31 July 2024

Electricity Authority
PO Box 10041
Wellington 6143

Via email: dda@ea.govt.nz

Tēnā koutou

Follow-up Consultation – Proposed Changes to the Default Distributor Agreement

WEL Networks (WEL) appreciates the opportunity to provide feedback on the Electricity Authority's (the Authority) follow-up consultation – proposed changes to the default distributor agreement (the Consultation).

WEL is New Zealand's sixth largest electricity distribution company and is 100% owned by our community through our sole shareholder WEL Energy Trust. Our guiding purpose is to enable our communities to thrive, and we work to ensure that our customers have access to reliable, affordable, and environmentally sustainable energy.

Clause 9.10 – Refund of Charges

Although seemingly well-intentioned, WEL is concerned that the Authority's proposed changes to clause 9.10 do not promote the Authority's statutory objectives and are not in the long-term best interest of consumers.

The Authority states that there are a number of reasons the proposed changes to the Default Distributor Agreement (DDA), including the amendment to clause 9.10, are warranted. We address each of these below:

- *"The proposed changes to the DDA will lower consumer electricity costs through increased efficiency and competition."*
    - WEL does not agree with the Authority's position that clause 9.10 (as proposed) will lower consumer electricity costs for three key reasons:
        1. Under the Authority's proposal, although a single consumer, or group of consumers, may receive a one-off reduction in lines charges, the distributor's ability to wash-up that under recovered revenue means that consumers (in aggregate) are worse off. As wash-ups from prior periods also attract a time-value-of-money component, distributors overall revenue recovery will be higher under the proposed clause 9.10 regime, than it otherwise would have been under the status quo. This will not "lower consumer electricity costs", rather it will have the opposite effect.
        2. Although the Authority states that the proposal is designed in such a way which allows distributors to comply without having to "materially invest in new systems and processes", the reality is that this is very unlikely to be the case. Implementation and operation of the proposal will be a costly exercise; data acquisition and capture, billing, and registry management systems will need to be upgraded and the associated new processes and data flows mapped. Distributors may need to acquire additional resource to manage the requirements of clause 9.10, or divert existing resource away from more critical tasks.

3. The benefit, which only a small subset of consumers would derive, from proposed clause 9.10 is likely much smaller than the Authority expects. WEL has undertaken a high-level review of interruption data from the last four years. This review revealed that under the mandatory refund/reduction requirements of proposed clause 9.10, WEL would have only returned approximately $2,000 per annum to affected consumers. This number is significantly below the implementation, administration, and compliance costs proposed clause 9.10 would cause us to incur.

- *"The proposed changes to the DDA will strengthen incentives on distributors to manage the quality and reliability of consumers' electricity supply to minimise outage disruption."*
    - WEL does not agree with the Authority's position that proposed clause 9.10 will strengthen incentives on distributors to manage quality and reliability for three key reasons:
        1. Regardless of any regulatory requirement, distributors are, by and large, locally owned and operated, they exist solely to serve the communities in which they operate. The staff working for distributors, and their families, live in the local community. There is a strong community purpose that permeates the culture of all distributors, this means when faults occur, distribution staff jump into action to restore service as soon as possible. Every year there are numerous media stories touting the actions of lines crews braving all kinds of weather and situations to get power back on to their communities. WEL questions what greater incentive the proposed clause 9.10 requirements provide to restore supply faster than is already being done.
        2. Under Part 4 of the Commerce Act, non-exempt distributors already have a very robust and effective regulatory regime which oversees and seeks to improve quality and reliability standards. Part 4 also includes a financial scheme which exposes distributors to material incentives and penalties in relation to their quality and reliability outcomes. Consumer-owned distributors, exempted from price-quality regulation, are nonetheless beholden to the level of quality and reliability their consumers demand, as these consumers have a direct vote in who is elected as their representative shareholder trustees.
        3. As mentioned previously, the materiality of lines revenue likely to be refunded to consumers (e.g. $2,000 per annum) by proposed clause 9.10, is immaterial and will provide no incentive for distributors to attempt to restore electricity supply any faster than is already being done. The Authority's position, that the proposed clause 9.10 will incentivise faster restoration of supply, is further degraded, as distributors will be allowed to recover any revenue reductions in future wash-ups. This means that, as there is never any revenue at risk, there is nothing to incentivise behaviour (beyond the existing community and regulatory incentives).
- *"The proposed changes to the DDA will directly reduce consumer costs if distribution outages do occur."*
    - WEL does not agree with the Authority's position that clause 9.10 (as proposed) will directly reduce consumer costs if distribution outages do occur.
        - As highlighted previously, while costs for a single consumer, or group of consumers, may initially be reduced when distribution outages occur, consumers in aggregate will be worse off under proposed clause 9.10.
        - The 'reduced costs' most consumers will receive as a result of proposed clause 9.10 would be very minor. Aggrieved residential consumers would likely only be entitled to a dollar or two in 'compensation' following an extended supply interruption. Such an insignificant refund is likely to be interpreted as disrespectful, rather than compensatory.

There are several other issues with proposed clause 9.10, which WEL would like to highlight:

- The Authority proposes that the obligation should be on the distributor to notify the retailer(s) of ICPs impacted by an electricity supply interruption. The justification being that "the distributor will have this information" (2.27 of the Consultation). It must be stressed that this is not necessarily the case. While some distributors are gaining visibility of LV networks, most will only have visibility of HV networks. This means that distributors are unlikely to have interruption information for LV network faults to the individual ICP level.
- Many faults, especially during storm events, occur on private distribution assets owned by consumers. These outages may be difficult to distinguish from network outages (until an investigation is completed), resulting in ineligible consumers receiving reduced charges.
- Several times the Consultation states that it is important to remove the requirement for retailers to request refunds, and instead place the onus on distributors, so as to not create misalignment in incentives due to the requirement to pass-through refunds (proposed clause 12A.6). We do not believe the requirement for retailer requested refunds creates any misalignment in incentives. The only way incentives could be misaligned is if, as retailers would be required to pass refunds back to consumers, retailers didn't bother requesting refunds in the first place. However, we cannot imagine this is the scenario the Authority is suggesting.
- If, during an extended interruption, distributors are required to not recover distribution charges while it is acknowledged they are still providing "distribution services", then it stands to reason that retailers should also not recover retail charges (i.e. the retail component of fixed daily charges) while they may still be providing "retail services".

Although WEL is strongly against proposed clause 9.10, if the Authority must implement a version of it, we believe there are four key changes that must be made prior to it being codified:

1. The refund of charges must revert to being at the request of retailers;
2. An 'extended outage' is defined as three or more days without supply;
3. Retailers must pass-through 100% of refunded distribution charges (i.e. no administration fees); and
4. Retailers must also be required to forgo charging any retail component fixed daily charges for the duration of the supply interruption.

Clause 9.11 – Reduction of Charges

Again, although well intentioned, proposed clause 9.11 is disproportionately onerous on distributors for very specific and isolated situations. It suffers from many of the same administration, implementation, and monitoring issues as proposed clause 9.10, as well as the associated costs.

Furthermore, we do not support the use of active/inactive flags in the registry to facilitate proposed clause 9.11. It would create a potentially dangerous situation to knowingly have electrically live connections flagged inactive in the registry.

Clause 33.2 – Definition of 'use of money adjustment

Although WEL does not oppose this change, owing to the additional administration requirements, our preference is for this change to be 'opt-in' rather than mandatory. The other option would be to include a materiality threshold. Distributors and some retailers are likely to see this change as additional administration and complexity for very insignificant sums of money.

Evaluation of the Cost and Benefit of the Proposed Amendment

During the previous (October 2023) DDA consultation, WEL discovered, and submitted, that the cost benefit analysis undertaken by the Authority showed that although there was a sizeable net present benefit from the amendment related to the data access template, the proposed amendments related to the DDA and core terms represented a significant dis-benefit to consumers.

Concerningly, the current DDA consultation does not even provide evidence of a cost benefit analysis. Without substantiation, 6.3 of the Consultation simply states that the Authority "considers the proposed revisions will have a positive, but relatively small impact on the October 2023 cost benefit analysis". Based on the significant consumer dis-benefit of the changes proposed in October 2023, and our above comments relating to proposed clause 9.10, WEL contends that, counter to the Authority's statement in 6.3, the amendments proposed in the current consultation will also result in dis-benefit to consumers.

In addition to the comments contained in this submission, WEL supports the views expressed by Electricity Networks Aotearoa in its submission.

Should you require clarification on any part of this submission, please do not hesitate to contact me.

Ngā mihi nui

David Wiles

Revenue and Regulatory Manager