



Vector Limited
101 Carlton Gore Road
PO Box 99882, Newmarket
Auckland 1149,
New Zealand
www.vector.co.nz
Corporate Telephone
+64-9-978 7788
Corporate Facsimile
+64-9-978 7799

Electricity Authority
PO Box 10041
Wellington 6143

Sent by email to: submissions@ea.govt.nz

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Model Use-of-System Agreements: Conveyance Billing

1. Further to our previous submission on model use-of-system agreements (MUoSAs),¹ this submission responds to Schedule 6: Billing Services of the Electricity Authority's (Authority) proposed Conveyance MUoSA. Vector also attaches a new marked-up Conveyance MUoSA (the draft Conveyance MUoSA) to assist the Authority in finalising its Conveyance MUoSA.
2. This new draft Conveyance MUoSA includes a fully marked-up Schedule 6 and consequential changes elsewhere in the MUoSA necessary to give effect to our proposals with regard to Schedule 6. For ease of reference we have provided:
 - a) A marked-up version showing all changes from the Conveyance MUoSA included in the Authority's consultation paper of 15 February 2012; and
 - b) A marked-up version showing all changes from the Conveyance MUoSA submitted by Vector to the Authority on 11 April 2012.
3. While this submission is provided after the deadline for submissions, we trust the Authority will recognise the complexity of the issue and the value in getting conveyance billing right.
4. Vector's contact person for this submission is:

Ian Ferguson
Regulatory Advisor
DDI: 09 978 8277

¹ Vector, *Submission to Electricity Authority Model Use-of-System Agreements*, 11 April 2012.

Email: ian.ferguson@vector.co.nz

Vector's approach to the Conveyance billing services schedule

5. As we said in our previous submission, Vector can understand the Authority's view that:

Obviously, a practical issue is that the two distributors that currently have retailers provide billing services for them already have legacy arrangements in place that would take significant effort to change. We are unsure if any such changes are being actively considered but would be keen to learn if plans exist. Clearly, the effort put into development of any significantly revised alternative approach would have to be weighed against the benefit this would provide.²

6. Given the small number of distributors that operate a conveyance model but do not directly bill their consumers there may be little benefit in substantially revising the model conveyance billing arrangements. However, this would create the undesirable situation where the Authority publishes a model in the clear expectation that no-one will follow the model on the grounds that the model is probably unworkable and does not reflect current practice. In this submission Vector provides a marked-up conveyance billing schedule as a recommendation for inclusion in the final conveyance MUoSA. This is based on our current practices, but with improvements to make the arrangements more efficient and effective. We believe this approach will be coherent and workable and significantly better than the billing schedule in the current conveyance MUoSA.

Discussion of changes to the Conveyance MUoSA

Overview of the Conveyance billing services schedule

7. Under a conveyance model the Retailer can bill customers on behalf of the Distributor. In Vector's proposed draft Conveyance MUoSA, the Retailer has two options on how they operate the billing bureau service. It can be either (Option 1) payment after the funds are collected (i.e. similar to how debt collection agencies work) or (Option 2) payment when the Retailer invoices, in which case a discount factor applies. Retailers have the right to choose which option will apply to them and the right to change the option that applies to them.

² Electricity Authority, MUoSA consultation Appendix C.3 – Submissions on MUoSA conveyance, pages 66-67.

Option 1

8. Under Option 1, Retailers bill Consumers and funds are passed to the Distributor when payments are made to the Retailer. The entire Consumer payments are made into a trust account, at which point the Retailer deducts the payment for their portion of the bill and the remainder is passed to the Distributor. Under this option Distributors do not receive any funds until they are collected by the Retailer. The option also includes remedies for non-payment.

Option 2

9. Under Option 2, Retailers pay the Distributor when they bill. This payment can be made in advance of receiving payment. It is done by calendar month so, for example, the Retailer will pay the Distributor on 20 April for all bills sent in the month of March. Some of those bills will have been paid by Consumers by 20 April, but not all. Once the Retailer has paid the Distributor, they take ownership of the assigned debtors, i.e. debt factoring occurs.
10. However, if an event occurs which creates reasonable doubt regarding the creditworthiness of the Retailer (e.g. they fail to pay the Distributor on time), the Distributor has the right to switch the Retailer to Option 1. This is important as it protects the Distributor in the event of liquidation as they can secure ownership of the debt of the affected customers.

Discount factor (applies to Option 2)

11. Based on the feedback to the previous submission, there seems to be some confusion about the difference between a discount given to the customer by the Retailer and the discount factor. It is important to recognise that these are not the same. The discount factor is effectively the equivalent of a fee for completing the billing bureau service. In Vector's case this is the difference between the published price plans and what is paid to Vector. This discount factor covers all costs likely to be incurred by the Retailer and this includes system and invoice changes and debt collection. In Vector's case, the discount factor is 10%, the same percentage as the discount customers often receive from retailers. The fact both are 10% appears to have caused the confusion, but this does not mean they are the same.

Audit provisions

12. The provisions for audit under a conveyance agreement should be stringent as the Retailer is acting as an agent on the Distributor's behalf. We have noted the Authority's response to our previous submission on pages 82-83 of the responses to conveyance submissions. However, as billing is on an "as billed" basis the Authority's suggestion will not work because all reconciliations to GXP are completed on a calendar month basis. In practice, "wash ups" and use of money interest does not happen in an as billed environment.

Compliance with the tax legislation

13. For conveyance, the format of invoices for Goods and Services Tax (GST) purposes (where retailers bill on behalf of the distributor) is a complex issue with significant history. There are divergent views on which invoice format is appropriate and some retailers have strong preferences, which are not always aligned with each other. We consider that it is preferable to resolve these issues bilaterally with each retailer, rather than try to develop a model approach, which will not suit all parties.
14. The provisions in the Conveyance MUOSA need to address invoice requirements (or be clear that parties can elect not to follow the model). The draft Conveyance MUOSA is prepared on the basis that the Retailer will invoice Consumers for lines services as an agent on behalf of the Distributor. It necessarily follows from this that, as the Distributor's billing agent there will be a contractual onus on the Retailer to ensure the invoices satisfy the Distributor's obligations under the GST Act and the Conveyance MUOSA should address this. Standard industry practice is that Retailers issue a single invoice to Consumers and that the invoices will meet the Distributor's GST invoicing requirements as well as their own. This practice removes the need for both Retailers and Distributors to bill Consumers directly.
15. In the event that the Retailer provides inaccurate information to the Distributor the Distributor is potentially liable for tax penalties and interest. We have included an indemnity for tax penalties and interest to the extent these are imposed by Inland Revenue on the Distributor as a result of the Retailer's actions or inaction.
16. In the main body of the MUOSA, we have deleted Clause 7.3: GST [clause 9.3 of the Authority's February 2012 proposed Conveyance MUOSA] as this information is now included in the Interpretation (Clause 21.1 (g)).

17. Terminology: The MUoSA uses the terms "Invoice" and "GST Invoice". A single term should be used. To be consistent with the Interposed agreement (and more commonly used GST terms) we recommend the use of the term "Tax Invoice".

Pricing section of the Conveyance billing schedule

18. Clauses 6.13 and 6.14 are based on Vector's proposals with regard to clauses 9 and 10 of the interposed MUoSA. We refer the Authority to Vector's comments on the equivalent clauses in our previous submission.³ We consider that, where possible, it is appropriate to include similar clauses in both the interposed and conveyance MUoSAs in order to promote alignment of processes and efficiencies for distributors and retailers.

Consumer Guarantees Act liability

19. Vector has also made amendments to clause 17.13 [clause 18.10 in the Authority's consultation draft MUoSA of 15 February] to make it clear that retailers are required to contract out from its customer contracts under the Consumer Guarantees Act to maximum extent possible. This is important to provide certainty with regard to the degree of risk exposure faced by distributors under the CGA.

Yours sincerely,



Allan Carvell

Group General Manager Regulation and Pricing

³ Vector, *Submission to Electricity Authority Model Use-of-System Agreements*, 11 April 2012, pages 22-25.