

Consumer Care Guidelines Technical Consultation
Electricity Authority
Via email
mdvc.guidelines@ea.govt.nz

11 March 2021

Consumer Care Guidelines – Technical Consultation

Thank you for the opportunity to submit on the final draft of the Consumer Care Guidelines (Guidelines).

As this is a technical consultation, we have tried to keep our response limited and have addressed the specific questions raised by the Authority in the attached Appendix.

We would however like to:

- > Note our support (except as otherwise submitted below) for the Electricity Retailers Association of New Zealand (ERANZ)'s submission;
- > Reiterate the points made in our submission on the first draft of the Guidelines dated 27 November 2020 (Original Submission);
- > Welcome the Authority holding further workshops to discuss the contentious requirements:
 - for retailers to send a representative to premises prior to a disconnection for non-payment of an electricity invoice; and
 - preventing retailers from disconnecting medically dependent consumers for obtaining electricity services by deception;
- > Strongly support the Authority forwarding all submissions relating to broader issues of hardship to the Ministry for Business, Innovation and employment (MBIE) to use them as inputs to their energy hardship workstream.

Please don't hesitate to call me on 0212882276 or email jo.christie@mercury.co.nz if you have any questions.

Yours sincerely



Jo Christie
Regulatory Strategist



Appendix: Mercury Submission

q1. Are there any showstoppers that will prevent the guidelines from working?

Part	Clause	Feedback
	5d 80 101d	<p>Mercury does not agree that retailers should be prevented from disconnecting Medically Dependent Consumers (MDCs) for obtaining electricity services by deception. We continue to support the prevention of disconnection of an MDC for non-payment however we cannot condone a provision that explicitly gives MDCs permission to deceive their retailer without consequence. Although it would be a very rare situation in which Mercury would disconnect an MDC we need to retain this discretion in case of some of the more severe breaches of our residential terms and conditions, for example, where there are health and safety issues.</p> <p>We are pleased that the Authority will be holding a workshop to discuss the possibility for controlled disconnections in circumstances involving deception. In the meantime, we recommend that the new additions around deception should be removed.</p>
	57-65	<p>We refer the Authority to our Original Submission where we submitted that Mercury has existing processes for the disconnection a post pay customer for arrears and for the disconnection of uncontracted premises that are both effective and in alignment with the desired outcomes of the Guidelines. The Guidelines impose new pseudo mandatory recommendations that are overly prescriptive and place an unjustifiable financial burden on retailers. The concept of “traceable contact” and the requirement to send a representative to premises add huge additional cost to the disconnection process that must ultimately be worn by the customer. More importantly there is no evidence to show that either of these requirements prevent the ultimate disconnection or add any benefit to the customer in terms of their debt accrual. As far as we are aware, the Authority has not conducted a cost benefit analysis on requiring signed receipt of a couriered letter and/or sending a representative to the premises. Unless there is evidence to the contrary, the costs that retailers would incur to implement these requirements would be better invested in processes that help retailers identify vulnerable customers before they fall into the debt cycle or in the referral processes that will give them tools to break the debt cycle.</p> <p>Ideally, we would recommend that the Authority re-write this part 7 to produce a simpler set of recommendations focused on outcomes rather than prescriptive and costly requirements with unidentified benefits. The Guidelines should ensure that the customer is treated with respect and given every opportunity to engage with the retailer right up until the point of disconnection. The Guidelines should not prolong the disconnection process and make it more costly for retailers and consumers.</p> <p>We welcome the authority’s workshops to further discuss this issue and would be happy help redraft this section, if required.</p>
4	25	<p>In our Original Submission we raised the issue that this clause is completely unworkable for online declines. Any retailer who offers an online product will not be able to achieve alignment with this proposed clause. Currently, Mercury customers who attempt to join online and do not meet a satisfactory credit check are declined online through an automatic process. In order to align, this automatic process would need to be disestablished or a declined online customer would have to be referred to the contact centre to discuss their situation and be provided with the recommended information and advice. Some retailers do not have contact centres which is the reason they are able to keep electricity prices so low.</p>



Part	Clause	Feedback
		<p>Further, a customer who chooses to use an online service is often doing this because it is fast and efficient and removes the need for human contact. The Authority should be mindful of the different way that retailers and customers interact with online products and should avoid placing undue restrictions on future innovation in this area.</p> <p>This issue does not appear to have been resolved in the final draft of the guidelines.</p>

q2. Are there any major errors or omissions in the guidelines?

Part	Clause	Feedback
4	25	See above under question 1.

q3. Are there any technical drafting errors?

Part	Clause	Feedback
3	14av	The Guidelines suggest that a retailer should work towards recording a customer's "level of confidence" with reading the retailer's documentation. This is vague and does not provide a retailer with any help as to how it might measure a customer's "level of confidence". This should either be deleted or clarified.
3	15d	The words "offered by" a customer should be added as a qualifier to this clause. It would be unduly invasive for retailers to ask for this information from customers and place an onerous obligation on retailers. It would make sense and better align with subclauses b and c if the requirement were simply for the retailer to accurately record such information if it is "offered by" the customer for future referral.
4	25ai	In our Original Submission we suggested that this clause should refer to "payment tools" rather than "payment plans". It is not feasible to expect a retailer to give advice about another retailer's prices. It would however be reasonable to expect a retailer to recommend a customer try a retailer who offers a tool that might better suit their needs such as prepay. This clause should be amended.
5	31b	As above for 25ai.
5	31	The phrase "before a customer changes pricing plan" at the beginning of this clause should be clarified. Does the change include where a customer is just rolling off a fixed term onto an open term plan? What happens if a customer makes this change online? This obligation should apply in response to an enquiry by a customer or for a customer who has a history of payment difficulties, otherwise this may become a significant barrier to implementation.
6	42	<p>The steps laid out in Paragraph 42 for a retailer to follow when dealing with overdue invoices are not in chronological order. The instructions relating to the heading "Day 24" are then followed by instructions relating to "at or after day 21".</p> <p>In addition, there is little consistency in the cross references used among these provisions. Paragraph 42 refers to Paragraph 44 under the "Day 14" instructions, but no such relevant cross reference is used</p>



Part	Clause	Feedback
		<p>under the “Day 24” instructions.</p> <p>We note that Paragraph 57 still refers to “three [communication] attempts under clause 40” however this should refer to clause 42 under the final draft Guidelines.</p> <p>Mercury recommends a chronological sequence for laying out retailer obligations; and we recommend tidying up and completing the relevant cross references between paragraphs.</p>
6	47	Mercury believes that the words “If a customer on a repayment plan” should be inserted at the beginning of clauses 47a and 47b. The surrounding clauses 46 and 48 are dealing specifically with customers on payment plans so it makes sense that this clause should also apply only in relation to customers on payment plans. Further, a requirement to monitor the consumption of all customers would be unnecessary, phenomenally costly and extremely difficult to achieve from a practical perspective.
7	57	In addition to the issues we raised in our Original Submission and above under question 1, we submit clause 57 is not workable in its current form. It attempts to deliver too many requirements and too many different timeframes making it overly complicated and impossible to understand the intention of the clause. We appreciate that the processes described in this clause will be reviewed at the Authority’s upcoming workshops however given that it will be relied on until these issues are resolved we would recommend a complete redraft. Due to the short time frame of this consultation we are unable to suggest alternative drafting immediately however we would be happy to work with the Authority to come up with a suitable temporary solution after the consultation date.
7	57b	Clause 57b implies that “traceable contact” can only be achieved via a messenger system if the sender is notified the message has been “read”. This is unworkable as a retailer cannot ever guarantee that a customer has read anything. Whilst acknowledging our issues with the principle of “traceable contact” this should be clarified to state that the sender receives an indication the message has been “opened”.
7	65	<p>Our general comments in relation to clause 65 and 65d are the same as our comments on clause 57 above.</p> <p>We would also note our concern with the lack of guidance to determine what constitutes domestic usage when determining whether “electricity consumption at the premises indicates a domestic consumer is in residence”. This may be different for every retailer and is therefore an arbitrary test. Mercury hopes that this issue will also be open for discussion at the Authority’s workshops.</p>
7	67c 74d	The phrase “on a very cold day” has been introduced at these clauses in the final draft. We suggest that this is vague and open to interpretation. These words should either be deleted or replaced as suggested by ERANZ with wording such as “during severe weather events” which would provide a more precise benchmark.
7	67d	We refer to our Original Submission in relation to the phrase “received and understood” and note that it is an impossible requirement given that the customer at uncontracted premises often is determined not to be contacted and in any event a retailer cannot be expected to know at what point a customer has “understood” its communications.



Part	Clause	Feedback
7	68	This is a matter that we did not pick up on in our Original Submission however we have noticed that as currently drafted there is an opportunity for someone who is not an existing MDC to apply for MDC status simply to avoid reconnection fees. The clause should therefore be clarified to apply only where a person already has an MDC application in process. The clause should also specifically exclude any MDC who has been disconnected (under a controlled disconnection) for a serious breach of their terms and conditions.
7	76	Mercury advises that in most cases we will be able to reconnect our GLOBUG customers within 30 minutes of their top up payment. Clause 76 should be amended however to recognise that there are a couple of valid exceptions to this rule for example where: <ul style="list-style-type: none"> a. Remote disconnection fails due to connectivity issues which would require sending a technician to the premises; or b. The meter owner has system issues.
8	95	Clause 95 refers to clause timeframes in clause 92 however we believe this should be a reference to timeframes in clause 94.
8	99	Clause 99 should be amended to clarify when a retailer is required to reimburse an MDC for confirming or reconsidering its MDC status. Will this apply only if we are requiring the MDC to re-confirm their status outside of the usual 12-month cycle or before their HP certificate expires? Or is the expectation that we pay the cost annually to confirm the status?
9	110d	The reference to "the fee" in the last sentence should be removed. A "conditional discount" is not a fee therefore this reference muddies the water.

