

27 March 2026

s 9(2)(a)

Tēnā koe s 9(2)(a)

Your request

Thank you for your request, received on 27 February 2026, under the Official Information Act 1982 (Act) for the following information:

- *The "Senior Investigator's memorandum to the Compliance Committee dated 7 July 2016" regarding Solar City's complaint.*
- *The "Compliance Committee's letter to Solar City dated 24 August 2016" and any associated decision papers.*

Our response

The Electricity Authority Te Mana Hiko (Authority) has identified two documents within scope of your request. These are attached as Appendix One and Appendix Two and are being released to you in full except for one instance where information is withheld under section 9(2)(a) of the Act to protect the privacy of natural persons.

The Authority's Rulings Panel published their decision on this complaint on their website: [Solar City 22 Dec v1.7](#). This Ruling Panel decision was the subject of an appeal by Unison Limited to the High Court and the judgment can be found here: [22217Unison-v-Solar-City.pdf](#).

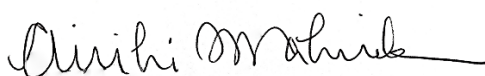
I am satisfied, in terms of section 9(1) of the Act, that the need to withhold the information referred to above is not outweighed by other considerations that render it desirable, in the public interest, to make the information available.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

As this information may be of interest to other members of the public, the Authority may proactively release a copy of this response on our website. All personal data, including your name and contact details, will be removed before publication.

If you'd like to discuss this response with us, please feel free to contact us by emailing oa@ea.govt.nz.

Nāku noa, nā,



Airihi Mahuika
GM Legal, Monitoring and Compliance

1605UNIS2

7 July 2016

Memorandum on alleged breaches of clauses 2 and 2(a) of Schedule 6.4 on 1 April 2016 by Unison Networks Limited

Prepared by: Alex Ehlert
Senior Investigator

Recommendation

1. It is recommended that the Committee:
 - (a) **decline** to take action on the alleged breaches under regulation 11(1)(b) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations).

Rationale

2. Unison Networks Limited (Unison) did not breach any provisions of the Electricity Industry Participation Code 2010 (Code) when it introduced a new tariff for consumers with distributed generation installed to recover existing network costs.
3. While the provisions in Part 6 of the Code apply to distributed generation, they do not apply to retail consumer tariffs. In adopting the new tariff, Unison has simply identified a group of consumers with different usage patterns, and designed a retail tariff accordingly.

Circumstances of the event

4. On 8 May 2016, Solar City New Zealand Limited reported to the Electricity Authority (Authority) that Unison had breached clauses 2 and 2(a) and of Schedule 6.4 of the Electricity Industry Participation Code 2010 (Code).
5. Clause 2 of Schedule 6.3 defines the default dispute resolution process a participant must follow if there is a dispute between a distributor and a distributed generator under Part 6 of the Code. Solar City owns and operates solar photovoltaic panels that are connected to the Unison's network. Solar City is a participant under section 7(1)(g) of the Electricity Industry Act 2010. Clause 2(1) and (2) of Schedule 6.3 require a party to give written notice to the other party of the dispute, and to attempt to resolve the dispute in good faith.
6. Clause 2 of Schedule 6.4 sets out the following pricing principle:

Charges to be based on recovery of reasonable costs incurred by distributor to connect the distributed generation and to comply with connection and operation standards within the distribution network, and must include consideration of any identifiable avoided or avoidable costs

7. Clause 2(a) of Schedule 6.4 allows a distributor to charge incremental costs for providing the connection service for distributed generation.
8. On 1 April 2016, Unison introduced a new network tariff for network customers with distributed generation installed. Unison's pricing model is designed to recover its network costs, partly by a daily fixed charge and partly by a variable charge. The new tariff increases the daily fixed charge and the variable charge for customers with distributed generation. The new tariff captures Unison's revenue reduction that otherwise have occurred due to the lower electricity consumption at ICPs with photovoltaic installed on standard tariffs.

Description		\$/day	\$/kWh	\$/kWh	\$/kWh	\$/kWh	\$/kWh	\$/kWh
		fixed charge	uncontrolled variable charge	all inclusive variable charge	controlled variable charge	night variable charge	day variable charge	distributed generation export variable charge
Residential (up to 1 or 2 phase 60 amps or 3 phase 40 amps)								
R-M11	Low User Central	\$0.15	\$0.133	\$0.112	\$0.081	\$0.047	\$0.170	\$ -
R-M12	Standard User Central	\$1.15	\$0.088	\$0.067	\$0.036	\$0.031	\$0.113	\$ -
H-M11	Low User Hawkes Bay	\$0.15	\$0.142	\$0.120	\$0.087	\$0.050	\$0.181	\$ -
H-M12	Standard User Hawkes Bay	\$1.15	\$0.097	\$0.075	\$0.042	\$0.034	\$0.124	\$ -
Distributed Generation (up to 1 or 2 phase 60 amps or 3 phase 40 amps)								
R-G11	Low User Central - DG	\$0.15	\$0.161	\$0.140	\$ -	\$ -	\$ -	\$ -
R-G12	Standard User Central - DG	\$1.76	\$0.088	\$0.067	\$ -	\$ -	\$ -	\$ -
H-G11	Low User Hawkes Bay - DG	\$0.15	\$0.172	\$0.150	\$ -	\$ -	\$ -	\$ -
H-G12	Standard User Hawkes Bay - DG	\$1.81	\$0.097	\$0.075	\$ -	\$ -	\$ -	\$ -

9. Solar City claimed that it correctly followed the process under clause 2 of Schedule 6.3 and notified Unison of the dispute, and that the parties negotiated in good faith before complaining to the Authority in writing. However, the Authority has seen no evidence that Solar City took the steps required under clause 2(1) and (2) of Schedule 6.3 before complaining to the Authority.

Relevant provisions

10. Clause 6.8 provides:

6.8 Dispute resolution

- (1) Subject to subclause (2), Schedule 6.3 applies to a dispute between a **distributed generator** that is a **participant** and a **distributor** arising from any one of the following —
 - (b) an allegation that a party has breached any of the other provisions of this Part.

...

[None of the exclusions under clause 6.8(2) apply.]

11. Clause 2 and 2(a) of Schedule 6.4 provide:

2 The relevant pricing principles are as follows:

Charges to be based on recovery of reasonable costs incurred by distributor to connect the distributed generator and to comply with connection and operation standards within the distribution network, and must include consideration of any identifiable avoided or avoidable costs

- (a) subject to paragraph (i),¹ **connection** charges in respect of **distributed generation** must not exceed the **incremental costs** of providing **connection** services to the **distributed generation**. To avoid doubt, incremental cost is net of transmission and distribution costs that an efficient **distributor** would be able to avoid as a result of the **connection** of the **distributed generation**:
- (b) costs that cannot be calculated (eg, avoidable costs) must be estimated with reference to reasonable estimates of how the **distributor's** capital investment decisions and operating costs would differ, in the future, with and without the generation:
- (c) estimated costs may be adjusted ex post. Ex-post adjustment involves calculating, at the end of a period, what the actual costs incurred by the **distributor** as a result of the **distributed generation** being **connected** to the **distribution network** were, and deducting the costs that would have been incurred had the generation not been **connected**. In this case, if the costs differ from the costs charged to the **distributed generator**, the **distributor** must advise the **distributed generator** and recover or refund those costs after they are incurred (unless the **distributor** and the **distributed generator** agree otherwise):

....

12. Schedule 6.3 provides:

1 Application of this Schedule

This Schedule applies in accordance with clause 6.8.

2 Notice of dispute

- (1) A party must give written notice to the other party of the dispute.
- (2) The parties must attempt to resolve the dispute with each other in good faith.
- (3) If the parties are unable to resolve the dispute, either party may complain in writing to the **Authority**.

3 Complaints

¹ Clause 2(i) of Schedule 6.4 refers to cases where multiple distributed generators share the costs. This is irrelevant here.

- (1) A complaint made under clause 2(3) must be treated as if it were a notification given under regulations made under section 112 of the **Act**.
- (2) The following provisions apply to the complaint:
 - (a) sections 53–62 of the **Act**; and
 - (b) the Electricity Industry (Enforcement) Regulations 2010 except regulations 5, 6, 7, 9, 17, 51 to 75, and subpart 2 of Part 3.
- (3) Those provisions apply—
 - (a) to the dispute that is the subject of the complaint in the same way as those provisions apply to a notification of an alleged breach of this Code; and
 - (b) as if references to a **participant** in those provisions were references to a party under Part 6 of this Code; and
 - (c) with any further modifications that the **Authority** or the **Rulings Panel**, as the case may be, considers necessary or desirable for the purpose of applying those provisions to the complaint.

4 Application of pricing principles to disputes

- (1) The **Authority** and the **Rulings Panel** must apply the pricing principles set out in Schedule 6.4 to determine any **connection** charges payable.
- (2) Subclause (1) applies if—
 - (a) there is a dispute under Part 6 of this Code; and
 - (b) in the opinion of the **Authority** or the **Rulings Panel** it is necessary or desirable to apply subclause (1) in order to resolve the dispute.

Analysis

Solar City's view

13. Solar City believes that Unison has breached the pricing principle concerning incremental costs under Schedule 6.4 by introducing the new tariff. Solar City also believes that introducing the new tariff is a breach of the Paris Agreement.² Solar City's main arguments supporting these allegations are:
 - (a) the new tariff wrongfully disadvantages solar photovoltaic users
 - (b) the new tariff will dissuade consumers from putting solar photovoltaics on their houses because solar photovoltaics become less economic under the new tariff
 - (c) the new tariff is an extra cost that exceeds the incremental costs of providing connection services
 - (d) the new tariff is a breach of the Paris Agreement. Under the recently concluded Paris Agreement, which New Zealand signed in April 2016, parties have agreed to aim to reach global peaking of greenhouse gas emissions as soon as possible

² The Paris Agreement is an agreement within the framework of the United Nations Framework Convention on Climate Change dealing with greenhouse gases emissions mitigation, adaptation and finance starting in the year 2020.

(article 4.1 of the Agreement). The Agreement aims at holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognising that this would significantly reduce the risks and impacts of climate change (article 2.1(a) of the Agreement). Limiting greenhouse gas emissions will require a massive shift toward renewable energies, as well as energy-efficient and climate-resilient systems.

Unison's view

14. Unison believes that it has not breached clauses 2 or 2(a) of Schedule 6.4. Unison's main arguments defending the breach allegations are:
- (a) residential customers with installed DG have two roles:
 - (i) one role as a load customer, requiring the network to meet their consumption needs
 - (ii) one role as a distributed generator
 - (b) Solar City confuses "charges for providing and maintaining a network for the supply of electricity" with "charges for the connection of distributed generation". Part 6 only regulates the connection of distributed generation and the charges and incremental costs applicable to the connection of distributed generation. The new tariff is a retailer consumer charge that concerns the residential customer's role as a load customer. The new tariff does not concern incremental costs relating to the physical connection of distributed generation
 - (c) Unison's costs are driven by the customer's location in relation to grid exit points in Unison's area, and building and maintaining peak demand capacity. The consumption charges for the new tariff are based on recovering the costs of providing the network to meet consumers' demand requirements, which continue to exist following the installation of distributed generation
 - (d) Unison already has various tariffs reflecting different consumption profiles (eg, controlled/uncontrolled, holiday homes, night prices). The new tariff is no different to Unison's "holiday home price category 1" tariff for which network requirements are the same as those for non-holiday home owners, but for which holiday home owners pay higher network prices. This reflects lower volumes of electricity delivered by the network, but similar levels of annual charges
 - (e) Unison's existing tariff charges for an average customer with distributed generation installed are \$192 lower on an annual basis than for a standard profile customer. Despite that, solar photovoltaic distributed generation provides no avoided or avoidable cost benefits to Unison
 - (f) Unison recognises that as consumers increasingly choose new technologies (eg, battery storage), it will become too difficult or complex to implement other price categories reflecting various consumption profiles. There will be a corresponding need to move away from variable c/kWh delivery price structures

- (g) Unison does not currently charge any incremental costs for the connection or fees for the export of surplus electricity from distributed generation, because the current level of photovoltaic distributed generation penetration on Unison's network does not drive network costs
 - (h) distributed generation gives no net benefit for Unison arising from avoidable transmission and distribution costs.
15. For the case that the Authority thinks that Part 6 applies, Unison believes that Solar City did not correctly follow the default dispute resolution process under clause 2 of Schedule 6.3. Unison advises that Solar City did not notify Unison of the dispute, or seek to negotiate with Unison in good faith before complaining to the Authority.

Compliance's view

Process assessment –

16. Unless one of the exclusions under clause 6.8(2) applies, clause 6.8(1)(b) provides that if Solar City has a dispute in relation to a provision of Part 6, Solar City must follow the default dispute resolution process under clause 2 of Schedule 6.3.
17. None of the exclusions under clause 6.8(2) apply to this dispute.
18. According to clause 2(1) and (2) of Schedule 6.3, before complaining to the Authority under clause 2(3) of Schedule 6.3, Solar City should have:
- (a) given Unison written notice of the dispute
 - (b) attempted to resolve the dispute with Unison in good faith.
19. Solar City failed to follow these steps in the default dispute resolution process before complaining to the Authority and therefore breached clause 2(1) and (2) of Schedule 6.3. Compliance considers this as being a technical breach because Part 6 does not apply in this case.
20. However, on 26 July 2016, Solar City confirmed that the process under clause .2 of Schedule 6.3 has been completed and discussions have come to an end between the parties.

Material assessment

21. Unison has not breached any provision under Part 6 or any other part of the Code. Compliance has discussed the alleged breaches with Solar City and made it clear that:
- (a) this is a policy issue, not a Code compliance issue
 - (b) the Authority can only monitor and enforce compliance relating to specific Code obligations. Assessing compliance with any obligations under the Paris Agreement is outside of the Authority's jurisdiction.
22. Unison has not breached the Code because the new distributed generation tariff does not introduce additional costs or incremental connection costs to distributed generators.

The new tariff is a retail consumer tariff and is not a tariff related to the physical connection of, or incremental costs relating to, distributed generation. Therefore, Part 6 of the Code does not apply in this case.

23. Unison's existing tariff design recovers the cost of the existing network, which is mainly driven by peak demand. If a customer's consumption profile changes due to the installation of distributed generation, Unison's existing tariffs do not recover its existing network costs because of the lower consumption by customers with distributed generation installed.
24. Under Unison's new tariff, Unison revised its cost recovery structure to recover *existing* network costs, not incremental costs. Customers with distributed generation that remain connected to a network only save on their energy costs, not on the network related costs. This is because solar photovoltaics (which comprise nearly all of the distributed generation on Unison's network) only generate electricity during the day outside of peak times. The contribution to network costs should be the same for all customers who use the network service at peak times. There is no difference between a distributed generation customer and a regular standard profile in this regard. In comparison, a customer with a wood burner, gas, or energy efficient appliances actually reduces peak load.
25. Solar City's concerns regarding compliance with the Paris Agreement are outside of this assessment. This issue is not within the Authority's jurisdiction.
26. However, the Regulations do not provide a solution for the case where the reporting participant has failed to follow proper process to resolve a dispute.

Options for the Committee

27. The Committee has the following options with respect to the alleged breaches covered in this report:
 - (a) decline to take any action on the alleged breaches under regulation 11 of the Regulations; or
 - (b) appoint an investigator to investigate the alleged breaches under regulation 12 of the Regulations; or
 - (c) require further information to be provided so that the Committee may make a more informed decision.

24 August 2016

Nathan Strong
General Manager Business Assurance
Unison Networks Limited
P.O. Box 555
Hastings

By Email

Dear Nathan

Alleged breaches of the Electricity Industry Participation Code

File reference: 1605UNIS2

On 23 August 2016, the Authority's Compliance Committee (Committee) considered the alleged breaches of clauses 2 and 2(a) of Schedule 6.4 of the Electricity Industry Participation Code 2010 by Unison Networks Limited on 1 April 2016.

The Committee considered Unison did not breach any provisions of the Code when it introduced a new tariff to recover existing network costs from consumers with distributed generation (DG) installed (DG tariff).

Accordingly the Committee decided to take no further action on the alleged breaches under regulation 11(1)(b) of the Electricity Industry (Enforcement) Regulations 2010.

In making its decision the Committee noted that Part 6 of the Code applies to DG, it does not apply to retail consumer tariffs. Unison has simply identified a group of consumers with different usage patterns and designed a retail consumer tariff accordingly.

The Committee also noted:

- Unison's tariff design is to recover the cost of the existing network which is mainly driven by peak demand. When a customer's consumption profile changes due to the installation of DG, Unison's previous tariffs did not recover its existing network costs because of the lower consumption by customers with DG installed.
- Unison's DG tariff was to recover existing network costs, not incremental costs.
- The contribution to network costs should be the same for all customers who use the network service at peak times. There is no difference between a DG customer and a customer with a regular standard profile in this regard. In comparison, a customer with a wood burner, gas, or energy efficient appliances actually reduces their peak load. Although photovoltaic owners can save on their energy costs this does not reduce network related costs.

This is because the photovoltaic generates electricity during the day outside of the peak times.

If you have any questions relating to this case, please contact me at 04 460 8868 or alex.ehlert@ea.govt.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Ehlert", enclosed in a thin black rectangular border.

Alex Ehlert
Senior Investigator

CC: s 9(2)(a), Solar City New Zealand Limited