

23 August 2022

Sarah Gillies  
General Manager Legal, Monitoring and Compliance  
Electricity Authority  
By email to [WholesaleConsultation@ea.govt.nz](mailto:WholesaleConsultation@ea.govt.nz)

Dear Sarah

### **Retailer financial stress data request consultation**

1. This is a submission from the Major Electricity Users' Group (MEUG) on the Electricity Authority consultation paper "Retailer financial stress data request" published 2 August 2022.<sup>1</sup>
2. MEUG members have been consulted in the preparation of this submission. This submission is not confidential. Members may lodge separate submissions.
3. MEUG opposes the Authority issuing the proposed cl. 2.16 notice.

#### **Question 1: Do you have feedback on the proposed notice?**

4. MEUG does not consider the consultation paper sufficiently explains the benefits of the Authority having this information and does not consider the poor policy precedent risks of the proposal. Refer response to question 3 below.

#### **Question 2: Do you agree that this information will assist the Authority in monitoring customer and retailer stress?**

5. MEUG does not consider the consultation paper sufficiently explains what benefit the Authority has gained from the s.46 notice that might be carried over to a continuous requirement for disclosure. Refer response to question 3 below.

#### **Question 3: Do you consider the benefits of the Authority having this information exceeds the costs?**

6. The consultation paper lists two benefits of the Authority having this information.<sup>2</sup>
7. The first claimed benefit is:

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<sup>1</sup> Consultation paper <https://www.ea.govt.nz/assets/dms-assets/30/Retailer-Financial-Stress-Data-Request-Consultation.pdf> at <https://www.ea.govt.nz/development/work-programme/operational-efficiencies/improving-the-framework-for-the-authoritys-information-gathering/consultations/#c19211>

<sup>2</sup> Consultation paper, table in paragraph [3.1], list of benefits and cost pursuant to cl. 2.18(1)(c).

“The Authority considers it is valuable to obtain the information in the notice in order monitor the extent to which consumers face difficulties paying their electricity bills and how these difficulties impact electricity retailers.”

8. Monitoring the stress on retailers and their customers alone without acting on that information has nil benefit. Such monitoring may have some benefit if there are ready-to-use interventions that are well designed (demonstrated benefits that outweigh detriments), and clear markers as to when those regulatory tools will be triggered. There is nothing in the consultation paper about how the Authority intend to use the data and what regulatory tools they have prepared ready to use once critical metrics are exceeded. The only intended outcome in the consultation paper is to publish anonymised data:<sup>3</sup>

“The Authority intends to publish high-level data aggregated across responses on our website.”

9. With the s.46 data that the Authority has been collecting since May 2020, there has been little if any publication of such high-level aggregated data.<sup>4</sup> That begs the question what is the public benefit of collecting such data hereon when the EA didn’t publish an analysis of that stress data or what actions it took that were informed by the data for the COVID-19 pandemic?

10. The second claimed benefit is:

“The Authority can use this information to inform its regulatory decision making as well as, support consumers, industry and the government in making effective decisions, particularly in response to major unforeseen events and economic disruption such as the global.”

11. As noted above the consultation paper is silent on what regulatory decision-making options it has. MEUG disagrees the above is a benefit. There is no reason why the Authority cannot issue another s.46 request if another shock event like the initial COVID-19 effects on the economy in 2020 were to occur again. That new s.46 notice would probably be different than the April 2020 s.46 notice given lessons learned. As the nature of a future shock is unknown, the information sought may differ materially and be targeted at the few retailers likely to be most at risk.

12. The consultation paper considers the costs of the proposal will decrease relative to the current s.46 request.<sup>5</sup> MEUG agrees that is a given as the information proposed for continuous disclosure is less than the current s.46 request that expires on 30 September 2022. That is an outcome of choosing the status quo as the counterfactual. In the next two paragraphs we suggest there is an alternative that is a better counterfactual to compare the proposal against.

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<sup>3</sup> Ibid, [2.3]

<sup>4</sup> The EA published data for disconnections for non-payment January 2006 – December 2021, in March 2022, refer <https://emidatasets.blob.core.windows.net/publicdata/Datasets/Retail/Disconnections/Disconnection%20data%20-%20Q4%20Oct-Dec%202021.pdf>. It is not clear if this data was sourced using the s.46 notice. There is no other similar retailer and consumer stress data proposed by the cl 2.16 notice published on <https://www.emi.ea.govt.nz/>.

<sup>5</sup> Consultation paper, table in [3.1]

13. Missing from the consultation paper is an explanation of what policy problem the proposed continuous disclosure is addressing. It cannot be simply a lowering of costs relative to the status quo. If that were true, then the lowest cost option is to entirely remove the requirement for disclosure by retailers unless there are benefits of continuing to do so. Following the discussion in paragraphs 7 to 11 above, there are no clear benefits of continuing part of the current s.46 financial stress data disclosures. Hence, the best option is not to require continuation of the data request through a cl. 2.16 notice.
14. The consultation paper does not consider the alternative of ceasing the requirements of the current s.46 notice and when a new shock to the market requires, a new s.46 notice tailored to meet that event can be issued. This is an important omission in the paper. MEUG submits that a better alternative and counterfactual to test the proposed cl. 2.16 notice is to let the existing s.46 notice expire and issuing targeted s.46 notices if similar magnitude shock events occur as the COVID-19 pandemic.
15. Finally, the consultation paper does not consider the precedent risks of proceeding with this proposal.
16. First, the lack of a clear policy problem requiring a cl. 2.16 notice, no consideration of alternative solutions and no evidence there are benefits to offset costs will undermine market participants confidence that future cl. 2.16 notices will have net benefits.
17. Second, the controversy surrounding the implementation of the new clause 2 provisions and cl. 2.16 notices, will continue. Specifically, market participants will be wary of the path that this proposal has taken with the Authority initiating information requests by a s.46 notice and then embedding that as a continuous requirement with a cl. 2.16 notice. Both these stages have side-stepped the requirement in the Code that change proposals must have a robust cost-benefit-analysis.

Yours sincerely



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