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Submissions
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SUBMISSION ON MODEL USE-OF-SYSTEM AGREEMENTS

- 1 Orion New Zealand Limited (**Orion**) welcomes the opportunity to comment on the latest “Model use-of-system agreements – proposed changes” consultation paper (the **paper**) released by the Authority in June 2012.
- 2 Our submission is in two parts:
 - 2.1 Comments on key aspects of the paper,
 - 2.2 Responses to the paper’s specific questions as an Appendix.
- 3 Generally we are concerned that the paper is taking an inappropriately piecemeal approach to development of the model agreements. The previous (and at the time “final”) consultation in April 2012 evoked a wide range of detailed submissions on a number of significant matters. Unless we have missed it, we are not aware of the Authority publishing a summary of those submissions, or more importantly its responses to them. The latest paper covers only some of the territory, and does not explain why the particular matters in the latest paper have been selected for further consultation while the other matters have not been. We are therefore unsure what state the MUoSA is now in.
- 4 The group of upper South Island distributors, including Orion, is submitting separately on the paper from that group’s specific perspective.
- 5 For the record, all our previous comments and concerns stand.



Load management

- 6 In our view the paper, by focussing on the very narrow area of emergency management, has rather missed the point. We are thus in the dark as to the Authority's views on the other areas covered by the February/April consultation paper and submissions.
- 7 The paper does say, at para 2.1.5, that: "the Authority considers that consumers' interests in respect of supply security are best met when grid and local network operations are coordinated at all times but particularly when responding to emergencies."
- 8 We certainly agree, but in our view consumers' wider interests are also served by coordination. Specifically consumers interests in having:
- 8.1 routine load management coordinated so that it does not itself create instability. As previously submitted we do not believe that the uncoordinated load management that may result from "market" arrangements will lead to a stable outcome.
 - 8.2 load management coordinated so that the timing and size of network investment is optimised. As the upper south island (USI) distributors have demonstrated over a number of years now, coordinated load management can deliver material reduction in peak loadings, and successfully leverage the inherent diversity of demands, thus helping defer transmission upgrades in the USI. Likewise at local network level, Orion continues to run well aligned load management and pricing arrangements that help ensure timely investment in new network capacity that is driven by revealed consumer preference.
 - 8.3 a single party, with a dynamic real time view of total load, playing a coordination role even when the load management is being carried out for "energy market" reasons. An example of this would be the spot price smoothing and environmental benefits¹ that are the likely, if not specifically intended, result of the flattening of loads.
- 9 By continuing with a market driven rights-based approach, and in particular without considering responsibilities as well, the Authority puts both of these capabilities, and, more importantly, the resulting benefits, at risk.

¹ See for example the Parliamentary Commissioner for the Environment's recent publication: [Evaluating solar water heating: Sun, renewable energy and climate change](#), July 2012, and the statement on page 6: "A major conclusion of this investigation is that flattening the high peaks in electricity demand that occur in winter has great environmental value."

- 10 Significantly for Orion, the paper has not responded to the comments in our last submission² regarding clause 6.1 of the MUoSA. This clause attempts to link distributor rights to control load to (arguably) very specific “Tariff rates”. As such it is not just “old school” but potentially in conflict with existing wider regulation in this area.
- 11 The Authority, after extensive consultation, has decided³ not to standardise on particular types of pricing structure and distributor business models, as it rightly sees this as an important area for innovation, and also an area where possible modest savings in retailer operating costs could easily be offset by dynamic efficiency losses. In line with this, the Authority has adopted a principles / information disclosure based approach to regulation of distribution pricing rather than a prescriptive approach. We strongly support this.
- 12 However, clause 6.1 of the MUoSA is not now consistent with the wider approach, and there is nothing in the latest paper on this subject. In tying distributor rights to defined “Tariff rates”, the MUoSA is at odds with the Authority’s position regarding acceptable pricing structures, which is that these include those that seek to send price signals to *retailers* on a wholesale basis (sometimes called “GXP” pricing), with retailers then designing retail offerings which reflect the price signals, and providing equipment (such as ripple receivers) to enable load response consistent with the price signals. As written clause 6.1 of the MUoSA appears to require that there be a specific “Tariff Rate for a non-continuous level of service in respect of part of or all of the Consumer’s load” if the distributor is to be able to control the load. While Orion’s wholesale pricing provides strong signals for retailers to offer retail pricing options that include response to our peak ripple signals, and while our pricing also provides strong signals for off peak energy use, we consider that is at least arguable that these are “Tariff rates for ... non-continuous levels of service”, however, we see no merit in this approach, which adds a level of uncertainty that is not required.
- 13 Whether or not this is the intent, the clause should be changed. We recommend the following replacement (or something like it) of the current draft of clause 6.1:

“6.1 Distributor may control load: The Retailer acknowledges that, where the Distributor’s pricing signals the value of managing load at Connected Customer’s Premises, the Distributor may provide a signal to operate equipment at the Connected Customer’s Premises including for the purpose of reducing, interrupting or limiting the time of Delivery

² See Orion’s “Submission on Model Use-of-System Agreements” 11 April 2012, particularly the response to question 6.

³ See the Authority’s “Standardisation: Model Use-of-System Agreements and Proposed Code Amendments” consultation paper dated 11 August 2011, in particular section 4.4.

to a part of a Connected Customer's Installation, for example, to interrupt Delivery to a water heater, or"

- 14 Alternatively some parts of clause 6 could be structured so as to provide the same sort of optionality as in clause 11, thereby appropriately reflecting different distributor pricing structures business models.
- 15 More generally, the interposed MUoSA has rather lost its way in this regard. The practice note under the MUoSA introduction rightly notes that: "The Distributor provides **wholesale** Distribution Services to the Retailer" and that "The Retailer provides **retail delivered electricity** to its Consumers." (Emphasis added in both cases.) Elsewhere – in section 11 in particular – the MUoSA acknowledges different processes for so-called "GXP" priced networks. Philosophically, the whole concept of an "interposed" agreement is much better aligned with wholesale distribution pricing (irrespective of the point of measurement) than with distribution pricing that largely reflects legacy metering and load control arrangements at consumer's premises. The MUoSA must be robust to and supportive of future development and innovation, not just lock in current practices.
- 16 Regarding system emergency events, we consider that the proposed process as outlined in the new clause 6.6 is unnecessarily complicated, and probably unworkable in practice. The examples in the definition of a system emergency event are all things that happen in real time and for which "controlled load" isn't very useful in most cases even when the distributor directly signals it. Examples (a) and (b) in the definition will usually either require complete cessation of supply (a), or occur automatically via protection equipment (b).
- 17 We suggest an alternative arrangement that requires the retailer to notify the distributor if and when it gains access to *material* load – or its access changes materially - that might help in managing emergency events *and* that the distributor is unlikely to gain access to by its normal load management. The distributor *may* then seek to develop an arrangement with the retailer to include the retailer load in its response to system emergency events if it judges that to be appropriate and practical.

Price categories and price changes

- 18 We are glad that the Authority has acknowledged the near unanimous unfavourable comments to the changes proposed to clauses 9 and 10 in the last round of consultation, and is now proposing further amendments.
- 19 However we note that the paper sees the latest changes as ensuring consistency with Part 12A of the Code, EIEP12 and the schedule of standard tariff codes. This puts the cart before the horse. The most important thing is that

the model agreement is as good as it can be, and then we can worry about whether any Code changes are required.

- 20 More specifically, we consider that the intent of clause 9.4 (b) (ii) is better captured in clause 10. Changes in allocation can occur at any time and will not necessarily be associated with changes in prices, which is what we think 9.4 is (or was) for.

Distributor liability

- 21 The changes to the model agreement to clarify retailer responsibilities regarding contracting out of the Consumers Guarantees Act 1993 are welcome. However the paper does not seem to acknowledge that the Part 12A Code amendment and associated schedule themselves may need some changing, nor does it consider whether consequent amendments to the model agreement are needed to indemnify distributors against any claims against them where retailers fail to so contract out.

Need for technical drafting round

- 22 Partly because of the piecemeal approach to consultation now being taken, and partly because the Authority continues to draft changes to the MUoSA despite policy issues being unsettled, we remain strongly of the view that a further technical drafting round of consultation must occur once all those issues have been settled. This is the only way to ensure that the agreement is coherent throughout. Consideration should also be given to the RAG reviewing the final draft.

Concluding remarks

- 23 Thank you for the opportunity to make this submission. Orion does not consider that any part of this submission is confidential. If you have any questions please contact Bruce Rogers (Pricing Manager), DDI 03 363 9870, email bruce.rogers@oriongroup.co.nz.

Yours sincerely



Bruce Rogers
Pricing Manager

Appendix: Responses to specific questions

	Question	Response
Q1	<p>Do you agree with the proposed amendments to clause 6.6 and the new definition of 'system emergency event' are likely to promote reliable supply by the electricity industry for the long term benefit of consumers? If not, please provide your reasons and explain how they're consistent with the Authority's statutory objective. Please also provide alternative drafting.</p>	<p>We have no particular problem with the definition. However, we have significant concerns about the context.</p> <p>Firstly, there is potentially an implication or assumption that load control is a significant or perhaps even the only tool available to distributors in managing such events. The UoSA already allows distributors to interrupt supply (including completely) for a number of reasons including those listed, so we are not sure the proposed arrangements add anything but complexity. We note that the Code requires us to disconnect load (or follow instructions to disconnect load) in certain circumstances.</p> <p>Secondly we consider that load management (including access to controlled load) coordinated by the distributor is central to ensuring short term stability and medium and long-term efficient investment, and that this is as much if not more important than the role controlled load can play in emergencies.</p>
Q2	<p>Do you agree that the proposed amendments to clauses 9 and 10 of the interposed [agreement] and schedule 6, clause S6.2 of the conveyance [agreement] improve the clarity and structure of these clauses? If not, please provide your reasons and explain how they're consistent with the Authority's statutory objective. Please also provide alternative drafting.</p>	<p>This is certainly an improvement. However we believe that the trouble was created by the Code requirement to use EIEP 12 and the associated list of standard tariff codes. It would in our view have been preferable to significantly rework the latter interventions before trying to align the MUoSA with them.</p>

		We have no comment on the amendments to the conveyance agreement.
Q3	Do you agree with the proposed amendments to clause 26.9 of the interposed [agreement] and clause 18.1 of the conveyance [agreement] address the issue arising from distributor indemnity? If not, please provide your reasons and explain how they're consistent with the Authority's statutory objective. Please also provide alternative drafting.	<p>We are of the view that Part 12A and the associated schedule should be amended accordingly.</p> <p>We have no comment on the amendments to the conveyance agreement.</p>