



MAJOR ELECTRICITY USERS' GROUP

7 May 2013

Dr John Rampton
General Manager Market Design
Electricity Authority
By email to submissions@ea.govt.nz

Dear John

Consultation Paper – Proposed clause 13.2A Guidelines

This is a submission by the Major Electricity Users' Group (MEUG) on the Electricity Authority consultation paper¹ "Proposed clause 13.2A guidelines" dated 26th March 2013.

In an earlier submission on the UTS provisions in the Code dated 1st May 2013 we suggested the UTS provisions should not apply to the process whereby hedge prices are discovered, other than FTR's that are governed by the Code. This submission assumes the same approach.

Responses to the questions in the paper follow:

Question	MEUG response
1. What comment do you have on the application of the disclosure obligations to all participants?	Agree should apply to all participants as defined in the Electricity Industry Act.
2. What comments do you have on the impact of the disclosure obligations for information a participant holds about itself?	Agree that only the legal entity that is listed as the market participant should be bound by the disclosure obligations.
3. Do you think that information a participant holds about associated entities (its wholly owned subsidiaries, incorporated joint ventures, and incorporated special purpose vehicles) should fall within the definition of disclosure information?	See response to Q.2 above.
4. What comments do you have on the impact of the disclosure obligations for information a participant holds about itself and another party?	Only the effect on the disclosure party should be required. To the extent a circumstance affects another participant then that other party should separately comply with the disclosure obligations.

¹ <http://www.ea.govt.nz/our-work/consultations/wholesale/clause13-2-guideline/>

Question	MEUG response
5. What comments do you have on the factors the Authority suggests should be considered when applying the “material impact on prices” test?	Rather than wait for precedents to be established through compliance regime test case breaches, MEUG recommends the guidelines be enhanced using historic examples of what would and would not have been a “material impact on prices”.
6. What other factors could usefully be included?	No comment.
7. What comments do you have on the list of interested parties the Authority considers the disclosure obligations are targeted at benefitting?	Small customers should not be excluded from the list in paragraph 36 (b) because small users are likely to have an increasingly important role to play in the wholesale market as metering technology and Code rules evolve.
8. What comments do you have on the set of decisions the Authority considers are relevant when holders of information are assessing the materiality of the impact on prices?	No comment.
9. What other decisions should be included?	No comment.
10. What comments do you have on the guidelines for relevant markets?	<p>See the opening comments to this submission that states</p> <p>“MEUG made an earlier separate submission on the UTS provisions in the Code dated 1st May 2013. In that submission we suggested the UTS provisions should not apply to the process whereby hedge prices are discovered, other than FTR's that are governed by the Code. We assume in this submission that same approach.”</p>
11. What comments do you have on the set of factors for a participant to consider when determining how much detail should be disclosed?	No comment.
12. What comment do you have on the examples provided to assist participants determine whether information they hold is disclosure information?	These are good examples but should be supplemented by some quantitative examples using historic cases to distinguish between material (in paragraph 44 these are described as “major” and “significant”) and immaterial as suggested in MEUG response to Q.2 above.
13. Can you suggest some other useful examples to be written up and included here?	See response to Q.12 above.
14. What comments do you have on the Authority's view of the exclusions?	Agree with the exclusions proposed on page 17 and interpretation on pages 17 to 21 of the consultation paper.

Question	MEUG response
15. What comment do you have on the Authority's view of demonstrating that an exclusion applies?	No comment.
16. What comments do you have on how to define "becomes aware of"?	The discussion in paragraphs 75 to 77 is pragmatic.
17. What comments do you have on whether disclosure should be on a 24/7 basis or only during normal business hours?	Once a participant decides a disclosure should be made the decision on whether that need be made in normal business hours or 24/7 will depend on the nature of the information.
18. What comments do you have on the proposed timeframe for information remaining readily available?	The approach proposed in paragraphs 84 and 85 is agreed.
19. What comments do you have on the draft guidelines for "readily available to the public, free of charge"?	Approach is pragmatic.
20. What are your expectations of how you would meet the obligation for making information "readily available to the public, free of charge"? What would you expect of other participants?	Not applicable.
21. What comments do you have on the merits of, and prospects for, establishing standardised disclosure practices where several participants are disclosing similar information?	Customers must be involved in designing any voluntary standardised disclosure practices because after all, the primary policy problem of information asymmetry ² is the bias against customers.
22. What comments do you have on the possible interaction between meeting the disclosure obligations in clause 13.2A of the Code and others elsewhere in the Code for substantially similar information (eg hedge information and the hedge disclosure obligations, disclosures via WITS)?	Need to ensure participants are not required to duplicate disclosures. It would be better to improve accessibility to WITS and POCP than require participants to publish information in WITS and POCP and the same information or a subset of that information in another more public version of those websites.

This submission is not confidential.

Yours sincerely



Ralph Matthes
Executive Director

² Draft guidelines, paragraph 4