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Dear Sir

### **Information Paper: Industry and Market Monitoring: Competition**

Thank you for the opportunity to comment on the Electricity Authority's discussion paper outlining its approach to monitoring competition in the electricity industry.

Mighty River Power supports the Authority's goal of enhancing competition and contributing towards a better understanding of the performance of the market amongst both industry participants and the public. However, we believe that the monitoring activities need to be tightly focused and carefully managed to ensure levy payers receive value for money and to avoid imposing significant compliance costs on participants.

From this perspective, we have outlined comments and suggestions below.

#### **Structure Conduct Performance Framework**

The Electricity Authority's proposed monitoring approach is based on the Structure-Conduct-Performance (SCP) framework. While this framework is widely adopted and may provide a useful framework to organise the Authority's thinking about competition, it also has limitations which need to be considered. Examples include:

- The SCP model implies that concentration is indicative of inefficiency and monopolistic behaviour which reduce consumer benefit. However, as noted on Page 13 of the information paper it is also possible that concentration can lead to efficiencies that benefit consumers.
- Behaviour is likely to be driven by more than just structure. For example, organisational culture can be a driver of behaviour.
- The inclusion of income distribution as an indicator of market performance in Figure 1 on Page 11 of the paper is questionable. Income distribution is unlikely to be a good indicator of industry performance.

- Measurement can be difficult. Difficulties include the need to distinguish between accounting and economic values for profits, depreciation and asset valuation, and correctly measuring marginal costs (this is particularly relevant for hydro generation where marginal cost is highly variable and dependent on hydrological conditions).

Overall, we believe the SCP framework needs to be judiciously applied, with a clear sense of its limitations, and an understanding of the context provided by the unique features of the New Zealand electricity industry.

### **Targeting and Resourcing**

The Authority appears to be envisaging a broad approach to monitoring, which has the potential to apply resources to the majority of situations where competition between market participants acts as a constraint on behaviour. We suggest that the efficiency of the monitoring regime could be enhanced if the focus were more directly targeted at areas and trading periods that are of potential concern. These areas could be identified in advance by the Authority with input from stakeholders.

We also believe that there needs to be a clear sense of how the monitoring function ranks against other priorities. The fact that the Authority employs nine staff and a General Manager in its Market Performance team indicates that the Authority sees this activity as a high priority, and that it expects levy payers to reap substantial benefits from it. Nevertheless, we believe that it still needs to be demonstrated that this level of resources is required, and that the correct trade-offs between monitoring and other activities are being made.

### **Potential Administrative Burden on Market Participants**

Many of the metrics proposed by the Authority will be difficult to establish from available information. Information requests to industry participants can have significant resource implications and can distract from core business activities. We therefore recommend that the Authority choose metrics based on existing publicly available information for all its activities relating to routine monitoring, in-depth reviews and Stages I and II of investigations, and only resort to requesting specific information from participants if it decides to hold a formal investigation (Stage III). Even then, information requests to participants should be used only sparingly.

### **Transparency vs Commercial Sensitivity**

Increasing transparency about market events and improving access to quality information has the potential to increase competition. Care is needed, though, to ensure that no commercially sensitive information is disclosed. Disclosing the wrong type of information could potentially undermine competition. This is an area where further dialogue with industry participants may be useful to ensure the right balance between transparency and protecting commercially sensitive information can be struck.

Please feel free to contact me on (09) 580 3623 or email [ramon.staheli@mightyriver.co.nz](mailto:ramon.staheli@mightyriver.co.nz) if you wish to discuss any of the points raised in this letter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R. Staheli', with a stylized, cursive script.

**Ramon Staheli**

Senior Market Regulatory Advisor

