25 June 2025

Electricity Authority

To: decentralisation@ea.govt.nz

Re: Consultation Paper –

Working Together to Ensure Our Electricity System Meets the Future Needs of all New Zealanders (Working Together Paper)

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the *Working Together Paper*. The core points of this submission are:

1) UDL supports the development of Distributed Energy Resources (DERs) and the importance of providing proactive guidance in this space. DERs are and will create opportunities for efficiencies and savings for the consumer.

2) UDL supports the democratic model where consumers and providers work together and believes it would be helpful for the EA to expand on its role within the model. UDL cautions against a hands-off approach. This may require changes to the way the EA currently performs some functions, for example the way it provides education to new industry participants about their regulatory obligations when they first register with the EA.

3) Under the current standard model of electricity generation there may be an analogy with secondary networks. This is an under researched area of the electricity industry and the needs of consumers, many of whom do not choose their retailer, are largely unknown. Network owners sometime have a piecemeal understanding of their obligations, and it appears subject to little review. It would be important that these new forms of generation, many of whom may set up their own network and retail electricity, are not similarly overlooked. The EA is invited to consider setting up its own contact or representative groups for these industry participants.

4) In future papers it would be helpful to do a separate analysis of the needs of large community projects involving DERs and smaller household projects. Each has their own particular needs.

5) To enable a full intergenerational analysis some further projections on the future health of the network would be helpful. As the EA in other papers has noted that inverter-based technologies may affect the quality of supply.

6) New technologies are in their infancy, and not all ventures will succeed. Therefore, some analysis of projects and products that have had difficulties and how these difficulties were managed will also round out any future analysis.

7) To help promote the culture of trust the EA envisions and to allow the consumer to make new and different choices about their electricity supply, some consumer protection is required. This will require review of elements of the Electricity Industry Act 2010, to ensure products based on DERs are appropriately included, and the Energy Complaints Scheme remains the contact for all consumer complaints.

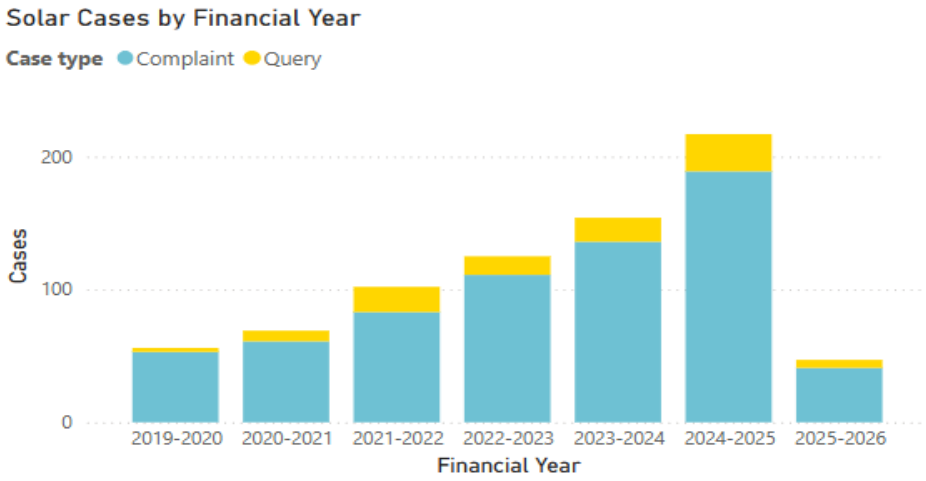
8) The EA may be helped in its analysis of DERs by the work of Australian regulators and policy makers. For example, the Australian Energy Security Board (ESB) has created a *Consumer Risk Assessment Tool*, for assessing the benefits and risks of DERs.[1]

UDL Complaint Schemes

UDL operates the mandated Energy Complaints Scheme (ECS).[2] UDL is a not-for-profit company and there is no charge for a consumer to make a complaint.

The core 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.[3] The ECS in the 2024-2025 reporting year received 7533 complaints and 11499 queries. Complaints in the past four years have risen nearly fourfold.

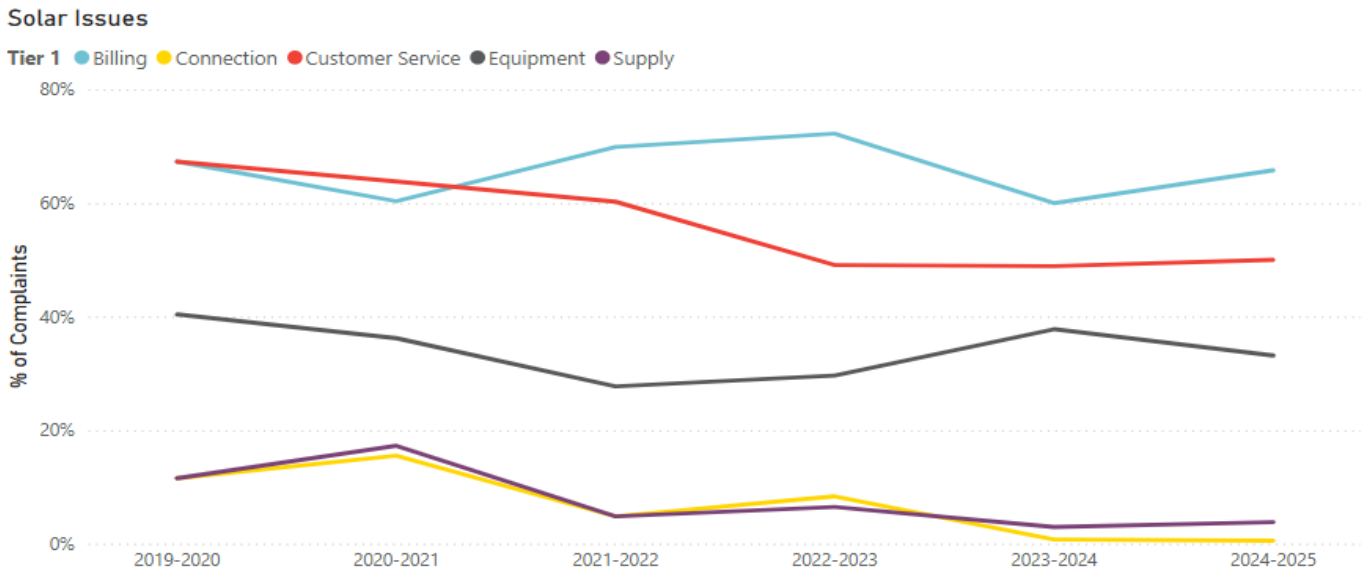
UDL does consider complaints about DERs and the service products that arise from them.[4] There has been a consistent flow of solar complaints since 2019:



Most of the complaints are resolved in the preliminary stage of the UDL process before formal acceptance. This usually occurs with UDL providing a complaint summary to the retailer, and the retailer resolving the complaint directly with the consumer. Solar issues are typical of

[1] See Energy Security Board, *Post-2025 Market Design Final Advice to Energy Ministers*, Part C, 27 July 2021, 2.2, 26-27.
[2] See Electricity Industry Act 2010 (EIA), s 95.
[3] See Ibid. sch 4, clause 1.
[4] Distributed Energy Resources, are sometimes called inverter-based technologies these typically are solar, wind, and batteries. These technologies lead to greater exporting and importing electricity from the grid.

complaints generally having issues about billing, connections, customer service, equipment and supply:



However solar complaints often take longer to resolve due to their complexity.

UDL has also considered a few complaints related to electrical vehicle charging. Most of these were closed early in the process. UDL was able to assist with resolving a metering issue, and discovering a car was not charging correctly due to the property not receiving electricity at the correct voltage. These complaints were resolved after an investigation and the assistance of the retailer and/or distributor.

UDL, in addition to the ECS, operates an independent telecommunication scheme,[5] voluntary water dispute resolution schemes, and the mandated Broadband Shared Property Access Disputes Scheme which considers complaints about the laying of fibre in shared driveways. UDL also has an educative function, both in promoting its resolution schemes, being the first point of contact for consumers, and providing systemic insights to the various industries.

Working Together Paper – Refining the Framework

The *Working Together Paper*, as a Green Paper, opens a dialogue and further opportunities will be given to discuss these matters.[6] The core message of the paper is that to get the best use out of DERs, it will require a decentralisation model based on mutual trust:

> *High levels of trust and engagement between consumers, local and national stakeholders and the energy industry will be critical to enable the full benefits of digitalisation, DERs, and decentralised decision making.*
>
> *Consumer-owned DERs can offer great value to the energy industry. They support retailers, generators, distribution companies, and Transpower through demand response and other*

[5] UDL's Telecommunications Complaints Scheme is not an Industry Dispute Resolution Scheme under part 7 of the Telecommunications Act 2001.
[6] See *Working Together Paper*, 1.7.

services. However, consumers will need to trust that industry third parties will manage their DERs in a way that reflects their preferences, before giving those parties access to control their energy resources. The same is true of industry seeking to gain access to consumers' energy data.

To develop new energy infrastructure quickly and at the scale needed, the industry must actively engage with local communities and highlight the benefits these projects could bring to the area and its people and businesses.[7]

DERs are and will create opportunities for efficiencies and savings for the consumer. However, care must be had, that the regulatory burden for monitoring these new products is not shifted to the consumer. Decentralisation should not mean consumers have less consumer safeguards than when engaging with traditional retailers and distributors.

To ensure there are adequate safeguards UDL submits below that the proposal would benefit from a further clarification and/or discussion about: a) the types of plans businesses offering DERs will offer; b) the New Zealand context; c) the role of the EA; and d) the cultural environment needed for the democratic model to function.

Distinguishing the Types of Projects

1. The *Working Together Paper* highlights *consumer owned* DERs.[8] The scale of the projects discussed in the paper appears varied. Larger projects such as the Franklin project are noted,[9] along with smaller household projects:

   These DERs may be physically co-located where energy is used, for example within a home or building. They can also be integrated within a larger site or 'microgrid' such as a university campus, industrial complex, or housing development. Or they may be connected directly to the local distribution network, or form part of an off-grid or stand-alone power system. They can also be mobile like electric vehicles — this is important with the rise of vehicle-to-load/grid capability, or 'batteries on wheels.'[10]

2. Future working documents will need to tease out the differences between these larger projects and smaller household projects, and what new structures will be needed to support each. Each will have their own needs. Some of these household projects involve solar and are lease type arrangements where the panels and electricity are owned by the solar company. This is a shared ownership model.

3. As with any retail relationship there are some risks with part ownership models and DERs in general. UDL has considered matters where issues have indicated the consumer has not comprehended:

   a. the length of their contract, and how savings will be calculated over this period;
   b. complex terms and conditions;
   c. the break fees they may have to pay when ending the contract early;
   d. the interrelationship between electricity generated from the new technology and the electricity from the grid.

[7] Ibid, 2.13-2.25 (para numbers redacted).
[8] Ibid., 2.14.
[9] See ibid., case study, 24.
[10] Ibid, 2.6.

e. the technological requirements of these new products.

4. Some of these contractual issues are similar to concerns raised by the Australian Energy Regulator (AER). The AER sees a risk that customers using these new energy services may:

    - enter into contracts not suitable for them or do not fully understand;
    - have not received appropriate information to make an informed choice;
    - have an inadequate understanding of how the new service functions;
    - engage a service that may be controlled in a way that it is to there detriment;
    - have difficulty paying for the new service;
    - have little access to a dispute resolution service; and
    - may be treated unfairly, which may affect confidence in the energy market.[11]

5. UDL considers these types of issues as they arise. Complaints arising from DERs can be complex involving: a) contractual terms; b) the retailer's interchanges with the consumer; c) the Contract and Commercial Law Act 2017; d) the Fair Trading Act 1986; e) Consumer Care Guidelines and/or Obligations; f) industry standards; and g) interactions with the customer.

6. The Commissioner, with the help of UDL staff and experts, is equipped to make this analysis. However, what is evident from these complaints is that these new products present their own challenges to the consumer. As explained below, UDL believes the EA has a role in educating and helping these new retailers, distributors and generators enter the industry, and also assessing what regulatory changes are required to ensure consumers can make informed choices about these new services and products.

The Role of the EA

7. The EA is to promote "…competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers." Additionally, the EA must "….protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers." This second objective is to be focused on the "…*dealings* of industry participants with domestic consumers and small business consumers."[12]

8. The EA visually sets out the decentralisation model as follows, however its place in the model is not identified:[13]

[11] See for a full discussion, Australian Energy Regulator, *Review of Consumer Protections for Future Energy Services: Final Report*, November 2023, table 3.1, pg 16-18.
[12] EIA, s 15 (emphasis not in the original)
[13] *Working Together Paper*, figure 4, 3.1.

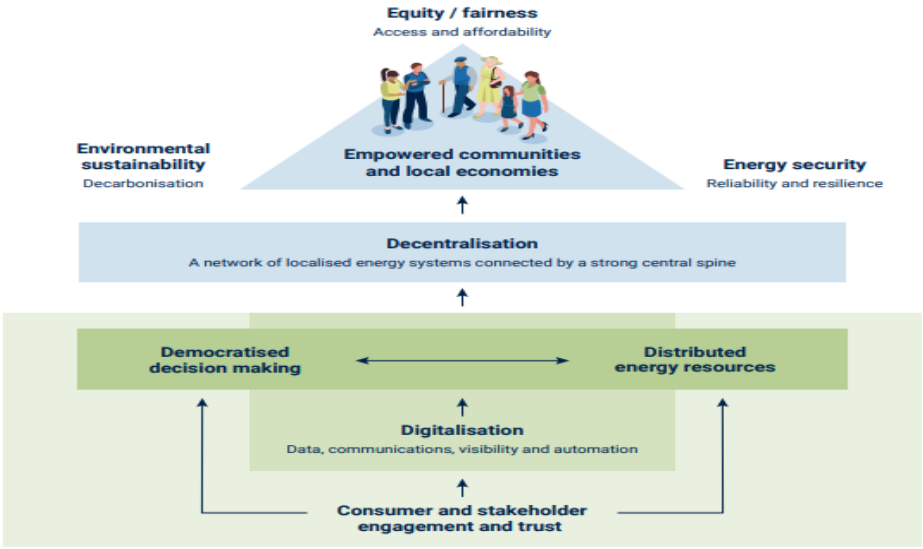


Figure 4: Defining decentralisation and the key outcomes it contributes to

9. In future papers it would help if the EA could tell us more about its role within this new structure, particularly in its setting of the standards expected for new industry participants interacting with consumers. The EA says governing tasks should be broadly participatory:

   Research suggests that decentralisation will be most appropriate if governing tasks are broadly participatory and allocated to the lowest appropriate level of authority. This would require significant changes to the current governance structures.[14]

   The EA is also confident the new model may empower the consumer and can result in:

   Increased consumer connection with their energy supply leading to higher engagement, energy literacy, improved energy efficiency and healthier homes and buildings, and increased demand flexibility.[15]

   However, it is important that the EA not adopt a hands-off approach.

10. The closest analogy in the traditional energy framework appears to be secondary networks (although they do not generate electricity). UDL has raised with the EA concerns that the needs of consumers on these networks are insufficiently known and understood. Secondary networks appear an under researched aspect of the network.[16]

11. There is no definitive source of authority to confirm the exact number of consumers connected to secondary networks in New Zealand. Secondary networks are privately owned and include three types: customer networks, network extensions, and embedded networks. Secondary networks are not regulated by the Commerce Commission, and only network extensions and embedded networks are overseen by the EA. The exact

[14] Ibid., 4.4.
[15] *Working Together Paper*, 10.
[16] UDL to EA, *Consultation Papers – Distribution* Pricing, 20 December 2024, 5; UDL to EA, *Consultation Paper – Proposed Information Exchange Protocol EIEP 4A,* 28 January 2025, 2; UDL to EA, *Improving Pricing Plan Options for Consumer Time-Varying Retail Pricing for Electricity Consumption and Supply*, 26 March 2025, 7.

figures for customers on these networks is unclear. It is estimated there are 20-50,000 consumers on customer networks. On such networks the customer does not have a choice of retailer.

12. Secondary networks have given rise to some complaints, about fees, the price of electricity and customer service. The AER also has concerns, and sees these challenges for consumers on embedded networks compared to those who receive electricity direct from the network:

    - *differences in customer information, with customers unaware of embedded network arrangements until problems arise*
    - *limited access to competition, which may result in higher prices*
    - *safety and reliability standards are more limited than distribution system requirements*
    - *performance reporting obligations only apply to retailers, not embedded network sellers and suppliers*.[17]

13. The *Working Together Paper* is then an opportunity for the EA to review how industry participants, based on DERs and involved in secondary networks, are integrated into the industry. The EA may have processes it can transform to enable this. For example, every industry participant, is required to register with the EA.[18] This registration process if further developed would seem an opportunity to educate and dialogue with these businesses.[19] These industry participants may also require their own contact or representative groups with the EA. The definition of industry participant may also require redefinition.

The New Zealand Context

14. As well outlining its own role, the EA is encouraged to round out the Green Paper, with further information about the state of the network. The EA has advised that new inverter based technologies will put strain on the network:

    In addition to providing opportunities, these technologies do, however, pose some challenges. In particular, we expect that co-ordinating the real-time operation of New Zealand's power system to supply electricity to consumers at the level of reliability they want will become more difficult over the coming years. This increased difficulty will be the result of evolving technologies enabling a significant increase in variable and intermittent generation and an increase in bi-directional electricity flows.[20]

    The EA is seeking to address these issues,[21] but a summary of steps taken and a projection of the future health of the network belongs to this discussion about DERs. Such forward projections will allow a full intergenerational assessment of these new technologies, by clarifying what the next generations can expect of the network. The Australian experience with DERs, may also provide insights helpful to our context.

[17] See *Review of Consumer Protections for Future Energy Services: Final Report*, 23.
[18] Apart from those exempted see Electricity (Exemptions from Registration) Regulations 2022.
[19] See EIA, s 9.
[20] EA, *Addressing Larger Voltage Deviations and the Network Performance Issues in New Zealand Power System*, 25 June 2024, pg 3.
[21] Ibid.

Networking with Electricity Networks Aotearoa, traditional distributors and the new distributors will also be important to ensure the network is reliable in this time of transition where the flow of electricity becomes increasingly bi-directional.[22]

15. The *Working Together Paper* framework could be further expanded to see what can be learned from models based on DERs that have had difficulties and how these difficulties were managed, particularly in the area of solar.[23] New technologies are in their infancy, and not all ventures will succeed, but learning from what hasn't worked, or could work better will help with regulation, management and onboarding of these enterprises into the industry.

16. The EA highlights the importance of ensuring the benefits of DERs reach consumers who would most benefit from them. This is an important aspect of policy and regulatory review. Lessons may be able to be learned from the roll back of the low fixed tariff regime, which did not benefit low-income households as intended.[24]

17. Future papers will also have to canvass what legislative changes are required to the Electricity Industry Act 2010 and Electricity Industry Participation Code 2010. The AER for example, proposes this definition of energy services to capture the new products and services coming in the market:

    the provision of any energy service that:

    - *sells electricity to a consumer's premises*
    - *unless exempted, on-sells or exports energy from an embedded network or manages the flow of electricity to and from an embedded network*
    - *exports electricity from a consumer's premises*
    - *controls, constrains, prevents or otherwise has a substantial impact on the flow of electricity to and from a consumer's premises.*[25]

    A similar analysis of definitions in a New Zealand context will also be required.

A Culture of Trust

18. The EA highlights the culture of trust that the democratic model will require. The Government also favours a decentralised approach in the electricity industry seeing it as the best way to deliver electricity to the consumer at the lowest possible cost.[26]

19. The Government's vision rests on a number of pillars: consistent regulatory settings; robust compliance monitoring and enforcement that enables an efficient market

[22] See EA, *The Future Operation of New Zealand's Power System,* 15 February 2024*,* 2.6.
[23] See for example Vector's information page re Sunverge's liquidation, https://www.vector.co.nz/special-pages/sungenie-system-faqs; and SolarZero's information webpage, https://solarzero.co.nz/faqs/
[24] See Ministry of Business Innovation and Employment, "Mid-point review of the phase-out of the Low Fixed Charge (LFC) Regulations," webpage.
[25] *Review of Consumer Protections for Future Energy Services: Final Report*, 26.
[26] See *Statement of Government Policy to the Electricity Authority under section 17 of the Electricity Industry Act 2010,* October 2024, October 2024, 2, 5,24, 29.

anchored by accurate price signals; and effective risk management tools and competition.[27]

20. In this context UDL's comments have been made to ensure the consumer has adequate safeguards and protections to make informed choices, but also to make different choices to take advantage of DERs. A key to developing this trust culture will be to ensure consumers who use these new technologies have the same consumer protections as traditional consumers. The importance of a consistent and uniform consumer protection framework is highlighted by the AER this way:

    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.[28]

    UDL is performing this function as best it can under the current legislation. However as noted above, if consumer confidence is to be maintained further review of the EIA may be required.

21. The EA also has its role. It is not to favour one form of supply over another,[29] but to ensure any oversight is effective it will have to evaluate the regulatory needs of the new products and services based on DERs. The EA may wish to review the *Consumer Risk Assessment Tool* developed in Australia.[30] The ESB[31] in its advice to Australian Energy Ministers highlighted the importance of this tool in maintaining consumer trust in the energy market:

    As new retail offers start to become available to customers, foundations need to be in place to ensure customers can easily and safely make choices and switch between DER / non-DER service providers. A key enabler to the success of DER integration is to ensure that consumer trust is developed in new services and products The ESB has therefore put in place a new risk assessment tool that enables market bodies to test on an iterative and ongoing basis whether the customer protections in place remain fit for purpose.[32]

[27] Ibid., 8.
[28] Ibid., 31.
[29] See *Statement of Government Policy to the Electricity Authority*, 31.
[30] See Energy Security Board, *Post-2025 Market Design Final Advice to Energy Ministers*, Part C, 27 July 2021, 2.2, 26-27.
[31] For information on the ESB, see link
[32] *Post-2025 Market Design Final Advice to Energy Ministers*, Part A, 10.For an example of the tools application see Consumer Risk Assessment Summary Workshop, June 2022.

Next Steps

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

Neil Mallon - Toihau Commissioner