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By email: DDA@ea.govt.nz

Network Tasman Submission to the Electricity Authority on proposed changes to the Default Distributor Agreement

Network Tasman welcomes the opportunity to make a submission to the Electricity Authority (Authority) on its proposed changes to the default distributor agreement (DDA).

Network Tasman has contributed to and supports the submission by Electricity Networks Aotearoa. This submission reinforces some of the points made in the ENA submission and addresses matters where the Network Tasman wishes to highlight or emphasise issues. This is not intended however to lessen the relevance or emphasis of any of the points in the ENA submission.

No part of this submission is confidential.

The CBA is insufficiently robust to justify the changes being proposed

Network Tasman submits that the Authority's cost-benefit analysis (CBA) is not sufficiently robust and cannot be relied upon to justify the Authority's proposed changes.

Network Tasman submits that the Authority should complete (and consult on) a new CBA that accurately accounts for all the likely costs and benefits of its proposed changes before making a final decision.

The CBA is the centrepiece of any proposal to amend the Code as is where the relative benefits of the proposal are distilled.

The CBA provided in the consultation paper is insufficiently robust to justify amending the Code and suggests that the Authority has a superficial understanding of the implications of the changes it is proposing.

The Authority's consolidation of independent issues into a single CBA obscures their individual value

The Authority provides a single consolidated CBA that covers all three issues¹ discussed in the consultation paper. Each issue is discrete and should be assessed on their individual merits.

The change to the data template has a significant benefit, but the net benefit of the other two issues is marginal and unlikely to be material.

Each of these issues is discrete and best practice dictates that each of these issues is subject to a individual CBA to ensure each provides (net) benefits to consumers.

¹ (1) The use of Recorded Terms in the DDA template, (2) providing distributor agreements to the Authority, and (3) costs with using the consumption data template.

Combining the CBAs into a single consolidated assessment risks introducing reforms that do not offer consumers (net) benefits because the net cost of the measure is less than the net benefits offered by the other proposals.

Authority uses assumption rather than its own empirical data to estimate negotiation costs

The CBA assumes the proposed changes will save traders and distributors a (combined) average of \$500 each time they enter into a distributor agreement.

In deriving this figure, the Authority references an assumption that 10 new distributor agreements will be entered into each year and that each of these agreements are subject to 6 - 7 hours of negotiation over recorded terms at an hourly cost of \$75/hour.

The first issue with this analysis is that it implicitly assumes that every new distributor agreement is subject to negotiation over the Recorded Terms.

This is unrealistic and does not align with Network Tasman's experience.

Since the DDA has come into effect, Network Tasman has entered into five new distribution agreements. In none of these instances, did Network Tasman the trader attempted to negotiate any alternative terms, Recorded or otherwise. On each occasion, the trader sought to trade on our network under Network Tasman's default agreement.

The Authority has a record of the number of distributor agreements that have been subject to successful negotiation. As noted in the consultation paper, clause 11 of Schedule 12A.1 of the Code requires participants to provide the Authority with a copy of every distributor agreement they enter into (default or alternative). From this information the Authority can determine the number of distributor agreements that are subject to negotiated Recorded Terms.

The Authority should have used this information to inform its estimate of the number of agreements that would have had negotiated Recorded Terms under the counterfactual scenario.

Network Tasman cannot comment on whether 6-7 hours is a suitable estimate of the length of time required to negotiate alternative Recorded Terms.

The CBA does not consider that the proposed changes will affect EDB operations and costs

The Authority appears to underestimate the magnitude of the changes it has proposed and the effect they will have on EDB operations.

The Authority assumes the costs of the changes being proposed are limited to the administrative costs of amending the DDA document and updating internal administrative processes associated with entering into a DDA and disclosing DDA related activities.

The consultation paper does not appear to consider that changes to the terms under which EDBs provide their services to traders could have implications for how EDBs operate their businesses.

Some of the changes the Authority is proposing may result in EDBs materially altering how they manage and operate their networks. Examples include, but are not limited to, the changes to:

- Clause 4.8 – Tightening the scope of factors EDBs must consider when scheduling planned outages.
- Clause 14.2 – Requiring EDBs to investigate every concern raised by traders and consumers.
- Clause 24.5 – Broadening the potential liability for EDBs.

Each of these changes have the potential to result in EDBs materially altering how they manage and operate their networks, which would invariably alter their costs.

For example, the change to clause 4.8 may require updates/modifications to internal policies and processes for how and when planned outages are undertaken. These updated policies and processes require drafting, testing and communication with staff. Additional training may also be required.

The CBA does not appear to consider the prospect that material changes to the DDA which sets out the contractual relationship between EDBs and traders may result in material changes to EDB operations or the costs of those changes.

The Authority underestimates the administrative costs of updating a DDA

The Authority's estimates of the cost of updating the DDA consider the basic administrative costs associated with altering the DDA document only and fail to consider the context of the proposed changes.

The Authority assumes it will take no more than two hours of effort to update and publish each DDA. This is likely to be accurate to the administrative cost of this activity, but it does not consider the prospect that changes to the DDA are sufficiently material to warrant briefings for the Board and relevant executive management.

The incremental dynamic benefits from retail competition are unlikely to be material

Network Tasman submits that the dynamic benefits of the proposed changes are likely to be immaterial.

Notwithstanding the implausibility that minor administrative savings would have a material effect on the likelihood of a new trader operating on a new network. Approximately 2/3rds of all ICPs have the choice of at least 22 different traders.² There is little likelihood that the proposed changes will result in a measurable increase in competition for these ICPs.

Even if the proposed changes did result in an incremental increase in the number of traders operating in New Zealand. Consumers enjoy diminishing marginal benefits from additional retail market entry. The incremental competition benefit of a 23rd trader entering a market will almost certainly be immaterial.

The incremental benefits of additional competition in less concentrated markets are likely to be bigger, but the benefits of additional competition in smaller markets are significantly less in absolute terms. Given all EDBs have at least 10 traders operating on their networks, the incremental benefit of an additional trader is likely to be minor in any case.

² The five largest EDBs account for approximately 2/3rd of all ICPs in New Zealand.

The CBA does not account for the costs of consultation

A CBA is a counterfactual assessment of the (net) benefits of a proposal compared to the counterfactual of the status quo.

The costs of consultation for the Authority and interested stakeholders are real, often significant, and would not be incurred under the counterfactual scenario.

As such, these costs should be accounted for in the Authority's CBA.

It is not in consumers' best interests to undertake reforms that rely on zero consultation costs to deliver a net positive CBA.