26 March 2025

Electricity Authority

To: taskforce@ea.govt.nz

UTILITIES DISPUTES
TAUTOHETOHE WHAIPAINGA

Re: Consultation Papers –

Improving Pricing Plan Options for Consumer Time-Varying Retail Pricing for Electricity Consumption and Supply (Improving Plan Options Paper)

Requiring Distributors to Pay a Rebate When Consumers Supply Electricity at Peak Times (Rebate Paper)

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the above Electricity Authority's (EA) consultation papers.

UDL is a not-for-profit company and operates the mandated industry dispute resolution scheme for the electricity sector, which is free to all consumers.[1] The core purpose of the Energy Complaints Scheme is to ensure that any person who has a complaint about a retailer or distributor has access to an independent process for resolving it.[2]

In the last reporting year UDL was contacted by over 22,000 energy consumers, and resolved over 8,000 queries, and 6,500 complaints about electricity retailers and distributors. The figures for the current reporting year are projected to exceed these figures. UDL responds to the proposals with the benefit of insights gained from working with consumers and providers to resolve their issues and as the statutory body for industry complaints. The key points of the submission are:

A. UDL supports the EA's initiative to increase the consumer uptake of time-varying plans.

B. The new inverter-based technologies (eg solar, wind, batteries), bring opportunities to the network, which the consumer can benefit from.

C. However, a wholistic regulatory approach is required: a) to ensure new services built upon Smart meters help the consumer; and b) to assist new distributors and retailers enter seamlessly into the market.

   Smart meters, though an advance on previous meters, in the usual way of any technology do also give rise to complaints. In the future as Smart meters become an increasing factor in the way retailers build plans, this may affect the electricity quality of supply guarantee, when there are technical issues. The new wave of contracts based on

[1] See Electricity Industry Act 2010 s 95.
[2] See Ibid. sch 4, clause 1.

inverter-based products are also often for a length not seen in the traditional consumer contract and may have their own particular contractual terms. Therefore, education is needed for these new retailers/distributors to ensure new offerings conform to best practice, while not supressing innovation.

D. When Smart meters sometimes fail to communicate this can lead to bill shock. The consumer can have a long period of estimated reads and then may receive a large bill when there are actual reads. To ensure the consumer is informed of their usage UDL recommends that it be mandatory to record on every bill if consumption is based on actual and/or estimated reads.

   UDL is also of the view each bill should identify the precise plan or tariff the customer is on and contain standard wording for the two main avenues of independent review for the customer: Powerswitch and UDL. Any corrections, credits or back bill amounts should also be clearly identified with a plain language explanation.

E. The EA is also invited to consider requiring retailers to issue best plan notices periodically on a customer's bill (e.g. every three months). These notices will help a consumer decide if they should move to a different plan or consider switching. A recent consumer survey found that 87% of consumers thought it would be useful to have a best plan notice on their bill.[3] As there is an increase in product offerings and/or plans of increased complexity, best plan notices in plain language will help the consumer take full advantage of the savings these plans offer.

F. UDL alerts the EA to keep in mind that significant cohort of consumers who are on customer networks, and although they cannot benefit from this proposal, research is needed as to their needs.

G. UDL encourages the EA to assess where this proposal fits within the context of the *Consumer Care Obligations* (*Obligations).* It raises and mandates certain actions particularly how plans are promoted which will be of interest to the consumer, and it is suggested that at least some reference to the requirements be inserted into the *Obligations*.

H. The proposal sets out that retailers must provide a notice setting out a number of factors when promoting a pricing plan e.g. what actions a consumer must take to receive the most benefit from the plan. UDL recommends that any records of the promotion be kept as this information can often be critical when resolving complaints. It would also be helpful to require the notice to be in plain language.

I. The wording of the suggested Code amendment mandating retailers to supply distributors with half hourly data could be further tightened. Rather than the retailer providing electricity consumption and/or injection rates "for which the retailer holds information," the wording could be more directive and amended to "that the metering installation records". The distributor is also required to identify ICPs where injection can

[3] See Consumer Advocacy Council (submission to the EA), *Options to Support Consumer Price Plan Comparison and Switching*, 8 March 2024, 43..

provide network benefits. Therefore, the general access of distributors to HHR AMI data is an issue the EA is invited to further consider.

J. The yearly reporting regime may benefit from being assessed within the context of the existing reporting obligations of retailers, e.g. the yearly reporting mechanism of the *Obligations,* and the monthly *Information Notice.* The reporting, for efficiency may be synchronised and/or incorporated with these existing reporting obligations.

K. The EA is committed to building a baseline of information about the proposal and advises it will continue to assess the uptake of the time-varying plans across a range of data points. UDL encourages any data gathering to include qualitative research, that includes interviews with consumers, consumer surveys, and feedback from consumer focus groups.

L. The EA has previously alerted the industry that the network will likely come under stress due to demand and the new inverter-based technologies. UDL reaffirms its response that this may require: increased communication with the consumer about the state of the network; increased training of complaints staff to ensure they both represent their company, but also respond to consumer concerns; and require a rethinking of how retailers/distributors respond to consumers when there is an outage, even if the quality of supply guarantee is not breached.

Summary of the EA's Proposal

The *Improving Plan Options Paper* recommends that it be mandatory for retailers with 5% market share, to provide time-varying pricing plans to consumers. Time-varying plans reward consumers who: lower their consumption of electricity in peak times (an extraction plan) and/or put electricity into the network at peak times. e.g. through batteries, which have stored electricity from solar panels (an injection plan).

UDL supports this initiative. UDL notes Smart meters allow for this increased flexibility in the structuring of consumer products, providing the opportunity for consumer savings.[4]

The *Rebate Paper* seeks to help retailers provide injection plans. The *Rebate Paper* proposes that distributors must identify ICPs or groups of ICPs, where injection would provide a network benefit. Retailers, whose customers in turn respond and provide electricity at times when it is of most benefit may receive a rebate.

The EA also proposes changes to the *Electricity Industry Participation Code 2010* (*Code*) ensuring distributors charge retailers according to half hour data, and where possible according to rates based on time-varying price plans.[5] This is a further example of how Smart meters ensure costs and revenue can be more efficiently allocated. The EA signalled its approach early last year:

> *For cost-reflective distribution price signals to be effective, distributors must not only offer time-varying (peak/off-peak) distribution tariffs, but also assign as many ICPs as practical to these time-varying distribution tariffs. This will encourage electricity retailers to either pass these cost*

[4] See *Improving Plan Options Paper*, 3.28.
[5] See *Improving Plan Options Paper*, 6.87.

signals through to their customers by offering their own time varying retail tariff, or to manage their customers consumption more actively. The more retailers are exposed to these price signals, the more they are expected to respond to them.[6]

The EA expects that the retailer would pass any benefits to their customers.[7] However this may require monitoring by the EA.

UDL Commentary

- ***Future Projections***

UDL notes the projections that have led to the proposal, namely that by 2050 electricity demand will increase by 80%, and peak load will move from 6.7 GW, to between 9.1 GW and 12.5GW.[8] The network will also change with the market share of inverter-based technologies increasing (e.g. solar, wind, batteries). The network profile is moving towards a two-way network model with significant extraction and injection elements.[9]

- ***Network Stress – Complaint Handling***

The EA has noted that the new inverter-based technologies present opportunities but also network challenges:

> *In addition to providing opportunities, these technologies do, however, pose some challenges. In particular, we expect that co-ordinating the real-time operation of New Zealand's power system to supply electricity to consumers at the level of reliability they want will become more difficult over the coming years. This increased difficulty will be the result of evolving technologies enabling a significant increase in variable and intermittent generation and an increase in bi-directional electricity flows.*[10]

UDL responded[11] that any network deterioration will likely have to be met with: a) increased communications with the consumer about the state of the network; b) further training of complaints staff, so that they are responsive to the consumer's point of view, even when the consumer may not receive their expected resolution; and c) a rethinking of the quality of supply guarantee for electricity. So that even if the guarantee is not breached a consumer may receive some form of customer care credits, due to the resilience of many consumers to accept network limitations already being stretched.[12]

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[6] See EA, *Open Letter to Distributors*, 3 May 2024, pg 3.

[7] See discussion in both proposals Rebate *Paper*, pg 2, 5.1-5., 5.7, fn.15. See also *Improving Plan Options Paper*, 6.16-6.17.

[8] *Improving Plan Options Paper*, appendix C, 67.

[9] Ibid, 68-69.

[10] EA, *Addressing Larger Voltage Deviations and the Network Performance Issues in New Zealand Power System*, 25 June 2024, 3,

[11] See UDL, *Proposal Documents Addressing: Harmonics, Voltage, and Frequency*, 20 August 2024, 2-4.

[12] Consumers who have contact with UDL sometimes express surprise at what the ordinary consumer is asked to accept in relation to the limitations of the network: "The evidence establishes that electricity distribution in New Zealand has certain characteristics which the consumer must be taken to know. They are: supply through overhead lines and/or supply that is dependent on a single circuit; planned outages for some maintenance; unplanned

- ***A Network Opportunity: Mandatory Time-Varying Plans***

Positively this proposal shows the opportunities that are opened up by new technologies for retailers, distributors, and consumers in terms of extending the range of pricing plans to the consumer. UDL is supportive of the initiative. It makes the following observations about each aspect of the proposal below. The observations illustrate that these new technologies may require a renewed consideration of some of the traditional aspects of the consumer – retailer/distributor relationship.

Retailers with 5% of market share will be required to make available to their customers[13] at least: a) one time-varying price plan for consumption; and b) at least one time-varying price plan for injection.

1. UDL notes that time varying plans make up only 19% of the total plans available,[14] and supports the EA's effort to increase their uptake and offering. The 5% threshold would cover 83% of all consumers, which is significant, however so is the 17% of consumers that will not be included. UDL acknowledges that smaller retailers have not been included, so as not to increase the regulatory burden on them.

   However, many small retailers specialise in supporting vulnerable consumers and the EA may wish to reconsider its reasons for excluding this group.[15] The actual regulatory burdens may not be significant, and common standards for all consumers would be preferable. The submissions may further clarify this point. However, UDL supports the threshold being periodically reviewed, and in any major review before the proposed expire date of 31 December 2030.[16] It is hoped by this date time-varying plans will be a significant share of the market and regulation will not be required.

2. Three issues arise from the underpinnings of the proposal are set out below concerning: the new types of contracts coming onto the market, Smart meters, and secondary networks. These observations do not affect the substance of the proposal, but provide further context to its underpinnings:

   a) The proposal highlights in part the significance of the new solar products that generate electricity. Some of these product offerings signal the entry of new types of retailers and/or distributors into the industry. Their contracts come in various forms

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outages or voltage fluctuations related to fair wear and tear, environmental hazards such as birds, possums, contact with vegetation, storms, or excessive consumer loads; instability after outages; and third party damage." *Contact Energy Limited v Jones*, CIV 2007-485-2761, 24 April 2009, para 97. The Commissioner in making a recommendation must consider any applicable legal rule or judicial authority, see Energy Scheme Rules, r 24.

[13] Defined in the proposal as mass-market customers, includes households, small and medium business, farms etc. But does not include industry. See *Improving Plan Options Paper,* fn 7.

[14] See *Improving Plan Options Paper*, 4.4.

[15] Ibid., 6.20-6.21, 6.24.

[16] Ibid., 5.1.

and expand the traditional understanding of retailing.[17] Often such contracts are for lengthy periods, not previously seen in the market.

How the *Obligations* and other regulatory obligations are to be applied to these new industry participants, is a work in progress. The EA in factoring these products into its regulatory framework illustrates the need to actively engage with these new participants, assisting both with their onboarding,[18] and when required alerting these new retailers/distributors to best practice. Such a role would appear to fall under the EA's additional objective to protect the long term interests of domestic consumers and small businesses.[19]

b) The benefits of Smart meters are well set out in the proposal. These meters are an advance on what are termed standard meters, although Smart meters are the predominate meter in the market (93%). Smart meters, as with any technology do give rise to consumer complaints and despite their superiority, can produce errors from time to time.

UDL received 98 complaints in 2022 about Smart meters, 154 in 2023 and 161 in 2024. The top three issues within these complaints were billing (about 94%), high bills (84%), and customer service (45%). Most of these complaints are successfully resolved by the retailer after referral. Sometimes it is specifically alleged a meter is not communicating properly. This affects billing, and a retailer may have to rely for a period on estimated reads. This can lead to bill shock, when a consumer receives a large back bill based on actual reads. UDL therefore recommends that it be compulsory for a bill to identify when consumption data is based on estimated; and/or actual reads.[20]

UDL also notes as Smart meters lead to the promotion of different consumer plans (not only time-varying plans) this may change the balance of responsibilities about alleged breaches of the quality of electricity supply guarantee (see s7 A of the Consumer Guarantees Act 2010). The guarantee lies with the retailer. This appears a legislative choice, so the consumer has ready access to a point of communication, rather than having to choose between a retailer and distributor. However, in most cases investigations focus on the distributor who has responsibility for the lines that are usually the focus of the outage. Yet in time Smart meters may change this balance. The retailer who bases their plan on Smart meter technology would likely become the focus of any inquiry, should it appear a Smart meter error has affected a consumer's electricity supply.

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[17] Where the solar provider is acting as industry participant UDL considers complaints about solar products. We received 83 solar complaints in 2023 and 107 solar complaints in 2024. Most of these were referred to the retailer and resolved at that stage.
[18] See Electricity Industry Act 2010, s 27.
[19] See ibid., s 15.
[20] See *Consumer Care Obligation*, 19.

c) Understandably the proposal focuses on retailers with the highest market share: "There are currently more than 40 retailers serving New Zealand's electricity consumers."[21] However UDL alerts the EA to the issue of secondary networks.

It appears consumers connected to embedded networks might benefit from the proposal. Customers that are connected within a customer network will not receive any benefit from the proposal. These consumers are notable as they lack a choice of retailer.[22] The exact number of customers connected to customer networks is unknown, estimates suggest it could range from 20,000 to 50,000.[23] UDL emphasises that this group of consumers requires its own consideration, and there may be a risk that these consumers may not be receiving the best rates of electricity. This cohort of consumers requires further research, and this appears an aspect of the industry that falls within the EA's role in protecting the interests of domestic consumers.

3. The EA notes that it may take time for consumers to get used to time-varying plans. This raises the issue of information disclosure. A customer's bill is often the first reference point for customers. However, consumers frequently find bills difficult to interpret and/or that they lack information such as the actual plan a consumer is on.

Therefore UDL recommends that the EA, take this opportunity to review the standard form for bills, and set out the expectation that each bill: clearly identity's a customer's plan; provides a brief explanation of the rates charged and for each time period when the charge varies; and that corrections and/or consumer credits are clearly itemised with an explanation in plain language for the correction/credit. The EA is also asked to consider standard wording on bills advising the consumer of the two main avenues of independent review, Powerswitch and UDL.[24]

4. The EA is also invited to consider requiring retailers to issue best plan notices periodically on a customer's bill (e.g. every three months).[25] These notices will help a consumer decide if they should move to a different plan or consider switching. A recent consumer survey found that 87% of consumers thought it would be useful to have a best plan notice on their bill.[26] As there is an increase in product offerings and/or plans of increased complexity, best plan notices in plain language will help the consumer take full advantage of the savings these plans offer.

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[21] *Improving Plan Options Paper*, 3.5; see also 6.20 and 6.23.

[22] UDL notes that the proposed Code amendment refers to distributors and ICPs. Subpart 2A of the Electricity Industry Act 2010 requires all secondary network owners to comply with obligations placed on distributors, however the definition of "ICP" and "network" in Part 1 of the Code limits the application of the proposed Code amendment to local networks and embedded networks. However, within embedded networks it will apply to connections both with and without ICP identifiers.

[23] See also discussion re meaning of distributor in UDL, *Consultation Papers -Distribution Network Pricing*, 20 Dec 2024, 5.

[24] See Code, 11.30A-C.

[25] See for context *Obligations*, 17.

[26] See Consumer Advocacy Council (submission to the EA), *Options to Support Consumer Price Plan Comparison and Switching*, 8 March 2024, 43. See also generally the Consumer Advocacy Council's work on a model bill: https://www.mbie.govt.nz/dmsdocument/29764-cac-research-model-electricity-bill-pdf

5. The wording of the suggested Code amendment mandating retailers supply distributors with half hourly data could be further tightened. Rather than the retailer providing electricity consumption and/or injection rates "for which the retailer holds information," the wording could be more directive and amended to "that the metering installation records". The distributor is also required to identify ICPs where injection can provide network benefits. Therefore, the general access of distributors to HHR AMI data is one that EA is invited to further consider.[27]

6. UDL accepts the EA's reasoning in not making time-varying plans the default plan. This initiative will likely require further time for consumers to understand.[28] The proposal seems best accompanied by consumer education and opportunities for consumer feedback. This point is addressed further below.

7. UDL relies on the submissions of other industry participants as to the feasibility of time-varying plans being in place by the date of 1 January 2026.

Promotion Requirements: Time-varying plans will be required to be promoted: a) on the retailer's website; b) on the comparison and switching website supported by the EA, even if the retailer is not taking on new customers; and c) the retailer is to promote (make a proactive offer) the time-varying pricing plans to any of its customers that it reasonably expects would benefit from the time varying price plans.

8. UDL supports the publicity requirement in the proposal. The pro-active offer is to take the form of a notice which includes these elements:

    a) Identification of the amount of electricity a consumer injected or consumed during peak and off-peak times;
    b) Explaining the availability of the new time varying price plans;
    c) Quantifying the potential benefits in dollar terms to the consumer;
    d) Setting out the main feature of the time-varying plans and any risks to the customer;
    e) Explaining the conditions in which the consumers will receive the most benefit from the time-varying plans.[29]

9. It is not clear from the *Improving Plan Options Paper* where the Code amendment will be placed. However, it is advisable that at least some reference to these changes be placed in part 11 of the *Code* (if not included there). In this way the consumer, retailers, and distributors can see all the relevant obligations that relate to them. If these linkages are not made the value of codification of the *Obligations* in part 11 risks being eroded from its inception.[30]

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[27] To review the Code amendments, see, *Rebate Paper*, 62-64; and *Improving Plan Options Paper*, 62-64.
[28] See *Improving Plan Options Paper*, 5.34-5.37.
[29] Ibid, 6.49.
[30] Some *Obligations* will apply to the offer regardless of if these are not made, see *Improving Plan Options Paper*, fn. 48.

10. It is important good record keeping of advertising of any consumer-customer exchanges be kept. UDL often asks for these records, and they help the Commissioner make a recommendation as to what is fair and reasonable outcome of a complaint.[31] The offer notice will be helpful in understanding what took place between the retailer and their customer. Retailers have standard practices, yet the prescribed format can be departed from and this can and does lead to miscommunication between retailer and consumer. It is also recommended that the notice have a plain language requirement.[32]

11. Linkages to the *Obligations* would ensure the proposal explicitly falls within the requirements: for retailers to communicate transparently and to retain records (see *Obligations* 11 A.6, 3). However, UDL notes that the necessity to keep records appears undecided:

> *We also propose that the reporting regime would require retailers to provide information to demonstrate compliance with the proactive offer requirements. It is not practicable for the Authority to monitor all communications with customers. However, reporting could include information about how the retailer approached customers, what communications it sent, and to how many customers the offer was made. The reporting would also cover communications around the one-year follow-up.*
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> *An alternative approach could be to require retailers to maintain records of its customer communications, which the Authority could require be audited or could ask for under Section 46 of the Electricity Industry Act 2010 (Act).*[33]

UDL encourages the EA to review the proposal within the full context of the consumer-retailer relationship, inclusive of considering what may be needed to help the Energy Complaints Scheme achieve its purpose of resolving consumer complaints.[34]

12. Outside the offering of products and plans, UDL highlights the importance for all actors in the industry to look for opportunities to educate consumers about the industry and receive consumer feedback. Such exchanges can clarify issues and increase good will. UDL has full time staff which are invited to community groups to talk about the industry. UDL is also aware of industry participants who actively engage with the community on face-to-face basis, and these can pre-empt issues, e.g. for example in the area of trees close to the lines. UDL will trial this year a virtual walk-in centre, where consumers in a rural town will be able to have access to UDL staff virtually while assisted by a staff member on the ground.

13. The EA has stated its commitment to gathering baseline information as to how this proposal will work and in relation to the performance of the electricity industry as a whole.[35] As well as arms-length statistical data, qualitative data consisting of interviews with consumers, and their experience and understanding of the plans will round out the EA quantitative data analysis. Therefore, the EA is encouraged to engage with the

[31] See *Energy Scheme Rules*, 24, 32-40.
[32] In the same way that under *Obligation* 8, terms and conditions are to be in plain language.
[33] See *Improving Plan Options Paper*, 6.61-6.62.
[34] See *Electricity Industry Act 2010*, sch 4, 1(a).
[35] See *Improving Plan Options Paper*, 6.64-6.67.

consumer through a whole variety of means such as focus groups, interviews, and surveys.[36] UDL is also committed to sharing the unique insights it gains from working with energy consumers and providers when issues occur.

Monitoring and Reporting Regime Retailers required to offer plans will be have to report to the EA by 1 August each year to demonstrate: (a) their plans comply with design requirements; and (b) they have complied with the proactive offer requirements.

14. UDL supports the general requirement that retailer report on the offering of these plans. However, this suggests, the proposal will not be linked to the *Obligations* (see paragraph 9 above). Retailers are best placed to assess the efficiency of this reporting requirement among their other reporting obligations to the EA.

    However, retailers must report on their compliance with the *Obligations* every year (see *Obligation* 11.A.4). There is also the monthly *Information Notice* that retailers must provide pursuant to cl 2.16-2.24 of the *Code*.[37] When the *Information Notice* was recently updated the EA advised that it would no longer require some reports that it had previously requested.[38] Therefore it may be useful to have some further review to synchronise this additional reporting requirement with the *Information Notice* and/or *Obligations*. Co-ordinating the provision of all information relevant to the consumer-retailer relationship appears good practice.

Ensure Retailers see the full Costs of their Contribution (see summary section).

15. UDL supports the EA's consideration of the issues in this paper, particularly the way it has considered the needs of the consumer[39] within the interrelationship between distributors and retailers.

    The cost effectiveness and ability to achieve real savings for the consumer will be best assessed after reviewing the submissions, inclusive of the role of distributor's role in identifying ICPs that may benefit the network through injection plans, and the expectation retailers will pass on to the consumer any benefits gained from the overall proposal.

Thank you for the opportunity to comment on the above papers. If you have any questions, please at the first instance contact Paul Byers at [redacted]

[redacted]

Neil Mallon - Toihau Commissioner

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[36] Overseas models may be able to provide some guidance on how surveys can be done in a cost-effective way. See CCW & WSRA (UK), *Complaint Processes in Water – A Follow up Report*, October 2021, 5, 14, 19.

[37] There is a limitation on the *Information Notice*, 2.16 (3).

[38] See EA, *Retail Market Monitoring Clause 2.16 Information Notice*, 17 March 2025, 5.16.

[39] Inclusive of seeking to respond to issues and concerns raised by consumer representative groups, see *Rebate Paper*, 5.35 (Rewiring Aotearoa).