

11 November 2020

James Tipping
Chief Strategy Officer
Electricity Authority

Ron Beatty
Principal Adviser Market Services

By e-mail: marketoperations@ea.govt.nz

Dear James and Ron,

Pulse Energy supports introduction of new, replacement, guidelines to protect consumers

Pulse supports the protection of Medically Dependent Consumers from disconnection, and minimum standards for debt/disconnection processes for all consumers. We welcome that the Authority has largely taken on board the suggestions we made in the June consultation, and the progress that has made over the last several months.

We also appreciate the Authority's stakeholder engagement, including the extensive use of workshops through the development process.

Based on the recent workshops, discussions with other stakeholders, and our own assessment of the draft new Guidelines, our feeling is that the Authority has done a very good job, but there is still quite a bit of work to do to ensure that the Guidelines are operationally efficient and protect the interests of consumers who may be medically dependent or having payment difficulties. It might be useful to further consultation in the new year, before finalising the Guidelines.

Competition and choice helps protect consumers

We reiterate one of the best ways for households to reduce financial difficulties in paying electricity bills is to switch retailer and save money. The best way to ensure consumers, including consumers that may be MDC or facing financial difficulty and hardship, are supplied with affordable electricity is to make sure a thriving and fully competitive electricity market develops in which all electricity consumers benefit from genuinely cost-based services.

Consumer protection and competition are 'two-sides of the same [energy affordability] coin'. It is important this is recognised and consumer protection and competition policy aren't siloed.

Ensuring the Consumer Care Guidelines do not result in undue operational inefficiencies

The objective to protect the welfare of consumers, particularly those who may be vulnerable or MDCs, will inevitably require trade-offs and result in higher costs that might not be accepted if a sole efficiency criteria or objective was adopted. This reflects electricity is an essential service and protecting consumer well-being is critical to the “long-term benefit of consumers”.

We consider that retailers have a responsibility to try and avoid both unnecessary disconnections AND unnecessary customer debt accumulation.

This requires a careful balancing, which is difficult to regulate for, in terms of ensuring consumers have sufficient warnings they could be disconnected/opportunities to enter into alternative payment arrangements, versus the risk consumers build up high levels of debt before they are disconnected which puts them into further financial difficulties.

We do not think the draft Guidelines have got this balancing quite right. For example, the Guidelines include undue and operationally inefficient levels of repeated attempts to contact the consumer during the debt/disconnection processes (particularly at Guidelines 38 and 52a).

The new Guidelines should follow more closely the precedent set by existing Vulnerable Consumer Guidelines (Appendix A) in relation to the requirements for customer contact, including provision for an accelerated process where the customer has a history of payment problems:

“Note: at this point some retailers take the initiative for placing domestic consumer with a history of disconnection on an accelerated disconnection process, which enables such domestic consumers to obtain help more quickly to avoid falling further into debt.”

The Guidelines should also ensure is the retailer has:

- made a minimum of three attempts to contact the customer;
- provided the consumer with notice of the potential for disconnection if their power bill is not paid, and what options are available for repayment/avoiding disconnection; then
- provided the consumer with notice of when disconnection will occur if the consumer does not make contact with the retailer to resolve the matter; and
- attempted to directly contact the consumer contact through a mix of available contact details e.g. letter to address, e-mail, app notification, phone call/txt and/or alternative contact (if applicable).

Any requirement (e.g. Guideline 52b) requiring the retailer to send a person to site prior to disconnection, either by way of signature courier or contractor to deliver a final disconnection notice, will result in additional costs, that would not otherwise need to be incurred and which would be operationally inefficient. The customers that are being warned about disconnection risk would incur extra fees applied which will cause more debt to these customers which seems to undermine the reason behind these changes.

If a site visit is required, it should only be where it is needed for safety reasons or the retailer does not have contact details (other than address) to contact the customer or the alternative contact, other than in writing. The Guidelines should not require a physical visit when the retailer knows the consumers has received the notification e.g. messenger apps can notify the sender when a message has been read.¹

The Guidelines approach to vacant properties needs revision

It was clear from the Authority's 3 November workshop, retailers do not consider the Authority has got the balance between compliance costs and the notification requirements right for vacant premises, and the Authority proposals (and the Addendum introduced earlier in the year) are operationally inefficient.

We do not consider there should be a requirement (Guideline 54b) to "make at least three attempts to contact and inform the consumer [at a vacant premise], before disconnection, over a seven day period". This should either be deleted or revised to a single attempt.

We also reiterate, we do not support requiring a physical site visit, prior to disconnection, when there is no actual customer. It is reasonable to assume if a vacant house or premise becomes occupied by someone who is vulnerable or medically dependent they will secure supply of electricity through an electricity retailer. The Authority should be careful to ensure it does not reward consumers for consuming electricity without making arrangements for supply within a reasonable period of time of moving into a vacant property.

The Guidelines should be explicit about their limitations, and what consumer protection does not entail

The Guidelines should be explicit they are not intended to provide protection to consumers that act in bad faith, or engage in fraudulent behaviour/meter tampering, vandalism etc (the wording in Guideline 37a isn't right yet). The Authority should retain the provisions in the existing Guidelines on these matters.

¹ We noted in our original submission that "The Guidelines should recognise modern technology, such as apps and messaging, mean electricity retailers can have reasonable confidence the customer has received (and read) the disconnection warning notices, even if they don't get a response from the customer. This brings into question the need and efficacy to add a physical site visit if the customer chooses to ignore or not respond to the electricity retailer's reasonable efforts to contact the customer. The Guidelines should also recognise most disconnections are not physical disconnections so a site visit can add substantial additional compliance costs".

The Guidelines should also be explicit electricity retailers cannot guarantee there will be no loss of electricity supply, and MDCs should have back-up arrangements for outages. Again, the existing Guidelines are clear on these points.

The Guidelines should be explicit that if the retailer has completed the Guidelines' verification process, and the consumer has still not provided the verification needed, the retailer is entitled to treat the consumer as not being an MDC.² We accordingly, support Guideline 89 provision that "Retailers should advise MDC applicants who do not agree to the retailer recording and holding information relevant to the application and/or HP Notice, or if a valid HP notice is not provided within the time frame set out in paragraph 88: ... the retailer may not treat the MDC applicant as an MDC / potential MDC".

Additional drafting comments

Our drafting comments below include examples where we think the drafting could be tidied up or clarified, where the proposed Guidelines may over-reach (e.g. into how prices/fees are set) and where the proposed Guidelines may be operationally inefficient or impractical:

Tidy-up or clarification	Guideline 8c "confirms which role in their organisation holds responsibility for the retailer's alignment with these guidelines' intended outcomes in Part 1": This should include contact details so that consumers can get hold of the relevant person if they need to.
Tidy-up or clarification	Guideline 13c "For invoicing preferences: i. a customer's preferred invoicing frequency, where the retailer offers to invoice customers other than monthly ii. a customer's preferred means of receiving their invoice": This should include the qualification that it only applies where the retailer offers different invoicing options.
Operational efficiency or practicability	Guideline 24 "If a new post-pay customer nominates a support person or an alternate contact person, retailers should seek the person's agreement to act in that capacity": The Guidelines should require that the retailer confirms that the alternate contact person agrees to act in that capacity at the time (if at all) the retailer needs to make contact. We consider that confirmation on an 'as needs' basis could reduce administrative costs.
Over-reach/Operational efficiency or practicability	Guideline 28c "if a customer's energy use is reducing materially, enquire whether the customer is doing so due to concerns about payment difficulties, and if so, take this into account when advising of lower cost pricing plans offered by the retailer": While

² We noted in our original submission that "The verification provisions should explicitly deal with what happens if a consumer is not willing to co-operate in the verification process, and should include confirmation/evidence of address as part of the verification process to reflect that the Medically Dependent or Vulnerable Consumer may not be a customer of the electricity retailer".

	<p>we consider that the intention of this proposed Guideline is well-meaning we consider that it is poorly targetted and should be deleted.</p> <p>We consider that it would be invasive of a customer's privacy to be monitoring their consumption in this specific way or to be making enquiries about the reasons for the change. It would also poorly target customers that are having payment difficulties, as there are a lot of reasons why a customer's energy use may reduce materially (travel, change in living arrangements etc).</p>
Over-reach	<p>Guideline 29: We do not consider it tenable to impose a requirement that a retailer should have to advise a customer "if the retailer is aware of a payment plan not offered by the retailer, but offered by a different retailer, that might suit the customer's circumstances better". Inevitably there will be a range of factors that determine whether a customer should switch or not. What types of payment plans a retailer offers will not necessarily or likely be the determining factor e.g. would compliance with Guideline 29 require the retailer to advise the customer of other retailers' pricing plans, even if those retailers' prices are higher? We consider that Guideline 29 should be deleted.</p>
Operational efficiency or practicability	<p>Guidelines 30 and 51: Pulse currently reads legacy metering sites bi-monthly so every second invoice would be generated by an estimate. We consider this approach is both reasonable and operationally efficient (reduces meter reading costs).</p> <p>Based on the discussion at the 3 November workshop it appears that Guideline 30 ("Retailers should use actual meter readings for invoicing if these are available") is intended to accommodate this, though the meaning of "available" is potentially open to different interpretations. It may be useful to clarify this.</p> <p>Guideline 51 would result in an additional month delay before the disconnection process could commence. We consider that it is reasonable to commence the disconnection process on the basis of an estimated bill (the fixed charge component, for example, doesn't depend on the accuracy of the estimate); particularly as the timing requirements mean that an invoice would have been issued based on an actual reading before the disconnection could occur anyway.</p> <p>We consider that Guideline 51 should be deleted.</p>
Operational efficiency or practicability	<p>Guideline 37c "a customer, in the reasonable opinion of the retailer, is not engaging with a support or social agency within five</p>

	business days of being referred to the agency”: It is not clear how a retailer would necessarily form a reasonable opinion on this matter, given consumer engagement with social agencies is subject to privacy protections.
Operational efficiency or practicability	Guideline 40: The Guidelines should recognise it is often the same customers that get into payment difficulties. It would not be operationally efficient or helpful to the customer to repeat advise on energy efficiency etc in order to ‘tick the box’ for Guideline compliance. The Guidelines should provide for an accelerated process (as per the existing Guidelines) for customers that have a history of payment difficulties which can better target their needs and help them more quickly to avoid falling further into debt.
Over-reach	Guideline 40e “provide the customer with information to improve energy efficiency at their premises and /or inform the customer of where they can obtain advice or information on the efficient use of electricity”: This is stretching the role of the Guidelines beyond consumer protection into requirements for provision of non-retail services.
Operational efficiency or practicability	Guideline 40g: We consider that the advise should be generic (and not necessarily specific to the customer’s actual consumption over the past 12 months). We are wary, for example, of providing advise which could, if their circumstances have changed, result in the customer ending up on a plan that may have previously suited them, but would now result in higher electricity bills. ³
Operational efficiency or practicability	Guideline 41: Allowing customers to elect to pay portions of their bill in relation to different services would be arbitrary and operationally difficult as all services are billed together, and paid from oldest debt to the newest as opposed to selecting service types. We recommend deleting Guideline 41 and retaining a principles-based rule that disconnection of electricity services can only be for non-payment of electricity bills.
Tidy-up or clarification	Guideline 50d “the retailer has taken all reasonable actions to ensure the customer, or any consumer usually resident at the customer’s premises, is not, or may not be, an MDC.”: The words “, or may not be,” are redundant and confusing, ⁴ and should be deleted.
Tidy-up or clarification	Clause 54: The Guidelines should clarify, as a ‘for the avoidance of doubt’, that disconnection immediately after a customer has

³ There are other similar pitfalls as well. For example, in Queenstown there is a very high proportion of residential customers that are lower users in the summer period, and standard users in the winter period. Advise provided based on their past 12 months consumption could result in initial higher electricity bills if they are on the ‘right’ tariff in the immediate term but not on average over the year.

⁴ For example, it is possible a consumer that is verified as MDC is incorrectly verified and therefore “may not be ... MDC”.

	cancelled electricity supply to their premises is compliant with clause 54.
Tidy-up or clarification	Part 7: the flow of the section is difficult to follow in places as it jumps around between dealing with post-pay and vacant premises.
Operational efficiency or practicability	Guideline 61a “Retailers should ensure any of their representatives who visit a post-pay customer’s premises or uncontracted premises for the purpose of making a disconnection ...”: This role should not be required to be undertaken by the representative undertaking the physical disconnection and preferably should be deleted (based on operational efficiency criteria).
Over-reach	Guideline 63 “Retailers that disconnect premises should reconnect those premises as soon as possible and <u>at no cost</u> , if: a. the disconnection was inadvertent b. the disconnection of the premises (whether intentional or not) has disconnected an MDC or a person who has made an MDC application” [emphasis added]: The disconnection of an MDC may be because the customer has not responded to the retailers reasonable inquiries about whether the household includes any MDCs. We also question whether the Authority should be or can (de facto) price regulate fees for reconnection etc. This Guideline should be deleted.
Over-reach	Part 9: Fees and bonds: See comments above in relation to Guideline 63. This Part should be deleted.

Concluding remarks

The ‘consumer care’ review is important for ensuring the protection and wellbeing of the most vulnerable members of society, and all electricity consumers are treated fairly.

The Authority has run a good, tight, and fast process for review and replacement of the existing vulnerable and medical dependence Guidelines.

The importance of the Guidelines highlights the need to ensure that collectively we get the changes right. Our submission highlights there is still material opportunity to further improve the drafting of the Guidelines before they are finalised. We would be happy to further engage with the Authority to assist the final stages of the review.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Fraser Jonker".

Fraser Jonker
Acting Chief Executive Officer
fraser.jonker@pioneerenergy.co.nz

