

3 March 2015

Submissions  
c/- Electricity Authority  
PO Box 10041  
Wellington 6143

*by email: [submissions@ea.govt.nz](mailto:submissions@ea.govt.nz)*

## **SUBMISSION ON REVIEW OF THE PARTICIPANT AUDIT REGIME**

- 1 Orion New Zealand Limited (**Orion**) welcomes the opportunity to comment on the “Review of the participant audit regime” consultation paper (the **paper**) released by the Electricity Authority (Authority) in February 2015.

### **Introduction**

- 2 Our submission is in two parts:
  - (a) General comments on the paper, and
  - (b) Responses to the specific questions as an appendix.
- 3 In summary we believe the goals of the review can be improved:
  - (a) We believe that an essential part of the review is to have a clear goal of identifying and reporting areas of the Code that result in ongoing trivial Code breaches or require inefficient work arounds, or are ambiguities.

### **General comments**

- 4 In our view the important issue is not compliance with the Code for compliance sake but ensuring that the Code is fit for purpose. Compliance with flawed or inappropriate Code is inefficient and will only add to compliance costs to the detriment of the long term benefit to consumers.
- 5 The audit process should provide the Authority with clear feedback on issues with the Code and then lead to improvements. An example of such an issue relates to clause 7(1)(l) of Schedule 11.1 and is we believe a clear example where the Authority should improve the wording of the Code.

- 6 As the Authority is aware it sent a communication to auditors in 2013 regarding the use of the dedicated status on the registry and put forward its view that the only time the dedicated status can be set to “Y” is when the conditions of clause 7(1)(l) of Schedule 11.1 have been met. Following a distributor challenge of this view and a requested that the Authority reconsider its stance the Authority’s compliance and legal teams reviewed the requirements under this clause 7(1)(l) of Schedule 11.1.
- 7 As a result of this review the Authority issued a Memo on the 5 December 2014 notifying participants that the Authority had changed its’ position on the interpretation of this clause. We congratulate the Authority on this change.
- 8 Orion also brought this issue to the attention of the Authority and while we agree with the Authority’s latest interpretation of the clause we reach the same conclusion via different logic. In our opinion the audit has clearly identified a clause in the Code that is ambiguous and should be redrafted to avoid confusion in the future. While the memo provides an interim solution we do not consider that good regulation should require ongoing reference to a memo that explains its function. Rather the Code should be corrected.
- 9 The paper rightly notes that a focus of the audit regime is to assess participants compliance with the Code and determine what actions each participant is taking to address any relevant Code breaches. The audit process appears to have changed from a process that had a ‘practical focus’ with the auditor having discretion to ignore minor technical breaches that have no effect on the market into a bureaucratic approach which is focused on identifying all breaches no matter how trivial or that result from impractical Code.
- 10 We believe that an equally important focus of the audits is educational and informative, this should be a two way process and that the audit process can be significantly enhanced if a substantial focus of the audit process is to identify and report areas of the Code that are resulting in ongoing trivial Code breaches or require inefficient work arounds, or ambiguities in the Code.
- 11 The Authority should then follow up with Code change proposals to rectify these issues. We believe that improved regulation or removal of inappropriate regulation will reduce cost to end use customers and therefor promote long term benefits to customers. The Authority should be actively seeking to improve or minimise the amount of Code required. The results from audits can assist in this process.

**Concluding remarks**

- 12 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 Dennis Jones (Industry Developments Manager), DDI 03 363 9526, email [dennis.jones@oriongroup.co.nz](mailto:dennis.jones@oriongroup.co.nz).

Yours sincerely

A handwritten signature in black ink that reads "D. L. Jones". The letters are cursive and slightly slanted to the right.

Dennis Jones  
**Industry developments Manager**

**Appendix: Response to specific questions**

**Q1 What you believe the purpose of the audit regime should be**

Purpose of the audit regime	Key outcomes of audit regime	Reasons
To assist participants in compliance with the Code and to continuously promote the development and improvement of the Code including reducing the amount of regulation where possible.	Improved Code and Code compliance	To provide long term benefits to consumers and to improve competition the Code should be fit for purpose.

**Q2. Proposals to improve the audit regime**

Proposal to improve audit regime	How will this proposal improve compliance, reduce cost to the industry or reduce effort associated with participant audits (please quantify where possible)?	How does this proposal align with the Authority’s statutory objective?	What costs do you estimate would be incurred by the industry in implementing this proposal?
The audit regime should seek to understand the underlying cause of non-compliance and establish if this is an inherent problem with the Code. Appropriate Code change consultation should follow. The Audit process appears to be increasingly focused on detailing any alleged non-compliance, regardless of their likely impact (or lack of impact) on the market.	Correcting the many areas of the Code that are ambiguous, difficult to understand, impractical or require information to be supplied by an inappropriate party will greatly enhance compliance with the Code.	Improved regulation or removal of inappropriate regulation will reduce cost to end use customers and therefore promote long term benefits to customers. The Authority should be actively seeking to improve or minimise the amount of Code required. The results from audits can assist in this process.	

<p>Ensure that the appropriate party that has information is the one populating the registry. We believe that there are inefficient 'work arounds' being implemented to allow compliance with the flawed requirements of the Code.</p>	<p>An example of this is when the distributor has to populate the energisation date. The best source of this information to ensure compliance is for the distributor to use the date that the trader has entered into the registry and then re-enter this information in a different field. We believe this is an inefficient but a necessary reality given the way in which the Code is currently drafted and our perception the Authority is placing greater emphasis on Code compliance.</p>	<p>Having the party that has the information populate the registry will improve compliance and assist with the registry being the database of record. Lowering compliance costs overall.</p>	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

<p>There are cases where strict compliance with the Code as drafted has a detrimental effect on consumers. Examples of this are backdating information that is provided after the registry has been populated.</p>	<p>We do not consider that the customer should be adversely impacted by Code or registry rules.</p>	<p>Improvements to Code or registry rules that will reduce cost to end use customers will promote long term benefits to customers.</p> <p>As an interim step if a distributor back-dates an event to benefit the end customer, then the audit should not result in an automatic breach but potentially a Code change recommendation from the auditor. The auditor is in an ideal position to discuss with the distributor why events have been back-dated (to benefit the customer) and have the discretion to either initiate a breach or a code change recommendation. A further alternative, is that there is a practical (simple and cost effective) process to seek a dispensation for back-dated events of this nature.</p>	
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

<p>The Audit regime appears to be using the population of connections with generation profiles (PV1 or EG1) to check on whether the distributor has populated the distributed generation fields in the registry. We consider that this is inappropriate as the distributed generation fields are populated when we receive the Code of Compliance certificate which can take a considerable amount of time. We do not consider that there is a direct correlation between the population of the generation profile (PV1 or EG1) by the retailer and the actual completion of the distributed generation. This can also lead to backdating an event due to this delay.</p>	<p>This appears to be an example of searching one field on the registry to access compliance of another field. If the auditors are doing this as we believe then it is essential that there is a clear link between the various fields, otherwise considerable time and effort can be expended to explain discrepancies that are perfectly legitimate within the Code.</p>		
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--

<p>We also note that the new Part 1A section of Part 6 of the Code requires that the distributor should receive the Code of Compliance within 10 business days of the approval by the distributor for connection of a compliant DG installation. While in theory this would reduce delays we consider that this 10 day window is impractical for a potential DG owner to have their DG unit fully installed and completed with a full Code of compliance and will lead to Code breaches in this case by the SSDG owner.</p> <p>We propose an urgent review of the newly implemented Part 1A as there are a number of inconsistencies with the Code that have become apparent during implementation.</p>	<p>We consider a review of this new section of the Code now will avoid potential breaches at the next audit round.</p>	<p>Improvements to Code or registry rules that will reduce cost to end use customers will promote long term benefits to customers.</p>	
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------	--

**Q3 Any general feedback regarding the audit regime**

<p><b>General feedback</b></p>
--------------------------------

Overall we consider that the audit process has changed from a process that had a 'practical focus' with the auditor having discretion to ignore minor technical breaches that have no effect on the market into a bureaucratic approach which is focused on identifying all breaches no matter how trivial or that result from impractical Code.

We consider that the Audit process can be substantially enhanced if a substantial focus of the audit process is to identify and report areas of the Code that are resulting in ongoing trivial Code breaches or require inefficient work arounds, or ambiguities in the Code. The Authority should then follow up with Code change proposals to rectify these issues. As stated previously we believe that improved regulation or removal of inappropriate regulation will reduce cost to end use customers and therefore promote long term benefits to customers. The Authority should be actively seeking to improve or minimise the amount of Code required. The results from audits can assist in this process.

We also consider that the auditor could usefully report on issues where the distributor reports that they have had to implement inefficient processes to comply with the Code potential examples or this relate to the Code around the 'proposed trader' and also the Code and timing around 'connection' and 'energisation' of an ICP, which we consider are still flawed and lead to inefficiencies. The Authority must remain open and be prepared to revise Code after implementation, even if this has followed extensive consultation, as many of the practical problems only surface when Code is being translated into real life situations.