

29 February 2024

Electricity Authority
PO Box 10041
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By email: retaildata@ea.govt.nz

Submission on: Improving retail market monitoring: clause 2.16 information notice consultation paper

Introduction

Thank you for the opportunity to make a submission on *Improving retail market monitoring: clause 2.16 information notice consultation paper*. This submission is from the Consumer Advocacy Council, the independent advocate for residential and small business electricity consumers in Aotearoa New Zealand.

If you have any questions regarding our submission, please contact:

- Emma Sturfels, acting manager, Consumer Advocacy Council
- Email: [REDACTED]
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Responses to questions

Q1 What are your views on the Authority's description of the current issues with its monitoring of the retail market? Are there any additional issues we have not included?

- 1.1 We agree with the Authority that there are significant gaps in retail market monitoring. These gaps have been identified as a problem for some time and addressing them warrants priority in the Authority's work programme.
- 1.2 Gaps in monitoring undermine the ability to assess outcomes for consumers and to gauge whether legislative objectives are being achieved. We are therefore pleased to see the Authority is consulting on new measures.
- 1.3 While we welcome this consultation, we note the proposed data collection is, in significant areas (e.g., disconnection, debt) based on monitoring compliance with the existing *Consumer care guidelines*. As the Council has [previously submitted](#), there are significant shortfalls in the protections these guidelines provide.
- 1.4 An effective consumer protection framework will therefore depend on improving the baseline standards in the guidelines and developing monitoring measures to reflect the requirements of enhanced standards.

1.5 We note the Authority has stated it expects to consider improvements to the guidelines in the second half of 2024. Additional data collection provisions will need to be considered alongside this work. A regular review of the efficacy of monitoring measures should also be part of the Authority's ongoing work programme.

Q2 The Authority is proposing that retail market monitoring should be through one consolidated, mandatory request, collected on a consistent basis, that is proactively published, cost- effective, and fills identified information gaps. What are your thoughts on this proposal?

2.1 We agree retail market monitoring should be through one consolidated mandatory request, collected on a consistent basis and proactively published. This approach will help ensure required data is regularly collected from all electricity retailers and will facilitate analysis of outcomes for consumers.

Q3 What are your views on the Authority's proposal that a new Clause 2.16 notice is the correct tool to improve retail market monitoring?

3.1 We consider a new clause 2.16 notice is an appropriate option to improve retail market monitoring. The Authority has a statutory obligation to monitor outcomes for domestic and small business consumers. Fulfilling this role requires collecting robust data. A new clause in the Electricity Industry Participation Code is therefore appropriate.

Q4 What are your views on the ICPs the proposed notice applies to, and do you believe the proposed notice should apply to any other group of ICPs?

4.1 Our main question regarding coverage of the notice is whether the term "account managed small business consumers" adequately covers all small businesses that should be included. We would welcome further information from the Authority to clarify coverage of small business consumers.

4.2 We would also welcome further information about the notice's application to secondary networks (e.g., apartment complexes or retirement villages that supply power to residents). Where there is a single ICP at these premises, the Authority will need to consider how key data, such as data on medically dependent consumers, will be collected.

Q7 Do you have any feedback on the proposed notice (Appendix A)?

"Commercially sensitive" option

5.1 We note "Table 1 General" in the proposed notice includes a "commercially sensitive" option. It would be useful for the Authority to identify the situations where it considers this option would be appropriate for a retailer to select.

Data on service fees

5.2 The notice proposes collection of data on certain fees, such as disconnection and debt management fees. However, retailers charge a range of other fees, often called "service fees", and we consider data should also be collected on these to provide a more complete picture of the retail market and consumer outcomes.

- 5.3 Service fees can range from charges for dishonoured payments, to charges for changing pricing plans and requesting a copy of an invoice.¹ These fees have the potential to exacerbate payment difficulties for consumers experiencing energy hardship. We therefore consider data should be collected on the amounts and number of customers charged.
- 5.4 Data on the income retailers are earning from these fees will also help improve market transparency and the ability of regulators to monitor compliance with consumer protection standards. In some cases, there appears to be little justification for fees charged and they may risk breaching the unfair terms provisions of the Fair Trading Act.

Prepay electricity

- 5.5 We note the proposed measures in “Table 3 Disconnection” intend to provide for the collection of automatic disconnection (and later reconnection) of prepay customers. This is important data and we are pleased the Authority intends to collect it from retailers providing prepay services.
- 5.6 From the information in the consultation paper, we expect this data will be able to be used to calculate the percentage of prepay customers (both at an aggregate and retailer level) who were automatically disconnected, how long customers were without power before reconnection occurred and the frequency of disconnections per week.
- 5.7 However, we consider additional information on prepay electricity needs to be collected to assess outcomes for consumers. This information includes:
- data on prepay top-up fees to determine the amount and number of customers charged
 - data on prepayments that are apportioned to a customer’s previous debt to determine the amount paid and number of prepay customers repaying debt
 - data on whether retailers have required customers experiencing payment difficulties to switch to a prepay plan.

Customer service responsiveness

- 5.8 We recommend data should be collected to gauge the responsiveness of retailers’ call centres, similar to the approach adopted by the Australia Energy Regulator. This approach allows collection of data on the percentage of calls answered within 30 seconds, average wait times and calls abandoned before they are answered.
- 5.9 Table 1 below shows the indicators used in Australia. Similar metrics could be developed for written inquiries sent to service centres either by email, text or chat.

Table 1: Indicators for call centre responsiveness²

¹ See, for example, [Contact service fees | Contact Energy](#)

² Sourced from <https://www.aer.gov.au/publications/reports/performance/annual-retail-markets-report-2022-23>

Indicator	Best	Within range	Poor
Calls taken within 30 seconds	80% or more	79% to 51% range	50% or less
Average wait time	30 secs or less	31 to 59 range	60 secs or more
Calls abandoned before answer	5% or less	6% to 9% range	10% or more

Breaches of provisions

5.10 The consultation document does not specifically discuss how a retailer's failure to provide requested information will be treated or how the Authority will respond if data shows a breach of the *Consumer care guidelines* (once they are made mandatory).

5.11 We assume breaches will be dealt with under the "[Code enforcement](#)" provisions of the Electricity Industry Act (ss 50-62) and the Electricity Industry (Enforcement) Regulations. However, it may be useful for the Authority to confirm its process in the event of a breach.

Q9 What are your views on how the information requested in the proposed notice would meet the Authority's statutory monitoring of competition, reliability, and efficiency in the retail market, and domestic and small business consumers' outcomes? What information do you think is needed to meet the Authority's statutory monitoring requirements?

6.1 Robust monitoring data is essential for the Authority to evaluate outcomes for electricity consumers and to assess whether legislative objectives are being achieved. The information requested in the proposed notice will go part way to providing the data needed for this analysis.

6.2 We strongly support the Authority's proposal to request data from electricity retailers dating back to 1 January 2018 (as proposed in para 6.18 of the consultation document). We agree this is important to help the Authority establish a baseline, align data with the 2018 census and identify trends.

6.3 We also support the Authority's intention to collect data on pricing, distributed energy resources, bundling of services and time-of-use plan uptake. We consider that collection and analysis of this data is crucial to the Authority's ability to fulfil its legislation objectives under the act.

6.4 However, as noted in our response to Q7, we consider additional information will need to be collected to help assess consumer outcomes.

6.5 We also noted in Q1 that proposed data collection is, in significant areas, based on assessing compliance with the *Consumer care guidelines*, which have significant shortfalls in the consumer protection they provide. We therefore consider the Authority will be unable to ensure it is meeting its statutory obligations until these shortfalls are addressed.

Q10 Do you believe the likely benefits of the Authority having this information would outweigh the likely costs? If not, why?

7.1 We consider the benefits of collecting the information are likely to significantly outweigh the costs. As the Authority comments (para 6.52), retailers should already hold the majority of

the requested information within their billing systems and therefore compliance costs should be low.

Q14 What are your views on the information the Authority intends to initially publish from the proposed notice, including the proposed level of detail?

8.1 Data transparency is a minimum requirement in order for consumers to be able to trust regulatory settings. We therefore consider monitoring data should be publicly available.

8.2 We strongly support data being published on both an aggregated and retailer-level basis. Retailer-level data are particularly important in a concentrated market such as New Zealand's. Only publishing aggregated data would limit the ability to identify the practices of power companies that may be undermining better consumer outcomes.

8.3 Access to the data will also be useful for the Council and for others who carry out public interest research on the electricity system and its outcomes for consumers. Publication of aggregated and retailer-level data will facilitate this research and contribute to an enhanced understanding of the system.

Q15 What information do you believe the Authority should or should not publish? What level of detail do you consider appropriate for publication, and why?

9.1 At a minimum, all information collected through the notice should be publicly available in both an aggregated form and by retailer. In regard to retailer-level data, we recommend the Authority considers publishing retailer score cards, similar to the [score cards](#) developed by the Australian Energy Regulator.

Q17 What are your views on the privacy implications of this clause 2.16 notice and the methods we have outlined to manage these?

10.1 We agree the Authority needs to carry out and publish a full privacy impact assessment. It is essential that data collection does not compromise the privacy rights of individual consumers. The Authority must therefore ensure its information security and disclosure processes are robust, and subject to regular review.

Yours sincerely,



Deborah Hart

Chair

Consumer Advocacy Council