

11 July 2017



Submissions
Electricity Authority
PO Box 10041
Wellington 6143

By email: submissions@ea.govt.nz

Submission to the Electricity Authority

Enabling Mass Participation Issues Paper

Thank you for the opportunity to submit on the Authority's consultation paper: *Enabling Mass Participation in the Electricity Market*.

This submission is made by Utilities Disputes Ltd ("Utilities Disputes"), formerly known as the Office of the Electricity and Gas Complaints Commissioner. Utilities Disputes provides the approved dispute resolution scheme for the electricity and gas sectors, independently investigating and resolving complaints about electricity and gas companies.

Utilities Disputes provides the approved Scheme under the Electricity Industry Act 2010 ("the Act"), which – along with associated regulations and the Electricity Industry Participation Code 2010 – makes up the Electricity Authority's "rulebook". Section 96(1) requires Transpower, distributors, and retailers to belong to the approved scheme. Utilities Disputes' Energy Complaints Scheme ("the Scheme") is the approved scheme.

Our submission is focused on section 7 of the consultation paper: "Participants and non-participants in the electricity market need to be recognised correctly". This is because:

- section 7 affects Utilities Disputes directly because some types of participant are required to join the Scheme; and
- we do not believe it is appropriate for Utilities Disputes to express a view on the other sections of the consultation paper.

The blurring of participant types may reduce access to free, independent dispute resolution

Question 11 in the Authority's consultation paper asks:

What is your view of the possibility for, and impact of, any current or future blurring of participant type? What are your reasons?

Utilities Disputes submits the blurring of participant types is likely and may reduce access to free, independent dispute resolution. This is because only specific participant types are

required to belong to the Scheme. Where consumers receive “replacement services” – services that replace traditional distribution and retail – those consumers will no longer have access to free and independent alternative dispute resolution.¹

While Section 7 of the Electricity Industry Act 2010 provides that a range of parties are “industry participants” our focus here is on two participant types: distributors and retailers. This is because distributors and retailers, along with Transpower, are the only industry participants currently required to join the Scheme.

The Authority writes in the consultation paper:

Technology is providing different ways to supply electricity and enabling parties to interact with electricity markets in different ways. One effect is more parties are becoming participants without realising it. This raises the question of whether these parties should be subject to none, some, or all, of the provisions in the rulebook.

We agree new technology is blurring the lines between participant types. New technology has enabled some parties to offer services that replace or partially replace distribution and retail, without the parties necessarily meeting the definitions for “distributor” and “retailer”.

One example of a service that has (partially) replaced distribution is secondary networks, including electricity services in residential apartment buildings. As discussed in the consultation paper, secondary network operators provide services that partially replace distribution services, because they own network equipment conveying electricity from distribution networks to end consumers. Historically, it has been unclear whether secondary network operators are distributors (and have therefore been required to belong to the Scheme). As noted in the consultation paper, the Act has recently been amended to clarify that owners of secondary networks are in fact distributors.

Newcomers to the industry are also providing services that partially replace retail services. One company, for example, offers photovoltaic panels to consumers for lease. Consumers lease the panels and receive an exclusive right to the electricity the panels generate. Providers like this offer services that partially replace electricity retail, yet may not meet the definition of retailer in the Act – a business that sells electricity to a consumer other than for the purpose of resale.

A further effect of mass participation in the electricity market is the practical difficulty of managing so many participants. The most immediate difficulty is identifying who is a participant, and notifying participants of their obligations. For example because secondary network operators are now distributors, Utilities Disputes will now face the challenge of locating secondary networks, informing them of their obligations, and signing them up to the Scheme. We understand there may be more than 10,000 secondary networks in New Zealand and there is no straightforward way of locating them all. We believe mass

¹ Unless service providers elect to join the Scheme or belong to an alternative Scheme.

participation may require us to review the way we manage our relationships with industry participants.²

Please note we understand the Authority does not have the ability to require new participants to belong to the Scheme, or the ability to amend the Act. Our intention here is to draw the attention of the Authority (and the attention of the industry) to one particular impact of the ongoing blurring of participant type: the effect on access to dispute resolution.

If the Authority wishes to discuss this submission further please contact Jerome Chapman, Deputy Commissioner on (04) 914 4521, or at j.chapman@utilitiesdisputes.co.nz.

Yours sincerely

A handwritten signature in blue ink that reads "Nanette Moreau". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Nanette Moreau
Commissioner
Utilities Disputes Ltd

² For example, Utilities Disputes currently requires providers joining the Scheme to sign a "Provider Agreement" which is countersigned by the Board Chair on behalf of the Board. With potentially thousands of new participants required to belong to the dispute resolution Scheme, Utilities Disputes may be required to consider alternative arrangements.