

Clarification of responsibility for retailer obligations

Decision paper

1 September 2023

Contents

1. Executive Summary	3
2. Purpose.....	3
3. Technical non-controversial amendments to the Code	3
4. Background	3
5. Clarifying retailer obligations will simplify compliance responsibility.....	3
6. Evaluation criteria for technical non-controversial amendments to the Code.....	3
7. Technical and non-controversial amendments to the Code don't require consultation .	4
8. Next Steps.....	4
9. Attachments	4
Appendix A Code amendments.....	5
Clause 11.18 of Part 11	5
Clause 17 of Schedule 11.1.....	5

1. Executive Summary

- 1.1. The Authority has decided to make technical and non-controversial amendments to two clauses in the Electricity Industry Participation Code (2010) (the Code). The amendments clarify retailers' obligations at an ICP, and they will also enable a multiple trading relationship trial led by Kāinga Ora and Ara Ake (the multiple trading relationship trial) to proceed. The amendments will not affect participants not involved in the multiple trading relationship trial – their obligations will remain the same.

2. Purpose

- 2.1. This paper provides industry participants and stakeholders with information and the rationale for the technical and non-controversial amendments.

3. Technical non-controversial amendments to the Code

- 3.1. The amendments are to clause 11.18 and clause 17 of Schedule 11.1 of the Code. The word “identifier” will be added after “ICP” in each clause. The changes are marked in false track changes in Appendix A.

4. Background

- 4.1. The Authority granted Wellington Electricity Lines Limited (a distributor) and Intellihub Limited (a metering equipment provider) Code exemptions to enable them to conduct the multiple trading relationship trial. The multiple trading relationship trial will involve multiple traders at an ICP meaning that consumption retailers will also require Code exemptions for the multiple trading relationship trial to go ahead.

5. Clarifying retailer obligations will simplify compliance responsibility

- 5.1. We have identified two clauses that will require amendment to facilitate the multiple trading relationship trial. Each amendment will continue to remain in place after the trial. The amendments are to add the word “identifier” after “ICP” in clause 11.18 and clause 17 of Schedule 11.1 of the Code.
- 5.2. The addition of the word “identifier” after “ICP” is a technical improvement that clarifies that the retailer responsible for certain Code obligations is linked to the participant who has taken responsibility in the registry using language that already exists in the Code.

6. Evaluation criteria for technical non-controversial amendments to the Code

- 6.1. When the Authority considered the changes to the Code, we looked at the conditions set out in the Electricity Industry Act 2010 for a technical non-controversial amendment and considered whether those conditions were met.
- 6.2. Where ICP is mentioned in the clauses, the addition of “identifier” makes it clearer that the responsibility is set by the trader associated with the ICP identifier in the registry.

- 6.3. The first subclause in Clause 11.18 establishes that a trader ‘recorded in the registry’ as accepting responsibility for an ICP is responsible for all trader obligations in Part 11 that relate to an ICP that is not also an NSP. The second subclause provides for when that responsibility ends. It is intended to transfer responsibility when a consumer switches to a new retailer by clarifying that a trader ceases to be responsible for the obligations if another trader is ‘recorded in the registry’ as being responsible for the ICP.
- 6.4. Clause 17 of Schedule 11.1 provides that the status of “Active” must be managed by the relevant trader and indicates that the associated electrical installations are electrically connected, and a trader must provide information related to the ICP identifier, in accordance with Part 15, to the reconciliation manager for the purpose of compiling reconciliation information.
- 6.5. Changing the term “ICP” to “ICP identifier” in some Code provisions will not change the meaning of, or the rights and obligations imposed under, the provisions.
- 6.6. The nature of the amendment is technical and non-controversial for the following reasons:
 - (a) the amendments do not change the policy intent of the clauses, rather they clarify that the participant responsible is linked to the participant who has taken responsibility in the registry using language that already exists in the Code
 - (b) the amendments were reviewed by external subject matter experts to provide reassurance that the Authority is reasonably concluding the changes are non-controversial.
- 6.7. The amendments were identified as part of an assessment of an exemption application and are necessary to enable the exemption to proceed. The amendments will however, have no impact on participants who are not exempted; their obligations under the Code remain the same.

7. Technical and non-controversial amendments to the Code don’t require consultation

- 7.1. Section 39(3)(a) of the Electricity Industry Act 2010 (the Act) gives the Authority the power to amend the Code without preparing and publicising a regulatory statement, and consulting on the proposed amendment and regulatory statement, if it is satisfied on reasonable grounds that the nature of the amendment is technical and non-controversial.

8. Next Steps

- 8.1. The Code amendments will be notified in the New Zealand Gazette and will come into force on 31 October 2023.

9. Attachments

- 9.1. The following appendix is attached to this paper:
 - (a) Appendix A: Code amendments

Appendix A Code amendments

The two clauses to be amended (with the proposed technical and non-controversial amendments marked in red) are:

Clause 11.18 of Part 11

11.18 Trader responsibility for ICP

- (1) If a **trader** is recorded in the **registry** as accepting responsibility for an **ICP identifier** that is not also an **NSP**, the **trader** is responsible for all obligations in this Part that—
 - (a) apply to **traders**; and
 - (b) relate to an **ICP** that is not also an **NSP**.
- (2) A **trader** ceases to be responsible for obligations in this Part relating to an **ICP** that is not also an **NSP** if—
 - (a) another **trader** is recorded in the **registry** as being responsible for the **ICP identifier**; or
 - (b) the **ICP** is **decommissioned** in accordance with clause 20 of Schedule 11.1.
- (3) If an **ICP** is to be **decommissioned**, the **trader** who is responsible for the **ICP identifier** must—
 - (a) arrange for a final **interrogation** to take place before or on removal of the **meter**; and
 - (b) advise the **metering equipment provider** responsible for each **metering installation** for the **ICP** that it is to be decommissioned.
- (4) A **trader** who is responsible for an **ICP identifier**, other than an **ICP** at which there is only **unmetered load**, must ensure that a **metering equipment provider** is recorded in the **registry** as being responsible for each **metering installation** for the **ICP**.
- (5) The **trader** must not trade at an **ICP** if a **metering equipment provider** is not recorded in the **registry** as being responsible for each **metering installation** for the **ICP**, unless the **trader** trades only **unmetered load** at that **ICP**.

Clause 17 of Schedule 11.1

17 “Active” status

- (1) The **ICP identifier** status of “Active” must be managed by the relevant **trader** and indicates that—
 - (a) the associated electrical installations are electrically connected; and
 - (b) a **trader** must provide information related to the **ICP identifier**, in accordance with Part 15, to the **reconciliation manager** for the purpose of compiling **reconciliation information**.
- (2) Before an **ICP** is given the “Active” status, the **trader** must ensure that—
 - (a) the **ICP identifier** has only 1 embedded generator, direct purchaser, or customer of a **retailer**; and
 - (b) the **electricity** consumed is quantified by a **metering installation** or a method of calculation approved by the **Authority**.