

28 February 2023

Electricity Authority
distribution.feedback@ea.govt.nz

Re: Updating the regulatory settings for distribution networks

Email: distribution.feedback@ea.govt.nz

1. Executive Summary

1.1. The Consumer Advocacy Council (the Council) **recommends** that the Authority:

1. Treats consumers as significant and active stakeholders in the industry.
2. Works with parties trialling multiple- trader-relationships and peer-to-peer pilots, and investigates the merits of removing the barrier of a single customer contact at a single point of connection.
3. Reconsiders a virtual or actual centralised metering database.
4. Works openly with other regulators to ensure that consumers receive the maximum societal benefit available in a smart and competitive electricity supply system.
5. Ensures consumers are able to make choices about how they manage their own electricity generation.
6. Provides flexibility in regulations to enable consumers and small businesses to test or adopt beneficial innovative technologies as they become available.
7. Reviews the Code to ensure that the Code itself is not a barrier to consumer benefit, and provides protection to consumers to ensure that consumers receive optimal benefit from competition.
8. Fully supports new and innovative approaches that benefit consumers, to the extent of readily approving relevant exemptions and/or “regulatory sandboxes”.
9. Ensures that consumers who want to generate and supply power understand their obligations and the potential benefits.

2. Introduction

2.1. Thank you for the opportunity to make a submission on *Issues paper: Updating the Regulatory Settings for Distribution Networks, December 2022* (Issues Paper).

- 2.2. This submission is from the Council, the independent advocate for residential and small business electricity consumers (consumers) in Aotearoa New Zealand.
- 2.3. The role of the Council is to advocate on behalf of residential and small business electricity consumers by providing evidence-based advocacy on policy and regulatory consultations, and in decision-making processes.
- 2.4. The Council has confined our comments to the issues that impact consumers.
- 2.5. The Council highlights the amended statutory objectives (as of 31 December 2022) of the Authority, set out in section 15 of the Electricity Industry Act 2010 (the Act):
- “(1) The main objective of the Authority is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.*
- (2) 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) The additional objective applies only to the Authority’s activities in relation to the dealings of industry participants with domestic consumers and small business consumers.”*
- 2.6. In addition, section 16 of the Act states that one of the functions of the Authority is:
- “(ia) to undertake measures aimed at protecting the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers ...”*
- 2.7. The Council notes that the Issues Paper is extensive. However, it is largely industry-centred at the expense of the rights and needs of the consumer.
- 2.8. Consumers, including large consumers, pay all costs associated with electricity generation, transmission, electricity distribution businesses (EDBs) and retailers. Consumers should be considered active participants in the electricity network, not simply a passive receiver of electricity, as they ultimately pay for all electricity generated and the supporting infrastructure to deliver electricity. Consumers, and not just participants and their shareholders should share the benefit of new technology as it becomes available.
- 2.9. In order to meet the above objectives around long-term consumer benefit, the Authority must treat consumers as what they are; significant, active stakeholders in the electricity industry who provide the financial means and demand for the industry to operate.

Recommendation:

The Council recommends that the Authority treats consumers as significant and active stakeholders in the industry.

3. Access to data to enable more equitable electricity generation

3.1. The role of consumer-generation and schemes involving multiple-trader-relationships and peer-to-peer trades could play a crucial role in the stability, security, supply and affordability of electricity as we move towards a fully renewable system. For example, these platforms have the potential to:

1. facilitate the development of social electricity retailers;
2. reduce the need to invest in network upgrades by fostering the development of renewable and/or standalone microgrids; and
3. reduce the need to run expensive peaking generation plants.

3.2. Under current regulatory settings, a customer's retailer (and only a single retailer) manages the consumer interface and the customer's point of connection to a network. This means other retailers, that may be able to offer customers good deals, do not have access to data or metering equipment and in many cases electricity market settlement. Multiple-trader-relationships and peer-to-peer trades try to address this competition issue.

3.3. In addition, the Council thinks that this might be an issue for:

1. networks investing in their network and distribution system operator models; or
2. generators or the system operator that need to control intermittent generation in the future.

3.4. We recommend the Authority works with those parties trialling multiple-trader-relationships and peer-to-peer pilots, and investigate the merits of removing the barrier of a single point of connection.

3.5. As outlined by the Authority, the electricity industry has a critical role to play in decarbonising the wider energy system, and the electricity industry will be very different as it evolves towards our 2030 and 2050 climate change goals. It is vital that this transition is an equitable one, and that the consumer voice is not lost in the process.

3.6. Decarbonisation of the industry is likely to be costly, but consumer generation and distributed energy resources have the capacity to support an easier transition by facilitating more efficient usage of current resources while empowering the consumer. This can only happen if the regulatory arrangements support competition, availability of data, consumer access to services, and fairness to consumers.

3.7. Access to customer metering data is of primary concern as metering data enables many of the potential technology benefits for consumers, and we consider that current access provisions are inadequate. Access to metering data can help consumers benefit from pricing offers from retailers, load aggregators or network/s. While we acknowledge there are privacy issues

involved, we recommend the Authority be more active in this area and reconsider a virtual or actual centralised metering database.

- 3.8. Distributors and the system should facilitate consumer generation as much as possible. We recognise that this is a co-regulatory issue as other regulators also impact connection and operation of generation. In the past, distributors have largely discouraged consumer-based generation due to network voltage issues; and despite conclusions made in 2.39 of the Issues Paper, at present there are no guarantees that the existing regulatory environment can ensure that consumers will receive the benefits from the energy they generate. We recommend the Authority work openly with other regulators to ensure that consumers receive the maximum societal benefit available in a smart and competitive electricity supply system.
- 3.9. Network resilience is needed to accommodate the growing uptake of distributed energy resources, such as the increasing number of uncontrolled electric vehicle (EV) chargers connecting to the network, and transition of heat to electricity. As we move further into this transition phase, we consider that distributors will rely more on consumer-generated electricity to manage network demands, particularly as the number of electric vehicles in New Zealand grows and the increased electricity demand puts significant pressure on distribution networks. This will require timely access to relevant metering data that distributors may have issues obtaining.
- 3.10. Article 32(1) of EU Directive 2019/944 (Clean Energy for all Europeans Package) says:
- “Distribution system operators shall procure such services in accordance with transparent, non-discriminatory and market-based procedures unless the regulatory authorities have established that the procurement of such services is not economically efficient or that such procurement would lead to severe market distortions or to higher congestion.”*
- 3.11. The Council agrees with this directive but anticipates arguments from the industry that it is most economically efficient for distributors to control consumer-generation. While we acknowledge that an over-riding control may be necessary to ensure that networks operate within their design limits, the consumer should be able to make choices about how they manage their own generation. That choice could be responding to electricity industry price signals or contracting with load aggregators other than their retailer or distributor to manage their generation and consumption. Distributors should not expect, as a right, control over consumer generation and regulation should not make this the default option; this should only occur in exceptional circumstances, such as power quality issues or emergencies.

Recommendation:

The Council recommends that the Authority:

- a) Works with parties trialling multiple-trader-relationships and peer-to-peer pilots, and investigates the merits of removing the barrier of a single customer contact at a single point of connection.

- b) Reconsiders a virtual or actual centralised metering database.
- c) Works openly with other regulators to ensure that consumers receive the maximum societal benefit available in a smart and competitive electricity supply system.
- d) Ensures consumers are able to make choices about how they manage their own electricity generation.

4. Flexibility and innovation

- 4.1. Innovative technologies will be central to the transition to a low-carbon economy. Flexibility in this context has two meanings:
1. Sufficient control over electricity consumption demand and generation that ensures that the grid and networks are stable, and the lights stay on for consumers; and
 2. The Authority providing flexibility in regulations to enable consumers and small businesses to adopt beneficial innovative technologies as they become available.
- 4.2. Electricity market processes and the Code were developed for an electricity system with one way electricity flows and clear delineation between consumer and generator. Over the past five years, distributed energy resources have become a material contributor to the country's electricity system. The Code must adjust to support this transition to encourage uptake of renewable distributed generation.
- 4.3. The Electricity Industry Participation Code (the Code) is no longer fit for purpose and is not benefiting consumers as it should.
- 4.4. The Code should enable consumers to adopt beneficial innovative technologies, and allow them to capture the value they provide through additional generation or flexible services, and not present barriers that prevent what may be optimal solutions developing.
- 4.5. As a first step, the Council supports the concept of a "regulatory sandbox" (point 2.59 of the Issues Paper). We consider that regulatory sandboxes are far superior and easier to manage than exemptions with extensive conditions. We expect the Authority to fully support new and innovative approaches to transactions that benefit consumers to the extent of readily approving exemptions and/or regulatory sandboxes. This includes the Authority proactively managing the Code through appropriate and timely Code amendments where barriers to innovation are identified.
- 4.6. The Council also notes that the Authority already appears to have the power to determine that Code breaches within an agreed regulatory sandbox will not be acted upon. We note that regulation 11(1)(c) of the *Electricity Industry (Enforcement) Regulations 2010* (the Regulations) appears to allow the Authority to decide to not take further action on a breach if "... *the Authority decides that the alleged breach does not otherwise warrant further action being taken*".

4.7. The Council suggests that exercising this discretion may enable a regulatory sandbox at this time.

4.8. Point 1.9 of the Issues Paper states:

“... the Authority proposes to leverage information collected by the Commerce Commission in terms of its Information Disclosure regime, to monitor the extent to which distributors are implementing non-network solutions, and whether they are using competitive procurement to do so. If it appears distributors are holding back the growth of the flexibility services market, the Authority could consider using its arm’s-length rules to encourage competitive procurement to boost the development of the market.”

4.9. The Council notes that this may require a co-regulatory approach between the Commerce Commission and the Authority and potentially EECA. In the Council’s view, regulation should ensure distributors cannot unnecessarily block consumer-owned distributed generation; ensure distributors must facilitate consumer-owned distributed generation where possible; and remove expectations that distributors should own consumer-end generation.

4.10. Distributors should be able to offer deals directly to consumers to allow the distributor to manage aggregated distributed generation. They should not be able to act in a way that disadvantages consumers who want to retain control of their generated electricity and sell excess electricity. We note that this is related to the data access issues discussed above as consumers do not currently have access to the information needed to make these decisions.

Recommendation:

The Council recommends the Authority:

- a) Provides flexibility in regulations to enable consumers and small businesses to test or adopt beneficial innovative technologies as they become available.
- b) Reviews the Code to ensure that the Code itself is not a barrier to consumer benefit, and provides protection to consumers to ensure that consumers receive optimal benefit from competition.
- c) Fully supports new and innovative approaches that benefit consumers, to the extent of readily approving relevant exemptions and/or “regulatory sandboxes”.

5. Consumer rights and education

5.1. It is crucial that consumers are well-informed about their options for supplying power to the electricity system, so they can make informed purchasing, selling and operating decisions.

5.2. The Council recommends that as consumer-generated power becomes normalised, the Authority ensures that consumers who want to generate and supply power understand their obligations and the potential benefits.

Recommendation:

The Council recommends the Authority ensures that consumers who want to generate and supply power understand their obligations and the potential benefits.

6. Conclusion

- 6.1. We wish to thank the Authority for the opportunity to submit on the Issues Paper updating the regulatory settings for distribution networks.
- 6.2. If you have any further queries regarding the submission, do not hesitate to contact Emma Sturfels – Principal Advisor Consumer Advocacy Council, on either emma.sturfels@cac.org.nz or 021 812 663.

Yours sincerely,



Deborah Hart
Chair – Consumer Advocacy Council