

21 March 2023

Electricity Authority

Email: policyconsult@ea.govt.nz

To whom it may concern,

Re: Review of the Authority's consultation and feedback processes

1. Executive Summary

1.1 The Consumer Advocacy Council (the Council) recommends that:

- a. The Electricity Authority (the Authority) must consider its broadened mandate and how it can ensure the interests of domestic and small business consumers are protected in relation to the supply of electricity.
- b. The Authority discard all options for the new advisory group and develop a new option in consultation with existing entities that represent domestic and small business consumers.
- c. Small consumers should be guaranteed membership of advisory groups and in numbers that are impactful.
- d. Any new advisory group should have a specific role to consider what domestic and small business consumers want, need and what they prioritise.
- e. The Authority's consultation processes should recognise the role of the Council.
- f. The Authority should create a standing advisory group that it consults on all matters that affect consumers.
- g. The Authority should always put domestic and small business consumers first.
- h. The Authority should allow domestic and small business consumers more time in consultative processes.

2. Introduction

2.1 This submission is from the Council, the independent advocate for residential and small business electricity consumers in Aotearoa New Zealand.

3. Background

3.1 Advocacy from the electricity industry is well-resourced and vocal, particularly in consultation processes. By contrast, small consumers have very little voice when it comes to electricity. This was underlined by the Electricity Price Review, (EPR). Its report found that “consumers, particularly households and small businesses, struggle to make their voices heard and exert influence over decisions affecting them in the electricity sector”.

3.2 The EPR recommended the Council be established to provide a voice for residential and small business consumers – recommendation A1.

3.3 The EPR also made the recommendation “Ensure regulators listen to consumers” – recommendation A2.

3.4 The latest letter of expectation from the Minister of Energy to the Electricity Authority said that the “... Authority should support broader initiatives such as the newly established Consumer Advocacy Council”.

3.5 On 31 December 2022, the Electricity Authority’s statutory objective was expanded in the Electricity Industry Amendment Act, by a further objective contained in the new section 15(2) stating: “The additional objective of the Authority is to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.”

3.6 Whilst we recognise the Authority is trying to fulfil its mandate as regards small consumers, to date the Authority has no specialist consumer expertise on its board and has no specialist position at the senior management level relevant to the implementation of new section 15(2).

3.7 Consumer groups, representatives of consumers, individual consumers and small businesses do not generally submit to the Authority on matters that affect them as the effort to understand the issues being consulted on, or the time to prepare a submission, is too great. Submissions provided to the Authority are overwhelmingly from the larger participants in the electricity sector. Since the establishment of the Council, often there is only one voice for consumers and that is the Council.

3.8 It is with this background that the Authority’s consultation and feedback processes need to be viewed.

4. Specific comments

4.1 *The need for effective and meaningful consultation*

4.1.1 The Authority says in its consultation document that because of amendments to the Electricity Industry Amendment Act 2022 and some of the recommendations in the EPR, it reviewed its charter and is making other changes. It goes on to say that the “...changes aim to introduce best practice in consultation and make it easier to engage with the Authority” and also that a newly formed advisory group will “... represent the interests of consumers more easily”. Whilst the charter has been simplified, we do not believe the changes are best practice and there is little to suggest that the interests of consumers will be more easily represented.

4.1.2 We note best practice could include:

- Working with consumer groups that are established and know what consumers want and need.
- Small consumer engagement that is provided for separately from the well-funded voices of industry.
- Funding of consumer engagement to enable it to occur.
- Robust analysis of small consumer needs, including by way of research.
- Plain language that aids comprehension of the issues.
- Processes that ensure consumer voices are heard in all matters that affect them, including allowing extra time in consultation processes for consumers and their representatives to participate.
- Consumer voices at all levels of decision-making including at board and senior leadership levels.
- Ensuring effective opportunities for consumers and consumers representatives to participate so consultation processes are not dominated by the electricity sector.

4.1.3 The Authority’s statutory objective is set out in section 15 of the Electricity Industry Act 2010 and requires it to promote competition in, reliable supply by, and efficient operation of the electricity industry (not just the market) for the “... long-term benefit of consumers”.

4.1.4 The Authority sets out in a 2011 paper its interpretation of this statutory objective as follows:

The Authority interprets its statutory objective as requiring it to exercise its functions in section 16 of the Act in ways that, for the long-term benefit of electricity consumers:

- *facilitate or encourage increased competition in the markets for electricity and electricity-related services, taking into account long-term opportunities and incentives for efficient entry, exit, investment and innovation in those markets;*

- *encourage industry participants to efficiently develop and operate the electricity system to manage security and reliability in ways that minimise total costs whilst being robust to adverse events; and*
- *increase the efficiency of the electricity industry, taking into account the transaction costs of market arrangements and the administration and compliance costs of regulation, and taking into account Commerce Act implications for the non-competitive parts of the electricity industry, particularly in regard to preserving efficient incentives for investment and innovation.*

4.1.5 The Authority needs to actively consider its broadened mandate and how it can ensure the interests of domestic and small business consumers are protected in relation to the supply of electricity.

Recommendation:

- a. The Authority must consider its broadened mandate and how it can ensure the interests of domestic and small business consumers are protected in relation to the supply of electricity.

4.2 *Establishment of a new advisory group*

4.2.1 The stated purpose of the new advisory group is to provide advice on the priorities of the Electricity Authority, which include the wholesale market review, resilience of the network and settings for the distribution networks. These are all important issues for consumers.

4.2.2 However, we consider the new advisory group does not align with the new mandate of the Authority as it relates to domestic and small business consumers, nor does it fulfil the recommendation of the EPR to “ensure regulators listen to consumers”.

4.2.3 The structure of the group is meant to ensure “greater acknowledgement of consumer voices through greater inclusion with the Authority’s advisory processes” (paragraph 5.11 (c)). The inclusion of consumer voices is an improvement, but as we will describe, the way the group is formed will not ensure effective inclusion.

4.2.4 The structure of the group is meant to ensure the Authority “listens to consumers’ views and provides transparency on how those views are weighted in reaching decisions” (paragraph 5.11 (d)). We cannot see how this is achieved by the structure of the new group.

4.2.5 The group structure is meant to ensure the Authority can “prioritise best benefits for consumers” (paragraph 5.11 (e)). But there is nothing in the way the group is set up that ensures this will be achieved nor anything in the group’s structure that indicates how this will occur.

4.2.6 In all three potential models, residential consumers and small business consumers are only treated nominally as stakeholders, with their voices subjugated under the weight of those

from the electricity sector, which is already well-heard over small consumers who have little voice.

- 4.2.7 Options 1 and 2 have double the number of electricity sector members to consumer representatives.
- 4.2.8 Option 3 retains the number of consumer representatives from option 2, but increases the number of electricity sector representatives, thereby further decreasing consumer voices.
- 4.2.9 There is a vast difference between small and large consumers, for example between Tiwai Point – a large consumer – and a dairy owner or your nana, a small business and a residential consumer respectively. Yet large and small consumers are conflated as one, meaning that residential and small business consumers are not guaranteed any place within the group.
- 4.2.10 The voices of small consumers must be guaranteed, not merged with the voices of larger interests.
- 4.2.11 All options restrict the number of consumer representatives to just one or two people. This is patently insufficient and does not provide the opportunity for groups working on different consumer issues to have a voice and be represented around the table. It is important to have consumer advisory representatives that can provide valuable insights and feedback about the needs and concerns of all consumer groups.
- 4.2.12 In our view, the fact that the Authority has chosen these options shows a lack of understanding of effective consumer participation and looks more like a box-ticking exercise.
- 4.2.13 In our submission, all the options provided should be discarded and a new option developed in consultation with existing entities that represent domestic and small business consumers.
- 4.2.14 It is inappropriate that the new advisory group has a specific role to provide advice on the industry's ability to implement changes, but does not have a specific role to advise on what domestic and small business consumers want, need and what they prioritise. Surely this is the primary consideration before the industry weighs in on what is achievable. In our submission, consumers must have a say in what they think benefits them in the long-term. This would be consistent with the stated intention of listening to consumer views.

Recommendations:

- b. Discard all options for the new advisory group and develop a new option in consultation with existing entities that represent domestic and small business consumers.
- c. Small consumers should be guaranteed membership of advisory groups and in numbers that are impactful.
- d. Any new advisory group should have a specific role to consider what domestic and small business consumers want, need and what they prioritise.

4.3 A new advisory group for the Electricity Authority

- 4.3.1 As the Electricity Price Review underlined, the electricity sector is well represented. Its voice is not missing. The missing perspective is from domestic consumers and small business consumers.
- 4.3.2 The Consumer Advocacy Council is one of the few organisations with a role to advocate for small electricity consumers. It is the only organisation with its sole focus being domestic and small business electricity consumers across all consumer groups. It should be utilised to feed into the design and development of consumer participation processes and development of a new advisory group. This may well have been the expectation of the Minister when she requested that the Authority “support” the Consumer Advocacy Council.
- 4.3.3 The Authority should also acknowledge the role of existing consumer groups and provide funding for them to participate in advisory group and consultation processes.
- 4.3.4 There should be a standing advisory consumer group established that must be consulted on all matters that affect consumers.
- 4.3.5 The Authority’s consultation processes should also recognise the role of the Consumer Advocacy Council in representing the interests of domestic and small business consumers.

Recommendations:

- e. The Authority’s consultation processes should recognise the role of the Council.
- f. The Authority should create a standing advisory group that it consults on all matters that affect consumers.

4.4 Consultation Charter

- 4.4.1 We are pleased that the Consultation Charter has been simplified.
- 4.4.2 The “right people” referred to in paragraph 6.8 (a) of the Charter should specifically include domestic and small business consumers who are affected, including financially, by the outcomes of policy decisions.

- 4.4.3 Given the new mandate of the Authority, domestic and small business consumers should be prioritised and specifically included. In paragraph 6.8 (a) of the Charter, domestic consumers and small business consumers should be noted before industry participants as these consumers pay all the costs of the industry. What is of benefit to industry participants may not necessarily be of benefit to consumers.
- 4.4.4 It should be specifically allowed that domestic and small business consumers, and representatives of these consumers, be given more time to submit to the Authority.

Recommendation:

- g. The Authority should always put domestic and small business consumers first.
- h. The Authority should allow domestic and small business consumers more time in consultative processes.

5. Conclusion

- 5.1 We wish to thank the Authority for the opportunity to submit on the “review of the consultation and feedback processes.”
- 5.2 If you have any further queries regarding our submission do not hesitate to contact Council Chair Deborah Hart, 021 379 344.

Yours sincerely,



Deborah Hart
Chair – Consumer Advocacy Council