

27 November 2020



James Tipping and Ron Beatty
Electricity Authority
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By email: marketoperations@ea.govt.nz

Dear James and Ron

Re: Proposed Consumer Care Guidelines

Flick appreciates the opportunity to submit on the Electricity Authority's (Authority's) proposed Consumer Care Guidelines.

This submission is in addition to the feedback provided in the joint independent retailers' submission to which Flick is a signatory.

Overall, we believe that in places the proposed guidelines are too descriptive and prescriptive, and do not take into account that all retailers provide unique pricing plans and services.

Our feedback on clauses of the Guidelines is grouped into the following key themes, which are also prioritised from our perspective. The proposed guidelines:

1. potentially create barriers to innovation
2. impose additional costs on retailers that consumers will ultimately bear
3. include wording that is difficult to implement, such as "ensuring", "make sure", and "all reasonable efforts"
4. could be difficult to adhere to because the clauses relate to uncontracted customers
5. are inappropriate as the clauses create an expectation that retailers inform customers about other retailers' pricing plans
6. are unclear so that the clauses are unlikely to achieve the proposed purpose.

Appendix 1 provides our substantive comments on the Guidelines grouped by these themes.

However, the following is a list of clauses we recommend the Authority prioritise reviewing (our substantive comments on these clauses is provided in the section of the Appendix given in []).

- 13b.(i) and 13b.(ii): these clauses have the potential to stifle innovation [section 1]

- 18: it is difficult to “ensure” the customer receives the best offering when a customer chooses to join a retailer via a web portal. It is important this clause is reworded. [section 3]
- 19: we do not support this clause which adds additional steps to the join process – this will discourage switching. [section 1]
- 20: it is difficult to “ensure” new customers “understand” the retailer’s terms and conditions. It is normal practice for a consumer to be responsible for reading and clarifying any terms before ‘ticking the box’ to indicate they agree to them. [section 3]
- 22: we recommend this clause is deleted as it is impossible for a retailer to determine and validate that a consumer is liaising with and actioning advice from a support agency. [section 3]
- 38: we strongly disagree with imposing a minimum period between invoice and payment which will result in significant additional cost and potentially accumulation of debt. Consumers have the option of choosing a retailer with payment terms that suit them. [section 2]
- 40g.: this clause has the potential to stifle innovation [section 1]
- 52b.: it is unclear what steps are to be taken if there is no-one at the property. [section 6]
- 54b.: requiring three attempts to contact a customer within 7 days could lead to an increase in fraudulent activity. [section 2]
- 54e.: a site visit to an uncontracted property before disconnection will add costs that ultimately customers pay for. [section 2]
- 55: seek clarification of what “all reasonable attempts means. [section 2]
- 56: we recommend this clause is deleted as a retailer has no contact details for an uncontracted site. [section 4]
- 59d.: this requires retailers to “ensure” a customer has “understood” notifications of disconnection. This is unworkable when a customer is not engaging with the retailer and for uncontracted premises. [section 3]
- 60: request clarity about what is meant by “immediately prior” as retailers are not informed about the time of day a service provider is going to complete a disconnection. [section 6]
- 95: we recommend this clause is deleted as it contradicts with the intended outcome that “retailers have the right to be paid”. [section 2]

We welcome the opportunity to discuss this submission with you in more detail.

We strongly support the call in the joint submission by independent retailers for a further round of consultation and/or workshop once the feedback on these proposed guidelines has been incorporated.

Yours



James Leslie
Chief Operating Officer

APPENDIX: Flick Electric’s substantive comments on clauses of the Guidelines grouped in themes

Part	Clause	Feedback
1. The following clauses potentially create barriers to innovation		
3	13 b (i)	<p>Offering all billing frequencies to all customers may stifle innovation and lead to unintended consequences. From our experience, customers that have bad credit will most likely choose a monthly billing frequency.</p> <ul style="list-style-type: none"> - If they are in genuine hardship, this will result in the retailer taking longer to identify this and delay their referral to the appropriate support. - If they are signing up without the intention of paying, it will lead to an increase in bad debt industry wide and ultimately lead to increased retail prices <p>With the emergence of innovative retail pricing such as spot and TOU offerings, it may be beneficial to only offer weekly billing so that the customer can more easily track and understand their usage and spending patterns.</p>
3	13 b (ii)	<p>We promote digital innovation to enhance customer experience and have set up customers to receive their bills through emails linked to their dashboard which has details of their bill and pricing.</p> <p>It is unclear if retailers would be required to offer additional methods of invoicing. This would come at a significant financial cost.</p> <p>We believe that retailers should be required to work proactively with consumers who are unable to receive their bills through the retailers’ primary billing method.</p>
4	19	<p>We do not support this clause. In our experience, adding further steps into the join process leads to a significant decrease in completed applications and conversion. Requiring retailers to outline all of the different offerings and payment options before sign-up will reduce switching activity and result in undesirable market outcomes.</p> <p>We currently have an automated onboarding flow in the weeks after sign-up which introduces our different options (including our payment smoother, Volt). We believe that introducing products to customers at more relevant times in the customer life cycle yields better outcomes for consumers.</p>
5	31	<p>We agree that this information should be readily available to consumers but disagree that all of this information needs to be included on invoices.</p> <p>We provide a large amount of information on our online dashboard, and in the email that supplements and includes the PDF bill. It is our view that customers should not have to open the PDF bill to get all of the relevant billing information. We believe it should be provided up front in the email for ease of use, rather than hidden in a PDF.</p> <p>It is unclear if this is acceptable under the guidelines. If taken literally without judgement, this approach would be unacceptable.</p>
6	40 (g)	<p>We offer spot pricing and believe that this clause is not relevant to Flick as we are unable to advise a customer on the basis of average consumption over the past 12 months on whether it would benefit customers to be on spot pricing in the future as spot pricing is unpredictable.</p>

Part	Clause	Feedback
<p>2. The following clauses impose additional costs on retailers that consumers will ultimately bear</p>		
5	28	<p>There are multiple reasons for a sudden decrease in electricity usage e.g customer being on holiday, flatmate moving, it would be very difficult to signal out a specific reason being payment difficulties as the reason for customers not using electricity on site.</p> <p>We also believe that if a customer is in genuine energy hardship, it is likely that they will have missed a payment at some stage and would have already been made aware of the Customer Care Policy at that stage.</p> <p>It would also be a significant cost for retailers to implement a process to monitor a decrease in usage of electricity. Generally, it is inefficient for retailers to do any monitoring of usage information. Metering data should be stored centrally and government support agencies should be used to reach out to those in potential hardship based on a range of factors, not just electricity consumption.</p>
6	38	<p>Imposing a minimum period of time between invoice and payment is not in the best interests of consumers as it delays retailers' ability to identify consumers in hardship and help get them the support they need. We currently offer 2 day payment terms for weekly and fortnightly bills and 9 day payment terms for monthly. We do not receive any negative feedback regarding this from consumers and do not see it as an issue because we provide daily billing totals to our customers in our online tools so that there is no bill shock and our customers can plan payment in advance.</p> <p>As the guideline is currently drafted, none of our payment terms would be acceptable. Amending our system to adhere to the guideline would impose significant additional costs to our business. The guidelines must allow flexibility in this area.</p>
7	54 (b)	<p>We do not agree with this clause which requires three attempts to be made to contact the consumer over a 7-day period before disconnection.</p> <p>This will add significant costs to retailers to implement the additional processes. We believe that this clause is taking away the responsibility from the consumers and adding this to the retailers which would encourage fraudulent consumers.</p>
7	54 (e)	<p>Requiring a site visit before disconnection a consuming site which has not been signed up with a retailer is going to add costs to retailers which will ultimately be passed on to consumers.</p>
7	55	<p>It is unclear what is meant by "all reasonable attempts". If this means sending a contractor to the site, this will impose significant costs on retailers which will ultimately be passed on to consumers.</p> <p>This clause unfairly makes the retailer responsible for determining MDC at a non-contractual site. We believe that if a consumer at a non-contractual site is MD then the responsibility should lie on them to sign up with a retailer as soon as practical.</p>
7	58 (g)	<p>It has been revealed through our credit disconnection process that around 20% of customers in our debt cycle claim to be medically dependent at the point of property being disconnected. These claims are usually proved negative through a</p>

Part	Clause	Feedback
		<p>site visit or a failure from the customer in providing completed medical forms within 40 working days.</p> <p>We believe that adding more MDC information and explanation on a disconnection notice will not be beneficial to customers and could give rise to fraudulent customers in debt claiming to be medically dependent to buy them time. This will have an adverse effect on customer's debt which could then make it more difficult for payment arrangements to be made, putting the customer in a difficult situation. This could also lead to a significant financial loss to all retailers.</p>
8	95	<p>This clause contradicts with the intended outcomes on page 4 of the proposed guidelines which states "retailers have a right to be paid".</p> <p>We disagree that the guidelines state that disconnection should not occur for non-payment regardless of fraudulent activity on a premise occupied by an MDC and suggest this clause is deleted.</p> <p>Alternatively, it is important there is clarity on who would be responsible for the accrued debt on accounts where fraudulent activity is being carried out at a premise with an MDC consumer on site.</p>
9	103(c)	<p>We believe that this clause conflicts with 102(d) as the inclusion of a fee that cross subsidises the provision of other goods and services cannot be fully avoided.</p>
9	104	<p>This clause which requires all fees which are over 20% of an average invoice during the past 12 billing cycles to be spread over at least five billing cycles, has not considered the fact that some fees get added to customer's first bill and this rule for calculation cannot be applied to it. We believe that this decision should be left to the retailer's discretion and customer's circumstances.</p>
<p>3. The following clauses include wording that is difficult to implement, such as "ensuring", "make sure", and "all reasonable efforts"</p>		
All		<p>We do not agree with the wording "ensure", "make sure", "work with" used throughout these proposed guidelines as these terms are subject to interpretation. This will likely result in the guidelines being applied inconsistently throughout the industry.</p> <p>We believe that the implementation and success of the consumer care guidelines is dependent on the consumers engaging with the retailers. Disengagement from customers will limit retailers "ensuring" or "making sure" customers are well informed of their processes.</p> <p>It seems that the main issue of customer disengagement during a payment difficulty discussed during the Authority's workshops has not been considered when developing this proposed consumer care guidelines.</p>
4	18	<p>We do not support this clause. It is unclear what is meant by "work with each prospective customer".</p> <p>We currently offer both TOU price plans and non-TOU plans. Requiring us to "ensure" the customer receives the best offering would mean that we would have to get the customer to request their consumption data from the previous retailer and run calculations to determine what plan they would be better off on. This would prove to be a huge barrier to switching and result in undesirable market outcomes including inefficient sign-up processes.</p>

Part	Clause	Feedback
		<p>We believe that retailers should be required to present all available plans with equal prominence and sufficient information for a consumer to make an informed decision.</p> <p>If the intention of this clause is to ensure that the customer is on the correct user plan (Low or Standard), we believe that this is already covered sufficiently by the Low User regulations. Retailers should be advising on plan type after a period of time with sufficient usage information, rather than at the time of sign up. Getting this wrong at sign-up based on incomplete information could lead to an increase in disputes.</p> <p>It is important this clause is reworded.</p>
4	20	<p>It is unclear what “ensuring” new customers understand the retailer’s terms and conditions means. Do we have to have them answer a quiz to confirm their understanding?</p> <p>The customer should be responsible for reading and clarifying any terms which are confusing before agreeing to them. This process aligns with and is consistent to the process followed by all other utility service providers.</p>
4	22	<p>We believe that it is impossible to determine and validate whether a ‘consumer is liaising and actioning the advice received from a support agency’ due to privacy reasons. This clause should be deleted from the draft guidelines.</p> <p>There is a large market for servicing customers without a clean credit record and provided the guidelines are not overly prohibitive on the retailers ability to manage credit risk, the competitive market will develop innovative solutions for the benefit of these consumers.</p>
5	40	<p>Parts of this clause do not consider the fact that most customers who default in payment are the ones who do not engage with their retailers. We believe for this reason the wording “make sure” and “offer and discuss” should be removed from this clause. This clause is only achievable for a small number of customers who default payment and still engage with their retailers.</p>
7	59 (d)	<p>It is practically impossible to ensure that a customer or consumer has understood the notifications of disconnections and the outcome of not responding to retailers, without successfully contacting the customer or consumer. “Sending a representative to the premise” for uncontracted premises is costly and will impose significant costs on retailers which will ultimately be passed on to consumers.</p> <p>This clause must be clarified.</p>
<p>4. The following clauses are impractical to implement as they relate to uncontracted sites where a retailer has no relationship with a consumer</p>		
7	50 (d)	<p>The wording “all reasonable actions” in this clause is vague and is left to the retailer’s interpretation. A reasonable action for a site where a consumer has not signed up with a retailer would be to send a letter to the premise to confirm medical dependency. We are not sure whether this process will meet the “reasonable action” of this clause.</p> <p>If the Authority's interpretation of reasonable actions is to send a contractor to uncontracted premises where there is consumption at the property, this would impose significant additional cost on all retailers and significantly increase the</p>

Part	Clause	Feedback
		number of disputed relating to customers who don't sign up for a retailer to avoid paying electricity and then disputing the date they moved into the premises.
7	54 (d)	We do not agree to the requirement of making numerous attempts to contact the consumer before disconnecting a non-contractual property which is consuming. Firstly, there is only a minimum means of contacting the consumer, which is sending a letter and secondly, we believe this will encourage fraudulent consumers to stay at the property longer without signing up with a retailer.
7	56	We believe that this clause should be deleted as retailers will not be able to contact or determine the consumer who controls the premises due to no contact details being available for the non-contracted property. Current industry switching rules are sufficient to identify consumers signing up for properties where they do not control the premises.
5. It is inappropriate to assume one retailer can inform its customers about other retailers' pricing plans		
4	23 a i)	We believe this clause is impractical: each retailer cannot be expected to understand and learn about other retailer's payment plans and advise a customer. It seems this proposal has also not considered that a consumer who had been rejected by a retailer may not wish to discuss details around his circumstances which would make it difficult for the retailer to guide the customer to another retailer.
5	29	The expectation in this proposal of a retailer to promote another retailer's payment plan is not practical and should not be included in this proposal. Due to the nature of spot pricing, we offer our customers flexibility between our two plans fixie and freestyle which they are able to change through a dashboard without our intervention. To meet the requirement of Clause 29 Flick will need to interact with each customer requesting a plan change which could delay the change of their pricing plan. This could have an adverse effect on a customer especially if the reason for pricing plan change was due to sudden increase in their spot prices.
6. The following clauses are unclear so that the clauses are unlikely to achieve the purpose of the guidelines		
2	6d(ii)	We believe this clause that "customers should be allowed reasonable time to receive assistance without incurring a financial penalty from the retailer" contradicts allowing retailers to charge reasonable late payment charges for their overdue bills. Retailers can face processing costs from banks and in management of debt as soon as a payment is dishonoured.
2	7b (vii)	The statement "your electricity remains connected if at all possible" is unclear and could imply that a consumer will not be disconnected for not paying their bills.
2	8 (c)	We do not believe that confirming the role responsible for aligning the guidelines is relevant to the consumer and does not need to be in the guidelines.
2	11	This statement does not provide the option to the retailer not to update the guidelines if their processes have not changed in the last two years.

Part	Clause	Feedback
7	52 (b)	<p>We do not agree with this clause that requires a signature on receipt of a couriered notice of disconnection. This clause does not clarify the steps to take if there is no-one at the property.</p> <p>This clause could mean that a disconnection cannot be completed unless someone is at the property to sign the couriered notice. We recommend removing the expectation of a signature on receipt from the guidelines.</p>
7	60	<p>It is not clear what “immediately prior” means. Retailers have not control over the time of day a disconnection is going to occur. We believe that providing the relevant information in the pending disconnection notice which is couriered to the property is appropriate.</p>
8	76	<p>This clause confuses the boundary between the account holder and the MDC. It is unclear if the guidelines are referring to the account holder of an account recorded as MDC, or the MD consumer themselves (if not the account holder).</p> <p>Retailers do not have the authority to either record their support persons details or contact them on their behalf unless the MD consumer is recorded as an account holder or authorised person on the account. We suggest clauses 76 and 77 be deleted.</p>
8	78-82	<p>These clauses should not apply to consumers who have been denied a contract as there is no point in advising the retailers’ processes to a consumer who is not going to sign up and has been denied the contract. This information is going to confuse and be irrelevant to the consumer.</p>
8	83(b)	<p>It is not practical for MEP’s to provide a time when a requested ICP will be disconnected.</p>