

4 August 2015

Submissions  
Electricity Authority  
Level 7, ASB Bank Tower  
2 Hunter Street  
Wellington

By email

Dear Electricity Authority

### **Retail data project: access to tariff and connection data: consultation paper**

The New Zealand electricity retail market is extremely competitive<sup>1</sup>, with high rates of switching and more recently, a zero per cent annual rate of change in electricity prices paid by households<sup>2</sup>. A defining characteristic of the New Zealand market underlying the high levels of competition is that many customers are on special offers rather than 'rack' rates.

In response to high levels of discounting and special offers in the retail electricity market, in 2014 the Ministry of Business, Innovation and Employment (MBIE) made changes to improve electricity price monitoring to better reflect the actual situation. This is described by the Minister of Energy Hon. Simon Bridges below:

*"Discounts and other benefits from retailers are becoming the new norm in an increasingly competitive electricity market and the new data captures what consumers have actually paid for their power, rather than the advertised price."<sup>3</sup> Hon. Simon Bridges*

The Electricity Authority's (the Authority's) proposal, which focuses on 'generally available retail tariff plans' (akin to rack rates), appears to be at odds with the characteristics of the New Zealand market and the recent changes by MBIE and would encourage duplicative effort in price transparency, which is likely to be uneconomic for customers.

Contact has long supported transparency in the electricity market, however, we believe that what transparency looks like should be defined by the customer. We are concerned that the customer appears to be missing from this conversation and that the Authority's main focus appears to be to encourage third party energy services companies into the market and for them to shop around for the best rack rate deal but not necessarily the best value for the customer. As it stands in the consultation paper the nexus between third parties and customers is not clear and we find it difficult to understand how the customers best interests have been taken into account.

Encouraging third parties into the electricity market is not listed as one of the Authority's statutory objectives (explicit or implied); likewise, the Authority has not published any research indicating whether customers would like to see the intervention of third parties in the market, or whether they

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<sup>1</sup> We note a record seven new electricity retailers have entered the retail electricity market since January 2014, bringing the total number of retailers to 21 and the total number of retail brands to 27. <https://www.ea.govt.nz/monitoring/residential-electricity-market-performance/2014/>

<sup>2</sup> The latest Statistics New Zealand Consumer Price Index (CPI) result shows a 0.0% annual rate of change in electricity prices paid by households (this includes lines charges). The most recent quarter's rate of change was 0.6%, following the -0.2% change in the September 2014 quarter and the -0.5% change in the December 2014 quarter.

<sup>3</sup> <http://www.beehive.govt.nz/release/new-price-monitoring-shows-competition-strengthening>

would prefer to see Powerswitch (of which there is already good awareness) improved and funded appropriately.

While the Authority argues that the changes are for the long term benefit of customers, nowhere in this paper is this established and no detail is provided that customers will be better off as a result.

Right now, where third parties operate in overseas markets, there is concern about how third parties have presented information about what tariffs are available and whether customers are being presented with a full picture of the market.

In the United Kingdom, some comparison sites have used misleading language duping customers into opting for default options that only display commission-earning deals, while others have concealed deals that do not earn them commission behind multiple drop-down web options.

The Commons Energy and Climate Change Committee in the United Kingdom is currently calling on Ofgem to consider requiring price comparison sites and other third parties to disclose the amount of commission they get for each customer switch made, at the point of sale.<sup>4</sup> If the Authority pursues its proposal, any third party provider should, in line with the Authority's focus on transparency, provide details of their commission, similar to other industries, to ensure any changes are made for the benefit of customers and not simply third parties seeking to clip the ticket. Additionally a Confidence Code for third parties should be seriously considered.

### **Approach stifles innovation**

We are also concerned that the approaches set out by the Authority will stifle innovation by driving all retailers' pricing plans to look the same, taking away the opportunity for customers to benefit from innovative value-based products. While the Authority should continually encourage and push the industry to be more customer focused, it should do so in a constructive way that doesn't drive innovation out of the retail sector.

The most innovative product offerings do not occur in highly regulated markets. While the Authority has previously cited Expedia as an example of what it is seeking to achieve in this space, Expedia was not born out of a prescriptive change requiring airlines and hotels to place their best tariff on the website. Rather, it was born because people could see the opportunity. Likewise, Uber and, closer to home, third party mortgage sites have not been born out of regulation, but rather they have been born out of someone perceiving a gap in the market.

### **How do you create an approach that genuinely compares apples with apples?**

The Authority notes that it "proposes to improve customers' ability to participate in the process for buying electricity by enabling customers, or their agent, to more easily find the **best** [emphasis added] electricity deal available to them". On the basis of this consultation paper, it would seem the word 'best' is used to mean lowest price. We validly, as examples in the United Kingdom have proven, are concerned that generally available retail tariff plans may not provide customers with the complete picture and may in fact mislead customers by failing to account for any of the following, in retail tariff comparisons:

- Break fees
- Joining credits

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<sup>4</sup> <http://www.bbc.com/news/business-31661858>; <http://www.independent.co.uk/news/business/news/price-comparison-sites-should-pay-fines-if-they-dupe-customers-mps-say-10076608.html>

- Bundled offers, including non-energy
- Special deals that relate to multiple or secondary properties or additional fuels
- Eligibility criteria
- Spot based pricing

As the likelihood of more bundled products enters the market, the proposal could have the perverse effect of price comparison companies gaming the system by charging less for electricity and loading the cost on to other products contained in the bundled offer.

Should the Authority head down this path, this requires careful consideration.

Contact's preferred approach would be to see the following:

1. Powerswitch's funding reinstated<sup>5</sup> and for Powerswitch to be connected with the registry providing connection data for customers. Given the many millions spent on Powerswitch to date, and customers' awareness of the site, Contact believes there is real value for customers in making Powerswitch the **single source of truth**.
2. Powerswitch targeted at those who may not otherwise have access. This could be done through the Authority directing its efforts, for example, providing site access at the likes of libraries and community centres where people can use the Powerswitch site.
3. A review of changes already undertaken in the retail space, before any further changes are made.

If the Authority does proceed down this track, it must develop any standard file format, for voluntary adoption in conjunction with the industry. We would not want to see a repeat of the issues with 'standard tariff codes' where the Authority regulated the requirement for distributors to use standard tariff codes for all network tariff rates from 1 July 2012. While the intention of the Authority was to achieve more consistency in codes and tariff descriptions, it achieved the opposite to what was intended, resulting in the Authority revoking the requirement in late 2013.

Please contact me on 04 496 1567 should you wish to discuss any matter raised in this submission.

Yours sincerely



Louise Griffin  
**Head of Regulatory Affairs and Government Relations**

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<sup>5</sup> Please see appendix A

**Response to questions**

Question no.	Question	Response
Q1.	Do you agree that the current arrangements for accessing retail tariff plan data and connection data mean that consumers face higher-than-necessary transaction costs identifying electricity-related offers available to them? Please give reasons with your answer.	<p>No.</p> <p>On the information provided, the Authority seems to be concerned that the current arrangements for accessing retail tariff plan data and connection data mean that third party energy services companies are facing higher than necessary transaction costs.</p> <p>The Authority should not be concerned with third parties, only what is best for the customer. Accordingly in our view the Authority should focus on making Powerswitch, which the Authority and Government has already spent millions of dollars developing and creating awareness of, the very best tool it can be.</p>
Q2.	Do you agree that a Code amendment would lower consumers' transaction costs more quickly than would market forces? Please give reasons with your answer.	<p>No. In line with the Authority's Code amendment principles, the Authority should prefer small scale changes.</p> <p>As noted in our cover letter, innovation often occurs in absence of regulation. We do not agree a Code amendment would necessarily lower customers' transaction costs more quickly than would market forces. Rather, we are concerned that you may end up with a result similar to standard tariff codes.</p>
Q3.	Under alternative 1 do you have any comments or suggestions about all retailers being required to provide retail tariff plan information to Consumer NZ, and having to provide that same retail tariff plan information to any person who requested it?	<p>If the Authority was to go down this path, Contact would strongly recommend that the Authority works on its standard file format, for voluntary adoption, in consultation with the industry.</p> <p>While Contact would be happy to provide the data to Consumer NZ, Contact is not comfortable to simply "add the email address of other parties" to that distribution list. Consumer NZ's Powerswitch site should be the <b><u>single source of truth</u></b>.</p>

Q4.	Under alternative 2 do you have any comments or suggestions about retailers being required to publish information about their generally available retail tariff plans on their websites?	<p>Yes. It is unclear how the Authority plans to deal with innovative retail tariff plans that do not fit the ‘generally available’ definition, or value-based offerings such as:</p> <ul style="list-style-type: none"> <li>• service channel options</li> <li>• break fees</li> <li>• sign-on credits</li> <li>• bundled offers, including non-energy products</li> <li>• special deals that relate to multiple or secondary properties</li> <li>• eligibility criteria.</li> </ul>
Q5.	Under alternative 2 do you have any comments or suggestions about the requirement to supply retail tariff plan information using standardised file formats and structures?	In the event the Authority goes down this route, this must be done through an industry working group to avoid the issues with the Authority’s approach to standard tariff codes and EIEP12 files.
Q6.	Under both alternatives do you have any comments or suggestions about making publicly available the connection data held in the registry that is set out in appendix D?	<p>We note the purpose of the registry was to facilitate customer switching and access to metering and network data for accurate billing set-ups by retailers. We anticipate that customers will struggle with the complexity of the data, and third party energy service companies will struggle to interpret the registry data in a way that necessarily enables them to provide accurate proposals to customers. For example, eligibility for a low user pricing plan does not come from connection (registry) or tariff plan data; it only comes from a meaningful conversation between the retailer and customer. Again we think the best option, if the Authority decides to progress this, is to make better use of Consumer NZ’s Powerswitch site.</p>

Q7.	Do you agree that the objectives of the proposed alternatives are appropriate and consistent with the Authority's statutory objective? Please give reasons if you disagree.	<p>The Authority could be accused of being disingenuous in saying it expects productive efficiency benefits from retailers operating more efficiently – this appears to be a covert word for price.</p> <p>It is also unclear how the Authority expects that “increased competition will lead to greater innovation and dynamic benefits from new products and in products and services” when the Authority's approach drives all tariffs to look the same.</p>
Q8.	Do you agree that the connection data which the Authority proposes to make publicly available is not personal information?	The Authority should seek legal advice on this question.
Q9.	If you disagree, please give reasons and suggest a way to address the privacy issue(s) you have identified.	Please see our response to Q8 above.

Q10.	Do you agree with the assessment of gross benefits, costs and net benefits? If not, please explain your reasoning.	<p>No. At its heart this paper is about encouraging third parties into the market to find the best deal for customers who for one reason or another may be unlikely to change retailers themselves.</p> <p>The costs and gross benefits assessment fails to account for the commission of third parties and therefore their incentives.</p> <p>Third parties are incentivised to ensure customers are on the lowest price offer for which they are remunerated, not the offer that may be the best value for the customer, or indeed the best offer overall.</p> <p>Contact believes its costs under alternative 2 would exceed the maximum \$10,000 cost estimate put forward by the Authority.</p> <p>There is also no analysis as to what customers will switch for, nor whether customers want to be contacted by third parties.</p> <p>Given what we expect to spend on the capex to develop capability to provide consumption data, and ongoing opex to manage requests and the expected queries from customers and agents, we believe the Authority has underestimated the likely costs. We would also note that some distributors are indicating a move to 'cost reflective' pricing, which will add further complexity and cost in due course.</p>
Q11.	Do you have any comments or suggestions about whether the additional gross benefits of alternative 2 outweigh its additional costs vis-à-vis alternative 1? Please give reasons with your answer.	If the Authority pursues alternative 2, it must undertake a robust cost benefit analysis.
Q12.	Do you agree that both of the proposed alternatives are preferable to other options? If not, please explain your preferred option in terms consistent with the Authority's statutory objective.	No. Please see our earlier comments regarding the Powerswitch site.

Q13.	Do you agree with the Authority's assessment that the proposed Code amendment for each of the proposed alternatives meets the requirements of Section 32 of the Act? Please give reasons if you do not.	No. We are unconvinced that a mandated approach will promote retail competition.
Q14.	Do you agree with the Authority's assessment of the two proposed alternative options against the Code amendment principles? Please give reasons if you do not.	<p>Contact does not agree with the application of the following Code amendment principle: Principle 2. We query the efficiency for the long term benefit of customers.</p> <p>We do not believe a market failure has been clearly identified.</p> <p>Contact agrees with the Authority that alternative 1 fits with principle 4 and principle 5.</p>

***Section 1.01 29 July 2015***

***Section 1.02 Consumer Powerswitch funding to end on 31 March or 30 June 2016***

Dear Nicholas

I'm writing to let you know of a change to the funding for Consumer Powerswitch.

Powerswitch has been provided by Consumer NZ since 1999 with funding support originally from the Ministry of Consumer Affairs (MCA), then from the Ministry of Business, Innovation and Employment (MBIE).

In 2009 a contestable fund of \$5m per year for three years, was established to promote the benefit of comparing electricity plans and prices and switching providers, to consumers. Of that \$5m, \$1.5m per year was administered by the MCA to continue to promote, maintain, operate and develop Consumer Powerswitch. \$3.5m was administered by the Electricity Authority to develop and administer a cost-effective programme. Consumer NZ, MCA and the Electricity Authority agreed to an integrated campaign – What's My Number.

In 2014 the contestable funding period ended. MBIE no longer saw it within its remit to fund Consumer Powerswitch beyond the contract which ended on 30 June 2015.

After representations to MBIE and the EA, EA has agreed to assist funding Consumer Powerswitch with the Gas Industry Co for nine possibly 12 months through to 31 March or 30 June 2016. There is no guaranteed funding beyond this date.

Without funding Consumer Powerswitch will no longer be able to operate. We are concerned this might be an outcome. We are working to find alternative revenue streams including the potential to switch on site and selling data, though neither of these is expected to be totally commercially viable.

We would like to obtain your views and ideas on the future funding of Powerswitch. One way to do this might be to attend a session of your recently established retailers' group. We will be in touch regarding this.

In the meantime, you will all be finalising submissions on the tariff component of the retail data project due this Tuesday 4 August. Some key points from our perspective are as follows;

- Consumer supports open access to data.
- Consumer supports the EA paper's objective to "provide long-term benefits to consumers by promoting competition in New Zealand's retail electricity market and the more efficient operation of New Zealand's electricity market."
- However, the EA retail data paper does not assess the current status of competition or efficient operation of New Zealand's retail electricity market or identify a clear need for investment in these proposed changes. Indeed consumers currently have access to a free, independent, energy price comparison website they can trust (Consumer Powerswitch). There is evidence the use of this website by consumers already promotes strong competition in the electricity market.

*WMN and Powerswitch statistics show there have been 776,261 clicks through to Powerswitch from WMN during the period of the WMN campaign up to 31 March 2015. However total visits to Powerswitch are much greater than referrals from WMN at 2,031,358 (1).*

*An August 2014 a UMR report commissioned by the EA noted switching in New Zealand was significantly higher in the past two years compared to Australia, Alberta and Texas (2). The key driver for switching was being approached by another power company with a better deal, but in New Zealand a third of households had looked for information in the past year to help them decide whether to switch power companies. Online sources dominated – with an independent price comparison website and general internet searches, the two most popular sources of information (3).*

*The report concluded an independent price comparison website was seen as the most effective strategy in encouraging households to switch power companies (4). It was also rated most effective by those who had actually*

*switched power companies in the past two years (5). Of those who had looked for information in the last year, the most commonly used information was an independent consumer website – cited by 40% - higher than either Australia or Texas (6). In New Zealand advice from a consumer’s advocate rated much stronger (54%) than in any other compared countries (7).*

*A May 2014 report from the Productivity Commission called ‘Boosting productivity in the services sector’ looked at the value of switching sites. It found accurate and accessible comparison websites could help reduce search costs and facilitate more competitive markets. It also found government initiatives to fund or develop comparison websites needed to be appropriately resourced so that the information presented was accessible and accurate (8).*

- Currently; Alternative 1 in the proposal states retailers would be required “to provide information about their **generally available retail tariff plans** to Consumer NZ.” It then states retailers would be required to “provide to any person who requested it, **the same current information about retail tariff plans that the retailer is providing to Consumer NZ.**”

Consumer NZ has built up a trusted relationship with retailers over 16 years. There is much intellectual property that has been developed between the parties particularly between Consumer NZ and retailers that doesn’t fit the traditional pricing model. It is not appropriate for retailers to have to share this intellectual property with other parties. In our view, Alternative 1 in the proposal should read “The Authority would amend the Code to require all retailers **to provide information about their generally available retail tariff plans to any person who requests it.**”

- The proposal assumes Consumer Powerswitch will continue to operate. As noted without confirmed funding beyond March or June 2016 this is not the case.
- Neither the EA proposal nor the accompanying Sapere consultancy report address:
  - o the cost of setting up an accreditation scheme to monitor the growth of comparator sites
  - o the cost to consumers of having commercial sites which may not properly reflect the market
  - o the cost to consumers of having to navigate a range of price comparison websites to decide which one they can trust, or

- the cost to retailers of being on multiple sites.

We'll be in touch in regard to discussing future funding options for Consumer Powerswitch.

Kind regards,



Sue Chetwin

1. WMN and Powerswitch statistics 29 May 2011 – 31 March 2015
2. Electricity Authority International comparison of activity, behaviour and attitudes towards electricity industry A quantitative study August 2014, UMR Research page 7, Retrieved on 19 May 2015 from <https://www.ea.govt.nz/monitoring/enquiries-reviews-and-investigations/2015/consumer-survey/>
3. As above, page 7
4. As above, page 7
5. As above, page 7
6. As above, page 34
7. As above, page 36
8. New Zealand Productivity Commission, Boosting productivity in the services sector Summary version May 2014, page 23 Retrieved on 19 May 2015 from <http://www.productivity.govt.nz/inquiry-content/1624?stage=4>

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