



15 October 2019

Electricity Authority
Via email: submissions@ea.govt.nz

Consultation Paper – Default Distributor Agreement Template

IntelliHub would like to thank the Electricity Authority for the opportunity to comment on the proposal and considerations regarding a Default Distributor Agreement.

As a MEP, we recognise and agree that consumers' interests are best served by a competitive metering market. What is not clear is how this agreement will fit with the current Code obligations for metering equipment, which clearly sets out the obligations and responsibilities of traders and MEPs provision of a metering installation.

IntelliHub is happy to work with the Electricity Authority if it this needs further consideration.

Yours sincerely

Stacey Tibbetts
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Submitter	Intellihub Ltd
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Question	Comment
<p>Q1. What are your views on the Problem definition? Specifically:</p> <ul style="list-style-type: none"> a. the efficiency problem b. the competition in retail markets problem c. the competition in related services problem. 	No comment.
<p>Q2. What are your views on the revised:</p> <ul style="list-style-type: none"> a. Part 12A proposal b. DDA template proposal 	<p><u>Summary of Position</u></p> <p>We note that the Electricity Authority has not proactively engaged with Intellihub (and potentially other Metering Equipment Providers (MEPs)) on the DDA template proposal, such that we have been surprised to recently discover that it includes provisions governing the installation of Metering Equipment.</p> <p>We are concerned that provisions regarding metering in the DDA template proposal are inconsistent with Part 10 of the Code, and risk producing outcomes that are not in the long term interests of consumers. For the reasons explained below, the Electricity Authority should therefore reconsider the provisions in the DDA template proposal that cover Metering Equipment.</p> <p><u>Risk of Adverse Outcomes for Consumers</u></p> <p>Paragraph 3.34 of the Consultation Document notes that an issue with some current UoSAs is that they can stifle innovation in contestable services by including terms that deny the retailer's choice of MEP, by requiring use of the distributor's own (or preferred) metering services.</p> <p>We agree that consumers' interests are best served by a competitive metering market, and that the DDA template proposal should address this issue. However, by including a provision (clause 12.11) that provides distributors with the right to install Additional Metering Equipment, the DDA template proposal will not fully address this issue. Instead, a distributor will have considerable ability to install its own (or preferred) meters, leverage its monopoly distribution business to distort the competitive metering market, and potentially seek to influence retailers to displace existing MEPs (for example, by sharing costs of the meter between the regulated and non-regulated parts of its business).</p> <p>By giving either party a broad power to install Additional Metering Equipment, the provisions in the DDA template proposal:</p>

- appear to encourage duplication of Metering Equipment at a customer's premises, inconsistent with Part 10 of the Code and established industry practice in accordance with the Electricity Authority's guidance, which seeks to minimise such inefficiencies;
- do not reflect that a key initiative under the Part 12A proposal (as highlighted in the Electricity Price Review) is to standardise distributors' access to smart meter data to ensure they receive information required to manage and invest in efficient distribution networks, and to mitigate the need for distributors to inefficiently duplicate existing metering infrastructure (as mentioned above there is also a risk that distributors who invest in meters for network management purposes, and include the costs in their line charges, will have incentives to leverage that position and distort the competitive metering market); and
- increase the risk that consumers will pay for the costs of meters that:
 - do not meet the compliance and testing standards under Part 10;
 - could interfere with and cause damage to existing metering installations; and
 - generally increase health and safety risks.

Inconsistencies with Part 10 of the Code

It appears to us that the metering provisions in the DDA template proposal are carried forward from historic MUoSAs. These were drafted at a time where distributors or retailers were responsible for metering, and have not been reviewed or updated to reflect that Part 10 of the Code (as it now stands) was subsequently introduced to separately establish the role of MEP in a competitive metering market, and to set out the responsibilities of traders and MEPs for the provision of metering installations.

The inconsistencies between the DDA template proposal and Part 10 of the Code include the following:

- Clause 11.1(b) provides that a Trader's Customer Agreements must provide the Distributor with safe and unobstructed access onto the Customer's Premises to install, read, maintain or upgrade Metering Equipment. Distributors do not have such a right under Part 10. Those industry participants that do have a right of access under clause 10.7 of the Code (including MEPs) can only exercise it for exercising

their rights and performing their obligations under the Code. Further, those with rights of access under Part 10 do not have a right to access the metering installation itself, as the MEP controls access in accordance with Part 10.

- Clause 12.11 allows either party to install and maintain Additional Metering Equipment, provided that:
 - the additional equipment does not interfere with any other equipment owned or used by the other party; and
 - the installing party ensures that it is installed and maintained in accordance with Good Electricity Industry Practice; and

These provisos do not recognise the following issues:

- A third party MEP will likely own or use existing Metering Equipment under Part 10. That MEP will have no remedies under the DDA, and are unlikely to have a contractual relationship with the installing party that damages their equipment.
 - Part 10 includes extensive provisions governing standards and testing for Metering Equipment, which go far beyond the definition of Good Electricity Industry Practice in the DDA template proposal and which does not specifically cover metering.
- Clause 12.12 provides that if the installing party “causes damage to the equipment or invalidates the existing Metering Equipment certification” then they must make good the damage. However, this indemnity:
 - only applies to the Metering Equipment and/or certification of the other party to the DDA; and
 - does not recognise that it could be a third party MEP's equipment and/or certification (which is perhaps a reflection that the drafting pre-dates Part 10, as discussed above).
- In any event, unless an MEP had been notified of the installation of Additional Metering Equipment, they may not be aware that their equipment and/or certification has been put at risk. The MEP is unlikely to be aware of the Additional Metering Equipment and possible impacts unless it:
 - impacts the consumer directly (i.e. electrical issue or billing issues);

- causes a meter to stop communicating; or
- causes someone to receive their data incorrectly,

Without an impact to consumers or Traders, there is no easy way for a MEP or ATH to identify these Additional Metering Equipment installations.

Risks in Practice

As a MEP and an ATH responsible for the compliance and certification of the metering installation, we can see that clause 12.11 has the risk of triggering issues for the incumbent MEP or ATH:

- A party could read clause 12.11 as meaning that the current processes and certifications (i.e. ATH) in place do not apply to the new metering installation, and they may not understand or be aware of the Code and the obligations of an ATH.
- The Additional Metering Equipment can be installed by a third party who believes that the the devices installed and/or the installation work carried out have not impacted the existing metering installation in any way.
- The third party's installation may impact the existing metering installation and/or its certification, leaving the MEP at risk of an uncertified metering installation. For example, in some networks the Load Control device sits outside of the metering installation. If this is replaced and/or reconfigured, the ATH wiring diagram and the metering installation certification is voided and the meter channel(s) could collect data incorrectly for the tariff certified.

It would be in the industry's and consumers' interest to at least advise the MEP that Additional Metering Equipment will be installed at an ICP, to provide the MEP with the opportunity to validate that the certification will not be impacted (i.e. 12.12 (b) of the DDA).

Amendments Required

In conclusion, our main concern is that the DDA template proposal is silent on how Part 10 of the Code applies to Additional Metering Equipment and/or does not recognise that the metering market has materially changed since the provisions were originally drafted.

	<p>We do not seek to include new or additional restrictions on industry participants' ability to install new Metering Equipment. Our concern is to ensure that the DDA template proposal does not inadvertently subvert the Part 10 regime.</p> <p>By removing the metering provisions in clauses 11 and 12, or by making it clear that they are subject to Part 10 of the Code, it would help to ensure that:</p> <ul style="list-style-type: none"> • parties to the DDA are on notice that there are additional compliance obligations to consider; and • the existing MEP will have oversight of installation of the new equipment in accordance with Part 10 of the Code. <p>We have not suggested drafting changes at this stage, but we would be happy to work with the Electricity Authority on appropriate amendments if it agrees that there is a problem that should be addressed.</p>
<p>Q3. What are your views on the draft Code, appended to this paper, which would introduce the proposal?</p>	<p>No comment.</p>
<p>Q4. What are your views on the Regulatory Statement? Specifically:</p> <ol style="list-style-type: none"> a. the efficiency costs and benefits b. the costs and benefits in the retail market c. the costs and benefits in the related-services market. 	<p>No comment.</p>