

Retail advisory group half-yearly report

January 2012 to June 2012

29 June 2012

1 Introduction

1.1.1 This report outlines the activities of the Retail Advisory Group (RAG) during January 2012 to June 2012. The RAG's terms of reference require the Chair to report on its progress against its work programme every six months to the Electricity Authority (Authority).

1.2 Role of the RAG

1.2.1 The RAG was established to provide independent advice to the Authority on the development of the Electricity Industry Participation Code 2010 (Code) and market facilitation measures, focusing on the relationships between the retailer, distributor and consumer.

1.2.2 The RAG undertakes projects that are assigned by the Authority, focusing on:

- a) development of the retail electricity market, including matters relating to the retailer/consumer interface, the retailer/distributor interface and the consumer/distributor interface, the distributor/embedded generation interface and advanced metering infrastructure; and
- b) priorities for developing:
 - i) the Code, especially in regard to Parts 6 (Connection of distributed generation), 10 (Metering arrangements), 11 (Registry information management) and 15 (Reconciliation); and
 - ii) market facilitation measures in regard to retail market services.

2 Membership of the RAG

2.1.1 The RAG can have up to nine members, including the independent Chair. Table 1 gives details of the RAG's membership and members' meeting attendance for January to June 2012.

Table 1: Retail Advisory Group membership details

| Member | Affiliation | Term of appointment | Meeting attendance |
|----------------------|--|-----------------------------|--------------------|
| Peter Allport, Chair | Independent | March 2011 to 31 March 2013 | 3 |
| Dene Biddlecombe | Chief Executive Officer, Pulse Utilities | May 2011 to 31 July 2012 | 2 |
| Suzanne Chetwin | Chief Executive Officer, Consumer NZ | May 2011 to 31 May 2013 | 3 |
| Sarah Free | Domestic Energy Users Network | May 2011 to 31 July 2012 | 3 |
| Anne Herrington | Director, Smart Power | May 2011 to 31 May 2013 | 3 |
| Ross Parry | Regulatory Affairs Manager, Genesis Energy | <i>resigned March 2012</i> | 1 |
| Nathan Strong | General Manager Regulation and Pricing, Unison Networks | May 2011 to 31 May 2013 | 3 |
| James Munro | General Manager Retail and Corporate Affairs, Mighty River Power | May 2011 to 31 July 2012 | 3 |

- 2.1.2 The RAG held three meetings between January and July 2012.¹ All meetings were held in Wellington, at the offices of the Authority.
- 2.1.3 The RAG had seven members for much of the report period following the resignations of David Stroud in November 2011 and Ross Parry in March 2012.
- 2.1.4 The terms of Dene Biddlecombe, Sarah Free and James Munro were extended by the Board in January 2012 for three months to 31 July 2012. This allowed these members to be involved in completing the work programme.
- 2.1.5 The RAG discussed the Authority's policy for filling vacancies on the Group with the Chief Executive, Carl Hansen, in February 2012. The RAG expressed its preference that vacancies be filled so that the RAG is able to draw on the range and balance of skills and experience of a full membership. The RAG also expressed a preference that members have a high level of credibility within the electricity industry and can speak with a considerable level of authority.
- 2.1.6 The RAG notes that the Authority called for nominations in April 2012 to fill five vacancies on the RAG. The RAG welcomes the reappointment of Dene Biddlecombe, Sarah Free and James Munro for two-year terms starting 1 August 2012; and the appointment of Andrew McLeod and Bill Hight for two-year terms starting 1 August 2012.

3 Activities of the Group – 2011-12 work programme

- 3.1.1 The RAG's 2011-12 work programme was developed following discussions between the Authority and the RAG, including an initial discussion of possible tasks with the Chair.
- 3.1.2 The agreed 2011-12 work programme comprised three projects:
- a) consideration of arrangements for managing retailer default situations;
 - b) consideration of arrangements for the purchase of power by retailers from small-scale distributed generation; and
 - c) consideration of domestic contracting arrangements.
- 3.1.3 The RAG notes that the Authority is finalising its 2012-13 work programme, and that this includes identifying additional projects that might be assigned to the RAG.

3.2 Review of arrangements for managing retailer default situations

- 3.2.1 The RAG is considering the implications for consumers should an electricity retailer fail to pay amounts due to the clearing manager or electricity distribution businesses, or otherwise default on its financial obligations to market participants.
- 3.2.2 The RAG released the discussion paper, "Retail customers in retailer default situations" on 7 February 2012 with submissions due by 23 March 2012. Ten submissions were received from: Contact, Genesis, Meridian, Mighty River Power, Orion, Powerco, Simply Energy, Trust Power, Vector and Unison.
- 3.2.3 All submitters agreed that the existing arrangements for managing a retailer default situation are not satisfactory. All submitters support the RAG and the Authority in pressing on with the work required to identify options for managing the outcomes of a retailer default.

¹ The Group met on 22 February, 23 April and 30 May.

3.2.4 The RAG's emerging thinking and the key considerations are:

- a) the retailer default arrangements should apply to all consumers, not just households;
- b) there is significant complexity arising from the interaction between receivership/liquidation arrangements and electricity sector arrangements, particularly due to the lack of a direct contractual relationship between sellers (generators/clearing manager) and buyers (retailers/large customers);
- c) arrangements that materially alter the known receivership/liquidation model, such as giving the Authority or clearing manager an ability to appoint a receiver, could have adverse impacts on the ability of new retailers to enter the market by reducing the willingness of banks or other funding sources to provide financial support;
- d) the legislated objectives and role of a receiver or liquidator conflict with the Authority's objectives, particularly the objective to promote reliable supply (to the individual) and to maintain the integrity and credibility of the electricity market by facilitating the orderly transfer of the customers of a failed retailer to another retailer; and
- e) a key problem to be resolved is to facilitate the orderly transfer of consumers of a failed retailer within a certain timeframe.

3.2.5 The RAG is developing a preferred option for managing retailer default situations and is preparing a second discussion paper to seek feedback from industry participants and consumers on the detailed design of a scheme, including the costs and benefits. The second discussion paper will:

- a) detail a preferred option for managing a retailer default situation based on the RAG's emerging thinking;
- b) outline the potential Code amendments and regulatory changes needed to introduce the preferred option; and
- c) provide a cost-benefit analysis of the preferred option, and consideration of the alternatives.

3.2.6 The RAG will continue to liaise with the Wholesale Advisory Group about the implications of the preferred option for managing retailer default situations on its review of settlement and prudential security arrangements.

3.2.7 The RAG is working towards presenting a fully developed proposal to the Board in November 2012.

3.3 Review of arrangements for the purchase of power by retailers from small-scale distributed generation

3.3.1 The RAG considered the arrangements for purchase of power by retailers from small-scale distributed generation (DG) to identify whether there is potential to reduce transaction costs and ensure that electricity market regulatory arrangements do not deter investment or deployment of small-scale DG (including new innovations).

3.3.2 On 7 February 2012, the RAG released a discussion paper titled "Investigating barriers facing small-scale distributed generation". The discussion paper sought feedback from industry and consumers on:

- a) the possible barriers facing consumers wishing to invest in small-scale DG to identify whether small-scale DG is at a disadvantage; and

- b) whether the Authority should change the arrangements for how retailers purchase power from small-scale DG.

3.3.3 Submissions were due by 19 March 2012, after a six-week consultation. There were nine submissions on the discussion paper: Bay of Plenty Regional Council, Genesis Energy, Meridian, Mighty River Power, Orion, PowerCo, Transpower, Vector and Walter Unterberger.

3.3.4 The RAG took all submissions into account and has prepared a report to the Authority Board, including findings and advice. The RAG's conclusions are:

- a) there are currently no apparent material regulatory (Code related) barriers to the purchase of power by retailers from small-scale DG or to investment in small-scale DG;
- b) there might be merit in the Authority producing a fact sheet about the regulatory arrangements for small-scale DG, particularly the roles and responsibilities of DG investors, distributors and retailers;
- c) the Authority could consider the following issues as part of its operational review of Part 6 of the Code:
 - i) Transpower has suggested an amendment to Part 8 of the Code to deal with possible operational and performance problems from concentrations of small-scale DG on a distribution network;
 - ii) whether it is appropriate that a DG owner could be exposed to unlimited liability if it negotiates a connection agreement with the distributor; and
 - iii) whether the 10kW or less threshold for small-scale DG should be increased.

3.4 Consideration of domestic contracting arrangements

3.4.1 The RAG will not complete the domestic contracting arrangements project prior to the June 2012 milestone agreed with the Authority in July 2011. The delay is mainly due to the effort required to progress the retailer default project, and also the uncertainty about whether the scope for the domestic contracting arrangements is appropriate.

3.4.2 The Chair wrote to the Chief Executive of the Authority in May 2012 advising on progress with this project and proposing a way forward.

3.4.3 The RAG was concerned that undertaking a comprehensive review of the domestic contracting arrangements within the next 12 months may undermine the credibility of the current process for reviewing the minimum terms and conditions for domestic contracts. The RAG noted that participants are still implementing changes to the minimum terms and conditions made less than a year ago, and that monitoring of alignment with the minimum terms and conditions hasn't yet occurred. The RAG's view is that the alignment review should be undertaken before any further major changes to the minimum terms and conditions are considered.

3.4.4 The RAG considers that there is worthwhile work to be done in this area, and has identified three potential problems:

- a) there are no minimum terms and conditions for domestic contracts where the consumer has a contractual relationship with its retailer and with the local distributor (known as a conveyance model). This has possible efficiency implications due to uncertainty about the relationships between retailers, distributors and consumers;

- b) there is a difference between alignment with the Authority's minimum terms and conditions and compliance with them. Accordingly there may be some benefit in monitoring retailers' compliance with the terms and conditions and their domestic contracts; and
- c) there is some uncertainty about where accountability for the arrangements to assist medically dependent and vulnerable consumer arrangements should sit across government organisations. The Authority is best placed to determine the extent of any legal issues associated with what matters each area of government should be accountable for.

3.4.5 The RAG also notes that there is some overlap between the minimum terms and conditions for domestic contracts and the arrangements to assist medically dependent and vulnerable consumers, and that some parties have suggested there are opportunities to improve the operational effectiveness of the arrangements to assist medically dependent and vulnerable consumers.

3.4.6 The RAG's views were noted by the Board during discussions on the 2012/2013 work programme, and a project with a narrower scope was recommended by the Board.



Peter Allport

Chair, Retail Advisory Group