

14 November 2023

Submissions
Electricity Authority
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SUBMISSION ON THE CONSULTATION PAPER: PROPOSED CHANGES TO THE DDA TEMPLATE, CONSUMPTION DATA TEMPLATE, AND RELATED PART 12A CLAUSES

The Electricity Retailers' Association of New Zealand ('ERANZ') welcomes the opportunity to provide feedback on the Electricity Authority's consultation paper 'Proposed changes to the default distributor agreement template, consumption data template, and related Part 12A clauses' from October 2023.

ERANZ is the industry association representing companies that sell electricity to Kiwi households and businesses. Our members supply almost 90 per cent of New Zealand's electricity. We work for a competitive, fair, and sustainable electricity market that benefits consumers.

Executive summary

ERANZ supports the Authority's intent to update and streamline the default distributor agreement. Our members support, in principle, what the Authority is proposing, in particular, clarifying the "recorded terms" into either core or operational terms and adopting the previously agreed ENA/ERANZ templates.

ERANZ recommends the Authority consider a refund of charges for people who cannot access any supply at their property, even if it is working because their property has been red or yellow stickered during a state of emergency.

ERANZ's members are also concerned about Schedule 5 and the outage timeframe. We believe two days is too short for such a turnaround and response from the trader, so instead, we propose the wording be 'as soon as reasonably possible'.

ERANZ supports the three functions of the data template. Still, we are concerned the proposed Code changes do not adequately address function (b), which assures traders that distributors will

not use the supplied consumption data in ways traders disagree with. The proposed changes allow distributors to combine data immediately after giving notice, leaving disputes for later resolution. There's an opportunity for the Authority to define "specified data" types more clearly to reduce ambiguity.

Submission points

Q1. Do you agree Issue 1, summarised in paragraph 2.21 and described in paragraphs 2.21 to 2.32 and Appendix B, is worthy of attention?

ERANZ agrees with the Authority that issue 1, as described in paragraphs 2.21 to 2.32 and Appendix B, is worthy of attention. We support the Authority's proposal to remove Recorded Terms from the Default Distributor Agreement template.

As discussed with the Authority previously, the original objective of greater standardisation of contracts through the DDA process has only been partially met.

The inclusion of bespoke variations meant traders have had to undertake a legal analysis of all distributor contracts because the level of alignment or consistency has been low. In areas where traders have sought to renegotiate the balance of costs and risks, these have been met unfavourably, and contracts have been entered into regardless.

Replacing Recorded Terms with Core Terms will provide more consistency across Distributor Agreements, as initially intended by the Authority, and a more uniform approach across the industry.

Q2. Do you have any feedback on the Authority's assessments of changes to recorded terms, as set out in Appendix B and Appendix C?

Overall, ERANZ agrees with the amendments proposed by the Authority in Appendix B and C.

In principle, the Authority should ensure responsibility lies with the party most able to manage that risk.

Clause 9.10 (Refund of charges):

ERANZ supports the inclusion of this mandated core term in cases where a customer has not received a supply for 24 hours or longer. ERANZ recommends the Authority expand this clause to include declared states of emergency if a customer cannot access their supply because their property is red or yellow stickered. This occurred during the recent Cyclone Gabrielle event in the Hawkes Bay, with customers charged for supply they could not use, even if it was working.

Schedule 5 (Service interruption communication requirements):

Members consider the two-day response timeframe too short. ERANZ recommends traders should respond 'as soon as reasonably possible' or be allowed five working days.

Q3. Do you agree Issue 2 is worthy of attention?

ERANZ supports the Authority's change to require agreements to be presented upon request rather than routinely.

Q4. Do you agree Issue 3 is worthy of attention?

ERANZ supports the adoption of the previously written ENA-ERANZ data template. The purpose of this was to reduce the costs and difficulties of negotiating data-sharing agreements for consumption data.

Q5. Do you agree with the objective of the proposed Code amendment? If not, why not?

Yes.

Q6. Do you agree the benefits of the proposed Code amendment outweigh its costs?

Yes.

ERANZ considers the proposed changes will advance the sector towards achieving the Authority's stated objectives when revising the DDAs in 2020.

Q7. Do you agree the proposed Code amendment is preferable to other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objectives in section 15 of the Act.

Yes.

It is beneficial for the Authority to streamline the data-sharing agreements further; the previously written ENA-ERANZ data template is an industry-agreed document ready to use.

Q8. Do you agree the proposed Code amendment complies with section 32 of the Act?

Yes.

Q9. Do you have any comments on the drafting of the proposed Code amendment?

ERANZ supports the proposal that the Code explicitly sets confidentiality requirements for using consumption data to ensure an individual's privacy is not breached.

One potential area of concern is that whilst we are supportive of the data template's three functions (4.6 of the consultation paper), we are concerned that function (b), where it gives traders assurance that the distributors will not be using the consumption data for purposes the trader may disagree with, is not sufficiently reflected in the proposed Code changes. The proposed changes mean there is no time for traders to respond to any data combination notice, as distributors can give notice but immediately undertake the combination. This leaves any disagreement up to a likely lengthy dispute agreement after the fact. There is an opportunity for the Authority to more tightly define "specified data" types to avoid ambiguity in this space.

Our members have pointed out the timeframes proposed in clause 13 of Schedule 12A.4 provides little time for consultation with participants on any updates to operational terms, as required in previous clauses 6(2) and 12(2). To allow time for distributors to consult and consider responses, ERANZ recommends extending the period in clause 13 to 40 business days.

Conclusion

ERANZ would like to thank the Authority for its ongoing efforts to improve the policy settings for retailers in New Zealand. We are happy to provide any further information on this submission as needed.

ERANZ looks forward to engaging with officials further as the Authority updates the default distributor agreement.

Yours sincerely

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

Kenny Clark
Policy Consultant