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Electricity Authority
PO Box 10041
Wellington 6143.

By email to dda@ea.govt.nz

Submission to the Electricity Authority (Authority) on amendments to the Default Distribution Agreement

Electricity Networks Aotearoa (ENA) appreciates the opportunity to make a submission to the Authority on its “Proposed changes to the default distributor agreement” consultation paper.

ENA is the industry membership body that represents the 27 electricity distribution businesses (EDBs) that take power from the national grid and deliver it to homes and businesses. ENA harnesses members’ collective expertise to promote safe, reliable and affordable power for our members’ customers.

Clause 9.10 is not to the long-term benefit of consumers.

The Authority's statutory objective is to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers. ENA's view is that the proposed clause 9.10 does not promote the Authority’s statutory objective. It falls short on each of the objective’s four pillars – specifically:

Competition – The proposed amendment to clause 9.10 DDA does not promote competition in the retail electricity market or for electricity lines services.

Reliability – EDBs build and maintain their networks to deliver the level of reliability expected by their customers. The Commerce Commission (Commission) incentivises EDBs to maintain reliability through quality incentives and severe penalties (including fines of up to \$5 million) for failing to deliver the reliability expected. The Authority’s proposed changes will not act as an incentive to improve reliability as any refunds will be a tiny fraction of the Commission’s incentives that are fundamental to the price-quality regime.

Efficiency – The implementation of the proposed amendment to clause 9.10 will be administratively burdensome for both retailers and EDBs. These costs will ultimately be borne by consumers. The Authority has failed to demonstrate via a cost-benefit analysis that the proposal is to the long-term benefit of consumers.

Protect small consumers – The final pillar in the Authority’ statutory objective is to protect domestic and small business consumers. The proposed drafting allows for EDBs to recover the costs of refunds from customers. As a result, refunds are likely to be funded by a cross-subsidy from other consumers and/or higher future prices for the recipients of the refund.

Given the above, ENA’s view is that the proposed amendments to clause 9.10 are inconsistent with the Authority’s statutory objective and should not proceed.

Moreover, ENA remains of the view that the provision of electric line services does not stop during an interruption and the costs of implementing and complying with the proposed obligation exceed the benefits to consumers from the issuance of a refund¹.

In addition to the statutory objective failings listed above, the proposal suffers from a range of implementation issues. For example, the drafting requires EDBs to identify the length of any interruption at every single ICP. This information is not available because outage data is only collected at a feeder or zone substation level.

Clause 24.5 of the DDA, details a series of situations where distributors are not liable for any failure to convey electricity including failures within the Transmission network (such as the recent Northland transmission failure which impacted over 100,000 customers). While clause 21 covers Force Majeure Events.

The interaction of the proposed clause 9.10 and the existing clauses 21 and 24.5 is unclear. ENA calls for the Authority to clarify if the events covered by clauses 21 and 24.5 would be exempt from distribution charge refunds under clause 9.10.

The consultation document is explicit that the Authority's policy intent for clause 9.10 is that consumers should not pay for electricity services when their electricity is interrupted (para 2.45). If the Authority believes this, it should apply this logic equally to **all** components of retail electricity charges – not just the distribution component.

Therefore, if the proposed clause 9.10 is implemented, the Authority must also amend the Code to prohibit retailers, via a new clause 12A.7, from billing customers for electricity supply during extended interruptions.

If the Authority is committed to implementing clause 9.10 regardless of whether it promotes its statutory objective, ENA believes that there are improvements that can be made to clause 9.10 namely:

- the reduction in charges should be triggered by a request for a refund by the relevant trader, not be automatic
- the definition of an extended continuous outage for clauses 9.10 and 9.11 should be three "complete days". Noting that the use of "complete days" rather than the equivalent hours will better align the operation of the registry and market reconciliation and settlement systems.

Clause 9.11 (Reduction of charges due to state of emergency)

The situations that clause 9.11 seeks to address are exceedingly rare. While ENA agrees with the intent of the clause, ENA queries whether the inclusion of a clause covering such specific circumstances in the Code is necessary and best practice.

The proposed clause 9.11 allows for the customer or trader to notify the EDB that a property is inaccessible for disconnection. As EDBs do not hold customer data and cannot verify the identity of the customer, ENA believes that the EDB notification must come from the relevant trader.

ENA has concerns that the use of the inactive registry flag to identify premises captured by clause 9.11 may lead to safety risks, whereby the ICP is flagged as inactive but is still electrically live. ENA recommends that, if the clause is implemented, a separate ICP status be introduced into the registry to indicate that an ICP is electrically live but not being billed because of a state of emergency.

¹ ENA, November 2023, ENA submission on proposed changes to the default distribution agreement template

Refunds must be passed through in full and include retailers' daily charge (Code clause 12A.6)

The Authority has given no consideration to the costs involved in EDBs' paying refunds to retailers but has allowed retailers to retain up to 50% of any refund provided to them. ICP billing and the pass-through of distribution and transmission charges are a core function of retailers. The administration of the proposed refunds is part of these core functions and does not represent an additional cost.

ENA's view is that any distribution rebate **must** be passed through to customers **in full**, and retailers should be prohibited from charging **any** daily charges for the duration of the outage (including metering and transmission). Therefore, the proposed clause 12A.6 must not include subclause 12A.6(2) and an additional clause 12A.7 should be added that prohibits retailers from billing customers for any charges for the entire length of an outage.

Clause 33.2 (definition of 'use of money adjustment')

ENA agrees that there is value in establishing a standard use of money adjustment and acknowledges that any use of money adjustment applies symmetrically to both the distributor and the trader. Under the current DDA, EDBs and retailers have operationalised the current recorded term in a way that balances implementation complexity and the quantum of any adjustment.

ENA's view is that the application of a use of money adjustment should be an operational term. If the Authority is concerned about inconsistent interest rates being applied, ENA recommends that the proposed clause 33.2 be amended to clarify that where the EDB and trader agree that a use of money adjustment be applied, the rate applied shall be the Interest Rate plus 2%, calculated and compounded daily (at 1/365th of the annual rate).

ENA has answered the Authority's consultation questions in Appendix A. If you have any questions about ENA's submission please contact Tracey Kai, ENA Chief Executive (Tracey@electricity.org.nz).

Yours sincerely

Keith Hutchinson
Regulatory Manager

1 Appendix A: Submission consultation questions

QUESTIONS	COMMENT
<p>Q2.1 Do you consider the revised proposed approach in 9.10 to be workable, efficient, and effective? Would you propose any alternative approaches?</p> <p>Please describe these approaches in your answer.</p>	<p>The proposed changes are not in line with the Authority’s statutory objective and will not deliver benefits to consumers.</p> <p>Additionally, the proposal is misaligned with the Authority’s distribution pricing principles and guidelines. The fixed component of lines charges reflects the network or infrastructure costs of the EDB and remains a cost to EDBs and consumers regardless of whether the power is on or not.</p> <p>ENA also suggests that any registry functionality allows EDBs to flag when an ICP is ‘inactive’ due to a network outage be based upon the non-regulated EIEP5B format.</p>
<p>Q2.2 Do you consider it would incentivise distributors to restore electricity supply to consumers more quickly if they did not need to reduce charges for a longer outage period than 24 hours?</p>	<p>No, the incentive implicit in the proposal is equivalent to as little as 60 cents per ICP per day.</p> <p>In contrast, the Commerce Commission quality incentives (\$35,374/MWh VOLL), penalties for the breach of quality standards (up to \$5 million), combined with the media and consumer pressure that occurs when an outage is abnormally long encourages EDBs to restore power as soon as safely practicable.</p> <p>Any incentives must also be carefully designed to not incentivise behaviour that puts the safety of workers or the public at risk or diverts EDB efforts from restoration of service to critical infrastructure e.g. water and communications infrastructure.</p>
<p>Q2.3 If so, what time limit would you consider reasonable before charges should be reduced (eg, a maximum of 48 hours interruption)?</p>	<p>ENA believes that refunds should apply only to extended outages. ENA’s view is that an extended outage should be defined as three <i>complete days</i>. This will better align with the operation of the registry and market reconciliation and settlement systems.</p>
<p>Q2.4 How would this longer period incentivise quick restoration of electricity supply and balance the disruption to the consumer and the consumer’s right to receive the</p>	<p>As noted above, the proposed changes to the DDA would not incentivise EDBs to more quickly restore electricity supply to consumers.</p>

<p>electricity they are pay for?</p>	<p>In addition, in an emergency EDBs might quite reasonably direct scarce resources towards restoring supply to e.g. critical infrastructure and emergency services. It is not necessarily in customers' interests that EDBs be financially incentivised to direct those resources towards restoring supply to residential consumers instead.</p>
<p>Q3.1 Do you consider new clause 9.11 effectively addresses the identified problem? Would you propose any alternative approaches? If so, please describe these approaches in your answer.</p>	<p>While this proposal is reasonable there are practical implications:</p> <ol style="list-style-type: none"> 1. Traders are responsible for the status of the ICP and can arrange for the ICP to be disconnected. Customers should be contacting traders for disconnection, not EDBs. 3. ENA has concerns that the use of the inactive registry flag may lead to safety risks, whereby the ICP is flagged as inactive but is still electrically live. ENA recommends a separate ICP status be introduced into the registry to indicate if an ICP is electricity live but not being billed because of a state of emergency.
<p>Q4.1 Do you consider new clause 12A.6 is practical to implement and will deliver benefit to consumers? Please explain why or why not.</p>	<p>ICP management and billing is a core function of retailers. There is no justification for retailers to retain any of the refunds provided by EDBs. Therefore ENA recommends the removal of subclause 12A.6(2) in its entirety.</p>
<p>Q4.2 Do you see any issues or have alternative ideas? If so, please explain please explain what these are.</p>	<p>ENA is calling for the inclusion of an additional clause 12A.7 that clarifies that retailers are prohibited from charging any fixed charges for the duration of an extended outage. If the rationale for retaining this clause is that traders incur these fixed costs irrespective of the availability of electricity to the premise, then this argument should be applied to EDB costs for providing distribution network services as well.</p>
<p>Q5.1 Is the revised approach to clause 33.2 appropriate and practical to implement without the need for significant system changes? Please explain your views.</p>	<p>Establishing a fixed interest % uplift and interest rate is appropriate.</p> <p>However, the question of if this interest rate is to be applied should be left to the EDB and trader to negotiate and therefore be an operational term rather than a core term.</p> <p>As highlighted by ENA members (e.g. EA Networks) in their submissions on the earlier consultation, the</p>

	<p>implementation of the proposed change is less simple than presented by the Authority. In many cases (i.e. volumes or errors are small) the administration costs will far outweigh the value of any adjustments.</p> <p>The current recorded terms approach allows greater flexibility in applying the adjustment only where it makes sense for both parties.</p>
<p>Q5.2 Does the revised approach to clause 33.2 reduce potential implementation costs? Please explain your views.</p>	<p>The revised drafting provides clarity over the compounding rate. However, as noted above ENA's view is that the application of the use of money adjustment should be an operational term and left for EDBs and traders to negotiate.</p>
<p>Q6.1 Do you agree with the analysis presented in this Regulatory Statement? If not, why not?</p>	<p>ENA agree that the proposals are intended to improve the workability of the Code. However, ENA's view is that Clause 9.10 is not to the long-term benefit to consumers and is not in keeping with the Authority's statutory objective.</p>
