UTILITIES DISPUTES
TAUTOHETOHE WHAIPAINGA

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Consultation Paper – Code Amendment Omnibus #7

Utilities Disputes | Tautohetohe Whaipainga is New Zealand's leading provider of independent dispute resolution services for consumers and providers in utilities. Utilities Disputes operates the mandated Energy Complaints Scheme (ECS). Utilities Disputes is a not-for-profit company and there is no charge for a consumer to make a complaint.[1]

The purpose of the ECS is to ensure that any person who has a complaint about a retailer or distributor has access to an independent process for resolving it.[2] The ECS has seen complaints increase by 500% in the last five years. In 2025-2026 we received 12,505 complaints and 12,413 queries, a 67% increase in complaints on the previous year. Numbers are on track to increase again in this reporting year.

Our core submissions are:

- Consumers understand the reasons why they have received a back-bill, especially once an explanation is provided by the retailer. Many of the errors are discovered because the consumer has made a complaint, and not because the retailer has identified the issue in their own systems or in the registry. Therefore, these amendments should not be driven by concerns consumers will have difficulty understanding why they have received a back-bill.

- Utilities Disputes repeats its core policy objective in raising the issue of back-billing, namely, to prevent "bill shock".

- Utilities Disputes is open to the back-billing proposals on the ground it will often be efficient for the consumer and retailer that only the amount is itemised. The consumer can then make further inquiries if needed, and the retailer can provide the consumer with a rational basis for the charge. If necessary, the retailer can also offer a payment plan. We recommend inserting into the *Improving Electricity Billing Guidance* document an explanation and example illustrating of this type of customer-retailer interaction.

[1] We deliver dispute resolution schemes covering electricity, gas, water, and telecommunications. In telecommunications we offer the government mandated scheme for considering complaints about the laying of fibre on shared property and a voluntary telecommunications scheme which is not an industry dispute resolution scheme under part 7 of the Telecommunications Act 2001. We also offer a voluntary water complaints scheme.

[2] For electricity see 95 & sch 4 cl 1 of the Electricity Industry Act 2010.

- We acknowledge competing policy considerations in setting a threshold for what is a small amount. Some low income and larger families will find any unplanned amount burdensome. While retailers may find too low a threshold cumbersome. There may also be issues with legacy meters and accurately quantifying lost consumption. It may be a different threshold is adopted for legacy meters, if repeated back-bills are shown to be common.

- However, Utilities Disputes would be against any proposal, if it were contemplated, that hides a back-bill charge from the consumer. The business model for electricity means that any charge should be itemised, and the retailer should be able to respond to any queries from the consumer about how the back-bill is calculated. Such explanations build trust with the retailer and are likely to stop a matter escalating into a billing and/or customer service complaint.

- Utilities Disputes supports the change to the definition of *generally available retail plan*. The amendment will include within the definition plans that rely on the consumer having batteries, solar panels or other equipment (although in practice retailers often include such plans already). This change is a small step towards embedding the EA's vision of an interoperable network that includes distributed energy resources (DERs). We encourage the EA to continue this regulatory work and review the Consumer Care Obligations (CCOs) to ensure all aspects of the consumer's electricity consumption and exporting of electricity from solar panels and/or batteries are covered by the CCOs. It would not be in the consumer's interest to have different aspects of their supply or export of electricity being considered by different regulators or not at all.

- Utilities Disputes is the statutorily mandated body for considering consumer complaints about retailers and distributors. It cannot consider a matter where more than six years have passed since the complainant became aware, or ought reasonably to have become aware, of the issue. We therefore support the EA's proposed ten-year backstop for record retention. However, within that backstop, we request that the requirement to retain records for five years after a contract is terminated or a premises is disconnected be extended to seven years.[3]

[3] We note the IRD recommends businesses keep records for seven years which appears an objective measure to follow.

Utilities Disputes

We welcome the opportunity to comment on *Code Amendment Omnibus #7: Clarification to Consumer Care and Billing Refinements and Director Certification for AUFLS and other Amendments* (*Omnibus #7*). Against the background of our complaint handling role, we focus on the amendments to the Industry Participation Code 2010 (Code) about:

- back-billing;
- the definition of *generally available retail tariff plan*; and
- retention of records.

Our interest in the proposals is longstanding. Utilities Disputes first brought to the attention of the EA the consumer issues around back-billing. Our concerns about the regulation of plans based on DERs are also well known to the EA.[4]

Back-Billing Complaints

1. The EA, in the open submission *Improving Consumer Access and Choice,* highlights that it will research consumer views on access to electricity plans.[5] Utilities Disputes welcomes this initiative, as hearing from consumers, rather than relying only on the views of distributors and retailers alone will ensure balanced policy making. Utilities Disputes encourages this type of outreach as the EA performs its additional statutory objective of protecting the interests of domestic consumers and small business consumers.[6]

2. Such engagement ensures consumers are heard in their own voice. Against this background the rationale in *Omnibus #7* for not requiring a retailer to offer advice and support for small amounts owing on a back-bill is expressed awkwardly and appears to infer these matters are overly complex for consumers:

> Feedback from retailers preparing for the 30 October 2026 requirements indicates that, where undercharged amounts are considered "insignificant" by consumers, requirements on retailers to offer a payment plan and provide complaints information may be disproportionate to the consumer risk the provision is intended to address.

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[4] See *Improving Electricity Billing in New Zealand*, 12 November 2025, paras 24, 30-32 Link; *Reforming Network Pricing*, 19 May 2026, pg 4-5, Link, *Energy Competition Task Force Work Programme*, 9 February 2026, pgs 2-4, Link; *A Regulatory Roadmap for Battery Energy Storage Systems Paper*, 31 July 2026, *Link*,, *Evolving Multiple Retailing and Switching*, 29 July 2025, Link, *Working Together to Ensure our Electricity System meets the Future Needs of all New Zealanders*, 25 June 2025, Link. *Improving Pricing Plan Options for Consumer Time-Varying Retail Pricing for Electricity Consumption and Supply*, 26 March 2025, pgs 5-6, Link

[5] See EA, *Improving Consumer Access and Choice*, 30 June 2026, para 2.10.

[6] See s 15 Electricity Industry Act 2010; see for example Utilities Disputes, *Improving Price Plan Options,* 26 March 2025, pg 9, Link, & *Improving Product and Consumption Information Exchange*, 23 June 2026, pg 3, Link & *Improving Electricity Billing in New Zealand*, 12 November 2025, pg 2.

> In practice, small, undercharged amounts may be the result of technical factors **which are not always visible to or understood by customers**. For example, the transmission of smart meter data may be delayed due to communication issues, resulting in later bill adjustments of small amounts. Similarly, customer-submitted meter readings may also lead to undercharges that require correction.
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> The Authority considers there is a case for introducing a threshold so that additional advice and support requirements are better targeted to undercharged amounts that could reasonably affect consumers and which should be brought to their attention.[7]

3. This phrasing and reasoning is disappointing. In our experience consumers will understand most, if not all, issues about a back-bill when it is put to them such as:

    - SMART or analogue meter error;
    - Systems issues or delay in synchronisation;
    - Weak reception; and
    - Switching and registry errors.

4. Often it is the inquiry of the consumer that has picked up these issues, which can go unnoticed by the retailer, even when the issue is with the retailer's operating systems. [8] Indeed, the introduction of CCO 5 (mandatory information on invoices), is so the consumer is empowered to pick up these issues more easily, rather than relying on the systems of the retailer. It is also why Utilities Disputes has stressed the importance of the consumer having ready access to their consumption data in an intelligible form. This will give the consumer an opportunity to pick up any billing issues and provide them with the opportunity to assess what other products and services may help them lower their power bill.[9]

Rationale

5. Utilities Disputes does not support the above reasoning for the proposed amendment. As we set out in our billing paper, a basic element of the sale of goods and services is the invoice,[10] and where there is doubt, such billing issues should easily be able to be clarified.[11] If there are elements of a retailer's billing that are difficult to understand, no matter the amount, the retailer should be ready to explain the error through a phone call or in another way.

6. A lack of clarity or reasoning on bills led to the back-billing reforms; this lack of clarity should not be used as reasoning to lessen the impact of these reforms. Especially as

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[7] *Omnibus #7*, paras 2.13-2.15 (emphasis not in original).
[8] See example in *Improving Electricity Billing in New Zealand*, para 10 Link Utilities Disputes discovered the error in the consumption records provided.
[9] See *Improving Product and Consumption Information Exchange*, pgs 2-3.
[10] The supply of electricity is a good under s 7B(2) the Consumer Guarantees Act 1993.
[11] See *Improving Electricity Billing in New Zealand*, pg 5.

taking away the retailer's obligation to make contact under 11.32H(2)(c),[12] also means the consumer will likely have to pay the back-bill immediately or within the current billing period: "The customer would continue to be protected from having to repay an undercharged amount immediately (***for undercharged amounts over the new threshold***)."[13]

7. However, we see value in the proposal in terms of efficiency for the consumer and retailer.[14] Where the back-bill amount is small, easily understood by the consumer, through a bill or separate communication, then in many cases this will be sufficient. We can support the substance of the proposal as long as the retailer must separately itemise the back-bill in some form.[15]

8. The proposal appears to reflect this, contact is not required if the back-bill is less than 15% of an average monthly bill but the amount must still be itemised (however see further discussion below para 11).[16] Therefore for a monthly bill of $250.00, the non-contact and immediate payment requirement would be triggered only if the back-bill is less than $37.50.

9. Yet care must be used in characterising these amounts. We note increasing living costs mean the gap between household weekly costs and income is growing. Over 40% of households are of the view their income is only just enough or not enough to cover expenses, and it appears low-income families bear the greatest costs.[17] A significant portion of households are also borrowing to cover household expenses and electricity bills.[18] Therefore, further analysis may be required to confirm the 15% averages are low for larger and low income households who may have increased consumption higher than the average. A separate quantitative analysis may also be required for small business consumers.

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[12] See draft 11.32(H)(2)(c).
[13] *Omnibus #7* 2.41 (emphasis not in the original).
[14] See *Improving Electricity Billing in New Zealand*, pg 4. See also *Omnibus #7* 2.51(a).
[15] See draft 11.32H (2)-(2B).
[16] See discussion *Omnibus #7* 2.33-2.37. The precise term in the Code amendment *is invoicing period*. This may require a definition.
[17] See Statistics New Zealand "Graph Percentage of Households where Income is Considered "Not Enough' or 'Only Just Enough' to Meet Everyday Needs, by Tenure: Year Ended June 2023-2025" Link; statistical analysis in reports such as Child Poverty Action Group, *Below the Income Floor: Modelling Income Adequacy for Low-Income New Zealand Household 2018-2026,* July 2025, Link; and "Consumer Voices in Energy: What the Data Tells Us," P Fuge and J Walker (Presenters -Consumer NZ), D Wolken (Facilitator- Utilities Disputes) 23 July 2026. Some key statistics from this presentation were that 76% of Kiwis rate cost of living as their top concern, while 70% say groceries is their biggest pressure, followed by energy at 48%. Those households who earnt under 30k experienced the most energy hardship with 36% advising they had missed an energy payment. Consumer NZ concluded from their statistical overview that energy hardship is concentrated among Pacific Peoples, Māori and lower-income households.
[18] See Kiwibank (Media Release), "Kiwi are Finding Ways to Save – The Banking System Needs to Keep Up," 23 July 2026, Link.

10. However, we do not support compliance costs that become so burdensome retailers withdraw services that assist consumers. We understand some retailers are concerned that frequent consumer contact may not be cost-effective, particularly for legacy meters. This may mean the 15% threshold should be revised or set higher for these meters.

11. The EA also notes that retailers with legacy meters may have difficulty allocating an undercharge.[19] In those cases, Utilities Disputes is of the view any charge should still be itemised, have a rational basis, and be able to be explained to the consumer.

12. As the EA seeks to calibrate the above policy considerations, Utilities Disputes repeats its core policy objective in raising the issue of back-billing. Our objective has always been to prevent "bill shock". Bill shock arises when a consumer is presented with a significant back-bill caused by historical errors that are generally outside the consumer's control, leaving them with no meaningful opportunity to plan or budget for the unexpected expense. Such back-bills have real world consequences for consumers. For example, in one case it appeared the direct debit may prevent a mortgage payment.

13. Crucial then to ensure balanced policy making, and the workability of the above proposal, will be itemisation of the back-bill no matter its size, and that the consumer on request can be shown the charge has a rational basis. For large bills it is important a retailer be pro-active and not assume the bill can be paid immediately. That retailing in New Zealand is run on a business and competition model,[20] cuts both ways, and any paternalism in passing on costs to the consumer is to be avoided. We note when a consumer receives a satisfactory explanation for charges the matter is less likely to escalate into a billing and/or a customer service complaint. Such explanations also build consumer trust with the retailer and the industry.

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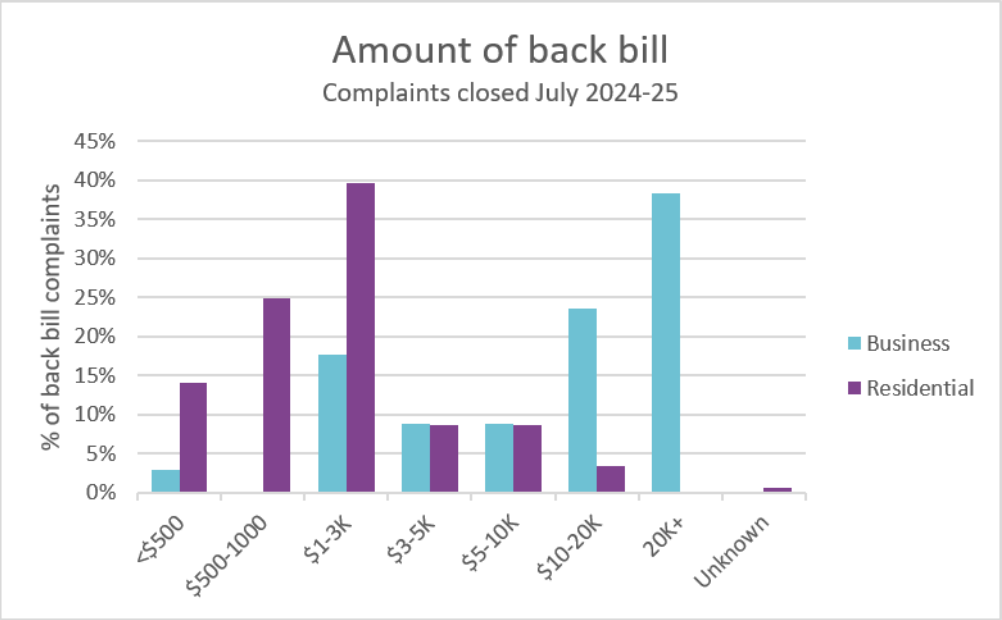
[19] "Where a legacy meter has not been read across multiple billing periods, the retailer may not hold actual consumption data for each relevant period. The eventual meter read may confirm that the customer has been undercharged but it may not provide a reliable basis for allocating the undercharged amount between the current billing period and an earlier billing period." *Omnibus #7* 2.20.

[20] "Competition demands consumers have adequate information to make choices. At minimum a consumer should have sufficient data to know: their plan, their consumption, the fees they will be charged or credits they will accrue, as well as the rate(s) they will be charged for the electricity they consume." *Improving Electricity Billing in New Zealand*, para 4. We note we have raised our concerns with the EA about costs passed on by distributors to consumers. For example see *Reducing Barriers to new Connections: Up-Front Charges and Distributor Obligations*, pgs 7-8, Link: *Consultation Papers: Distribution Connection Pricing & Network Connections Pricing*, 20 December 2024, pg 3 Link; & *Improving Electricity Billing in New Zealand*, pg 13 Link.

Statistics

14. We previously tracked the value of back bills in complaints received at Utilities Disputes from July 2024 to July 2025 for the purpose of highlighting our concerns about the impact back-billing was having. This showed the average value of a residential back-bill was $2,290. The average value of a commercial back bill was $18,280. The overall average value was $5,130. We can break these groupings down further should the EA require:



15. This analysis summarises back-bill complaints received by Utilities Disputes. There will be other complaints received and resolved by retailers, and many consumers will be satisfied with their bill or choose not to make a complaint.

Bill Disclosure

16. *Omnibus #7* seeks to allow for back-billing not only by invoice, but also in another way chosen by the retailer.[21] Utilities Disputes sees few difficulties with this part of the proposal as long as the customer is given sufficient information about their back-bill, no matter the amount.

17. We note the EA wishes to remove the requirement to give a due date for the back-bill. In its view this will be discussed in the customer consultation for back-bills reaching the 15% threshold.[22] If contact is not possible despite reasonable endeavours, then presumably the consumer will be provided a date (which can be negotiated), complying with draft clause 11.32(H)(2)(c).

[21] See draft 11.32H (2A).
[22] See *Omnibus #7* 2.41.

18. For the smaller amounts the proposal is that these amounts be paid immediately or part of a regular invoice.[23] As already noted we can support some form of this proposal as long as the back bill amount no matter its size is itemised. We are then pleased that dollar itemisation for a back-bill amount remains, although it has shifted from CCO 5 to 11.32H(b).[24]

19. To remove the itemisation requirement would mean the back bill amount would be hidden from the customer. Such an outcome, if contemplated, would appear to require additional consultation with consumers and consumer groups.

Revision of Guidance

20. Once any amendments are finalised, a further revision of the retailing guidance document will be required, *Improving Electricity Billing Guidance*.[25] We recommend the guidance highlight that for any sized back-bill the retailer should have a rational basis for the delayed billing, be ready to provide the customer an explanation for the charge, and offer a payment plan if necessary. *Improving Electricity Billing Guidance* could show this through an explanation paired with an example.

Generally Available Retail Tariff Plan

21. Utilities Disputes supports the proposed change to the definition of *generally available retail plan*. The amendment will bring plans within the definition where access depends on the customer having equipment such as an electrical vehicle, solar panels, and/or battery storage (we understand retailers often already include such plans).[26] Practically this change means the plans must be included in the retailer's mandatory plan catalogue and that a customer or other entity can request information about these plans (including under the Consumer Data Right).

22. This change is a small regulatory amendment illustrating how the EA's vision of an interoperable network requires a review of all regulatory settings.[27] We encourage the EA to continue this work and review the definitions and application of the CCOs[28]

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[23] For those on direct debit the charge may leave the consumer's account before they have seen the bill. The time limit will not apply due to the exclusion of 2(c) in drafted 11.32H(2B).
[24] See draft 11:32H(2B) which does not include 11.32H(2)(**b**): "A retailer is not required to comply with subclauses **(2)(a) or (c)** if the undercharged amount is less than 15% of—" (emphasis not in the original).
[25] See EA, *Improving Electricity Billing Guidance: Retailer Guidance*, 15 May 2026, Link.
[26] See *Omnibus #7* 3.7.
[27] "In the electricity sector, decentralisation means shifting from large scale electricity generation at a small number of sites across the country, to smaller scale renewables and other DERs located closer to consumers. These DERs empower consumers and local communities, allowing them to actively participate and potentially shape local energy systems to fit their unique context, needs and aspirations." See EA, *Working together to Ensure our Electricity System meets the future needs of all New Zealanders*, 30 April 2025, paras 2.1-2.2.
[28] See for example CCO narrow definitions of "pricing plan" and "product offering". Compare *Consumer Care Guideline* definitions of "payment plan". "pricing plan".

to ensure consumers using retail services based on DERS are adequately protected, including for the export of electricity. Examples of consumer complaints that have arisen in solar include: a) consumers having difficulty understanding their plan, particularly when the retailer may change the rate charged for grid electricity; b) lengthy terms which some consumers have difficulty navigating; and c) large exit fees.

23. We consider that it is not in the interest of these customers that different aspects of their solar plan are considered by different regulators or not at all.[29] As the Australian regulator has observed:

> If consumers understand they will receive consistent protection and outcomes regardless of the energy service they use, this is likely to promote trust and confidence in the energy market, thereby supporting competition, innovation and the increased uptake of consumer energy resources, which would promote the energy transition.[30]

Retention of Records

24. The EA wishes to insert a backstop provision of ten years for the retention of records, from the date the activity regulated by the CCOs occurred. Within this time-frame[31] a retailer must retain records for a period of five years from the date the consumer contract is terminated or from the date the premises are disconnected. The EA may wish to redraft these provisions to make them easier to interpret.[32]

25. Utilities Disputes is statutorily required to consider complaints not just involving the CCOs but any consumer complaint against a retailer or distributor.[33] These complaints involve alleged negligence, supply issues, trees affecting lines, removal of line function services, and land issues. Such complaints are often more complex than CCO complaints, and issues of consumer knowledge of the facts of a complaint can be an issue.

26. The Commissioner has discretion not to accept a complaint made longer than 12 months after the conduct occurred.[34] However, the backstop for considering complaints is governed by the Limitation Act 2010, which in most cases will mean a limit of six years, depending on the knowledge of the complainant. Therefore, Utilities Disputes recommends a seven year limit rather than a five-year limit for

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[29] *Reforming Network Pricing*, pg 2.
[30] Australian Energy Regulator, *Review of Consumer Protections for Future energy Services*, Nov 23, pg 22. For a more extensive work we recommend reviewing the work behind the draft *Western Australia Alternative Electricity Services Code of Practice 2026.*
[31] See *Omnibus #7*, 5.15.
[32] Flipping the order and numbering of drafted (2) and (3) may assist with intelligibility.
[33] Electricity Industry Act 2020, s 95 & sch 4(1).
[34] See Energy Scheme Rule, 18, section 2, rule 9.

record retention based on termination or disconnection and supports the ten year backstop.

Next Steps

Thank you for the opportunity to comment on the *Omnibus #7*. If you have any questions, please at the first instance contact me at: paulb@udl.co.nz

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