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Energy Use Policy Team
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ERGANZ SUBMISSION ON THE DRAFT OPEN ELECTRICITY REGULATIONS

The Electricity Retailers' and Generators' Association of New Zealand ('ERGANZ') welcomes the opportunity to provide feedback on the draft Customer and Product Data (Designations for Retail Electricity) Regulations 2026 and the draft Customer and Product Data (General Matters) Amendment Regulations 2026, and on the additional discussion questions accompanying them.

ERGANZ is the industry association representing companies that generate and sell electricity to Kiwi households and businesses. Collectively, our members supply almost 90 percent of New Zealand's electricity. We work for a competitive, fair, and sustainable electricity market that benefits consumers.

Executive summary

ERGANZ supports electrification and supports the objective of 'Open Electricity'. Consumers benefit when they can move their own data to a service that helps them find a better plan, and our members want a retail market in which comparison is accurate and switching is easy. Our comments are about sequencing and cost, not about the policy Cabinet agreed in January.

ERGANZ makes three principal points.

First, commencement should be defined by reference to the publication of final standards, not by a fixed calendar date. The standards do not yet exist and have not been consulted on. MBIE confirms at paragraph 34 of the discussion document that it will develop its own standards rather than adopt the Electricity Information Exchange Protocols. Retailers cannot build to a standard they have not seen, and cannot reliably cost proposals which have not been published. ERGANZ recommends the regulations commence 18 months after final standards are published.

Second, the regulations contain no transitional provisions, yet clause 7 of the designation regulations requires two years of half-hourly consumption, injection, statement data and statement copies from day one. The banking designation dealt with this directly by excluding statements made available before commencement. ERGANZ asks for equivalent treatment.

Third, alignment with the Electricity Authority appears to have occurred at the agency level, but is not yet fully fleshed out at the implementation level. ERGANZ acknowledges the alignment MBIE has achieved: draft reg 12A routes retailers and accredited requestors into the existing approved dispute resolution scheme rather than establishing a separate one, draft reg 17(c) adds the Authority as an information-sharing agency, and the 45 kVA option tracks the Authority's December 2025 decision. ERGANZ welcomes this. What has not been aligned is the data architecture, which is where the cost sits. The Protocols remain file-based exchanges through the prescribed EIE system; open electricity is an accredited requestor API model. No alignment plan and no data model mapping have been published, and EIEP14C, which carries the authorisation and verification mechanism, has not been consulted on. On present settings, retailers face building to the amended Protocols from 30 October 2026 and rebuilding for open electricity by 30 July 2027, with the prospect of two separate consent frameworks covering the same consumer authorising the same data.

ERGANZ raised this with the Authority in November 2025 and again on 24 June 2026. We now raise it with MBIE, and we ask that MBIE and the Authority jointly publish an alignment plan and a mapping of the Protocol data models to the open electricity standards before the regulations are made in September.

ERGANZ recommends MBIE to publish an updated impact assessment. The regulatory impact statement is dated 3 December 2025 and predates each of the changes now proposed, all of which widen the scope and cost. ERGANZ has commissioned research into cumulative retailer compliance costs and offers to share that work with MBIE when it is completed.

On the benefits side of the equation, ERGANZ asks MBIE to set out the consumer use case in much greater detail. The consultation material describes what data moves and how it moves, but not what a household or a small business actually does with it, either at commencement or as the regime matures. Switching alone is not a sufficient rationale for a structural change of this scale. ERGANZ also asks MBIE what its consumer engagement approach will be to support public education and update.

Subject to these points, ERGANZ supports the substance of the designation. Our detailed comments on the drafting and on the discussion questions follow.

Submission Points

Commencement should follow the standards, not a fixed date

The open banking experience does not support a short lead time in electricity. The banking standards were published in November 2025 and came into force on 1 December 2025, a gap of one month, but only because the regulated standards incorporated an industry API standard that had been in production since 2019. No equivalent pre-existing standard exists for electricity, and MBIE has confirmed it will write its own. Even with that head start, Kiwibank was phased to June and

December 2026. ERGANZ recommends that commencement be set at 18 months from publication of final standards.

Transitional provisions are absent and should be inserted

Schedule 1 of the designation regulations records no transitional, savings or related provisions. The banking designation excluded statements sent or made available before 1 December 2025, with that exclusion ceasing on 1 January 2027. ERGANZ asks for the equivalent here, covering statement data and statement copies, and consumption and injection data, that predate commencement. Historical data obligations should run forward from commencement rather than backwards.

The impact assessment is out of date

The regulatory impact statement predates the proposed connection capacity threshold, the proposed inclusion of all meters, and the proposed intermediary class. Each widens scope relative to the settings announced in January. ERGANZ asks MBIE to publish an updated assessment before the regulations are made, quantifying cost across the full retail compliance programme.

Cost recovery settings should be visible before investment is committed

Retailers cannot charge for data transfers, must commit capital across 2026 and 2027, and will not see levy settings until the consultation signalled for early 2027, with levies applying from mid-2028. ERGANZ asks MBIE to publish indicative levy settings alongside these regulations, and to confirm that data holders will not cross-subsidise costs attributable to accredited requestors.

Differentiated obligations should be justified on the evidence

Draft reg 7 of the General Matters Amendment Regulations gives electricity retailers five working days to provide system access where banks have 20. No rationale is offered and no analysis supports it. ERGANZ asks MBIE to justify the difference or align the period at 20 working days.

Draft Regulations

Draft regulation and clause	Issue	Comment
Designations, cl 4 (definition of electricity retailer)	Scope of the definition is uncertain	The definition captures any industry participant that supplies electricity other than for resupply and offers a generally available retail tariff plan. ERGANZ asks MBIE to confirm the intended treatment of embedded network operators, and of participants whose retail tariff plan is incidental to another activity.

Designations, cl 7(1)(b)	Smart meter condition interacts with discussion question (d)	Retaining the smart meter condition requires a retailer to determine smart meter status at the point of each request. If the all-meter proposal proceeds, cl 7(1)(b) falls away. ERGANZ's position on that proposal is set out at question (d) and depends on the design of the standards.
Designations, cl 7(2)(d)	Historical ICP identifiers disclose previous premises	Designating all ICP identifiers associated with the customer within the two-year period discloses the identifiers for premises the customer previously occupied. Read with the joint customer position and question (i), this allows one party to obtain identifiers for premises the other party has since occupied. ERGANZ recommends limiting the class to ICPs currently associated with the customer, or requiring express authorisation before historical ICP identifiers are released.
Designations, cl 7(2)(f)	Drafting is ambiguous	The clause designates the plan structure and time-of-use pricing associated with an account "in half-hourly increments". Plan structure is not a half-hourly quantity. ERGANZ recommends separating the plan and tariff structure element from the half-hourly pricing element so the obligation is unambiguous.
Designations, cl 7(2)(n)	A statement copy is a document obligation, not a data obligation	Providing a copy of a statement requires document storage, retrieval, format handling and retention arrangements that differ materially from delivering structured data. The cost is not equivalent to the cost of the fields at cl 7(2)(m). ERGANZ recommends the standards permit delivery by secure retrieval reference rather than inline document transfer, and that statements issued before commencement are excluded (see Schedule 1 below).
Designations, cl 7(3)(b)(ii)	Look-back period is stale and, at commencement, wholly pre-designation	Eligibility turns on consumption in the year ending 31 December immediately before the request. A request made on 30 July 2027 is therefore assessed against calendar year 2026, which precedes the regime entirely. In steady state the test can be up to 12 months out of date.

Designations, cl 7(4)	The forecast test is not operable	Clause 7(4) requires a retailer to judge, at the time of a request, whether a customer will consume 40 MWh or more in the current year. That is a forward-looking commercial judgement made inside an automated response, and it exposes the retailer to compliance risk for a matter of opinion rather than a matter of fact. ERGANZ recommends deleting cl 7(4). Eligibility should rest on an objectively verifiable test.
Designations, cl 7(3) and cl 8(2)	Two small business tests that are not identical	Clause 8(2) reproduces the test at cl 7(3)(b) but omits the forecast carve-out at cl 7(4). ERGANZ recommends a single definition used in both places, and aligned with the definition the Electricity Authority applies for time-varying pricing obligations and peak export rebates.
Designations, cl 8(1)(c) to (f)	Direct overlap with EIEP14A and EIEP14B	Product data designated here covers substantially the same ground as EIEP14A, which is prescribed and takes effect on 30 October 2026, and EIEP14B, consulted on in June 2026. ERGANZ asks MBIE to confirm that product data under open electricity will be structured consistently with EIEP14A and 14B, and to publish the mapping. Absent that confirmation, retailers build the same product data twice within nine months.
Designations, Schedule 1	No transitional provisions	Schedule 1 records no transitional, savings or related provisions, yet cl 7 requires two years of half-hourly consumption, injection, statement data and statement copies from commencement. The banking designation addressed this directly by excluding statements sent or made available before 1 December 2025, with the exclusion ceasing on 1 January 2027. ERGANZ asks for equivalent provisions covering statements and statement copies, and consumption and injection data, that predate commencement.
Designations, explanatory note	Incomplete	The note records that the General Matters Amendment Regulations are "[To come]". ERGANZ assumes this is completed before the regulations are made.

General Matters, reg 7 (applicable time frame)	Five working days is not justified	Electricity retailers are allowed five working days to give an accredited requestor access to their system, where banks have 20. No rationale is given and the regulatory impact statement does not assess it. System access involves onboarding, credentialing, security verification and connection testing. ERGANZ asks MBIE to justify the difference on the evidence, or to align the period at 20 working days.
General Matters, reg 12A(1) and (2)	Supported, subject to confirmation on scheme capacity and funding	ERGANZ supports using the approved scheme under Schedule 4 of the Electricity Industry Act 2010 rather than establishing a separate scheme. This is a practical example of the alignment ERGANZ has asked for. ERGANZ asks MBIE to confirm that the scheme has agreed to take on accredited requestors, which are technology companies rather than utilities, and that its funding model does not load the cost of that extension onto electricity retailers.
General Matters, reg 12A(3) and (4)	Consultation on rule changes is disapplied	Rule changes proceed on notification to and confirmation by the Minister, while cl 8 of Schedule 4 of the Electricity Industry Act 2010 is disapplied. Rules that bind retailers should not change without consultation with the participants they bind. ERGANZ recommends preserving a consultation requirement, or substituting an equivalent process.
General Matters, reg 17(c)	Supported, subject to stated purpose limits	ERGANZ supports information sharing with the Electricity Authority and considers it necessary for the two work programmes to align. ERGANZ asks that the purposes for which information may be shared are stated, and that the provision does not become a reporting channel additional to existing retail market monitoring obligations.

General Matters, reg 18(2)(b)(i) and 18(4)	Six months is short for a first build	ERGANZ supports the 1,000 ICP threshold as a fair basis for exemption and supports smaller retailers remaining outside the regime. A retailer that crosses the threshold, however, must build accredited requestor infrastructure from a standing start while also growing. Six months is not sufficient for that build. ERGANZ recommends 12 months in both cl 18(2)(b)(i) and cl 18(4).
Fees and levies (timing)	Investment precedes cost recovery settings	Retailers cannot charge for data transfers, must commit capital across 2026 and 2027, and will not see levy settings until the consultation signalled for early 2027, with levies applying from mid-2028. ERGANZ asks MBIE to publish indicative levy settings alongside these regulations, and to confirm that data holders will not cross-subsidise the costs attributable to accredited requestors.

Consultation Questions

Questions	Comments
a) Do you prefer an approach based upon the customer's consumption (40 MWh per year); or based on their connection capacity (either 69 kVA or 45 kVA per year)? Why?	ERGANZ prefers connection capacity in principle, subject to one material condition. The reason MBIE gives for the change is that the consumption test is difficult for retailers. ERGANZ agrees the test as drafted is difficult, but the difficulty is concentrated in the forecast requirement at cl 7(4) rather than in the historical calculation. Retailers hold consumption data and bill on it. A capacity test is attractive because eligibility becomes a single attribute rather than a calculation. It only works, however, if connection capacity is reliably recorded, consistently defined and available to retailers for every relevant ICP. Retailers do not set connection capacity; distributors do. The Authority adopted a capacity approach for distributors precisely because distributors work in capacity and do not use annual consumption. Submissions to that consultation also showed that distributor price categories do not align neatly to a 45 kVA line, with one distributor recording a small business category spanning 15 kVA to 69 kVA. ERGANZ therefore supports a capacity approach conditional on MBIE confirming, with the Authority and distributors, that connection capacity is populated, consistently defined and accessible to retailers. If that cannot be confirmed, the consumption test should be retained and cl 7(4) deleted. Whichever is adopted, retailers should hold one definition of small business rather than three. ERGANZ asks MBIE to adopt the same definition the Authority applies for time-varying pricing obligations and peak export rebates. Two drafting points. The proposed wording refers to a connection capacity "of 45 kVA or less per year"; kVA is not an annual quantity and "per year" should be removed. The discussion document also uses "residential consumer" where the regulations use "domestic consumer".
b) If the Government took an approach based on connection capacity, would you prefer the threshold to be set at 69 kVA or 45 kVA? Why?	45 kVA, for consistency with the Authority's decision effective 1 April 2026. Consistency is the principal benefit of moving to a capacity test at all, and 69 kVA forgoes it while adding a third threshold to the retail compliance landscape. ERGANZ notes that 45 kVA is not equivalent to 40 MWh and would extend the scheme to businesses the January decision

	did not contemplate. That widening should be reflected in an updated impact assessment.
c) How would each approach affect costs, savings and efficiency?	A capacity test is cheaper to operate if the attribute is reliable, because eligibility becomes a lookup rather than a calculation. If the attribute is not reliable, it is more expensive than consumption, because retailers must source and reconcile data they do not hold and cannot control. The consumption test as currently drafted is the most expensive of the three options, because cl 7(4) requires a forecast to be made at request time. The dominant efficiency gain in every scenario is a single definition of small business across MBIE and Authority obligations. That gain is larger than the difference between the options themselves.
d) Should non-smart meters (including legacy and non-communicating smart meters) be included within scope of the open electricity regime? Why or why not?	ERGANZ recommends MBIE not settle this question ahead of the standards. If MBIE proceeds, three conditions should apply: retailers should be obliged to provide only data they hold, and should not be required to create, model or estimate data; estimation status and granularity should be flagged in the response, so that estimates are not presented to consumers or accredited requestors as measured consumption; and the obligation should be phased rather than applying from commencement. Non-communicating smart meters also produce data gaps. How a gap is represented, whether by omission, a null value or a flagged estimate, is the issue ERGANZ raised with the Authority at question 12 of its 24 June 2026 submission. It should be resolved once and consistently across both regimes.
e) How would the proposal affect costs, benefits and efficiency?	Smart meter penetration in New Zealand is already high, so the marginal number of consumers reached is small relative to the cost of building and maintaining a second data path. The benefit to those consumers is real, and they are more likely to be in older or rural housing. ERGANZ's view is that the benefit is better delivered once the regime is operating than by loading it onto commencement.

<table>
<tr><td>f) Should intermediaries be allowed to participate in the open electricity system? If so, what additional accreditation criteria would be appropriate for open electricity?</td><td> ERGANZ does not oppose an intermediary class. A healthy third-party layer is what converts the scheme into consumer benefit, and ERGANZ made that point to the Authority in June. Participation should be conditional on five matters: Liability should be allocated clearly, so that a data holder is not exposed for the conduct of parties with which it has no relationship and no visibility.
The intermediary should remain accountable for the conduct of the parties it on-shares to.
The customer authorisation should identify the ultimate recipient of the data, not only the intermediary.
Accredited intermediaries and their on-sharing arrangements should be publicly visible so that consumers and retailers can see where data travels.
The criteria should match reg 16 of the General Requirements Regulations, so that participants operate one accreditation model across sectors. Adding an intermediary class is a scope change relative to the January decision and should be covered by the updated impact assessment. </td></tr>
<tr><td>g) Are the insurance requirements appropriate to the level of risk in the electricity context? Why or why not?</td><td> ERGANZ supports retaining the open banking requirements without reduction, but does not accept the reasoning offered in the discussion document. Half-hourly consumption data is occupancy data. It shows when a dwelling is occupied, when it is empty, and the daily routine of the household, and it is readily re-identifiable when combined with an address or ICP identifier. Characterising it as inherently less sensitive than transaction data understates the risk to consumers. If an intermediary class is admitted, the chain of parties handling that data lengthens and the liability position becomes harder to trace. Neither point supports a lower insurance standard than open banking. </td></tr>
<tr><td>h) Are appropriate insurance products available to potential accredited requestors?</td><td>N/A.</td></tr>
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i) Should joint customers be allowed to authorise the sharing of personal information (such as the phone number and email address) relating to the other customer? Why or why not?	No. ERGANZ recommends aligning with open banking, so that each customer in a joint arrangement authorises the sharing of their own personal information only. There are two reasons. First, the drafting places the retailer in the position of disclosing one individual's personal information on another individual's authorisation, which sits uncomfortably with the Privacy Act 2020. Second, and more seriously, there is a safety risk. Joint accounts persist after relationships end. Read with cl 7(2)(d), which designates all ICP identifiers associated with a customer over a two-year period, one party could obtain the other's contact details together with identifiers for premises the other party has since occupied. Retailers carry consumer care obligations toward consumers in vulnerable circumstances, and this drafting cuts against them. A workable alternative preserves most use cases. Account-level data, being consumption, injection, plan, tariff and statement data, attaches to the account and the premises rather than to an individual, and can properly be shared on a single authorisation. Personal information about an individual, being name and contact details, should require that individual's own authorisation.
j) (For electricity retailers only) Once final regulations and standards have been published, how long do you expect it to take to build the required data-sharing technology, and why?	Eighteen months from publication of final standards, as a minimum, for a retailer building to a standard it has not previously implemented. That estimate reflects standards analysis and solution design; building data extraction across billing, metering and customer systems, including two years of half-hourly consumption and injection history and statement retrieval; building and securing the accredited requestor interface and the consent and authorisation flow; internal, industry and accredited requestor testing; privacy and security assurance; and consumer-facing changes and staff training. It also reflects that this work runs alongside EIEP14A from 30 October 2026, EIEP14B and the EIEP13A and 13B updates, billing reform, and time-varying price plan obligations from 1 October 2026. These programmes draw on the same small pool of data and billing engineers. Members cannot commit to a firmer figure until the standards are published. That is the point ERGANZ makes at the front of this submission: a commencement date fixed before the standards exist is fixed without the information needed to set it.

k) What would be the impact on electricity retailers, accredited requestors and customers of delaying the commencement date?	Delay defers consumer benefit and defers the entry of accredited requestors. Those costs are real, but they are recoverable. Commencing before retailers can build reliably is not recoverable in the same way. It produces incomplete or inconsistent data at launch, comparison tools that misrepresent plans, avoidable consumer complaints, and a loss of confidence in the scheme that is slow and expensive to rebuild. Open banking succeeded in part because it launched on standards that were already in production. ERGANZ's view is that a later launch that works serves consumers better than an earlier launch that does not.
l) If commencement were to be phased to allow effective implementation, what do you consider would be the best way to do this? (for example, designating product data prior to customer data, or designating larger electricity retailers prior to smaller electricity retailers).	Phase by data type rather than by retailer size, and apply each phase to all obligated retailers at the same time. Product data should come first, then customer data. Product data is less privacy sensitive, does not depend on a consent flow, and builds directly on the EIEP14A work already committed for 30 October 2026 and on EIEP14B. Customer data should follow once the authorisation and verification framework is settled across both regimes. ERGANZ does not support phasing by retailer size. A period in which some obligated retailers carry the full cost of the regime while competing directly for the same customers with obligated retailers who do not would distort competition without improving implementation. It is also unnecessary, because the exemption at reg 18 of the General Matters Regulations already delivers proportionality for retailers below 1,000 ICPs. ERGANZ supports that threshold and supports smaller retailers remaining outside the regime, subject to the longer transition period recommended above.

Conclusion

ERGANZ thanks the Ministry for the opportunity to comment on these proposals and for considering our submission.

If there are any outstanding questions or a need for further follow-up, please let me know.

Yours sincerely,

Kenny Clark
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