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Sent by email to: rag@ea.govt.nz

Cross-submission on arrangements for managing retailer default situations

Introduction

1. Vector welcomes the opportunity to make a cross-submission in relation to the Electricity Authority's consultation paper *Arrangements for managing retailer default situations* (the "consultation paper"). No part of this submission is confidential and Vector is happy for it to be made publicly available.
2. Vector's contact person for this submission is:
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Cross-submission overview

3. Vector's cross-submission addresses two-points:
 - a. Vector does not agree that distributors possess excessive power to mitigate risks of retailer default.
 - b. Vector supports the view that prudential requirements should be consistent across the retail and wholesale markets, and that the Retail Advisory Group should collaborate with the Wholesale Advisory Group in this regard.

Additional security and punitive penalty interests

4. Pulse and Genesis are of the view that distributors are in an advantageous position and can rely upon their commercial contracts and remedies for mitigating the risk of potential default.

5. Despite distributors being monopolies their abilities to protect themselves against potential retailer default are severely curtailed by regulation. For example, the prudential requirements specified in Part 12A of the Electricity Industry Participation Code 2010 (the Code) reduce prudential cover to two-weeks of line charges and requires interest earned on cash deposits to be paid to retailers.
6. Pulse stated in its submission that “[a] distributor already has excessive power and the ability to quadruple prudentials...” Although distributors can require additional security, the Code caps any additional security at two-months and subjects it to punitive penalty interest i.e. additional security is subject to a bank rate charge for each day *plus* 15%. This means that retailers could earn a return of approximately 18% (an estimate of 3% plus 15%) on their so-called “quadruple prudentials”.
7. Some submitters also commented on distributors’ ability to mitigate risk through contractual clauses allowing the appointment of a receiver/liquidator. Though such contractual clauses are possible and do exist, Vector does not consider that this avenue alone is sufficient to mitigate the risks and losses which arise from retailer default.
8. Given the existing regulatory settings that limit distributors’ ability to manage the risk of retailer default, Vector reiterates its strong view that the industry needs clear and effective processes to quickly resolve the issues of default and ensure the efficient operation of the industry in such an event.

Consistent prudential requirements

9. Vector notes that a number of submissions¹ called for collaboration and consistency of the prudential requirements in the retail and wholesale markets. The drivers of prudential requirements are the same for both distributors and the clearing manager (e.g. the time it takes to resolve issues of default and the amount of outstanding funds) and there is no good reason for different prudential requirements to apply to different industry sectors. The industry would benefit from a consistent approach to prudential security and Vector would fully support any initiatives to this end.

Yours sincerely,



Bruce Girdwood
Manager Regulatory Affairs

¹ Submitters include: Electricity Networks Association, Contact, Unison, PowerCo, Meridian and NZX.