



22 October 2024

Electricity Authority

To: retaildata@ea.govt.nz

Re: Consultation Paper - Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the Electricity Authority's (EA) consultation document *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*.

UDL operates the mandated industry dispute resolution scheme.¹ Its core purpose is to ensure that any person who has a complaint about a retailer or distributor has access to a scheme for resolving a complaint.²

In the last reporting year UDL considered 8,136 consumer queries, and 6,694 consumer complaints about electricity retailers and distributors. The complaints scheme is free to consumers.

UDL – General Support

UDL generally supports the proposed monthly *Information Notice* to be provided by retailers pursuant to clauses 2.16 to 2.24 of the Electricity Industry Participation Code 2010 (Code). However, UDL makes some brief comments considering the recent redrafting of the proposed *Information Notice*.

Technical Aspects (Q. 5)

UDL relies on industry participants for the more technical aspects of the *Information Notice*. The *Information Notice* focuses on retailers and consumers with ICP identifiers. However, UDL remains concerned about significant numbers of customers who are resident on a customer network without an ICP, we understand there may be 50,000 to 100,000 such customers. It is likely these may have significant issues not captured by the *Information Notice*.

The *Information Notice* also appears to rely on retailers reporting controllable load. However, in many cases the primary retailer will be unaware of controllable load, for instance battery charging and EV charging that is controlled by type 2 retailers or non-participants such as solar suppliers, third party providers, or EV charging providers.

¹ See Electricity Industry Act 2010 s 95.

² See Ibid. sch 4, clause 1.

Some retailers also do not collect Half Hourly Read data. The EA should consider establishing a central metering database, where MEPs provide the information directly for mass market Advanced Metering Infrastructure metered ICPs.

UDL – Complaints Data (Q. 5)

UDL in its first submission emphasised the importance of gathering complaint information and recommended the list of complaint topics be expanded. The first consultation listed the number of categories as follows: billing, customer service, credit/debt, prepay, energy marketing, switch, disconnection, connection, medically dependent processes, and other.³

In the revised *Information Notice*, these categories are absent, although some information about these issues may be able to be obtained from the collected data points. The EA advises the primary reporting framework will be the yearly compliance report mandated by the new Consumer Care Obligations (CCOs).⁴ However the *Information Notice* will have these aggregated questions focussed mostly on disconnections and Medically Dependant Customers (MDCs):⁵

- (a) What was the total number of complaints received this month?
- (b) Total number of complaints received that relate to a declined application for confirmation or reconfirmation of medically dependent consumer status.
- (c) Total number of complaints that relate to electrical disconnections?
- (d) Of the complaints for electrical disconnection, how many relate to ICPs where an MDC resides?
- (e) Total number of complaints received that relate to disputed charges relating to electricity supply?
- (f) Of the complaints related to disputed charges, how many relate to ICPs where an MDC resides?

CCOs Compliance Report

The presently drafted clause 11 A.4 (2)(c) of the Code requires a yearly compliance report about the CCOs. This yearly report provides “a summary of any instance of non-compliance identified by the retailer and any remedial action taken.”

The prescribed form for reporting breaches of the CCOs (see clause 11.A.4(2)) will be especially important if the EA continues with this approach. The CCOs cover most aspects of the consumer – retailer relationship and the EA will need to construct a report that captures meaningful data.

The EA may have to break matters down into manageable categories including that some complaints may fall into the general category of non-reportable breaches. For example, often a retailer will offer a customer service payment to settle a complaint but may not admit fault. This enables the consumer to move on quickly, and often the consumer will continue with the

³ EA, *Improving Retail Market Monitoring: Clause 2.16 Information Notice*, (5 December 2023), Appendix A.

⁴ EA, *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, (1 October 2024), 4.3, 4.8-4.12.

⁵ *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, Appendix A. Q 5.

retailer, but the analysis of whether the conduct is a breach is not completed. Indeed, to do so would slow down the resolution of the complaint. Complaints of this type while serious for the consumer are not of a type that would necessitate a full inquiry.

Categorisation in the *Information Notice*

UDL supports the focus on MDCs and/or disconnections in the *Information Notice*. At UDL our first contact team gives these types of complaints the highest priority and are the focus of an immediate inquiry as to whether the consumer's power can be restored. Retailers often have designated phone lines with UDL to manage these types of complaints.

However, the importance and difficulty of categorisation is seen in the EA's question: "Total number of complaints that relate to disputed charges relating to electricity supply." This question covers a multiple of circumstances such as alleged: a) inappropriate debiting; b) an excess billing outside the agreed contract; c) a large back bill; d) inappropriate billing because of an estimate; and e) disputes over line charges and other fees.

A balance is required to be struck between generality and specificity. UDL in its first submission highlighted the Banking Ombudsman's publicly available dashboard which is updated every three months and gives a breakdown of complaint in consumer-friendly categories.⁶

However, the issue of categorisation in both the *Information Notice* and the 11 A.4 compliance report may require further work to see if the differing reports can be further interconnected or mirrored. If this can be worked out, it would seem the retailer could perform a robust data collection throughout the year.

Retailers then could include this information in the *Information Notice* every three months. This would give the EA a better snapshot of the full range of complaints retailers are receiving closer to real time and alert the EA to any concerning trends. Waiting for a yearly report (see 11 A.4 (1)) appears to unnecessarily constrain the EA's ability to fulfil its additional objective to protect the interests of domestic consumers and small business consumers. UDL is available to assist the EA in the work of categorisation as required.

Characterisation of Consumers

The EA has also raised the issue of the characterisations of consumers. Complaint handling is a unique aspect of the electricity industry, so it seems the wider term "residential consumer" which includes complainants who are not the account holder, should be used in reference to complainants in both sets of data.⁷

⁶ Banking Ombudsman Scheme, <https://bankdashboard.bankomb.org.nz/>

⁷ See *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, 4.5. See also discussion in EA, *Proposed Consumer Care Obligations*, (6 August 2024), 3.2-3.7.

Data Set

In between the two papers the EA also appears to have changed its focus definition of a complaint. Moving from the substantive definition that a complaint is *an expression of dissatisfaction* to the procedural definition that a complaint has *proceeded to an internal dispute resolution process*.⁸ There are no doubt good reasons for this in terms of capturing the most significant complaints, although it will limit the data set, and be a partial record of the complaints received by a retailer.

Sometimes a number of complaints about the same issue can be resolved by the retailer's first contact team. The new definition will not capture these types of low level individual complaints, which collectively can point to an important systematic issue.

The EA by moving away from the definition of complaints as expressions of dissatisfaction will also be moving away from a definition that is widely accepted, including by the Energy Complaints Scheme.⁹

An Audited System

Whichever system the EA adopts for data collection, UDL affirms its previous submission that the process should be audited.¹⁰ This will ensure retailers are correctly categorising and reporting complaints, such that complaints are not being purposefully left outside the internal complaints process. Some retailers will also have a clear system where it is self-evident the complaint is with their internal complaints team, while for other retailers, where staff have more than one role, this could be less evident.¹¹ An audit process may also pick up any instructions given to first contact teams to settle certain types of complaints immediately, so any systematic issues can be picked up that do not reach the retailer's internal disputes resolution service.

Compulsory Surveys

UDL also reaffirms its previous suggestion that the EA reflect on the initiatives that the Consumer Council for Water (CCW) and the Water Services Regulation Authority (WSRA) are doing in terms of improving complaints processes of water utility companies.¹² Their recent work highlights the importance of consumer surveys that assess how customers view a business' complaints system, and this includes surveys of vulnerable consumers.¹³ This work also includes

⁸ See *Improving Retail Market Monitoring: Clause 2.16 Information Notice*, Monthly Questions, Q.6, and *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, Appendix A. Q 5.

⁹ See Energy Complaints Scheme, pg 11; further examples include but are not limited to Financial Markets Conduct Regulations 2014, cl 229(f); Credit Contracts and Finance Regulations 2004, cl 5A(2); New Zealand Law Society, "Running an Effective Internal Complaints Process", <https://www.lawsociety.org.nz/professional-practice/practice-briefings/running-an-effective-internal-complaints-process/>; and Commerce Commission, "Complaints about the Commerce Commission", <https://comcom.govt.nz/about-us/our-policies-and-guidelines/complaints-about-the-commerce-commission>.

¹⁰ UDL, *Consultation Paper: Proposed Consumer Care Obligations*, (10 September 2024), 11.

¹¹ See UDL, *Submission on Improving Retail Market Monitoring: Clause 2.16 Information Notice*, 29 February 2024, Q. 15.

¹² *Ibid.*

¹³ See CCW & WSRA, *Complaint Processes in Water – A Follow up Report*, October 2022, 5, 14, 19.

two mandatory surveys about Customer Service and Customer Experience. The results of these surveys will feed into the WSRA assessment of these businesses.¹⁴

The EA may then wish to mandate a yearly survey within the *Information Notice* that each retailer is perform and supply the raw data to the EA for analysis. This would be both a tool and an opportunity for consumers to provide feedback to the EA about: a) how they perceive the electricity industry is performing and b) whether they perceive the EA fulfilling its consumer and small business additional objective.

UDL – Consumer Data Right (Q. 2)

The monthly *Information Notice* may in a limited way, as the EA describes, assist the industry to prepare for the Consumer Data Right (CDR).

However, the EA has recently asked for submissions on proposed amendments to clauses 11.32A and 11.32B of the Code which allow consumers to request their consumption data. In the discussion paper the EA sets out this vision of consumer access to their consumption information:

“The Authority envisages a future where a consumer can automatically access their own consumption data or authorise another entity to access their data on their behalf, in real time so that they can seamlessly compare electricity plans and choose the best plan for their circumstances. While we recognise there are challenges ahead to achieving such a future, these changes serve as an interim at addressing those barriers.”¹⁵

Therefore, the EA’s role in mandating how retailer’s respond to a consumer’s request for their consumption data appears the best opportunity to prepare the electricity industry for the introduction of the CDR.¹⁶ For the CDR will enable consumers to request their data and receive their data almost immediately through an electronic system.¹⁷

It seems important then for the EA to test the consumption reports and any others which may be relevant to the CDR with consumers, ensuring:

- a) their usability, such as if the report can easily be opened and accessed by the consumer; and
- b) if after being supplied such forms, a consumer understands the subject matter of the data including any unusual patterns.¹⁸

¹⁴ WSRA, *Customer Measure of Experience (C-MeX)*, 11 July 2024, 1.1. Note normally Water Services Regulation Authority is anonymised as OfWat.

¹⁵ EA, *Code Amendment Omnibus Four*, (3 September 2024), para 2.12.

¹⁶ See UDL, *Submission Code Amendment Omnibus Four*, (15 October 2024), 2-3.

¹⁷ See Customer and Product Data bill, cls 27-28.

¹⁸ See *Submission Code Amendment Omnibus Four*, 3.

Therefore, while the EA notes that participants will be involved in the setting of the technical standards for the creation CDR templates, it will be equally important that such templates are tested with consumers.¹⁹

Next Steps

Thank you for the opportunity to comment further on the amended *Information Notice*. If you have any questions, please do not hesitate at the first instance to contact Paul Byers, Legal and Policy Officer, [REDACTED]



Neil Mallon
Toihau Commissioner
Tautohetohe Whaipanga: Utilities Disputes Limited

¹⁹ See *Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, 5.7.