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2 October 2023

Options to update and strengthen the Consumer Care Guidelines

Submission from Common Grace Aotearoa

Common Grace Aotearoa is a community of Christians working to transform unjust structures for the common good. We lead campaigns toward climate, economic and Te Tiriti justice and mentor groups of advocates to engage in collective action alongside the wider community and civil society.

Energy hardship is one of our focus areas because we can see achievable changes that the Electricity Authority can make that would benefit thousands of people, especially people on lowest incomes or medically dependent on electricity. With such enormous potential to improve people's health and wellbeing, this is an exciting area in which to call for change.

General comments

We have a live petition calling on the Electricity Authority to "... Make the Consumer Care Guidelines mandatory" no later than winter 2024. **This has been signed by 3,436 people** and supported by 18 organisations. We also support the submissions made by the Consumer Advocacy Council and organisations in the Everyone Connected campaign.

In short our submission is as follows. Common Grace Aotearoa is encouraged that the Electricity Authority has a new statutory objective to protect the interests of domestic consumers. To deliver on this objective, **please commit now to making the full set of Guidelines mandatory no later than winter 2024**. **If this must be done in two stages, please include part 9 in the first stage.**

Please allocate sufficient resources for Electricity Authority staff to monitor and enforce compliance. It is very important that the onus does not fall to consumers and consumer advocates to enforce the regulations. Please impose penalties that are sizable enough to motivate retailers to comply.

In addition, **please strengthen consumer protections in the following ways:**

- Prohibit retailers from using disconnections as the method of dealing with non-payment. This would ensure that no one is denied access to the essential service of electricity.
- In the meantime, ban disconnection fees and reconnection fees in case of non-payment, and bring this into effect no later than winter 2024.
- Investigate pre-pay prices and intervene to ensure they are no more expensive than post-pay.
- Mandate that retailers include more information in power bills, including a 'best plan' message at least every three months, as suggested by the Consumer Advocacy Council.
- Make it clear that delivering your statutory objective to protect domestic consumers (including those whose lives depend on electricity) is more important than retailers' 'right to be paid'.

Please consult on these matters no later than March so that changes can be brought into effect by winter 2024.

Q1. Do you agree or disagree with our view that the Guidelines are not delivering on their purpose or intended outcomes? Please provide any supporting evidence.

We agree that the voluntary Guidelines are not sufficiently protecting consumers.

The Electricity Authority's own review of compliance with the Guidelines, published June 2023, found that of 38 companies, only 20 (roughly one in two) self-assessed to fully comply with the Guidelines. Those companies represent two-thirds of electricity connections to households. The remaining one third of households are with retailers who either self-assessed as non-compliant, or did not even supply a self-assessment to the Electricity Authority (which is in itself a requirement of the Guidelines). Because that review is based on self-assessments, retailers' actual performance may be even poorer. Most concerning was that some retailers were not fully complying with protections for households facing disconnections and medically dependent consumers.

Lives are at risk and consumers' wellbeing is being harmed because retailers are not consistently following the Guidelines.

Retailers are disconnecting MDCs for non-payment. An unpublished finding of the Consumer Advocacy Council's July 2023 sentiments survey was that 8% of medically dependent customers reported having been disconnected for nonpayment in the past year. This is clear evidence of retailers not following the Guidelines, causing significant risk to life.

Medically dependent consumers do not feel safe. The July 2023 CAC Sentiments Survey found that 34% of MDCs experienced 'disconnection pressures' in the previous 12 months, such as 'seriously worrying about being disconnected and making sacrifices to ensure debt was paid', or 'being notified that electricity would be disconnected if I did not make a payment immediately'. If retailers were following the Guidelines, MDCs should not need to have these concerns.

Retailers are not consistently recording MDCs' information, causing further risk to life. We have heard two stories from people who told their retailer that they were medically dependent on power, only to find out later that their retailer had not recorded this information on their file. One instance occurred in 2021 and the other in 2023.

Retailers are not taking sufficient steps to prevent debt and disconnection. One financial mentor told us about the frustration of supporting a client going through disconnection, when the retailer could have avoided the spiraling debt by intervening earlier and offering the client more payment options. We have also heard anecdotes of one retailer not contacting people five times before disconnection.

Retailers are charging unreasonable disconnection and reconnection fees. Our research shows that these fees exacerbate harm by:

- Adding to already unmanageable debt.
- Extending the time that people are disconnected while they search for funds to pay a reconnection fee
- Adding to people's fear of disconnection by adding an additional financial penalty, which exacerbates stress and fear of using heating.
- Drawing resources from the non-profit sector and Mayor's Welfare Funds.

These stories are examples of such harm:

> *"The first time I was disconnected was a few years ago. … I had my children with me. ... They cut it off, and they also charged a disconnection fee, I think it was about $50 or $60. I was sitting without power for a week, while I tried to get money together. It was horrible. It was in winter, and very cold. It took me about a week to get the money to pay that bill [the disconnection fee, plus account owing], but then they wanted an extra $140 to reconnect. ... I couldn't afford it, so I had to look for another power company." - Customer in Wellington.*
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> "*I supported one lady who was 70 and very isolated. She had recently attempted to take her own life due to isolation and the unaffordability of living. Power was her biggest concern. Despite struggling with physical mobility, she would spend most of her winter days down at the mall in order to avoid heating her home. About 18 months ago [early 2022] she had been disconnected, and the disconnection and reconnection fees cost her a total of $180. The impact was huge. I can say without hesitation that her experience with her power company left her fearful of using any more power than was absolutely essential, especially given the additional costs of disconnection and reconnection." - Financial Mentor in Christchurch.*
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> *"About 18 months ago [approx early 2022] we had a young couple … who were just starting out. The company disconnected their electricity and they had to pay a reconnection fee. It would have train-wrecked them really. In the end [our non-profit organisation] paid for the bloody thing cos*

> *they could never have afforded it. Even if WINZ had helped, they would have had to pay it back." - Social worker*
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> *"I saw a disconnection fee [charged to] a client over $1000 in deficit. Those fees are unfair...I put accountability on them [the company] for allowing my client to get into so much arrears... [as in the Guidelines, retailers are supposed to help customers minimise debt]. I asked the company to waive the [disconnection] fee, and they did eventually, but I had to go through 7-8 people to get to the right person to have that conversation with. That took an hour of my time." - Financial mentor*

We believe these fees are by definition 'unreasonable' because they target people who have already proven they cannot afford to pay. **Further, retailers are not transparent about these fees, so we cannot tell whether they reflect actual costs.** Disconnection and reconnection fees vary significantly between companies, from $0 to $180 for remote disconnection+reconnection and up to $276 for manual disconnection+reconnection. We are confused why fees should vary so much if reflecting actual costs. We asked 16 companies to explain the components of these fees; only five responded to us, and none broke down the fees into their components. Unless retailers break down their fees into component parts, simply listing 'labour costs, transport, equipment, and MEP costs' could entitle them to charge *any* fee, without the customer being able to challenge it as reasonable or otherwise. Mandatory rules, and enforcement from the regulator, are needed to ensure that fees are actually reasonable.

Q2. Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not?

Your objective should be delivering on your statutory objective to protect the interests of domestic consumers. As the Guidelines are currently worded, Principle C may conflict with your statutory objective. Please clarify the intended outcomes to make it clear that consumer protection is paramount.

Q3. Do you consider the Guidelines' recommendations, purposes, and intended outcomes continue to reflect general industry consensus? Note in this question we are seeking your views on the Guidelines' content; not whether they should be mandatory.

Your job as the regulator is to deliver on your statutory objective to protect domestic consumers, which involves leading and raising standards, not deferring to 'industry consensus'.

The content of the Guidelines needs to be significantly strengthened to deliver better consumer protections. See our answer to Q5.

Q4. What do you think about our approach to limit options to areas covered by the current Guidelines?

We understand that you need to mandate the Guidelines urgently to protect lives and this is long overdue. However, please commit now to mandating the full set of Guidelines, even if the work of implementing that must be done in two stages.

Please also consult as soon as possible, and no later than March 2024, on measures to strengthen consumer protections (see Q5). We want to see changes in effect no later than winter 2024.

Q5. What issues that fall outside of the current Guidelines would you like to see us consult stakeholders on in an issues paper to be released by mid-2024? If possible, please provide any initial evidence on these issue areas.

Please bring out your issues paper no later than March 2024, so that changes can be in effect by winter.

We would like to see you protect consumers in the following ways.

1) Prohibit disconnections for non-payment. While working towards this, ban disconnection fees and reconnection fees in case of non-payment. See our answer to Q1 for examples of harm from these fees.
2) Ensure that pre-pay prices are no more expensive than post-pay plans. Consumer NZ's findings that prepay customers are paying up to 17% more for their power are of grave concern. We have spoken to numerous people whose hardships are being exacerbated by the price of prepay, including families with children going without heating due to the cost. The Electricity Authority needs to investigate and intervene.
3) Mandate that retailers include more information in power bills, as suggested by the Consumer Advocacy Council, including a 'best plan' message at least every three months.
4) Make it clear that delivering your statutory objective to protect domestic consumers (including those whose lives depend on electricity) is more important than retailers' 'right to be paid'.

Please minimise rounds of consultation so that you can act as quickly as possible.

Q7. Do you agree that parts two, six, seven and eight are the parts of the Guidelines preventing the greatest harm from occurring to domestic consumers?

Yes but please commit now to making the full set of Guidelines mandatory. If this must be done in two stages, please include Part 9 in the first stage. As mentioned above, unreasonable fees are causing harm.

Q11. Do you agree with our assumption that retailers already following the Guidelines should not experience a significant increase in their compliance costs if any part of the Guidelines is mandated?

Yes.

Q12. Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?

Yes.

Q15. What do you think the benefits to domestic consumers will be under options two to four?

Consumers need the protection of all parts of the Guidelines. Only Option 4 provides this.

Q17. Do you agree with our preliminary view? If not, what is your view and why?

Option 3 does not sufficiently protect consumers. For instance, the following important steps would remain voluntary for retailers:

- ensuring fees and bonds are reasonable (part 9)
- collecting info about anticipated or current payment difficulties (part 3)
- communicating with customers by their preferred method (part 3)
- informing prepay customers that they will be disconnected when they run out of credit (part 4).

Please commit now to making the full set of Guidelines mandatory. If the work must be done in two stages, please include Part 9 (fees and bonds) in the first stage. But it is important that you commit now to mandating the full set of Guidelines so that this cannot be delayed in future.

Are there any other options you think we should consider

Please go ahead with Option 4 and commit now to mandating the full set of the Guidelines. If the work must be done in two stages, please include Part 9 (fees and bonds) in the first stage. But it is important that you commit now to mandating the full set of Guidelines so that this cannot be delayed in future.

There are also other consumer issues that require urgent action, as listed in Q5. Please consult on those matters no later than March so that changes can come into effect by winter 2024.

Effective monitoring and penalties will be critical to improving compliance. Please allocate sufficient resources for Electricity Authority staff to monitor and enforce compliance. It is very important that the onus does not fall to consumers and consumer advocates to enforce the regulations. Please impose penalties that are sizable enough to motivate retailers to comply.