

Review of secondary networks

Update on legal framework and number of secondary networks

21 October 2015

1 Recommendation

1.1.1 It is recommended the Retail Advisory Group (RAG) discusses the content of this paper and notes:

- a) that a secondary network owner who is not captured by the definition of “retailer” in the Electricity Industry Act 2010 may not be an “industry participant”
- b) there appear to be many thousands of consumers on secondary networks in New Zealand.

2 Background

2.1.1 The Electricity Authority (Authority) has requested the RAG recommend options to promote competition and efficiency on secondary networks for the long-term benefit of consumers.

2.1.2 At its 8 July 2015 meeting, the RAG considered the summary of submissions on the RAG’s discussion paper on secondary network issues and options (published on 21 April 2015).

2.1.3 The RAG requested the secretariat consider and report back to the RAG on the following two matters:

- a) are secondary networks captured under the Act’s definition of “industry participant” / “participant”?
- b) how many consumers are on secondary networks?

2.1.4 The RAG noted an estimate of the number of consumers on secondary networks was important for informing policy decisions about secondary networks.

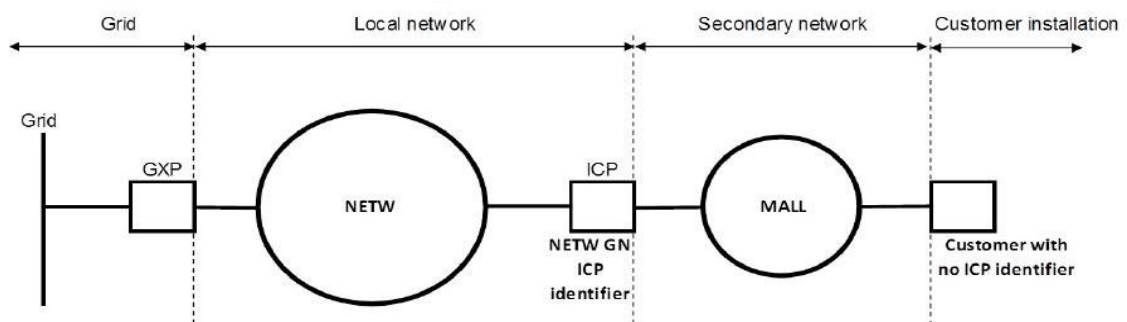
3 The legal status of secondary networks

3.1 The secretariat has received draft legal advice

3.1.1 The secretariat has received draft legal advice on whether secondary networks are participants.

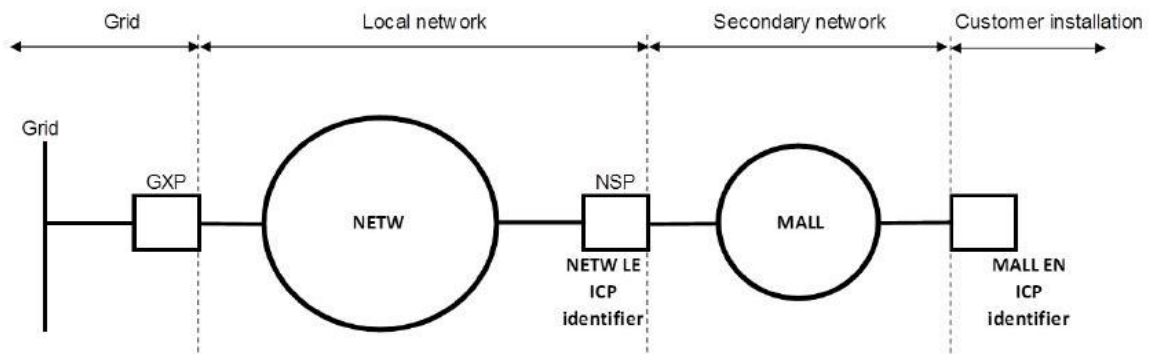
3.1.2 This draft advice relies on the description of secondary networks set out in the RAG’s discussion paper and, in particular, the following three configuration diagrams (figures 1, 3 and 4 in the discussion paper).

Customer network



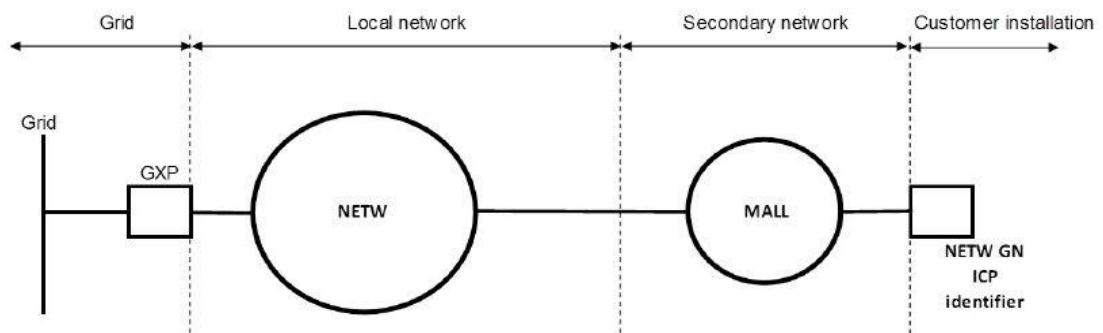
Source: Electricity Authority

- Notes:
1. Each consumer does not have their own ICP on a customer network.
 2. NETW stands for Network

Embedded network

Source: Electricity Authority

- Notes:
1. Each consumer has their own ICP on an embedded network.
 2. NETW stands for Network

Network extension

Source: Electricity Authority

- Notes:
1. Each consumer has access to all retailers on a network extension.
 2. NETW stands for Network

3.2 Are the owners of secondary networks "distributors"?

- 3.2.1 The Authority's draft legal advice is that the owners of the secondary networks shown in the three diagrams above are not "distributors" in terms of the Electricity Industry Act. This is the case even though each diagram shows a different system configuration. In the context of the Electricity Industry Act, the configuration is not relevant.
- 3.2.2 The reason for this is ultimately due to the definition of "point of supply" in the Electricity Act 1992 that the Electricity Industry Act refers to. That is, in each case, the lines and equipment that make up the secondary network are beyond the point of supply for the secondary network. This means that the lines and equipment that make up the secondary network are excluded from the definition of "lines" in the Electricity Industry Act.
- 3.2.3 The effect of this exclusion from the definition of "lines" in the Electricity Industry Act is significant because, in order to be a distributor, the owner of a secondary network must be engaged in the conveyance of electricity on lines (other than lines that are part of the national grid), within the meaning of the term "lines" in the Electricity Industry Act.

3.3 Are the owners of secondary networks “persons who own lines”?

- 3.3.1 The Authority’s draft legal advice is that the owners of the secondary networks shown in the three diagrams above are not “persons who own lines” in terms of the Electricity Industry Act. The reasons for this are in large part the same as the reasons outlined above in relation to the definition of “distributor”.
- 3.3.2 That is, due to (ultimately) the definition of “point of supply” in the Electricity Act, the lines and equipment that make up the secondary network are beyond the point of supply for the secondary network. This means that the lines and equipment that make up the secondary network are excluded from the definition of “lines” in the Electricity Industry Act. Accordingly, the owner of the secondary network is not a person who owns “lines”.

3.4 Are the owners of secondary networks “retailers”?

- 3.4.1 The Authority’s draft legal advice is that the owner of a customer network as described by the RAG’s discussion paper is a retailer in terms of the Electricity Industry Act. This is because it seems clear that the customer network owner is engaged in the sale of electricity to a consumer other than for the purpose of resale (in terms of the definition of “retailing” in the Electricity Industry Act).
- 3.4.2 In relation to the owners of embedded networks and network extensions as described by the RAG discussion paper, it is possible that the owners of such secondary networks are also retailers. It is unclear whether this is the case however, because the Electricity Industry Act provides no guidance on what is meant by the “sale of electricity”. To a certain extent, it will also depend on the circumstances of each case.

3.5 Implications of the Authority’s draft legal advice

- 3.5.1 Based on draft legal advice the Authority has received, a secondary network owner who is not captured by the definition of “retailer” in the Electricity Industry Act may not be an “industry participant”.

3.6 The Authority has informed MBIE

- 3.6.1 As the Electricity Industry Act is administered by the Ministry of Business, Innovation and Employment (MBIE), not the Authority. The Authority has provided the draft legal advice to the MBIE for its consideration.

4 How many consumers are on secondary networks?

4.1 The number of consumers on embedded networks can be estimated using registry data

- 4.1.1 The number of consumers on embedded networks in New Zealand can be estimated from data held in the registry.
- 4.1.2 There are approximately 10,000 installation control points (ICPs) on embedded networks, implying at least this number of consumers on this type of secondary network.

4.2 The secretariat has considered several approaches to estimating the number of consumers on customer networks and network extensions

- 4.2.1 The secretariat has spent some time investigating various ways in which to determine the number of consumers on customer networks and network extensions in New Zealand. The secretariat has come up with the following options:

- a) Undertaking a survey of:
 - i) distributors
 - ii) metering equipment providers
 - iii) retailers
 - iv) property ownership/management firms
- b) Undertaking some desktop analysis, detailing the assumptions, and sharing this with the parties above for voluntary comment
- c) Looking for non-unique addresses in Land Information New Zealand's (LINZ's) database
- d) Overlaying LINZ's database of addresses against the installation control point (ICP) addresses in the registry to find ICP addresses with multiple LINZ addresses attached
- e) Overlaying LINZ's database of geospatial data against the geospatial data in the registry to find locations with multiple ICPs
- f) Overlaying LINZ's database of addresses against LINZ's database of primary parcels (the base level breakdown of land in New Zealand), to find primary parcels of land with multiple addresses attached
- g) Approaching Quotable Value (QV) Limited to advise the Authority on the number of properties in New Zealand that would typically have the characteristics of a secondary network (eg, shopping malls; multi-unit, multi-storey residential buildings).

4.2.2 The secretariat used a desktop analysis to estimate the number of consumers on these two types of secondary network, because this was viewed as the quickest and simplest approach. The secretariat intended to use one or more of the other approaches if the desktop research did not provide an estimate.

4.3 It is estimated there are tens of thousands of consumers on customer networks and network extensions

4.3.1 The secretariat has found the following information relevant to estimating the number of consumers on customer networks and network extensions in New Zealand:

- a) according to the former Department of Housing, circa 2010 New Zealand had:
 - i) over 18,000 unit title developments – unit titles are the most widely used form of multi-unit property ownership. Unit title developments are typically apartment blocks, units, townhouses, office blocks and industrial or retail complexes
 - ii) 12,650 of these unit title developments were residential developments, comprising more than 90,000 units
- b) in 2014 there were 318 Retirement Villages Association member villages in New Zealand
- c) according to the Ministry of Business, Innovation and Employment, in 2012 New Zealand had approximately 193,000 buildings that either were non-residential or were multi-unit, multi-storey residential buildings
- d) New Zealand has approximately 400 holiday parks.

- 4.3.2 On the basis of this information, the secretariat believes the RAG can be reasonably confident there are tens of thousands of consumers on secondary networks in New Zealand. The secretariat believes there are likely to be over 100,000 consumers on secondary networks.
- 4.3.3 There is not a one-to-one relationship between the numbers in paragraph 4.3.1 and the number of consumers. For example, an apartment in a residential development may involve two unit titles. Commercial properties and holiday parks may have one or many individual tenants or occupants consuming electricity.
- 4.3.4 Based on the information above, the secretariat is unable to give a breakdown of the estimated number of consumers on customer networks versus network extensions. Some individual unit titles will have ICPs (eg, cross leases). In addition, some of the residential and commercial properties may be embedded networks.
- 4.3.5 A survey of the parties listed in paragraph 4.2.1 would probably give the best estimate of the breakdown of consumer numbers between the different types of secondary network.
- 4.3.6 This estimate is consistent with the Authority's understanding of the number of secondary networks, which is based on informal discussions with industry participants and property ownership/management firms.
- 4.3.7 The secretariat is willing to formally survey distributors, MEPs, retailers and property ownership/management firms, on behalf of the RAG, and/or undertake one or more of the other options listed in paragraph 4.1.1. If the RAG requests the secretariat to do this, the secretariat expects that it would in a position to report back to the RAG on its findings in early 2016.