Time-varying price plan requirements – Retailer Guidance

Version 2.0

November 2025

Clarification

The Authority received feedback that the Code provisions for time-varying pricing may be interpreted as limiting flexibility when serving small business consumers. To clarify, the policy intent is to ensure small businesses have access to at least one time-varying pricing option, while preserving retailers' ability to offer bespoke agreements that better reflect a business's specific operations.

This means retailers can meet their obligations by making a compliant time-varying plan available, while continuing to design and promote personalised pricing arrangements that suit small businesses. Retailers also have discretion in how these plans are presented on their websites, provided the information is transparent, accessible, and framed in a way that promotes genuine choice for small business customers.

Version control

Version	Date	Comments
1.0	30/09/2025	Version 1.0 published
2.0	30/11/2025	Version 2.0 published to clarify how retailers should apply the Code developing an approach that supports small businesses.

Contents

Disclaimer

This guidance is provided for general information only and not as legal advice. This guidance does not establish any legal obligations in themselves.

While this guidance is provided to assist retailers to understand and comply with the time-varying price plan requirements, it is not a substitute for, nor does it form part of, the Electricity Industry Participation Code 2010 (Code). It also does not address other obligations retailers may have under other parts of the Code.

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Time-varying price plan requirements

1. Purpose and context

1.1. In July 2025 the Electricity Authority Te Mana Hiko (Authority) introduced new provisions into the Electricity Industry Participation Code (the Code) requiring electricity retailers to make time-varying pricing plans available to most small consumers.

1.2. Time-varying pricing helps consumers manage their electricity costs while supporting a more efficient, lower-cost electricity system. By shifting demand away from peak periods and better rewarding consumers for their investment in, and injection of power from, solar and battery storage, the industry collectively can:

(a) empower consumers to take greater control of their energy use and bills

(b) improve price signals across the system

(c) unlock investment in flexible demand and solar

(d) drive better long-term outcomes for all electricity users.

1.3. This guidance is intended to help retailers:

(a) determine what is required, and when they must comply with the requirements

(b) understand how to comply with the new Code obligations.

1.4. All participants are expected to understand and comply with their obligations under the Electricity Industry Act 2010 (Act) and the Code.

1.5. The Authority is responsible for monitoring and enforcing compliance with the Code and has powers to seek information or grant exemptions from compliance in limited circumstances. This is explained further at the end of this guidance.

1.6. This version 1.0 supports retailer compliance with those obligations that come into effect in 2026. The Authority may update this guidance from time to time. Please contact us at taskforce@ea.govt.nz if there are any specific aspects of the requirements that you think would benefit from further guidance.

2. Structure of this guidance

2.1. This guidance generally follows the structure of the amendments made to Parts 1, 11A and 12A of the Code to give effect to Energy Competition Task Force package 2B and 2C initiatives.[1]

2.2. To support retailers in understanding and complying with these obligations, this document includes summary of requirements, good practice examples and definitions throughout. These are presented in the following format:

[1] https://www.ea.govt.nz/code-and-compliance/code-amendments/time-varying-pricing-requirements/

Summary of requirements	Good practice	Definition
Summary boxes provide a simplified overview of the key information retailers require to comply with the Code requirements, discussed in full in the relevant section	Good practice boxes provide examples of how a retailer might implement aspects of the Obligations effectively. They are intended to be illustrative only and are not requirements themselves	Yellow boxes indicate a defined term, clause or other referenced/quoted information

3. Overview of retailer obligations

Retailers who must comply with these obligations

3.1. This guidance applies to all parties that meet the definition of a 'retailer' under the Electricity Industry Participation Code.[2]

3.2. In line with this definition, our expectation is that the requirements applying to "retailers" under the Code are interpreted at the level of the individual participant. That is, obligations apply to the specific legal entity registered as a retailer under the Code, rather than to a broader parent company or corporate group. Each registered participant is assessed independently for compliance purposes. Where a parent company owns multiple registered participants, each one is considered separately when determining whether it meets the relevant thresholds or obligations.

- Obligations apply at the registered participant level, not at the parent company or group level
- Each registered retailer is assessed independently for compliance

Category A and Category B retailers

3.3. The new Code provisions introduce two retailer categories: Category A and Category B.[3] There are different obligations applying to each category as summarised in Table 1. Retailers can move between the categories over time.

Table 1: Summary of obligations on retailers per category

Retailer type	Categorisation test		Code obligations		
	Market share[4]	Plan availability	Plan availability	Promotion	Reporting
	< 5%	n/a	None	None	None

[2] For the purposes of Part 11A, this means a participant who supplies electricity to another person for any purpose other than for resupply by that person.
[3] Clause 11A.2 of the Code
[4] Of total ICPs in NZ

Retailer type	Categorisation test		Code obligations		
	Market share[4]	Plan availability	Plan availability	Promotion	Reporting
Category A	≥ 5%	✓ Offers time-varying pricing plans that covers consumption and injection to all residential and small-business consumers with smart meters ✓ On website and switching platform (where supported)	None	None	None
Category B	≥5%	× Doesn't offer time-varying pricing plans that cover consumption and injection to all residential and small-business consumers with smart meters; or × Not on website or switching platform (where supported)	Offer time-varying pricing plans that cover consumption and injection to all residential and small-business consumers with smart meters On website and switching platform (where supported)	Advise of time-varying pricing plan(s) in annual CCO notice	Quarterly

Key compliance dates

3.4. The following are the key compliance dates:

- By 30 June 2026: Retailers must meet the criteria for Category A to avoid being classified as Category B
- On 1 October 2026: Category B obligations commence for retailers that do not qualify under Category A

3.5. This guidance aims to help retailers assessing which category they fall into and to support understanding of the expectations on them.

Meeting the Category A requirements

4. Two ways to qualify as Category A

4.1. Retailers can qualify as Category A under the Code through one of two pathways:

(a) Market share test: holding less than 5% of total national ICPs on the previous 30 June; or

(b) Plan availability test: [5] offering compliant time-varying pricing plans and making them available on websites and the comparison and switching platform.

4.2. The following sections explain each test in detail.

5. Market share test: Retailers below 5% market share qualify as Category A

Summary of market-share test:

- Assessed annually using registry data as at 30 June in the first instance
- Applies to each registered participant individually, not to parent companies
- Classification takes effect immediately after annual assessment
- Retailers below the 5% threshold are not subject to the Code's time-varying pricing obligations, and do not need to pass the plan availability test

5.1. A retailer whose customers made up less than 5% of all ICPs in New Zealand is automatically classified as a Category A retailer.[6] These retailers are not subject to the new time varying pricing provisions in the Code.

The 5% threshold is assessed each 30 June using registry data

5.2. This threshold will be assessed annually as of 30 June each year, using Electricity Authority registry data in the first instance.[7] The Authority makes this data publicly available 10 working days later for interested parties to view.[8]

5.3. The registry reports the market share of retail traders.[9] Where a retail trader supports multiple consumer-facing brands under the same spot market trading arrangement, the reported figure will reflect the combined market share for that arrangement.

5.4. In borderline cases, or where there is reason to believe that the trader-based measure could materially overstate or understate a retailer's position, the Authority will engage with the retail trader and may undertake further analysis using supplementary data sources (including on tier 2 retailers) to ensure the retailer classification is reasonable.[10]

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[5] Clause 11A.2 of the Code
[6] Clause 11A.2 of the Code
[7] Clause 11A.2 of the Code
[8] Currently via the EMI website, under the "market share snapshot" report.
[9] Being those retailers that buy electricity from the clearing manager, rather than from another retailer.
[10] The market share figures from the registry are indicative rather than exact. Tier 2 retailers' customers are recorded under the Tier 1 trader responsible for those ICPs. As a result, the registry does not fully reflect the

5.5. Where a retailer uses a separate retail brand (e.g., the brand is not a separate legal entity), the market share of the brand, and any other such brands will be combined with the market share of the retailer to represent the total market share.

5.6. Based on data from 30 June 2025, the following retailers exceed the 5% threshold:

(a) Mercury including its Glo-Bug brand

(b) Contact Energy

(c) Genesis Energy including its Frank brand

(d) Meridian Energy including its Powershop brand.

5.7. This market share assessment needs to be repeated annually on 30 June each year, until the Code provisions expire on 30 June 2031.[11] Classifications take effect immediately following each year's assessment.

5.8. This test is a single-point-in-time assessment. Retailers are classified based on their market share on 30 June only. If a retailer exceeds 5% during the year but it is below the threshold on 30 June, it remains Category A until the next annual assessment.

5.9. Retailers near the 5% threshold should not rely on marginal positioning to remain in Category A. They should either seek to qualify under the plan availability test or risk being required to meet the Category B obligations.

5.10. Retailers are expected to monitor their own market share. The Authority generally will not issue notifications regarding Category A status, but may contact retailers that are approaching or close to the threshold to clarify their position and support their understanding of the obligations that could apply, should the threshold be exceeded.

6. Plan availability test: Retailers with time-varying price plans qualify as Category A

6.1. Retailers with market share greater than or equal to 5% may still qualify as Category A if they:

(a) Offer at least one time-varying pricing plan to all residential and small business consumers with a smart meter

(b) Provide time-varying pricing plans for both consumption and injection

(c) Publish these plans on their websites and (where supported) on the Authority's comparison platform

(d) Achieve this by 30 June 2026 (and continue to do so), or achieve this after 30 June for a continuous period of 12 months (and continue do so).[12]

6.2. If a retailer meets the criteria for consumption but not injection, it will be treated as Category A for consumption, but will need to meet Category B obligations for injection and vice versa.

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market share attributable to individual consumer facing retailers. However, data held by the Authority on Tier 2 retailers and the number of ICPs they serve show that market share is unlikely to change after accounting for the Tier 2 retailer contribution.

[11] Clause 11A.15 of the Code

[12] Subject to minor technical disruptions, as discussed in paragraph 9.9.

7. What qualifies as a time-varying pricing plan?

Summary of time-varying pricing plan requirements

- A compliant time-varying pricing plan must provide:
  - ✓ Time based variation
  - ✓ Fair opportunity for financial benefit
  - ✓ Repeatable behavioural signal
  - ✓ Support for a system cost reduction
- Plans for consumption and injection may be separate
- Additional incentives or payments can be included
- Retail Market Monitoring notices along with data from the switching and comparison platform will be used to identify and monitor the time-varying price plans generally available

Four key requirements of compliant time-varying plans

7.1. The Code defines a time-varying pricing plan as follows:[13]

Definition

Time-varying pricing plan means a pricing plan for which the rates charged for electricity supplied to the customer vary in respect of consumption or injection depending on when that consumption or injection occurs and, in respect of a pricing plan offered by a retailer, in a manner that provides a financial benefit to each customer for consumption and injection patterns that reduce pressure on system costs

7.2. This definition is deliberately broad. It is not intended to constrain the number of pricing periods, the level of prices, or how those prices are structured. Rather, it is designed to allow for a wide variety of pricing plans that can serve different consumer segments and encourage a diversity of behavioural responses. Diversity in plan design is valuable, as it supports innovation and mitigates the risk of creating secondary peaks. Retailers are encouraged to tailor plans to the characteristics of their customer base, provided they align with the core features set out in the definition.

Key requirements of time-varying pricing plans

7.3. While flexible, the definition does convey four key requirements that all qualifying plans must meet:

(a) **Time-based variation:** Plans must include more than one rate, and those rates must vary based on the time of electricity use or injection. This time variation must be an intentional and ongoing feature of the pricing structure and not a one-off or occasional adjustment

(b) **Real opportunity for consumer benefit:** Plans must provide each consumer with a genuine and fair chance to save money by shifting usage to lower-costs periods. It

[13] Clause 1.1 of the Code

should also work for customers whose existing patterns already align with lower-costs times. Pricing signals must not undermine consumer well-being through punitive seasonal spikes or unpredictable wholesale pass-through

(c) **Repeatable behavioural signal:** Plans must encourage consistent, repeated and predictable behaviour, such as daily or weekly load shifting or distributed generation at certain times, rather than seasonal or one-off responses. The intent is to support ongoing “patterns” of efficient use, not isolated load reductions, in particular during cold months

(d) **Signals for efficient system use:** Rates should be reasonably expected to help reduce system cost pressures, such as by encouraging consumption outside of peak times or injection during peak times, and by avoiding increasing costs through the creation of new peaks.

7.4. If asked, retailers should be able to explain how their plan design is expected to achieve this. This could be through alignment with known peak periods, use of rate differentials, or reference to relevant consumer behaviour patterns.

Separate plans for consumption and injection are permitted

7.5. Retailers are required to make available time-varying pricing for both consumption and injection. Retailers may meet the requirement by offering:

(a) two separate plans—one with time-varying prices for consumption and one for injection; or

(b) a single plan that provides time-varying pricing for both, under which consumers must accept time-varying pricing for both consumption and injection together.

7.6. What matters is that all residential and small business consumer customers have access to at least one time-varying option for each of consumption and injection.

Additional incentives allowed

7.7. Plans may include other incentives or mechanisms alongside time-varying pricing. For example, a plan may include load control features or offer additional payments for load reduction during one-off critical events.

7.8. However, to comply with the Code, the plan must still include time-varying prices and meet the key requirements described above. On their own, load control or one-off, seasonal or occasional incentives to reduce load are not sufficient to meet the obligations in the Code.

Examples of acceptable and unacceptable plans

7.9. Table 2 provides examples of different types of pricing plans, along with an indication of whether we would expect them to meet the definition of a time-varying pricing plan under the Code.

7.10. This list is not exhaustive, and we recognise that new and innovative plan designs may emerge. Retailers are encouraged to engage with the Authority if they are uncertain about whether a proposed plan is likely to comply.

Table 2: Examples[14] of pricing plans and assessment against requirements

Examples	In or out	Description of plans	Time-based variation	Opportunity for financial benefit	Repeatable behavioural signal	Signals for efficient system use
TOU	✓	Different rates for peak, off-peak, and/or shoulder times	✓	✓	✓	✓
Hour of power	✓	Encourages shifting within a specific low price window (eg an hour)	✓	✓	✓	✓
Free / Off-peak nights	✓	Zero or low rates at night times	✓	✓	✓	✓
Free/off-peak weekends	✓	Weekend discounts	✓	✓	✓	✓
Spot price plans	✓	Pass-through wholesale spot prices	✓	✓	✓	✓
Load control only – incl HW plans	✗	Lower prices in exchange for 3rd party load-control	✗	✓	✗	✓
"Power shouts" / reward schemes	✗	Occassional or one-offs where power use is free or discounted	✗	✓	✗	✗
Critical peak rebates	✗	Irregular discounts for reduced load during emergency events	✗	✓	✗	✓

Retail Market Monitoring notices will help identify plans

7.11. Under the Retail Market Monitoring information notice, retailers are required to indicate plans that are time-of-use plans based on "Whether the rate a customer pays only applies based on time of use (either time of day or type of day (weekday/weekend))".[15] Retailers must also disclose the following price details:[16]

(a) the time(s) of day that rates apply

(b) whether the rates apply during the weekend

(c) whether the rates apply on weekdays

(d) whether the rates apply to consumption or injection.

7.12. We expect that the large majority of time-varying pricing plans meeting the Code definition will also appear as time-of-use plans in the Retail Market Monitoring data. This will be a key

[14] This table provides indicative guidance. Retailers are encouraged to engage with the Authority if unsure whether a plan qualifies.
[15] Table reference T4.10 of Appendix A of the Final notice
[16] Table references T4.11, T4.12, T4.13, T4.15 respectively of Appendix A of the Final notice

input for our monitoring and compliance activities. However, there may be exceptions which we will consider on a case-by-case basis as required.

7.13. We will also use data from the switching and comparison platform to better understand the range of plans being offered and to support our compliance and monitoring efforts.

8. Consumer eligibility and plan availability

Summary of consumer eligibility and plan availability

- Plans must be available to all residential and small-business consumer customers with smart meters by 1 July 2026
- Retailers do not need to offer time-varying plans where the consumer's metering cannot reliably support them
- Small business consumer is defined under the Act. Retailers should use reasonable judgement for those near the 40 MWh/year threshold
- Not all eligible consumers need access to the same plan, but all eligible consumers must be able to access at least one
- Plans must be clearly published on retailer websites and submitted to the Authority's comparison and switching platform where supported by that platform
- A retailer is likely to be meeting the Code if it presents its time-varying pricing plans in the same place and in the same manner as its other pricing plans

Retailer obligations to offer plans

8.1. Category A retailers that have 5% or more market share must make at least one time-varying pricing plan available to all residential and small business consumer customers with smart meters, across all network regions where the retailer operates.[17]

8.2. The time-varying pricing plan does not need to be the same across all customers, and pricing may vary for customers in different networks and for low/high users as with other pricing plan options. Retailers may offer different plans targeted to particular groups, provided that every eligible residential and small business consumer customer can access at least one time-varying pricing plan (if it covers both consumption and injection).

8.3. A retailer cannot meet its obligations through another legal entity. Where a retailer operates multiple brands under a single legal entity, it may make the required plans available through just one of those brands, but will need to ensure that the plan is genuinely available to all of its customers under any alternative brand.

8.4. For monitoring purposes, we will initially rely on the "currently available" tag within the Retail Market Monitoring data to identify plans.[18] Where a retailer offers multiple targeted plans with eligibility restrictions—such that no single plan is marked as "currently available"—we encourage the retailer to proactively engage with the Authority to notify this, rather than waiting for us to seek clarification.

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[17] Clause 11A.2 of the Code
[18] Table reference T2.9 of Appendix A of the Final notice

Small business consumer defined under the Act

8.5. Under the Electricity Industry Act 2010, a small business is defined as a non-domestic consumer whose annual electricity consumption is less than 40 MWh (as no regulation has been made to specify otherwise).[19]

Definition

Small business consumer means a consumer that is not a domestic consumer and:

- that is in a class specified in regulations made under section 113A; or
- if no such regulations have been made, that consumes less than 40 MWh of electricity per year

Applying the consumption threshold

8.6. We recognise that consumption cannot be predicted; retailers should apply the 40 MWh threshold using reasonable judgement based on available information, such as historic usage, usage patterns or trends, or similar information provided by the customer. Retailers are not expected to conduct detailed forecasting but should apply a consistent, good-faith approach.

8.7. Borderline cases should be handled pragmatically, erring on the side of offering a plan where feasible.

Retailers are only required to offer time-varying pricing to consumers with smart meters

8.8. The Code defines a smart meter as follows:[20]

Definition

Smart meter means a meter that is able to communicate information about the consumption and injection of electricity during peak versus off-peak times during a day

8.9. It is intended that the obligation applies only where the consumer has a meter that is part of a certified metering installation and is capable of recording and remotely communicating the information necessary to support a time-varying pricing plan. Retailers are not expected to offer a time-varying pricing plan where the consumer's metering does not support it, or cannot reliably support it.

8.10. Retailers should assess smart meter capability based on whether the meter is operationally able to provide granular consumption and injection (if relevant) data at a level suitable to support time-varying billing. We would anticipate that any meters in the registry tagged as half-hour capable and with AMI communication should be able to access the plans.

8.11. Retailers are encouraged to work with metering providers to resolve technical constraints and access issues.

[19] Clause 5, Electricity Industry Act 2010
[20] Clause 1.1 of the Code

Plans must be available on websites and the comparison and switching platform where supported

8.12. Time-varying pricing plans should be made publicly available on retailers' websites. Ideally, these should be listed alongside other available plans in a prominent and easily accessible location on the website.[21] If the retailer offers multiple plans or variations of a plan such that some information is customer-specific, the retailer may publish information at a more general level that is meaningful and relevant to prospective customers, rather than publishing individualised prices or information that is likely to mislead or confuse.

8.13. Where a retailer operates multiple brands under a single legal entity and chooses to meet its offer obligations for all its customers via one of those brands, the retailer must also meet the publication requirements in respect of its customers across all brands. A plan will not be considered available to a customer if it is published only on the website of another retail brand with which that customer would not reasonably consider themselves to have a relationship.

8.14. Where the platform supports the plan, retailers must also submit the relevant pricing plan data for publication on the Authority's consumer comparison and switching platform. We encourage retailers to submit the information to the platform even where not supported to inform the platform's development, but this is not required. We also support retailers publishing these plans through other switching or comparison services, but doing so does not count toward compliance with the requirements.

8.15. More broadly, retailers will generally meet the intent of the Code if its time-varying pricing plans are presented in the same places and in the same manner as its other pricing plans and are easily accessible to consumers.

Good Practice

To meet the expectations of accessibility and consumer understanding, retailers should:

- Place price plan information in a standalone section of their website accessible from the main navigation menu
- Use plain English, bold headings, bullet points and short paragraphs to improve readability
- Ensure the information is mobile friendly
- Train customer-facing staff to explain to customers whether a time-varying pricing plan is right for them
- Provide tools and calculators to help customers estimate their potential savings
- Make contact information clearly visible and easy to find

Interactions between Category A retailers and the Consumer Care Obligations

8.16. Retailers must also meet their obligations under the Consumer Care Obligations, including helping customers:

[21] Clause 11A.2 of the Code

(a) Choose the most suitable plan at sign-up, upon request, or when facing payment difficulty.[22] This includes assisting the customer to understand any conditions as well as the benefits and drawbacks of any particular options including any fees the person may incur.

(b) Developing and publishing a consumer care policy in which they explain in clear and accessible language, how the retailer can assist customers to understand the most suitable pricing plan for their circumstances, amongst others key principles of consumer care.[23]

Clarification: Small business plans: availability, bespoke agreements and website promotion

Policy intent

8.17. Under the Code, retailers must make at least one compliant time-varying pricing plan available to small business consumers with smart meters. This requirement ensures that small businesses have access to pricing options that reflect the potential benefits of shifting electricity use in response to time-based price signals.

8.18. The Authority recognises that many small businesses are best served through bespoke or negotiated supply agreements that account for their unique operating characteristics, including load profiles, trading hours, demand flexibility, or embedded distributed generation. The intent of the time-varying pricing requirement is not to displace or discourage bespoke arrangements, but to ensure that small businesses have genuine choice among suitable plan options.

8.19. Retailers therefore have flexibility in how they present and promote time-varying options for small businesses. It is acceptable to:

- List time-varying plans alongside other generally available small-business tariffs; and
- Include clear messaging that bespoke or customised plans are available, inviting small-business customers to discuss tailored pricing options directly with the retailer.

[22] Schedule 11A.1, Clause 8, 17 and 23 of the Code respectively
[23] Schedule 11A.1, Clause 3 of the Code

Good Practice

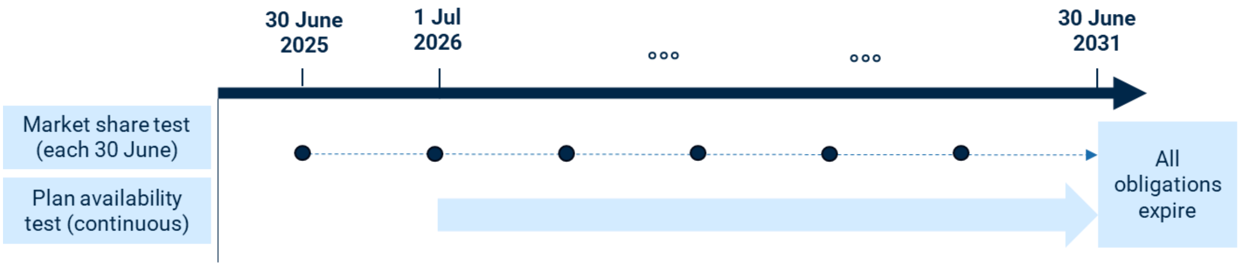
To meet the expectations of serving small businesses in a way that best meets their needs, retailers should:

- Clear website pathways: Provide a dedicated “Small Business Pricing” page that:
    - displays all generally available small-business plans, including time-varying options (with indicative peak/off-peak periods, eligibility, and price differentials); and
    - includes a prominent call-to-action such as “Talk to us about a personalised plan” with a direct link, webform, or contact number.
- Neutral framing: Use neutral and inclusive language; for example, “You can choose a time-varying plan or discuss a personalised agreement with our team.” This avoids implying that any single plan type is the only or preferred option.
- Suitability prompts: Provide 3–5 simple questions (“Do you operate outside peak hours?”, “Can you shift your use?”, “Do you have solar or battery?”). If “yes” to any, suggest time-varying suitability; if “no” or “it’s complex”, surface the bespoke pathway.
- Low-risk trials: Provide time-varying plan trials with an agreed review point and an easy reversion path, or offer a “shadow bill” comparison using past consumption data so businesses can understand potential cost impacts before committing.
- Operational enablement: For businesses with flexible load, offer practical information or tools to support load-shifting (e.g., EV charging windows, batch process scheduling) and consider optional alerts that prompt off-peak use.

9. Timing and ongoing compliance for Category A retailers

9.1. Figure 1 summarises when obligations take effect for Category A retailers.

Figure 1: Timeline for Category A retailers



Start and end of obligations

9.2. Retailers not automatically classified as Category A on the basis of market share as at 30 June 2025 must meet the plan availability criteria by 30 June 2026 to be Category A, or after 30 June by meeting the availability criteria for a continuous period of 12 months.

9.3. Retailers that do not meet these tests by 30 June 2026 will be classified as Category B and are subject to additional obligations.[24]

[24] Clause 11A.2 of the Code

9.4. These additional obligations remain in place until the relevant Code provisions expire on 30 June 2031 or the retailer is classified as Category A.[25]

Offers must be maintained continuously to maintain Category A status

9.5. To retain their Category A status, retailers must continuously meet the eligibility requirements. Specifically, time-varying pricing plans must remain available, meet the Code definition and up-to-date plans must be published and accessible through the channels discussed above.

9.6. Retailers may update, change or adjust their offerings as per their usual processes, provided that their compliant time-varying plans remain available.

9.7. The Authority may consider that the continuous availability requirement has not been met if the Authority becomes aware that any or all of the following occur:

(a) Time-varying pricing plans have been unavailable for a sustained period beyond routine or minor technical disruptions (discussed in paragraph 9.9)

(b) Consumers are materially unable to access, view or obtain information about the plans through the retailer's usual channels

(c) Compliant time-varying plans have been withdrawn without timely and equivalent replacement being made available.

9.8. In such cases, retailers risk losing their Category A status.

Temporary disruptions

9.9. Temporary technical disruptions (such as website outages, or short-term system maintenance) will not, on their own, affect compliance, provided the plans are reinstated promptly and there is no material or sustained impact on consumer access.

9.10. Retailers are not expected to notify the Authority of routine technical issues, but should inform us if a disruption may result in extended unavailability or significantly affect how consumers access time-varying plans.

How the Authority will assess compliance

9.11. The Authority will monitor ongoing compliance using a proportionate and risk-based approach, using a range of inputs, including:

(a) Retail Market Monitoring data, including the "currently available" and time-of-use plan classifications

(b) Spot checks of publicly available pricing information on retailers' websites.

(c) Data from the Authority's consumer comparison and switching platform (once operational)

(d) Credible reports or concerns raised from third parties who believe a retailer is not meeting the criteria

(e) Self-reported breaches from a participant.

9.12. We do not intend to routinely engage with retailers regarding their Category A status. However, we may follow-up directly with retailers where issues are identified through our

[25] Clause 11A.15 of the Code

monitoring activities or if clarification is required. We may also investigate any complaints about potential breaches of the Code under our usual compliance processes.

9.13. The purpose of our monitoring is not to create a heavy reporting burden or compliance overhead, but to support confidence that the Code’s objectives are being met. Our focus will be on high-level indicators, and not on prescriptive validation of individual retailer actions.

Retailer responsibilities

9.14. It is the responsibility of each retailer to ensure it remains compliant with the Category A eligibility criteria, including maintaining the availability and accessibility of a qualifying time-varying pricing plan. Retailers should have appropriate internal processes to monitor and manage their compliance with these obligations.

Category B retailers – additional obligations

10. Overview: three additional obligations apply to Category B retailers

10.1. Retailers that do not meet the criteria to be Category A are automatically classified as Category B, and must comply with additional obligations under the Code, which are explained below.

10.2. If a retailer meets the Category A criteria for consumption but not for injection, it is only subject to Category B obligations in relation to injection.

10.3. Similarly, if the criteria are met for injection but not for consumption, the Category B obligations apply only in relation to consumption.[26]

Additional obligations of Category B retailers

10.4. Table 3 summarises the additional obligations on Category B retailers.

Table 3: Summary of additional obligations on Category B retailers

Obligation	Frequency	Content
Make plans available	Ongoing	Same plan availability and publications requirements as Category A retailers (see sections 7-869)
Promote	Annual	Include advice in annual CCO customer check-in (see section 1212)
Report	Quarterly	Submit qualitative report per plan (see section 1313)

11. Obligations to make time-varying pricing plans available

11.1. Category B retailers must make at least one time-varying pricing plan available to the same groups of customers as required by Category A retailers—namely, all eligible residential and small business consumer customers with suitable metering, in all network regions in which the retailer operates.[27]

11.2. The plan (or plans) must meet the same design requirements as those expected of Category A retailers. This includes providing time-varying pricing for consumption, injection, or both (as applicable), in a way that aligns with the definition and intent of a time-varying pricing plan set out in the Code.

11.3. The plan must also be made available and promoted in the same manner as required for Category A retailers.[28]

11.4. Category B retailers must ensure they meet these requirements on and after 1 October 2026.[29]

11.5. The guidance in sections 7-8 of this document (regarding Category A plan design and availability) applies equally to Category B retailers.

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[26] Clause 11A.12(2) of the Code
[27] Clause 11A.12(1) of the Code
[28] Clause 11A.13(a) of the Code
[29] Clause 11A.12(3) of the Code

12. Obligation to advise customers of the new plans annually

Promoting an effective annual check engagement

12.1. Category B retailers must advise customers of the availability of their time-varying pricing plans as part of the annual customer communication required under the Consumer Care Obligations.[30,31]

12.2. If a retailer operates multiple brands under a single legal entity and has chosen to meet its offer obligations for all customers via one of those brands, the availability of the plans must be advised to customers across all brands under the annual customer communication.

12.3. Retailers are encouraged to use multiple communication channels in providing the annual notification, consistent with the preferred communication channel they hold for each customer.[32]

12.4. The advice should include a clear statement informing customers that time-varying pricing plans are available. The Code does not prescribe specific language.

12.5. Retailers should encourage customers to seek out and refer them to further relevant information, and make communications engaging, accessible and tailored to relevant customer segments.

12.6. Customers do not need to be notified of plans that are not relevant to them. For example, customers without injection capability do not need to be notified about injection-related time-varying pricing plans.

Good practice for annual plan advice

- Keep the message is clear, concise, and customer friendly
- Include simple and quick ways to direct customers to more information
- Communicate using multiple channels based on customer contact preferences

Supporting informed and targeted uptake

12.7. Advising of time varying plans as part of the required annual check-in serves as a trigger for customers to engage with their retailer.[33] When a customer is enquiring, retailers must use reasonable endeavours to help them understand the most suitable product option for their needs.

12.8. We expect that retailers proactively identify suitable customers and help them to understand that a time-varying pricing plan may be the most suitable option for them.

12.9. The types of customers that may be more likely to benefit from time-varying pricing are those that:

(a) have usage patterns that tend to align with lower-cost periods

(b) could realistically implement any required behavioural changes and would not be unduly burdened by them

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[30] Clause 11A.13(b) of the Code
[31] Schedule 11A.1, Clause 16 of the Code
[32] Schedule 11A.1, Clause 13 of the Code
[33] Schedule 11A.1, Clause 17(1) of the Code

(c) do not rely on medical equipment or other essential appliances at peak times

(d) have control over electricity usage within their household and can ensure any necessary price-responsiveness under the plan (i.e., within a shared dwelling).

12.10. Retailers should provide clear information and supporting tools to help customers assess time-varying-pricing plan suitability and minimise the risk of adverse outcomes. This includes:

(a) Referring customers to the Authority's switching and comparison platform (when available).

(b) Providing access to calculators or savings estimators.

12.11. Preventing poor customer experiences under time-varying pricing plans is crucial. Negative experiences can lead to disengagement and may undermine their willingness to consider other time-varying pricing options in the future.

Good practice for supporting informed uptake

- Use customer historical data to pre-identify and engage with suitable customers
- Provide user-friendly and interactive online tools to support informed decision making
- Tailor promotions to customer groups likely to benefit from the plans
- Train customer service teams with clear scripts and prompts to help guide suitability and consumer understanding before switching
- Offer low-risk trial periods with easy opt-outs
- Set clear expectations around savings and drawbacks
- Collaborate with budgeting services and consumer support agencies to help identify and support suitable customers
- Promote plans during relevant customer life events such as moving house, when usage patterns shift, as customers may be more receptive to change

13. Quarterly reports required for Category B retailers

Summary of reporting requirements

- Category B retailers must provide quarterly reports on each relevant plan, on the first day of each calendar quarter[34]
- There is no prescribed format but we will provide and encourage use of a template or online submission form
- The reports won't be published but may be subject to the Official Information Act 1982[35]
- The reports support monitoring and evaluation, rather than compliance
- Reports should focus on qualitative information, and support rather than replicate data in the Retail Market Monitoring notices
- The Code specifies 8 points that must be covered in the reports[36]

13.1. Category B retailers must submit quarterly reports to the Authority, due on: 1 January, 1 April, 1 July, and 1 October each year.[37]

13.2. Failure to submit a report may be a breach of the Code and subject to the Authority's compliance breach process.

The report content is prescribed but not the format

13.3. The content of these reports is prescribed in the Code, and guidance to fill them in is provided in Table 4 at the end of this section.

13.4. The format on how the information must be submitted is not currently prescribed.[38] Retailers may choose their own. However, we will provide an optional template or online submission form, which we will encourage for consistency and ease of submission.

13.5. Where multiple time-varying price plans are offered, the retailer will need to submit the required report information separately for each plan. This will help to ensure the Authority can clearly assess each plan's design, target audience, and performance. The template or online reporting form will be structured to support multiple submissions. Ensure each plan is clearly named and described to avoid confusion.

Privacy and publication

13.6. We do not intend to publish the information provided in these reports, except potentially in an aggregated and anonymised way as part of our monitoring.[39] However, the reports may be subject to requests under the Official Information Act 1982 (OIA). While the Authority is committed to protecting commercially sensitive or confidential information, we are required to consider each request under the OIA on its merits, including any applicable grounds for withholding.

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[34] Clause 11A.14(1) of the Code
[35] Clause 11A.14(3) of the Code
[36] Clause 11A.14(1) of the Code
[37] Clause 11A.14(1) of the Code
[38] Though the Authority may choose to prescribe a form at another time, as per Clause 11A.14(2) of the Code
[39] Clause 11A.14(3) and (4) of the Code

13.7. If we receive an OIA request relating to information a retailer has provided under this requirement, we will engage with the retailer before making any disclosure decision, consistent with our standard practice. Except as permitted or required by law, the Authority will not otherwise disclose the information provided.

Purpose and expectations of the quarterly reports

13.8. The purpose of the quarterly reports is not to assess compliance directly. Retailers are responsible for ensuring they meet their obligations under the Code, rather than using the reports to prove compliance.

13.9. The information provided will help the Authority monitor how retailers are meeting their obligations, assess the design and uptake of time-varying price plans, and identify any areas where follow-up engagement may be needed. The reports will also assist with contextualising other data sources and inform evaluation or review of the effectiveness of the Code requirements.

13.10. The Authority is primarily seeking qualitative insights, not large volumes of raw data. For example:

(a) Retailers should describe how plan pricing varies for different customer types, rather than submitting every customer's pricing

(b) Meaningful statistics or analytics that informed plan design are encouraged.

13.11. We will be receiving a substantial amount of related data through the Retail Market Monitoring notices, including customer-level price data and plan characteristics. The intent of the quarterly reports is not to duplicate that information, but to provide context and allow us to cross-check the Retail Market Monitoring data at a very high level. The qualitative insights provided through these reports will help ensure we interpret the Retail Market Monitoring data accurately and focus our monitoring efforts effectively.

13.12. Where appropriate, retailers should provide hyperlinks to existing plan descriptions or online tools on their websites rather than duplicating content.

13.13. Retailers need to provide the required information in each quarterly report. However, if the content remains the same as the previous submission, they may re-use or refer to the previous report and confirm that the content remains current.

Good practice for quarterly reporting:

- Provide clear qualitative summaries of plan purpose, uptake and outcomes
- Provide meaningful statistics and insights where appropriate
- Use links to online material (eg, plan pages, calculators) where relevant
- Avoid excessive data attachments or spreadsheets
- Re-use prior report content where unchanged, noting this clearly

Table 4: Reporting requirements and expectations for Category B retailers

Code ref	Required report content	Expected information	Examples
11A.14 (1)(a)	The name of the plan	Provide the full, public name of the time-varying price plan as listed on your website and in Retail Market Monitoring data.	E.g., "Weekend Flexi-Plan", "Night Saver Plan" etc

11A.14 (1)(b)	Plan structure and prices how these were set, and alignment with cost of supply	Describe:
		• Price periods/ timing (eg, peak/off-peak, weekday/weekend)
		• The applicable rates (including daily charges/rebates)
		• For consumption plans, injection pricing, if applicable.
		Where this information varies per customer, provide one/two examples using average customers, rather than for every customer.
		Explain how prices were set — for example:
		• whether they reflect network or wholesale costs
		• whether they have been set proportional to daily demand patterns or other factors
		• whether benchmarked to other plans (own or competitors')
		• whether they were designed to incentivise demand-shift and/or injection.
		Comment on the extent to which distributor's injection pricing is/or not, reflected in the prices.
		Comment on how the pricing structure reflects system costs and promotes efficiency (eg, reducing peak demand).
		Retailers are not expected to model system costs. Explain how their pricing plans reward behaviours that, reduce the need for
			Description of plan structure:
			• Three pricing periods:
			  ○ Peak: 5pm–9pm weekdays
			  ○ Shoulder: 7am–5pm weekdays
			  ○ Off-peak: 9pm–7am weekdays and all weekend.
			• Applicable rates (for a typical residential customer with average usage):
			  ○ Peak: 42 c/kWh
			  ○ Shoulder: 32 c/kWh
			  ○ Off-peak: 19 c/kWh
			  ○ Daily charge: $1.20/day
			  ○ Injection: 16 c/kWh off-peak, 11 c/kWh peak.
			• Rebate of $20/year for customers maintaining off-peak majority usage (tracked quarterly).
			How prices were set:
			• Peak periods were aligned with distributor-defined congestion windows and average wholesale pricing trends. Prices were calibrated to reflect marginal cost differences, while remaining simple and actionable for consumers
			• Consumption prices reflect pass-through of wholesale and network costs, particularly the distributor's peak demand charge structure and TOU pricing bands
			• Rates were proportioned to match average regional spot price patterns and distributor charges across the year
			• Prices were also benchmarked against the retailer's flat-rate plan and an indexed TOU competitor offer
			• Peak rates are deliberately set to strongly disincentivise evening usage, especially heating and EV charging.
			How this supports system efficiency**:**

Code ref	Required report content	Expected information	Examples
		investment or costly dispatch. Plans that reward consumption/injection patterns misaligned with these principles (eg, flat or inverted pricing signals, or price signals that ignore periods of constraint) will not meet the Code's intent.	• The plan encourages customers to shift EV charging, water heating, and discretionary appliance use away from the 5–9pm weekday peak, aligning with regional network constraints and high wholesale pricing. • Injection pricing mirrors the distributor's export pricing, and provides better returns for solar generation outside of peak periods, when grid pressure is lower. • The overall structure aims to reduce coincident peak demand while incentivising off-peak consumption, which reduces stress on generation and distribution assets.
11A.14 (1)(e)	If relevant, how the plan varies for different customers:	Outline how plan pricing and structure varies to reflect: • different networks • low-users versus standard-users • controlled load • other incentives or charges that may apply to different customers on the plans • different consumers or consumer groups.	The plan is tailored in several ways: • Network region variation: Prices are set to recover the distribution pricing and pricing structures of each network. These are applied to the daily charge and peak rate, scaled to reflect a consistent percentage of the average price. In regions with flat network pricing, the TOU structure remains but with narrower price differentials. • Low-use vs standard-use customers: Daily fixed charges differ depending on user type, e.g., $0.30/day for low users vs $1.20/day for standard users. Unit rates are adjusted accordingly to meet regulatory thresholds while retaining TOU differentials. • Controlled load customers: Customers with a separate controlled load register (e.g., for hot water) receive an additional off-peak rate of 12 c/kWh for that load, which is reflected in their plan structure. • Other variations/incentives: Customers who register an EV receive a one-off $50 credit and qualify for enhanced off-peak pricing for charging (17 c/kWh vs 19 c/kWh). Solar customers are offered optional export boosters (additional 2 c/kWh) for generation between 11am–3pm. • Small business consumer customers: Prices are tailored to each customer's consumption profile and circumstances, reflecting their estimated potential for load shifting. All customers face the same peak and off-peak windows with peak/off-peak price differentials varying between 120% and 180%.
11A.14 (1)(c)	The number of customers on the plan:	Provide the number of customers signed-up to the plan as at the most recent Retail Market Monitoring reporting date practicable.	456 customers nationwide as at 31 August 2026.
11A.14 (1)(f)	Changes since previous quarter including timing	Summarise any material changes to the plan (e.g., revised price periods, added	Effective date of change: 15 July 2026

Code ref	Required report content	Expected information	Examples

	and rationale for those changes:	eligibility criteria, plan removed from market), including:
		• When the changes took effect
		• Why the changes were made (e.g., low uptake, customer feedback, updated cost inputs)
		• Whether the changes applied to all customers on the plan, or only a subset of customers
		• Whether the changes were applied to existing customers on the plan, or only new customers.
			• Summary of changes: Off-peak period on weekdays was extended by 1 hour in the morning (now 11am instead of 10am)
			• Rationale: The extension of off-peak periods was in response to feedback from customers with mid-morning EV charging or appliance use habits.
			• Customer impact:
			  ○ Changes were applied to all new and existing customers on the plan in affected regions.
			  ○ Customers were notified via email and in-app messaging at least 10 days before changes took effect.

11A.14 (1)(d)	How the plan provides a financial benefit to each customer for consumption and injection and how it reduces pressure on system costs	Explain how the plan:
		• Provides each customer with a fair opportunity to benefit from lower-cost use – whether through active response or naturally lower-cost usage patterns
		• Encourages regular, repeated and predictable behaviour—such as consistent load shifting or distributed generation at certain times
		• Encourages behaviours that are less likely to contribute to additional system costs—including peak demand and secondary peaks.
		High-level only and no detailed modelling required showing how the plan aims to encourage behaviours that support system efficiency.
		The retailer may choose to demonstrate the impact based on an average or model customer, including observed impacts if that
			• The plan provides a clear financial incentive for customers to reduce demand during peak periods and/or shift consumption to lower-cost off-peak times. The structure includes:
			  ○ Higher rates (36c/kWh) during weekday peaks (5–9pm)
			  ○ Moderate rates (28c/kWh) during shoulder periods (7–11am, 3–5pm)
			  ○ Low rates (18c/kWh) overnight and midday (11am–3pm, 9pm–7am), when network and wholesale costs are typically lower and capacity is underutilised.
			• We estimate our active customers will shift approximately 1.5–2.5 kWh/day from peak to off-peak periods by deferring dishwashing, EV charging, or water heating. We expect this results in annual bill savings of $120–$200, depending on total usage. These savings are based on a comparison with a flat-rate plan priced at 27.5c/kWh.
			• Passive customers, whose load is already concentrated outside of peak periods can also expect modest savings of $30–$70 per year, without needing to adjust behaviour.
			• For injection, customers receive a 15c/kWh credit for exported electricity during peak times (4–8pm), compared to 8c/kWh at other times. This structure encourages solar customers with battery systems to reserve and export during peak periods, supporting grid reliability and reducing peak-related system costs.
			• Based on a sample of 230 customers that have taken up the plan, we observe an average 7% reduction in peak load, with no indication of significant secondary peaks emerging.

Code ref	Required report content	Expected information	Examples
		is practical — examples should be illustrative and anonymised.	• This plan aims to promote repeated, predictable behaviours that reduce stress on both wholesale and network systems. While individual savings vary, all customers receive a fair opportunity to benefit either by shifting usage, exporting at higher-value times, or through pre-existing low-cost profiles.
11A.14 (1)(g)	The target customer profile:	Describe the types of customers the plan is designed to suit and quantify key assumptions, including: • Their estimated consumption or injection levels (e.g., higher overnight usage, low peak demand, regular solar export, flexible appliance use) • The asset types (e.g., electric vehicles, solar PV, home batteries, smart hot water or heating systems). Describe key assumptions/ decisions/ behaviours customers are likely to make (e.g., shifting usage outside of peak hours, responding to price signals, investing in controllable devices).	This plan is designed for residential customers who are either naturally low users during peak periods or have the flexibility to shift a portion of their demand. Key characteristics of the target customer include: • Daily electricity usage of 16–25 kWh, with a peak period share (5pm–9pm) of less than 30% of total daily consumption • Ability to shift at least 2–4 kWh per day from peak to off-peak periods, either manually or through automated controls • Winter peak usage no more than 50% higher than in summer months, reducing the risk of high peak demand charges during seasonal load spikes. The plan is especially suited to customers who: • Have electric vehicles and typically charge them overnight (between 9pm and 7am), accounting for 3–6 kWh/day of flexible load • Own solar PV systems, particularly where daytime export exceeds 4 kWh/day, or have batteries that allow for strategic discharge during peak times • Use smart or timer-controlled appliances (e.g., hot water, dishwashers, heat pumps) that can be scheduled to operate outside of peak hours • Are home during the day or late evening and can avoid concentrated evening usage • The plan provides consistent savings for customers who can reduce peak period demand to below 20% of their total daily usage, or who can regularly shift at least 20% of their demand outside of peak times. The plan is less suitable for: • Households with limited load flexibility, where more than 40% of daily usage occurs during the 5–9pm peak, particularly if peak usage is difficult to shift (e.g., large households with multiple evening routines) • Households whose winter consumption is more than double their summer usage, indicating heavy seasonal heating load that may coincide with peak periods • These thresholds reflect the structure of the plan, which offers off-peak prices 50% lower than peak rates and includes a moderate daily fixed charge. The pricing design

Code ref	Required report content	Expected information	Examples
			aims to reward predictable, sustained load shifting or naturally efficient consumption patterns.

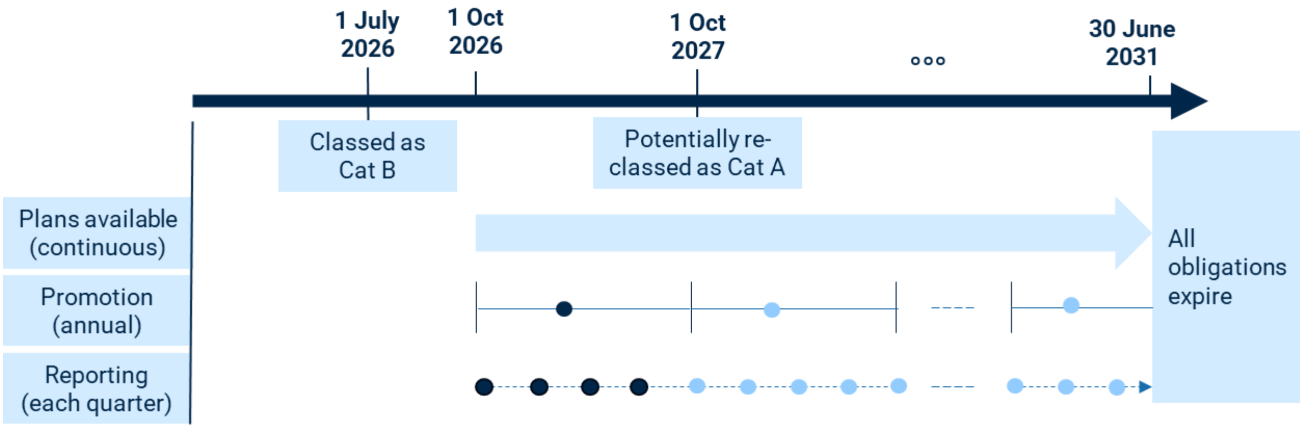
11A.14 (1)(h)	Uptake targets, actual uptake and promotional efforts.	Provide:
		• Target uptake (ie, for commercial recovery etc) - e.g., number or percentage of customers
		• Actual uptake
		• Possible reasons for variance between target and actual uptake (e.g., customer preferences, awareness, complexity of plan)
		• Activities completed, underway or planned to support uptake and how activities align with the target audience.
			Target uptake:
			• We set an uptake target of 15% of eligible customers (approx. 6,000 customers) on the plan by the end of the first 12 months, based on projected commercial viability and alignment with our broader demand management strategy. This target was based on an assumed conversion rate of 1 in 5 customers who received direct communication and had usage patterns consistent with the plan's benefits.
			Actual uptake:
			• As at the end of the quarter, 3,850 customers (9.6%) are enrolled on the plan. Uptake is moderately below expectations, but showing steady growth of around 250 new customers per month.
			• Lower uptake appears to be due to:
			  ○ Limited initial awareness of the new plan, especially outside of urban areas
			  ○ Some customer confusion around time-varying pricing, as indicated by contact centre queries and online engagement metrics
			  ○ Lower-than-expected interest among solar PV owners, despite the injection pricing incentive.
			Activities undertaken to date include:
			• Including the plan in all outbound communications for high-potential customers (e.g., with <30% peak load, identified through usage analytics)
			• Updated our website and switching platform listings with clear comparative savings scenarios
			• Conducted A/B testing of plan messaging in email campaigns to improve clarity.
			Planned next steps include:
			• Rolling out tailored usage reports to targeted customers, showing potential savings under the time-varying plan vs. their current plan
			• Introducing a limited-time incentive (e.g., $50 credit) for customers who enrol and remain on the plan for at least 3 months
			• Expanding training for frontline staff to better explain the plan and address common concerns

Code ref	Required report content	Expected information	Examples
			These activities are aligned with our broader Consumer Care approach and are designed to help the right customers recognise and access the potential benefit of the plan.

14. Timing and ongoing compliance for Category B retailers

14.1. Figure 2 shows key dates and requirements for Category B retailers.

Figure 2: Timeline for Category B retailers



Start of obligations

14.2. Retailers that do not meet the Category A criteria by 30 June 2026 will be Category B from 1 July 2026.[40] Category B retailers are required to meet the additional obligations set out in this section, including making time-varying price plans available to consumers and reporting on those plans. The Authority will monitor retailer offers and will follow up with any retailers who appear to meet Category B criteria if they do not seem to be meeting their associated obligations, to ensure compliance.

14.3. These additional obligations take effect from 1 October 2026.[41] This is the deadline by which Category B retailers must have at least one compliant time-varying price plan available. The first quarterly report is also due on 1 October 2026.[42] We recognise that these plans will be newly launched at that point, but the first report serves to provide a “day zero” snapshot of the plan or plans and their intended design and targeting.

Category A after 12 months of compliance

14.4. The Category B obligations apply for a period of 12 months from the date the retailer first offers a compliant plan. This may be earlier than 1 October 2026 if the retailer introduces plans ahead of the deadline. To avoid confusion, retailers may wish to notify the Authority when their plans go live — otherwise, we will presume 1 October 2026 as the effective date for monitoring purposes.

14.5. If, over the 12-month period, the retailer meets its obligations without any material compliance issues noted by the Authority, the retailer will revert to Category A status automatically at the end of that period. The Authority will not issue formal confirmation of the change in classification—retailers can simply presume the shift has occurred. However, to retain Category A status, retailers must continue to make compliant time-varying plans available on an ongoing basis. If those plans are withdrawn or no longer meet the requirements, the retailer will be considered Category B again, triggering renewed obligations and monitoring.

[40] Clause 11A.2 of the Code
[41] Clause 11A.2 of the Code
[42] Clause 11A.14 of the Code

Transitioning between Category A and B and vice versa

15. How retailer categories will be assessed / monitored

Summary of transitions between categories

Using market share test

- From A to B: If a category A retailer's market share rises above the 5% threshold on 30 June and it does not meet the plan availability test, it will be classified as Category B from 1 July and must comply with all Category B obligations
- If a category B retailer's market share falls below the 5% threshold on 30 June, it will revert automatically to Category A from 1 July

Using plan availability test

- From A to B: If a Category A retailer stops meeting the plan availability test, it becomes Category B and must comply with all Category B obligations
- From B to A: A Category B retailer that maintains compliant offers for 12 consecutive months, without material compliance issues, becomes Category A

Monitoring compliance

- We monitor compliance via Retail Market Monitoring data, websites, switching data, and third-party reports
- We do not issue formal notifications of category changes. Retailers are responsible for tracking and meeting their own compliance. However, the Authority may detect and enforce non-compliance

Purpose of category movement

15.1. The Category A and B classifications are intended to be dynamic throughout the duration of the Code provisions. This ensures that:

(a) Time-varying price plans remain available and accessible to eligible consumers over time.

(b) The expectations on retailers are enforceable via the Category B obligations.

15.2. Whether under Category A or Category B, the provisions ensure that all large retailers make time-varying pricing plans available to eligible customers.

Transitions based on market share test

Moving from Category A to Category B

15.3. If a Category A retailer's market share rises to or above 5% at the 30 June annual assessment, and it does not meet the plan availability test, it will be Category B from 1 July.

15.4. The retailer must meet all Category B obligations from that date, including the requirements to have a compliant time-varying plan available. Failure to meet the Category B obligations would constitute a breach of the Code.

Moving from Category B to Category A

15.5. If a Category B retailer's market share drops below the 5% threshold at the 30 June assessment, it will automatically revert to Category A from 1 July.

15.6. The retailer will no longer be subject to Category B obligations, nor would it need to pass the plan availability test to be Category A.

Transitions based on plan availability test

Moving from Category A to Category B

15.7. If a Category A retailer fails to maintain compliant time-varying offers—for example, by withdrawing eligible time-varying plans or no longer making them accessible as discussed in paragraph 9.7—it will become Category B.

15.8. From that point, the retailer must comply with all Category B obligations. Failure to do so would constitute a breach of the Code.

Moving from Category B to Category A

15.9. If a Category B retailer maintains compliant offers for a continuous period of 12 months without material compliance issues, it will become Category A.[43] No formal notification will be issued by the Authority—retailers are expected to track their own compliance and obligations accordingly. Movement between categories is automatic and retailer-led. Retailers are not required to seek approval or submit evidence to the Authority in advance. However, they should maintain internal records to demonstrate how they meet the relevant requirements, in case questions arise or a compliance concern is investigated.

Mixed classification for consumption and injection

15.10. Where a retailer meets the Category A criteria for one service type (consumption or injection) but not the other:

(a) The retailer will only need to meet the Category B requirements for the service type for which it does not meet the Category A criteria

(b) All relevant obligations for each category must be met for the applicable service type.

Monitoring category compliance and record keeping

How the Authority will monitor compliance

15.11. The Authority will monitor retailer classification and compliance using several tools, including:

(a) Retail Market Monitoring data, which provides key insights into the availability and structure of retailers' plans

(b) Spot checks of retailer websites, to verify whether plans are publicly and clearly offered

(c) Data from the comparison and switching service, once operational.

15.12. We may also consider credible information from third parties regarding non-compliance. While we do not intend to monitor compliance in real time or communicate with retailers on a routine basis about their classification, we expect all retailers to take responsibility for understanding and meeting their obligations. A lack of direct communication from the Authority does not imply compliance or reduce a retailer's responsibility under the Code.

[43] Clause 11A.2 of the Code

15.13. Ultimately, the onus is on each retailer to ensure it remains in compliance with the relevant requirements throughout the Code period. The classification system is designed to be self-regulating, with the Authority's monitoring focused on ensuring system-wide confidence and identifying issues where necessary, rather than managing each retailer's compliance on a case-by-case basis.

The Authority's role in monitoring and compliance

15.14. This section explains the Authority's responsibilities and powers in relation to:

(a) monitoring and compliance

(b) information gathering and other powers

(c) granting exemptions from compliance.

16. Monitoring and compliance

16.1. The Authority is responsible for monitoring and enforcing compliance with the Code. This includes:

(a) monitoring compliance through receipt and analysis of annual retailer reports to identify trends and patterns that may indicate systemic issues

(b) trend analysis to ensure that the requirements are functioning as intended and benefiting consumers without imposing undue costs on industry participants

(c) enforcing serious breaches, where appropriate through the Rulings Panel.

16.2. We adopt a targeted enforcement approach undertaken in accordance with the Electricity Industry (Enforcement) Regulations 2010 and relevant enforcement and compliance policies, which are available on our website.

16.3. Under the Act, the Rulings Panel has the power to make a range of remedial orders if a participant breaches the Code, including requiring a participant to pay a pecuniary penalty not exceeding $2 million (plus a further amount of up to $10,000 per day for ongoing breaches), and making a compensation order requiring a participant to pay a sum by way of compensation to any other person.[44]

Enforcement actions may include penalties of up to $2 million plus $10,000 per day for ongoing breaches

17. Information gathering and other powers

17.1. The Authority also has powers to gather information from participants for the purpose of monitoring compliance with the Code.

17.2. The Authority has the power to require an industry participant to:

(a) provide information, papers, recordings, and documents that are in the possession, or under the control, of the participant

(b) permit its officers or employees to be interviewed

(c) give all other assistance that may be reasonable and necessary to enable the Authority to carry out its functions and exercise its powers.

17.3. The processes that the Authority will apply in respect of these information gathering powers are described in the Authority's Guidelines on Information Gathering Powers under the Electricity Industry Act 2010.

[44] Section 54 of the Act.

18. Granting exemptions from compliance

18.1. Section 11 of the Act gives the Authority the power to exempt a participant from complying with their obligations under the Code.

18.2. To grant a Code exemption, the Authority must be satisfied that:

(a) it is not necessary, for the purpose of achieving the Authority's objectives under section 15, for the participant to comply with the Code or the specific provisions of the Code; or

(b) exempting the participant from the requirement to comply with the Code or the specific provisions of the Code would better achieve the Authority's objectives than requiring compliance.

18.3. An overview of the Code exemption process is outlined in the Authority's separate guidelines on Code exemptions, available on the Authority's website: Guidelines on Code exemptions (ea.govt.nz).