11 February 2013

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Mr J Bright
Adviser
Gas Industry Company Limited
PO Box 10 646
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Dear John,

Insolvent Retailers – Options Paper

Introduction

1. Mighty River Power welcomes the opportunity to provide this submission on the Insolvent Retailers Options Paper issued by the Gas Industry Company (GIC) on 17 December 2012. No part of the submission is confidential and Mighty River Power is happy for it to be publicly released.

Comments

2. Mighty River Power supports the GIC's preferred option of the establishment of a set of parameters for the creation of urgent backstop regulations to deal with the potential of an Insolvent Retailer situation.
3. As we stated in our July 2012 submission on this issue we believe that any future insolvency events should be dealt with as they arise rather than through previously developed regulations which would have to anticipate all potential eventualities.
4. The primary objective of the Options Paper appears to be ensuring the maintenance of an uninterrupted supply of gas to all of a retailer's customers should that retailer become insolvent. In our view an important issue that is not addressed in the Options Paper is how the industry should deal with any of the insolvent retailer's orphaned gas supplies that appear on the Registry as vacant/active? It is highly unlikely that any retailer will want to take responsibility for any vacant/active supplies for which they would incur on-going costs in the form of daily network and metering charges but receive no income to cover these costs. There were over 7,000 of this type of customer on the Registry at the end of January.

5. Another important issue and one that was not addressed within the 2010 regulations or the current options paper is credit risk. It is our view that orphaned customers must be subject to the same credit vetting process as any another customer. Retailers must therefore be able to reject the allocation of any orphaned customers from the GIC if those customers fail to meet the retailer's reasonable standard of creditworthiness and/or the customers decline to meet or fail to satisfy the retailer's prudential requirements.
6. We note that within the Options Paper the GIC uses a disconnection cost of $290 per gas supply. We believe this cost is too high, certainly for the disconnection of a residential type gas supply. In support of this position we note that Powerco currently offer this service for $150 and AMS for $105. We would be surprised if these prices were not further reduced by issuing a contract for a number of supply disconnections.
7. If a lower cost of disconnection was applied to Figure 2 within the Options Paper "Approximate costs of an average residential orphaned customer" the cross over point in the cost calculation changes significantly making disconnection a more practical option.
8. Our responses to the questions raised by the GIC in the Options Paper are attached in Appendix 1 below.

Concluding remarks

9. If you would like to discuss any of our above comments directly with Mighty River Power, then please do not hesitate to contact me on 06 348 7926 or jim.raybould@mightyriver.co.nz .

Yours sincerely

Jim Raybould
Gas Manager

Appendix 1

Submission prepared by: Jim Raybould for Mighty River Power

QUESTION		COMMENT
Q1:	Do you agree our assessment of the RAG's proposal?	Yes
Q2:	Do you agree with the stated regulatory objective?	Yes
Q3:	Do you consider that the orphaned customer risk could be managed contractually?	We agree with the GIC assessment of the contractual option.
Q4:	Do you think Gas Industry Co can add value to a normal insolvency process by, for instance, providing lists of orphan customers to market participants?	Yes the provision of as much information as possible on the customers at risk can only assist the industry in resolving an insolvency situation.
Q5:	Do you think voluntary contract principles can manage the orphaned customer risk?	We believe that this solution would create more problems that it would solve. Firstly if the customer's retailer is insolvent then how does the Network or GMS Operator recover the costs that they incur i.e. who bills the customer? If the network operator bills the customer then why would the customer pay as there is no contractual agreement between the two parties? If the customer is disconnected then that customer may never reconnect to the network and becomes a customer lost to gas as in addition to the disconnection costs they would be required to pay for the cost of reconnection.
Q6:	Do you agree that relying on urgent backstop arrangements that would apply after an insolvency process, where the parameters would be developed in consultation with the industry, is an efficient response to the orphaned customer risk?	We agree. This is our preferred option for dealing with a Retailer insolvency event.

QUESTION		COMMENT
Q7:	Do you have any comments on the parameters that could apply for those regulations?	It is difficult to comment on specifics as it is likely that each insolvency event will have to be assessed and treated on its particular circumstances. It is however likely that a common feature of any insolvency event will be that the insolvent retailer's costs will exceed their income. We do therefore have some concerns with regards to the previous GGIR requirement that the new retailer maintains the insolvent retailer's pricing structures for the orphaned customers which it is allocated, albeit for a limited period. See also our comments in our covering letter with regards to the allocation of customers and credit risk.
Q8:	If option 3 were selected, do you consider there to be any residual risks that would justify a more interventionist approach? If so, please elaborate on those risks.	Whilst we accept and agree with the need to try to ensure a continuity of supply to all those customers affected by an insolvency event we believe that this should be limited to those customers actively using gas. As per our covering letter we do not believe that it is reasonable to assign the responsibilities for paying the fixed daily network and metering charges associated with orphaned vacant/active properties to an alternative retailer.
Q9:	Do you have any comments on the option requiring distributors to disconnect orphaned customers from their networks?	We agree with the GIC that this would be an option of last resort.
Q10:	If you consider that a permanent backstop arrangement is necessary please provide full supporting reasons.	In our opinion the circumstances around any future insolvency event will be as unique as were the circumstances surrounding the E-Gas event in 2010. We therefore do not believe that it is practical nor is there any need to have a permanent backstop arrangement in place to deal with a potential insolvent retailer event.
Q11:	Do you have comments on any of the sub-options for a permanent backstop regime? Are there other sub-options you believe warrant further investigation?	We would not support the appointment of a Retailer of Last Resort (ROLR) against the wishes of that retailer as not all retailers supply the full range of gas customers. Our own retailer, Mercury Energy, does not currently supply time of use gas customers and has no current plans to do so. It is therefore important that any ROLR has the arrangements and systems (gas contracts, billing and reconciliation systems) in place to supply all types of customers. A Retailer of Last Resort may be a practical option but only if the ROLR was applied or tendered for by a retailer or retailers As far as making the Distributor the ROLR this is really a non-starter for similar reasons as above in that the Distributor is unlikely to have the relevant systems and gas supply agreements in place to take on a retailer's responsibilities.
Q12:	Are there any other options you think Gas Industry Co needs to analyse before moving to the next phase of this workstream?	No
Q13:	Do you agree with Gas Industry Co's assessment of the practicable options?	Yes but see our comments in our covering letter with regards to vacant/active properties and credit risks.