

26 August 2025

To: Ministry of Business, Innovation & Employment (MBIE)



Re: Proposals for an Electricity Sector Consumer Data Right

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the paper *Proposals for an Electricity Sector Consumer Data Right (Data Right Proposal)*. The information provided is not confidential and this response may be published on the MBIE website as needed.

The core points of UDL's submission are:

- A. UDL as the provider of the Energy Complaints Scheme is best placed to consider complaints about the Consumer Data Right (CDR) for reasons including:
 - i. CDR services currently fit within the scope of the Energy Complaints Scheme (ECS) which may consider any electricity complaint about a good or service;
 - ii. it would not be in the consumer's interest to sever CDR complaints from other electricity complaints, particularly when a CDR issue is likely to be bundled with other complaint issues;
 - iii. retailers already are required to be members of the ECS and fund the ECS. Funding another body would lead to unnecessary duplication;
 - iv. energy consumers are aware of UDL and it would be confusing for consumers to have another point of contact solely for CDR issues;
 - v. UDL actively supports retailers' internal complaints schemes which constitute the first tier of the ECS framework;
 - vi. Before acceptance of a complaint UDL will help resolve the complaint with the provider and complainant through complaint summaries, facilitating negotiation, and clarifying information;
 - vii. UDL is there to help retailers and consumers resolve the more complex and/or difficult complaints. For the small percentage of complaints that do not resolve, the UDL Commissioner can reach a decision, which gives an avenue for these complaints to reach a conclusion;
 - viii. UDL is used to considering issues of jurisdiction and will be diligent and collaborative in referring CDR privacy complaints to the Office of the Privacy Commissioner (OPC);
 - ix. as a not-for-profit UDL has mandatory annual performance standard obligations which are independently reviewed as part of our annual audit. The ECS scheme must be reviewed every five years, and UDL seeks to improve its processes by surveys and reaching out to community groups for their feedback;
 - x. UDL is an established complaint handler with experienced staff who are trained in mediation and conciliation. It has in place relationships, systems, and contact points with retailers and consumer organisations. UDL also has a mature relationship with the

electricity regulators and the Commissioner is a member of Australian and New Zealand Ombudsman Association. UDL is ready to consider CDR complaints, and use its expertise, and contacts to help resolve them fairly and efficiently.

- B. UDL sees value in accredited requestors being included within the ECS. It is difficult to assess what issues might arise with any degree of certainty. However, issues about customer service, selling practices, and contractual issues are likely. These types of complaints are part of any business, and a regular aspect of complaint handling in the electricity sector.
- C. There may also be CDR complaints where the conduct of retailers and accredited requestors is intertwined. Having a single complaint scheme will assist with efficient resolution of the complaint, and ensure any compensation is allocated fairly. Amounts awarded to a consumer for customer service issues are often modest. However, for the consumer having an external complaint handler allows some outside review.
- D. Research, commissioned by UDL, shows the value that complaint resolution schemes bring to a consumer in terms of accessibility, resources expended, and cost.¹ Accredited requestors would also benefit from the industry links and systems UDL has in place.
- E. As accredited requestors are not retailers or distributors, some changes to the ECS scheme will be required. If nominated, UDL would make use of the provisions in the Customer Product Data Act 2025 to expedite any changes and/or draft specific rules in a rule revision.
- F. UDL would work with MBIE to determine an appropriate fee methodology. UDL would also seek to integrate accredited requestors into our advisory committees and as requested provide advice as to what makes a fit for purpose internal complaints scheme. Some review of the CDR complaints process after it has been embedded, may also readjust complaint settings so they are fit for purpose for consumers and accredited requestors.
- G. MBIE has asked if further regulation of accredited requestors may be required. To ensure consumers can make free and informed decisions UDL is of the view some guidance to accredited requestors about acceptable selling practices is desirable. Such guidance could be included in a short principle-based consumer care policy and/or code. This could be authored by MBIE, UDL or the accredited requestor.
- H. UDL recommends further reflection on how consumers who are excluded from requesting data under the CDR or Electricity Industry Participation Code (EIPC) may be included. UDL has raised with the Electricity Authority (EA) its concerns that customer networks are an under researched area of the industry and customers on these networks appear vulnerable to price increases.² Often it appears these consumers have little access to information about how their electricity rates are determined.

¹ [NZIER \(for UDL\), Independent Dispute Resolution: Cost Benefit Analysis, 12 November 2024.](#)

² For our most recent formal intervention see UDL, *Working Together Paper*, 25 June 2025, 6-7.

- I. The key to CDR uptake by consumers and industry acceptance appears to be a data set wide enough to be worthwhile but focused enough to be manageable and cost effective. The customer and product data points would enable a comparison of the consumer's plan with an alternative. While CDR implementation costs may be high, to narrow the data field may only increase costs later. UDL makes the following points in relation to the proposed CDR framework:
 - i. Limiting mass retailers to 1,000 customers may require revision. New retailers may be the market innovators that have new products that are attractive to customers, and it may be best to onboard them straightaway into the CDR framework. One of the drivers for the CDR is to help vulnerable consumers be on the best plan. Therefore, excluding not for profit retailers runs the risk of severing off these customers from the full benefits of the CDR.
 - ii. Some consistency on the retailer definition may be required. Sometimes 1,000 customers or ICPs is used.
 - iii. Customers on a network extension have electricity market recognised ICP identifiers in the registry and have a relationship with a mass retailer therefore they may be able to be included within the CDR.
- J. Some of the data points could be further explained. Tariff charges could explicitly include any rate specific charges for particular products such as EV charging, night storage heaters, and other time of use products (these are charged using low-cost electricity). While the eligibility criteria for a product is not exhaustive, the final list may wish to include whether the plan requires: specific products such as storage heaters; controlled usage; and/or customer agreement to flexible contractual terms.
- K. UDL supports the work being done on a consumer identification and verification process, and the effort to take into account that many consumers do not have online accounts and are not always computer literate. UDL also notes some consumers do not have cell phones or change their number frequently.
- L. To help the ordinary consumer interpret CDR data sets it is recommended a data set be accompanied by a plain language explanation of:
 - i. any industry terms used to present the data
 - ii. the overall trend of the data set;
 - iii. any unusual consumption periods;
 - iv. any periods of estimated reads, with a reason why this occurred; and
 - v. the purpose of the information, and a list of common causes of increased consumption, e.g. heaters or air conditioning units being left on, and/or a hot water cylinder malfunctioning.
- M. The CDR electronic system and the formatting of data should be tested with consumers. Any electronic system of delivery should also be designed so that it can easily be updated to include data sets and circumstances not covered in the first roll out.
- N. UDL recommends that CDR charges should be kept to a minimum. This principle is congruent with the Privacy Act 2020 where in practice charges are seldom applied. When a

charge is applied it has to be reasonable.³ While product data is not personal information, the link between customer and product data in defining a worthwhile data set, suggests charges should be the same.

- O. A minimal fee structure is also consistent with the statutory purposes of the Customer and Product Data Act 2005 (CDRA). The CDR is instituted for the benefit of consumers, to promote competition, but also to unlock data for the benefit of society. A minimal fee structure would appear to achieve all these aims.⁴
- P. UDL supports the effort to make the CDR accessible to vulnerable and at-risk consumers, inclusive of waiving fees. The Consumer Care Obligations could be amended so that when a customer is having payment difficulties a retailer is required to ask the customer if they wish to have their customer data and/or any product data.⁵ In such cases the customer could be provided with a code which can override any fees. In the same way nominated social agencies, if accredited requestors, could have codes that override fees.
- Q. UDL uses consumption data to help with the resolution of complaints. Therefore, it would benefit from being able to receive consumption data quickly and in a readable form through the CDR framework. For this reason, UDL supports the proposal that for dispute resolution purposes it have a fee exception. This would be consistent with the rules of the ECS which state a provider must: “....promptly provide Utilities Disputes with information Utilities Disputes requests to assist in dealing with a Complaint.”⁶ Doing so would also free the retailer’s internal complaints staff from spending time processing such requests.

³ See Privacy Act 2020, s 66.

⁴ “The purpose of this Act is to establish a framework to— (a) realise the value of certain data for the benefit of customers and society; and (b) promote competition and innovation for the long-term benefit of customers; and (c) facilitate secure, standardised, and efficient data services in certain sectors of the New Zealand economy.” CPDA s 3.

⁵ See Consumer Care Obligation 23.

⁶ Energy Scheme Rules, r. 27.

UDL's Responses to the CDR

UDL notes that MBIE and the EA are working together on the CDR programme to ensure efficiencies and reduce costs for the industry.⁷ A link to UDL's recent submission to the EA about data requests under the EIPC is found [here](#). UDL supports this work. Especially as the Australian review of its CDR highlights the importance of defined and accessible data sets for the success of CDR:

The data put into the system should be of a quality that maintains consumer trust and gives system participants confidence to invest in developing the innovative products and services that compel consumers to move away from alternatives, such as screen scraping. A number of Review participants spoke about issues of inconsistent data quality, with a number of ADRs⁸ suggesting that product development has been held back by data range and quality issues.⁹

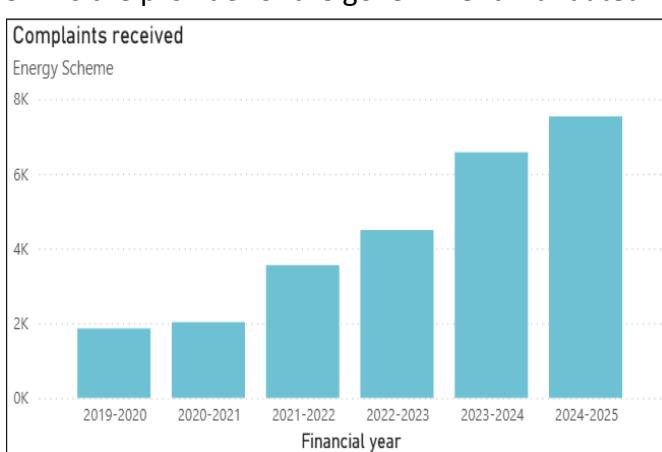
UDL also notes its previous submissions on the electricity CDR to [MBIE](#) and the Economic, Development, Science and Innovation [Select Committee](#).

Submissions

UDL groups its response to MBIE under these headings: Dispute Resolution Scheme – Retailers; Dispute Resolution Scheme – Accredited Requestors; Customer and Product Data; Customer and Product Data Exclusions; Intelligibility of Data; and Fees.

Dispute Resolution Scheme (DRS) – Retailers

1. UDL affirms its previous submissions that it is ready and willing to be the dispute resolution scheme for retailers, as data holders, under the CDR.
2. UDL is the provider of the government mandated ECS.¹⁰ UDL is a not-for-profit company.



The ECS's statutory purpose is to be an independent scheme where any person can bring a complaint about a retailer or distributor for resolution.¹¹ There is no fee for a consumer to make a complaint.¹² Complaints have increased fourfold in the last four years. Last reporting year the ECS considered 7533 complaints and 11499 queries.

⁷ See *Data Right Proposal* pg. 7.

⁸ ADR = Accredited Data Recipient. These appear to be accredited requestors under the NZ CDR.

⁹ Statutory Reviewer, *Statutory Review of the Consumer Data Right*, 29 Sept 2022, pg. 30.

<https://treasury.gov.au/sites/default/files/2022-09/p2022-314513-report.pdf>; see also *Product Data Paper*, paras 2.5-2.8, 3.4-3.5, 3.30.

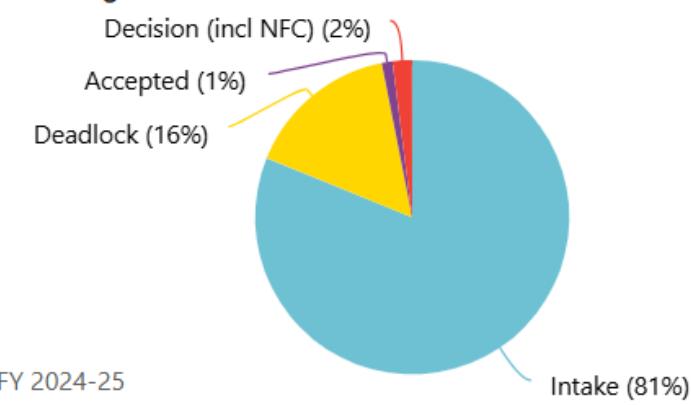
¹⁰ See Electricity Industry Act 2010 (EIA), s 95.

¹¹ See *ibid*. sch 4, clause 1. Electricity and gas providers fall under the scheme, but the majority of our complaints come from the electricity industry.

¹² See *ibid*, clause 13.

3. UDL can consider complaints about a good or service.¹³ Therefore the provision of CDR data fits within the pre-existing scope of the ECS, and it would seem not to be in consumers' interests if CDR retailer complaints were severed off from the ECS. Even more so when CDR complaints are bundled with other complaint issues.
4. Retailers help fund the ECS. Retailers pay a yearly fee worked out by the number of ICPs each services. Retailers pay additional fees for any complaint accepted by UDL for

What stage complaints closed by UDL



consideration. This is about 3% of complaints. The remaining 97% are resolved at intake or through the deadlock process, which alerts a retailer the complaint has been unresolved for twenty days. At these stages UDL will help resolve the complaint through complaint summaries, facilitating negotiation, and clarifying information. UDL's staged process limits the fees paid by retailers. It is a natural fit for UDL to consider CDR complaints within this framework and funding model. Retailers' fees will not increase, and there will be no duplication of financial resources.

5. The mixed fee model and focus on early resolution fosters and supports the work of a retailer's internal complaints process. However, if nominated UDL would assist with the more difficult or complex CDR complaints. Both retailer and consumer will have an independent body to consider the complaint, and a clear process to help them reach a resolution. When this is not possible the Commissioner will propose a recommendation, and if required issue a determination which is binding on the retailer.
6. UDL as the provider of the ECS also has established lines of communication with each retailer's specialised complaint's team. It also has a public profile with its community outreach, seminars, and contact details on every electricity bill. If UDL were to be responsible for CDR matters, all these resources are in place ready to facilitate consumer contact and complaint resolution.
7. UDL also has an educative function. When the Commissioner sees an issue of concern, he will bring it to the attention of other bodies such as the EA, MBIE and/or Commerce Commission. Retailers also receive monthly reports which identify trends specific to the retailer. The advent of the CDR brings with it many opportunities. Like any new service there may be growing pains and UDL if the external provider would use these existing reporting methods to educate the industry.
8. The CDR is founded on the exchange of personal information therefore privacy complaints are likely to arise. UDL values its relationship with the OPC, and has sought its help in

¹³ See Energy Complaints Scheme, r. 14.

running seminars, and providing presentations to ECS members. UDL takes privacy issues seriously, and every UDL complaint goes through a jurisdiction check before acceptance. UDL would be proactive about obtaining any appropriate and necessary information from the OPC, as part of that process. Therefore, should UDL be nominated as the external CDR complaint provider, it will be diligent in its jurisdictional review, and refer privacy complaints to the OPC.

9. FinCap, the national umbrella body for financial mentoring services in Aotearoa, has highlighted the value of a single complaint handler, both as a point of contact for the consumer and for providing consistency of decision-making.¹⁴ In UDL's view FinCap's comments are attributable to complaint handlers across all sectors. Consumers have limited time, it's efficient that consumers have a single point of contact for their complaints. UDL is firmly of the view there should be a single CDR external dispute resolution scheme.
10. Being a sole provider comes with the obligation of being accountable. Therefore, UDL takes seriously the feedback it receives from its surveys, and consumer groups. Its Community Engagement Officer is a point of contact not just for UDL to reach communities, but for these communities to let UDL know how it is performing. UDL is open to public scrutiny, has board oversight, and has reporting obligations to the Minister of Consumer Affairs who has oversight of the ECS. The ECS is also reviewed every five years.¹⁵ Its last review was positive, with the reviewer noting:

*The Energy Complaints Scheme is operating effectively as an independent scheme to resolve consumer complaints about electricity and gas supply. It is well managed and governed and adequately funded. UDL enjoys the confidence of community support organisations, scheme participants, regulators, government officials and Ministers. Complainants report a high degree of satisfaction with their experience of making a complaint to UDL and members report confidence in the operation of the scheme.*¹⁶

The Commissioner is also a member of the Australian and New Zealand Ombudsman Association. Contacts made here help UDL learn about new practices and systems to enrich its complaint handling. As a not-for-profit UDL has mandatory annual performance standard obligations which are independently reviewed as part of our annual audit.

11. This snapshot of UDL's function and role shows that ECS seems best placed to be the external dispute resolution provider for CDR complaints. Reasons for this include:
 - i. CDR services currently fit within the scope of the ECS which may consider any electricity complaint about a good or service;
 - ii. it would not be in the consumer's interest to sever CDR complaints from other electricity complaints, particularly when a CDR issue is likely to be bundled with other complaint issues;
 - iii. retailers already are required to be members of the ECS and fund the ECS. Funding another body would lead to unnecessary duplication;

¹⁴ [Nine to Noon, Calls for Financial Complaints organisations to Merge, 4 July 2025](#)

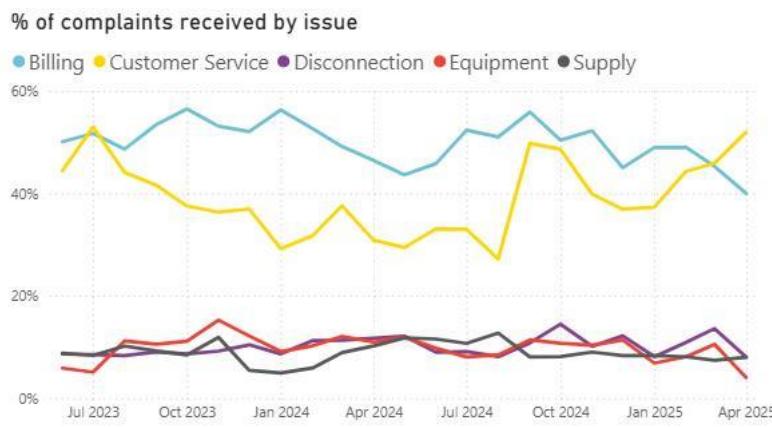
¹⁵ See EIA. sch 4, clause 15.

¹⁶ Ron Patterson, [2023 Independent Review of the UDL Energy Complaints Scheme](#), October 2023, 2.

- iv. energy consumers are aware of UDL and it would be confusing for consumers to have another point of contact solely for CDR issues;
- v. UDL actively supports a retailers' internal complaints scheme which constitute the first tier of the ECS framework;
- vi. before acceptance of a complaint UDL will help resolve the complaint with the provider and complainant through complaint summaries, facilitating negotiation, and clarifying information;
- vii. UDL is there to help retailers and consumers resolve the more complex and/or difficult complaints. For the small percentage of complaints that do not resolve, the UDL Commissioner can reach a decision, which gives an avenue for these complaints to reach a conclusion;
- viii. UDL is used to considering issues of jurisdiction and will be diligent and collaborative in referring CDR privacy complaints to the OPC;
- ix. as a not-for-profit UDL has mandatory annual performance standard obligations which are independently reviewed as part of our annual audit. The ECS scheme must be reviewed every five years, and UDL seeks to improve its processes by surveys and reaching out to community groups for their feedback;
- x. UDL is an established complaint handler with experienced staff who are trained in mediation and conciliation. It has in place relationships, systems, and contact points with retailers and consumer organisations. UDL also has a mature relationship with the electricity regulators, and the Commissioner is a member of Australian and New Zealand Ombudsman Association. UDL is ready to consider CDR complaints, and use its expertise, and contacts to help resolve them fairly and efficiently.

Dispute Resolution Scheme – Accredited Requestors

12. UDL sees value in accredited requestors being members of the ECS, due to their engagement with customers about their electricity data. It is difficult to confirm the issues



that will arise. However, issues about customer service, selling practices, and contractual issues are likely. These types of complaints are a regular aspect of complaint handling. In the ECS customer service issues are either the first or second most common complaint issue.

13. There may also be CDR complaints where the conduct of retailers and accredited requestors are intertwined. Having a single complaint scheme will assist with efficient resolution of such complaints. If compensation is recommended it will ensure compensation is attributed fairly. It would be cumbersome for the consumers with CDR complaints to go to more than a single complaint handler. Accredited requestors would also benefit from the industry links and systems UDL has in place.

14. Amounts awarded to a consumer for customer service issues are modest. However, for the consumer having an external complaint handler allows some independent review. Research, commissioned by UDL, shows the value that complaint resolution schemes can bring to a consumer in terms of accessibility, resources expended, and cost.¹⁷
15. As accredited requestors are not retailers or distributors, some changes to the ECS scheme rules are likely to be required for accredited requestors to be included. UDL would likely make use of the provisions in the Customer Product Data Act 2025 to expedite any changes and/or draft specific rules in any overall rule review. UDL would work with MBIE to determine the most appropriate method for setting fees. UDL would also seek to integrate accredited requestors into our advisory committees. A review of the CDR complaints process after it has been embedded, may also readjust complaint resolution settings to ensure they are fit for purpose for consumers and accredited requestors.¹⁸
16. MBIE notes accredited requestors will be required to have a documented and accessible complaints process.¹⁹ The first tier of the ECS complaints process is the providers internal complaints process, as it is best for consumer and the provider that complaints are resolved early and fairly. Therefore, UDL would seek to help and assist any accredited requestor in the setting up of their internal complaints process. UDL also takes this opportunity to set out the core elements of an internal complaints scheme. These core elements might be helpful if MBIE wish to offer any guidance on internal CDR complaints schemes and how they should be documented.²⁰
17. These core principles, based on outside authorities, and presented first by UDL in the context of the Local Water Done Well reforms, may become more relevant as accredited requestors grow in size.²¹ However, if there is clarity around complaints definitions, this ensures good data collection and allows for accredited requestors to be fairly compared:

Number of Complaints	To enable quality statistics on the number of complaints, an adequate definition of complaint is required. The Australian and New Zealand Standard is an: “an expression of dissatisfaction”. ²² A clear universally adopted definition prevents complaints from disappearing into other categories such as queries, feedback, or points to be noted. ²³
Nature of those Complaints	A universal classification system of complaints is necessary to ensure a meaningful comparison of services. Categories need to be broad enough not to be onerous but meaningful enough to identify the subject matter of the complaint.

¹⁷ [NZIER \(for UDL\), Independent Dispute Resolution: Cost Benefit Analysis, 12 November 2024.](#)

¹⁸ Fees are ringfenced to each scheme that UDL offers.

¹⁹ See CPDA s 48; and *Data Right Proposal*, 19.

²⁰ *Ibid* s 48 (2) (b).

²¹ Adapted from UDL to Finance & Expenditure Select Committee, Local Government (Water Services) Bill, 21 Feb 2025, 6-7.

²² See *Guidelines for Complaint Management in Organisations*, AS/NZS 10002, 4.2 (in force in New Zealand).

²³ See Society of Consumer Affairs Professionals Australia, *Return on Investment of Effective Complaints Management: Public Sector Organisations*, (Research team - University of Newcastle) June 2020 30-31.

Timing for Resolution	Resolution times matched with the subject matter of a complaint will identify where the difficult complaints are.
Staffing	The number of complaints staff employed by a provider and their training. This statistic gives insight into the resources a WSP is investing in complaints compared to the size of their customer base and the number of complaints it receives.
18. UDL affirms its earlier submissions which recommend guidance on selling practices may be required for accredited requestors to ensure vulnerable and at-risk consumers, are free to make informed decisions:	
<p><i>UDL also has some concerns for vulnerable communities and ensuring consumers are giving informed consent to accredited requestors to act on their behalf. Therefore, we are of the view some regulation defining the modes of selling and advertising for accredited requestors is needed, e.g. if door knocking for clients is appropriate, and when there is reasonable notice the consumer is having language difficulties in understanding any product offers.</i>²⁴</p>	
19. Such guidance could be included in a short principle-based consumer care policy and/or code. ²⁵ This could be authored by MBIE, UDL or the accredited requestor. If the reach of accredited requestors grows as expected, covering all aspects of life, the need for such a code will increase. It may be best to instigate this type of guidance early. UDL notes that with the development of AI and algorithmic tools, electricity data reveals not just consumption trends but other habits of the consumer. If consumers can trust that their information is used ethically, and with consent, this will only increase their trust in the CDR.	

Customer and Product Data

20. Learning from the Australian experience the key to CDR uptake by consumers and the designated industry appears to be a data set wide enough to be worthwhile but focused enough to be manageable and cost effective:

*The Review considers that a narrower approach to designation introduces greater focus and better targeting of CDR use cases. It means that there is greater clarity on the coverage of datasets for designated entities from the outset, and no requirement from data holders to potentially overhaul systems for low-value CDR datasets or bespoke products.*²⁶

The success of the electricity CDR will then rest on obtaining sufficient customer data to assess the customer's needs; and sufficient product data to find for the customer alternative plans. If this balance is achieved accredited requestors, with the appropriate

²⁴ UDL to MBIE, *CDR Paper*, 10 October 2024, resp 13, 21; see also resp 19.

²⁵ See UDL's principled based telecommunications Customer Service Code [UDL Customer Service Code](#). UDL's Telecommunications Complaints Scheme is not an Industry Dispute Resolution Scheme under Part 7 of the Telecommunications Act 2001.

²⁶ See *Statutory Review of the Consumer Data Right*, pg. 21

permission will then be able change a customer's plan.²⁷ This may increase switching rates, make the electricity market more efficient,²⁸ and help the consumer to make savings. Below is a summary of the proposed customer and product data points:

Customer Data	Product Data
<i>Customer Identifier and Information</i>	-
<i>ICP</i>	-
<i>Product Name and Identifier</i>	<i>Product Name & Identifier</i>
<i>Bundled Product</i>	<i>Bundled Product</i>
<i>Tariff structure</i>	<i>Tariff Structure</i>
<i>Meter Type/Configuration</i>	<i>Eligibility – Meter requirements</i>
<i>Consumption data</i>	<i>Line Company</i>
<i>Export Rates</i>	<i>Location</i>
<i>Bill History</i>	<i>Payment Method</i>
<i>Fixed or open term plan</i>	<i>Solar battery or electric vehicle prerequisites</i> <i>Business or residential plan</i> <i>Credit check requirements</i> <i>Fees and Discounts</i> <i>Credits and other incentives</i>

21. Reviewing these elements, they appear to be matched and would enable a comparison of the consumer's plan with an alternative.
22. However, setting standardised names for types of plans and/or giving them identifiable codes may also help with requesting product data. An accredited requestor or customer could then ask for all the plans with this particular product code. Tariff charges may also have to more explicit including any rate specific charges for particular products such as EV charging, night storage heaters, and other time of use products (these are charged using low-cost electricity). Although the eligibility criteria for a product or service is not exhaustive, a final list may wish to include: particular products such as storage heaters, controlled usage, and flexible contractual terms.
23. There are a lot of data points to meaningfully compare a customer's plan with a market alternative. To ensure the data set is both achievable and meaningful care must be taken in making redactions. CDR will be a success only if the CDR provides a service that the customer sees value in and if the CDR can be delivered efficiently. A poor early experience can affect if the customer will use the service again.
24. Therefore, while CDR implementation costs may be high, to narrow the data field may only increase costs later. Indeed, a major retailer has expressed concerns to the EA about its data collection policy-making, noting the cost of short terms changes, and the importance of an overall plan:

²⁷ See CPDA s 18.

²⁸ Switching rates are low below 10% see EA, *Options to Support Consumer Plan Comparison and Switching*, 1 February 2024, Appendix B, para 10.11.

The technology changes required by each of these consultations in isolation might solve an immediate problem, but that solution may not be fit for purpose in the longer term. This is known as “technical debt” as it effectively becomes a technical burden that retailers will need to address at potentially greater expense in the future.²⁹

25. A further key to gaining consumer trust in the CDR will be ensuring consumers have confidence that their personal information is safe. Additionally, UDL notes MBIE is aware that many consumers do not have online accounts and are not always computer literate. Some consumers do not have cell phone or change their number frequently. Therefore, UDL supports a proposal that can take these factors into account and remain cost-effective.

Customer and Product Data Exclusions

26. Where there are exclusions in data collection it will be important that these data points are not forgotten in the design of any electronic system(s).³⁰ UDL sees a link between the exclusions/limitations and the ability of the Chief Executive (likely of MBIE) to require testing of the performance and technical requirements of electronic systems.³¹ Such testing may be necessary to ensure the electronic system has the capacity to be amended and built upon. The proposed exclusions and limitations of the CDR proposal are summarised below:

Exclusions/Limitations
Customers without a smart meter ³²
Businesses who use over 100MWh ³³
Customers who share one meter (e.g. apartment complexes/retirement homes) ³⁴
Bespoke or negotiated plans ³⁵
Retailers who have less than 1,000 ICPs ³⁶
Retailers who are not mass marketers ³⁷
Not for profit retailers ³⁸
Customer who do not have an ICP ³⁹

²⁹ Mercury, *Improving Retail Market Monitoring: Amended Information Notice and Update Analysis*, 22 October 2024, pg. 2.

³⁰ “A data holder must operate an electronic system that has the capacity to do all of the following with reasonable reliability:(a) enable the data holder to receive requests for regulated data services; and (b) enable the data holder to provide regulated data services in response to those requests or to otherwise respond to those requests (including where the service must not or may not be provided).” CPDA s 27; see discussion EA, *Enabling Consumer Mobility by Improving Access to Electricity Product Data*, 15 July 2025, 4.17-4.21. The application programming interfaces (APIs) appear to be the electronic systems noted in the CPDA.

³¹ See CPDA s 29; see also s 28.

³² See *Data Right Proposal*, pg. 10.

³³ Ibid., pgs.10-11.

³⁴ Ibid., 10.

³⁵ Ibid., 13.

³⁶ Ibid., 15.

³⁷ Ibid., 15.

³⁸ Ibid., 16.

³⁹ Ibid., 15,

27. In respect of these limitations/exclusions UDL observes:

- i. Limiting mass retailers to 1,000 customers may require revision. Future new retailers may be the market innovators that have new products that are attractive to customers, and it may be best to onboard them straightway into the CDR framework.
- ii. One of the drivers for the CDR was to help vulnerable consumers be on the best plan. Therefore, excluding not for profit retailer's runs the risk of severing off these customers from the full benefits of the CDR.
- iii. Some consistency on the retailer definition may be required. Sometimes 1,000 customers or ICPs is used.
- iv. While secondary networks are not included. This may not be required in respect of customers on a network extension who have electricity market recognised ICP identifiers in the registry.
- v. UDL recommends further reflection on how consumers who are excluded from requesting data under the CDR or EIPC may be included. UDL has raised with the EA its concerns that customer networks are an under researched area of the industry and customers on these networks appear vulnerable to price increases. Often these consumers appear to have little access to information about how their electricity rates are determined.⁴⁰

Intelligibility of Data

28. The EA highlights the importance of consumers having access to their data this way:

...it is important for consumers to have access to their own data. There are various innovative products and/or services in the market designed to benefit consumers by recommending products and services for them based on their consumption patterns. These range from websites which compare electricity plans and provide recommendations based on inputted data for free, to more personalised paid services which evaluate available plans on behalf of the consumer. We want to improve consumer mobility by ensuring consumers have access to accurate and timely information about themselves – consumers should expect their retailer to provide the data they need for minimal cost and in a timely way.⁴¹

29. A customer without the assistance of an accredited requestor can request information about a retailer's plans and consumption under the EIPC and the CPDA. Consumer interest in seeking such data is likely to increase once it is known this information can be requested easily through the CDR electronic system and consumer products based on a customer's data increase their market share.
30. MIBIE and the EA are rightly seeking to make it easier for accredited requestors to request customer and product data. With their assistance customers will be able to make informed choices about their plan and consumption. However, it would seem a backward step if the data is formatted in such a way that it *requires* a customer to seek the help of an accredited requestor.
31. UDL often uses consumption data to help resolve a complaint. Such data often identifies unusual consumption patterns and mistakes in billing. However, the information is sometimes sub-standard and challenging to interpret. An ordinary consumer in some cases would find the data almost impossible to interpret.

⁴⁰ For our most recent formal intervention see UDL, *Working Together Paper*, 25 June 2025, 6-7.

⁴¹ EA, *Code Amendment Omnibus Four: September 2024*, 3 September 2024, 2.

32. Therefore, UDL recommends that data sets under both the EIPC and CDR include a plain language explanation of:

- i. industry terms used to present the data;
- ii. the overall trend of the data set;
- iii. any unusual consumption periods;
- iv. any periods of estimated reads, with a reason why this occurred; and
- v. the purpose of the information, and a list of common causes of increased consumption.⁴²

33. Consumer NZ highlights the importance of testing any CDR electronic system with consumers, reasoning which UDL is of the view also applies also to the formatting of data:

...we also consider there needs to be some form of comprehensive consumer experience (CX) testing to ensure the framework is robust and fit-for-purpose.

We encourage MBIE to conduct CX research with a wide-range of consumers experiencing a range of vulnerabilities.

Carrying out CX testing will help provide valuable insight into how the CDR regime can cater to a wide range of consumers' needs and facilitate greater accessibility and inclusion.⁴³

Fees

34. Based on the EA's principle that a consumer should have access to their data, CDR charges should be kept to a minimum. Retailers benefit from data collection to create new products and improve their services. In the same manner it seems a consumer should have access to their data to assess their electricity plan and consider other plans. This charging framework is congruent with the Privacy Act 2020 where in practice charges are seldom applied. When a charge is applied it has to be reasonable.⁴⁴

35. While product data is not personal information, the link between customer and product data in defining a worthwhile data set, suggests charges should be the same. The CDR while benefiting consumers, is also a tool that will reward retailers for their innovation. As the CDR in a crowded market should help the consumer identify the best plan for their needs. This viewpoint appears congruent with MBIE's own hopes for the CDR:

New Zealanders will have greater ownership of the data that businesses hold about them, and it will be easier to shop around for the best deals. The Act will spur growth in New Zealand's economy by breaking down the barriers for innovative technology companies, enabling them to offer new data-driven products and services.⁴⁵

36. Having low fees also appears consistent with the statutory purposes of the CDRA which sets out that the CDR has been instituted for the benefit of consumers and to promote

⁴² See UDL, *Amendment Omnibus Four: September 2024*, 15 October 2024, 3-4.

⁴³ See Consumer NZ, *Submission on Customer and Product Data Bill*, 5 September 2024, para 3.14.

⁴⁴ See Privacy Act 2020, s 66.

⁴⁵ MBIE, "Consumer Data Right" webpage, 23 August 2025.

competition, but also to unlock data for *the benefit of society*.⁴⁶ CDR data therefore has a statutory social function.

37. This social function of CDR is seen in the hope that the CDR will lower costs for consumers, especially vulnerable consumers, medically dependent customers, and those on low and fixed incomes.⁴⁷ Therefore, UDL supports any effort to make the CDR accessible to these consumers, inclusive of waiving fees and/or allowing nominated agencies to make free referrals.
38. These exceptions may be managed by amending the Consumer Care Obligations,⁴⁸ so that when a customer has payment difficulties a retailer must ask the customer if they wish to have their customer data and/or any product data. The retailer could give the customer a code which can override any fees. This proposal highlights the importance of ensuring any CDR electronic system is fit for purpose and allows for real-world examples and exceptions.
39. Nominated agencies, if accredited requestors, could also have special codes that override fees. Such exception codes could also be time sensitive and be renewed periodically, to maintain the integrity of the electronic system.
40. As explained above UDL uses consumption data to help with the resolution of complaints. Therefore, it would benefit from being able to receive consumption data quickly and in a readable form through the CDR framework. Some retailers are more responsive than others in responding to such data requests. For these reasons UDL supports the proposal that UDL for dispute resolution purposes have a fee exception. This would also be consistent with the rules of the ECS which state a provider must: "...promptly provide Utilities Disputes with information Utilities Disputes requests to assist in dealing with a Complaint."⁴⁹ Doing so would also free the retailer's internal complaints staff from spending time processing such requests.

Conclusion

Thank you for the opportunity to comment on the *Data Right Proposal*. If you have any questions, please contact me at: paulb@udl.co.nz



Paul Byers – Legal and Policy Officer

⁴⁶ "The purpose of this Act is to establish a framework to— (a) realise the value of certain data for the benefit of customers and society; and (b) promote competition and innovation for the long-term benefit of customers; and (c) facilitate secure, standardised, and efficient data services in certain sectors of the New Zealand economy." CPDA s 3.

⁴⁷ UDL notes regulations will set out how requests from joint accounts are processed, and how secondary users may make requests (inclusive of members of a household other than the account holder(s)). See CPDA ss 21 & 24.

⁴⁸ See Consumer Care Obligation 23.

⁴⁹ Energy Scheme Rules, r. 27.