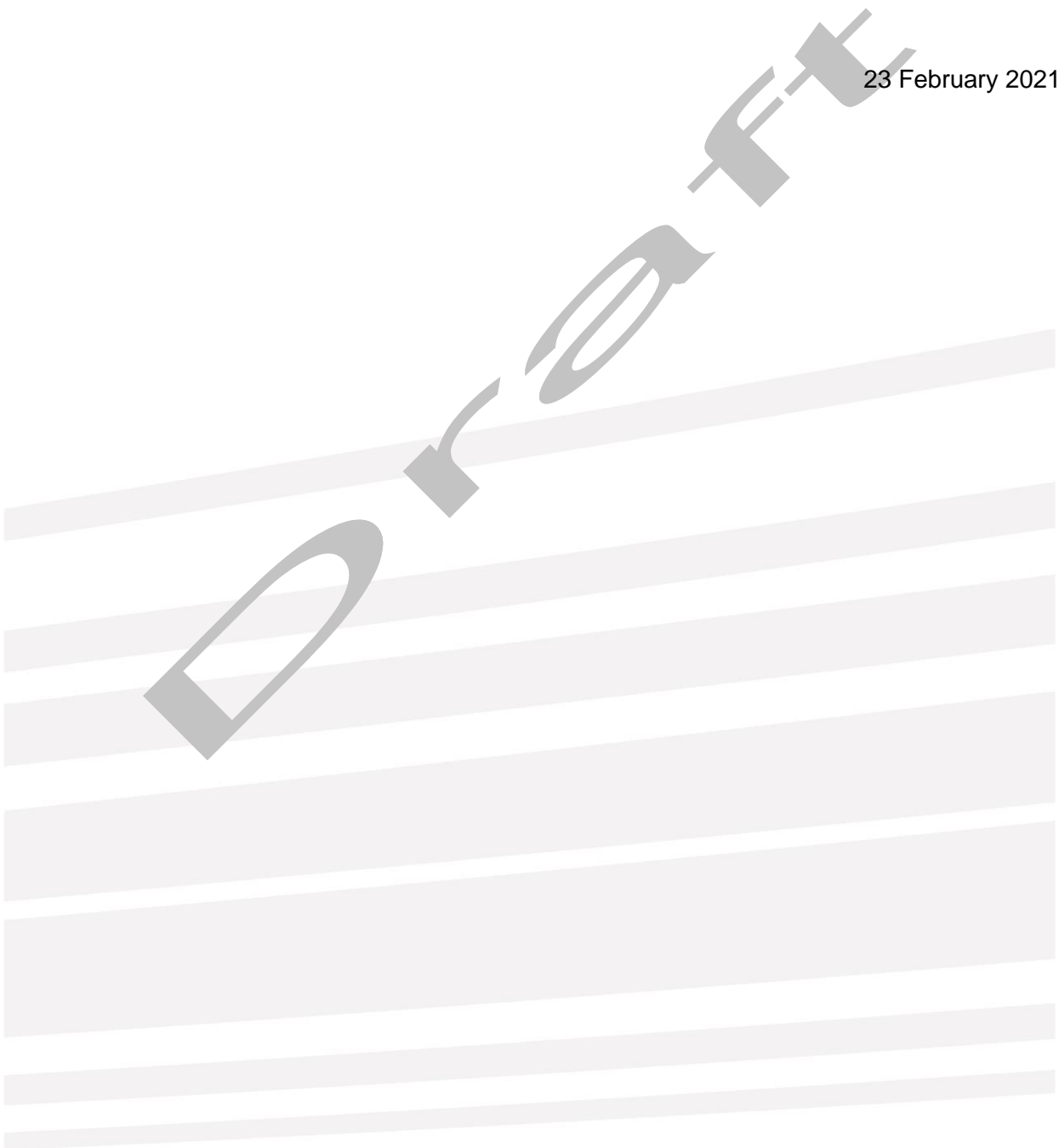


Consumer Care Guidelines

Decision (draft)

23 February 2021



Executive summary

Electricity is a foundation for wellbeing and the economy. However, it is important to recognise that for some whānau, being able to use and afford enough electricity to stay well can be difficult. Similarly, for someone who is vulnerable, having reduced access to electricity or experiencing payment difficulties can cause cumulative or serious harm.

Many people face circumstances that can affect their ability to access critical services like electricity, and any person can experience vulnerability of different levels, at different times throughout their life.

Guidance to assist electricity industry processes and behaviours is therefore important to ensure electricity retailers can deliver a consistent and supportive standard of care to domestic consumers in New Zealand.

To help mitigate some of the issues noted above, Vulnerable Consumer (VC) and Medically Dependent Consumer (MDC) guidelines were introduced in collaboration with the industry and other stakeholders in the mid-to-late 2000s. These existing guidelines had generally served New Zealand consumers well, and electricity system stakeholders could be proud of their shared commitment to implementing them. However, after more than 10 years and significant changes in New Zealand's electricity industry, they were no longer fit for purpose and needed review.

In 2020 the Authority undertook a purposeful and extensive collaborative process with a range of stakeholders to gain industry consensus on a review of the existing guidelines and on the design of updated guidelines. On 29 October 2020, we published a consultation paper titled, *Consultation paper - consumer care guidelines* that, based on insights received during our engagement process, proposed completely replacing the two existing guidelines and the addendum.

This decision paper sets out the Authority's decision, regarding the new consumer care guidelines and initiating the implementation process.

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1 We have decided to publish new consumer care guidelines

1.1 The Electricity Authority (Authority) has decided:

- (a) to publish the consumer care guidelines (guidelines), plus any amendments necessary from a technical consultation, to replace, from 1 July 2021:
 - (i) the “*Guideline on arrangements to assist vulnerable consumers*”,
 - (ii) the “*Guideline on arrangements to assist medically dependent consumers*”, and
 - (iii) the “*Addendum to the medically dependent consumer guidelines and the vulnerable consumer guidelines*”.
- (b) due to the reasonably extensive changes made to the proposed guidelines following suggestions from submitters, that it is appropriate to seek comments from stakeholders on technical drafting issues and on whether there are major practical reasons why retailers should not be able to give effect to the proposed guidelines as amended. The Authority is allowing a further period of two weeks, from 23 February to 9 March 2021, for this before the new guidelines are finalised and published. It is not intended that stakeholders raise issues of general policy or seek to promote new proposals during this process, as the Authority’s view is that general industry consensus has been reached at this higher level of principle.
- (c) that all electricity retailers (where for the purposes of this decision paper the term ‘retailer’ means ‘retailer’ and ‘distributor that directly invoices its customers’) are expected to align with the guidelines by 31 December 2021. Where a retailer cannot align by that date, the guidelines ask the retailer to set out the reasons that it cannot align in a letter to the Authority by 31 December 2021. The Authority may publish those letters.
- (d) in August 2022, to review retailer alignment with the guidelines for the period 1 July 2021 to 30 June 2022, and hold an operational review of the guidelines with stakeholders
- (e) to develop, in conjunction with stakeholders:
 - (i) consumer-facing fact sheets
 - (ii) a revised health practitioner (HP) notice for medical dependency
 - (iii) a template for the individual emergency response plan that each medically dependent consumer (MDC) should have for responding to power outages
- (f) to facilitate:
 - (i) the development of clear, predictable, consistent and effective processes and interfaces for retailers to use when engaging with support/social agencies and health agencies about matters covered by the guidelines
 - (ii) the development of a centralised database of MDCs hosted by the Ministry of Health
 - (iii) periodic operational reviews of the guidelines, at a frequency to be determined, as the electricity industry and government hardship response evolves

- (g) to write to the Ministry of Business, Innovation and Employment (MBIE) and pass on a list of the issues raised by stakeholders that, due to their nature, are not addressed within the scope of these industry-developed guidelines.
 - (h) to encourage stakeholders to develop a customer care policy template for retailers to make sure they align with the guidelines.
- 1.2 We have made this decision after carefully considering submissions and gauging the level of industry consensus on our 29 October 2020 consultation paper titled 'Consultation paper – consumer care guidelines'.¹

2 Technical consultation on final draft guidelines

Providing a submission for the technical consultation

- 2.1 This draft decision paper provides a brief summary of the feedback received and sets out at a high level the changes made to the final draft guidelines since consultation.
- 2.2 We welcome views on the technical accuracy of the final draft guidelines and wish to hear from consumers, advocates, retailers and wider industry stakeholders as to their comments on technical drafting issues and on whether there are major practical reasons why retailers should not be able to give effect to the proposed guidelines as amended. The Authority is allowing a further period of two weeks, from 23 February to 9 March 2021, for this before the new guidelines are finalised and published. It is not intended that stakeholders raise issues of general policy or seek to promote new proposals during this process, as the Authority's view is that general industry consensus has been reached at this higher level of principle
- 2.3 The Authority's preference is to receive submissions in electronic format (Microsoft Word) using the response template that is provided by the Authority. Submissions in electronic form should be emailed to mdvc.guidelines@ea.govt.nz with 'Final draft consumer care guidelines' in the subject line by 5pm on 9 March 2021.
- 2.4 Please contact the Authority if you wish to provide your submission in a physical format.
- 2.5 Please note that the Authority wants to publish all submissions it receives. If you consider that we should not publish any part of your submission, please indicate which part should not be published, explain why you consider we should not publish that part, and provide a version of your submission that we can publish (if we agree not to publish your full submission). If you indicate that part of your submission should not be published, we will discuss with you before deciding whether to not publish that part of your submission.
- 2.6 Please note that all submissions we receive, including any parts that we do not publish, can be requested under the Official Information Act 1982. This means we would be required to release material that we did not publish unless good reason existed to withhold it under the Official Information Act. We would normally consult with you before releasing any material that you said should not be published.
- 2.7 Please see our website for information about opportunities for in-person engagement throughout this consultation period.

¹ <https://www.ea.govt.nz/assets/dms-assets/27/Consumer-care-guidelines-consultation-document.pdf>.

Questions to guide consultation responses on the final draft guidelines

- 2.8 These questions aim to guide consultation responses on the final draft guidelines. For all responses, please reference your comments to the proposed guidelines' clauses and explain what changes you suggest, and why.
- 2.9 Please consider using the template provided by the Authority for responses. This template is located on the Authority's web site with this final draft decisions paper.
- 2.10 Note that while we will not be relitigating the content and recommendations made in the final draft guidelines, we would like to be made aware of technical drafting issues and whether there are major practical reasons why retailers should not be able to give effect to the proposed guidelines as amended.
- 2.11 Overarching questions:
- (a) Are there any significant barriers to implementation that will prevent the final draft guidelines from working, as they are drafted?
 - (b) Are there any major errors in the final draft guidelines?
 - (c) Are there any technical drafting errors in the final draft guidelines?

Next steps

- 2.12 We will carefully consider all submissions received, and following analysis of feedback, may make final revisions to the final draft guidelines. Stakeholder engagement will be ongoing during the consultation period, and the Authority may undertake further targeted engagement to shape the final guidelines.
- 2.13 Following consultation, the final guidelines and decision paper will be published as per section 0 of this draft decision paper.

3 The need for change

- 3.1 Over the period 29 October 2020 to 27 November 2020, the Authority consulted on a proposal for new consumer care guidelines (guidelines) to replace:
- (a) the “*Guideline on arrangements to assist vulnerable consumers*”,
 - (b) the “*Guideline on arrangements to assist medically dependent consumers*”, and
 - (c) the “*Addendum to the guideline on arrangements to assist vulnerable consumers and the guideline on arrangements to assist medically dependent consumers*”.
- 3.2 The existing guideline on arrangements to assist vulnerable consumers and the existing guideline on arrangements to assist medically dependent consumers were last updated in 2009, with the Electricity Authority publishing the addendum to these existing guidelines in 2020. The 2009 guidelines have generally served New Zealand consumers well, and electricity stakeholders can be proud of their shared commitment to implementing them.
- 3.3 However, as set out in the October 2020 consultation paper, the 2009 guidelines are no longer fit for purpose and it is time to review them.² Since 2009 there have been significant changes in New Zealand’s electricity industry. In addition to the growth in New Zealand’s population, the number of electricity retailer brands has increased more than three-fold as companies enter and exit the market. While this brings new ideas and different ways of delivering retail services to consumers, it has also diluted institutional knowledge and the existing guidelines’ ability to protect consumers.
- 3.4 Technologies have also evolved. Most residential premises now have a ‘smart’ meter that is operated remotely by a metering equipment provider (MEP) to, amongst other things, remotely connect or remotely disconnect premises.
- 3.5 The need to review the 2009 guidelines was highlighted by the Electricity Price Review (EPR),³ which made the following recommendation to the government in 2019:
- the current voluntary arrangements do not provide vulnerable and medically dependent consumers with sufficient protection and should be replaced by a formal, consistent and enforceable set of standards. Formal protection will become even more important as innovation in business models and technology leads to the emergence of new providers that may not give high priority to voluntary standards.*
- 3.6 The Minister of Energy and Resources supported this recommendation and proposed to report back to Cabinet with proposals for public consultation, with a view to regulating minimum standards in 2020. The Minister proposed that MBIE would lead the development of the new minimum standards, with input from the cross-sector energy hardship group and the Consumer Advocacy Council⁴.
- 3.7 On 30 June 2020 the Authority published an addendum to the 2009 guidelines to deal with technological changes. In parallel with this, the Authority began reviewing the existing guidelines and developing updated guidelines in collaboration with stakeholders.

² Refer to pages 6 and 7 of the consultation paper.

³ <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/energy-consultations-and-reviews/electricity-price/>.

⁴ Refer to paragraphs 62-64 of <https://www.mbie.govt.nz/assets/electricity-price-review-government-response-to-final-report.pdf>

- 3.8 This decision paper is the culmination of this work. More information about the Medically Dependent Consumer and Vulnerable Consumer guidelines project is available on our website at: <https://www.ea.govt.nz/development/work-programme/operational-efficiencies/medically-dependent-consumer-and-vulnerable-consumer-guidelines/> .

4 The process we have followed

A collaborative approach to updating the guidelines

- 4.1 The Authority has taken a collaborative approach to updating the guidelines, engaging with stakeholders from the outset via a series of workshops / webinars.
- 4.2 The Authority held seven major workshops / webinars during the development of the draft guidelines. We held a further three regional workshops during the consultation period. All 10 workshops / webinars were well attended by stakeholders. Stakeholders present at these events included representatives from electricity retailers, consumer groups, distributors, social and support agencies, academics researching energy poverty, and at times the Ministry of Health. Officials from the Ministry of Business, Innovation and Employment (MBIE) also attended in an 'observation and support' role.
- 4.3 In developing the draft guidelines, a customer-centred design approach was used. This included the development of design principles, 'consumer journey' maps (including 'journey points') and consumer 'personas'. Stakeholders have been involved in all aspects of the design process:
- (a) agreeing the overarching principles
 - (b) specifying the consumer journey stages
 - (c) testing the consumer personas, and
 - (d) providing feedback on the guidelines' new structure, which is designed to reflect the consumer journey.
- 4.4 The content of the draft guidelines was developed during and between the workshops, in an iterative fashion.
- 4.5 The Authority also engaged human-centred design specialists Empathy to help inform the development of the draft guidelines. Empathy met with a range of consumers who experience medical and other difficulties in their lives and have struggled to pay their bills.

Consultation on the updated guidelines

- 4.6 The Authority formally consulted on the draft guidelines over the period 29 October 2020 to 27 November 2020. We received a total of 29 submissions from the submitters listed in Table 1. This represents a wide range of stakeholders including electricity retailers, electricity network providers, metering equipment providers, customer advocates, budgeting and social agencies, and energy policy researchers.
- 4.7 The submissions are available on our website at: [submissions](#).

Table 1: List of submitters

Category	Submitter
Consumer advocate	Anglican Care, Citizens Advice Bureau, Consumer NZ, David Close, Ian McChesney, Pat Cunniffe
Budget and/or social agency	Christians Against Poverty, FinCap, Wellington Regional Healthy Housing Group
Disputes scheme	Utilities Disputes
Electricity distributor	Electra, Orion NZ, Wellington Electricity
Electricity retailer	Contact Energy, Electric Kiwi, Flick Electric, Genesis Energy, Independent retailers, Meridian Energy, Mercury Energy, Nova Energy, Pulse Utilities, Trustpower, WEL Networks (OurPower)
Electricity retailer association	ERANZ
Metering equipment provider	Intellihub, Vector(AMS)
Research organisation	University of Otago
Social enterprise	Sustainability Trust

We tested the draft guidelines with FinCap financial mentors

- 4.8 The Authority engaged FinCap to bring together a focus group of financial mentors with whom – via a workshop and associated tasks – we tested and sought further feedback on the draft guidelines released for consultation and the likely impact these would have on vulnerable consumers.
- 4.9 Overall, the financial mentors were supportive, and thought, should the draft guidelines' recommendations be comprehensively implemented by retailers, that they would generally provide better outcomes for vulnerable consumers.
- 4.10 The memo report for this work is available on [our website](#).

5 Our role and the guidelines contribution to our statutory objective

- 5.1 The Electricity Authority guides the electricity system on behalf of all New Zealanders – seeking to enhance New Zealander's lives, prosperity and environment through electricity.
- 5.2 Our primary function is to regulate New Zealand's electricity systems and markets, actively monitoring behaviour, enforcing the rules and holding the industry to account.
- 5.3 Among the Authority's strategic sector ambitions, are for *consumer centricity*, and *trust and confidence* to drive both our regulatory work and electricity industry participants'

behaviours. This project is an example of bringing our strategy and purpose to life, and of the Authority building our strategic capabilities of a *transformative mindset, listening and empathy*, and *purposeful connection*. We are confident that the consumer care guidelines will offer increased protection to consumers while enabling competition to thrive and innovation to flourish in the electricity sector

- 5.4 One of the functions of the Authority under the Electricity Industry Act 2010 (Electricity Industry Act) is to undertake market-facilitation measures, and to monitor the operation and effectiveness of market facilitation measures⁵. This function is described under the Electricity Industry Act to include the provision of education, guidelines and information. Under the Crown Entities Act 2004, the Authority also has any functions that are incidental and related to, or consequential on, its functions under the Electricity Industry Act. In performing its functions, the Authority must act consistently with its objectives⁶. The Authority's statutory objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers⁷.
- 5.5 The Authority considers that the role it is taking in facilitating the making of the guidelines comes within, or is incidental and related to, its market-facilitation function and is consistent with the efficiency element in its statutory objective. Through the collaborative workshops, the Authority has sought to facilitate a general industry consensus on the guidelines. The Authority sees this facilitation as part of enabling the efficient operation of the industry and therefore consistent with its statutory objective. The Authority considers that the guidelines are a product of general industry consensus.
- 5.6 The Authority also considers that the guidelines will assist in achieving the Authority's objective by providing clear guidance to retailers which will ensure retailers are competing on a level playing field, leading to both a more efficient outcome and more effective competition, and ultimately more benefit for consumers. Many of the provisions of the new guidelines are also expected to contribute directly to improving the efficient operation of the electricity industry.

Final draft guidelines seek to reduce implementation costs

- 5.7 A number of retailers said in their submissions that there would be significant increases in the cost to serve customers under the consultation version of the new guidelines. A number of the comments were focussed on cost increases for proposed changes to the disconnection process for non-payment, while other comments focussed on the cost of providing an increased level of service to customers under the new guidelines.
- 5.8 In response to these submissions, the following changes were made to the draft guidelines to reduce implementation costs for retailers:
- (a) First, the final draft of the consumer care guidelines more closely aligns the disconnection-for-non-payment process with the equivalent process in the existing guidelines. This means the incremental change in costs associated with the disconnection process in the new guidelines should not be significant.
 - (b) Second, we will promote the development of a customer care policy template which we anticipate will:

⁵ 16(1)(f) of the Electricity Industry Act 2010

⁶ Section 14(2) of the Crown Entities Act 2004

⁷ Section 15 of the Electricity Industry Act 2010

- (i) save retailers time when developing their respective policy document
- (ii) save time for advocates, budgeting and social agencies who deal with customers from multiple retailers
- (iii) help consumers compare retailers' policies more quickly and easily.

6 The main themes arising in consultation and feedback

6.1 We heard the following key themes in submissions on the draft guidelines:

- (a) There was significant support for the collaborative approach taken by the Authority in developing the draft guidelines
- (b) Several submitters (including two retailers) commented that the guidelines should be made mandatory minimum standards, as set out in the Electricity Price Review
- (c) Although electricity may be thought of as an “essential service” by many people, hardship issues are broader than the guidelines, and retailers, can address
- (d) Some retailers commented that the draft guidelines were broader in scope
- (e) A number of retailers believed the draft guidelines would impose additional costs on retailers because of:
 - (i) insufficient clarity in the draft guidelines
 - (ii) the requirement for site visits to premises as part of the disconnection process
 - (iii) changes to the timing of notifications from retailers to customers/consumers would require system and process changes for retailers
- (f) Several retailers considered that the draft guidelines were too prescriptive in places (e.g., in relation to time periods for performing an action).

6.2 Set out below, in the remainder of this section, are typical examples of comments we heard in relation to each of these themes.

Support for the Authority’s collaborative approach in developing the updated guidelines

6.3 We received consistent feedback that the Authority’s shift in engagement approach for this project has been appreciated by stakeholders. The wide-ranging input we have received from all stakeholders has been invaluable in our development process. As an organisation, we will continue to pursue new approaches to engagement.

6.4 *“We appreciate the way the Authority and staff have engaged with stakeholders, including early engagement in the review process, through development of the new Guidelines. This will have been particularly challenging given the disruption caused by COVID19. It is very clear Authority staff have worked hard to pull the proposed draft Guidelines together, and to take on board stakeholder feedback.”* (Independent retailers)

6.5 *“ERANZ would like to thank the Authority for a constructive and positive consultation process this year. Circumstances this year have not made discussions easy, but your team has strived to accommodate stakeholders from around the country both in-person and via video conferencing.”* (ERANZ)

6.6 *“...very supportive of the process that the Electricity Authority (EA) has undertaken to review the MDVC Guidelines. The consultation has been robust and we commend EA*

for engaging with a wide range of stakeholders.” (Wellington Regional Healthy Housing Group)

6.7 *“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...” (Electric Kiwi)*

6.8 *“Mercury would like to commend the Authority for its highly collaborative consultation process. We have been privileged to be part of this process and have seen how the involvement of representatives from such diverse sectors with different opinions to bring to the discussion has added enormous value to the product. Although as a retailer Mercury may disagree with the prescriptive nature of the some of the new recommendations, we strongly support the purpose of the Guidelines and believe that as a result of its wide consultation the Authority has produced a genuinely consumer centric document.” (Mercury Energy)*

6.9 *“We appreciate the high level of engagement the Electricity Authority has had with the industry to date.” (Meridian Energy)*

6.10 *“The financial mentors were pleased to have the opportunity to have their expertise and experiences drawn upon in the formulation of the Consumer care guidelines that will impact the work they do. We thank the Electricity Authority and hope that the regulator and other decision makers will repeat a feedback process like this in the future. Financial Mentors can provide valuable insights as to where initiatives that seek to address harm that arises from hardship will work in practice.” (FinCap)*

6.11 *“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.” (Pulse Utilities)*

6.12 *“The current draft version of the Consumer Care Guidelines (the Guidelines) reflects the significant amount of effort that the Authority, and the wider industry, has put in to date.” (Trustpower)*

The guidelines should be made mandatory

6.13 Several submitters suggested – as set out in the Electricity Price Review – that the guidelines should be made into mandatory minimum standards now. There was concern retailers may not align with the guidelines, and that a mandatory approach could make achieving consistent good outcomes simpler in practice. We discuss why we have not made mandatory minimum standards in the section starting at paragraph 7.9.

6.14 *“Retailers have always been opposed to regulation and it appears to me that the Draft Guidelines are an attempt by retailers to frustrate or delay the move to an enforceable set of standards envisaged by the EPR. It is perfectly rational for retailers, as profit-seeking companies, to resist regulation, but it is naïve for the Electricity Authority to assume that guidelines developed in ‘a collaborative approach’ with the industry (Consultation Paper, page 6) will be effective in protecting the retailers’ vulnerable consumers.” (David Close)*

6.15 *“There remains a problem that the Proposed Guidelines do not, and probably cannot, address – ensuring all retailers align with the Proposed Guidelines. Ultimately, we consider that if the Authority wants a consistent approach across all retailers then the*

Authority should instead consider a Code change to universally enforce certain minimum standards, rather than impose voluntary guidelines.” (Meridian Energy)

6.16 *“Nonetheless, we consider that making the Guidelines enforceable would best satisfy recommendation B6 of the Electricity Price Review (EPR) Panel’s Final Report . We do acknowledge, however, that this is dependent on changes to relevant legislation being made to provide the Authority with an explicit consumer protection function.”*

(Trustpower)

6.17 *“The Financial Mentors were not convinced retailers would align with the guidelines in every individual case but did accept the guidelines would avoid harm where followed. Making aspects of the guidelines mandatory and standardising the consumer care policies of retailers were seen as ways the Electricity Authority could alleviate the anticipated inconsistency in retailers’ practice that the Financial Mentors were concerned would arise and cause avoidable harm.” (FinCap)*

Hardship issues are broader than the guidelines, and retailers, can address

6.18 Throughout the review process, we have often heard that electricity industry participants need to play an active role to reduce the impacts and likelihood of a consumer experiencing energy hardship. The Authority’s strategy – in particular our purpose, and consumer centricity ambition – are aligned with this sentiment. However, we also recognise that while the guidelines and retailers’ alignment to them will make a positive contribution, as recognised by the Electricity Price Review, energy hardship is a bigger issue than can be solved by the Authority, guidelines or retailers alone.

6.19 *“Electricity is an essential service necessary for health, wellbeing and participation for people, whānau and communities. We must all work towards a future where no whānau is disconnected or goes without the electricity needed for a healthy home due to an inability to pay. The proposals in the consultation paper are a step towards this but should be the first of many. Financial Mentors and the people, whānau and communities they work with need strong protections through rights to appropriate and consistent assistance for overcoming or avoiding hardship from all electricity providers.” (FinCap)*

6.20 *“The long-term benefit of consumers is more than (operational) efficiency. We welcome that the Authority has recognised the wider societal, health and consumer welfare (long-term) benefits to end-users from consumer protection and provision of electricity services.” (Independent retailers)*

6.21 *“The imbalance we have identified above highlights that in New Zealand we have a wider social issue that the Guidelines do not address. Retailers cannot be expected to act like social welfare agencies so how do we solve this problem? Mercury has long been an advocate for change in this area and although this is not an issue for the Authority alone to solve, it must be a fundamental consideration when we are considering how to bring about positive and transformational change for our vulnerable consumers.” (Mercury Energy)*

6.22 *“....it ought to be recognised that the Authority is a regulatory body and not a social agency. The issue of people having difficulty paying their electricity bills is fundamentally an issue of income, the cost of living and budget management. These are not issues that the Authority can resolve.” (Meridian Energy)*

- 6.23 *“While it is imperative that the electricity sector protects the safety of consumers; particularly those with medical conditions which leave them reliant on electricity, we believe that retailers are not qualified to manage healthcare and are concerned that putting the responsibility and cost of providing a healthcare service solely onto retailers will not result in the best outcomes for anybody.”* (OurPower)
- 6.24 *“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.”* (Pulse Utilities)

The draft guidelines are broader in scope

- 6.25 Some submitters commented that the draft guidelines were broader in scope, and that may necessitate more flexibility.
- 6.26 *“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.”* (Electric Kiwi)
- 6.27 *“The Guidelines clearly highlight that a decision has been made to make retailers responsible for all consumers, as opposed to just their contracted customers. Our view is that if the Authority is wanting to widen the scope and change the focus of the Guidelines from vulnerability to consumer care to this extent, there needs to be a significant increase in flexibility afforded to retailers by removing some of the more prescriptive drafting. Too much prescription in this space has the potential to inhibit innovation and create barriers for retailers in providing an effective and efficient service to customers.”* (Trustpower)
- 6.28 The Authority agrees that the guidelines are broader in scope. We consider that, despite the comment above, there was general industry consensus on this broader scope. As discussed in our October 2020 consultation paper, a system approach was taken during the design phase. There was also recognition that attempting to define vulnerability in the guidelines risked inadvertently leaving some consumers exposed to harm. Similarly, there was recognition that the expected good consumer experience to be delivered via retailer alignment to the guidelines’ purpose and overarching principles should not be restricted to a subset of consumers. We have made drafting changes to increase clarity of the scope.

Additional costs will be imposed on retailers

- 6.29 We note that aligning with the new recommendations in the guidelines will impose costs. However, there should be no increase in retailer costs where recommendations have not changed from the existing guidelines, and retailers should already be aligned. A number of the comments on cost related to the disconnection process, and specifically to the recommendation to undertake site visits. Consequently, changes have been made to the final draft guidelines to make the disconnection process very similar to the existing guidelines and addendum. The Authority will investigate how to make this process more effective in conjunction with stakeholders.
- 6.30 *“While Contact is directionally supportive with the proposed guidelines, we are concerned that unnecessary detail and prescription offers little or no demonstrable*

benefit for customers. Instead some proposals will require material system change by retailers. This unnecessary complexity would impose significant and costly systems change, take considerable time to implement and is unlikely to be achievable before 1 July 2021. Ultimately such costs are reflected in customer charges.” (Contact Energy)

- 6.31 *“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)*
- 6.32 *“ERANZ is concerned about the compliance costs for retailers contained in this Part, particularly relating to sending representatives to the home of consumers or vacant properties. In addition, there is no onus or requirement for consumers to communicate with retailers and respond to contact attempts. These issues require amending before the guidelines are published.” (ERANZ)*
- 6.33 *“In my view, electricity retailers have a social and moral obligation to maintain supply to all consumers, to adopt non-punitive methods of debt recovery and to accept the additional cost of servicing vulnerable consumers as an overhead business cost. No company is obliged to retail electricity, but any company that chooses to do so should accept that it entails the cost of servicing the people in our society who struggle.” (David Close)*
- 6.34 *“Some aspects of the Proposed Guidelines would result in significant initial and on-going compliance costs for retailers which do not appear to be outweighed by the benefit to consumers, retailers, the Authority or other stakeholders (the indicative impact assessment certainly does not appear to indicate that benefits will outweigh the significant costs involved with compliance).” (Meridian Energy)*
- 6.35 *“The Financial Mentors considered the referrals to them in the proposed guidelines were appropriate and would be worthwhile for retailer when Financial Mentors help people to find ways to pay for the essentials. They also considered that aspects that could be considered ‘early assistance’ in the proposed guidelines could mean harm is avoided and less people may be in crisis when first contacting their services.” (FinCap)*
- 6.36 *“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.” (Pulse Utilities)*

The draft guidelines are overly prescriptive in places

- 6.37 Some submitters commented on the draft guidelines being overly prescriptive.
- 6.38 *“The proposed non-payment/disconnection notification requirements are overly prescriptive, and would impose operationally inefficient costs.” (Electric Kiwi)*

- 6.39 “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.” (Flick Electric)
- 6.40 “Conversely more prescriptive guidelines may limit competition and innovation within the industry. This would reduce customers’ ability to choose products best suited to their situations, leaving many customers, particularly the vulnerable, worse off overall.” (OurPower)
- 6.41 “The Authority will be able to address any competition and innovation concerns it may have with an enforceable arrangement through slightly less prescriptive drafting. This will allow retailers to address the needs of the consumer, and the requirements of the Guidelines, in the most efficient and effective manner.” (Trustpower)
- 6.42 The Authority considers that the final draft guidelines reflect general industry consensus that appropriate preventative or reactive measures need to be taken at the right time to provide consistent protection for those consumers most at risk. We want to facilitate competition, and this provides retailers substantial flexibility to compete and innovate in this space and in areas of a consumer’s journey where there is lower chance of harm occurring.

7 Responses to matters raised in submissions

7.1 We considered matters raised by submitters fell into four categories:

- (a) Out-of-scope matters
- (b) Minor non policy-related issues
- (c) Minor policy issues
- (d) Material policy issues, of which there are four.

7.2 Each of these categories is discussed in more detail below.

Out-of-scope matters

7.3 A number of submissions included comments on issues that are beyond the scope of the consumer care guidelines, as they relate to consumer hardship more broadly. We will write to MBIE, referring these submission points to them as inputs to their energy hardship workstream when the guidelines are finalised.

7.4 Examples of out-of-scope matters included:

- (a) New Zealand has a wider social issue that the guidelines do not address (Mercury Energy)
- (b) The role of prepay in delivering services to customers facing energy hardship (13 submissions referred to issues associated with prepay and hardship)
- (c) The role of information gathering and sharing in defining and identifying energy hardship. (Sustainability Trust)
- (d) A retailer should not have the ability to decline to supply a prospective customer (Anglican Care)
- (e) No company is obliged to retail electricity, but any company that chooses to do so should accept that it entails the cost of servicing the people in our society who struggle (David Close)

- (f) We recommend that disconnection fees for pre-pay customers be scrapped altogether (Christians Against Poverty)
- (g) Customers should not be disconnected because of an inability to pay, and additional safeguards are needed for prepay customers (Consumer NZ).

Minor non policy-related issues

7.5 Submitters made a large number of minor non policy-related suggestions in relation to the draft guidelines. As a result, various clarifications, technical and grammatical corrections, and minor additions and deletions have been made to the draft guidelines.

Minor policy issues

7.6 Submitters also made a large number of minor policy-related suggestions in relation to the draft guidelines. As a result, various amendments to the draft guidelines were made, including:

- (a) Adding the new overarching principle, “Electricity is important to the health, wellbeing and social participation of people and whānau in communities”, to clearly signal electricity’s significant role in consumers’ lives, and more logically group the intended outcomes listed later in Part 1.
- (b) Changing the recommendations on retailers to ensure their customers understand / have been informed, to be recommendations that retailers satisfy themselves their customers understand / have been informed.
- (c) Reference to fraudulent activity amended to “obtaining electricity or distribution services by, or involving, deception”.
- (d) Clarifying the meanings of “alternate contact person” and “support person”.
- (e) Accounting for retailers with only an online presence.
- (f) Clarifying what information a retailer should provide to a consumer if the retailer does not enter into a contract with the consumer.
- (g) Clarifying that retailers are not required to know the pricing plans of other retailers, and only recommended to advise consumers of alternatives they are aware of.
- (h) Recommending a retailer advises their customer if a notified alternate contact does not wish to act as an alternate contact.
- (i) Clarifying that retailers’ tracking of consumption changes applies only to customers on payment plans, and that retailers should account for seasonal consumption variations.
- (j) Clarifying that if a customer is materially breaching the retailer’s terms and conditions of contract, and provided that the premises does not contain an MDC, the retailer may progress the customer to disconnection even if the customer is in arrears and would otherwise go through the process in Part 7 of the final draft guidelines.
- (k) Resetting the number of days in the credit cycle to be the equivalent of the existing guidelines, and providing flexibility for retailer processes.
- (l) Changing the recommended pause in a customer’s debt payments if a referral is made to a reputable support or social agency, from a blanket 14 days to 14 days for those acting in good faith, otherwise 7 days.

- (m) Clarifying that retailers are recommended to make up to five attempts to contact a post-pay customer as part of the disconnection process.
- (n) Reducing from three to two the number of attempts a retailer should make to contact the consumer(s) at uncontracted premises where electricity is being used.
- (o) Clarifying that MDCs may be at premises on a temporary basis (e.g., instances of children spending time with each parent in separate households).
- (p) Recommending that retailers should be able to review HP notices at intervals of less than 12 months under certain circumstances.
- (q) Allowing for the removal of a customer's/consumer's MDC status.
- (r) Reducing from 40 business days to 21 business days the recommended period within which an MDC applicant needs to:
 - (i) provide a valid HP Notice verifying their MDC status, or
 - (ii) respond to queries from the retailer about an application for MDC status.
- (s) Clarifying that conditional discounts can be applied for a variety of reasons including, but not limited to, reflecting reduced cost to serve on behalf of retailers. Discounts and fees may be different by definition or application.
- (t) Amending the recommendation on cross-subsidies in fees to say that retailers should avoid cross subsidies between different *groups* of customers, but only to the extent that this is practicable and administratively efficient for retailers, and effective in promoting the purpose of the guidelines
- (u) Clarifying that where a fee charged to a customer is over 20% of the customer's average monthly cost during the past 12 months (or the number of months since the customer joined the retailer if this number is less than 12), that the retailer cannot spread the fee over at least five months if the invoice is the final invoice.
- (v) Clarifying that where the billing cycle is shorter than one month, material fees should be spread over at least 5 months, except for a customer's first and last invoice.

Material policy issues

7.7 Submitters raised four material policy issues, which are as follows:

- (a) Whether the guidelines should be voluntary or mandatory
- (b) The desirability of a consumer care policy template
- (c) The need for a site visit as part of the process for disconnecting premises with smart meters, including premises where the occupants have no contract with an electricity retailer
- (d) Whether the guidelines should permit disconnection of MDCs for obtaining electricity or distribution services by or involving deceptive means, under controlled circumstances.

7.8 We discuss our positions on each of these issues in more detail below.

1. Should the guidelines be voluntary or mandatory?

There were mixed responses as to whether the guidelines should be mandatory or voluntary

- 7.9 Several submitters considered there should be mandatory minimum standards now, rather than voluntary guidelines.⁸ For example:
- (a) The University of Otago considered the guidelines would be merely an aspirational document, whereas mandatory requirements for electricity retailers would offer legitimate consumer protections.
 - (b) David Close believed the Minister of Energy and Resources' stated intention to regulate minimum standards in 2020 negates an intermediate step of strengthening 'voluntary arrangements'. Ian McChesney also pointed to the Minister's stated intention to regulate following the recommendation of the Electricity Price Review. Anglican Care also pointed to the recommendation of the Electricity Price Review, as did Trustpower, although Trustpower noted the need for the Authority to be given an explicit consumer protection function under legislation in order to make the guidelines mandatory.
 - (c) In addition to making similar points to those set out above from the University of Otago and Trustpower, Meridian Energy also made the point that a two-step process of moving to updated guidelines and then to minimum standards would be likely to result in duplicated implementation costs.
- 7.10 ERANZ and Genesis Energy explicitly supported voluntary guidelines. Genesis Energy commented that "...*voluntary guidelines provides for retailers to innovate in how they care for customers and have scope to manage the costs of doing so.*"
- 7.11 Meridian Energy also commented that smaller retailers may not align with the guidelines as the consequence on a small retailer is not as great as it is for larger retailers.
- 7.12 Electric Kiwi noted that the voluntary nature of the guidelines was appropriate given that substantive elements of the guidelines extend beyond the Authority's current powers.

Authority decision

- 7.13 We have decided not to make minimum standards. We may initiate a process to consider mandating certain aspects of the guidelines if retailers do not align with the purpose, principles and intended outcomes described in Part 1 of the guidelines (to the extent consistent with our statutory objective and functions).
- 7.14 However, the provision of monitoring information similar to that sought in Part 10 of the guidelines will be considered for inclusion in the Code in a proposal we expect to consult on later this year, which would make this information provision mandatory.
- 7.15 Section 8 of this paper elaborates in more detail the Authority's reasoning on this matter.

⁸ Anglican Care, Christians Against Poverty, Consumer, Dave Close, FinCap, Ian McChesney, Meridian Energy, Trustpower, University of Otago.

2. Is a standardised consumer care policy needed?

Several submitters considered there should be a standardised consumer care policy

7.16 Several submitters considered there should be a standardised consumer care policy.⁹
For example:

- (a) Anglican Care proposed the Authority issue a consumer care policy template and framework, which each retailer would have to use for consistency of interpretation of the guidelines
- (b) Fincap noted a consumer care policy template would facilitate efficient uptake by smaller retailers. Fincap recommended the template be developed in collaboration with consumer advocates
- (c) Meridian Energy also supported a consumer care policy template or further guidance from the Authority, to help retailers understand exactly what the Authority expects to see in this document
- (d) The University of Otago supported the adoption of a clear template, to make it easier for households and support services to assess the differences between retailers.

Authority responses

- 7.17 In response, the Authority encourages stakeholders to develop a customer care policy template for retailers to use in aligning with the guidelines. As a consumer care policy integrates with each retailer's processes, offers and systems, the policy facilitation measures are best developed and maintained by stakeholders, and not the Authority.
- 7.18 We suggest that ERANZ and independent retailers facilitate a stakeholder group, comprising ERANZ and non-ERANZ members, to prepare this document, as we believe stakeholders are best placed to lead this exercise. The consumer care policy needs to account for retailers' processes and systems.
- 7.19 The Authority would be happy to publish the document on its website, in the same way we have published the "Voluntary Practice Benchmark for Electricity Retailer Credit Management"¹⁰ developed and maintained by ERANZ, which is effectively an articulation of how ERANZ members apply the existing guidelines. The process to develop a consumer care policy template could follow a similar collaborative process to that employed by retailers in 2014 to develop the original voluntary practice benchmark, prior to the formation of ERANZ.
- 7.20 As noted earlier, we anticipate a customer care policy template will:
- (a) save retailers time when developing their respective policy document
 - (b) lower barriers to entry for new-entrant retailers
 - (c) save time for advocates, budgeting and social agencies who deal with customers from multiple retailers
 - (d) help consumers compare retailers' policies more quickly and easily.

⁹ Anglican Care, FinCap, Meridian Energy, University of Otago.

¹⁰ Refer to www.ea.govt.nz/operations/retail/retailers/retailer-obligations.

7.21 There is a risk that stakeholders do not develop a customer care policy template in a sufficiently timely manner to enable retailers to use it to prepare their respective consumer care policy by 31 December 2021. We propose to work closely with stakeholders to manage this risk by providing resources and assistance where necessary.

3. Should on-site visits be required prior to disconnection, for premises with smart meters?

Retailers disagreed with the requirement for on-site visits

7.22 The draft guidelines consulted on intended to clarify when a retailer must send a representative to premises the retailer intends to disconnect for non-payment of an electricity invoice.

7.23 The existing guidelines, and June 2020 addendum, recommend that retailers should, before disconnecting premises over unpaid electricity:

- (a) For premises where the retailer has a contract with a customer, send a representative to the site if the customer has not responded to the repeated requests for engagement by the retailer. This includes premises with smart meters and remote disconnection functionality.
- (b) For premises where the retailer does not have a contract with a customer (i.e. their previously contracted customer has moved out), and there is:
 - (i) no domestic consumption recorded at the premises: disconnect the premises
 - (ii) domestic consumption recorded: the retailer may remotely disconnect the site but only after making reasonable efforts to contact the consumer
- (c) Before remotely disconnecting a domestic consumer or any person residing at the premises, the retailer should determine the MDC/VC status of the domestic consumer or person. If a retailer cannot make contact with the customer or consumer, the retailer may need to send a representative to the site.

7.24 This recommendation in the existing guidelines was intended to ensure that the customer/consumer had a traceable engagement with the retailer responsible for the premises, so that disconnections were not inappropriate and MDCs were not disconnected. Inappropriate disconnections could include instances where there was a valid reason for a customer's/consumer's failure to engage, for example:

- (a) illness, disability, language issues, infrequent delivery or non-delivery of mail (e.g., the ICP address in the registry may not be the mailing address), incorrect contact details (e.g., the customer's/consumer's phone may have been disconnected), or
- (b) circumstances well outside the customer's/consumer's influence (e.g., a trader ICP switch has been made for the wrong ICP, or a gaining retailer has failed its Code obligations around trader ICP switching).

7.25 Submissions from retailers said the site visit recommendation would add significantly to disconnection costs.¹¹ For example:

¹¹ Electric Kiwi, Contact Energy, ERANZ, Flick Electric, Genesis Energy, Independent retailers, Mercury Energy, Meridian Energy, Nova Energy, OurPower, Pulse Utilities, Trustpower.

- (a) Electric Kiwi said a physical visit to premises would be likely to add circa \$100 to the cost of each disconnection, which would be charged to the customer, increasing the customer's debt burden and the hurdle for them to get reconnected. Electric Kiwi also considered that retailers would most likely elect to avoid this charge on vacant properties by disconnecting as soon as a customer moved out, rather than retaining the current approach of leaving a vacant property connected whilst the moving process occurs, which improves customer experience and avoids the cost of disconnections
- (b) Contact Energy said that introducing mandatory site visits or courier letters for all disconnections would increase costs by tens of thousands of dollars per annum, and these costs will be passed on to customers
- (c) ERANZ noted the cost of in-person visits would need to be recovered from the customer, which would exacerbate the customer's financial situation for little gain
- (d) ERANZ also noted that sending notices to consumers that did not have a contract with a retailer resulted in only 20% of consumers engaging with the retailer. The Authority notes that the balance of 80% are only incentivised to engage with the retailer when the premises is disconnected.
- (e) Independent retailers said a site visit before or when disconnection occurs, including to uncontracted premises, is an expensive cost that would need to be recovered from the customer at the premises, consistent with the guidelines' recommendation of avoiding cross subsidies
- (f) Trustpower noted the cost of engaging a third-party contractor to physically attend a premises on behalf of the retailer is approximately \$75-\$150 per visit.

7.26 The Authority had also noted in the Switch Process Review¹² that market processes cause difficulties for move-switches where electricity has been disconnected. This is due to latency in market processes.

7.27 The Authority

- (a) notes the issues retailers have in obtaining engagement with consumers who will not engage with its retailer; and
- (b) is concerned from the submissions received that MDCs that move into new premises may be inappropriately disconnected if retailers do not have a traceable form of communication from the retailer, as there may be a variety of reasons why an incoming consumer (including an MDC) may not be able to communicate; and
- (c) is concerned that retailers may move directly to remote disconnection without sending a representative to site to determine if MDCs are present; and
- (d) considers that any inappropriate disconnection of a premises at which a retailer does not have a contracted customer could cause harm to a consumer resident at those premises.

Authority response

7.28 This policy issue is controversial, and there is potential for harm to consumers. Therefore:

¹² <https://www.ea.govt.nz/development/work-programme/operational-efficiencies/review-of-switching-process/>

- (a) the final draft guidelines maintains the status quo policy of the existing guidelines and the addendum, as set out in the section commencing at paragraph 7.23; and
- (b) we intend to facilitate one or more workshops with stakeholders to determine effective engagement approaches and whether a fair and cost-efficient process for retailers and consumers can be developed in the case of previously “vacant” properties. This may lead to the publication of a practice note or, if required, a revision to the guidelines.

4. Should the guidelines permit disconnection of MDCs for obtaining electricity or distribution services by or involving deceptive means, under controlled circumstances?

- 7.29 A consumer¹³ is an MDC if they depend on mains electricity for critical medical support, such that loss of electricity may result in loss of life or serious harm.
- 7.30 Despite the supply of electricity not being guaranteed, health practitioners permit MDCs to return to their home recognising that electricity supply could fail at any time. Consequently, health practitioners assist the MDC to develop an agreed plan¹⁴ to activate in the event that the supply of electricity fails for any reason.
- 7.31 The existing guidelines however
- (a) recommended that an MDC should not be disconnected for non-payment of an electricity invoice; but
 - (b) permitted retailers to disconnect an MDC that was engaging in fraudulent use or acting in bad faith. We note that it was unlikely that many, if any, retailers ever undertook this action. Limiting the ability of retailers to be able to disconnect creates an incentive for an MDC not to engage in those behaviours.
- 7.32 Measures set out in emergency management plans may include waiting a short period of time for electricity supply to be restored, the use of a portable generator, batteries, temporarily relocating, or even calling an ambulance to go to hospital.
- 7.33 If retailers cannot disconnect an MDC for non-payment, MDCs with debt do not have an incentive to pay, regardless of their capability to pay. We note from information that we currently collect that
- (a) approximately 1% of customers’ premises contain one or more MDCs
 - (b) over the last 12 months, 0.78% of non-MDC premises have been disconnected for debt exceeding 44 days, however 4.7% of MDC premises have debts exceeding 60 days.
- 7.34 Retailers with MDC customers that do not pay can only pursue other means to obtain payment such as debt collection agencies or court orders. Given the customer’s medical dependency circumstances these may not be particularly effective. Any debt may then be socialised by retailers across its customer base.
- 7.35 During workshops stakeholders discussed the possibility of an MDC being disconnected under controlled circumstances for non-payment of an electricity bill, or the fraudulent

¹³ The use of the term “consumer” and not “customer” is deliberate as the guidelines apply to individual domestic electricity users within premises regardless of whether they are also a customer of the retailer supplying the premises.

use of electricity. All stakeholders present reacted negatively and strongly to the possibility.

7.36 The outcome of those discussions was the proposal set out in the draft guidelines that MDCs should not be disconnected for any reason, apart from outages.

Some retailers considered MDCs should be disconnected for fraudulent activity

7.37 Submissions from a subset of retailers included comments that retailers should be allowed to disconnect MDCs that are fraudulently using electricity.¹⁵ For example:

- (a) Electric Kiwi said the guidelines should not be intended to protect consumers who act in bad faith and do not intend to pay their electricity bill, or consumers who engage in fraudulent activity
- (b) Flick Electric disagreed with the guidelines' statement that disconnection of premises occupied by an MDC should not occur for non-payment regardless of fraudulent activity on the premises. Flick Electric noted this statement in the guidelines contradicted one of the intended outcomes of the guidelines—retailers' right to be paid
- (c) Nova Energy said this statement in the guidelines rewarded illegal activities, and that ultimately the costs of such activities are borne by society, in this case by retailers recovering this additional cost through their margin
- (d) Independent retailers said the guidelines should not apply to persons who are fraudulent users of electricity and that a retailer should be able to disconnect premises in the case of fraudulent activity and theft.

7.38 Other stakeholders, including retailers, did not comment on the proposed recommendation against disconnection of MDCs for any reason.

Authority response

7.39 The final draft guidelines retain the recommendation that MDCs should not be disconnected for non-payment of an electricity invoice, regardless of whether the non-payment is through obtaining electricity or distribution services by or involving deception.

7.40 There are two issues concerning disconnection of MDCs that we intend to discuss further with stakeholders:

- (a) disconnection of MDCs who obtain electricity or distribution services by, or involving deception or who are acting in bad faith; and
- (b) if MDCs can be disconnected for acting in bad faith, should they be able to be disconnected under controlled circumstance for debt (e.g. sufficient notice for the MDC to enact its emergency management plan), provided there is no risk to their health.

7.41 We intend to

- (a) facilitate one or more workshops with stakeholders, including consulting with the Ministry of Health, to determine if a controlled disconnection process is practicable in the case of non-payment or involving deception. For instance, a process could give a retailer the discretion to disconnect an MDC provided:

¹⁵ Electric Kiwi, Flick Electric, Independent retailers, Nova Energy.

- (i) the retailer ensured the MDC's individual emergency response plan was enacted before disconnection, and/or
 - (ii) the health practitioner who provided the HP notice for the MDC was notified of the disconnection.
- (b) work with the Ministry of Health to develop a national database of MDCs that will enable retailers to rapidly identify the presence of an MDC at a premises.

8 The potential to mandate parts or all of the guidelines, if beneficial

The Authority has decided on voluntary guidelines at this point in time

- 8.1 As noted in the preceding section, we have decided not to make minimum standards for any aspect of the guidelines at this time, we are considering a proposal to codify the requirement on retailers to provide the monitoring information set out in Part 10 of the final draft guidelines.
- 8.2 We believe that the voluntary nature of the guidelines is appropriate for now, for the following reasons:
- (a) It allows retailers a period of time to adjust their consumer care processes and systems to the guidelines' recommendations without breaching the Code, or requiring exemptions from the Code, aiding the efficiency of implementation.
 - (b) Guidelines are easier to update than the Code, which is particularly important in a period during which the new guidelines are being embedded in retailers' practices, and technology is rapidly changing in the consumer engagement space.
 - (c) The guidelines' recommendations are linked to the hardship workstream being commenced by MBIE, following the Electricity Price Review. As this MBIE workstream progresses, there may be consequential changes required to the guidelines' recommendations, which can be made more efficiently to guidelines than to Code.
 - (d) Given the amount of collaboration we have had with stakeholders during the development of the guidelines, we expect retailers will align their practices with the guidelines.
 - (e) As noted by submitters, one of the recommendations from the Electricity Price Review was for the Authority to be given a "consumer protection function". In December 2019, the Cabinet Economic Development Committee (DEV):

"noted that there is regulatory ambiguity in the Electricity Authority's ability to regulate for the protection of household and small business consumers"; and

"agreed that the Electricity Authority be given an explicit statutory function under the Electricity Industry Act to protect residential and small business electricity consumers, together with any further amendments necessary to ensure consistency with its statutory objective"¹⁶

¹⁶ Paragraphs 21-22 of the Cabinet Minute, <https://www.mbie.govt.nz/assets/progressing-the-electricity-price-reviews-recommendations-minute-of-decision.pdf>

It would therefore be prudent to wait until this action has been taken before considering whether aspects of the guidelines could be mandated.

- (f) Currently, we do not have comprehensive information about alignment (with the existing guidelines) across all retailers, nor detailed assessments over time of consumer outcomes. The information requested by Part 10 of the guidelines will enable a better information base from which to assess the extent that the intended outcomes of the guidelines are being achieved.
- (g) However, should achievement of the purpose and intended outcomes of the guidelines not be satisfactory, we can immediately progress a workstream to explore whether making one or more components of the guidelines mandatory would be consistent with our statutory objective.

8.3 We note that retailers and other participants should not incur substantial duplication of implementation costs under the Authority's proposed approach, provided:

- (a) any mandatory minimum standards are no different to the updated guidelines
- (b) retailers' systems and processes align with the updated guidelines.

August 2022 review of retailer alignment with the guidelines

8.4 In August 2022, the Authority intends to review retailers' alignment with the new guidelines that come into effect on 30 June 2021, allowing a year for retailers' processes to be enhanced and consumer outcomes to be improved. We will conduct the alignment review using information on both alignment and consumer outcomes:

- (a) An annual self-assessment signed by the CEO of each retailer, stating:
 - (i) that the retailer's processes and systems align with the recommendations in the guidelines, or
 - (ii) what recommendations the retailer does not align with, or intends to not align with
- (b) The information retailers will be required to disclose during the first year of the guidelines
- (c) Stakeholder feedback on retailer alignment and in particular on consumer outcomes, including through consumer surveys, stakeholder forums and consumer feedback received by Utilities Disputes, Consumer NZ, the Commerce Commission and ourselves.

8.5 In the event we have concerns with any retailers' alignment, we will discuss those concerns with the retailer in question and encourage alignment.

8.6 In the event we have concerns about consumer outcomes, we will discuss those with the relevant stakeholder group.

8.7 Where we identify systemic non-alignment issues across retailers, we will consider if mandating aspects of the guidelines may be necessary.

Development of an alignment scorecard for retailers

8.8 We may publish scorecard reports, similar to the Distribution Pricing Scorecards.

8.9 The scorecard approach could be an effective way for:

- (a) consumers to gauge retailers' alignment with the guidelines

- (b) the Authority to monitor retailers' alignment and to inform an assessment of whether the guidelines are achieving their intended outcomes
- (c) retailers to encourage the sharing of knowledge on good practices.

A regular survey of consumer outcomes

- 8.10 We may either carry out an annual survey of consumer outcomes ourselves, or work with other organisations (for example ConsumerNZ) to extend their surveys so that they meet this workstream's information needs.

9 Ongoing development of the consumer care guidance package

- 9.1 Publishing the guidelines in its final form is the first step in completing the consumer care guidance package.

- 9.2 In conjunction with stakeholders, the Authority intends to

- (a) Develop:
 - (i) practice notes and fact sheets for stakeholders
 - (ii) a revised HP notice and individual emergency response plan
 - (iii) a data delivery portal for the Authority's collection of monitoring information related to the guidelines
- (b) Facilitate:
 - (i) stakeholders developing a customer care policy template
 - (ii) the development of a standardised interface protocol between retailers and support agencies and budget agencies
 - (iii) the development of a centralised MDC database
 - (iv) increased awareness of the guidelines

Practice notes and fact sheets for stakeholders

- 9.3 We already have a section on our web site related to consumer care.¹⁷ We intend to expand that section to include fact sheets to assist stakeholders to understand the rights of consumers and the rights of retailers.

- 9.4 Amongst other things, these fact sheets will set out:

- (a) customers with current or expected payment difficulties should engage with their retailer at the earliest possible time, and the expectations on customers to engage
- (b) the process a retailer's customer should follow if a consumer at their premises is a medically dependent consumer
- (c) what customers should do in the event of a dispute with their retailer.

- 9.5 We will also prepare practice notes for retailers, to assist them in aligning with the guidelines' recommendations. The first practice note will relate to the disclosure of information under Part 10 of the guidelines and will include:

¹⁷ <https://www.ea.govt.nz/consumers/what-are-my-rights-as-an-electricity-consumer/what-are-my-rights-as-a-medically-dependent-consumer/>

- (a) how to upload information to the Authority
- (b) information to be provided to the Authority
- (c) a template for annual alignment statement and format for quarterly disclosure.

Revised HP notice and individual emergency response plan

- 9.6 The health practitioner (HP) notice is a notice completed by a health practitioner with an appropriate scope of practice, which verifies that a person is a medically dependent consumer. The standard form of HP Notice is available on the Authority's web site¹⁸.
- 9.7 Revisions to the HP notice are required, as well as explanatory notes to assist both the health practitioner and the consumer.
- 9.8 ERANZ has worked with the Ministry of Health to develop an individual emergency response plan for MDCs. We would like to align that plan to the guidelines and publish the plan on our website.

Data delivery portal

- 9.9 The Authority will commence work on the data delivery portal for retailers to use when providing the Authority with the information referred to in Part 10 of the guidelines.

Facilitate a standardised interface protocol between retailers and agencies

- 9.10 We note work that stakeholders have been doing to develop standardised interfaces between retailers and support agencies and budget agencies. We support this work as it will deliver efficiencies for stakeholders and consumers.
- 9.11 We intend to work with retailers, the Ministry of Social Development and budgeting agencies to facilitate a standardised interface protocol for customer referrals from retailers. Once completed, we will publish it on our website.

Work with the Ministry of Health towards a centralised MDC database

- 9.12 The process in the guidelines for determining MDC status could eventually be replaced with a centralised database maintained by the Ministry of Health and health practitioners. This will remove complexity from retailers' processes for verifying the MDC status of customers/consumers.
- 9.13 The Authority plans to work with the Ministry of Health on the implementation of such a centralised database.

Increased consumer awareness of the consumer care guidelines

- 9.14 The Electricity Price Review B6 recommendation also urged the industry to "*prioritise an education campaign about consumers' rights and how those struggling to pay their power bills can avoid disconnection*".
- 9.15 The Authority will work with stakeholders to consider how to best increase consumer awareness during the guidelines' implementation phase.

¹⁸ Currently located at <https://www.ea.govt.nz/assets/dms-assets/27/HP-MDVC-notice.pdf>

Recurring operational review with stakeholders

- 9.16 The Authority notes the electricity industry will continue to evolve. This will affect both the recommendations in the guidelines and the consumer care guidance package.
- 9.17 We propose to hold periodic operational reviews to obtain stakeholder feedback on:
- (a) The effectiveness of the guidelines
 - (b) Changes or updates that may be necessary to components of the consumer care guidance package
 - (c) Retailer alignment with the guidelines.
- 9.18 The review would be operational in nature, and not replicate the extensive development process undertaken over 2020-21 in developing the consumer care guidelines. Rather, it would be focussed on refining specific aspects of either the guidelines and/or the broader guidance package, if required.
- 9.19 We intend to hold the first such stakeholder review in August 2022, after retailers have made their first annual information disclosure. The review will therefore coincide with our alignment review of retailers.

Appendix A Final draft Consumer Care Guidelines
(tracked)

Draft

Appendix B Final draft Consumer Care Guidelines
(clean)

Draft