

21 August 2023

s9(2)(a)

Tēnā koe s9(2)(a),

Thank you for your request, received on 8 August 2023, for the following information under the Official Information Act 1982 (the Act):

1. confirmation whether embedded networks need to enter a Default Distributor Agreement (DDA) or whether they can use the September 2012 model use-of-system agreement (interposed), and
2. the guidance paper that relates to the above.

Request 1.

A trader that is a retailer trading on a distributor's embedded network must have a distributor agreement with the distributor that owns or operates the embedded network (refer to clause 2 of Schedule 12A.3 of the Electricity Industry Participation Code 2010 (Code)).

The Code does not specify the form of the distributor agreement between a trader and a distributor that owns or operates an embedded network. That is, a distributor that owns or operates an embedded network does not need to prepare a DDA. This obligation applies only to a distributor that owns or operates a local network.

Request 2.

The Authority's website contains guidelines for drafting embedded network use-of-system agreements ('use-of-system agreement' being the former name of 'distributor agreement'). The link to these guidelines, dated 7 September 2012, is [Guidelines for drafting embedded network use-of-system agreements.PDF \(ea.govt.nz\)](https://www.ea.govt.nz/documents/287/Guidelines_for_drafting_embedded_network_use-of-system_agreements.PDF). The guidelines for drafting embedded network use-of-system agreements refer to the 'Model Use-of-System Agreement (Interposed), Final Draft – September 2012', which was the precursor to the DDA template in Appendix A of Schedule 12.4 of the Code. The link to the September 2012 Model Use-of-System Agreement (Interposed) is [https://www.ea.govt.nz/documents/287/Model use-of-system agreement - interposed.doc](https://www.ea.govt.nz/documents/287/Model_use-of-system_agreement_-_interposed.doc).

The Authority's website also contains an example of a draft use-of-system agreement for embedded networks. This is provided to illustrate an application of the September 2012 guidelines for drafting embedded network use-of-system agreements. The link to this example is per the link in your e-mail of 28 July – [https://www.ea.govt.nz/documents/289/Model use-of-system agreement interposed - embedded network example.PDF](https://www.ea.govt.nz/documents/289/Model_use-of-system_agreement_interposed_-_embedded_network_example.PDF).

The Authority is considering renaming and updating the guidelines for drafting embedded network use-of-system agreements, to refer to the DDA template in Appendix A of Schedule 12.4 of the Code. Please note, this review of the guidelines will not require embedded network owners/operators to prepare and publish a DDA. Rather, this will encourage greater alignment

between distributor agreements entered into by embedded network owners/operators and distributor agreements entered into by local network owners/operators.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact us by emailing oa@ea.govt.nz.

Nāku noa, nā,

A handwritten signature in black ink, appearing to read 'Airihi Mahuika', with a long horizontal flourish extending to the right.

Airihi Mahuika
GM Legal, Monitoring and Compliance