

# Discussion Paper: Summary of Changes to Draft Regulations for Connection of Distributed Generation

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# **1. Draft Regulations for Connection of Distributed Generation**

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1. Section 172D(1)(10) of the Electricity Act 1992 provides for regulating "terms and conditions on which line owners and electricity distributors must enable electricity generators to be connected to distribution lines". The government's objective, outlined in the Government Policy Statement, is to facilitate the use of distributed generation by ensuring that it does not face undue barriers in connecting to lines.
2. Draft regulations have been prepared that specify a process under which generators may apply to distributors for approval to connect distributed generation (covering the information to be exchanged and the criteria for approval); regulated terms that apply to the connection of distributed generation in the absence of agreed terms; a dispute resolution process; pricing principles; and prescribed fees.<sup>1</sup>
3. Draft regulations were released together with a discussion paper in August 2006 for consultation with stakeholders. Following feedback draft regulations have been revised to better give effect to the intent of the policy. Government has decided to consult again on the revised draft regulations. This document provides an overview of key changes made to the draft regulations to aid stakeholders making submissions.
4. Once this consultation is completed, regulations will be finalised. It is intended final regulations be in place in mid-2007. For more details on this consultation process and how to express your views, see section 3 of this document.

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<sup>1</sup> Draft regulations do not cover the sale or purchase of electricity from distributed generation. The Electricity Commission provides a model contract for generators generating less than 40,000 kWh per year to sell electricity surpluses to retailers. Distributed generators generating 40,000 kWh or more per year may sell electricity to the clearing manager or to a retailer trading on the same local network.

## **2. Summary of Key Changes to the Draft Regulations**

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5. This document provides a summary of key changes made to the draft regulations in response to feedback from previous consultation. These changes are outlined below, together with questions for consideration.

6. More detailed information on responses to submissions can be found in *Summary of Submissions: Draft Regulations for Connection of Distributed Generation* [see [www.med.govt.nz/electricity/distributed-generation/](http://www.med.govt.nz/electricity/distributed-generation/)].

### **2.1 Key Terms of the Regulations**

#### **2.1.1 Size of Small Scale Generation**

7. Size limits in the regulations are now 10 kW and below for smaller scale generation, and above 10 kW for larger generation. 10 kW has been included in smaller generation in response to submissions that the nameplate rating of a generator large enough to supply a large household or small family farm could be 10 kW.

#### **2.1.2 Definition of Distribution Network**

8. Embedded networks conveying less than 2.5 GWh per annum have been excluded from compliance with the regulations. This level of 2.5 GWh per annum was chosen for consistency with the definition of Electricity Lines Business in the Electricity Industry Reform Act 1998.

#### **2.1.3 Congestion Management Policy**

9. Responses to consultation suggested that the purpose of a congestion management policy needed clarification. It is not intended that a congestion management policy would require distributors to act in the role of system operators or to actively manage congestion through dispatch of generation, but rather to highlight to prospective generators conditions that will apply if there is congestion on the network.

10. Congestion management policy is no longer included as a defined term in the regulations, but there is an expectation that distributors will make publicly available under regulation 6 a statement of terms and conditions that would apply to distributed generation if there is congestion on the distribution network.

#### **2.1.4 Health and Safety**

11. Several submissions commented that explicit mention of health and safety connection issues should be made within the regulations. It is expected distributors and generators will comply with the requirements of the Health and Safety in Employment Act 1992 and the Electricity Act 1992 in relation to health and safety.

12. The draft regulations require distributors to make publicly available their connection and operation standards which should include information on emergency response policies and safety standards and require that applications be assessed for compliance with health and safety legislation before approval to connect is given.

## **2.2 Process for Obtaining Approval to Connect**

### **2.2.1 Streamlined Approvals Process**

13. Changes have been made to streamline the application process in response to issues raised in submissions. The inquiry stage has been removed so that the distributor only approves an application once. For generation up to 10 kW only one application is required. For generation over 10 kW, there is a two-stage process of initial and final application. This reflects the fact that applications for larger scale projects can require, for example, checking of the network and feedback on modifications required to ensure safe connection to the network prior to the distributor approving an application to connect.

### **2.2.2 Timeframes**

14. Timeframes for considering applications remain the same. Some submissions suggested timeframes should be extended; others suggested that they should be reduced. Extensions to timeframes for consideration of applications can be negotiated by agreement with the generator.

### **2.2.3 Information Required for Application**

15. The regulations specify more details of information the generator is required to provide when making an application. We would appreciate your feedback on whether these information requirements are appropriate and necessary, particularly for smaller scale generation.

### **2.2.4 Negotiation of Contract**

16. In response to submissions that a three month period for negotiating a contract was too long, the timeframe has been reduced to 30 working days, during which the distributor and generator must attempt to negotiate in good faith. This time period can be extended by mutual agreement. If the generator and distributor do not enter into a connection contract by the end of this period, the generation will be connected on the regulated terms.

## **2.3 Regulated Terms**

17. The regulated terms have been reviewed for consistency with other contracts, including the Electricity Commission's model use-of-system agreements and benchmark transmission agreements. Some clauses have been revised to improve consistency between different connection agreements. Feedback on these revised regulated terms is welcomed.

18. To address an issue raised in some submissions that the regulated terms did not specify all the terms that would normally be in a contract, Regulation 10 notes connection under the regulated terms can include other terms and conditions that were made publicly available or cover any other incidental matters (for example, invoicing procedures) if these matters are not covered by the regulated terms.

### **2.3.1 Insurance**

19. The mandatory requirement for generators and distributors to maintain insurance has been removed from the regulations. It was noted that a requirement to maintain insurance is non-standard in similar contracts and distributors and generators can assess their own risk requirements.

### **2.3.2 Liability and Indemnity**

20. A revised liability clause includes more detail on the limitations to liability under the regulations. In addition, following a review against other contracts and in response to feedback, the draft regulations propose that liability is capped, and a similar cap be applied to indemnity.

21. The proposed levels of the cap on liability for different sizes of generation are included in the regulations. We would appreciate feedback on whether you consider these caps are appropriate.

## **2.4 Dispute Resolution Process**

22. The draft regulations include a dispute resolution process, which is available during the application process and to those connected on the regulated terms. The process does not apply to disputes arising out of the terms of a contract outside the regulated terms. The ability to access this disputes resolution process does not preclude parties from resolving disputes through any other method, for example, under any complaints resolution system approved under section 158G of the Electricity Act 1992.

## **2.5 Pricing Principles**

23. As noted in a discussion paper accompanying the previous draft of regulations for consultation, the regulations do not provide any prescriptive definitions of required pricing methodology or costs but provide pricing principles to act as a guide to those connecting. Feedback on revised pricing principles is welcomed.

### **2.5.1 Basis for Charging Costs of Connection**

24. Feedback suggested the meaning of clauses (a) and (b) of the pricing principles were not clear to a number of submitters. These principles have now been redrafted to clarify their meaning. Costs of connection are now defined in terms of incremental costs, as well as avoided/avoidable costs, and a definition of incremental costs is included in Schedule 4 of the regulations.

### **2.5.2 Avoided Costs**

25. In response to feedback, a clause specifying that "avoidable costs do not include costs that are merely shifted from the distributor to other parties as a result of the connection and operation of the generation" has been taken out of the pricing principles. Avoidable costs are included in clause (a), which notes the costs charged to the generator to connect should be net of avoided/avoidable costs.

### **2.5.3 Share of Generation-Driven Costs**

26. The basis on which a refund would be given to a previously connected generator has been clarified for consistency. The current draft of the regulations notes that this would be on the basis of capacity required for the generator's expected peak injection onto the network relative to other new generators using the same assets.

### **2.5.4 Non-Firm Connection Service**

27. Very few submissions were received on the issue of whether the distributor should guarantee a generator priority to any part of the network other than that for which they have paid the connection charges. The current draft regulations continue with the approach of the previous draft that connections are non-firm, with a firm connection service able to be obtained by agreement between the generator and distributor in a contract outside the regulated terms.

28. Feedback was received that the wording of the pricing principle relating to non-firm connection appeared to give the generator capacity rights to parts of the network. This is not the intent of the regulations and drafting of this principle has been revised.

### **2.5.5 Part 4A of Commerce Act**

29. Feedback on the regulations was received querying the level of consistency between the draft regulations and the thresholds regime administered under part 4A of the Commerce Act.

30. Prior to exercising any of its powers, the Commerce Commission is required to take into account any Electricity Governance regulation or rule under Subpart 2 of Part 14 of the Electricity Act 1992 that relates to line owners. This is outlined in section 57MA(2)(b) of the Commerce Act 1986. The Commerce Commission must take into account these regulations for connection of distributed generation in the same way as other regulations designed to achieve other outcomes, such as Low Fixed Charge regulations.

31. When investigating a price or quality breach, the Commerce Commission may take into account any impact of distributed generation connected under these regulations, if relevant to the circumstances of the breach or the section 57E performance concerns being examined.

### **2.5.6 Low Fixed Charge Regulations**

32. Some submissions highlighted that if there were to be widespread growth in domestic level distributed generation, the distributor's ability to recover costs could be affected by Low Fixed Charge regulations.

33. Providing access to a low fixed charge tariff for consumers with distributed generation is consistent with an objective to promote energy efficiency. Research from the United Kingdom's Sustainable Consumption Roundtable shows distributed generation owners are likely to be efficient users of electricity as distributed generation can engage people in energy and climate change issues, resulting in positive attitudinal and behavioural

changes.<sup>2</sup> In addition, as consumers who substitute electricity use with other fuels are eligible for an LFC regulated tariff, prohibiting DG-owning consumers from eligibility would be inconsistent.

34. For these reasons, it has been decided that at this stage householders owning distributed generation will continue to be eligible for a low fixed charge tariff. If this issue becomes significant in the medium term, the regulations may be reviewed.

## **2.6 Prescribed Fees**

35. Maximum fees that can be charged by distributors for applications to connect distributed generation have been revised in response to comments. Proposed fee levels are outlined in the revised draft regulations. It should be noted that in addition to these fees, if detailed investigative studies are required to be undertaken when evaluating a proposed connection, there may be a charge for these.

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<sup>2</sup> Page 41 *Get Smart, Think Small*, Parliamentary Commissioner for the Environment, 2006.

## **3. Expressing Your Views**

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The Ministry prefers written comments to be provided by email to [electricity@med.govt.nz](mailto:electricity@med.govt.nz). Otherwise they can be posted to:

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Comments are requested by **5:00pm on 4 May 2007**.

The Ministry may post all or parts of any written submission on this website. The Ministry will consider you to have consented to posting by making a submission, unless you clearly specify otherwise in your submission.

In any case, content of submissions provided to the Ministry are likely to be subject to public release under the Official Information Act 1982 following requests to the Ministry (including via email). Please advise if you have any objection to the release of any information contained in a submission, and in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. The Ministry will take into account all such objections when responding to requests for copies and information on submissions to this document under the Official Information Act 1982.

### **3.1 Privacy**

The Privacy Act 1993 establishes certain principles with respect to the collection, use, and disclosure of information about individuals by various agencies including the Ministry. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in conjunction with the matters covered by this document. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.