



Consumer Care Guideline Consultation 2023

Electricity Authority Te Mana Hiko

The Salvation Army Te Ope Whakaora New Zealand, Fiji, Tonga, and Samoa Territory

2nd October 2023

Summary

- The Salvation Army Te Ope Whakaora welcomes this consultation seeking feedback from those affected by the actions of electricity retailers governed by the Consumer Care Guidelines (CCG). We strongly support strengthening the guidelines by making the requirements of the guidelines mandatory.
- The Electricity Authority (EA) has indicated that Option 3 of the Consultation Paper is the preferred option. We support this option while noting further action is required to improve Consumer Care rules. Progressing Option 3 must be seen as a first step and not end the process of improving consumer protections.
- People struggling to get by on low incomes receive overall the poorest service from electricity retailers while being in greatest need of this essential service. The EA must take further action to strengthen the requirements on retailers to meet their social license as required under the EA legislation to “protect the interests of domestic consumer... in relation to supply of electricity to those consumers” (Electricity Industry Act, Section 15(2)).

Background

The mission of The Salvation Army is to care for people, transform lives and reform society through God’s love. The Salvation Army is a Christian church and social services organisation that has worked in New Zealand for one hundred and forty years. It provides a wide range of practical social, community and faith-based services around the country.

The Salvation Army employs almost 2,000 people in New Zealand, and the combined services support around 150,000 people annually. In the year to June 2022, these services included providing around 83,000 food parcels to families and individuals, providing some 2,300 people with short-or long-term housing, over 4,000 families and individuals supported with social work or counselling, around 6,600 people supported to deal with alcohol, drug or gambling addictions, around 3,500 families and individuals helped with budgeting, court and prison chaplains helped 3,300 people.

These comments have been prepared by the Social Policy and Parliamentary Unit (SPPU) of The Salvation Army. The SPPU works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. These comments have been approved by Commissioner Mark Campbell, Territorial Commander of The Salvation Army’s New Zealand Fiji, Tonga, and Samoa Territory.

The comments below provide responses to the 17 questions contained in the consultation document. We note that this consultation takes place before the release of the Energy Hardship Panel report that we expect will offer important insights into necessary consumer protection for those in hardship. Our financial mentoring services and other community support services are frequently dealing with people struggling with multiple financial pressures on low and/or fixed incomes. Feedback from our financial mentors includes comments such as clients are either “unable to afford their power by defaulting on month end payment, going without other things including food so that they can pay the bill or resorting to WINZ advances or money shop loans to do so.”

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 strongly agree with the view that the Guidelines are not delivering on their purpose and intended outcomes. Too many of the people The Salvation Army financial mentoring and other services are working are continuing to face financial hardship and inadequate electricity supply.

People we work with have more limited choices with access to retailers, face higher costs for energy through prepayment systems and are very vulnerable to experiencing disconnection for non-payment. Such outcomes do not align with the goals around consumer care and protection.

We note the evidence from the EA’s own review of the Guidelines show around a quarter of domestic electricity connections are not covered by protections from disconnection and a similar proportion were not covered by the protections for medically dependent consumers.

Electricity supply is an essential service and should not be treated in the same way as other market commodities and services. Voluntary guidelines are not an adequate form of consumer protection and is out of step with practice in other services and other countries.

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

The regulator has an explicit consumer protection function under the current legislation to “protect the interests of domestic consumer... in relation to supply of electricity to those consumers” (Electricity Industry Act, Section 15(2)). This is an absolute requirement and not something that is to be ‘balanced’ against industry interests.

The EA has a crucial regulatory rule to ensure balance of power in the sector and it is very clear that vulnerable consumers are frequently left both metaphorically and literally powerless. The ‘right’ of retailers to be paid for services is not something that can be perceived as needing to be ‘balanced’ against the human right of people to essential services such as electricity.

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

We do not believe the baseline standards for providing essential and basic services such as electricity should be solely guided by some concept of “industry consensus”. The industry has had some 15 years of various processes attempting to improve the way consumers, especially vulnerable consumers are treated by electricity retailers. Problems remain widespread, and this would suggest that there are varying interpretations among retailers about what adequate consumer protection involves.

The problems go beyond some market theoretical concept of “information asymmetry”. Vulnerable consumers need more information on a form that they can understand and make decisions about but they also need active regulatory intervention to protect their rights to basic services.

There is more work required to further strengthen consumer protections beyond what is proposed in the current consultation process. However, the need for further work should not be allowed to justify delay in implementation the proposed changes as soon as is possible.

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

We believe that implementing mandatory consumer protections needs to be a priority and that the proposed approach taken by the EA to make parts of the existing guidelines mandatory makes it more likely to achieve a timely implementation.

However, in doing this, significant other changes are not included, and we ask that the EA commit to a further timeline of reform and monitoring as part of implementing the proposed changes. It is crucial that current inadequate consumer protections do not end up being ‘locked in’ through not pursuing a further programme of consumer protection reform.

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.

There are a number of issues that fall outside the current Guidelines that we believe need to be addressed in further work by the EA to strengthen consumer protection.

- Access to electricity connections – people with few resources and poor credit records have few options in the current market and frequently find only prepayment connections that are generally more expensive and frequently lead to auto-disconnection situations.
- We recommend that ‘provider of last resort’ arrangements be explored or other mechanisms to ensure retail providers contribute their share to ensuring all consumers can access electricity at a fair price.
- Consistency of regulation across other essential service providers is necessary, especially in bundled services, that consumers confused as to their rights in trying to keep access to electricity, gas, phone and internet services.

- Conduct of debt collectors is an issue that has concerned The Salvation Army for some time. There is inadequate regulation of their work and in the area of essential services such as electricity the use of debt collectors by electricity retailers needs to be carefully monitored and restricted. Financial mentors have noted that the most common debt with some debt collectors is power company debt. The Salvation Army is working with a debt collector firm on a Debt Collection Code of Conduct. Currently in Aotearoa there is no code of any sort. Neither government (MBIE or the Commerce Commission) have created a code, nor has the debt collection industry created a code. In Australia there is a 150 page code which was created by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission in 2005. New Zealand is nearly two decades behind in this area of consumer protection.
- Family violence is a growing issue in this country and requires service providers to be aware of this issue affecting electricity provision. All service providers need to have good processes for identifying and responding to such situations.

Q6. 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?

Pricing plans are source of hardship for people. The complex and untransparent way pricing plans are presented mean that frequently people are not on the most cost-effective plan for their living situation.

Requirements are needed to make retailers more proactive in identifying issues such as ‘under consumption’ of electricity. With 110,000 households identified as in energy hardship and many more struggling to meet the costs of their energy needs, a requirement needs to be placed on the retailers, who are the ones who have the information readily available, to take steps to reach out with offers of appropriate assistance. We note that many of our financial mentoring clients who are struggling to pay their electricity arrears receive an advance of benefit from Work & income to pay arrears, which means that disconnection is avoided, but others may not be aware of support that they can access.

Disconnection of electricity supply is a ticket to deepening hardship. We do not believe it that non-voluntary disconnection should be permitted. But as the current system permits this, then there must be clear evidence from service providers that they have visited premises and/or have clear, documented contact with consumers before disconnection.

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?

We agree that parts of the Guidelines identified in Q7 are those where most harm protection is offered. But this does not justify excluding other areas from further work towards making them also mandatory. Requirements from Part 9 of the Guidelines are also important. Ensuring that bonds and fees reflect actual reasonable costs is important. These additional fees can quickly accumulate and

lead to further financial hardship for people already struggling. We believe that late fees and disconnection fees should be prohibited.

Q8. Are there any other options you think we should consider?

As noted above, the current Guidelines are inadequate for our changing the experience of consumers in the retail energy market and we support calls for urgent further work to update and strengthen consumer protections in line with best practice in other jurisdictions.

Q9. Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use?

We do not agree that Criterion Three – impact on retailers right to payment and market efficiency should be given equal weighting to the other criteria. The consumer care responsibility must take priority over payment and market efficiency.

Q10. Do you agree criteria four and five should be weighted less than the first three criteria?

Yes.

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?

We agree that those already complying with the Guidelines would not be facing additional costs in a mandated setting.

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

It seems clear from the current inadequate level of compliance that it will need mandated guidelines to ensure that all retailers actually do comply even with the basic requirements for consumer protection contained in the Guidelines.

Q13. What impacts to competition, innovation and efficiency in the retail market would you expect to see for options three and four respectively?

Mandatory requirements will ensure that all retailers are operating on the same basis of practice when dealing with consumers, which is the foundation for a fair retail market. Those retailers seeking to avoid responsibilities or cut corners through non-compliance with the voluntary code will then need to change the way they operate and offer a better and safer service for all consumers.

Q14. No comment as not relevant to our organisation

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

We believe only options three and four would deliver meaningful benefits to consumers. Option Three needs to be seen as the minimum for a next step in securing adequate consumer protection in the retail electricity market.

Option Four would offer greater benefits to consumers and consulting on further changes to the code during 2024 as part of a clear work programme for further improvements in consumer protection needs to be part of the EA work plan.

The main benefits will be better access to reliable electricity meaning the people we work with in The Salvation Army will be able to heat their homes, cook and eat better, and be safer from medical emergency. The overall wellbeing of our communities will be improved by reducing one of the significant sources of stress and poor health for many of those we work with.

Q16. Do you agree with our initial assessment of the options against the status quo? If not, what is your view and why?

We disagree with the view that Option Four would not deliver “sufficient improvements” in consumer welfare. Improving the information on customer care and controls on the charging of bonds and fees are two elements of this option that would appear to offer additional protections that would benefit all consumers.

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

We support proceeding with Option Three as soon as possible on the proviso that it is accompanied by further work to establish additional protections particularly for people like those The Salvation Army work with who are on low incomes, often in complex and highly stressed living circumstances. The changes proposed are an improvement but do not go far enough and more work is urgently needed.