consumer.

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Electricity Authority
Te Mana Hiko

Sent by email to: consumercareconsultation@ea.govt.nz

SUBMISSION on the Electricity Authority Te Mana Hiko's "Options to update and strengthen the Consumer Care Guidelines" Consultation Paper

1. Introduction

Thank you for the opportunity to make a submission on the Electricity Authority Te Mana Hiko's (the Authority) "Options to update and strengthen the Consumer Care Guidelines" consultation paper (the Consultation Paper). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General Comments

Life can be tough. At various points in our lives, many of us will experience difficult situations that can hinder our access to essential services like electricity. These challenges may include health setbacks, job loss, mental health concerns, financial stress, caregiving responsibilities, exposure to domestic violence, or struggles in securing stable housing and sufficient employment. Some households may face more profound issues, such as enduring poverty or restricted incomes, exacerbating their circumstances.

Ongoing access to safe, reliable, and affordable electricity is fundamental to our health and well-being, and our ability to function in a modern society. Electricity is universally accepted as an essential service. Loss of electricity severely impacts consumers' lives, particularly people in vulnerable situations, such as those living with a health condition or disability who are reliant on electricity to support their lives.

Since the advent of the electricity retail market as we know it today residential electricity prices have increased by 35%.[1] It is forecast that the large investments required for New Zealand to meet its emission reduction goals in the next decades will put further upward pressure on electricity prices.[2]

Consumers need to be protected. Mandatory minimum standards of care are essential for the protection of electricity consumers. The time has come to make the Consumer Care Guidelines (the Guidelines) mandatory.

3. Responses to Questions in the Consultation Paper

Q1. Do you agree or disagree with our view that the Guidelines are not delivering on their purpose or intended outcomes? Please provide any supporting evidence.

Consumer agrees with the Authority's view that the Guidelines are not delivering on their purpose or intended outcomes because they are currently voluntary. To achieve the outcomes required the Guidelines need to be made mandatory in their entirety.

The Guidelines are supposed to ensure electricity providers:

- Treat their customers with care and respect.
- Help people who are struggling to pay their bills.

Ongoing access to electricity is integral to people's health and wellbeing. It is appropriate and expected that provision of an essential service comes

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[1]Ministry of Business, Innovation & Employment, 'Energy prices – Price data tables', tab '6 – Annual c per unit (real)', date accessed 2 October 2023, https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-statistics-and-modelling/energy-statistics/energy-prices/.

[2] Boston Consultancy Group, "The Future is Electric – A Decarbonisation Roadmap for New Zealand's Electricity Sector", October 2022, https://web-assets.bcg.com/b3/79/19665b7f40c8ba52d5b372cf7e6c/the-future-is-electric-full-report-october-2022.pdf.

with higher levels of responsibility and scrutiny on service providers than provision of non-essential products and services.

Providers of essential services cannot put commercial interests above the health and safety of consumers. By choosing to become a provider of an essential service electricity retailers take on a duty to provide high levels of care and responsibility. If they are unwilling to meet this duty, they should not be permitted to operate in the market.

The Guidelines attempt to provide retailers with an overview of the behaviours and processes they should follow to ensure consumers stay connected to an essential service. The intent of the Guidelines is to minimise harm for households that find themselves facing difficult circumstances.

Consumer has evidence that, in some cases, consumer outcomes are not consistent with those intended by the Guidelines. For example, in our latest nationally representative survey, 2% of households (circa. 38,000 households) reported being disconnected for non-payment in the last 12 months. Additionally, 6% of households said they had to switch to a pre-pay plan because they experienced trouble paying their electricity bill. Of those on pre-pay plans 50% said they had been auto-disconnected at some point.[3]

Q2. Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not?

Yes, the purpose and intended outcomes of the Guidelines are not being met under the current voluntary approach. This is a poor and potentially dangerous outcome for consumers. A policy objective must be improving consumer outcomes.

Q3. Do you consider the Guidelines' recommendations, purposes, and intended outcomes continue to reflect general industry consensus? Note in this question we are seeking your views on the Guidelines' content; not whether they should be mandatory.

Consumer considers one of the intended outcomes ('C: Retailers have a right to be paid for services delivered') in the Guidelines should be

[3] Consumer NZ, Energy Survey 2023.

reviewed.[4] This outcome could be interpreted as sanctioning the use of disconnection by retailers as the default method of debt recovery.

While there should be mechanisms to help retailers recover money owed, removal of an essential service to extract outstanding payment from consumers who cannot pay is punitive and disproportionate.

Further, for those consumers who are vulnerable (and who are overly represented in the group of consumers facing financial hardship), removal of an essential service can disproportionally affect their health and wellbeing.

Removal of an essential service has real world consequences. Cold houses are a health risk - particularly respiratory health – with vulnerable consumers, such as children and older people, the most susceptible. Respiratory diseases cost New Zealand more than $7 billion every year and accounts for one in ten of all hospital stays.[5] People living in deprived households are admitted to hospitals for respiratory illness at three times the rate as those more well off.[6]

In Consumer's view, removal of an essential service as a means of debt management is unsafe and needs to be phased out. The industry must act to identify more appropriate and less dangerous mechanisms to recover debt, or stop debt accumulating in the first place.

Q4. What do you think about our approach to limit options to areas covered by the current Guidelines?

We do not agree. We believe the Guidelines need to go further to protect consumers in vulnerable situations. In particular, we think the protections in the Guidelines must be extended to consumers on pre-pay plans.

Consumers on pre-pay plans are subject to auto-disconnection. By going onto a pre-pay plan consumers forgo many protections under the Guidelines, particularly around the notification and disconnection process.

In Consumer's latest survey, 6% of respondents said they had to switch to a pre-pay plan because they experienced trouble paying their electricity

[4] Electricity Authority Te Mana Hiko, "Consumer Care Guidelines", page 6, https://www.ea.govt.nz/documents/2093/Consumer-Care-Guidelines.pdf.
[5] Asthma + Respiratory Foundation NZ, "Respiratory disease in New Zealand", https://www.asthmafoundation.org.nz/research/key-statistics.
[6] Ibid.

bills. 50% of those on pre-pay plans reported being auto-disconnected at some point.[7]

By being forced onto pre-pay plans many consumers facing financial hardship are locked out of the benefits of retail competition. This is because a history of previous non-payment makes those customers less appealing to retailers, so finding a retailer to switch to is more difficult. Retailers are not obligated to take on consumers. 9% of survey respondents said they had been rejected as a new customer of an electricity provider because of previously missed payments.[8] This means that households with the least ability to pay are being denied access to the lower cost power plans that would help alleviate their situation.

Q5. What issues that fall outside of the current Guidelines would you like to see us consult stakeholders on in an issues paper to be released by mid-2024? If possible, please provide any initial evidence on these issue areas.

<u>Disconnections and Reconnection Fees</u>

Consumer considers that fees must reflect actual costs – and these fees should be monitored to ensure they do.

Consumer's initial analysis of the fees listed on retailer websites show a large variation in the level of disconnection and reconnection fees between retailers.

The physical process of disconnection is now largely undertaken remotely by meter providers. The disconnection process is identical regardless of which retailer serves an ICP. We do not see why fees vary as much as they appear to.

Retailers should not financially benefit from disconnection and reconnection fees. Retailers should not lump broader administration costs of late payment and debt collection into the disconnection and reconnection fees of consumers who are disconnected.

More disclosure and monitoring are required, with fee caps set where appropriate.

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[7] 2023 Consumer NZ Energy Survey.
[8] Ibid.

Record and disclose the number of auto-disconnections

It is concerning that auto-disconnections are not being recorded, disclosed, and published publicly. We believe this is an unacceptable blind spot for the Authority as the sector regulator and this needs to be remedied urgently.

We understand that auto-disconnections are not recorded because of an erroneous belief that auto-disconnection is accepted as a consequence of 'choosing' to use pre-pay.[9] We know that some households end up on pre-pay only as a last resort. For many it is not a choice.

Not recording pre-pay disconnections means the current level of disconnections reported (post-pay only) is not a true representation of those going without electricity for non-payment. We do not have a clear picture of the number of households at risk.

Comparative pre-pay costs

The comparative costs of pre-pay vs post-pay plans must be monitored more closely. In our view, those on pre-pay should not be paying more than those on post-pay. Our analysis shows that pre-pay plans cost more the post-pay.[10] This is counterintuitive. Paying in advance for a product or service typically attracts a discount as it de-risks provision of that product of service for the provider.

Consumers missing out on lower cost options

Information should be disclosed about retailers' refusal to take on new customers. Retailers can respond to stricter requirements by refusing to take on riskier customers or customers in vulnerable situations. Anecdotally we are told that low-income consumers are often denied service by lower cost providers because they don't meet the retailers' credit criteria.

In Consumer's latest survey 9% of respondents said they had been refused as a customer of a retailer because of previously missed payments.[11] This

[9] Electricity Authority Te Mana Hiko, 'Disconnections for non-payment - January 2006-December 2021 - Information paper', ref. 4.3, 1 March 2022, https://emidatasets.blob.core.windows.net/publicdata/Datasets/Retail/Disconnections/Disconnection%20data%20-%20Q4%20Oct-Dec%202021.pdf.
[10] Consumer NZ, "Prepay customers paying much more for power", 22 June 2023, https://www.consumer.org.nz/articles/prepay-customers-paying-much-more-for-power.
[11] Consumer 2023 NZ Energy Survey.

means some retailers can 'look better on paper' than their competitors simply by being more circumspect around the customers they take on.

Q6. Are there other interpretation issues or areas of the Guidelines that you consider need to be clarified, that do not significantly amend or extend the Guidelines?

Though well written and laid out, we believe the wordiness of the Guidelines leaves retailers with too much scope for interpretation. This could create situations where commercial interest takes precedence over consumer protection.

We think the addition of diagrams such as flowcharts, process diagrams and checklists would help retailers and advocates, and make requirements and expectations clearer. These tools could also help with monitoring compliance.

Q7. Do you agree that parts two, six, seven and eight are the parts of the Guidelines preventing the greatest harm from occurring to domestic consumers?

We agree these are the most important parts of the Guidelines, but we think all parts of the Guidelines should be mandatory.

If the Guidelines are going to be mandated in two stages, we think part nine, which is about fees, should be included in the first stage.

Q8. Are there any other options you think we should consider?

In our view the Authority should make all aspects of the Guidelines mandatory as soon as possible.

If the Authority chooses option three (codify parts of high importance), we strongly recommend that the remaining guidelines are made mandatory as soon as possible. The Guidelines must also be expanded to provide greater protections for those on pre-pay.

Q9. Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use?

We think the criteria are broadly correct. However, we consider that 'retailers right to be paid' must be tempered against the societal, health and safety impacts of disconnections for non-payment.

Q10. Do you agree criteria four and five should be weighted less than the first three criteria?

Criteria four and five relate to timeliness and cost to the Authority.

In the context of the Guidelines there are changes that would immediately improve consumer outcomes. We favour improvements being made in a phased manner rather than waiting until all changes are ready before proceeding. We believe this would lead to the strongest and fastest protection for domestic consumers.

Q11. Do you agree with our assumption that retailers already following the Guidelines should not experience a significant increase in their compliance costs if any part of the Guidelines is mandated?

We agree – compliance costs should not be an issue as retailers should already be following the Guidelines. Meeting compliance requirements is an expected and reasonable aspect of the cost of doing business, particularly for providers of an essential service.

We also note that several retailers have recently disclosed record profits. For the big four these equate to profits of $7.4M a day.[12] Retailers' concerns about the need to increase their prices to meet minimum consumer care requirements are unconvincing and suggest they are currently non-compliant.

Moreover, responsible and ethical retailers who value the health and safety of consumers support mandatory standards. Mandatory guidelines will provide a level playing field for retailers. Retailers who are doing the right thing currently and voluntarily following the Guidelines are incurring higher costs and at a competitive disadvantage compared to other retailers.

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[12] Taunton, Esther, "'Big four' power companies earning $7 million every day", Stuff, 31 August 2023, https://www.stuff.co.nz/business/132841291/big-four-power-companies-earning-7-million-every-day.

Q12. Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?

Yes - under a voluntary regime there is an incentive not to comply. Non-complying retailers will have lower costs and therefore a competitive advantage over retailers who choose to comply.

The current regime incentivises retailers not to take on customers perceived as risky. We remain concerned that some retailers are encouraging customers facing financial difficulty onto prepay plans.

Q13. What impacts to competition, innovation and efficiency in the retail market would you expect to see for options three and four respectively?

By ensuring that retailers are subject to the same requirements under the Guidelines, options three and four would level the playing field for retailers. We consider this will improve competition by creating a fairer market, particularly for smaller retailers. A standardised set of rules will also mean there is consistency in how all retailers provide electricity services, and will encourage retailers to develop new and innovative ways of gaining a competitive advantage (rather than simply reducing customer care standards).

Choosing whether to provide consumers with a minimum standard of care should not be something that retailers can use to gain a competitive advantage. We think option four would provide greater and fairer protections for consumers. A standardised set of rules for all retailers will ensure the market is fair and reasonable, and will consequently result in better protections for consumers in the long-term.

Q14. For retailers, broken down by Guidelines part, what would the estimated costs to your business be of codifying parts of the Guidelines under option three or four (for example implementation and compliance costs)?

No comment.

Q15. What do you think the benefits to domestic consumers will be under options two to four?

As noted throughout this submission and at the risk of repetition, consumers can find themselves facing difficult circumstances that affect their ongoing ability to afford electricity. Because the Guidelines are voluntary, the level of care for consumers in vulnerable situations differs between retailers. However, retailers generally do not advertise their compliance with the Guidelines. Consumers will not know, often until it is too late, the extent to which their retailer complies with the Guidelines.

Having minimum mandatory standards will provide a level playing field and remove the lottery of care that consumers currently face. Mandatory guidelines will provide consumers with peace of mind that their retailer will be bound to minimum standards of care should they find themselves in a vulnerable situation.

While option three would provide some benefit to domestic consumers, making the Guidelines mandatory in its entirety (option four) provides the best protections for consumers. Consumer does not support option two at all. Option two would provide very minimal protection to consumers, if any at all.

Q16. Do you agree with our initial assessment of the options against the status quo? If not, what is your view and why?

Please see our answers above.

Q17. Do you agree with our preliminary view? If not, what is your view and why?

As above.

Thank you for the opportunity to provide comment.

ENDS