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Electricity Retailers' and Generators' Association of New Zealand

12 August 2026

Submissions
Electricity Authority
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Via email: consumercareconsultation@ea.govt.nz

ERGANZ SUBMISSION ON CODE AMENDMENT OMNIBUS #7

The Electricity Retailers' and Generators' Association of New Zealand ('ERGANZ') welcomes the opportunity to provide feedback on the Electricity Authority's consultation paper, 'Code amendment omnibus #7: clarification to consumer care and billing refinements and director certification for AUFLS and other amendments' dated 15 July 2026.

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

Executive summary

ERGANZ supports the omnibus process and the Authority's use of it to make discrete corrections to the Code efficiently. Section 2 shows the process working as it should. The issues it addresses were identified through the Authority's work with retailers on implementation guidance, and the fixes proposed are the right ones. ERGANZ encourages the Authority to bring that implementation testing forward in future, so that workability problems surface before a decision rather than after it.

Our positions are:

- Proposal 1, threshold for advice and support. ERGANZ supports a threshold. We prefer a prescribed dollar figure, updatable by Authority notice, to a rolling percentage of the customer's 12-month average. The percentage requires a per-customer, per-invoice calculation that is itself a system build, which works against the purpose of the proposal.
- Proposal 2, flexibility in how undercharge information is provided. ERGANZ supports this. Clause 5(1)(g) of Schedule 11A.2 needs a consequential amendment. As drafted it still requires the amount and a due date in the invoice, and its cross-reference to clause 11.32H(2)(b) becomes circular.

- Generally available retail tariff plan. ERGANZ supports the clarification, and asks the Authority to confirm how the definition treats eligibility criteria that are not equipment, end-use or load related, and to sequence the change with MBIE so the Open Electricity designation picks up the amended definition.
- Business days for Part 11A. ERGANZ agrees the current treatment is anomalous but does not support the proposed remedy. The Holidays Act 2003 does not set the dates on which provincial anniversary days are observed, and for some provinces there is no single observed date, so an obligation calculated by reference to the anniversary day observed at each ICP is not determinable. ERGANZ's preferred remedy is to remove the Wellington Anniversary Day exclusion so that no provincial anniversary day is a non-business day for Part 11A, with one business day added to the consumer-facing timeframes in Table 1 so that no consumer is worse off.
- Record retention. ERGANZ supports the ten-year longstop. One drafting change is needed so that it operates as a cap rather than as a fixed period.
- AUFLS director certification. Members' interest is as connected asset owners. ERGANZ does not oppose certification, subject to confirmation of how directors certify against obligations set by the System Operator in the AUFLS technical requirements report, and to the prescribed form being published in draft.
- Technical and non-controversial amendments. No objection.

Commencement is the material issue in section 2

ERGANZ supports the substance of both section 2 proposals. Our concern is timing. Submissions close on 12 August 2026 and the obligations being amended commence on 30 October 2026, leaving about eleven weeks for the Authority to consider submissions, take a decision, and make the amendment. Members are building to the current drafting now, because they must be compliant on 30 October.

ERGANZ raised the compressed commencement period in our submission on the billing consultation. The position has since tightened rather than eased. Three things would help:

1. The Authority confirms as early as it can, and preferably during August, whether it intends to make these amendments before 30 October 2026.
2. If the amendments cannot be made before 30 October 2026, the Authority defers commencement of clause 11.32H(2) and clause 5(1)(g) of Schedule 11A.2, so that members build once rather than twice.
3. In either case, the Authority sets out its compliance approach for any period in which the unamended obligations are in force and the amendments are settled but not yet made. Proposal 2 relaxes an obligation, so a retailer that implements the proposed approach in good faith during that window is in breach of the Code as it stands.

Business days: level the definition rather than localise it

The anomaly the Authority identifies is real. A consumer in Whanganui does not get the benefit of their own anniversary day, while a consumer in Wellington does, and there is no policy basis for the difference. ERGANZ agrees it should be fixed.

The difficulty with the proposed remedy is that it cannot be applied reliably. The Holidays Act 2003 does not set the dates on which provincial anniversary days are observed. Observance is determined by local custom and practice, generally prescribed by regional or city councils, and the provinces are the former nineteenth-century provinces rather than present-day regions or districts. MBIE publishes a list of observed dates but notes that it may contain errors and that employers should confirm the date with the relevant council. For Westland the observed day varies within the province, and for Otago MBIE records that there is no easily determined single day of local observance and leaves the question to agreement between the parties. A Code obligation calculated by reference to the anniversary day observed at a consumer's ICP is therefore not simply expensive to implement. For some ICPs there is no determinable answer.

The Authority identifies this problem in its own analysis and then relocates it. It rejects the Part 6 definition because that definition excludes the day locally observed as the anniversary day without specifying observed by whom. The proposal answers the question of who observes the day. It does not answer the question of when the day falls, and for some provinces that question has no single answer.

Business day calculations in billing, credit and customer care systems run off one national calendar. Making them depend on the anniversary day observed at each ICP requires every affected calculation to take a location parameter, and requires retailers to build and maintain a mapping from ICP address to province that the registry does not hold and that no current administrative boundary supplies.

ERGANZ's preferred remedy is to remove the reference to Wellington Anniversary Day from the definition as it applies to Part 11A, so that no provincial anniversary day is treated as a non-business day for Part 11A purposes. This removes the anomaly completely rather than partially, treats every consumer and every participant the same, and does so through one national calendar with no mapping and no indeterminate dates.

So that no consumer is worse off than a Wellington consumer is today, ERGANZ suggests the Authority consider adding one business day to the consumer-facing timeframes identified in Table 1. Those periods are already 20 or 21 business days in most cases, so the change is small and can be made in the same amendment. ERGANZ does not seek any equivalent extension of the retailer-facing timeframes in Table 1, even though Wellington-based participants lose a day under this approach.

The disconnection provisions need no adjustment. Clauses 36(1)(d), 38(1)(b) and 44(a)(ii) of Schedule 11A.1 turn on whether it would be unreasonably difficult for the consumer to seek rapid reconnection, and identify a non-business day as one circumstance in which that may be so. A regional anniversary day observed at the consumer's premises will generally meet that test on its own facts, whatever the definition of business day provides. Levelling the definition therefore does not remove the protection those clauses give.

Consultation questions

ERGANZ's responses follow in the format set out in Appendix G.

Operational improvements to new billing obligations relating to undercharged amounts

Questions	Comments
Q2.1 Do you agree the Code should include a threshold for the advice and support obligations that apply when a retailer seeks to recover an undercharged amount?	Yes. The advice and support obligations in clause 11.32H(2) are designed for back bills large enough to cause bill shock. Applying them to every undercharged amount, including small corrections arising from delayed smart meter data or a customer-submitted read, imposes contact and handling cost without a corresponding consumer benefit. There is also a consumer-facing reason to support a threshold. Customers who receive formal payment plan and complaints information for a few dollars are less likely to engage with the same communication when it matters. Targeting the obligation protects its effectiveness. ERGANZ notes the core protections are unaffected by a threshold: the six-month cap on recovery, the prohibition on interest, and the customer's right to complain all continue to apply to every undercharged amount.
Q2.2 Do you agree the threshold should be based on 15 percent of the customer's average invoiced amount over the previous 12 months?	ERGANZ supports a threshold but prefers a prescribed dollar figure to a rolling percentage. The percentage requires a per-customer, per-invoice calculation against a rolling 12-month average. That is a system build in its own right, which sits awkwardly with a proposal whose stated purpose is to reduce implementation cost. A prescribed dollar figure requires a single comparison and can be implemented as a configuration change. The Authority discounts a dollar threshold on the basis that it would date. That is answerable by providing for the figure to be updated by Authority notice, or by reviewing it alongside the retail market monitoring the paper already relies on, rather than by shifting a recurring calculation onto every retailer.

Questions	Comments
Q2.3 For retailers, how do you quantify the costs and benefits for any activities you undertake to prevent consumers accumulating debt? Please explain whether and why your current processes elect certain trigger points.	Members will respond individually on their own processes. ERGANZ makes two general observations. First, trigger points in members' credit and collections processes are generally set by reference to absolute dollar amounts and days in arrears, because those are the values billing and credit systems already hold and monitor. Percentage-of-average triggers are not a common design, which is part of why Proposal 1 as drafted requires new logic rather than reuse of existing logic. Second, the costs of support activity are largely per-contact costs: outbound contact attempts, payment plan set-up, and the handling that follows. They scale with the number of customers captured, not with the size of the amount, which is why targeting matters more than the level of the threshold. ERGANZ has commissioned research on the cumulative cost of recent retail regulation for retailers and would be pleased to share the findings with the Authority when that work is complete.
Q2.4 Are there practical challenges for some billing systems in maintaining and displaying an undercharged amount as a separate balance with a separate due date?	Yes. Members' billing systems are built around a single account balance and a single invoice due date. A second balance with its own due date does not sit in one system; it propagates through payment allocation, credit management, collections, debt referral, and the customer communications generated by each of those. Payment allocation is the clearest example. Where a customer pays part of an invoice, the system must decide which balance the payment reduces, and the answer affects arrears status, disconnection eligibility, and the point at which consumer care obligations are triggered. The Code does not address allocation, so retailers would each resolve it differently. The legacy meter case the Authority identifies at paragraphs 2.20 to 2.22 is real but narrow. The broader issue is that the requirement applies to every undercharge in every billing scenario, including prepay arrangements where the concept of an invoice balance with a due date does not map at all.

Questions	Comments
Q2.5 Do you agree with the Authority's proposal to replace the separate due date and mandatory invoice fields for undercharged amounts with a requirement to state the amount in the invoice or a separate written communication, and to offer a payment plan?	Yes, on both limbs. Delivering the protection through a payment plan offer rather than a separate due date achieves the policy intent without parallel balances. A separate written communication is also likely to explain the amount, the repayment period, and the customer's rights more clearly than additional fields on an invoice. ERGANZ asks the Authority to confirm two points. First, that a communication provided at the same time as the invoice may use a different channel from the invoice itself, for example an emailed invoice with an in-app or posted explanation, provided the two are sent together. Second, that clause 5(1)(g) of Schedule 11A.2 will be amended consequentially. As drafted it is inconsistent with this proposal (see QA.1).
Q2.6 Do you agree that the benefits of the proposed Code amendment outweigh its costs?	Yes, provided the amendments are made before 30 October 2026.
Q2.7 Do you agree the proposed amendment is preferable to the alternative options considered?	For Proposal 2, yes. Neither alternative resolves the system issue, because both retain a separately maintained amount or a separate due date. For Proposal 1, no. ERGANZ prefers the prescribed dollar amount alternative that the Authority discounted, for the reasons in our response to Q2.2.
Q2.8 Do you agree with the analysis in this regulatory statement?	Broadly, subject to two points. The statement treats the cost of threshold evaluation under Proposal 1 as relatively low. It understates the cost of a rolling percentage, which requires new calculation logic, a defined treatment of GST, bundled services, credits and reversals, and an estimation method for customers of less than 12 months. The statement does not address commencement timing, which on the current timetable is the largest single cost driver associated with these proposals.
QA.1 Do you agree with the proposed Code amendment drafting?	ERGANZ supports the direction of the drafting and raises five points.

Questions	Comments
	(a) Scope of the threshold. Paragraph 2.28 states the threshold applies to clause 11.32H(2)(a), (c) and (d). Proposed clause 11.32H(2B) relieves the retailer of subclauses (2)(a) and (c) only. If the intention is as stated in the paper, (d) should be added. If (d) is deliberately retained, the paper should explain why, since a statement about instalments continues to be required for every amount however small. (b) Clause 5(1)(g) of Schedule 11A.2 is not consequentially amended. As drafted it requires the invoice to state the undercharged amount and "the due date for payment of the amount determined under clause 11.32H(2)(b)". Under the amendment, clause 11.32H(2)(b) no longer determines a due date and instead cross-refers back to clause 5(1)(g), so the reference is circular. Clause 5(1)(g) is also inconsistent with new clause 11.32H(2A), which permits the information to be given outside the invoice, and it continues to apply to every undercharged amount irrespective of the new threshold. ERGANZ recommends clause 5(1)(g) be amended to align with both proposals. (c) Offer or statement. New clause 11.32H(2)(c) requires the retailer to state that the customer can request a payment plan. Paragraphs 2.39(a) and 2.41 describe a requirement to offer a payment plan. Clause 11.32H(2)(a) already requires an offer during pre-invoice contact. The Authority should confirm which is intended and how the two interact. (d) Calculating the average. Proposed clause 11.32H(2B) refers to "the average amount for electricity charges invoiced to the customer for each invoicing period over the last 12 months". The Code should state whether that average is inclusive of GST, given the undercharged amount is stated inclusive of GST under clause 5(2) of Schedule 11A.2; whether bundled goods and services, discounts, credits and reversals are included; and how the average is derived where the invoicing period changes or is not monthly. (e) Estimates for newer customers. Proposed clause 11.32B(b) requires a reasonable estimate of the customer's expected average invoice. Applied at scale this is a subjective standard, and retailers will estimate conservatively to manage compliance risk, which erodes the targeting benefit. The Authority should confirm that a retailer may rely on an average for comparable

Questions	Comments
	customers on the same plan and network rather than a customer-specific forecast.

Definition of generally available retail tariff plan

Questions	Comments
Q3.1 Do you agree that the current definition of generally available retail tariff plan risks creating ambiguity, specifically around plans that require customers to have specific equipment installed?	Yes. ERGANZ agrees a strict reading of the current definition could exclude equipment-linked plans, and agrees with the Authority's observation that the wider reading is settled practice in the market. The case for resolving the ambiguity now is stronger than it was in 2016, because from 30 October 2026 the definition determines the contents of the plan catalogue, the application of product identification codes, and the scope of EIEP14A, and it is to be cross-referenced in the forthcoming regulations designating the electricity sector under the Customer and Product Data Act 2025.
Q3.2 Do you agree that the benefits of the proposed Code amendment outweigh its costs?	Yes. The amendment confirms existing practice, so ERGANZ agrees there is no material implementation cost. The benefit is regulatory certainty at the point where the definition begins to carry significantly more weight.
Q3.3 Do you agree that the proposed amendment is preferable to clarifying the intention through advice or guidance?	Yes. Guidance is not binding and would not resolve the question for the purposes of an instrument made under another Act. Where a Code definition is cross-referenced in secondary legislation, the boundary needs to be legally certain on the face of the Code.
Q3.4 Do you agree with the analysis presented in this Regulatory Statement?	Yes, with one addition. The regulatory statement should address the interaction with the Open Electricity designation, because the definition determines the classes of designated product data. ERGANZ asks the Authority to confirm with MBIE that the amended definition is the one the regulations will pick up, and to sequence the two instruments so the designation does not cross-refer to a definition that changes after the regulations are made. This is the kind of alignment issue ERGANZ raised in its submission on the Open Electricity regulations.
QB.1 Do you agree with the proposed Code amendment drafting?	ERGANZ supports the drafting and asks the Authority to confirm two boundary questions.

Questions	Comments
	(a) Eligibility criteria outside paragraph (a)(i) to (iv). New subparagraph (iv) captures end-use, equipment and load characteristics. It does not capture eligibility criteria of other kinds, such as a plan conditional on taking a bundled non-electricity product, on membership of an organisation, or on the customer accepting electronic billing or direct debit. Nor is the position clear for trial or pilot plans offered to a limited group. Unless the Authority addresses these, the amendment resolves the ambiguity for equipment-linked plans and reproduces it elsewhere. (b) Closed and legacy plans. The Authority should confirm that plans no longer offered to new customers remain outside the definition, so that they are not required to appear in the plan catalogue or in designated product data.

Updating the definition of 'business days' for the purposes of Part 11A: Consumer Care

Questions	Comments
Q4.1 Do you agree that the current application of the definition of business day to Part 11A creates inconsistent treatment between Wellington Anniversary Day and other regional anniversary holidays?	Yes. ERGANZ agrees there is no policy basis for the current treatment. A consumer outside Wellington does not receive the benefit that a Wellington consumer receives, and a participant outside Wellington loses a day that a Wellington participant retains. ERGANZ agrees the anomaly should be removed. ERGANZ also agrees with the Authority's characterisation of the practical effect. It is confined to the timeframes listed in Table 1 and arises on one day a year in each province.
Q4.2 Do you agree with the proposed approach to distinguishing between different Part 11A provisions identified in Appendix C?	The allocation in Table 1 between consumer-facing and participant-facing provisions is sound as a matter of policy. ERGANZ agrees that a timeframe conferring a consumer protection should be calculated by reference to the consumer, and a timeframe for participant action by reference to the participant. ERGANZ does not support the mechanism. The difficulty is not which provision falls into which category. It is that both categories become dependent on identifying the anniversary day observed at a particular location, and for some locations that day cannot be identified easily. Our responses to Q4.3 to Q4.6 set out the reasons and ERGANZ's preferred remedy.

Questions	Comments
Q4.3 Are there any operational, system or implementation issues associated with determining the relevant regional anniversary holiday by reference to the location of the customer's premises?	Yes, and the first is not an implementation issue but a question of whether the obligation can be complied with at all. The Holidays Act 2003 does not set the dates on which provincial anniversary days are observed. Observance is determined by local custom and practice, generally prescribed by regional or city councils, and the provinces are the former nineteenth-century provinces rather than present-day regions or districts. MBIE publishes a list of observed dates but notes that it may contain errors and that employers should confirm the date with the relevant council. For Westland the observed day varies within the province, and for Otago MBIE records that there is no easily determined single day of local observance and leaves the question to agreement between the parties. A Code obligation calculated by reference to the anniversary day observed at a consumer's ICP is therefore not simply expensive to implement. For some ICPs there is no determinable answer. A retailer that adopts one view of the observed day for an Otago or Westland ICP, and the Authority that adopts another, would reach different conclusions about whether the retailer has complied. Business day calculations in billing, credit, customer care and workflow systems run off a single national calendar. Making them depend on the location of the premises requires every affected calculation to take a location parameter and to resolve it at the time the clock starts. The registry does not record a province, and provincial boundaries do not correspond to present-day regions or districts, so retailers would need to build and maintain a mapping that no existing dataset supplies. Several observed dates also move independently of the Monday nearest the actual date, including Taranaki, Hawke's Bay, Marlborough, Canterbury, South Canterbury and Southland, so the mapping cannot be derived by rule and is not a one-off build.
Q4.4 Are there any operational, system or implementation issues associated with determining the relevant regional anniversary holiday based on the location of the retailer?	Yes. The physical address recorded on the register is a poor proxy for where the relevant work is performed. Members are registered in one region and operate contact centres, credit teams and field operations in others, and in some cases through outsourced providers. Applying the anniversary day of the registered address will sometimes exclude a day on which the retailer is fully operational, and sometimes count a day on which it is not.

Questions	Comments
	The indeterminacy identified in our response to Q4.3 applies here as well. A participant with a registered address in Otago or Westland faces the same question about which day applies, with the same absence of an answer.
Q4.5 Do you agree that the benefits of the proposed Code amendment outweigh its costs?	No. The benefit is a single additional business day, in one province, across the timeframes listed in Table 1, once a year. The cost is a permanent change to how every Part 11A business day calculation is performed, an ongoing obligation to maintain a mapping the registry does not support, and, for the provinces where no single observed date exists, an obligation that cannot be complied with reliably. The preliminary view at paragraphs 4.23 and 4.24 that implementation costs are minor rests on the proposition that the relevant location is readily known. The ICP address is known. The province is not recorded, and the day observed in that province is not fixed by statute. That is where both the cost and the compliance risk sit.
Q4.6 Do you agree the proposed amendment is preferable to the alternative options considered?	No. ERGANZ's preferred remedy is to remove the reference to Wellington Anniversary Day from the definition as it applies to Part 11A, so that no provincial anniversary day is treated as a non-business day for Part 11A purposes. This removes the anomaly completely rather than partially. Every consumer and every participant is treated the same, the calculation continues to run off a single national calendar, and no participant is required to identify a date that is not determinable. It is also the cheapest option to implement, because it removes a term from the definition rather than adding a location parameter to it. So that no consumer is worse off than a Wellington consumer is today, ERGANZ asks the Authority to add one business day to the consumer-facing timeframes identified in Table 1, most of which are already 20 or 21 business days. That change can be made in the same amendment. ERGANZ does not seek an equivalent extension of the participant-facing timeframes in Table 1, notwithstanding that Wellington-based participants lose a day under this approach. The disconnection provisions require no adjustment. Clauses 36(1)(d), 38(1)(b) and 44(a)(ii) of Schedule 11A.1 turn on

Questions	Comments
	whether it would be unreasonably difficult for the consumer to seek rapid reconnection, and treat a non-business day as one circumstance in which that may be so. A regional anniversary day observed at the consumer's premises will generally satisfy that test on its own facts, whatever the definition provides.
Q4.7 Do you agree with the analysis in this Regulatory Statement?	Not fully. ERGANZ agrees with the problem definition and with the objective at paragraphs 4.17 and 4.18. Our disagreement is with the cost assessment at paragraphs 4.23 to 4.24, for the reasons in our response to Q4.5, and with the range of options considered, for the reasons in our response to Q4.6. The regulatory statement records at paragraph 4.31(b) that the proposal provides an objective and operationally workable basis for identifying the relevant regional anniversary holiday. For the provinces identified in our response to Q4.3, ERGANZ does not consider that conclusion is available on the evidence.
QC.1 Do you agree with the proposed Code amendment drafting?	ERGANZ does not support the drafting in Appendix C. The amendment ERGANZ favours is shorter. A new paragraph (aa) reading substantially as follows would achieve it: "(aa) for the purposes of Part 11A, any day of the week except Saturdays, Sundays, national holidays, and any other day from time to time declared by the Authority not to be a business day by notice to each registered participant;" That is the existing paragraph (b) without the reference to Wellington Anniversary Day. It should be accompanied by amendments adding one business day to the consumer-facing timeframes in Table 1. If the Authority proceeds with the approach in Appendix C, ERGANZ raises four points on that drafting. (a) Authority-declared non-business days. New paragraph (aa) omits the limb in paragraph (b) allowing the Authority to declare a day not to be a business day by notice to registered participants. As drafted, the Authority would lose that power for Part 11A. The Authority should confirm whether this is intended, and if not, carry the limb across. (b) "Province". The term is not defined in the Code, provincial boundaries are not recorded in the registry and do not correspond to present-day regions or districts, and the observed

Questions	Comments
	dates are not set by statute. The Authority would need to publish a binding mapping, whether by notice or by schedule, from network region or territorial authority to the applicable province, together with the observed date for each province each year, and to accept that the mapping governs for compliance purposes even where it differs from local practice. Without that, participants will reach different answers for the same ICP. (c) Distributor obligations. Table 1 allocates clause 35 of Schedule 11A.1, which is a distributor obligation, to the anniversary day observed by the residential consumer. That obligation falls into the residual limb in new paragraph (aa)(ii) rather than being addressed expressly. The Authority should confirm this is intended. (d) Terminology. New paragraph (aa) uses “national holidays” while paragraph (a) uses “public holiday within the meaning of the Holidays Act 2003”. Given that provincial anniversary days are public holidays under section 44 of that Act, the distinction between the two formulations should be made explicit.

Refining retailers’ record retention obligations under Part 11A: Consumer Care

Questions	Comments
Q5.1 Do you agree that clause 11A.6 may require retailers to retain customer records for longer than is reasonably necessary?	Yes. Because the five-year period runs from the end of the customer relationship rather than from the activity, the effective retention period grows with tenure. On the Authority’s own example, records created at the start of a ten-year relationship are held for fifteen years, and longer for longer relationships. That result is difficult to reconcile with information privacy principle 9, particularly given the sensitivity of the records concerned, which include medically dependent consumer status, financial hardship and payment difficulty, and disconnection history. Holding that information beyond any period in which it can be used carries privacy and information security risk without a corresponding purpose.
Q5.2 Do you agree with our proposal?	Yes.
Q5.3 Do you agree that 10 years from the date of the relevant activity is a	Yes. Aligning the maximum with the outer limitation period in section 52 of the Act gives the period a principled anchor rather than an arbitrary one. The three-year discovery limb means that

Questions	Comments
proportionate maximum period for which clause 11A.6 should require a retailer to retain a record?	in practice most enforcement exposure sits well inside ten years.
Q5.4 Do you agree that the benefits of the proposed Code amendment outweigh its costs?	Yes. ERGANZ agrees there is no material implementation cost, since the amendment relieves an obligation rather than imposing one.
Q5.5 Do you agree the proposed amendments are preferable to the alternative options?	Yes. Guidance cannot alter the effect of the Code. ERGANZ suggests one further simplification for the Authority to consider. The amendment leaves retailers applying two tests to the same record, one running from the contract end date and one from the activity date. A single rule expressed as a period from the date of the activity would be simpler to implement and to audit, and would sit more comfortably with privacy principle 9.
Q5.6 Do you agree with the analysis presented in this Regulatory Statement?	Yes.
QD.1 Do you agree with the proposed Code amendment drafting?	The policy is right but the drafting does not clearly deliver it. Proposed subclause (3) provides that a retailer is only required to retain a record "for a period of 10 years from the date of the activity". Read with subclause (2), which is expressed to be subject to (3), this can be read as fixing the retention period at ten years rather than as capping it. On that reading a retailer with a one-year customer relationship, which under subclause (2) would retain the record for around six years from the activity, would instead retain it for ten. That is the opposite of the stated intent. ERGANZ suggests wording that mirrors paragraph 5.10 of the paper: "A retailer is not required to retain a record under subclause (1) for more than 10 years from the date of the activity to which the record relates." ERGANZ also asks the Authority to confirm in the decision paper that the clause does not require destruction at ten years, and does not cut across retention for other lawful purposes, including a live complaint before the dispute resolution scheme,

Questions	Comments
	an anticipated proceeding, or a retailer's obligations under the Privacy Act.

Annual director certification of compliance with AUFLS obligations

Questions	Comments
Q6.1 Do you support the Authority's proposal to require annual director certifications of compliance with AUFLS obligations?	Members' interest in this proposal is as connected asset owners rather than as retailers. ERGANZ does not oppose director certification for obligations that bear directly on system security, and accepts that voluntary certification has not produced the assurance the Authority sought. Support is subject to three points. (a) Certifying against the AUFLS technical requirements report. Part of what a director would certify compliance with is set out in the ATR, which is issued by the System Operator and incorporated by reference under Schedule 8.6. Directors would be certifying against a standard that can change outside the Code amendment process. The Authority should confirm the change control and notice arrangements that apply to the ATR, and that certification is given against the version in force during the period certified. (b) Nature of the certification. The Authority should confirm that the certification is a statement of compliance made on reasonable enquiry, supported by the participant's own assurance processes, rather than a personal warranty that AUFLS equipment will perform as required in an event. The prescribed form should be published in draft before the amendment is made, since the form will determine the cost of the obligation. (c) Cumulative certification burden. Director certification now applies to the Consumer Care Obligations, the non-discrimination obligations, and under this proposal to AUFLS. Certification of a spot price risk disclosure statement under clause 13.236F is a further example, and one that applies directly to members. It confirms that the participant's board has considered the statement and the impacts of the stress tests, and that the participant has adequately considered its risk management policies. Each of these obligations has developed separately, with its own form, signatory, timing and frequency.

Questions	Comments
	ERGANZ asks the Authority to align the timing and format of certifications where it can, and to maintain a consolidated view of certification obligations across the Code, so that board-level assurance is designed as a whole rather than added to one obligation at a time. ERGANZ also notes the evidence at paragraph 6.10 is drawn from four-block North Island providers. The Authority should satisfy itself that a Code obligation applying to all AUFLS providers is proportionate for participants whose compliance is not in question.
Q6.2 Do you agree that the benefits of the proposed Code amendment outweigh its costs?	Yes, provided the cost remains as the Authority describes it. The cost of a certification obligation is determined by the assurance work required to support it, which in turn is determined by the prescribed form. If the form requires evidence of testing, controls or sampling, this becomes an assurance requirement rather than a certification requirement, with a materially different cost. This is a further reason to publish the form in draft.
Q6.3 Do you agree the proposed amendment is preferable to the alternative options considered?	Yes. Voluntary certification has been tried and has not delivered a complete set of confirmations.
Q6.4 Do you agree with the analysis presented in this Regulatory Statement?	Yes, subject to the points in our response to Q6.1.
QE.1 Do you agree with the proposed Code amendment drafting?	ERGANZ raises three points. (a) Scope. Paragraph 6.15 states that certification would apply to a subset of AUFLS obligations "including those set out in the ATR". Proposed clause 8.28A(2) lists specific Code clauses and does not refer to Schedule 8.6 or to the ATR. The Authority should confirm whether ATR obligations are within the scope of the certification, and if so, reflect that in the drafting. (b) Negative and qualified certifications. Proposed clause 8.28A(2) requires a participant to certify whether it has complied. The Authority should confirm that a qualified or negative certification is contemplated, and how it interacts with self-reporting of breaches, so that candid certification does not result in duplicated reporting or in the certification itself being treated as an additional breach.

Questions	Comments
	(c) Application. Proposed clause 8.28A(1)(a) applies to connected asset owners with obligations to provide AUFLS under Part 8. The Authority should confirm how the clause applies where that obligation arises only for part of the year, or arises through an arrangement with the grid owner rather than directly.

Technical and non-controversial Code amendments

Questions	Comments
Q7.1 Do you have any comments on the proposed technical non-controversial Code amendments?	ERGANZ has no objection to either amendment. Aligning the wording of Forms 1 and 2 with the empowering provision is sensible and consistent with the direction of the omnibus. One typographical point. Form 2 in Appendix F retains the words “In sighing this form”, which should read “In signing this form”.
QF.1 Do you agree with the proposed Code amendment drafting?	Yes, subject to the correction noted in our response to Q7.1.

Conclusion

ERGANZ thanks the Authority for the opportunity to comment on Omnibus #7. We support five of the six substantive proposals, subject to the drafting points above, and ask the Authority to remove the anomaly in the Part 11A business day definition by levelling it rather than by localising it.

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

Yours sincerely,

Kenny Clark
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