

ENA submission on the Proposed Consumer Care Obligations

Submission to the Electricity Authority

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Contents

1	Introduction and executive summary	3
2	Clause 11A.5	3
3	Clause 42	4
4	Clause 58	4
5	Clause 69	5
6	Clause 70	6
7	Clarity of responsibilities	7
8	Mandating date and transition	8
9	Summary	8
10	Appendix A	9

1 Introduction

Electricity Networks Aotearoa (ENA) appreciates the opportunity to submit on the Electricity Authority's Proposed Consumer Care Obligations.

ENA represents the 29 electricity distribution businesses (EDBs) in Aotearoa (see Appendix A), which provide local and regional electricity networks. EDBs employ 10,000 people, deliver energy to more than two million homes and businesses and have spent or invested \$8 billion in the last five years.

1.1 Executive summary

ENA welcomes the commitment from the Electricity Authority (Authority) to enhance protection for residential consumers, especially for medically dependent consumers (MDC) or for those facing hardship.

Several issues with the proposed Electricity Industry Participation Code 2010 amendment would make some of the proposed obligations unworkable in practice. EDBs want to ensure the new obligations are practicable so that they can give true effect to the intent — to keep consumers safe.

This submission focuses on the consumer obligations applying to distributors. As such, the information in this submission is based on two questions in the Authority's consultation documentation:

- Q14. Do you have any feedback on the proposed Code obligations for distributors?
- Q16. Do you have any comments on the drafting of the proposed amendment?

This submission is structured by responding to the clauses, which include obligations for distributors. For each clause, we have outlined the key concerns and recommendations for making them practicable.

2 Clause 11A.5: Retailers to provide certain information upon request

2.1 Concerns

The proposed Code amendment doesn't make it clear what information the Authority would be requesting and when. In particular, clause 11A.5(b) requires distributors to supply 'supporting evidence,' but there is no detail on what is expected.

2.2 Recommendations

To ensure that distributors set up the correct policies/procedures to comply with the obligations, it would be beneficial to explain what kind of information and supporting evidence the Authority would need if it were requested. This would be especially important regarding EIEP4 and any requirements would need to comply with privacy laws.

3 Clause 42: Restriction on disconnection for non-payment by distributor

3.1 Concerns

The proposed code amendment doesn't clearly state that clause 42 is only applicable to distributors that invoice residential consumers directly.

3.2 Recommendations

ENA recommends the heading for clause 42 be amended to "Restriction for distributors who invoices residential consumers directly on disconnections for non-payment."

42(1) could be amended to clarify that it is for distributors who invoice residential consumers directly. For example: "A distributor *that invoices residential consumers for distribution services directly* must not electrically disconnect a residential consumer's premises for nonpayment..."

Under clause 11A.3, ENA recommends adding a paragraph to clarify this point further. For example, "Every distributor who invoices residential consumers directly must, in addition to the clauses set out in (2), also comply with clause 42."

In addition, under clause 11A.3(2), remove "42" as it refers to every distributor.

4 Clause 58: Retailer's obligations to share information about medically dependent consumers

4.1 Concerns

This clause relies heavily on the use and exchange of electricity information exchange protocols (EIEP4) data, which is non-regulated and voluntary. Because it is non-regulated, it is exchanged inconsistently from retailers to distributors.

EDBs have varying systems set up to hold this data. In addition to the varying systems that store data, distributors use EIEP4 data indifferently. Some EDBs may not be able to easily utilise EIEP4 for MDC identification or other purposes without implementing system and operational changes which would likely require significant additional cost beyond that which the EA has assessed.

ENA is concerned that without clear rules about when and how data should be exchanged, the integrity of that data will remain inconsistent. The lack of rules around data exchange also heighten the risk of breaching privacy obligations.

4.2 Recommendations

The Authority has previously discussed a secure registry/database to store MDC information that external parties (eg health practitioners) could access. A central repository would act as one source of truth and help to ensure that MDC data is more accurate and easily accessible.

Without a central repository, ENA recommends that some rules are outlined to make sure EIEP4 data is exchanged consistently. These could include:

- mandating specific requirements around EIEP4 data exchanges from retailers (e.g. data integrity/content/frequency of delivery)
- mandate specific requirements regarding what distributors should do with EIEP4 data once received.

If EDBs are not required to do anything with EIEP4 data, further consideration should be given as to why EDBs should be provided with it, especially in regards to the risk of breaching privacy obligations.

Any changes here would affect clause 70 which states that distributors, and retailers, must use “reasonable endeavours to agree processes” to coordinate planned outages affecting MDCs. This wording is vague and would not help to create more accurate shared data sources regarding MDCs.

We encourage the Authority to consult further on any significant EIEP4 requirements and/or changes and ensure that privacy law and other regulatory requirements are considered alongside any decisions.

5 Clause 69: Distributor’s obligations in event of emergency situation

5.1 Concerns

There would be extremely few emergencies (or potentially none) in which an EDB undertakes an electrical disconnection where it would be practicable, and there would be sufficient time, for a fault person to door knock on residential premises before disconnecting and addressing the emergency.

Including this clause would create unrealistic expectations about what distributors can safely control during emergencies. An EDB’s primary focus during these situations is addressing immediate health and safety risks (to their communities and their staff), which often precludes the ability to perform individual customer notifications.

The *Electricity consumer care guidelines: Overview for support agencies and health practitioners* states that MDCs need to have an emergency response plan to minimise harm if their electricity supply fails. It states that health practitioners should help MDCs to develop an emergency response plan before providing an HP notice. The plan should include instructions on what to do to stay safe if their electricity supply fails for any reason including how and who to communicate with.¹

MDCs need to be prepared for the power to go out at any time and without notice – as supply cannot be guaranteed. ENA believes that leaving clause 69 in the obligations is not practicable and, therefore, unsafe for MDCs.

¹ <https://www.ea.govt.nz/documents/2096/Overview-for-health-and-support-agencies.pdf>

5.2 Recommendations

There are extremely few instances (or none at all) where clause 69 can be workable and would give effect to the intent of these obligations – keeping MDCs safe.

Therefore, ENA believes it would be safer to remove clause 69 and ensure that the obligations encouraged MDCs to have an emergency plan in place and be ready to act should the power go out without notice.

6 Clause 70: Coordinating planned service interruption or electrical disconnection

6.1 Concerns

Variations in planned outages are required for many reasons — both within and outside a distributor’s control. The impracticality of ‘consulting’ retailers about changes to planned outages could leave electricity distribution networks vulnerable and less resilient if work can’t be carried out. There would also be a significant cost to re-plan outages.

This obligation is inconsistent with other regulatory requirements. The requirement to consult with retailers before changing a planned outage date or time is inconsistent with EIEP5A (which allows distributors to provide planned service interruption information, including an initial date and an alternative date, to traders) and it is also inconsistent with the Commerce Commission Default Price Path (DPP) regime (which permits EDBs to notify an alternate date for the planned outage).

Some distributors notify retailers of planned outages, and some distributors notify the consumers directly. There may be confusion caused as to who would be responsible under the obligations.

The new Consumer Care Obligations must be consistent with default distributor agreements (DDAs), DPP and EIEP.

6.2 Recommendations

ENA encourages the Authority to consider removing all references to distributors not being able to vary the time/date of a planned outage (clause 70(2) and clause 70(3)) to ensure better consistency with DPP and EIEP5A regulations.

If any version of 70(2) is retained in the obligations, it would be beneficial to substitute distributors ‘consulting’ retailers for distributors ‘advising’ retailers, so the distributor can still undertake the work needed. This will help to ensure a reliable and safe electricity network for all consumers.

7 Clarity of responsibilities

7.1 Concerns

If clauses 58, 69 and 70 stood without change, it would be unclear who is responsible for carrying out the duties of the 'distributor' in certain situations. For example:

- **Network extensions.** There are situations where the distributor has issued ICPs for the tenants inside an apartment block, but the distributor does not own or manage the wiring inside the building. If the building owner cuts the power, it is not clear which distributor (e.g. the building owner or parent network) has the obligation under clauses 58, 69 and 70. For example, who should the retailer advise of the existence of an MDC?
- **Interconnection points.** If distributor A cuts power to one side of a closed/live interconnection point, which leads to a loss of power to an MDC on distributor B's network, who has what obligations?
- **Backup feeders to a secondary network.** Suppose the parent distributor electrically disconnects one of two feeders (i.e. they expect power to stay on, though the consumer has N rather than N-1 feeder security) do they need to notify anyone? Is the secondary network owner or the parent distributor the 'distributor' responsible under the obligations?
- **Customer networks.** If there are MDCs behind the gate, is the gate customer (e.g. the building owner) able to notify the gate ICP trader of an MDC even though they can't give the MDC's consent on their behalf? Who is the distributor with obligations in that case?

7.2 Recommendations

While each EDB has its network boundaries, they are all connected to the national transmission grid. Some EDBs have interconnected points, and there are a myriad of examples where building owners take some of the more typical responsibilities of a distributor. Given the concerns listed above in regard to clauses 58, 69 and 70, ENA recommends that any clauses that require distributor obligations be given more thought against specific examples (including the ones listed above) to ensure it is very clear regarding who holds what responsibility.

In clause 11A.2, it would be worthwhile clarifying specific terms and/or help to define the circumstances that they apply to. In particular:

- 'electrical disconnection'
- 'emergency'
- 'retailer' and 'trader' (to ensure EDB's know who to contact to obtain information)
- 'reasonable' and 'reasonable endeavours' (clarifying this could lessen the risk of non-compliance or over-resourcing).

8 Mandating date and the transition

8.1 Concerns

The consultation proposes that the obligations come into effect on 1 January 2025. This date coincides with a shut-down period for many businesses. ENA is concerned that there is not enough time between a final decision and the effective date of any new obligations — particularly if new processes or system changes need to be made.

Additional to the timeframe constraints, we have concern about the perceived cost to EDBs for the obligations as drafted. We do not agree with the Authority's assessment that the new requirements are "unlikely to result in significant additional cost." If the obligations were to be confirmed as drafted, this would add significant costs such as additional personnel and training. The cost will not outweigh the benefit because the practicality issues of the clauses (in particular clause 69) means EDBs would not be able to carry them out in practice.

8.2 Recommendations

ENA recommends accommodating a transitional phase to ensure that all EDBs, retailers and any other parties mentioned in the obligations can implement processes and policies to give effect to the new obligations. This should be several months after the proposed time (e.g. 1 May 2025) to allow businesses time to comply and give room from financial year ends.

9 Summary

ENA welcomes the Authority's commitment to enhancing protection for residential consumers, especially for MDCs or for those facing hardship.

It is critical to acknowledge that the power can go out at any time. To keep MDCs safe, they must have an emergency plan in place — and be able to enact it without notice.

The Authority must ensure that the Consumer Care Obligations do not create unrealistic expectations about what distributors can safely control during emergencies and instances where the power goes out without notice.

EDBs already comply with regulatory requirements, including the Electricity Industry Participation Code 2010, the DPP regime, DDAs, privacy law and EIEPs. The Consumer Care Obligations should not create new rules that differ from the ones already existing.

EDBs want to ensure the new obligations are practicable so that they can give true effect to the intent — to keep consumers safe. As it stands, the proposed obligations are not practicable for EDBs, and therefore, will not help to keep MDCs safe.

ENA and EDBs appreciate the two-way engagement so far. We encourage the Authority to continue this engagement before making a final decision. We are available for further conversations or workshops, and we can arrange a visit to an EDB if the Authority would like to gain firsthand experience of their operational realities.

10 Appendix A

Electricity Networks Aotearoa makes this submission along with the support of our members, listed below.

- Alpine Energy
- Aurora Energy
- Buller Electricity
- Centralines
- Counties Energy
- Firstlight Network
- Electra
- EA Networks
- Horizon Networks
- Mainpower
- Marlborough Lines
- Nelson Electricity
- Network Tasman
- Network Waitaki
- Northpower
- Orion New Zealand
- Powerco
- PowerNet (which manages The Power Company, Electricity Invercargill, OtagoNet and Lakeland Network)
- Scanpower
- Top Energy
- The Lines Company
- Unison Networks
- Vector
- Waipa Networks
- WEL Networks
- Wellington Electricity
- Westpower