27 November 2020

James Tipping
Chief Strategy Officer
Electricity Authority
PO Box 10041
Wellington 6143

Ron Beatty
Principal Advisor Market Services

By e-mail: mdvc.guidelines@ea.govt.nz

Electric Kiwi welcomes replacement Consumer Care Guidelines

Electric Kiwi supports the proposed adoption of new guidelines to protect consumers, in place of the existing Medically Dependent and Vulnerable Consumer (MD&VC) Guidelines.

We have been impressed with the improvements that have been made to the drafting through the review process, and look forward to further improvements being made before the Guidelines are finalised. We would recommend the Authority allow itself additional time before the Guidelines are finalised to iron out some of the operational implications that may have unintended consequences. Getting the replacement Guidelines right is more important than rushing to finalise it.

We support and are a signatory to the independent retailer joint submission.

The Authority has run a largely sound, inclusive, review process[1]

We appreciate the way the Authority has engaged with us, and other stakeholders, including through formal and informal mechanisms, as the Authority has developed its thinking and the proposed new Consumer Care Guidelines.[2] We also commend the Authority on the speed at which they have progressed the drafting and would welcome similar focus and timeliness on other projects and work priorities.

The development of the new Consumer Care Guidelines is a particularly challenging exercise, given the importance of protecting the welfare of the most vulnerable Kiwis, and the awkward fit between promoting consumer welfare and interests, and the Authority's interpretation of its statutory objective.

The poor quality of much of the Electricity Commission's drafting of the existing MD&VC Guidelines meant the Authority needed to largely undertake a rewrite (which we support)[3] rather than simply refining and updating

[1] The principle exception is that the formal written submission rounds have been too short, and this has impacted the feedback we have been able to provide.
[2] The principle exception is that the formal written submission rounds have been too short, and this has impacted the feedback we have been able to provide.
[3] We welcome that the Authority has addressed most of the issues that were raised with the Electricity Commission about the problems with their drafting of the Guidelines. One outstanding issue is that the draft Consumer Care Guidelines (clause 61) carry-over the requirement that the person doing the physical disconnection is the person that contacts the customer etc before the disconnection goes ahead.

the Guidelines to reflect modern technology (e.g. the widespread adoption of smart meters) and the changing competitive landscape in the retail market.[4]

Summary of Electric Kiwi's views

Electric Kiwi has the following views about the draft Consumer Care Guidelines:

- The experience with the death of one of Mercury's customers, shortly after disconnection, highlights the risks with dealing with medical issues in provision of electricity services and the importance of the Consumer Care project.

- **Electric Kiwi considers protecting the welfare of the most vulnerable Kiwis is crucial** to the Authority's achievement of its statutory objective. Ensuring adequate safeguards and protections for consumers is an important component of promoting the long-term benefit of consumers.

  The proposed Guidelines expose the limitations of the Authority's historic interpretation of its statutory objective, which is focussed solely on efficiency. The Guidelines go well beyond narrow economic efficiency considerations. The current drafting of the proposed Guidelines, for example, would impose significant costs during the non-payment/disconnection process, including for vacant or "uncontracted" premises which could not be justified on a purely "operational efficiency" basis.

- **Limitations of Guidelines and what retailers and the Authority can do should be recognised:** Electricity retailers should be acting in a socially responsible manner, and recognise electricity is an essential service. Retailers are (or should be) invested in looking after their customers, but can't take on government social policy obligations and responsibilities.

  We are particularly mindful **neither electricity retailers nor the Electricity Authority has expertise on medical and health issues, and care is needed to avoid overreach beyond electricity industry regulation**. The Electricity Authority is an industry regulator not a social agency.

- **Consumer protection requires balancing the potential for disconnection and the build-up of debt:** The Authority should be mindful of the risks of unintended consequences of delaying disconnection. e.g. the requirement for a physical visit will slow down the disconnection, which increases the risk a customer will build up a level of debt they cannot manage. Whilst disconnections are not desirable, they can be the most effective tool at getting customers to take action and make contact with their retailer.

- **Electric Kiwi largely supports the proposed Consumer Care Guidelines:** The proposed draft Consumer Care Guidelines are a substantial step in the right direction, and far superior to the legacy Electricity Commission Guidelines:

  - We support the replacement with the Electricity Commission's MD&VC Guidelines with a single set of Consumer Care Guidelines.

  - We support removal of the vulnerable consumer category, and extension of the minimum consumer protection standards to all households.

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[4] When the Electricity Commission developed the MD&VC Guidelines the electricity retail market was essentially a homogeneous market made up of incumbent vertically-integrated retailers and high market concentration (even compared to levels of concentration that still exist).

- We support the requirement for each electricity retailer to (explicitly) introduce a Consumer Care Policy.

- We support the intention for increased monitoring to ensure adherence to the guidelines is maintained and to ensure they remain fit for purpose

- The Authority needs to address the risks associated with pre-pay: The area of the draft Consumer Care Guidelines we are most concerned about, from the perspective of protecting the most vulnerable households and members of society, is pre-pay. Being expected to manage finances by going without electricity, particularly if it is on a regular and recurring basis, is not a first world solution to financial hardship. More transparency about the size of this problem is needed before the Authority can make a fully informed decision on this aspect of the Guidelines.

- The Guidelines need to remove the effective 'opt out' for pre-payment plans to ensure protection is in place for these consumers. The approach to pre-pay needs to be substantially changed for the Guidelines to fully achieve their objectives. The joint independent retailer submission details several improvements that should be made to the Guidelines to ensure pre-pay customers receive proper protections and are treated with care. If the Authority does not consider the issues with pre-pay can be resolved within the timeline it has set for finalising the new Consumer Care Guidelines, we would support carving this issue out for ongoing review and resolution in 2021.

  It isn't sufficient that "For customers on pre-pay, Part 4 recommends retailers ensure the customer understands fully how electrical disconnection will occur and how to avoid this happening". The same warnings and advice could be applied for post-pay. Based on the discussions at the 3 November workshop, there doesn't appear to be any sound reasons for saying retailers can use terms and conditions to effectively opt out of the Guidelines for pre-pay, but no equivalent provision is provided for in relation to post-pay.

- More transparency around the size of the pre-pay problem is needed: We agree with the Authority "It is important to understand the nature and scale of any problems with the treatment of vulnerable and medically dependent consumers before developing and introducing new code".[5] This requires publication of information on the extent of so-called 'voluntary disconnection'. We note and support the Electricity Price Review position that "disconnections for non-payment and self-disconnections by those on pre-payment meters" are "important statistics"[6] and "There would be merit in recording and monitoring other key statistics such as disconnections for non-payment and self disconnections by those on pre-payment meters".[7,8]

- The proposed non-payment/disconnection notification requirements are overly prescriptive, and would impose operationally inefficient costs: We support the Guidelines requiring retailers to make reasonable endeavours to contact the customer to ensure they are aware there is a non-payment problem, and about disconnection. The proposed new Guidelines go beyond what is required for reasonable endeavours, or what should be specified as minimum standards. We consider the Guidelines should either

[5] Electricity Authority Electricity Price Review Options Paper submission, 22 March 2019.
[6] Electricity Price Review, FINAL REPORT, 21 May 2019.
[7] Electricity Price Review, OPTIONS PAPER for discussion, 18 February 2019.
[8] These points do not appear to be addressed in the consultation paper's section on "Alignment with EPR recommendations relating to medically dependent and vulnerable consumers".

adopt a more principles-based approach, or at least move away from the level of prescription in clauses in 38 and 52.

The Guidelines could specify the following:

- The total (minimum) number of days the process is required to take (e.g. 30 working days total for the non-payment and disconnection processes),
- The minimum number of communications required (this should not be more than 6 attempts to contact the customer before disconnection can occur),
- Basic content requirements, and
- That multiple different types of communication (say 3) are used for both the non-payment and disconnection processes without prescribing that x happens on day y etc.

This approach would enable the retailer to better tailor their process to meet individual customers' needs rather than be solely focused on following process prescribed in the Guidelines

- The Guidelines could be counter-productive if they result in consumers facing financial difficulties/disconnection bearing higher costs: As noted above a key 'consumer care' focus should be on ensuring that we don't let customers build up debt they can't manage. The Authority should be cautious about requirements that result in higher (operationally inefficient) costs of disconnection. The Guidelines' fees provisions direct that these costs should be passed-through in a subsidy-free/exacerbator or beneficiary's-pays basis.[9] The protections the Guidelines are intended to provide could prove counter-productive if they result in customers facing disconnection incurring additional costs and fees, and this could result in heightened financial pressure/debt issues. The Authority should consider not only what costs its proposed regulations will impose, but who will bear those costs.

- Site visits need to be a targetted solution by someone who is suitably trained: It is not appropriate for the contractor who does the disconnection to be the contact person (as required by the current Guidelines, and clause 61 in the proposed new Guidelines). The contractor that does the disconnection (and courier drivers) is not trained to do welfare checks, assess vulnerability our ensure the customer has understood the implications of disconnection.

  The knock-on implication of this is that any requirement for a site visit will necessitate an additional visit by specialist staff. It isn't simply the case of tacking on requirements for someone (the person doing the disconnection) to do while they are at the premises for other purposes.

  Electric Kiwi currently exceeds the requirement in the existing guidelines and uses a trained person provided by Total Risk Management (TRM), not the metering contractor, to visit a property when there is an indication of vulnerability. We do this for a handful of customers each month at an average cost of $100 per visit. Under the new guidelines, as drafted, this approach would need to be applied to all customers who we could not reach by phone, email or text. As this is the majority of our credit disconnections and all of our vacant disconnections the increase in cost is likely to be in over $250k per annum.[10]

  The likely outcomes of the Authority's drafting of the proposed Guidelines would be:

[9] Consistent with the Authority's views about efficient pricing.
[10] Estimate based on an extrapolation of the last 7 months of data: 250 credit disconnections per year and 2500 vacant disconnections.

1. each customer who reaches that stage in the disconnection process requiring a visit to ensure the Guidelines have been met would be charged ~$100 increasing the hurdle for reconnection significantly, and
2. retailers would elect to avoid this charge on vacant properties by disconnecting as soon as a customer moved out. The current approach of leaving a vacant property connected whilst the moving process occurs, benefits customers but already has a cost for retailers.

This needs to be carefully considered to ensure the final version of the Guidelines don't impose excessive and operationally inefficient costs to the disconnection process and have unintended consequences (particularly given this may need to be recovered from the customer that is disconnected).

- The Guidelines should not reward consumers in vacant premises who don't sign up with a retailer with greater or additional protections than actual retail customers. The concerns we raised with the Addendums also apply to the new Guidelines. We do not support the proposed new requirement for a physical site visit before disconnecting vacant premises, and consider it would result in excessive costs and be operationally inefficient (see discussion above). The current statistics the Authority collects are for credit disconnections only, so the Authority won't have good information on the materiality of vacant disconnections or the cost of the Authority's proposals. While the Authority has commented that there are people that feel they have been disconnected inappropriately due to vacant disconnection this is likely to be immaterial relative to the number of vacant disconnections that occur.

- We do not support the Guidelines protecting consumers, even if they are MDCs, from disconnection in the case of fraud. This is an example where the proposed new Guidelines have taken a backward step from the current MD&VC Guidelines.[11] We support retention of the existing provision (clause 3 of both the MD&VC Guidelines) that:

  > The Guideline [sic] is not intended to protect those persons:
  >
  > (a) who through bad faith do not intend to pay their electricity bill; and/or
  > (b) who could be considered fraudulent users of domestic electricity.

The best way to help consumers avoid financial difficulty is to promote a fully competitive retail market and eliminate market concentration

Stronger competition and lower prices is the best way to address energy affordability and financial difficulties. The most effective reform initiatives the Authority can undertake to reduce energy affordability and payment issues is to speed up the move to fully competitive retail (and wholesale) markets.

It should be recognised pro-competitive measures such as hedge market reform and the ban on saves and (short-term) winbacks can and should do far more to protect consumers, by making electricity more affordable and reducing financial pressure, than the new Consumer Care Guidelines could reasonably be expected to achieve.

The review of saves and winbacks highlighted domestic consumers could save $500m per annum. Domestic consumers who have switched to Electric Kiwi have saved over $28m. New Zealand and overseas research,

[11] The joint independent retailer submission details other examples where aspects of the existing MD&VC Guidelines' should be retained.

including by industry regulators, has shown consumers that can least afford electricity are the ones paying the most for electricity.

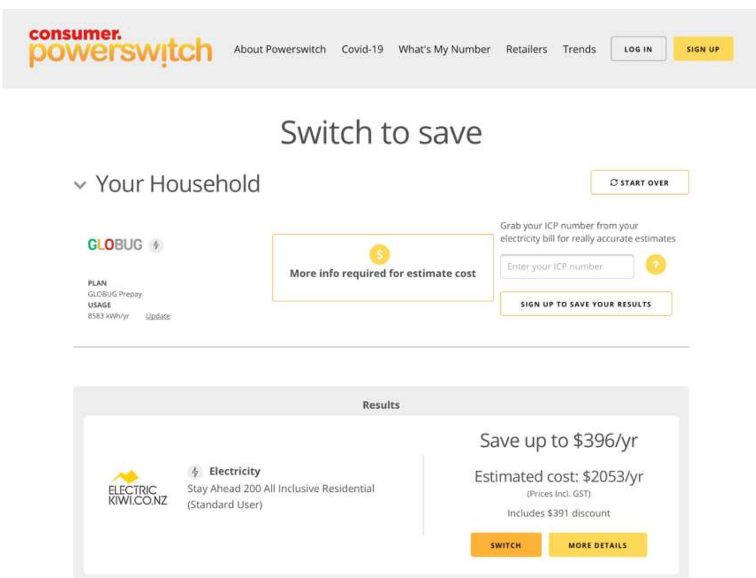
The Consumer Care Guidelines should help protect consumers who get into financial difficulties. Development of a more competitive electricity market (wholesale and retail), and removal of market concentration, will help reduce the extent to which consumers get into financial difficulties in the first place.

Pre-payment is the elephant in the room, which has not been resolved

As we have previously noted, we don't have confidence pre-pay arrangements are provided in a socially responsible manner and share Entrust's concern:[12]

> Disconnection of a vulnerable consumer for non-payment is supposed to be an act of last resort for retailers where vulnerable consumers are acting in good faith, but self-disconnection can happen whenever a vulnerable consumer can't afford to top up their credit. This completely bypasses the disconnection process in the Vulnerable Consumer Guidelines.
>
> We question whether it should be deemed acceptable for vulnerable households to be without power if they can't afford to pay for it in advance. The fact their retailer may not have physically disconnected them seems somewhat moot. [footnote removed]

Kiwi households who are currently on Mercury's GLOBUG are on particularly uneconomic plans. For example, a 3-4 household family on Auckland's North Shore could save $396 per annum by switching to Electric Kiwi.



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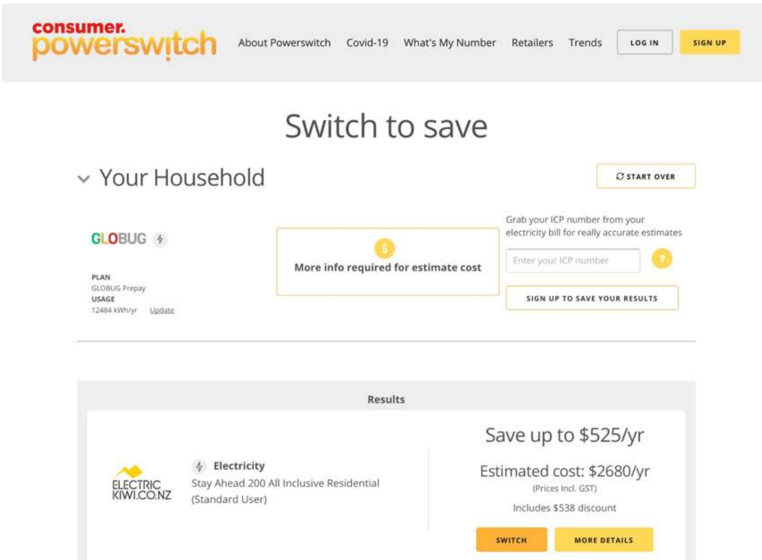
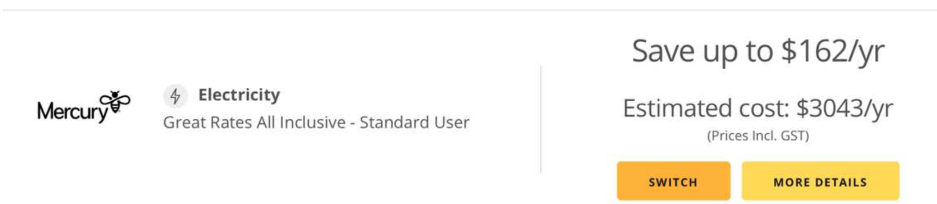
[12] Entrust, Electricity Price Review submission including consumer concerns about retailers' power pricing, 23 October 2018.

A 5+ person household could save $525 per annum. This would make a substantial and tangible difference for Kiwi households.



The 5 person household could even save $162 by switching to a lower priced (non-prepay) Mercury product.[13]



We are unclear how these facts reconcile with Mercury's claim "Mercury's GLOBUG product offers vulnerable consumers a valuable platform to manage their power consumption without accumulating unsustainable debt". The only way paying for a substantially higher priced product (20% more expensive than the Electric Kiwi equivalent) could save money and help avoid "unsustainable debt" is if the household goes without electricity for extended periods of time.[14] Electric Kiwi does not consider households going without power is a first world solution to financial difficulties and energy affordability. The Authority and the Consumer Care Guidelines need to address this issue if they are going to help protect ALL consumers who may face financial difficulties from time-to-time, or on a recurring basis.

Mercury has suggested "All retailers should be required to make an offer to supply electricity to any customer who requests it. This could take the form of a standardised offering or a pre-pay offer" and "If a retailer is unable to offer pre-pay then they should manage that customer's application to another retailer that can". Electric Kiwi would never recommend or facilitate any of our customers switching to a competitor's substantially higher priced plans.

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[13] We are unsure how the powerswitch price saving information reconciles with Mercury's claim that "GLOBUG customers typically benefit by around $400 per annum", "Based on Mercury analysis of 300 customers on post-pay products". Mercury, Electricity Price Review Submission Form, undated, response to the First Issues Paper.

[14] The above observations are consistent with the Electricity Price Review finding that "a lack of competitive prices for some consumers on pre-pay meters …" is a factor in the range between the cheapest and most expensive retail prices.

We do not support the effective carve-out of pre-payment or so called ‘voluntary disconnections’ from the Consumer Care Guidelines. The Consumer Care Guidelines should apply to all Kiwi households and should not discriminate between pre-pay and post-pay customers. This is especially true given Mercury touts their GLOBUG proposition as targeted at vulnerable customers. The support for these customers should be greater than for those on post-pay.

In order to ensure an evidence-based approach to this matter, the Authority should publicly release the statistics it has on the frequency and duration of ‘voluntary’ disconnections. This data should be broken down to include statistics on the existing "vulnerable consumer" and "medically dependent consumer" categories. and all other households. We note and support the Electricity Price Review position that “disconnections for non-payment and self-disconnections by those on pre-payment meters are “important statistics”.

Regardless, the draft Consumer Care Guidelines should be amended to clarify the clause 44 requirement “Retailers should monitor the frequency prepayment meters” includes reporting and public disclosure of percentage of disconnections and duration of disconnections, with a breakdown between the medically dependent consumer category and all other consumers.

The proposed non-payment/disconnection notification requirements are overly prescriptive, and would impose operationally inefficient costs.

We support the Guidelines requiring retailers to make reasonable endeavours to contact the customer to ensure they are aware there is a non-payment problem, and about disconnection. The proposed new Guidelines go beyond what is required for reasonable endeavours, or minimum standards, and are unnecessarily complex.

We consider the Guidelines should either adopt a more principles-based approach, or at least reduce the number of attempts at contact (including time) e.g. the Guidelines could specify the minimum number of days the process is required to take (say 30 working days), and that multiple different types of communication (say 3) are used for both the non-payment and disconnection processes without prescribing that x happens on day y etc. The Guidelines should not require more than 6 attempts to contact the customer before disconnection can occur if multiple methods are used.

Whilst we are comfortable our existing processes largely meet the Guidelines as drafted, the level of prescription adds some complications.

- The fastest disconnection can occur within 31 *working* days of invoice and this is consistent for all frequencies of billing (weekly, fortnightly, or monthly). In some cases, this may fall a day or two short of the 45 calendar days in the Guidelines, however faster disconnection has benefits as it ensures customers do not build up debt which is then becomes unmanageable.

- We utilise 3 different communication methods and make at least 8[15] attempts at communication prior to disconnection. To be disconnected in the fastest timeframe noted above the customer would have ignored all attempts to contact them. It is an unhappy reality that in some cases the best driver of action is disconnection, and this can ensure a customer does not get in over their head in terms of debt.

- All our customers are on some form of automatic payment on a day of their choosing and we invoice as close to that date as possible to ensure that charges are up to date. We send our first overdue (or

[15] Additional contact attempts have been implemented in response to Covid

reminder) notice as soon as we're aware a payment has failed, usually around 8 working days after the invoice. It is unclear why the Guidelines prescribe a 14 day period for the first late payment notice. Is this level of prescription necessary or is it the Authority's expectation that we increase our credit terms?

- In terms of visiting premises, we send someone out to do a welfare check when there is a risk of vulnerability i.e. unconfirmed/self-reported MDC, elderly etc. This is a trained person provided by TRM not the metering contractor. The Guidelines, as drafted, would require us to physically visit all properties where contact hasn't been made (contracted and uncontracted) but not require the person to be trained appropriately. This is both less efficient and less effective than our current approach. Our current estimates are that this could add approximately $250k per annum to our costs per year which would be charged through to our customers.

- We do not believe that a separate safety notice as per clause 60 is necessary at disconnection stage. The risk to safety is at the reconnection stage which we cover with a customer when they make the appropriate steps to get reconnected.

The draft Consumer Care Guidelines' requirements would result in additional, repetitive, attempts to contact the customer and, in many cases, lead to the need for a physical visit prior to disconnection. These actions would increase the cost and extend the time-frame to disconnection, resulting in a higher debt burden for customers (and higher risk exposure for us). The physical visit requirement is especially onerous as it is not appropriate for the contractor who does the disconnection to be the contact person when they are not trained to do welfare checks, assess vulnerability or ensure the customer has understood the implications of disconnection.[16]

We recommend the Authority engage further on these specific requirements to ensure the Guidelines get the best balance between avoiding disconnection, ensuring that customers do not build up unmanageable debt and efficient pricing

The draft Consumer Care Guidelines hasn't got the approach to vacant properties right

The draft Guidelines provide inadequate protection for pre-pay customers, but the problem is the opposite in relation to vacant premises with the Guidelines rewarding consumers for not signing up with a retailer.

As we have previously noted, there are costs a retailer bears related to vacant properties (occupied or not), which are passed on through higher prices to other consumers, primarily those who have acted in goodfaith and signed up with a retailer. Electric Kiwi sends around 200 notices to "vacant" properties per month informing potential occupiers to sign up or risk being disconnected. Based on our experience, a large portion of these properties are vacant and therefore attempting to apply guidelines developed for vulnerable customers is unnecessarily inefficient. Further, where there is an occupier, Electric Kiwi has observed a high incidence of these occupiers being sent our disconnection notice but waiting until disconnection occurs before either signing up or switching out to another retailer. We are happy to share our data with the Authority if this would be considered helpful.

The Addendum introduced earlier in the year, and the draft Guidelines, will likely increase the benefit to consumers at vacant premises who have delayed responding or engaging with the electricity retailer as there would be a longer period before disconnection. These outcomes, whilst obviously costly, have no

[16] The Authority has done a good job of addressing the issues that were raised in submission to the Electricity Commission, but this is a notable omission.

demonstratable benefits for MDC consumers or consumers facing genuine issues of financial hardship and difficulties paying their bills.

The Guidelines should require retailers to make reasonable efforts to determine whether there are actual consumers at the premises, and to warn them they will be disconnected if they do not sign up with a retailer, but nothing else. The minimum standards in the Guidelines should not require this process to take more than 10 working days, or require a site visit.

The physical site visit requirements for disconnection are not operationally efficient, are likely to have unintended consequences and should be better targetted

We do not support the clause 52b requirement to “provide to the customer in person (e.g. a representative visiting the premises or a courier letter requiring a signature on receipt) a notice of disconnection at least 34 calendar days after the invoice was issued and at least 10 days prior to disconnection”.

We also do not support the clause 59 requirement that “Retailers should not disconnect a post-pay customer’s premises or uncontracted premises either in-person or remotely, if any of the following apply: … d. the retailer has not ensured the customer or consumer (in respect of uncontracted premises) received and understood both the notifications of disconnection and the outcome of not responding to the retailer’s contact attempts, by: i. sending a representative to the premises when it is being disconnected, or ii. using another method to prove the customer or consumer received and understood the notifications of disconnection”.

While the clause includes an alternative to physical site visits (59d(ii)) this is not likely to be useful where the consumer is acting in bad-faith and/or unwilling to respond to the preceding 13 attempts to contact the customer required by the proposed Guidelines.

Key issues the Authority needs to be cognisant of and ensure are addressed prior to implementing the guidelines are:

1. The physical visit needs to be performed by an appropriate person. It is expected the visit would be able to ensure the customer understood the impacts of disconnection and enable the retailer to ascertain vulnerability. Neither a courier driver nor a contractor trained in meter disconnections is suitable, therefore the solutions proposed by the Guidelines are not practicable.

2. A physical visit is likely to add c.$100 to the cost of each disconnection, which will be charged to the customer increasing the debt burden and the hurdle for them to get reconnected.

3. The requirement for a physical visit will slow down the disconnection which further increases the build-up of debt. Whilst disconnections are not desirable, they are the most effective tool at getting customers to take action and make contact with their retailer.

4. As it is even harder to make contact with a customer who hasn’t signed up (uncontracted) the requirement to also visit a vacant property that has started consuming will likely prompt retailers to disconnect as soon as an account is closed leading to a worse customer experience for the majority of people. Whilst some social agencies have identified cases where they believe a disconnection has occurred inappropriately, it would be wise for the Authority to investigate the validity and quantity of these instances. The number of vacant disconnections that occur is probably more significant than the Authority perceive (Electric Kiwi does 10:1 vacant to credit disconnections) and the issues reported are

likely to be in the minority or genuine mistakes with the wrong property or ICP given, giving scant justification for this requirement.

5. The clause effectively removes a retailer's ability to remote disconnect undermining the business case for Smart Meters, one that was heavily promoted by the Authority. Creating uncertainty around investment returns is not something the Authority should take lightly and could hinder achievement of its future aspirations for the energy industry

6. It is also unclear how the proposed Guideline requirements align with the DDA e.g. the standard DDA wording includes provisions about when a vacant site can be disconnected:[17]

> ***Vacant Site Disconnections and associated reconnections***
>
> *S6.16 The Trader may undertake a Vacant Site Disconnection of an ICP if:*
>
> *(a) the Trader is recorded as the trader for the ICP in the Registry;*
>
> *(b) the ICP has an "active" status in the Registry; and*
>
> *(c) in respect of that ICP, no Customer Agreement exists with the Trader.*
>
> *S6.17 The Trader must undertake a Vacant Site Disconnection of an ICP without delay if the ICP meets the criteria set out in clause S6.16 and the ICP has been inactive for at least 30 Working Days.*

The NSW Government "Guidelines for Development of Safety Management Plans for Remote De-energisation and Re-energisation of Small Customers Premises by Electricity Retailers and Metering Providers"[18,19] may provide a more efficient alternative, that balances the rights and protections of consumers. The NSW Guidelines require the retailer to have a plan that outlines the procedures the electricity retailer will undertake to ensure the remote de-energisation or remote re-energisation of premises can be safely carried out.

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[17] Default Distributor Agreement Template, 30 June 2020.

[18] https://www.fairtrading.nsw.gov.au/__data/assets/pdf_file/0003/910380/Guidelines-for-Development-of-Safety-Management-Plans-for-Remote-De-energisation-and-Re-energisation.pdf

[19] Refer also to the related Gas and Electricity (Consumer Safety) Amendment (Remote De-energisation and Re-energisation) Regulation 2020, which requires retailers to have a safety plan before they can do a remote disconnect: https://www.legislation.nsw.gov.au/view/pdf/asmade/sl-2020-574

This includes a requirement to provide the following information to the consumer:

5. Information to customers

The information to be provided to a customer about the process for remote de-energisation or remote re-energisation of the customer's premises must include:

- Notices to customers explaining steps required for remote re-energisation;
- Information on the electricity retailer's website, including how to contact the electricity retailer; and
- Other modes of communication e.g. digital means: live chat, App, email, SMS/text.

6. Scripts

Electricity retailers must have scripts and processes in place when communicating with a customer in relation to the remote de-energisation or remote re-energisation of the customer's premises (including actions to be taken by the electricity retailer as a result of the customer's responses).

Remote de-energisation scripts must include:

- Reference to the National Energy Retail Rules which outlines that customers with life support cannot be disconnected unless requested by the customer.
- A request for an assurance from the customer that no life support equipment is present
- Any other hazards or dangers which may be problematic or otherwise exposed by de-energisation, e.g. lift on site being impacted, exit devices not operating, etc.

Remote re-energisation script details must include the following:

- Ensure the customer, or somebody lawfully authorised to act on their behalf, is at premises whilst providing answers to questions.
- How to ensure the customer, or somebody lawfully authorised to act on their behalf, understands the basic parts of the electrical installation including location of meter box/switchboard and possibility of alternate supplies (for example; solar, batteries).
- Questions given to the customer to ascertain if electrical work has been undertaken.
- Questions given to the customer to ascertain if all electrical appliances and equipment is in place and no exposed electrical wiring.

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- Questions given to customer to ascertain if electrical work will be undertaken between the time of the script and re-energisation occurring.
- Questions given to customer to ascertain if all electrical appliances are turned off.
- If required by metering provider, ascertain if main switch(es) are turned off.
- Actions taken dependent of responses provided to questions.
- Assurance from the customer as to whether any life support equipment is in use at the premises and appropriate controls to ensure it is safely re-energised.

Under the existing guidelines a retailer is expected to perform a physical visit when there are signs of vulnerability. Whilst the guidelines have removed the definition and reference to vulnerability, a retailer could include in their customer care policy factors they will use to assess whether a physical visit is necessary.

Electric Kiwi's recommendations for ensuring the Consumer Care Guidelines appropriately protect consumers and achieve their objectives

Electric Kiwi recommends the Authority consider the following matters before it finalises the Guidelines.[20] We also support in full the joint independent retailer recommendations:

- The Authority should allow for more time to ensure it is able to fully consider the submissions. Our sense is that while the Authority has made excellent progress, there is still quite a lot of work to get the Guidelines right. The voluntary nature of the Guidelines, particularly the substantive elements that extend beyond the Authority's powers, mean it is important to gain as much buy-in and consensus amongst retail service providers as practicable.

[20] The list below includes all the recommendations (and more) contained in the main body of the submission.

The joint independent retailer also recommended that time should be provided to allow a technical consultation on the final draft once the Authority has made a decision to adopt the new Guidelines.

- The Guidelines should be clear about the limitations to what the Authority and electricity retailers can do to protect consumers, and address issues of financial hardship. Retailers are (or should be) invested in looking after their customers, but can't take on government social policy obligations. We need to be particularly mindful neither electricity retailers nor the Electricity Authority has expertise in medical and health issues, and care is needed to avoid overreach beyond electricity industry regulation.

- The Guidelines should be clear that electricity supply cannot be guaranteed all the time.

- The Guidelines should retain the provisions that they are not intended to protect consumers who act in badfaith and do not intend to pay their electricity bill, or consumers who engage in fraudulent activity.

- The Authority needs to address the risks associated with pre-pay. This includes removing the effective 'opt out' for pre-payment plans. Electricity is an essential service and shouldn't be treated like high risk adventure activities where consumers sign waivers before they engage in the activity. The joint independent retailer submission details several improvements that should be made to the Guidelines to ensure pre-pay customers receive proper protections and are treated with care. If the Authority does not consider the issues with pre-pay can be resolved within the timeline it has set for finalising the new Consumer Care Guidelines, we would support carving this issue off for ongoing review and resolution in 2021.

- More transparency around the size of the pre-pay problem is needed. We note and support the Electricity Price Review position that "disconnections for non-payment and self-disconnections by those on pre-payment meters" are "important statistics"[21] and "There would be merit in recording and monitoring other key statistics such as disconnections for non-payment and self-disconnections by those on pre-payment meters".[22]

  The draft Consumer Care Guidelines should be amended to clarify the clause 44 requirement "Retailers should monitor the frequency prepayment meters" includes reporting and public disclosure of percentage of disconnections and duration of disconnections, with a breakdown between the medically dependent consumer category and all other consumers.

- The Guidelines should adopt a more principles-based approach, or at least reduce the number of attempts at contact (including time) e.g. the Guidelines could specify the total (minimum) number of days the process is required to take (say 30 working days total for the non-payment and disconnection processes), and that multiple different types of communication (say 3) are used for both the non-payment and disconnection processes without prescribing that x happens on day y etc. We consider that the Guidelines should not prescribe more than 6 attempts to contact the customer before disconnection can occur.

  We do not support clauses 52b and 59.

- The Guidelines should require the person that does any site visit is suitably trained. It is not appropriate for the contractor who does the disconnection to be the contact person (as required by the current

[21] Electricity Price Review, FINAL REPORT, 21 May 2019.
[22] Electricity Price Review, OPTIONS PAPER for discussion, 18 February 2019.

Guidelines, and clause 61 in the proposed new Guidelines). The contractor that does the disconnection is not trained to do welfare checks, assess vulnerability our ensure the customer has understood the implications of disconnection.

The knock-on implication of this is that any requirement for a site visit will necessitate an additional visit by specialist staff. It isn't simply a case of tacking on requirements on the basis that the person doing the disconnection will be at the premises anyway. This needs to be carefully considered to ensure the final version of the Guidelines doesn't impose excessive and operationally inefficient costs to the disconnection process (particularly given this may need to be recovered from the customer that is disconnected).

- Further alternatives to site visits should be considered: The Authority should consider adopting an approach along the lines of the NSW Government "Guidelines for Development of Safety Management Plans for Remote De-energisation and Re-energisation of Small Customers Premises by Electricity Retailers and Metering Providers" requirements that the retailer has a plan that outlines the procedures it will undertake to ensure the remote de-energisation or remote re-energisation of premises can be safely carried out.

- The Guidelines should not reward consumers in vacant premises who don't sign up with a retailer with greater or additional protections than actual retail customers.

  The Guidelines should require retailers to make reasonable efforts to determine whether there are actual consumers at the premises, and to warn them they will be disconnected if they do not sign up with a retailer, but nothing else. The minimum standards in the Guidelines should not require this process to take more than 10 working days, or require a site visit.

- The Authority should recognise that the Guidelines could be counter-productive if they result in consumers facing financial difficulties/disconnection bearing higher costs: The Authority should be cautious about requirements that result in higher (operationally inefficient) costs of disconnection. The Guidelines' fees provisions direct that these costs should be passed-through in a subsidy-free/exacerbator or beneficiarys-pays basis. The protections the Guidelines are intended to provide could prove counter-productive if they result in customers facing disconnection incurring additional costs and fees, and this could result in heightened financial pressure/debt issues. The Authority should consider not only what costs its proposed regulations will impose, but who will bear those costs.

- We consider that the new Consumer Care Guidelines should be subject to periodic review, and would support the first review commencing in the 2022/23 financial year.

Concluding remarks

The fundamental purpose of the Consumer Care Guidelines should be to help protect consumers from the harm that can be caused from withdrawal of supply of electricity services, particularly for medically dependent consumers, and from the financial pressure that can arise relating to payment difficulties and debt accumulation. The focus of the Authority proposals is presently balanced far more towards preventing disconnection than avoiding unsustainable debt accumulation.

Protecting consumers requires a careful balancing of objectives as requirements intended to place hurdles on disconnection, and ensure unnecessary disconnection doesn't occur, can result in higher disconnection costs (potentially passed onto customers that are already facing financial difficulties and hardship). The more the prospect of disconnection is delayed the greater the debt accumulation and subsequent financial difficulties that can occur in the meantime.

In order for the Authority to achieve the purpose of the Guidelines, a holistic perspective is needed which recognises:

- The Guidelines can't do everything: The limits of what an industry regulator can do on issues which relate to health and social welfare, or general issues of financial hardship and poverty should be acknowledged;

- Stronger and thriving competition is key to energy affordability and reducing financial pressure from electricity bills: Ensuring affordable provision of electricity services will do more to relieve financial difficulties and risk of disconnection, than any consumer protection Guidelines can ever realistically be expected to achieve. Electric Kiwi is doing its bit by offering competitive prices which are substantially lower than the incumbents and we have saved our customers $28m; and

- All consumers need to be protected, including pre-pay customers: The protections need to apply to all Kiwi households, regardless of whether they are on post-pay or pre-pay plans. Managing financial difficulties by going without electricity on a regular basis is not a first world solution. The effective carve-out of pre-pay customers and so-called "voluntary" disconnections will severely undermine the success of the new Guidelines if it is not resolved.

Yours sincerely,

Luke Blincoe
Chief Executive, Electric Kiwi Ltd
luke.blincoe@electrickiwi.co.nz
+64 27 601 3142