

15 October 2019

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Submissions
Electricity Authority
PO Box 10041
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By email: submissions@ea.govt.nz

Re: Consultation Paper – Default Distributor Agreement

Nova Energy fully supports the introduction of a Default Distribution Agreement (DDA), despite having in place Use of Systems Agreements (UoSA) with all grid connected distributors in NZ.

Since the first UoSA were developed and agreed between the EDBs and incumbent retailers in the late 1990's, the market has developed quite extensively, and many terms in those early agreements have been superseded by Code changes. At the same time, many EDB's have progressively added more one-sided terms in their subsequent standard agreements. To a degree, this has left Traders with existing agreements a choice between retaining their out-of-date agreements or accepting new agreements with less balanced terms.

The DDA rebalances the position and Nova expects it will be favoured by most Traders over existing agreements. This is reflected in the submission from ERANZ, which Nova supports.

Nova does not agree however that the DDA should automatically become the default in the absence of Traders and EDBs agreeing to an extension of their existing agreements within a fixed time-frame. Given that parties can adopt the DDA at any time, then there is no need to have the DDA forced on them. Leaving the timing open for parties to consider adopting the DDA or considering different negotiated term is more efficient than requiring parties to engage and agree on an extension of time, as it allows them to focus their efforts on their more significant agreements in the short term.

Nova has commented on the Authority's specific questions and the proposed DDA in the attached appendix.

Please feel free to contact me if you wish to discuss our views further.

Yours sincerely



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Commercial & Regulatory Manager

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Nova submission

Default Distributor Agreement - Consultation Paper

Q No.	Question	Response
1.	<p>What are your views on the problem definition? Specifically:</p> <ul style="list-style-type: none">a) the efficiency problemb) the competition in retail markets problemc) the competition in related services problem.	<ul style="list-style-type: none">a) Adoption of the DDA will help clear the barriers that inhibit EDBs and Traders from adopting new agreements.b) Competition in the retail market will be enhanced by enabling Traders to commence trading on new networks both faster and with less preliminary negotiations required. Greater consistency in terms will also help the Traders' operational teams better manage their interactions with EDBs.c) The threat or actual engagement by EDBs in commercial activities that either: compete with the Trader's business, or could potentially make use of data held by the Trader, creates a barrier to the parties working closely to deliver electricity to consumers in a seamless manner. Traders need to be assured that data they provide is secure and will not be used in any way to their disadvantage. EDB's also need to be required to allow competitive third parties carry out work supplementary to their core network operations, e.g. tree control and connections & disconnections.
2.	<p>What are your views on the revised:</p> <ul style="list-style-type: none">a) Part 12A proposalb) DDA template proposal	<ul style="list-style-type: none">a) Clause 12(5) of Schedule 12A.1 should be deleted. It creates an unnecessary additional layer of complexity and work in the process of transitioning between existing agreements and new agreements structured around the terms of the DDA. The exiting UoSAs are not referred to frequently, but adopting a new agreement is likely to have implications for some procedures between Traders and EDBs, such as: new connections, outages protocols, provision of data, reconciliation and billing. In such cases both parties need time to implement changes to their processes, however minor. Clause 13.2 requires provisions in Customer Agreements – these are reasonable, but if a Trader's Customer

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		<p>Agreements do not already fully comply with these agreements that is then another change that must be implemented and communicated to Customers.</p> <p>b) Notes on the DDA Template</p> <ul style="list-style-type: none"> i 8.1 Price Category – This clause needs to include a requirement that a Price Category cannot include retrospective elements, i.e. there should be no situation where the Trader only learns what price will apply to an ICP in arrears. This is important given that EDBs are being asked to introduce cost reflective pricing. EDBs may be inclined to introduce peak demand prices that are scaled in arrears. In such situations Traders can only estimate expected prices, which is inefficient and has a direct cost to consumers. ii 8.12(c) – Vacant Site Disconnection – There is a need for a standard Registry Code and EIEP format for notification of such disconnections. iii 13.3 - Notification of non-complying Installation – The Distributor should be required to respond to the Trader once they are advised of a non-complying installation in order that the Trader can commence supply or take whatever other action is necessary for the site. Nova proposes adding: <i>‘The Distributor shall advise the Trader promptly once the non-compliance has been resolved or what other actions have been taken or are necessary at the ICP.’</i> iv 21. Force Majeure – it needs to be made clear that in circumstances where the Distributor is unable to deliver electricity then no service charges shall apply (unless these are being fully offset by a Service Guarantee Payment in accordance with Schedule 1). v 24.7 Limitation of liability – The proposed liability cap is inconsistent with the better UoSAs already in place, which includes caps in excess of \$2m. Negligence by a Distributor could easily cause damage to commercial or industrial customers in excess of many tens of thousands of dollars, and

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		<p>they should be able to expect a liability cap in excess of \$10,000. Nova proposes the cap should be the lesser of <u>\$3m</u> or \$10,000 <u>times the number of</u> ICPs on the network at which the Trader traded on the day of the event. The Consultation Paper refers to examples of the existing liability caps but fails to recognise that Traders had little option but to accept those caps, which are lower than would be considered reasonable given the value of the services provided.</p> <p>vi 33. “Warranted Person” - while it is appropriate that the Distributor should authorise persons to carry out work on the network, The Distributor should also be required to ensure that there are sufficient parties so authorised; and preferably not just those parties where the Distributor has a financial interest. Nova has had situations where the only available (Distributor owned) Warranted Party withdrew from carrying out disconnections, which at the time created difficulty in getting work completed in a reasonable time-frame.</p> <p>vii Schedule 2, S2.1(c)(i) - The only option for consumption volume information should be <i>replacement RM normalised</i>. And S2.1(d) should similarly refer to <i>replacement RM normalised</i> only. All participants should be a position to deal with replacement RM normalised by now, and there should be no need to perpetuate the alternatives through the DDA.</p>
3.	What are your views on the draft Code, appended to this paper, which would introduce the proposal?	<p>Schedule 12A.1 - Clauses 6(3) and 12(5) should be deleted as there is no need for a time limitation given that either party may adopt the DDA at any time.</p> <p>Requiring Traders and EDBs to either adopt the DDA or agree on an alternative timeline creates an unnecessary pressure to focus on that work in the available</p>

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		time, which will impact on other priorities. Very few participants will have the resources available to fully commit to this work to meet the Authorities' timetable.
4.	<p>What are your views on the Regulatory Statement? Specifically:</p> <ul 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. 	<ul style="list-style-type: none"> a) The DDA provides clear efficiency costs and benefits. The costs would be lower if the DDA is not imposed on parties by default in the absence of the parties agreeing on an alternative within a short time-frame after the DDA becoming available. b) There will be benefits to competition in the retail market, and Traders' operating costs can be expected to be lower with greater consistency between EDB's operating procedures. c) Nova expects there will be benefits in the related-services markets, but it may take some time before these are apparent, for example, where EDBs are engaged in metering services there are practical limitations to installing alternative meters to those owned by the EDB.