



**Disabled Persons** Assembly NZ

October 2024

**To Ministry of Business Innovation and Employment**

Please find attached our submission on the: Exploring a data right for the electricity sector discussion paper

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# Introducing Disabled Persons Assembly NZ

## We work on systemic change for the equity of disabled people

Disabled Persons Assembly NZ (DPA) is a not-for-profit pan-impairment Disabled People's Organisation run by and for disabled people.

### We recognise:

- Māori as Tangata Whenua and [Te Tiriti o Waitangi](#) as the founding document of Aotearoa New Zealand;
- disabled people as experts on their own lives;
- the [Social Model of Disability](#) as the guiding principle for interpreting disability and impairment;
- the [United Nations Convention on the Rights of Persons with Disabilities](#) as the basis for disabled people's relationship with the State;
- the [New Zealand Disability Strategy](#) as Government agencies' guide on disability issues; and
- the [Enabling Good Lives Principles](#), [Whāia Te Ao Mārama: Māori Disability Action Plan](#), and [Faiva Ora: National Pasifika Disability Disability Plan](#) as avenues to disabled people gaining greater choice and control over their lives and supports.

### We drive systemic change through:

**Rangatiratanga / Leadership:** reflecting the collective voice of disabled people, locally, nationally and internationally.

**Pārongo me te tohutohu / Information and advice:** informing and advising on policies impacting on the lives of disabled people.

**Kōkiri / Advocacy:** supporting disabled people to have a voice, including a collective voice, in society.

**Aroturuki / Monitoring:** monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

## **United Nations Convention on the Rights of Persons with Disabilities**

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),<sup>1</sup> a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention.

The following UNCRPD articles are particularly relevant to this submission:

- **Article 8 – Awareness raising**
- **Article 9 – Accessibility**
- **Article 22 – Respect for privacy**
- **Article 28 – Adequate standard of living and social protection**

## **New Zealand Disability Strategy 2016-2026**

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy<sup>2</sup> to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision.

The following outcomes are particularly relevant to this submission:

- **Outcome 5 – Accessibility**
- **Outcome 7 – Choice and Control**

## **The Submission**

<sup>1</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

<sup>2</sup> <https://www.odi.govt.nz/nz-disability-strategy/>

**Disabled Persons Assembly (DPA) welcomes the proposed establishment of an electricity data right (EDR) as a useful tool to inform and empower consumers about their choices within the electricity market.**

DPA has collaborated with Electricity Allies and others in advocating for this important change that will help shift the electricity marketplace towards customers.

Having good customer information matters to the disability community as many disabled people need to have access to a stable power supply while, at the same time, navigating significant amounts of energy hardship and poverty. This is borne out by statistics with disabled people being more likely to live in cold, damp, mouldy homes which require a great deal more heating than places where non-disabled people live.<sup>3</sup>

Studies and data from the UK<sup>4</sup> and New Zealand<sup>5</sup> show that disabled people and people with health conditions need to consume more electricity to stay warm and/or to cool down as well as to charge or use disability-related equipment including power wheelchairs, hoist beds and breathing apparatus.

These additional energy-related costs are part of the greater costs of living with disability faced by many disabled people, with figures from 2018 showing that 54% of all beneficiaries receiving a benefit from Work and Income New Zealand (WINZ) either had a disability or health condition.<sup>6</sup> WINZ provides some financial support for

<sup>3</sup> Unknown author. (2017, March 15). Disabled people more likely to be in cold, damp rental accommodation – Statistics NZ survey. *New Zealand Herald*. <https://www.nzherald.co.nz/nz/disabled-people-more-likely-to-be-in-cold-damp-rental-accommodation-statistics-nz-survey/6LP3RYABGLY2EATG7L5357SQLI/>

<sup>4</sup> Sumaria, P. (2022, September 21). Why are disabled people more vulnerable to rising energy costs and what can be done about it? Retrieved from <https://www.regen.co.uk/disability-and-energy/>

<sup>5</sup> Statistics New Zealand. (2020, October 28). Measuring inequality for disabled New Zealanders: 2018. Retrieved from <https://www.stats.govt.nz/reports/measuring-inequality-for-disabled-new-zealanders-2018>

<sup>6</sup> Kia Piki Ake Welfare Expert Advisory Group. (2019). Welfare system: statistics. Retrieved from <https://www.weag.govt.nz/background/welfare-system-statistics/#:~:text=Recipients%20with%20a%20health%20condition,Working%20For%20Families%20tax%20credits>

disabled people who face additional energy costs in the form of the Winter Energy Payment, Disability Allowance and hardship grants.<sup>7</sup>

However, despite some financial support being available, it is the actions of power retailers which cause the most hardship for disabled people and their families/whānau struggling to meet their disability-related energy needs.

Frequent power price increases and high electricity needs for disabled people sees many disabled people having to make the choice between heating, eating or doctor's visits. These challenges culminate in some disabled people and people with health conditions facing mounting bill debts or disconnection – which for some people can mean serious life-threatening health complications

The issues around energy poverty for disabled people are significant and all that can be done from a practical standpoint, in terms of creating a data right, is welcome.

DPA does have some concerns, including around data accessibility and privacy for disabled people. We reference these in our submission below.

We only answer the most relevant questions to disabled people contained in the questionnaire.

**Question: What are your experiences of accessing consumer and product data for electricity under the status quo?**

DPA agrees that full monitoring of a customer's electricity usage by retailers could help them identify and support customers in hardship or identify customers who would be better off on a different plan. Introducing greater monitoring requirements would particularly benefit disabled electricity customers.

Providing this information via an electricity data right will empower consumers through having real time access to their user data, rather than in delayed time as at present.

<sup>7</sup> Work and Income Te Hiringa Tangata. (n.d.) Power, gas and heating if you have a disability. Retrieved from <https://www.workandincome.govt.nz/eligibility/health-and-disability/power-and-heating-if-you-have-a-disability.html>

Establishing an EDR system will especially enable medically dependent customers (who include many disabled people) to monitor their usage, giving them the ability to easily change if their provider is overcharging.

**Question: Do you agree with our summation of the status quo and problem definition? Is anything missing or incorrect in your view? And please provide any evidence you may have to support your views.**

We agree with MBIE's analysis of the deficiencies that have grown under the current system where real time data is currently unavailable to consumers.

This means that consumers can only access delayed data, for example, in that they can look up data from the previous day but not the current day that they may be more interested in looking at.

We also agree that it can take time for customers to access any data they request from retailers and having an EDR will speed this up considerably.

However, the digital divide and its disproportionate impact on disabled people must be factored into any changes. A Department of Internal Affairs report (2020) on digital access by disabled people showed that the disabled community continue to experience a reduced ability to engage with digital and online services compared to non-disabled people.<sup>8</sup>

**DPA recommends that other means of accessing data from power companies is maintained for people who have either minimal or no data access.**

This could include, for example, the ability to request data be sent by post/courier, that customers can still contact retailers by phone and receive this and for retailer

<sup>8</sup> <https://www.digital.govt.nz/news/digital-inclusion-ux-insights-for-disabled-people-report/>

representatives to call in person at customer's homes to discuss their usage as accessible alternatives.

<p><b>Recommendation 1:</b> that alternatives to getting information and data to customers who have limited or no access to digital and online services is retained.</p>
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There will also be times when customers will have someone acting for them, either as a power of attorney or in acting alongside a customer as their support person/organisation.

DPA made a submission earlier this year to the Law Commission's review into supported decision making.

Supported decision making encompasses arrangements where disabled people, for example, people with learning/intellectual disabilities, psychosocial disabilities, neurodiverse people and older people may have a nominated person or organisation managing their everyday affairs, and this includes financial matters.

We discuss the implications of supported decision-making arrangements on disabled customers and the EDR process within other relevant questions.

**Question: Do you think that regulatory options are necessary to unlock better access to customer and product data?**

DPA agrees that non-regulatory options are ineffective. Markets need to be effectively regulated so that the benefits of competition and technological improvements can be experienced by all power customers, including those who experience high levels of energy poverty and actual poverty such as disabled people and older people.

We also agree that consumers need to be protected in terms of how their data is used by retailers, which is a specific concern of the disability community.

DPA is reassured that the provisions of the Privacy Act will be applied, especially around individuals being able to have access to any data held about them by electricity providers and the requirement upon providers to store any information they hold about customers securely.

**Question: What customer data do you think is the most important? And what else (now or in the future) would be important? And why? What are the benefits from consumers having ready access to this data?**

DPA agrees with taking a wide encompassing approach to the data which can be designated as part of an EDR.

DPA recommends that this also includes data around whether a person is a medically dependent customer. There needs to be safeguards around the availability and use of medically dependent customer data in that details about a person's condition needs to contain only the most necessary information which verifies the health and/or disability reasons as to why they need or have this status.

If a power company requests any more extensive information about a person's need for medical dependency, this should only be provided by the customer and/or any agent acting on their behalf only after a request, clearly outlining the reasons for doing so from the retailer, has been made.

This will prevent the risk that power companies may hold or be provided with medical information by health professionals which exceeds what is required for the granting or holding of medical dependency status.

**Recommendation 2:** that data around medically dependent customer status be available as part of an EDR.

**Recommendation 3:** that only essential information around a person's health or disability status for the purposes of establishing medical dependency status can be held as part of an EDR.



**Recommendation 4:** that if a power company requests more extensive information about a person's medical dependency, they must outline the reasons for their request.

**Question: If access to customer data is designated for all consumers (residential, small business, large business and large consumers) what are the potential benefits, risks or costs associated with each type of customer? And why?**

DPA believes that the benefits of having an EDR for electricity consumers outweighs the disadvantages.

The ability to access electricity use data on a real time basis will enable customers to make more effective decisions around their energy consumption.

This move will be beneficial for disabled people who need accurate information that will enable them to have the ability to more readily switch suppliers if necessary and/or be placed on the right plan for them, especially if they are high users.

There is risk that data breaches will compromise the privacy of consumer information, so this possibility still needs to be guarded against at all costs.

**Question: What product data do you think is the most important? And what else (now or in the future) could be important? And why? What are the benefits from this data?**

DPA supports having key product data such as, for example, tariff/pricing plans, plan types and networks incorporated within every EDR.

We reiterate our recommendation that medical dependency and disability status also be added as key data points within EDRs with appropriate protections in place.

**Question: What are your thoughts on the potential impacts of a designation on the interests of consumers? Are there any specific benefits that are likely to be enabled with designation? What is the likely scale of the benefits, and over what timeframe would they occur?**

DPA recommends that every disabled person should be able to register that they live with an impairment(s) or are D/deaf (regardless of whether they have medical dependency or not) as part of the EDR process.

This would enable any person's disability related needs around, for example, the need for data and communications in accessible formats (i.e., New Zealand Sign Language, Braille, Easy Read/plain language) to be automatically noted as part of an EDR.

Disabled people must have the ability to decide whether they wish to disclose that they have an impairment or are D/deaf and to specify what accommodations they need.

**Recommendation 4:** that customers can chose register that they are a disabled person as part of an EDR.

**Recommendation 5:** that disabled customers can decide if they wish to disclose their impairment and specify what accommodations they need.

**Question: Do you have any comments on the specific interests of different types of consumers, such as, residential, business, industrial, rural, Māori, or other groups of consumers?**

Disabled people have, like all other electricity consumers, the right to receive an affordable, safe, effective and efficient power supply that meets their needs and is flexible enough to accommodate whatever needs any person might have without incurring additional costs.

Introducing a EDR in the electricity sector will go a considerable way towards achieving this goal for disabled customers.

**Question: What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?**

DPA recommends that the costs of developing and implementing EDRs fall upon both government and the electricity sector and are not passed on, either directly or indirectly to consumers.

Consumers are already paying considerably more for their electricity and the addition of any further charges to cover the cost of developing and implementing EDRs on power accounts would be very unwelcome.

<p><b>Recommendation 6:</b> that the costs of developing and implementing an electricity EDR are borne by electricity companies and government and not passed onto ordinary consumers either directly or indirectly.</p>
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**Question: Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity or customer data and product data?**

As discussed previously, the needs of disabled customers who have supported decision making processes in place should be recognised.

This includes around the need to ensure that when agents acting on behalf of or alongside a disabled person are dealing with retailers over EDRs that there are protections in place.

DPA recommends that as part of creating EDR standards that protocols around verifying the identity of agents acting on someone's behalf as part of EDRs, to prevent the risk of abuse, fraud and identity theft against disabled and older people in these situations are developed.

**Recommendation 7:** that retailers develop protocols around verifying the identity of agents acting on someone's behalf as part of EDRs, to prevent the risk of abuse, fraud and identity theft against disabled and older people.

**Question: What are your views on fees for requests for customer electricity data under the Bill? If fees are charged, what limits or restrictions should be placed on fees? Do you have any comments on the costs and benefits of the various options?**

DPA does not support the charging of fees for data requests as this would be prohibitive for many low income and disabled customers who may need to access data on a more frequent basis than non-disabled customers to monitor usage levels.

Currently, consumer electricity codes allow customers to access data up to a maximum of four times per year before any fees are charged by retailers for this.

While DPA acknowledges that there are costs involved for power retailers in meeting this requirement, we recommend no charges for accessing data are levied at all given that the electricity industry has been very profitable.

**Recommendation 8:** that no charges for accessing electricity data are levied on consumers.

**Question: Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?**

DPA supports the need for strong consent protections for consumers, something that we have reiterated throughout this submission.

**Recommendation 9:** that any protocols/rules for identifying agents acting on behalf of customers include clear provisions around verifying their identity and ascertaining the consent of the person being supported.

**Question: Do you think that standards should be led by industry, by government or co-led? What is the role of industry in developing standards? And why?**

The process of developing standards should be a collaboration between government, the electricity industry and consumer stakeholders.

A collaborative approach is needed to ensure that the electricity industry does not entirely capture or control the process and that the voices of all relevant stakeholders, including consumer groups, are clearly heard.

Above all, the proposed Electricity Data Right is centred around the need to protect and empower consumers rather than the electricity industry.

**Recommendation 10:** that disabled people and disability organisations are recognised as one of the key consumer-based groups in the standards design process by both government and industry.