering letter.
10	Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Agree.
11	Do you have any comments on the drafting of the proposed amendment?	<p>The following should be deleted:</p> <ul style="list-style-type: none"> <li>- Schedule 11.1, 9(1)(jb) should be deleted;</li> </ul>

<b>Question no</b>	<b>Question</b>	<b>Comment</b>
		<p>- references to the above clause should be deleted in the following sub-clauses;</p> <p>and corresponding changes in the Option 2 proposed amendments.</p>