

13 December 2024

Electricity Authority

To: appropriations@ea.govt.nz

Re: Consultation Paper – Proposed Levy-Funded Appropriations 2025/26

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the Electricity Authority's (EA) consultation document, *Proposed Levy-Funded Appropriations 2025/26. (Levy Paper)*.

The key points of our submission arise from the EA advising that to deliver the Consumer Care Obligations (CCOs) it requires \$600-700k as an enduring uplift in its operating costs base:¹

1. UDL supports the EA and many of its projects, including the mandating of the CCOs.
2. UDL has concerns the implantation of the CCOs may result in some overlap of the service UDL provides and questions whether the funding request has properly considered that risk.

UDL receives around 8,000 complaints a year, most of which will raise a concern that will be linked to a particular CCO. UDL has a well-established process to investigate and resolve those complaints and refers any significant concerns to the EA. UDL has also increased its efforts over recent years to raise consumer awareness of UDL's services, including advising consumers of their rights and their ability to raise concerns and complaints. This outreach has also had a particular focus on vulnerable consumers.

We appreciate the fact the EA has acknowledged UDL's distinct role under the Electricity Industry Act 2010. However, the EA appears to be proceeding on the basis there is a clear distinction between what will be a code breach as opposed to a consumer complaint, and that education will be provided to support this.

This is an artificial and unrealistic approach in our view. We are concerned this will result in unintended consequences for consumers and providers as the EA and UDL will deal with what is

¹ *Levy Paper*, para 3.22.

essentially the same complaint. It will also inevitably lead to a duplication of processes. Both processes will involve a consideration of the CCOs.

We are pleased to be working with the EA to try and address these concerns. However, we believe greater detail was needed in the *Levy Paper*, about the implementation of the CCOs. This would ensure a proper assessment had been made of the financial risks including the avoidance of unnecessary costs being incurred through the duplication of the work and services that are provided by UDL. We have provided further details below.

The Implementation of the CCOs – Assessment Difficulties (Q. 1)

Assessing the request for an enduring uplift in the EA’s costs base for the CCOs is difficult due to these factors:

1. **Cost Assessment:** The EA advises that to deliver the CCOs it requires \$600-700k as an enduring uplift in its operating costs base.² These are enduring costs, so they appear necessary for publicity, the call-centre, and investigation of CCO breaches.

As with all the work plan options in Levy Paper appendix A, the difficulty is that the information provided appears insufficient to make an assessment on whether the extra appropriations will create value for money and avoid unnecessary duplication. In respect of the CCOs, the risk analysis suggested the costs to the EA would be minimal:³

“While we note that the Authority’s costs may increase as more consumers engage directly with it, we consider that these costs will result primarily from other activities the Authority is choosing to undertake that will raise the profile of the Obligations (such as producing fact sheets, engaging in targeted advertising, setting up a phone line, etc.) rather than resulting directly from the proposal.”

The *Levy Paper’s* costings of \$600-700k appear not to support this optimistic analysis. Therefore, a more up to date analysis is required. This analysis should include an assessment of the costs of a duplication of services, where industry participants will continue to pay for the industry dispute resolution scheme, and many of these same services will be repeated by the EA.

2. **Risk Assessment:** We are also concerned the funding proposal fails to appreciate the risk the CCOs propose to consumers in terms of duplication of work, and points of contact. For example, the risk analysis for the CCOs when assessing impact addresses: the EA, consumers, distributors, retailers and support agencies. There is no robust assessment of how the CCOs will be managed by UDL and the EA.⁴ This is surprising as UDL operates the mandated disputed resolution scheme and has processes for helping consumers address and resolve a number of issues such as disconnections, outages, and billing issues.

² *Levy Paper*, para 3.22.

³ EA, *Proposed Consumer Care Obligations – Consultation Paper*, 6 August 2024, Appendix C, Evaluation of Costs and Benefits, fn. 17.

⁴ *Ibid.*, 4 et al.

3. **Efficiency, Protection, Reliability:** The EA in part measures itself against the statutory principles of: competition, reliability, efficiency and protection. The EA applies these principles widely as they relate to consumers.⁵ The most applicable in considering consumer complaints are the procedural measures of reliability, efficiency, and protection. It has not been shown that the EA's enforced transition from a unitary contact for consumer complaints to a dualistic model will increase the likelihood of these measures being met.

UDL has used the predecessors to the CCOs to assist in the resolution of complaints.⁶ It will also use the CCOs in its decision-making. Therefore, UDL will issue decisions through its Commissioner and the EA through the Rulings Panel.⁷

The EA has confirmed it intends to operate a dualistic model where there will be dual investigations of a complaint by the EA and UDL, conducted simultaneously into the same matter.⁸ UDL has expressed its reservation about this intention, and it is easy to see how this may not only lead to confusion for providers and consumers, but also create a significant risk of delay and the duplication of resources.

While the EA has at times confirmed it will only investigate the most serious matters and trends, it has also stated its intention to look at each complaint it receives which leaves room for procedural confusion. It is artificial in UDL's view to try and draw a distinction between a consumer complaint that may involve an aspect of the CCOs and a consumer allegation of the CCOs being breached. Both processes will involve a consideration of the CCOs.

These potential issues should be factored into the implementation of the CCOs, and costs allocated to that work.

An Additional Objective (Q.7)

The EA's additional objective to protect the interests of domestic consumers and small business also demands more of the EA in terms of surveying the public and testing new processes with consumers.

For example, UDL has suggested consumers be involved in testing the readability of consumption data sets, and that the EA consider regular surveys of consumers, based on overseas models to measure the performance of industry participants.⁹

Therefore, as the EA continues to scope new projects it is encouraged to make a fixed element of any workplan a consideration of how consumers are to be consulted and if new features should be tested with consumers prior to implementation.

⁵ See EA, *Statement of Intent*, 27 June 2024, 11.

⁶ See discussion UDL, *Proposed Consumer Care Obligations*, 10 September 2024, 3. See also Energy Scheme Rules, rules 32-40.

⁷ See Electricity Industry Act 2010, s 50, and Energy Scheme Rules, rules 32-40.

⁸ See EA *Quarterly Update*, 11 December 2024, 46.22 – 46.48 approx.

⁹ See UDL, *EA Submission - Improving Retail Market Monitoring: Amended Information Notice and Updated Analysis*, 22 October 2024, 4-5; and *Code Amendment Omnibus Four*, 15 October 2024, 3.

Next Steps

Thank you for the opportunity to comment on the *Levy Paper*. If you have any questions, please at the first instance contact Paul Byers, Legal and Policy Officer, paulb@udl.co.nz

A handwritten signature in black ink, appearing to read 'Neil Mallon', with a stylized flourish at the end.

Neil Mallon
Toihau Commissioner