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To: The Electricity Authority

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Genesis supports initiatives to safeguard consumer care and to promote competition and innovation

Genesis Energy Limited (**Genesis**) welcomes the opportunity to provide feedback to the Electricity Authority on its *Options to update and strengthen the Consumer Care Guidelines Consultation paper*.

Genesis is a member of ERANZ, and as part of ERANZ we helped initiate and develop the original Consumer Care Guidelines. This reflects our abiding support for providing best practice consumer care. We strongly support minimum standards for consumer care and will continue working to deliver well beyond the standards laid out in the Guidelines. We do not oppose making sections of the Guidelines mandatory in principle, provided there are changes to make them more workable and effective.

We note the Principles of the Guidelines are designed to ensure consumer care while also supporting competition and innovation and avoiding placing undue costs or constraints on retailers. These Principles reflect the Authority's primary statutory objective of promoting competition, reliable supply and efficiency within the electricity industry for the long-term benefit of consumers, and its secondary objective to protect the interests of domestic consumers. Any consideration of the options proposed in the Authority's paper must seek to strike the appropriate balance between these objectives and the Principles which underpin the Guidelines.

Genesis supports impactful policy to address energy hardship

Genesis is supportive of ongoing work by the government to help alleviate energy hardship. As is acknowledged by the Authority in the consultation paper, the Guidelines are not designed to solve energy hardship, which is a complex issue with many intersecting drivers that are outside the control of electricity retailers, including housing quality and household incomes. Care must be taken to ensure that in mandating the Guidelines the social and economic (private and public) costs of energy hardship are not unfairly or unreasonably socialised among electricity Retailers exclusively where Retailers are not the cause of the underlying factors that give rise to such hardship. There is a risk mandating the Guidelines for an already highly regulated industry will increase the costs of supplying energy to consumers without necessarily resulting in material improvements to consumer outcomes.

To the extent mandating parts or all of the Guidelines may help alleviate energy hardship, the costs (and benefits) of doing so should be considered alongside other government policies to address this problem, to ensure both complementarity and that government allocates its own resourcing towards initiatives most likely to have the greatest impact. At time of writing, the Energy Hardship Expert Panel's final report is not yet publicly available. Given we do not have access to any wider policy proposals that Panel has identified as potentially necessary to addressing energy hardship, our submission should be read with that limitation in mind.

As the Authority acknowledges, there is also an element of guesswork involved in the process at present due to the lack of comprehensive data on whether the Guidelines in their current voluntary form are achieving their intended outcomes. Relying on the first retailer self-assessment and partial currently available data risks making decisions on the basis of a premature assessment of the Guidelines' effectiveness.

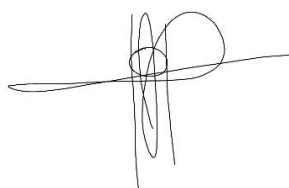
Genesis supports options 2, and 3 in principle

Genesis supports Option 2. We agree clarification is needed on the specific clauses or parts of the Guidelines identified in the paper. In addition, we have identified several other clauses that require either clarification or amendment in order to avoid an unnecessarily prescriptive approach that is unlikely to benefit consumers, and therefore fail to balance Principle A (Consumer Care) and Principle C (in particular, avoiding undue cost or constraint on Retailers). We would also suggest the Authority engage with retailers bilaterally or via industry groups (such as ERANZ) to discuss industry concerns with the Guidelines. Similarly, it may also be useful to consider establishing a working group with industry as a forum for engagement and open discussion among affected parties.

Genesis accepts Option 3 in principle, subject to changes to improve the workability of these aspects of the guidelines, and subject to the results of a comprehensive cost-benefit analysis by the Authority. It will be critical to thoroughly assess whether the benefits of mandating parts of the Guidelines are likely to outweigh the costs, particularly given the Authority's statutory objectives of promoting competition, reliable supply and efficiency within the electricity industry for the long-term benefit of consumers, and to protect the interests of domestic consumers.

We agree that there is reasonable cause for doubt as to whether the benefits of Option 4 will justify or outweigh the costs. Therefore, we would not support this option absent detailed proposals by the Authority supported by cost-benefit analysis demonstrating a clear net consumer benefit.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Matt Ritchie', with a horizontal line extending to the left and a vertical line extending downwards.

Matt Ritchie
Group Manager, Government Relations and Regulatory Affairs

Genesis's response to the consultation questions

Question Number	Question	Genesis Response
1	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.	<p>As is noted by the Authority in section 3 of the paper, the data available to the Authority at present (including data collected via the RFS notice) is insufficient to accurately assess whether the Guidelines are delivering on their intended outcomes. That is, the data cited in the Paper allows for a point in time 'snapshot' but does not allow the Authority to establish trends over time or to assess the impact of the Guidelines on disconnection volumes, debt, and financial difficulty. Moreover, the Authority's data shows the number of disconnections for non-payment fell 79 per cent between 2013 and 2021, which shows significant progress has been made by Retailers in relation to consumer care that is not attributable to the Guidelines. Therefore, we think it is premature to form a definitive view on the efficacy of the Guidelines in their existing voluntary form. On this basis, the rationale for the timing of the present review is unclear.</p> <p>As is also acknowledged in the paper, the factors that influence disconnection volumes, debt, and financial difficulty are complex and go beyond the scope of what can reasonably be expected to result from Retailer alignment with the Guidelines. We think it is important to keep this in mind when weighing the potential benefits against implementation costs likely to result from any of the Options considered in this paper.</p> <p>We would also note that variable Retailer alignment, cited as one the key reasons for considering mandating the Guidelines, can result from issues or ambiguities in the wording of the Guidelines resulting in variable interpretation, rather than reflecting genuine lack of alignment that could drive a suboptimal customer outcome. This was acknowledged by the Authority in its first report on Retailer self-assessment.</p>
2	Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not?	Delivering the purpose and intended outcome of the guidelines is a reasonable policy objective. However, as noted above, the current evidence base falls short of demonstrating that there is a problem to be solved, or at least that would be solved by making standards that are currently being adhered to mandatory.
3	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	We would note that the Consumer Care Guidelines are based on an earlier version initiated and developed by industry via ERANZ, of which Genesis is a member. However, as development of the guidelines progressed several clauses (covered later in this submission) were included which did not at the time, and do not, reflect industry consensus.

	Guidelines' content; not whether they should be mandatory.	
4	What do you think about our approach to limit options to areas covered by the current Guidelines?	<p>Noting paragraphs 5.3 and 5.4, it was unclear from the paper if the Authority's intention would be to potentially include any additional areas in future iterations of the Guidelines, or if these would be protected elsewhere.</p> <p>While all points noted in paragraph 5.2 may be worthy of further protection in and of themselves, any additional regulatory or voluntary requirements (under the Guidelines or otherwise) will add additional compliance costs on Retailers and other affected participants. As noted earlier, we would encourage the Authority to prioritise implementation of protections that are likely to be most impactful without placing undue costs on Retailers (as per Principle 3).</p>
5	What issues that fall outside 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 issues.	No comment.
6	Are there other interpretation issues or areas of the Guidelines that you consider need to be clarified, that do not significantly amend or extend the Guidelines.	<p>We agree clarification (and likely wording changes) will be needed on the clauses identified in paragraph 6.3. In addition, we would like the Authority to address interpretation issues for the following clauses detailed below.</p> <p>We do not agree that certain requirements under Clause 14(a), particularly with regards to how and when retailers communicate with consumers and customers, result in improved outcomes for consumers, while they also add undue costs for industry. We would therefore suggest they do not strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). Specifically, we would suggest removing the requirement to record a customer's preferred day of the week to be phoned (14(a)(ii)), language preference (clause 14(a)(iii)), and requirement to record which communication methods are not suitable (clause 14(a)(iv)).</p> <p>We do not agree with Clauses 25(a) and 31(b) (below). It is unreasonable to expect retailers to have this information, and in any case this information is freely available to consumers including through channels like Powerswitch (which retailers are required to direct consumers to in most communications).</p> <ul style="list-style-type: none"> - Clause 25(a)(i), which requires Retailers to provide consumers with whom they choose not to contract with information about other options generally available in the market; and

- **Clause 31(b)**, which requires Retailers, if a customer enquires about changing their pricing plan, to make the customer aware of any other options generally available in the market that might suit the customer's circumstances better than the plans offered by the Retailer.

For each of the Clauses above, we would argue they do not strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). Genesis considers we are unlikely to be alone in being reluctant to encourage our competitors to discuss *our* offers with their customers.

Clause 32, which requires Retailers to proactively notify customers if they become aware a customer's nominated alternate contact person no longer agrees to act in that capacity. We do not think this requirement is helpful or reasonable, and we think it fails to strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). We therefore suggest either removing this clause, or narrowing the scope of this obligation to only apply to medically dependent customers.

Clause 46(d), which requires retailers to actively monitor increases and decreases in customer consumption, can be intrusive for customers. We recommend changing this requirement so that it only applies for retailers running high bill exception reporting and attempting to discuss potentially high bills with customers to prevent bill shock.

Clause 61(c), which requires retailers to arrange for their on-site contractors to provide advice to consumers on social support and budgeting services directly. We do not believe it is appropriate for third-party contractors to provide this type of advice, particularly as it does not align with their capabilities or contractual role. We therefore recommend changing this clause to require contractors to provide customers with retailer contact information if requested by the customer so customers can be directed to customer service representatives with appropriate training.

Clause 92(a) and (b), which requires Retailers, when engaging with an unverified medically dependent Consumer who is temporarily or permanently resident at premises for which the Retailer is not responsible under the Code, to make reasonable attempts to determine who the Retailer is for the premises, advise the unverified MDC of the Retailer's name and contact details, and encourage the unverified MDC to contact the appropriate Retailer as soon as is possible. It is unclear when situations such as this would arise. Introducing a mandatory standard for what appears to be a rare and narrow set of circumstances would disproportionately increase costs relative to its benefits. Accordingly, assuming we are correct in concluding the situation this clause refers to is very rare, we think it fails to

		<p>strike the right balance between protecting consumer care (Principle A) and supporting competition and innovation and avoiding undue costs (Principle C). We therefore would suggest removing this clause.</p> <p>We would also note that, for all of the above issues, the need for clarification and direction is significantly greater should any or all of the Guidelines be made mandatory.</p>
7	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.
8	Are there any other options you think we should consider?	
9	Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use?	<p>Yes, and as noted we agree with the Authority’s plan to conduct a full cost-benefit analysis factoring in the full range of costs and benefits likely to result from each of the Options. These costs and benefits should be linked to all four Principles and related Outcomes.</p> <p><u>Feedback on Table Two: Initial assessment of options against status quo</u></p> <p>We disagree that there is likely to be a material difference in the impact Options 3 and 4 will have on Criterion Two (competition and innovation) or Criterion Three (retailers’ right to payment and market efficiency). As noted in the Paper, and explicit in the Authority’s rationale for preferring Option Three, Option Three comprises the parts of the Guidelines that are likely to have the greatest impact on consumer care. This greater impact is a direct function of the greater stringency and coverage provided under Option Three; it is therefore difficult to argue that Option Four will have a <i>bigger</i> impact (negative or otherwise) on the factors protected under Criteria Two (competition and innovation) and Three (retailers’ right to payment and market efficiency.)</p> <p>It will be important to ensure the Guidelines can be updated and continue to evolve to reflect changing industry practice and new business models, new technologies, and that they do not come to act as a barrier to continued innovation or a barrier to entry by new Retailers (or other third-parties). This risk is partly reflected under Criterion Two in Table Two, which notes costs from mandated Guidelines may act as regulatory barriers to entry. The Guidelines in their current form are relatively detailed and prescriptive. While in some cases a prescriptive approach may help ensure a high level of consumer care, it is difficult to argue such an approach is in all cases consistent with Criterion Two or Principles C(b) or C(c), or that it will be in all cases consistent with the Authority’s primary statutory objective to promote competition and efficiency in the electricity industry for the long-term benefits of consumers.</p>

10	Do you agree criteria four and five should be weighted less than the first three criteria?	Yes, we agree criterions 1-3 should be weighted more than criterions 4 and 5.
11	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?	Compliance with mandatory Code requirements will increase costs in cases where retailers had been able to align with the intent of the guidelines through taking alternative, cheaper actions which achieve the purpose and outcomes of the guidelines, but are not permitted by a requirement to comply with the Guidelines rather than align with their intent. This effect can be assumed to worsen over time as retailers and consumers cannot benefit from innovative alternative approaches (including those that become possible as technology develops) that emerge.
12	Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?	<p>See our response to Question 1. Genesis considers it is premature to form a view on this.</p> <p>As noted, energy hardship is not something created by energy retailers, it is another unfortunate consequence of general financial hardship within our communities. Forcing mandatory compliance on an already highly regulated industry may increase the costs of energy supply (both upfront and ongoing operational costs) further to consumers, without necessarily materially improving consumer outcomes.</p> <p>To an extent, concerns regarding consumer care stem from concerns regarding energy hardship and are likely to persist until energy hardship is thoroughly addressed.</p>