Retail Advisory Group

Review of secondary networks

Issues and options paper

9 December 2014

Note: This paper has been prepared for the purpose of the Retail Advisory Group. Content should not be interpreted as representing the views or policy of the Electricity Authority.

Contents

Tables

Figures

1 The RAG is reviewing competition and efficiency on secondary networks

1.1 Purpose of the RAG's review

1.1.1 The Electricity Authority (Authority) has requested the Retail Advisory Group (RAG) identify and recommend potential options that promote competition and efficiency on secondary networks for the long-term benefit of consumers.

1.1.2 The project was identified after the RAG noted possible issues with the ability of retailers, particularly small retailers, to compete to supply consumers on embedded networks and customer networks.

1.2 Purpose of this paper

1.2.1 The purpose of this paper is to:

a) provide an overview of secondary networks

b) describe key issues that appear to be adversely impacting competition and efficiency on secondary networks

c) consider potential solutions to address these key issues and propose a preferred solution

d) assess the high level costs and benefits of the preferred solution for improving competition and efficiency on secondary networks

e) seek feedback from interested parties on the issues and solutions discussed.

1.3 How to make a submission

1.3.1 Your submission is likely to be made available to the general public on the Authority's website. If necessary, please indicate any documents attached in support of your submission and any information that is provided on a confidential basis. However, you should be aware that all information provided to the Authority is subject to the Official Information Act 1982.

1.3.2 The RAG's preference is to receive submissions in electronic format (Microsoft Word) in the format shown at Appendix A. Submissions in electronic form should be emailed to RAG@ea.govt.nz with "RAG –Secondary Networks Review" in the subject line.

1.3.3 Do not send hard copies of submissions unless it is not possible to do so electronically. If you cannot or do not wish to send your submission electronically, you should post one hard copy of the submission to either of the addresses provided below or you can fax it to 04 460 8879. You can call 04 460 8860 if you have any questions.

Postal address

Retail Advisory Group
C/- Electricity Authority
PO Box 10041
Wellington 6143

Physical address

Retail Advisory Group
C/- Electricity Authority
Level 7, ASB Bank Tower
2 Hunter Street
Wellington

1.4 Deadline for receiving a submission

1.4.1 Submissions should be received by [DATE]. Please note that late submissions are unlikely to be considered.

1.4.2 Submissions will be acknowledged electronically. Please contact the Submissions Administrator if you do not receive electronic acknowledgement of your submission within two business days.

2 An overview of secondary networks

2.1 What are secondary networks?

2.1.1 There are two types of networks that convey electricity from the transmission grid to consumers:

a) local networks – networks that are directly connected to the transmission grid – these are usually called local distribution networks (local networks)

b) secondary networks – networks that are indirectly connected to the transmission grid through another network.

2.1.2 There are three different types of secondary network:

a) Customer networks – consumers receive retail electricity products and services, and distribution services, from the customer network owner. Typical examples are office blocks, retirement villages and residential apartment buildings

b) Embedded networks – consumers receive retail electricity products and services from any retailers trading on the embedded network, and distribution services from the embedded network owner. Typical examples are airports, retirement villages and shopping centres

c) Network extensions – consumers receive retail electricity products and services from any retailers trading on the adjoining local network, and distribution services from the network extension owner. The consumer experience is no different to that of consumers on a local network. Typical examples are industrial parks.

2.2 Why secondary networks exist

2.2.1 Secondary networks have evolved as a practical and commercial means of providing some consumer segments with retail electricity products and services, and distribution services.

2.2.2 Customer networks are a long-standing feature of New Zealand's electricity sector. They emerged as a practical means to assign responsibility for the electricity purchase costs of multi-tenant properties.

2.2.3 Embedded networks and network extensions are a more recent feature of the sector. They emerged in the late 1990s, initially in response to the legislative requirement for ownership separation of electricity lines from electricity generation and retail activities.

2.3 Characteristics of customer networks

2.3.1 On a customer network, the network owner provides consumers with both retail electricity products and services, and distribution lines services.

2.3.2 The customer network owner buys electricity from either the clearing manager[1] or from a retailer and on-sells this to consumers on the customer network. A customer network is essentially a group buying scheme for electricity, which consumers agree to join when they either buy or rent a property connected to the customer network.

[1] The Clearing Manager is responsible for ensuring that industry participants pay or are paid the correct amount for the electricity they generated or consumed and for market related costs, available at: https://www.ea.govt.nz/operations/market-operation-service-providers/clearing-manager/

2.3.3 The customer network owner provides distribution lines services to all of the consumers on the customer network by taking responsibility for maintaining the lines (often the building's internal wiring) conveying electricity to the consumers.

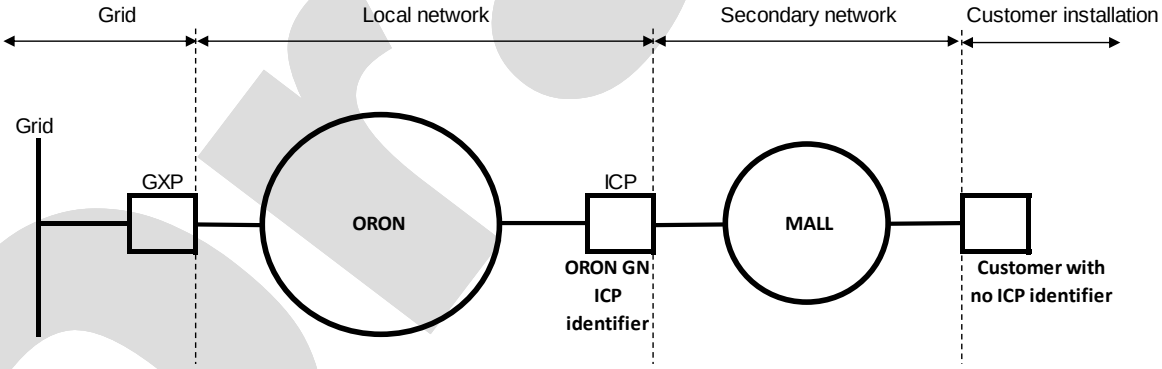
2.3.4 Consumers on customer networks pay the customer network owner either directly, via electricity bills, or indirectly, via body corporate fees, rent or lease payments.

2.3.5 One of the benefits of this arrangement for consumers within the customer network is the bulk discount on electricity that the customer network owner should be able to negotiate. In addition, consumers have the convenience of dealing directly with the customer network owner, who is often the same person that owns the building and bills them.. However, there is the possibility that the customer network owner does not pass on any discount, depending on contractual arrangements. There is also the possibility that consumers may end up paying a higher price than they might otherwise receive from a retailer, since customer networks are not subject to price regulation.

2.3.6 There is no robust data on the number of customer networks or the number of consumers served by customer networks in New Zealand. The Authority has no visibility of customer networks, as there are no customer networks recorded in the Authority's participants register. However, the Authority is aware there are potentially many hundreds of customer networks in New Zealand. There is one customer network member of the Electricity Gas and Complaints Commissioner (EGCC).

2.3.7 Figure 1 shows the configuration of a typical customer network.

Figure 1 Customer network configuration



Source: Electricity Authority

Notes:
1. Each consumer does not have their own ICP on a customer network.
2. ORON stands for Orion

2.3.8 The defining feature of a customer network is that the customer installation does not have an installation control point (ICP) identifier.[2] This means that consumers on a customer network cannot choose their retailer. An ICP identifier is required for the consumer to have choice of

[2] An ICP is a physical point of connection on an electricity distribution network at which a retailer is deemed to supply electricity to a consumer. Each ICP is assigned an ICP identifier.

retailer. There may or may not be a meter at the installation. If there is a meter at the customers' premise, it is not required to comply with the accuracy and installation requirements for meters set out in the Code.

2.4 Characteristics of embedded networks

2.4.1 On an embedded network, the network owner provides consumers with distribution lines services only. Retailers provide consumers with electricity products and services.

2.4.2 Consumers on an embedded network may either pay their retailer for the electricity products and services that they receive, and for the distribution lines services received, or they may pay the embedded network owner (e.g. via bundled rent and electricity). This is similar to what occurs on a local network.

2.4.3 Retailers must have an arrangement with the embedded network owner to gain access to the embedded network, in the same way that they negotiate a use-of-system agreement (UoSA) with local network owners.[3]

2.4.4 All customers that have choice of retailer on an embedded network must have an ICP identifier in the registry.[4] These are created and managed by the embedded network owner.

2.4.5 Embedded network owners can potentially gain a financial advantage for consumers on the embedded network through the bulk purchase of distribution lines services from the local network owner.

2.4.6 Some embedded network owners advise they provide additional services compared to a local network owner. These include online information services, on-site fault management and emergency standby power generation.

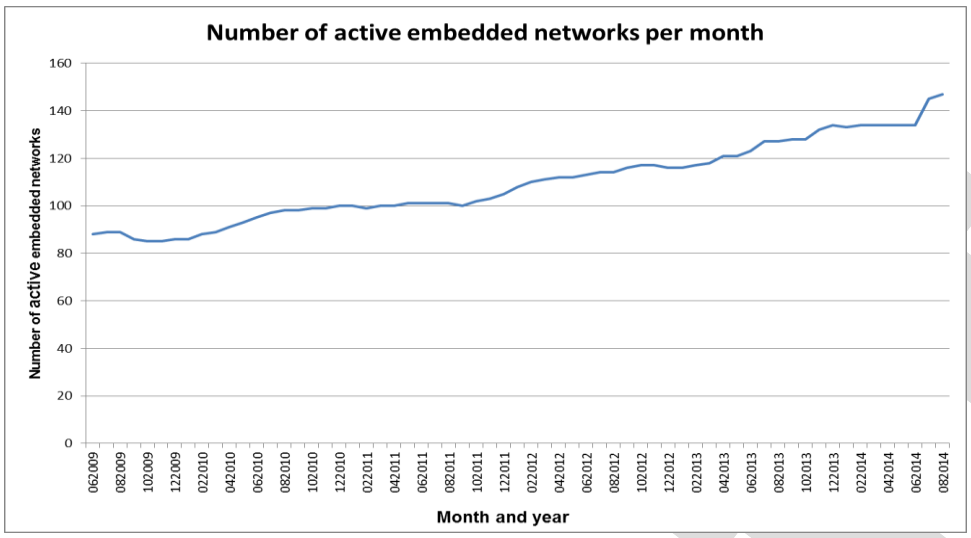
2.4.7 Embedded networks are becoming more prevalent. In 2009 there were about 88 embedded networks in New Zealand, with about 6,872 consumers (ICPs) on them. Figure 2 shows the increase in the number of embedded networks from 2009 to today. There are currently about 149 embedded networks in New Zealand, with about 10,673 consumers (ICPs).[5]

[3] See Part 12A of the Code. A UoSA is not required under this part of the Code.

[4] An embedded network owner can choose which ICPs on their network may have an ICP identifier in the registry. Those that do not give an ICP identifier will appear as residual load on the embedded network, and must be purchased by the embedded network owner. The embedded network owner may then charge consumers directly for this load, in the case of body corporate consumption, absorb that cost.

[5] Data from the registry and current as at 1 October 2014. The figures exclude Nelson City, which converted from an embedded network to a grid connected (local) network on 1 February 2014.

Figure 2 Number of embedded networks (2009-2014)



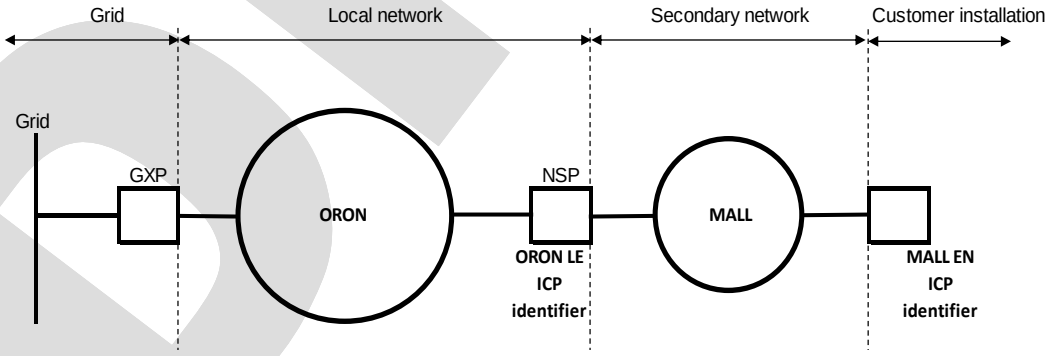
Source: Electricity Authority

Notes:

1. In 2009, there were 88 embedded networks in New Zealand
2. In 2014, there are about 149 embedded networks in New Zealand (10, 673 consumers).

2.4.8 Figure 3 shows the configuration of a typical embedded network. Electricity entering the embedded network is metered using a 'gateway' meter at the point labelled "NSP" (network supply point). Electricity used by each consumer with an ICP identifier on the embedded network is also recorded by a meter at each consumer's installation. The metering equipment on an embedded network must comply with requirements set out in the Code.

Figure 3 Embedded network configuration



Source: Electricity Authority

Notes:

1. Each consumer has their own ICP on an embedded network.
2. ORON stands for Orion

2.5 Characteristics of network extensions

2.5.1 A network extension is a secondary network that is treated in the New Zealand electricity market's processes as a part of the local network to which it is connected.

2.5.2 The local network owner provides distribution lines services to all consumers on the network extension but does not own the network extension lines. The network extension owner does not provide retail electricity products and services, but is responsible for maintenance, safety, connections, etc. The responsibility for safety and connections may be contracted to the local network owner.

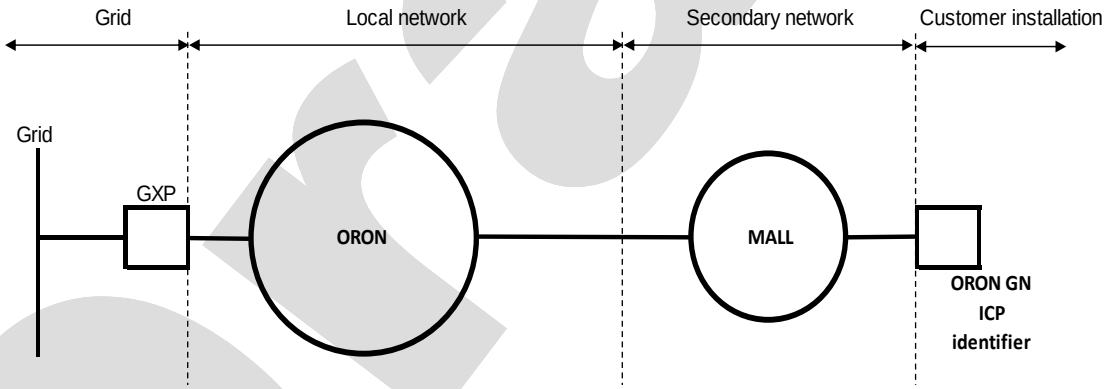
2.5.3 Consumers on a network extension may obtain retail electricity products and services from any retailer that has access to the local network.

2.5.4 All ICPs on a network extension must have ICP identifiers in the registry. These are created and managed by the local network owner.

2.5.5 An electricity retailer supplying a consumer on a network extension may not be aware that its customer is connected to a network extension. This is because the electricity market processes for consumer switching and market settlement are the same for ICPs located on network extensions and local networks.

2.5.6 Figure 4 below shows the configuration of a network extension.

Figure 4 Network extension configuration



Source: Electricity Authority

Notes:
1. Each consumer has access to all retailers on a network extension.
2. ORON stands for Orion

Q1. Please provide any comments and views on the description of the characteristics for customer networks, embedded networks and network extensions. Please provide evidence where possible.

2.6 Secondary networks are subject to the Authority's regulation in certain instances

2.6.1 Secondary network owners are industry participants, and hence subject to the Electricity Industry Act 2010 (Act) if they are one or more of the following:[6]

a) a distributor – which means a business engaged in distribution (the conveyance of electricity on lines other than lines that are part of the national grid)

b) a retailer – which means a business engaged in retailing (the sale of electricity to a consumer other than for the purpose of resale)

c) any other person who owns lines – which are defined as works used or intended to be used to convey electricity.

2.6.2 The Act and other legislation impose various obligations on industry participants, including:

a) to register with the Authority as an industry participant

b) to comply with the ownership separation requirements in Part 3 of the Act (if the participant is in the business of providing electricity line function services)

c) to make available a low fixed charge tariff option for domestic consumers in accordance with the Electricity (Low Fixed Charge Tariff Options for Domestic Consumers) Regulations 2004.

2.6.3 Retailers and distributors must be a member of the dispute resolution scheme that is currently administered by the Electricity Gas and Complaints Commission.[7]

2.6.4 The Electricity Industry Participation Code (Code), which is made and enforced by the Authority, places obligations on embedded network owners, but does not refer to customer networks or network extensions.

2.6.5 The Authority also makes voluntary market facilitation measures, which participants are expected to align their activities and practices with. The *Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks* (Guidelines for Secondary Networks) set out the Authority's expectations for embedded networks' operation practices, and to a lesser degree those of customer networks and network extensions.[8] In addition, the *Guidelines for drafting embedded network use-of-system agreements* provide guidance on drafting an embedded network UoSA with a model example.[9]

Legal framework for customer networks

Obligations of a "participant" under the Act

2.6.6 Whether a customer network owner is an industry participant under the Act is unclear – it will depend on the individual configuration of the specific customer network, on who is responsible for conveying electricity on the network, and who retails electricity to the consumers on the network.

2.6.7 A customer network owner would come within the definition of an industry participant if it is:

---

6 Refer to section 7 (industry participants) and section 5 (interpretation).

7 See section 96 of the Act.

8 Available at: www.ea.govt.nz/dmsdocument/6077.

9 Guidelines for drafting embedded network use-of-system agreements, available at: www.ea.govt.nz/dmsdocument/13648. See also the Authority's example UoSA for an embedded network, available at: www.ea.govt.nz/dmsdocument/13653.

a) a distributor, which means a business engaged in distribution. "Distribution" means the conveyance of electricity on lines other than lines that are part of the national grid[10]

b) a retailer, which means a business engaged in the sale of electricity to a consumer other than for the purpose of resale[11]

c) a person who owns lines.

2.6.8 The definition of "distributor" and "person who owns lines" depend on the meaning of the word "lines":

a) "Lines" mean works used to convey electricity

b) "Works" mean fittings (as defined in the Electricity Act 1992) used in connection with the… conveyance of electricity; but does not include an electrical installation

c) "Electrical installation" mean the fittings used to convey electricity from the point of supply to the point of consumption

d) "Point of supply" means, generally, the boundary of a property. However, where the fittings are owned by a tenant or licensee of the owner or occupier of the property then the point of supply is the point where the fittings reach the premises occupied by the tenant or licensee. There can, however, be exceptions to this, created by agreement.

2.6.9 The complexity of these definitions means it is not possible to say generally whether all customer networks will be participants or, if so, which category of participant. Whether an owner of a customer network owns lines or is a distributor that conveys electricity will depend in each case on the circumstances. However, we can outline the examples below that show when a network owner is or is not a participant:

a) **example of a participant as the owner who "owns lines":** a retirement facility is connected to the local network but the facility consists of a village of separate units, each of which is owned by its occupier. The unit owners pay the retirement facility owner for the provision of various services, including electricity supply. It is likely the retirement facility owner is a participant because the lines that the customer network owner owns are separated (in an ownership sense) from the lines on the property for each separate unit. Instead of owning lines that go all the way to the consumer, the customer network owner owns the lines between the point of supply for the facility as a whole and (most likely) the boundary line for each unit. It follows that the lines are fittings used or intended for use in the conveyance of electricity so the facility owner owns them and is thus a participant.

b) **example of a non-participant because the owner does not "owns lines":** where a customer network owner owns a retirement facility that is connected to a local network then the people who live in the facility have the right to occupy the facility but otherwise have no property rights in it. The owner is most likely not a participant because the relevant assets – the lines on the retirement facility – do not come within the definition of works because they

[10] Under the Code, a distributor is a participant who supplies line function services to another person (except Part 12A) and in Parts 1, 8, 10, 11, 12, 13, 14 and 15, a participant who owns or operates a local network, and in part 8, include a direct consumer and in parts 10, 11, 13 and 15, includes an embedded network owner.

[11] Under the Code, a retailer means a participant who supplies electricity to another person for any purpose other than for resupply by the other person, in Parts 1, 8, 10 and 15, a participant who supplies electricity to a consumer or to another retailer and in Part 9(4) the retailer is recorded by the registry manager as being responsible for the ICP.

fall under "electrical installation". The lines instead constitute fittings that convey electricity from the point of supply to the points throughout the facility from which electricity will be consumed by those who live there. The residents of such a facility do not have legal title to a particular area of the retirement home and thus it would not be possible to identify a separate point of supply for any resident. Rather there is only a point of supply for the facility as a whole.

Obligations under the Code

2.6.10 The Code does not specifically mention the obligations of a "customer network owner".

Obligations under Guidelines

2.6.11 The Guidelines for Secondary Networks provide guidance about the process for converting a customer network to a network extension or an embedded network.[12]

Legal framework for embedded networks

2.6.12 An embedded network owner is an industry participant under the Act because they are a business engaged in distribution. That is, they are a distributor.

2.6.13 An embedded network owner has specific obligations under the Code.

2.6.14 In addition, embedded network owners are subject to requirements of the following market facilitation measures:[13]

a) the Guidelines for Secondary Networks.[14] These guidelines outline expectations on embedded network owners for metering, reconciliation and registry arrangements

b) the Guidelines for drafting an embedded network use-of-system-agreement (UoSA) are intended to assist embedded network owners to draft a UoSA to offer to retailers wanting to trade on the embedded network. These guidelines indicate how the interposed model UoSA can be adapted for embedded network use.[15]

Legal framework for network extensions

2.6.15 Owners of network extensions are an industry participant because they own lines. They therefore have obligations under the Act.

2.6.16 There are no explicit Code obligations for persons that own lines, in that capacity alone.

2.6.17 If they are not engaged in distribution then they are not distributors.

2.6.18 However they may also be retailers and, if so, their retail activities are regulated under the Code.

[12] See page 4 of the Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks, available at: https://www.ea.govt.nz/search/?q=secondary+network+guidelines&s=&order=&cf=&ct=&dp=&action_search=Search

[13] See Parts 1, 8.54B; 10.28; 11, 13, 14 and 15 of the Electricity Industry Participation Code 2010 (the Code).

[14] See pages 7-25, 27-29 of the Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks, available at: www.ea.govt.nz/dmsdocument/6077.

[15] Guidelines for drafting embedded network use-of-system agreements, available at: www.ea.govt.nz/dmsdocument/13648. See also the Authority's example UoSA for an embedded network, available at: www.ea.govt.nz/dmsdocument/13653.

2.6.19 The Guidelines for Secondary Networks provide minimal guidance to retailers and owners of their responsibilities under this type of arrangement.[16]

Q2.	Please provide any comments and views on the description of the legal framework for customer networks, embedded networks and network extensions. Please provide evidence where possible.

[16] See pages 5-6 of the Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks, available at: www.ea.govt.nz/dmsdocument/6077.

3 Problem definition

3.1 Stakeholders have raised several issues relating to competition and efficiency on secondary networks

3.1.1 The RAG has undertaken desktop research and conducted several interviews with a cross-section of retailers, secondary network owners and consumers to gain an understanding of issues that may be inhibiting competition and efficiency on secondary networks. The RAG also met with the Commerce Commission, the Electricity and Gas Complaints Commissioner (EGCC) and Consumer NZ.

3.1.2 Various issues have been raised by stakeholders. These are summarised below.

Issues raised about customer networks

Consumers do not have choice of retailer

3.1.3 The characteristics of a customer network mean that individual consumers do not have an ICP identifier. This means they are unable to choose their retailer. They are also not visible to retailers.

3.1.4 Consumers on a customer network can only obtain their electricity from the customer network owner. The customer network owner negotiates a retail supply offer with a retailer, which effectively is on behalf of the consumers on the customer network. In this way, a customer network is like a group buying arrangement. However, the consumer may not have choice in the selection of a retailer. The consumers on a customer network agree to this group buying arrangement when entering in to an occupancy or tenancy agreement.[17]

3.1.5 This may cause difficulties for businesses with locations across multiple sites that want to negotiate a supply offer with a single retailer. Sites that are within a customer network will not be part of this deal.

Process for converting to a customer network

3.1.6 Embedded networks (mainly), and network extensions, can be converted to a customer network and vice versa. The conversion process requires that all retailers trading on the embedded network decommission their ICPs by changing the status in the registry.

3.1.7 The Code prevents an embedded network, or a network extension, from being converted to a customer network without the agreement of all the retailers responsible for the ICPs on the embedded network / network extension.

3.1.8 There have been cases where the network conversion has occurred prior to all ICPs being decommissioned. This causes wholesale market settlement difficulties for that location. It also puts the customer network owner in breach of the Code, because it remains subject to the Code obligations of an embedded network.

3.1.9 A further issue with the process for converting to a customer network, raised by retailers, is insufficient notice that a customer network is being established and the consumers on it will no longer be tradable. Insufficient notice can place additional costs on retailers, particularly if they

[17] Consumers occupying a building when it is converted to a customer network will agree to the conversion according to the terms of their occupancy agreement, eg by agreement of the body corporate.

need to manage additional customer inquiries about the change in their supplier (from the retailer to the customer network owner).

Uncertainty about responsibility for fault management and service levels

3.1.10 When consumers on a customer network experience a fault, they may phone a retailer's call centre because the consumer has visibility of the retailer's brand in mind as well as the retailer's phone number on their bills. The retailer then advises the consumer and the consumer then calls the customer network owner. This is an inefficient process and likely increases the retailers' operating costs by taking these calls and servicing these customers who ought to be directly liaising with the secondary network owner.

Issues raised about embedded networks

Difficulties and costs of negotiating UoSAs

3.1.11 Retailers should negotiate an arrangement (UoSA) with each embedded network owner to be able to supply consumers on each of those embedded networks.[18]

3.1.12 Some retailers consider the cost of negotiating a UoSA for each embedded network is too high relative to the number of consumers they might be able to win. Retailers state that a major influence on the cost of negotiating embedded network UoSAs is because embedded network owners offer bespoke UoSAs, with unique terms and conditions, requiring extensive legal review.

3.1.13 A related issue is that embedded network owners may not be negotiating UoSAs in good faith, by offering a take-it-or-leave-it UoSA. This effectively blocks retailers' ability to trade on the embedded network.

3.1.14 This may cause difficulties for businesses with locations across multiple sites that want to negotiate a supply offer with a single retailer. Sites that are within a embedded network will not be part of this deal because the preferred retailer does not have a UoSA with the embedded network and would face material costs negotiating a UoSA with that embedded network.

Difficulties and costs of maintaining relationships with embedded network consumers

3.1.15 Some retailers consider that the cost of maintaining a presence on an embedded network is too high relative to the number of consumers they might win. One retailer reported that it costs the same to serve one consumer on an embedded network as it does to serve 1,000 customers on a local network.

3.1.16 Retailers mention the following factors as influencing the costs of serving customers on an embedded network:

a) the cost of managing the proliferation of embedded network tariffs, as each embedded network will require bespoke set-up and bespoke maintenance of tariffs, for a relatively low number of customers

b) the cost of managing 'additional' queries from customers on the embedded network, arising from the customers' uncertainty about who is responsible for what services, for example, fault management

[18] See the EA's website for the model UoSA, available at: http://www.ea.govt.nz/operations/distribution/distributors/use-of-system-agreements/

c) the cost of non-standard reporting and data exchange requirements and processes used by embedded network owners.

Uncertainty about responsibility for fault management and service levels

3.1.17 When consumers on an embedded network experience a fault they typically phone a retailer's call centre (because the retailer is interposed between the customer and the embedded network owner). The retailer then advises the embedded network. The time taken to resolve a fault is set out in the UoSA between the embedded network and the retailer or in the contract between the customer and the embedded network.[19]

Issues raised about network extensions

Uncertainty about responsibility for fault management and service levels

3.1.18 The registry identifies if an ICP is on an embedded network, but does not identify if the ICP is on a network extension. This means that the local network may not be able to easily identify or reach the location of a fault that is on a network extension. This can give rise to delays in trying to fix the fault.

3.2 Stakeholders' issues with secondary networks indicate there is a problem

3.2.1 The issues identified with customer networks and embedded networks suggest there may be a problem with the extent to which secondary networks are furthering the Authority's statutory objective.

Retail competition is reduced because retailers are discouraged from supplying consumers on embedded networks

3.2.2 Retail competition delivers benefits to consumers by providing incentives on retailers and energy services companies to deliver innovative products and services and to seek operational efficiency gains. This keeps prices lower than they otherwise would be.

3.2.3 On embedded networks retail competition may be reduced because retailers may be discouraged from supplying consumers due to:

a) the high transaction costs associated with negotiating UoSAs

b) the high transaction costs of maintaining relationships with customers on embedded networks.

3.2.4 Smaller retailers in particular consider that drafting the necessary embedded network UoSAs is costly and time-consuming.

3.2.5 In addition to reducing the efficient operation of the electricity industry, the difficulties and costs retailers experience in maintaining a relationship with embedded network owners likely reduce retail competition. These costs discourage retailers from wanting to enter a relationship with

[19] One embedded network business consumer that the RAG spoke with complained because they could not contact the designated fault manager when they called after hours. They have also been required to wait up to four days for electricians to fix an electricity fault at their leased premises. There is considerable cost to the consumer involved when they do not have electricity for such a period of time. Their own electricians can assist within four hours. In this case, the consumer now organises and pays its own electrician to fix the fault. This consumer reported that this is cheaper than having no electricity supply. On average, this consumer reportedly pays $500-$1,000 for an electrician to fix their electricity fault per year. Over the course of the 12 year tenancy, this amounts to $6,000-$12,000 in bills for fault costs.

embedded network owners. Costs include having to deal with non-standard reporting and data exchange processes.

3.2.6 Lastly, retail competition on embedded networks is also likely to be lower if embedded network owners are not negotiating UoSAs with retailers in good faith.

The efficiency with which the electricity industry operates is reduced by the existence of non-standard and poor processes

3.2.7 Secondary networks appear to be having an adverse impact on the efficient operation of the electricity industry due to:

a) embedded network owners imposing unnecessary transaction costs on retailers by using non-standard processes and reporting requirements, and due to poor processes for fault management

b) higher-than-necessary transaction costs for converting an embedded network or a network extension to a customer network.

3.2.8 Currently the Code does not specify a minimum time period for an embedded network or a network extension to be converted to a customer network, or vice-versa.[20] Retailers consider that four to six weeks would be a reasonable notice period. Embedded network owners spoken to by the RAG broadly agree.

Reliability of supply is reduced due to difficulties locating or reaching faults

3.2.9 Difficulties locating or reaching faults that occur on a network extension can occur because the local network may not have the ability to access to location.

3.3 Stakeholders' issues with a lack of consumer choice on customer networks does not indicate there is a problem

Customer networks can be an efficient way of supplying electricity services at multi-tenant locations

3.3.1 Customer networks can be an efficient and convenient way of supplying electricity services at a multi-tenant location. By taking responsibility for supplying electricity services the customer network owner can avoid the capital and operating costs of providing certified metering installations for each consumer on the customer network.

3.3.2 The customer network owner may also be able to negotiate a volume discount with retailers, resulting in consumers on the customer network paying less than if they were individually contestable.

3.3.3 These benefits might be expected to offset the benefits from each consumer on a customer network being able to choose their retailer.

Q3. Please provide comments and views on the issues identified with customer networks, embedded networks and network extensions. Please provide evidence where possible.

Q4. Please provide your comments and views on the description of the problems relating to reduced retail competition, efficiency and reliability of supply.

[20] See Schedule 11 of the Code.

4 The RAG's proposal for addressing the problem

4.1.1 The RAG has considered various options for improving the extent to which secondary networks further the Authority's statutory objective.

4.2 Promoting retail competition

Introduce a default UoSA for embedded networks

4.2.1 In order for a retailer to supply electricity products and services on an embedded network, the network owner usually requires a UoSA, which must be negotiated in good faith.[21]

4.2.2 UoSAs are used by distributors and retailers to formalise agreement of the terms under which retailers use the distributor's lines, in order to supply its customers. A distributor's provision of distribution lines services is the primary service covered in UoSAs.

4.2.3 Industry participants began developing voluntary model (standard) UoSAs in the late 1990s, following the ownership separation of electricity lines from electricity generation and retail activities. In 2011 the Authority published a model UoSA for local networks, and guidelines for drafting embedded network UoSAs.[22]

4.2.4 As well as providing guidance on best-practice contract terms and conditions, the Authority expected that the model UoSAs would provide the basis for significantly enhanced levels of standardisation in UoSAs negotiated between retailers and distributors. The objective of this was promoting efficiency and retail competition through reduced transaction costs, particularly for smaller parties with limited resources.

4.2.5 The RAG acknowledges that a bespoke UoSA may be required for some embedded networks, but considers there are likely to be material net benefits from developing a default embedded network UoSA. This default would be deemed to apply at the end of a specified negotiating process unless the parties agreed to alternative terms. Compared with the status quo, a default embedded network UoSA should reduce the negotiating costs retailers and embedded network owners face entering into UoSAs.

Q5. Do you agree that a default embedded network UoSA will promote retail competition by making it easier and less costly for retailers to supply consumers on embedded networks? Please state the reasons for your view.

A model UoSA is considered an inferior option to a default UoSA

4.2.6 The RAG has also considered the option of putting in place a model UoSA for embedded networks. The difference between this option and a default embedded network UoSA is that a model UoSA is a basis for negotiation and may be departed from. This approach is less feasible because the the small-scale of embedded networks and high transactions costs of negotiating each UoSA.

[21] See Part 12A of the Code.

[22] The Authority's model UoSA (interposed) is available at: www.ea.govt.nz/dmsdocument/13646. The Authority's model UoSA (conveyance) is available at: www.ea.govt.nz/dmsdocument/13647. The Authority's guidelines for drafting embedded network UoSAs are available at: www.ea.govt.nz/dmsdocument/13648.

4.2.7 Even if retailers and embedded network owners do agree a UoSA negotiated from a model agreement, the cost of doing so may well be higher than for if a default embedded network UoSA was in place.

4.2.8 For small retailers and small embedded network owners in particular, a model UoSA approach is likely to be less efficient and more costly than a default embedded network UoSA. The RAG therefore does not prefer this option.

4.3 Promoting operational efficiency in respect of secondary networks

Put in place a minimum notice period to convert a secondary network

4.3.1 The RAG believes putting in place a minimum notice period for converting an embedded network, or a network extension, to a customer network and vice versa, will improve the operational efficiency of the electricity industry. It will enable retailers to prepare their systems and any on-site machinery (e.g. metering) for the conversion, in an orderly manner. This will be more efficient than retailers having to respond in an ad-hoc manner.

4.3.2 On some occasions, secondary network owners have provided retailers with just five business days to assist in facilitating the conversion of a secondary network. Retailers have informed the RAG that this is often insufficient time, and that a more appropriate minimum notice period would be 20-30 business days. Secondary network owners that the RAG met with while gathering information for this review agreed that this longer notice period could be workable.

4.3.3 The RAG has considered a couple of options for putting in place a minimum notice period for converting a secondary network.

4.3.4 **Option 1 (preferred option) – Amend the Code:** Under this option, the Code would be amended around the decommissioning status of an ICP as well as the creation and decommissioning of NSPs and transfer of ICPs from one distributor's network to another distributor's network. If a distributor intends to decommission an ICP and decommissioning was not requested by the relevant trader, the distributor must give the trader 20 business days' notice of its intention to decommission the ICP and must not decommission the ICP without the prior written consent of the relevant trader (see **Appendix C** for the proposed Code amendment). Furthermore, if an NSP is to be created or decommissioned the participant in relation to that NSP must notify the reconciliation manager of the creation or decommissioning at least 20 business days before the proposed creation or decommissioning date. The advantage of this approach for minimum notice periods is that it would provide parties with certainty over the arrangement.

4.3.5 **Option 2 – Amend the guidelines for drafting embedded network UoSAs / Insert necessary clauses in a model UoSA:** If the guidelines for drafting embedded network UoSAs were to be retained, they could be updated to require secondary network owners to provide retailers with a minimum notice period when a secondary network is to be converted. Alternatively, if the guidelines were to be replaced by a model UoSA, one or more clauses could be inserted into the model UoSA to require the minimum notice period. This approach has the advantage of flexibility. Parties could alter the timeframe to suit their respective situations. However, it would not provide certainty.

4.3.6 The RAG's preferred option is to mandate a minimum notice period for converting a secondary network by either amending the Code or, if a default UoSA is adopted, insert a clause in the default UoSA. The RAG believes that certainty for parties in this area is more important than substantial flexibility. Certainty is important for retailers, in particular, to reduce the number of, and possibly automate some of, the processes and procedures they have to accommodate such status changes.

Q6. Do you agree with mandating a minimum notice period for converting a secondary network by either amending the Code or, if a default UoSA is adopted, inserting a clause in the default UoSA? Please state the reasons for your view.

Q7. Do you consider there are viable options, in addition to those considered by the RAG, for improving operational efficiency in respect of secondary networks? Please state the reasons for your view.

4.4 Promote reliability of supply and efficiency on secondary networks

Certainty about fault management and inefficiency on secondary networks

4.4.1 A secondary network owner is, typically, responsible for fixing a fault on its network. The RAG has considered the following options to avoid retailers and consumers incurring unnecessary costs, including uncertainty for the consumer, from inefficient fault management on secondary networks.

4.4.2 **Option 1 (preferred option) – Amend the Guidelines for Secondary Networks:** The Guidelines for Secondary Networks could specify parties' responsibilities when a fault occurs on a secondary network. This approach has the advantage of flexibility, and the disadvantage of not providing as much certainty as if it were included in the Code.

4.4.3 **Option 2 – Amend the Code:** Amending the Code to make parties' responsibilities clear and certain when a fault occurs is an option that would provide certainty over the respective roles of each party. However this option would not provide parties with the same flexibility as under the first option.

4.4.4 The RAG's preferred option is to clearly define parties' roles in managing faults on secondary networks by amending the Guidelines for Secondary Networks.

4.4.5 The RAG believes that flexibility in this area is more important for parties than certainty. This is because specifying the full range of scenarios for managing faults on secondary networks is difficult, as faults could be caused either by the local network, or within the secondary network.

4.4.6 Education of consumers will also be a necessary part of this process.

Q8. Do you agree with specifying parties' responsibilities for when a fault occurs on an embedded network in either the guidelines for drafting embedded network UoSAs, or in a model UoSA for embedded networks should one be adopted? Please state the reasons for your view.

Q9.	Do you consider there are viable options, in addition to those considered by the RAG, for improving reliability of supply on secondary networks? Please state the reasons for your view.

5 Assessment of benefits and costs

5.1.1 This section contains a *qualitative assessment* of the incremental benefits and costs of the preferred option (counterfactual) against the status quo. It is concluded that the preferred option delivers net economic benefits vis-à-vis the status quo.

5.1.2 The assessment is of the preferred option's net benefits in respect of *embedded networks only*. The preferred option does not have material benefits and costs in respect of customer networks and network extensions, and so a cost-benefit analysis has not been undertaken for them.

5.1.3 This is a preliminary assessment. Information on the types of benefits and costs, and on their dollar value, is sought via this consultation. The assessment will be reviewed upon receipt of feedback from interested parties.

Summary assessment of preferred option's net benefits

5.1.4 The table below summarises the preferred option's net benefits, with reference to the Authority's statutory objective. The qualitative assessment indicates that a default embedded network UoSA is the component of the preferred option with the largest net benefit vis-à-vis the status quo. Of the remaining key elements of the preferred option, the qualitative analysis indicates the net benefits may be minor.

Table 1 Summary assessment of preferred option's net benefits

Preferred option's key elements	Competition net benefits	Reliability net benefits	Efficiency net benefits
Default UoSA for embedded networks	✓	✓? (Possibly faster fault resolution)	✓
Uniform notice period for altering the status of secondary networks			✓
Standardised data transfer formats	✓?		Questionable whether any benefits

Economic efficiency concepts that underpin this cost-benefit analysis

5.1.5 The economic benefits and costs of the preferred option have been categorised as follows:

i) productive efficiency

ii) allocative efficiency

iii) dynamic efficiency.

5.1.6 *Productive efficiency* is achieved when goods and services desired by consumers are produced at minimum cost to the economy.

5.1.7 *Allocative efficiency* is achieved when the marginal value consumers place on a product or service equals the cost of producing that product or service, so that the total of individuals' welfare in the economy is maximised.

5.1.8 *Dynamic efficiency* is achieved by firms having appropriate incentives to innovate and invest in new products and services over time, thereby increasing their productivity and lowering the relative cost of products and services over time.

Productive efficiency net benefits

5.1.9 Under the preferred option, the transaction costs associated with facilitating competition on embedded networks should be lower than under the status quo.

5.1.10 Transaction costs can be thought of as the costs faced by retailers, embedded network owners and other relevant parties in the sale of electricity to consumers on embedded networks.[23]

Reduced transaction costs associated with negotiating embedded network UoSAs

5.1.11 The transaction costs associated with embedded network owners and retailers entering into embedded network UoSAs include the costs of drafting, reviewing, negotiating, amending, approving and maintaining an embedded network UoSA. These costs include time spent by business analysts, technical experts, lawyers, managers and members of Boards or Body Corporates.

5.1.12 By using the default embedded network UoSA under the preferred option, embedded network owners and retailers are able to avoid a significant amount of the transaction costs associated with entering into embedded network UoSAs. Using the default agreement would also reduce the elapsed time for negotiating embedded network UoSAs (for example, from months to weeks, or from weeks to days).

5.1.13 Transaction costs will not be completely eliminated, for at least two reasons. First, the default embedded network UoSA would need to provide for bilateral negotiation of various inter-business operational details (e.g. service standards, business-to-business information exchange, service interruption and connection policies, and pricing and billing information). Second, the default embedded network UoSA would need to evolve over time to accommodate investment and innovation in service and product offerings by retailers and embedded network owners. These transaction costs could be minimised by the Authority updating the default embedded network UoSA in a timely manner.

5.1.14 Over time the reduced transaction costs associated with negotiating embedded network UoSAs may facilitate some dynamic efficiency benefits. Embedded network owners and retailers could be more willing to make amendments to embedded network UoSAs for reasons of service innovation and product development, knowing that the cost of doing so would be materially less than at present.

[23] Examples of other relevant parties include local network owners and metering equipment providers.

Q10. Based on your experience, what is the average time and cost for a retailer and an embedded network owner to negotiate and thereafter administer an embedded network UoSA when the retailer is entering the embedded network for the first time?

Q11. What estimated cost saving would your organisation receive from the use of a default embedded network UoSA?

Reduced transaction costs from standardised data transfer formats

5.1.15 If a default embedded network UoSA is adopted, retailers' cost to serve embedded network customers should be reduced through the mandated use of Electricity Information Exchange Protocols (EIEPs) 1, 2, 3 and 12.[24] This would standardise the process and format for the exchange of line charge billing and related information between embedded network owners and traders (retailers).[25]

5.1.16 At least some, but possibly all, of this benefit to retailers would represent a wealth transfer from embedded network owners that do not use these EIEPs. That is, by not using these EIEPs currently, embedded network owners are in effect shifting certain costs from themselves onto retailers. Such a transfer of economic wealth would not be taken into account the Authority if it were to consider a Code amendment in this area.[26]

5.1.17 If embedded network owners were forced to use EIEPs 1, 2, 3 and 12, it is conceivable the benefit to retailers would be less than the cost to embedded network owners. That is, the prices faced by embedded network consumers could increase.

5.1.18 There may be some competition benefits for embedded network consumers from adopting EIEP 12. These competition benefits would result from more retailers being prepared to compete on more embedded networks.[27]

5.1.19 Overall, based on information to hand, it is not currently possible to determine whether there would be a positive or negative net economic benefit from fewer embedded network tariffs, and from standardising the format for exchanging embedded network tariff information.

[24] Retailers and distributors are required to use EIEPs 1, 2, 3 and 12 if they have entered into a UoSA.

[25] EIEP 1 sets out a format for traders (retailers) to use when providing billing and volume information to distributors at an ICP level, to support the invoicing of fixed and variable line charges and/or to meet operational information requirements of the distributor. It also allows distributors to provide information to traders to support line charge invoices and traders to reconcile the distributor's line charges.

EIEP 2 sets out a format for traders to use when providing aggregated EIEP 1 billing and volume information to distributors. It can also be used by distributors to provide information to traders that supports the distributor's invoice and assists with reconciliation of the distributor's charges.

EIEP 3 sets out a format for traders to use when providing billing and volume information to distributors at an ICP level, to support the invoicing of fixed and variable line charges where half hour metering information is required. For embedded networks this EIEP allows embedded network owners to provide billing and volume information to the parent network owner.

EIEP 12 sets out a format for distributors to use when notifying retailers of changes to tariffs, including the introduction or removal of tariffs.

[26] Refer to the Authority's interpretation of its statutory objective, available at: www.ea.govt.nz/dmsdocument/9494.

[27] It is not just the number of retailers competing on an embedded network that facilitates competition, but also the *threat* of new entrant retailers competing.

Q12. What would be the cost saving or additional cost to your organisation if embedded network owners were required to use EIEP 1, 2, 3 and 12?

Reduced transaction costs associated with changing the status of an embedded network

5.1.20 Under the preferred option the Code would be amended to specify a minimum timeframe for converting an embedded network to a customer network (which would occur via the decommissioning of ICPs on the embedded network). This minimum timeframe should reduce transaction costs, particularly for retailers operating on many secondary networks.

5.1.21 It will enable retailers in particular, but also local network owners, to reduce the number of processes and procedures they have to accommodate such status changes. It may also enable retailers, and possibly local network owners, to automate manual processes and to reduce the number of manual workarounds of existing automated processes.

Q13. What would be the cost saving to your organisation from adopting the notice period in the RAG's preferred option?

Allocative efficiency net benefits

5.1.22 Electricity consumers on embedded networks may receive a greater level of satisfaction from the distribution services they receive under a default embedded network UoSA than under existing embedded network UoSAs. In economic terms, the 'consumer surplus' under a default embedded network UoSA may be greater than under the suite of existing embedded network UoSAs.[28]

5.1.23 It is the RAG's understanding that an improvement in consumers' satisfaction with embedded network distribution services could be made in respect of:

i) establishing very clear definitions of services received by consumers on embedded networks, defining measures against which to gauge embedded network owners' service performance, and specifying target service levels (for example, the management of faults on embedded networks)

ii) providing further clarification in respect of various activities where embedded network owners interact with consumers on embedded networks (for example, entering a consumer's premises, responding to a request for disconnection).

5.1.24 It is unknown whether these and other improvements under the proposed default embedded network UoSA would result in material additional ongoing costs to embedded network owners. If there were to be an increase in costs for embedded network owners and these were to be passed on to embedded network consumers, then provided this cost was smaller than what the consumers were prepared to pay for the improved service, consumer surplus would increase and there would be a net benefit. However, the reverse may hold.

[28] Consumer surplus is the economic term for the benefit a consumer receives from buying a good or service. It is the difference between the price a consumer pays for a good or service and the maximum price that consumer would be prepared to pay for the good or service.

5.1.25 Operational cost savings for retailers and local network owners as a result of these improvements are expected. For example, secondary network consumers would be expected to liaise more with their secondary network owner over faults, rather than their retailer and/or the local network owner. Assuming the markets for retail and local network services are delivering workably competitive outcomes, these savings should be passed onto consumers over time.[29]

5.1.26 Overall, it is expected that the allocative efficiency net benefits from using a default embedded network UoSA will be positive, although relatively minor.

Q14. What would be the cost saving or additional cost to your organisation from clarifying with consumers on embedded networks that the embedded network owner has responsibility for the management of faults, not retailers or local network owners?

Dynamic efficiency net benefits

5.1.27 In some markets, uniform standards have the potential to reduce service and product innovation, as well as to delay improvements to customer service standards (including the cost-effectiveness and efficiency of customer services). The market for designer clothing can be thought of as a good example of this situation. Uniform standards in the designer clothing industry would reduce designers' creativity and innovation in clothing.

5.1.28 However, where there is a monopoly provider of a service or product with a high degree of homogeneity across the consumers of that service or product, uniform standards can be an efficient means by which to reflect the preferences of those consumers. This, in turn, provides an opportunity for third parties to provide value-add services or products based on the underlying product or service.

5.1.29 The provision of electricity distribution services on embedded networks is a reasonably good example of this situation. Embedded network owners provide a relatively homogenous service that enables consumers on embedded networks to purchase energy from retailers offering relatively heterogeneous products or services.

5.1.30 In this situation the greatest dynamic efficiency gains arise from strong competition between the energy retailers using the embedded network, as they seek to innovate and offer new and/or more cost-effective products or services to consumers over time. In this way, dynamic efficiency is enhanced by having uniform standards for the provision of embedded network services.

5.1.31 An important caveat is that the standards must be capable of evolving over time where this assists product or service innovation, on the part of embedded network owners as well as retailers, and therefore enhances dynamic efficiency. The RAG anticipates that a default embedded network UoSA would evolve over time, as the electricity regulator's information set evolved.

[29] The Authority interprets competition to mean workable or effective competition. Under workable competition, for example, sellers compete on price, quality, location and/or service, or by differentiating their goods or services from their rivals, or through their sales and marketing effort, or via a combination of those activities. Refer to the Authority's interpretation of its statutory objective, available at: www.ea.govt.nz/dmsdocument/9494.

5.1.32 The RAG's proposed approach also provides for embedded network owners and retailers to bilaterally agree variations to the default embedded network UoSA. This recognises that many individual economic agents will collectively have superior information to a regulator.

5.1.33 By providing for this flexibility in negotiating an embedded network UoSA, the RAG considers it unlikely that adopting the preferred option will have significant adverse impacts on dynamic efficiency.

5.1.34 On the other hand, the RAG believes there may be reasonable material dynamic efficiency benefits from adopting a default embedded network UoSA, through the lowering of barriers to entry for entrant retailers on embedded networks.

5.1.35 Enhanced retail competition, including the *threat* of entrant retailers on embedded networks, increases competitive pressure on electricity prices and encourages efficient investment in capital goods and innovation. It provides embedded network consumers with greater confidence that the price of electricity more closely reflects the marginal cost of producing, transporting and retailing electricity to them, and that price movements are driven by underlying supply and demand movements.

5.1.36 This is consistent with the Authority's interpretation of the competition limb of its statutory objective, which is that the Authority will *[exercise] its functions in ways that facilitate or encourage increased competition in the markets for electricity and electricity-related services, taking into account long-term opportunities and incentives for efficient entry, exit, investment and innovation in those markets*.[30]

5.1.37 By reducing the transaction costs associated with retailers entering embedded networks, adopting a default embedded network UoSA should increase the number of retailers/traders competing on embedded networks. Alternatively, it should reduce the likelihood of retailers/traders ceasing to compete on embedded networks. This in turn would lead to increased competitive pressure on electricity prices in embedded networks vis-a-vis what would arise under the status quo.

5.1.38 In summary, the dynamic efficiency benefits from adopting a default embedded network UoSA are expected to be larger than any potential dampening of dynamic efficiency from adopting such an arrangement.

Q15. Do you agree that the adoption of a default embedded network UoSA will enhance retail competition on embedded networks? Please give reasons supporting your answer.

Establishment costs

5.1.39 The Authority and industry participants would incur implementation costs if the RAG's preferred option were to be implemented.

5.1.40 The Authority's costs would relate primarily to the cost of preparing a default embedded network UoSA, including consultation with interested parties.

5.1.41 Participants' costs would primarily relate to responding to further consultation documents released by the Authority, and making any necessary changes to their internal policies,

[30] Paragraph A.30 of the Authority's interpretation of its statutory objective, available at: www.ea.govt.nz/dmsdocument/9494.

procedures and systems to accommodate the terms of the default embedded network UoSA and the Guidelines for Secondary Networks.

Q16.	What is the cost estimate for your organisation to review and comment on a draft default embedded network UoSA, prepared using the Authority's model local network UoSA and the Authority's guidelines for drafting embedded network UoSAs?

Appendix A Format for submissions

Question No.	General comments in regards to the:	Response

Appendix B Jurisdiction over secondary networks

5.1.42 The legal framework for secondary networks includes the:

a) the Act[31]

b) Commerce Act 1986[32]

c) Fair Trading Act 1986[33]

d) Consumer Guarantees Act 1993[34]

e) the Code[35]

f) Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks[36]

g) Guidelines for drafting embedded network use of system agreements[37]

h) Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004.

5.1.43 The legislative requirements do not explicitly specify:

a) that consumers must have individual choice of retailer

b) a reasonable notice period for retailers and secondary network owners to set up or decommission a secondary network

c) clear responsibilities for managing faults on secondary networks

d) a mandatory UoSA for embedded networks.

5.2 The jurisdiction of the Commerce Commission and the Authority

5.2.1 The RAG is mindful of potential confusion between the Authority's role and that of the Commerce Commission. The Commerce Commission is responsible for enforcing the Fair Trading Act and the Commerce Act, which help promote competition. For this reason, the RAG considers a number of the issues raised on secondary networks during the course of its research may fall in an area that the Commerce Commission is responsible for, not the Electricity Authority. In brief:

a) the Fair Trading Act helps ensure consumers get accurate information when making purchasing decisions. The Fair Trading Act makes it illegal for businesses to mislead consumers, give false information, or use unfair trading practices. The Fair Trading Act does not tell businesses what they can or cannot charge customers but it does tell businesses that their prices, and how they represent those prices, must be accurate[38]

---

31 Electricity Industry Act 2010, available at: www.legislation.govt.nz/act/public/2010/0116/latest/whole.html#DLM2634233.

32 Commerce Act 1986, available at: www.legislation.govt.nz/act/public/1986/0005/latest/DLM87623.html.

33 Fair Trading Act 1986, available at: www.legislation.govt.nz/act/public/1986/0121/latest/DLM96439.html.

34 Consumer Guarantees Act 1993, available at: www.legislation.govt.nz/act/public/1993/0091/latest/DLM311053.html.

35 Electricity Industry Participation Code, available at: www.ea.govt.nz/code-and-compliance/the-code/.

36 Guidelines for Metering, Reconciliation and Registry Arrangements for Secondary Networks, available at: www.ea.govt.nz/dmsdocument/6077.

37 Guidelines for drafting embedded network use of system agreements, available at: www.ea.govt.nz/dmsdocument/13648.

38 Commerce Commission, *Electricity and the Commerce Commission's role*, www.comcom.govt.nz/regulated-industries/electricity/electricity-role/.

b) the Commerce Act is intended to promote competition in markets for the long-term benefit of consumers. The Commerce Commission regulates markets where competition is limited because, in these circumstances, there is the risk that consumers are overcharged or do not receive the quality of service they require. For electricity, the Commerce Commission investigates anti-competitive behaviour across the electricity industry and regulates transmission and distribution lines services. The Commerce Act makes a range of anti-competitive behaviour illegal, including where a business uses its market power anti-competitively.[39] Under section 36 of the Commerce Act, a business that has a substantial degree of power in a market must not take advantage of that power to restrict the entry of another business into that or any other market or prevent or deter a business from engaging in competitive conduct in that or any other market.[40]

5.2.2 The memorandum of understanding between the Authority and the Commerce Commission sets out the respective roles under the Act and the Commerce Act.[41]

5.2.3 The Authority must consult with the Commerce Commission before amending the Code in a manner that will, or is likely to, affect the Commerce Commission in the performance of its functions or exercise of its powers.[42]

5.2.4 The Ministry of Business, Innovation and Employment (MBIE) administers the Act. If it was decided that more stringent regulation is required or, for example, that a particular type of network ought to be absolved, then MBIE would be responsible for this decision.

5.2.5 The EGCC is actively attempting to identify customer network owners that should be members of its scheme so it can investigate consumer complaints. Customer networks are required to be members of the EGCC scheme.

[39] Commerce Commission, *Electricity and the Commerce Commission's role*, www.comcom.govt.nz/regulated-industries/electricity/electricity-role/.

[40] See section 36 of the Commerce Act.

[41] MOU between the Authority and the Commerce Commission, available at: www.ea.govt.nz/dmsdocument/8957.

[42] See section 54V of the Commerce Act.

Appendix C Proposed Code amendment for minimum notice period to convert a secondary network

20 "Decommissioned" status

(1) For each **ICP** on its **network**, the relevant **distributor** must manage the ~~The~~ **ICP** status of **"Decommissioned"** ~~must be managed by the relevant distributor and~~ which indicates that the **ICP** is permanently removed from future switching and reconciliation processes.

(2) Decommissioning occurs when—

(a) **electrical installations** associated with the **ICP** are physically removed; or

(b) there is a change in the allocation of electrical loads between **ICPs** with the effect of making the **ICP** obsolete; or

(c) in the case of a **distributor**-only **ICP** for an **embedded network**, the **embedded network** no longer exists.

(3) Despite subclause (1), if a distributor intends to decommission an ICP and decommissioning was not requested by the relevant **trader**, the **distributor**—

(a) must give the **trader** 20 **business days'** notice of its intention to **decommission** the **ICP**; and

(b) must not **decommission** the **ICP** without the prior written consent of the relevant **trader**.

25 Creation and decommissioning of NSPs and transfer of ICPs from 1 distributor's network to another distributor's network

(1) If an **NSP** is to be created or decommissioned,—

(a) the **participant** specified in subclause (3) in relation to the **NSP** must notify the **reconciliation manager** of the creation or ~~decommissioning~~ **decommissioning** at least 20 **business days** before the proposed creation or **decommissioning** date; and

(b) the **reconciliation manager** must notify the **market administrator** and affected **reconciliation participants** of the creation or decommissioning no later than 1 **business day** after receiving the notification in paragraph (a).

(2) If a **distributor** wishes to change the record in the **registry** of an **ICP** that is not recorded as being usually connected to an **NSP** in the **distributor's network**, so that the **ICP** is recorded as being usually connected to an **NSP** in the **distributor's network** (a "transfer"), the **distributor** must notify the **reconciliation manager**, the **market administrator**, and each affected **reconciliation participant** of the transfer.

(3) The notification required by subclause (1) must be given by—

(a) the **grid owner**, if—

(i) the **NSP** is a **point of connection** between the **grid** and a **local network**; or

(ii) if the **NSP** is a **point of connection** between a **generator** and the **grid**; or

(b) the **distributor** for the **local network** who initiated the creation or decommissioning, if the **NSP** is an **interconnection point** between 2 **local networks**; or

(c) the **embedded network** owner who initiated the creation or decommissioning, if the **NSP** is an **interconnection point** between 2 **embedded networks**; or

(d) the **distributor** for the **embedded network**, if the **NSP** is a **point of connection** between an **embedded network** and another **network**.

(4) A **distributor** who is required to notify a transfer under subclause (2) or subclause (3)(d) must comply with Schedule 11.2.