

Review of domestic contracting arrangements

A RAG briefing paper

30 August 2012

1 Introduction

1.1 Purpose of this paper

- 1.1.1 The Electricity Authority (Authority) has requested the Retail Advisory Group (RAG) to review domestic contracting arrangements, including an assessment of:
- a) whether to develop minimum terms and conditions for the relationship between consumers and distributors (where the distributor has a direct relationship) and retailers (referred to as conveyance model arrangements);
 - b) whether to more closely monitor retailers' behaviours by monitoring their compliance with their domestic contracts, for example, by collecting and reporting consumer complaints data; and
 - c) the potential to improve the operational efficiency of the arrangements to assist medically dependent and vulnerable consumers.
- 1.1.2 The objective of this project is to examine the operational effectiveness of aspects of the domestic contracting arrangements, and to identify and recommend alternatives that promote competition in, reliable supply by, and efficient operation of the electricity industry for the long-term benefits of consumers.
- 1.1.3 This paper has been prepared to provide the RAG with background information about the domestic contracting arrangements, and outline a proposed detailed scope for this project, and proposed milestones and timeframes. The paper:
- a) provides background information about the domestic contracting arrangements project;
 - b) outlines a suggested scope for the project;
 - c) suggests questions that the RAG could use in identifying the issues to be addressed; and
 - d) suggests a process that the RAG may follow to undertake the project.

1.2 A suggested process for the project

- 1.2.1 A suggested process for the project is:
- a) define the problem: clarify the nature of the issues to be addressed, and why the Authority should be addressing them – draft paper to be considered by the RAG in October 2012;
 - b) release a discussion paper on the problem definition – consultation during December 2012/January 2013, after receiving comments from the Authority Board in December;
 - c) develop and evaluate options for addressing the issues identified – paper to be considered by the RAG in March 2013;
 - d) release a discussion paper on the options – consultation during March/April 2013; and
 - e) evaluate submissions and make a recommendation to the Authority – paper to be considered by the RAG in May 2013, with recommendations to the Board in June 2013.

2 Background

- 2.1.1 The domestic contracting arrangements are market facilitation measures. They include voluntary good practice contracting principles and minimum terms and conditions for domestic retail contracts (interposed model arrangements – where the consumer has a relationship with the retailer, and the retailer has the relationship with the distributor) (minimum terms and conditions (interposed)), guidelines on arrangements to assist medically dependent consumers (guidelines for medically dependent consumers) and guidelines on arrangements to assist vulnerable consumers (guidelines for vulnerable consumers).
- 2.1.2 The RAG was requested to review domestic contracting arrangements as part of its 2011/2012 work plan. The project involved considering updating the minimum terms and conditions (interposed) and any consequential changes to the guidelines for medically dependent consumers and vulnerable consumers.
- 2.1.3 The RAG did not progress this project significantly, but did recommend to the Authority that a more narrowly defined scope is developed for the project. The RAG did not consider that the existing minimum terms and conditions (interposed) should be reviewed at this stage, because retailers are still aligning their contracts with these arrangements.
- 2.1.4 As a consequence, and in line with the RAG's recommendation, the Authority narrowed the scope of the project to include the three issues set out in paragraph 1.1.1 above.

3 Scope/approach

3.1 Minimum terms and conditions for domestic contracts (conveyance)

- 3.1.1 On 17 May 2010, the Electricity Commission published the minimum terms and conditions for interposed distribution arrangements. The minimum terms and conditions provide a framework for identifying terms and conditions that reflect the reasonable expectations of consumers. They are a reasonable set of terms and conditions that the retailer should fulfil.
- 3.1.2 They also provide consumers with information about what kind of clauses they can expect in their contracts with their electricity retailer. This enables consumers to better distinguish between retailers based on their terms and conditions, as well as encouraging competition between retailers. Retailers that better cater to the needs of consumers and have real points of difference should gain more consumers than retailers that do not. Approximately 80% of consumers receive electricity under an interposed arrangement.
- 3.1.3 This leaves approximately 20% of consumers receiving electricity under a conveyance arrangement, which is used by Vector, Mainpower and The Lines Company.
- 3.1.4 Under conveyance distribution arrangements, the distributor contracts directly with the consumer for the provision of distribution services. The consumer also contracts with a retailer for the purchase of electricity (and all services that do not fall within their contract with the distributor). There are two forms of conveyance arrangements:
 - a) retailer billing, where the retailer invoices the consumer on behalf of the distributor; and
 - b) direct billing, where the distributor invoices the consumer for distribution services, and the retailer invoices the consumer for electricity usage.
- 3.1.5 Figure 1 and Figure 2 show the two forms of conveyance arrangements.

Figure 1 Conveyance electricity delivery model (retailer billing option)

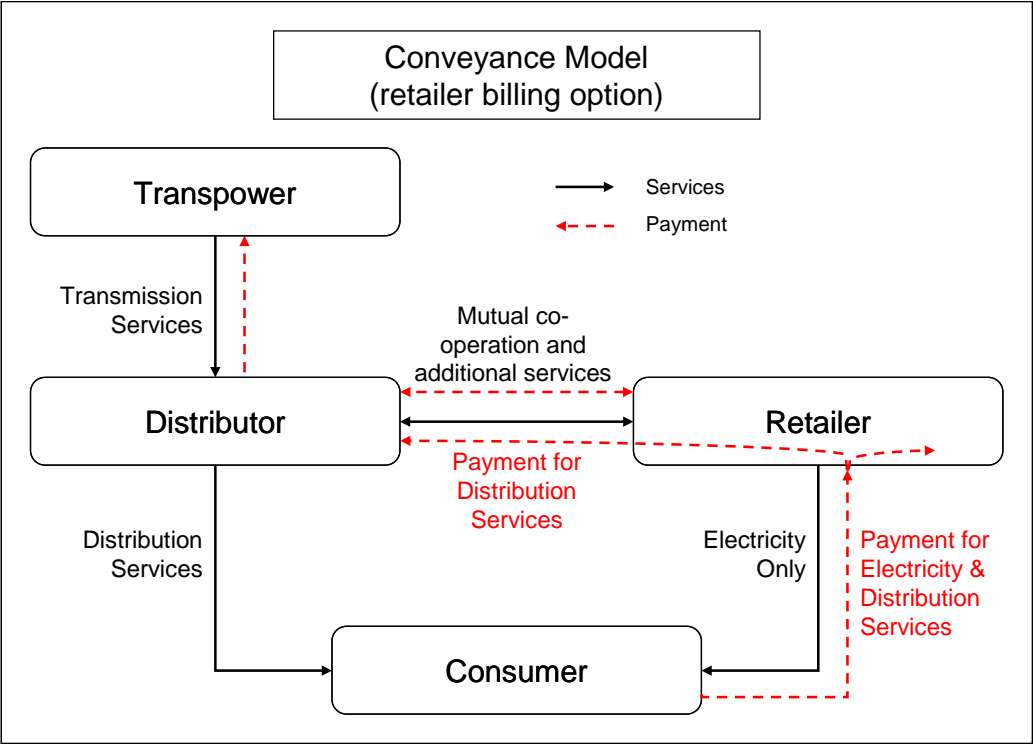
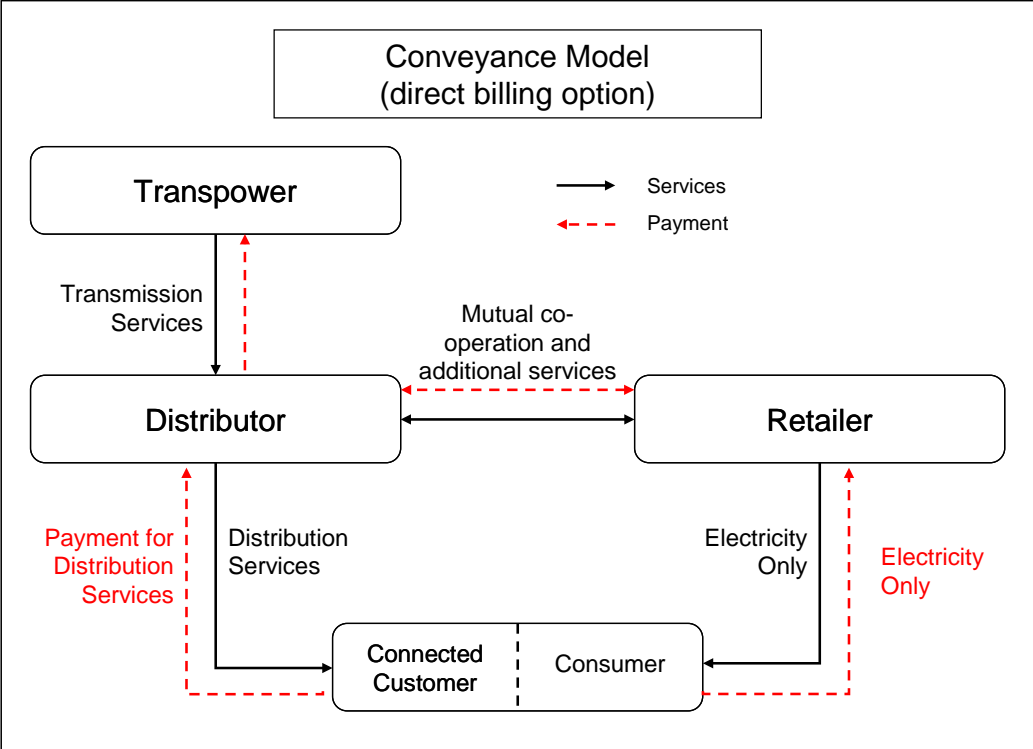


Figure 2 Conveyance electricity delivery model (direct billing option)



- 3.1.6 The existing minimum terms and conditions (interposed) relate to the relationship between the retailer and the consumer and, therefore, do not cover conveyance arrangements because, under conveyance, there is a direct relationship between the distributor and the consumer. This means there is a level of uncertainty about the relationship between distributors and consumers that may need to be addressed.
- 3.1.7 The RAG will need to consider whether there would be benefits from developing minimum terms and conditions for conveyance arrangements and, if so, what those benefits might be.

3.2 Monitoring retailers' compliance with their domestic contracts

- 3.2.1 The Authority's Market Operations Team is undertaking a review of whether domestic contracts (interposed) align with the minimum terms and conditions. Retailers are currently considering draft results of the review, and a final report is expected to be published by the Authority around October/November 2012.
- 3.2.2 The output of that review will help inform the RAG's consideration of whether the Authority should be monitoring retailers' compliance with their domestic contracts.
- 3.2.3 Questions for consideration by the RAG include:
- a) What are the benefits from monitoring retailers' compliance with their domestic contracts?
 - b) What information do consumers have about the service quality of retailers?
 - c) To what extent do consumers consider factors other than price when selecting their retailer?
 - d) To what extent are complaints about (or to) retailers the result of non-compliance with domestic contracts? The EGCC might be able to provide information on this.

3.3 Improving the operational efficiency of the arrangements to assist medically dependent and vulnerable consumers

Definitions of medically dependent and vulnerable consumers

- 3.3.1 A medically dependent consumer is defined as a domestic consumer who is dependent on mains electricity for critical medical support, such that loss of electricity may result in loss of life or serious harm. For the avoidance of doubt, medical dependence on electricity could be for use of medical or other electrical equipment needed to support the treatment regime (for example, a microwave to heat fluids for renal dialysis or equipment such as that listed in Appendix 2 of the medically dependent consumer guidelines).
- 3.3.2 A vulnerable consumer is defined as a domestic consumer for whom:
- a) for reasons of age, health or disability, the disconnection of electricity to that domestic consumer presents a clear threat to the health or wellbeing of that domestic consumer; and/or
 - b) it is genuinely difficult to pay his or her electricity bills because of severe financial insecurity, whether temporary or permanent.
- 3.3.3 Medically dependent consumers are a subset of vulnerable consumers, which are a subset of all other consumers.

Purpose and background of the guidelines

- 3.3.4 The Authority administers guidelines on arrangements to assist medically dependent and vulnerable consumers, which were created to meet Government policy objectives.
- 3.3.5 The vulnerable consumer and medically dependent consumer guidelines articulated the Commission's expectations of electricity retailers in dealing with vulnerable consumers and medically dependent consumers. They suggest actions designed to assist retailers, vulnerable consumers, and medically dependent consumers in avoiding or at least minimising:
- a) incidences of non-payment by vulnerable consumers and medically dependent consumers;
 - b) the accumulation of debt by vulnerable consumers and medically dependent consumers; and
 - c) the accumulation of credit risk by retailers.
- 3.3.6 The vulnerable consumer guidelines also:
- a) define standards for the disconnection of vulnerable consumers for reasons of non-payment;
 - b) are intended to assist retailers in ensuring that no vulnerable consumers are disconnected inappropriately for non-payment; and
 - c) are intended to assist retailers and vulnerable consumers to minimise disconnections for non-payment.
- 3.3.7 The medically dependent consumer guidelines were designed to also:
- a) assist retailers in ensuring that no medically dependent consumers are disconnected for non-payment;
 - b) ensure that all medically dependent consumers receive the most appropriate consideration of their needs and any support that they are legally entitled to; and
 - c) outline the process for a consumer to become registered with his or her retailer as a medically dependent consumer.
- 3.3.8 The guidelines were developed in a very high profile context with considerable publicity. Therefore, any review process should be carefully managed and should involve social agencies such as the Ministry of Social Development/WINZ, Ministry of Health etc.
- 3.3.9 The guidelines have been in their current form since they were published in March 2010. Since their release and implementation, there has not been a comprehensive assessment of their effectiveness. Retailers have indicated there are operational problems with the medically dependent and vulnerable consumer guidelines.
- 3.3.10 Although the vulnerable consumer and medically dependent consumer guidelines are not compulsory guidelines, they are compliance reviewed by the Authority.
- 3.3.11 After the completion of a compliance review, a report is sent to the Minister of Energy and Resources outlining the findings and if the Authority believes regulation is needed or not.

Scope and approach

- 3.3.12 The RAG has been asked to consider the potential to improve the operational efficiency of the arrangements to assist medically dependent and vulnerable consumers.

3.3.13 Questions for consideration by the RAG include:

- a) Are there any issues or problems with the arrangements to assist medically dependent and vulnerable consumers? Could changes be made that would facilitate more efficient operation of these arrangements?
- b) Should any overlaps between the two sets of guidelines and the minimum terms and conditions be addressed?
- c) How and when should other agencies be involved? What is the role of the Authority in meeting the social objectives inherent in the guidelines?
- d) Do the guidelines clearly set out the responsibilities of retailers, distributors and consumers? Are there any conflicts between retailers' and distributors' responsibilities?
- e) How should the right of retailers/distributors to be paid for services rendered be balanced against the needs of medically dependent and vulnerable consumers?
- f) How do the debt levels of medically dependent and vulnerable consumers compare with the debt levels of consumers in general?
- g) Are there any aspects of the guidelines that are open to interpretation or are unclear, thereby leading to operational inefficiencies?