MIGHTY RIVER POWER

6 August 2015

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Retail Data Project: Access to Tariff and Connection Data

Thank you for the opportunity to submit on the Electricity Authority's *Retail data project: access to tariff and connection data* consultation paper (**Paper**). No part of this submission is confidential.

We are pleased the Authority has accepted the view that publishing all retail tariff plan information could lead to anti-competitive outcomes including reducing retailer's willingness to innovate in their tariff offerings. The Authority's proposal to require publication of generally available retail tariff information appropriately balances assisting consumer search decisions with avoiding disclosures that will damage consumer welfare, provided however that generally available retail tariff data is correctly and accurately defined (which we discuss further below).

Alternative 1

We support the Authority's alternative 1. The alternative expands on existing industry arrangements to allow other comparator websites to provide equivalent services to Powerswitch and Whatsmynumber. This is the most beneficial alternative for consumers because it builds on existing arrangements that consumers trust and understand well. In addition to providing clarity and continuity with existing arrangements, alternative 1 is much less expensive to implement than alternative 2, while ultimately leading to the same functionality for consumers.

We consider that standardised file formats and structures are neither necessary nor desirable. Establishing such formats will be costly and will not improve the quality of the information provided. The requirement for tariff details to fit a prescribed format may also inhibit tariff innovation over time. The competitive nature of the market means that retailers are already motivated to provide tariff data in formats which allow for clear and accurate presentation to consumers.

We are pleased to see the Authority has decided to exclude "uninvited direct sale" prices from prices that ought to be disclosed and we consider this decision will drive the best outcomes for consumers (for the reasons set out in our March 2014 submission).

However, we believe the Authority should give further serious consideration to the meaning of "generally available retail tariff plans" and the intended outcomes. Whilst the Authority has attempted to define "generally available retail tariff plans" in the manner set out in Appendix B of the consultation paper, we think there are several issues and omissions with the draft definition:

1. While the draft definition accounts for industry-specific pricing requirements (consumer's physical location, meter configuration and price category code requirements), there is no allowance for non-industry retailer parameters, which a customer must meet in order to qualify for a specific retail rate. For example:
    a. Memberships or partnerships - we operate partnerships including with rural supply firms and telecommunications providers and offer pricing which is specific to mutual customers only; and
    b. we offer specific prices to customers who own or operate electric vehicles.

    We consider such rates to be a positive feature of the competitive market, encouraged by the Authority itself as innovative and competitive tools. However despite these prices being sometimes advertised above the line (in the traditional sense of advertising), the related prices are <u>not available</u> to the general public and a defined exclusion should therefore exist in the definition for these types of tariff plans.

2. The definition of an "uninvited direct sale agreement" is taken from the Fair Trading Act 1986. However, this definition relates only to door-to-door selling and telemarketing and is therefore too narrow and restrictive for the context. For example technology now allows for a very specific targeted offer to be made via electronic "above the line" channels. This might take the form of a banner offer on a website which has been tailored to the prospective customer based on their IP address and the previous interactions they have had with the advertiser. This is valid "below the line" selling and is sometimes referred to as a "digital door knock" that utilises today's 'big data' technology and capability, but is not captured by or in the Fair Trading Act definition. This should be excluded as we imagine the Authority would want to encourage competitive and innovative practices like this in our industry.

3. There should be a general exclusion for tactical pricing which is offered from time to time through above the line channels as this is important to allow retailers to manage portfolio size. This is particularly critical for smaller and new entrant retailers. If all above the line pricing effectively has to be made available to all above the line channels (all consumers, all price comparators etc) then the volume of new business being gained through that pricing becomes very difficult to control. This could easily cause an imbalance between retail commitments and wholesale entitlements, or create a situation where retailers were forced to not honour previously advised pricing in order to maintain portfolio stability.

We suggest the following amendments to the current definition of "generally available retail tariff plan" to address the issues noted above:

generally available retail tariff plan means—
(a) a retail tariff plan that a retailer, when it accepts new customers, will make available to any consumer ~~(subject to credit requirements)~~ on request if the consumer satisfies any requirements specified for the retail tariff plan relating to 1 or more of the following:

(i) physical location:
(ii) metering configuration:
(iii) price category code;
(iv) any commercial term of the pricing, including creditworthiness, as specified by the retailer

but

(b) does not include

(i) a retail tariff plan made available by the retailer ~~only under an uninvited direct sale agreement uninvited direct sale agreement has the meaning given to it by section 36K of the Fair Trading Act 1986~~ only via a direct selling method (including, but not limited to, door to door selling, telemarketing, online or email direct selling and postal direct selling);
(ii) any tariff only available to the customers, members or affiliates of a partner organisation;
(iii) a retail tariff plan made available by the retailer for a time period of 6 weeks or less or for the purpose of acquiring a specified maximum amount of new business;
(iv) a retail tariff plan that but for 'default above the line' advertising (such as tailored/inadvertent on-line banner advertising), would not otherwise be made publicly available by the retailer.

Analysis of our current suite of rates shows that under this definition over 74% of all active rates would fall into the category of a generally available retail tariff.

Alternative 2

Alternative 2 is costly and will create unnecessary, perhaps confusing, complexity in relation to price disclosure.

If alternative 2 was to be implemented by the Authority, retailers would need to build and maintain a complex and costly validation mechanism that would be able to cater for customisation of tariff outputs based on connection-specific data (e.g. network location, sub-network location information, meter configuration etc). With so many networks (each with their own tariff structures) and a multitude of metering configurations and types, we think this is an inefficient and costly alternative for achieving gains that would be very similar to the gains to be achieved under alternative1.

Connection data

As long as the privacy of consumers is adequately protected, we support the Authority's proposal to make a set of specified connection data held in the registry available to third parties. The set of data described in Appendix D seems to be appropriate for the intended purpose.

However, we consider that customers may be sensitive about third parties linking them with any on-site electricity generation at their dwelling. We encourage the Authority to work with consumer representatives to determine whether consumers would be concerned by the release of this type of information to third parties.

In general, we consider that the best way to address privacy concerns is for third parties seeking access to personal information to obtain authorisation from the customer.

Yours sincerely

Monica Choy
Market Operations Manager

Responses 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.	We disagree that consumers face higher than necessary transaction costs accessing retail tariff plan data because the information is already easily available through Powerswitch, Whatsmynumber and retailers' websites generally. We agree that costs may be higher-than-necessary in accessing connection data. As long as the privacy of consumers is adequately protected, we support the Authority's proposal to make a specified set of connection data held in the registry available to third parties.
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.	See above.

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Q3.	Under alternative 1 do you have any comments or suggestions about all retailers being required to provide retail tariff plan information to ConsumerNZ, and having to provide that same retail tariff plan information to any person who requested it?	We support alternative 1 provided that 'generally available tariff plan data' is correctly and accurately defined (as discussed in our letter). However: - we do not support the mandating of data formats as we consider this will add cost and restrict tariff innovation, without any material gain in the quality of the information made available; and - we do not support the idea of retailers jointly contracting with a third party to develop a 'standarding tool'. This is likely to be more expensive than the $250,000-$500,000 estimated by the Authority for the reasons noted in our letter. The better solution is for retailers to continue to provide tariff information to ConsumerNZ and other requesting parties in the current format. Where information is provided to a requesting party, the onus should be on the requesting party to ensure that tariff information is accurate and up-to-date before providing that information to a consumer.
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?	We consider it more efficient to provide connection-specific tariff information on Powerswitch (and other comparator websites), where generally available retail tariffs from all providers can be compared. This would better meet the Authority's desired outcomes than requiring it to be published on the websites of individual retailers where comparisons cannot be made. For the reasons noted in our letter, this would be a costly and inefficient alternative.

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?	Currently we provide tariff information to ConsumerNZ for use in Powerswitch in a format agreed with them. It will be complicated, expensive and time-consuming, for us to provide this information using different standardised file formats and structures. We encourage the Authority, in the first instance, to work with Powerswitch, other comparator websites, and retailers to understand the adequacy of the existing format rather than moving to mandate a new one.
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?	As long as the privacy of consumers is adequately protected, we support the Authority's proposal to make a set of specified connection data held in the registry available to third parties. The set of data described in Appendix D seems to be appropriate for the intended purpose. However, as discussed below, we consider that customers may be sensitive about third parties linking them with any on-site electricity generation at their dwelling.
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.	Yes.
Q8.	Do you agree that the connection data which the Authority proposes to make publicly available is not personal information?	See our response to question 6. We consider that customers may be sensitive about third parties linking them with data about the existence of any on-site electricity generation at their dwelling. We encourage the Authority to work with consumer representatives to determine whether consumers would be concerned by the release of this type of information to third parties.

Q9.	If you disagree, please give reasons and suggest a way to address the privacy issue(s) you have identified.	If any of the information in Appendix D were personal information, we consider the best way to address the privacy issues would be for third parties seeking access to personal information to obtain authorisation from the customer.
Q10.	Do you agree with the assessment of gross benefits, costs and net benefits? If not, please explain your reasoning.	As noted above, we think the costs of alternative 1 are understated. In our view, for a third party to develop a standarding tool is likely to be more expensive than the $250,000-$500,000 estimated by the Authority and would require significant on-going support. Alternative 1 does not require this expenditure to achieve the desired outcomes. We think costs of alternative 2 are also significantly understated. Alternative 2 would require all retailers to undertake significant and complicated systems work on their websites. As noted above, we think this work is much better undertaken on comparator websites where the systems work only needs to be done once for all retailers.
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.	We consider the gross benefits of alternative 1 and 2 would be effectively the same because the two alternatives provide consumers and third parties with equivalent access to tariff data. Likewise, the alternatives provide third parties with equivalent access to connection data.
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.	Of the other options considered by the Authority at paragraph 5.12 of the Paper, we agree that Option 3 would have significantly higher costs and delayed benefits when compared to the proposed alternatives. We consider that alternative 1 is preferable to Options 1 and 2 at paragraph 5.12. However, in our view, both Options 1 and 2 are preferable to alternative 2 which will have significantly greater costs for no additional benefits.

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.	-
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.	Note our responses to questions 8 and 9 above with respect to Principle 1. We also do not consider that the Authority has demonstrated adequately that alternative 2 meets the requirements of Principles 2 and 3.