

Via email: distribution.feedback@ea.govt.nz

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Issues paper: Updating the Regulatory Settings for Distribution Networks

Mercury welcomes the opportunity to provide feedback to the Electricity Authority (Authority) on the paper *Issues paper: Updating the Regulatory Settings for Distribution Networks*, December 2022, (Issues Paper). No part of this submission is confidential.

The Authority seeks feedback on the issues and opportunities related to distribution networks that if addressed would help unlock the potential of Distributed Energy Resources (DER) for the long-term benefit of consumers. In particular, the issues paper focuses on the regulatory settings that are intended to promote competition between flexibility traders' non-network solutions and distributors' network and non-network solutions.

Mercury supports regulatory settings that promote competition between network and non-network solutions for the long-term benefit of consumers.¹ Mercury notes, however, that the process of competition between network and non-network solutions is new and emerging. As such, decisions regarding the regulatory settings should be cognizant of the risk of adverse unintended consequences on the emergence of new and innovative flexibility services.²

Mercury, therefore, also supports in general the Authority's least-regrets approach to developing the regulatory settings – i.e. "... to take actions that would promote competition and efficiency regardless of how the emerging market for flexibility services develops in the future."³ This approach helps mitigate the risk of adverse unintended consequences while enabling the emergences of new and innovative services. An example of this approach that Mercury supports in general is the incremental extensions to the regulatory protocols and amendments to the data template.

Mercury's submission focuses on the detailed aspects of incremental amendments to the regulatory framework that would enable Retailers to share customer related data with flexibility traders, as well as the information that Distributors might share with flexibility traders to allow flexibility traders to better target non-network solutions.

Flexibility trader's access to Retailer's customer related data

The Authority notes that it "... is considering prioritising amending the Code to clarify that MEPs must contract directly with and provide both Consumption Data and Power Quality Data to distributors and flexibility traders for a set of permitted purposes i.e., without the need for retailer permission." The Authority envisages that "[t]his would provide distributors (and flexibility traders) a mandate to access this data directly from MEPs with minimal administrative burden and would remove the need to obtain retailer permission."⁴

¹ This aligns with the Authority's view regarding market settings and competition set out in paragraph 5.10 of the Issues Paper.

² Paragraph 5.4 of the Issues Paper highlights the value at risk "... net benefits of intervening to optimise the potential value of DER were estimated by consultants Sapere at \$6.9 b for the period 2021–50. These benefits depend on getting the market settings right so that distributors, consumers, and third parties are all incentivised to invest sufficiently in DER and NNS. Market settings should also ensure an efficient mix of self-supply, competitive procurement, and competitive provision of NNS."

³ Issues Paper, paragraph 1.8.

⁴ Issues Paper, paragraph 4.89.

It is important note that some of this data is collected under the Retailer's agreement with customers. This means the Retailer is responsible for how that data is used and therefore the Retailer must ensure it meets its obligations as agreed with the customer.

Retailers, however, do not have a relationship with flexibility traders and Retailers do not have a means of redress for inappropriate actions. It is unreasonable to expose Retailers to this risk. In comparison, Retailers have agreements with Distributors and so have recourse if a Distributor acts outside of these agreements, which list specific data that a Retailer must provide, and Distributors permitted use of the data.

The Authority indicates that consideration will be given to existing contracts, the commercial arrangements, and privacy protections. Mercury proposes that, in addition, the Authority should consider the regulatory framework that would enable Retailers to share customer related data with flexibility traders. As a starting point, flexibility traders should be registered as a market participant.

A flexibility trader registration process should include criteria for determining their suitability to offer flexibility services. These criteria should provide assurances that the customer data is protected and that the use of the data is limited to providing flexibility services. The Code can then provide mechanisms for ensuring customers are made aware of how their data is being used across the industry, and the consequences of inappropriate actions falls on the relevant party.

More generally, registration can also address other matters related to market participation such as whether flexibility traders should also participate in the utility disputes scheme.

Flexibility trader's access to more detailed asset management plan

The Issues Paper indicates that:

4.62 Network congestion data on LV networks covers (1) a static picture of current congestion on LV networks, and (2) a projection of likely future congestion on LV networks. Ideally this would be at a granular (ICP) level, and would enable flexibility traders to:

(a) understand a customer's individual need (after being requested by the customer, rather than for unsolicited approaches) and tailor DER services to fulfil those needs

(b) identify network problems and offer solutions to distributors for these problems, and

(c) understand network capacity and therefore what DER offerings will or won't work.

4.63 ICP level consumption and Power Quality Data will enable flexibility traders to provide services to support network planning and management.

The Authority proposes that access to this data is given a high priority.

The Authority is proposing to capture a significant quantity of detailed data, yet it is unclear how this data will be used. The concept appears to be that the flexibility trader would take this data and independently determine potential network issues, engage in network planning, and offer services to Distributors. This independent analysis may or may not match with a Distributor's assessment of its network requirements, raising the risk that there are competing views about future network requirements. In addition, it is unclear how flexibility traders might use this information more generally – e.g. will flexibility traders be able to use this data to target specific customer groups as a part of particular non-network solution?



Mercury suggests, rather than enabling access to a large quantity of detailed data, it may be more effective for Distributors to develop a more detailed asset management plan that better indicates where and how flexibility could be used to defer or avoid investment in network assets. Flexibility traders could then engage with Distributors where they believe they have a non-network solution. An early example of this is in Orion's Asset Management Plan 2022 - '6.7. Value of Distributed Energy resource Management Alternatives'.

Mercury looks forward to engaging with Authority and industry on progressing the development of regulatory settings that promotes competition between network and non-network solutions across distribution networks.

Yours sincerely,



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