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Dear Lisa,

APPROVAL OF A JOINT ELECTRICITY AND GAS COMPLAINTS RESOLUTION SCHEME

Introduction

1. Thank you for providing Mighty River Power with the opportunity to make a submission on the Electricity Commission and the Gas Industry Co's consultation paper "Approval of a Joint Electricity and Gas Complaints Resolution Scheme", dated March 2008.
2. Our submission is structured to cover some high level concerns and observations we have about the proposed approach to approval of a Complaints Resolution System (CRS). We then comment on the specific questions posed as part of the consultation, and on the specific drafting of the proposed CRS requirements in Appendix C of the consultation paper.
3. No part of our submission is confidential and we are happy for it to be made publicly available.

General Comments

4. Mighty River Power is pleased the Electricity Commission and Gas Industry Co have agreed to act jointly in the CRS approval process. It would not make sense for two regulatory bodies to undertake separate decision making processes to determine whether to approve the same CRS(s).
5. Mighty River Power is presently concerned though with the Electricity Commission and Gas Industry Co's position that there should only be one CRS and the extremely detailed and overly prescriptive selection criteria which appear to "reverse engineer" the design of the CRS.
6. We are also not persuaded that if a proposed CRS satisfies the criteria in Appendix C it would necessarily mean approval of the CRS, or exclusion of any other CRS, would best meet the overall objective (clause 1.1.1) of providing an independent, timely and cost-effective CRS that is in the long-term interests of gas and electricity sector consumers (including potential consumers) and owners and occupiers of land.

7. Whether any given CRS should be approved should depend on how well the CRS meets the overall objective compared to alternative options such as:
 - a. The status quo under which membership of the CRS, or any other CRS, is voluntary;
 - b. The option of approving more than one CRS; or
 - c. Introduction of regulations for the introduction of a CRS (though Appendix C would presumably be used as the design specification for any such regulations).
8. In considering which option best meets the overall objective it should be borne in mind approval of a CRS will effectively regulate both the competitive (retail) and natural monopoly (distribution) parts of the electricity and gas markets by mandating membership of a CRS. While we are already joined to a CRS (presently the EGCC) the requirement to join a CRS (and all the prescriptive requirements of Appendix C) will impose costs on any potential new entrant to the industry.
9. We discuss our general concerns about approving only one CRS and the decision criteria for approval in the following sections.

Expectation of a Single Joint Scheme

10. The consultation paper states that its purpose "... is to propose a process for approving a single energy-based complaints resolution scheme ..." (emphasis added)¹ Mighty River Power remains² of the view that the possibility of approving more than one CRS should not be ruled out.
11. We agree with paragraph 13 of the Government Policy Statement on Gas Governance 2008 (Gas GPS) "... that consumers' best interests will be served by a joint gas and electricity consumer complaints resolution scheme". We believe one of the requirements for any CRS considered for approval should be that it covers both gas and electricity. However, this does not mean there should only be one CRS.
12. The Gas GPS goes on to claim "A single multi-fuel complaints system ... would provide benefits such as ease of access, consistency of outcomes and efficiencies of scale". The current Government Policy Statement on Electricity Governance 2006 (Electricity GPS) is silent on whether there should be a single CRS, though the 2007 proposed revision states in paragraph 29 "The Government believes that consumers' best interests are more likely to be served by a single independent complaints resolution scheme ... The reason for this is that a single dual-fuel scheme provides benefits such as ease of access, consistency of outcomes and efficiencies of scale ..." (emphasis added). We agree there are advantages of having one CRS. It should also be recognised though that there can be advantages of having more than one CRS, for example:
 - a. It could help enable gas and electricity retailers' to differentiate their service offering e.g. by establishing or joining a CRS they believe will best meet their customers' interests, and provide greater consumer choice.
 - b. No CRS would have a monopoly. The CRSs would face the discipline that if they performed poorly this could result in loss of custom and poor performance comparisons.

¹ Paragraph 1.1.

² As reflected in our submission to the Electricity Commission "Approval method for consumer complaints resolution schemes", 1 March 2007.

13. Mighty River Power believes the advantages and disadvantages of having more than one CRS should be weighed up at the time an alternative CRS seeks approval, rather than ruling out the possibility without considering the merits of the particular CRS. The Electricity and Gas GPSs should not be taken as precluded the approval of more than one scheme. They are not categorical on this matter. Regardless, the role of GPSs is to detail the Government's objectives and outcomes not to prescribe policy solutions.
14. The consultation paper states "If the Electricity Commission and Gas Industry Co consider, at any time, that it is in the overall interests of consumers to approve another CRS they retain the right to do so".³ Mighty River Power supports this stance. Mighty River Power **recommends** the Electricity Commission and Gas Industry Co consider whether more than one CRS should be approved on the basis of the merits of the proposed CRSs, rather than determining the matter in advance.

Prescriptive versus Outcome focused approach: Appendix C

15. In our previous submission to the Electricity Commission on the CRS approval process we agreed any CRSs should be evaluated using the six guiding principles of the Australian Benchmarks: Accessibility, Independence, Fairness, Accountability, Efficiency, and Effectiveness (Benchmark Principles). We also expressed the view that the Australian Benchmarks generally provide a reasonable framework by which to evaluate CRSs.
16. What is ultimately most important is whether approval of a proposed CRS, or exclusion of any other CRS, would best meet the overall objective (clause 1.1.1) of providing an independent, timely and cost-effective complaints CRS that is in the long-term interests of gas and electricity sector consumers (including potential consumers) and owners and occupiers of land.
17. Satisfaction of all the criteria in Appendix C by a proposed CRS does not necessarily mean the CRS best meets the overall objective or even the six guiding principles. The reason for this is that Appendix C prescribes some requirements that:
 - a. Are not necessarily the best way of satisfying, or even consistent with, the overall objective; and
 - b. Go well beyond providing a set of evaluation criteria by specifying the design of the scheme.
18. We believe Appendix C loses track of the overall objective and guiding principles by providing highly detailed and overly prescriptive requirements that any CRS would be required to meet in order to be approved. It is not clear how all of the requirements link back to the overarching principles.
19. An overly prescriptive approach runs the risk of tending towards "reverse engineering" the requirements in accordance with the incumbent EGCC scheme; with the appearance that much of the criteria (including on substantive matters such as governance and oversight) were specified with this scheme in mind. This approach runs the risk of unnecessarily constraining any CRS provider's ability to design a robust, cost effective, well functioning scheme.
20. A clear example of what we consider to be over-prescription is the requirement to promote the CRS on customer invoices (clause 2.1.2). We believe the Appendix C criteria should

³ Paragraph 4.6.

provide that the CRS is adequately promoted so customers (potential complainants) are adequately aware of it, consistent with the principle of Accessibility. Appendix C goes beyond this principle by prescribing how this is to be achieved. The problem is that there are numerous legitimate ways of achieving this. Clauses like 2.1.2 effectively rule out the possibility of other (potentially better) approaches being taken.

21. Mighty River Power believes Appendix C should leave the onus on the proposed CRSs to demonstrate they will be adequately promoted. If detail such as clause 2.1.2 is to be included it should be treated as a benchmark (or illustrative) approach which the Electricity Commission and Gas Industry Co consider to be an acceptable approach; but they will consider alternative approaches if the CRS can demonstrate the alternative approach would be just as (or more) effective.⁴
22. A more substantive example is the governance arrangements for the CRS. Appendix C details one particular governance model involving an Overseeing Entity. There could be a lot of overlap and confusion over the boundaries between the responsibilities of the Overseeing Entity and the Electricity Commission/Gas Industry Co. We are not convinced this is necessarily the only or most appropriate governance arrangement that should be considered. The consultation paper does not provide any justification for these particular governance arrangements, beyond reference to the Australian Benchmarks. Mighty River Power believes if the Appendix C criteria are going to prescribe the level of detail it currently does on matters such as governance more consideration of how it would operate in practice is needed.
23. Mighty River Power **recommends**:
 - a. CRS approval should be based on whether approval would best meet the overall objective in clause 1.1.1 of Appendix C.
 - b. The Electricity Commission and Gas Industry Co require any CRS seeking approval to demonstrate that approval would best meet the overall objective in clause 1.1.1 of Appendix C and satisfy the six guiding principles.
 - c. The Electricity Commission and Gas Industry Co avoid the overly prescriptive approach currently taken in Appendix C to reflect that there may be better ways of satisfying the overall objective in clause 1.1.1.

Design features prescribed by the Government Policy Statements on Gas and Electricity Governance

24. While the Government expressed the view that a single multi-fuel complaints system would “provide benefits” (Gas GPS) and would be “more likely to” serve consumers’ best interests (draft Electricity GPS), the statement of the Government’s expectations on the features of the CRS differ substantially between the two GPSs.
25. Some of the differences are probably not material, such as that the Gas GPS states “The Government expects and consumer complaints resolution system ... to meet the standards ... contained in equivalent schemes of other comparable countries”⁵ while the draft Electricity GPS states the Government expects the complaints scheme to be “consistent with

⁴ This position is reiterated in more detail in our response to question 2 in the Electricity Commission’s previous consultation paper (see attached submission).

⁵ Paragraph 13 of the Gas GPS.

international best practice ... for example, the Australian Benchmarks for Industry based Consumer Dispute Resolution ...”⁶

26. However, some of the other differences are much more material with the draft Electricity GPS prescribing a number of design features the Gas GPS is silent on. For example, the Gas GPS does not mention any requirements for “robust internal complaints handling processes within all member companies”, that there should be self-funding by the industry, compensation for consumers where appropriate or that it resolves disputes quickly and cheaply.
27. Mighty River Power does not object to most of the design features the Government proposes in either GPS. We therefore believe the Electricity Commission and Gas Industry Co should draw on an amalgam of both in establishing approval criteria for a joint gas-electricity CRS(s). We believe the consultation paper achieves this, evidenced for example by paragraph 4.10 of the consultation paper.
28. The one exception is the reference to a “code of practice” in the existing Electricity GPS (the draft revised version similarly refers to “a document that sets out the minimum standards of conduct for scheme members”) which is not mentioned in the Gas GPS. Mighty River Power is concerned about the existing situation whereby the EGCC has prescribed Codes of Practice and the Electricity Commission has translated these requirements in Model Contracts. This should be a matter that is either the domain of the EGCC (or the approved CRS) or the Electricity Commission/Gas Industry Co; not both.
29. There are also inconsistencies as to who would be entitled to use any approved CRS. The Gas GPS refers to “all small gas consumers”, while the Electricity GPS refers to “everyone (including potential consumers and owners and occupiers of land)”. The proposed revised version of the Electricity GPS narrows this by adding the qualification “as producers and consumers of electricity”. There is a wide gap between small consumers and everyone (including potential consumers and owners and occupiers of land).
30. Unfortunately, this difference is perpetuated in the Electricity and Gas Acts. Section 158G of the Electricity Act states that the CRS is to apply to “any person (including potential consumers and owners and occupiers of land)”. Section 43E of the Gas Act states that the CRS is to apply to “small consumers (including potential small consumers)”. We think the overall objective in clause 1.1.1 remedies this well by referring to “consumers (including potential consumers) and owners and occupiers of land”.
31. Mighty River Power **recommends** the CRS apply to “gas and electricity sector consumers (including potential consumers) and owners and occupiers of land”, consistent with the clause 1.1.1 of Appendix C. This recommendation would require amendments to various clauses in Appendix C, particularly clause 1.2.4.

⁶ Paragraph 32 of the draft Electricity GPS.

Responses to the consultation paper's questions

Consultation Question	Clause in Appendix C	Comment
1. Scheme Objective	1.1.1 Overall Objective	Yes.
2. Scheme Scope	1.2.4 Complainants	<p>There is major inconsistency in who the scheme applies to in the Overall Objective (clause 1.1.1) and the list of complainants the scheme will cover (clause 1.2.4). Clause 1.2.4 is also inconsistent with (wider) than envisaged by the Gas and Electricity GPSs and the Gas and Electricity Acts (see the discussion in the "Design features prescribed by the Government Policy Statements on Gas and Electricity Governance" section of this submission).</p> <p>Clause 1.2.4 actually widens the coverage to the most extreme situation possible by stating the CRS applies to "Every person who has a complaint" (bullets 1 and 2) and (bullet 3) "complaints from anyone ... including potential consumers and the owners and occupiers of land".</p> <p>Mighty River Power recommends the coverage of complainants in clause 1.2.4 be aligned with the existing clause 1.1.1.</p> <p>Mighty River Power notes that we agree the scheme should not cover the amount members charge for their services. Consistent with our comments on clause 3.8.1, Mighty River Power also notes we believe the scheme should not cover complaints where there is another, more appropriate, forum e.g. the Commerce Commission for Fair Trading Act issues.</p>
3.Code of Practice	(Code of Practice) 1.3.1 Conduct	As noted in the "Design features prescribed by the Government Policy Statements on Gas and Electricity Governance" section of this submission, Mighty River Power is concerned about the existing situation whereby the EGCC has prescribed Codes of Practice and the Electricity Commission has translated these requirements into Model Contracts. This should be a matter that is either the domain of the EGCC (or

Consultation Question	Clause in Appendix C	Comment
		the approved CRS) or the Electricity Commission/Gas Industry Co; not both.
	1.3.2 Code Coverage	<p>It is unclear whom “stakeholders” refers to in bullets 1 and 2. The term stakeholders needs to be more narrowly defined so as not to impose too onerous an obligation on members. Mighty River Power recommends “stakeholders” in bullets 1 and 2 of clause 1.3.2 be replaced with “complainants”.</p> <p>Bullets 4 and 6 duplicate parts of the Electricity Commission’s Low Income and Vulnerable Consumer Guidelines (10, 18, 19 and 22). The CRS requirements should not duplicate parts of the Low Income and Vulnerable Consumer Guidelines or make parts of them mandatory.</p> <p>The requirement to <i>“ensure that all consumers are aware of payment options and services offered by retailers and social agencies”</i> also poses a significant obligation on Retailers making compliance difficult from a practical perspective. As Mighty River Power indicated in our earlier submission (1 March 2007) we consider an appropriate standard would be: <i>“Scheme requires members to make its customers aware of the Schemes existence through periodic promotion / communication, company website and directly inform customers when disputes appear to be hitting deadlock”</i>. Retailers are unlikely to have up-to-date knowledge of other Retailers’ commercial plans and the payment options and services offered by all potential social agencies. It would be more sensible to require each Retailer to supply its customers with this information and for the approved complaints scheme and all other members to keep up to date information on their websites.</p> <p>The requirement to <i>“ensure that consumers enter into the most appropriate contracts for their needs”</i> is also problematic.</p> <p>We are not sure whether this is intended to relate solely to which tariff they are on (which does not matter, as we reimburse residential customers if they are on the</p>

Consultation Question	Clause in Appendix C	Comment
		<p>wrong tariff) or contracts more generally.</p> <p>The requirement also assumes the Retailer, rather than the consumer, is best placed to make decisions about a consumers needs. In our view, the consumer should take responsibility for decision making relating to their electricity needs. All the Retailer can be expected to do is explain its range of product options and point out that there are alternative providers and social agencies that offer payment support.</p> <p>As a general observation the word “<i>consumer</i>” or “<i>customer</i>” are used in various parts of clause 1.3.2 (and elsewhere in Appendix C).It is not always clear why one term is used instead of the other.</p> <p>Mighty River Power recommends bullets 4, 5 and 6 of clause 1.3.2 be deleted.</p>
Members Requirements	(Members to promote scheme) 2.1.1 Promotion of Scheme	No. The terms are too stringent by requiring members to include information and messages about the scheme or members’ internal complaints services on their customer invoices. Existing communication mediums are sufficient between notices in customer welcome packs, member websites and the scheme’s own promotional activities. In addition, Mercury Energy Customer Service Representatives are trained in the internal complaints processes and information is shared with customers at the time they call to register a complaint.
	2.1.2 Invoices/2.2.2 Promotion of internal systems	Mighty River Power recommends clauses 2.1.2 and 2.2.2 be deleted. We consider these requirements to be unreasonably onerous and potentially counterproductive because a) there are space constraints on invoices and to include complaints scheme information every month would mean that other, messages would have to be left off; b) the scheme is already promoted via websites, retailer call centres and other correspondence; and c) any further promotion would undermine members internal complaint handling processes. Furthermore, our retail business,

Consultation Question	Clause in Appendix C	Comment
		Mercury Energy, strives to make invoices as clear and understandable as possible, i.e. clear as to the amount owed and when it needs to be paid. Requirements such as clause 2.1.2 would just add to the clutter in invoices and potentially make this less clear.
	(Members to provide information to decision maker) 2.4.1 Timely information	Mighty River Power considers that a wider disclosure carve-out should be included in the proposed criteria so that an industry participant is able to withhold information where disclosure would place it in breach of a duty of confidentiality, regardless of whether the relevant third party is identified. There may be situations where information has been obtained by a third party and is subject to confidentiality obligations despite the third party not being identified. A requirement to disclose such information would place industry participants in breach of these obligations which normally carry limited liability. Mighty River Power recommends amending clause 2.4.1 by replacing "identifies a third party to whom a duty of confidentiality is owed" with "is confidential".
	2.4.2 Third parties	Mighty River Power recommends clause 2.4.2 be amended to clarify that to protect the privacy of individual staff members the decision maker should ensure that information identifying individuals is not disclosed.
	3.4.2/3.4.3	Mighty River Power recommends adding "at their own cost" to the end of clauses 3.4.2 and 3.4.3. If complainants do not have to pay for their own legal costs then there is no way to ensure that the scheme meets its objective of being informal, quick and low cost.
	3.4.4 Legal costs	Mighty River Power recommends clause 3.4.4 be deleted. Any party choosing to use a lawyer should do so at their own cost, consistent with discouraging the use of legal representation.

Consultation Question	Clause in Appendix C	Comment
	(Reasons for determination) 3.5.1/3.5.2	Mighty River Power recommends including “in writing” in clauses 3.5.1 and 3.5.2. This will mean there is a record that this part of the process has been undertaken.
	(Referring complaints and problems to other forums) 3.8.1 Referring complaints	Mighty River Power believes this clause should be strengthened to avoid overlaps in responsibilities, for example, the Commerce Commission under the Fair Trading Act. Mighty River Power recommends adding the following excerpt “The scheme rules will require complaints to be transferred to other, more appropriate, forums where these exist.”
	5.1.4 Fair and reasonable	<p>The CRS rules are to require that the decision-maker make determinations based on what is fair and reasonable, having regard to good industry practice, relevant industry codes of practice and the law. What is meant by “relevant industry codes of practice” should be clarified. Does it relate to the Model Interposed Delivered Contract (MDC) Guidelines and Distributed Generation (DG) Guidelines which are intended to be mandatory rather than the Model Interposed Delivered Contract which is an example of how the MDC Guidelines could be implemented?</p> <p>Mighty River Power considers that the decision-maker should be required to apply the consumer contract, if there is one, except where the contract is inconsistent with good industry practice, relevant industry codes of practice and the law. These qualifications protect consumers. To disregard existing contracts would create significant liability risks for industry participants and uncertainty for contractual parties.</p>
	(Written determinations)	Mighty River Power recommends replacing ‘consumers’ with ‘customers’. Reports are of relevance only to gas and/or electricity customers rather than “consumers” generally.

Consultation Question	Clause in Appendix C	Comment
	5.2.1 Reports	
Q5 Compensation	(Compensation) 5.3.1 Not punitive	Yes. Mighty River Power believes the scheme should be able to make awards for compensation and reimbursement of expenses as well as require members to take action to make redress. However, usage of the term 'decision-maker' implies that one person will preside over, hear and rule on escalated complaints. Employing one decision-maker to address escalated complaints has a high probability of creating a bottleneck with regards to the timely resolution of the complaints process; a direct violation of the Objective and Scope of the scheme. A more efficient system should be employed to minimise the risk of this disruption occurring. One possible solution is to put in place multiple 'decision makers'. As long as the process, application of regulations and guidelines and manner in which complaints are addressed are similar, complaints should be heard in a consistent manner and can be addressed in a timely manner.
	5.3.2 Maximum compensation	The decision-maker should only be able to reimburse reasonable expenses. The "reasonable" qualifier will signal to all parties that they are obliged to minimise expenses consistent with the overall objective of running a scheme that minimises costs.
Q6 Self monitoring and reporting	(Monitoring member compliance) 6.2.1 Monitoring own compliance	Yes. Scheme members should be required to self-monitor and report annually on their compliance to industry regulation and guidelines. The industry should incorporate their reporting as part of the annual EGR audits and all members and the scheme operator should be required to incorporate aspects and results of their audits.
	6.2.2 Scheme to monitor members	Mighty River Power recommends adding "...to identify and report on persistent and continued problems ..." This should clarify the purpose of the reporting.

Consultation Question	Clause in Appendix C	Comment
Q7 Reporting on Member compliance	6.2.3 Member breaches	Yes.
Q8 Reporting on Member breaches to Governing Body and Annual Report publication	(Overseeing Entity to report on compliance) 6.3.1 Annual report	Yes. Breaches should be reported to the governing body for possible action but it is not necessary to publish details of every single breach in the Annual Report, except in instances where they are persistent and material.
Q9 Persistent and material non-compliance reported to EC and GIC	6.3.1 and 6.3.2 Report to EC/GIC	Yes. Mighty River Power would like clarity as to what would be done with this information given it will be provided to both the Overseeing Body and the Electricity Commission/Gas Industry Co which suggests overlapping responsibilities. We are also interested in knowing this as neither agency has the ability to sanction a scheme member directly.
Q10 Functions of Overseeing Entity		As noted in the paragraph 23 of this submission, the consultation paper does not provide any information to explain why this particular governance model is appropriate or should be adopted at the expense of any other possible option. Mighty River Power also has concerns that there is an overlap and a lack of clarity around the boundaries of responsibility of the Overseeing Body and the Electricity Commission/Gas Industry Co.
Q11 Composition and process for appointing Overseeing Entity		
Q12 Scheme rule changes to be in consultation with stakeholders, EC and GIC		
Q13 Decision maker to be appointed by Overseeing Entity and staff by decision maker		

Consultation Question	Clause in Appendix C	Comment
Q14 Balancing scheme costs with complainant needs		Mighty River Power does not believe this question can be meaningfully answered without reviewing the actual CRSs that are seeking approval. This reinforces our recommendation that the Electricity Commission and Gas Industry Co consult on any draft decision regarding an approved Scheme (see the section Concluding remarks and next steps at the end of this submission).
Q15 Additional performance standards	9.1.2 Standards to include	<p>Mighty River Power is concerned that a CRS with a singular decision-maker will not have the necessary capacity to efficiently process complaints.</p> <p>There are no repercussions if the CRS does not meet the goal of 90% complaints resolution within the approved number of allocated working days. In addition, Mighty River Power is sceptical that the current allocated timelines will provide for the timely resolution of complaints. Clause 1.2.5 provides that 30 working days are already allocated to members' internal complaints resolution schemes. Adding the 60 working days allocated to the CRS's processes (as per clause 9.1.2) and the result is a total of 90 working days, or over 4 months, from the moment a customer enters the member's internal processes to a potential resolution by the CRS. Mighty River Power suggests the CRS's timelines be reduced to fall in line with member requirements; a 30-day / 30-day resolution cycle between internal complaints mechanisms and the CRS scheme should provide plenty of time for the required investigation and dispute resolution process.</p> <p>In addition, clause 9.1.2 leaves a substantial number (10%) of complaints which could potentially be left unresolved indefinitely, or past Mighty River Power's proposed 60-day cycle, without the CRS breaching the performance standards.</p> <p>Mighty River Power recommends amending clause 9.1.2 such that the CRS is required to determine 90% of all complaints within 30 working days and 99% in 60 working days.</p>

Consultation Question	Clause in Appendix C	Comment
		<p>Other measures should be established with regards to the amount of time it takes the scheme to identify whether a complaint is within the scheme's scope (14 working days) as well as the progression of complaints through the various stages and escalations of the complaints process. In addition, certain trigger points should be identified with their corresponding corrective actions regarding persistent non-performance of the scheme in not meeting agreed timeframes. (See Q21 for example).</p> <p>Mighty River Power recommends adding the following bullet to clause 9.1.2 "To determine for 100 per cent of all complaints received by the scheme within 14 working days that those complaints are within the scope of and can be addressed within the framework of the scheme." Mighty River Power recommends amending the last bullet in clause 9.1.2 to read "Determinations are to be within the scope of the powers of the scheme operator as set out in the scheme rules."</p>
Q16 Annual internal performance review reported in Annual report		Yes.
Q17 Independent reviews every three years	9.3	<p>No. Mighty River Power believes independent reviews of scheme performance should be undertaken every year and made available in the Annual Report. The CRS provider should be held accountable to the same standards as set for the members themselves regarding the code of practice as well as maintaining an acceptable level of performance, particularly in relation to the timely resolution of complaints and adherence to budget.</p> <p>Mighty River Power recommends clause 9.3.1 be amended by adding the word "annual" to the chapeau.</p>

Consultation Question	Clause in Appendix C	Comment
	9.4.1 Regular reports	The term regular is ambiguous. Mighty River Power recommends it be replaced with "quarterly".
Q18 12 months notice of winding up scheme	10.1.1. notice requirement	Yes, any less time might prove too disruptive.
Q19 Incumbent scheme required to co-operate in transition	10.1.1 continuity	Yes. Arrangements also need to be put in place to manage the transition from the status quo to the new arrangements, given there are currently a number of different CRSs in operation.
Q20 12 months notice of revocation of scheme approval		Yes.
Q21 Approval granted for 5 years		Yes, subject to the right of the Electricity Commission and Gas Industry Co to revoke authorisation if it fails to meet reasonable performance standards or is failing to meet the original approval criteria.
Q22 Applications invited after 4 years of service		Yes. Mighty River Power also believes: <ul style="list-style-type: none"> • Applications should be invited if an existing CRS has been given notice of revocation of approval; and • Potential CRSs should be able to make applications for approval at any time (consistent with our view that more than one scheme should not be precluded).

Concluding remarks and next steps

32. Mighty River Power is of the view the criteria for approval of a CRS should be amended such that:
- a. More than one CRS could potentially be approved (this to be determined on the particular merits of the proposed CRSs and how any alternative would offset the disadvantages of more than one scheme);
 - b. The decision as to whether or not to approve a CRS should ultimately depend on whether approval would best meet the overall objective in clause 1.1.1 of Appendix C.
 - c. Appendix C is amended to become outcomes focused rather than prescribing how any CRS should operate. At most the present CRS should be treated as a (non-mandatory) benchmark for what a CRS could look like.
33. Mighty River Power appreciates the opportunity to submit on the proposed criteria for approval of a CRS. We do not believe the consultation should end at this point though. Mighty River Power **recommends** the Electricity Commission and Gas Industry Co publicly release, for consultation, any proposed CRS as well as a draft decision as to what CRS (or CRSs) it intends to approve and/or reject. If this recommendation is adopted, Mighty River Power also **recommends** the draft decision include:
- a. An evaluation of each proposed CRS against the overall objective (clause 1.1.1), the benchmark principles of accessibility, independence, fairness, accountability and efficiency and the criteria in Appendix C.
 - b. A comparison of the relative merits of each of the proposed CRSs to determine which would best meet the overall objective (if applicable).
 - c. What changes would be necessary for a rejected CRS to gain approval (if applicable).
34. If you would like to discuss any of the issues raised in this submission or obtain further information please contact me (on 09 308 8259 or robert.allen@mightyriver.co.nz) or Josh Butterworth (09 580 3806 or josh.butterworth@mercury.co.nz).

Yours sincerely

Rob Allen
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