

2 October 2023

Electricity Authority
PO Box 10041
Wellington 6143
By email: consumercareconsultation@ea.govt.nz

Submission on: Options to update and strengthen the *Consumer care guidelines*

Thank you for the opportunity to make a submission on “Options to update and strengthen the *Consumer care guidelines*”. This submission is from Presbyterian Support New Zealand, a federation of seven regional members covering all of Aotearoa.

Presbyterian Support New Zealand has a proud heritage of providing social and health & disability services through our branded services of Family Works and Enliven, and in the present day also Lifeline and Shine. Our vision is for empowered and connected whānau and communities. Our mission is to foster wellbeing through advocacy and support.

We have a long history across all our social services of working with whānau who are experiencing - or at risk of - severe material hardship and poverty. Our expert trained Social Workers and Family Works Counsellors, Budgeting Service Advisors, Shine and Enliven Advocates, and Lifeline Helpline Counsellors provide direct support to children, young people and their whānau who are struggling. Throughout all regions Management and Practice Leads are noting the increasing complexity of need among clients due to rising costs of living and financial stress. Through our services we see and get involved in resolving many people’s issues with connectivity and power affordability.

We have not provided answers to all questions of the consultation, only those we think we can contribute an answer to, based on our own experiential knowledge. If you have any questions regarding our submission, please do not hesitate to contact the National Executive Officer via email prudence@ps.org.nz or phone 027 282 6004.

Executive Summary

Presbyterian Support New Zealand welcomes the focus of this consultation on improving consumer protections in the electricity market. We hold that electricity supply is critical in our modern world to a normal way of life, and affordable access to it should be recognized as a human right by the Electrical Authority’s Guidelines to Suppliers¹. Our view is that the approach adopted by the Electricity Authority to date does not do this, is too narrow and does not adequately reflect the expanded legislative mandate.

The Authority’s mandate was extended in 2022 to give it a specific objective to:

protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers (section 15(2), Electricity Industry Act).

The guidelines predate this law change and we submit they do not meet the new objective: they are not easy for consumers to read and while they outline protections for the consumer, there are shortfalls in those protections. Furthermore as written the guidelines’ intended outcomes aim to

¹ Further information about the consumer protections in place internationally is available in [Consumer protections in the electricity sector](#), a report by consultancy Allen + Clarke that was commissioned by the Consumer Advocacy Council of NZ.

“balance” consumer and retailer interests, which conflicts with the protection function mandated by the 2022 act.

We submit that the guidelines’ purpose should be clearly stated within terms of human rights, to not only outline the protections of the consumer, but to be specific to suppliers the best practice means to ensure those protections. Our submission also sets out options to improve consumer protection that would help ensure the Authority delivers on its legislative mandate. Finally, we hold that the guidelines should be made fully mandatory and the Electrical Authority should make clear how it will be proactive in the guidelines’ monitoring and enforcement going forward, to ensure consumers have affordable access as well as accessible recourse to address breaches of the standards by their suppliers.

Responses to consultation questions

Question 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.

We strongly agree that the Guidelines are not delivering on their purpose and intended outcomes. Our evidence is our direct contact with households left without power and with unmanageable debt. Often it is only when one of our Social Workers or advocates intervene on a desperate client’s behalf that a power supplier will implement the voluntary standards. All the time we note how different suppliers follow the standards differently and with very uneven outcomes for our clients. We learn with our clients how tricky suppliers’ processes are to follow and how opaque some of the suppliers’ policies are. None are proactive with offers of early assistance when our clients communicate their payment difficulties. Most are instead unfriendly and inflexible, even when payments have simply been late and clients are establishing payment plans for arrears. Finally, we are often frustrated when we fail to find a resolution for clients, it is clear a supplier has breached standards, and there are no means for us to seek redress.

There is strong evidence that our experience with clients is widespread: in the Consumer Advocacy Council’s latest survey of consumers², consumer concern about power costs was seen to be increasing (65% in 2023 up from 58% in 2022). Electricity was identified as the third biggest financial concern among consumers, after groceries and petrol. In the last year almost a third of consumers had received higher power bills than they expected, one in 25 were seriously worried about being disconnected and were making sacrifices to pay their bill, while similarly one in 25 had had to borrow money to pay their bill.

We note in Australia³ and the UK⁴ both have moved to put in place mandatory consumer protections. Aotearoa New Zealand’s reliance on voluntary guidelines puts us increasingly out of step with what is considered standard protections of human rights as consumers. As a result, consumers here enjoy fewer protections than those elsewhere. This gap, and the associated consumer harm, will likely increase unless mandatory standards are introduced.

At Family Works and Enliven we often support our clients to successfully apply for hardship grants from Work & Income to pay for their electricity bill, or for other essentials they’ve had to sacrifice to pay it on time. This is costing government and the New Zealand taxpayer: hardship grants have risen by almost 10,000 recipients since 2013, amounting to \$4million more paid out by NZ Work & Income in the last decade⁵. We hold that this is wasteful government overlap of spending, to fund our social support service to clients, that then help them to successfully apply for more government funding individually. Investment into effectively enforcing mandatory guidelines would therefore generate savings for NZ government.

² Consumer Advocacy Council of New Zealand [latest survey](#) (July 2023)

³ See [National Energy Retail Rules](#)

⁴ See [Standard Conditions of Electricity Supply Licence](#)

⁵ See “National level data tables” at <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/benefit/index.html>

It appears at times to our staff that some power suppliers prefer payments from Work & Income to cover our clients' debt. There seems little interest in assisting anyone to manage their power costs with more mana or dignity. We submit that with the current status quo there is unnecessary frustration in the population and wasteful duplication of government spending, benefitting only the power suppliers.

Question 2. Do you agree the policy objective should be delivering the purpose and intended outcomes of the Guidelines? If not, why not?

We hold that the policy objective must align with the Authority's statutory objectives, reflecting what was introduced into the Electricity Industry Act in 2022:

protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers [section 15(2)].

We urge the Authority to take this opportunity to review the guidelines and ensure they align with its statutory objectives. As currently written, we consider parts of the purpose and intended outcomes conflict with these objectives. Of particular note, para 4.3 of the consultation paper states "the guidelines' outcomes aim to balance domestic consumer and retailer interests". In our view, the "balancing" approach adopted does not reflect the Authority's explicit protection function in the act.

Question 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 Guidelines' content; not whether they should be mandatory.

Serving the public interest, of equity and fair outcomes for all New Zealanders, should be at the heart of the Guidelines. Currently, recommendations, purposes and intended outcomes appear to provide suppliers with adequate means to operate under a for-profit motive and evade actions to ensure affordability and many consumers' equitable access.

Question 4. What do you think about our approach to limit options to areas covered by the current Guidelines?

The introduction of mandatory consumer protections in the code should be given urgency. Then there are several areas in the guidelines where amendments are needed to improve consumer protection. These amendments will also serve to clarify retailers' obligations. We therefore urge the Authority to take a broader approach to:

- help ensure there is an effective consumer protection regime in place, thereby reducing harm to consumers, and
- minimise the need for further consultations to address shortfalls and the costs to all parties of participating in these consultation processes.

We consider a broader approach would also be consistent with the Authority's expanded objectives and ensure code changes align with the act.

Question 5. 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.

In our view several areas require improvement.

- a. At Presbyterian Support we come into routine contact with clients with disabilities, many technologically or medically dependent clients, who we think deserve improved consideration inside the guidelines. This is because their human rights to health and normal activity relies explicitly on greater or continuous power supply, sometimes in homes that we provide to them, sometimes in their own homes requiring our home-based care, and sometimes in family households where their use of power compounds with other members' use. Because of this variance in care, this population is more vulnerable to inequity of affordable power supply.

As we put forward in our position statement on mental health⁶, households with members with disabilities have greater likelihood of under-employment, isolation and lower income, leaving them more financially vulnerable to power suppliers, particularly if their disability or illness requires continuous power supply.

We consider the current guideline provisions are too narrowly drafted and place an undue onus on vulnerable consumers to prove their health or disability status. As a result, many people at high risk of harm are unlikely to be identified. We urge the Authority to adopt a clear definition of both a consumer reliant medically and a consumer reliant technologically due to disability, to ensure neither are ever disconnected and left as a result vulnerable to isolation, poor health or poor mental health outcomes.

The guidelines should be clear, retailers should be prohibited from mandating a household onto 'prepay services' due to a member being medically/technologically reliant. We recommend that clause 85 be amended to read:

Retailers should not proactively recommend a prepayment service to a customer, or require a customer to switch to a prepayment service, if the customer, or a consumer permanently or temporarily resident at the customers' premises, is medically dependent or technologically dependent due to disability.

Conversely we recommend that retailers be prohibited from automatically disconnecting prepay services where payments default, if there is a medically dependent or technologically dependent due to disability customer. People with disabilities and medical conditions must be granted special rights and protections from disconnection, given their reliance on power for continuing their normal way of life.

- b. We also believe disconnection is a contentious issue inside the guidelines that need to be strengthened. We serve clients who due to low income, are struggling to manage rising electricity costs. The guidelines should include a prohibition on disconnecting consumers in energy hardship. This would ensure low income is never used as a justification for removal of access to essential electricity services. Prohibiting disconnection (and associated disconnection and reconnection fees) in cases of energy hardship would be consistent with the Authority's objective in section 15(2) of the act.

We observe that the European Commission recently proposed changes to the EU's electricity market rules that would protect vulnerable consumers in arrears from being disconnected.⁷ Such proposals recognise electricity, like water, is an essential service and consumers experiencing hardship should not be denied access. This recognition should also be central to electricity companies' understanding of their social responsibilities.

The guidelines must incentivise retailers to proactively assist customers to manage their energy use and costs and take steps to identify customers who may be experiencing payment difficulties. When they do they should be required to offer flexible payment arrangements, and train their customer service staff to identify appropriate support for energy hardship customers.

It is our view, given that power is a necessary part of everyday life, that power suppliers should invest from their own profits in establishing energy hardship funds to support their most vulnerable customers.

- c. At Presbyterian Support we serve clients who are left with no other power supply option but prepay, due to their debt ratings and credit history. This leaves them vulnerable to the terms and conditions set by the power supplier. Our view is that the guidelines should have stronger protections for prepay customers.

We are often appalled to discover that our clients are paying more on the prepay 'option' than others on 'post-pay' plans. Suppliers adopt an "all inclusive" rate, stopping clients from discounted rates for time-of-use pricing that other clients can take advantage of. Suppliers add more fees to top up pre-pay customers when they reach their prepay limit.

⁶ [FINAL-Mental-Health-Position.pdf \(ps.org.nz\)](#)

⁷ See https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1591

A Family Works client informed us she felt as if she was treated like a child by her power supplier, providing her with unfriendly information and inflexible terms while she saw that friends on post-pay enjoyed discounts for paying their bills by direct debit, and opting for electronic bills monthly. Another client informed her Social Worker that her prepay plan was set up to also pay back the debt she owed the supplier on late payments, prior to the prepay plan's establishment.

Our view is that this is discriminatory behaviour by the suppliers and the guidelines should require retainers to be more transparent about the terms for determining prepay plans. We hold that the Authority should have means to assess suppliers' policy to ensure prepay terms are not discriminatory. Furthermore suppliers should be required to offer free top-up options for prepay customers, and be prohibited from recovering debt through prepay plans. There should be incentives for retailers to provide emergency credit as part of every prepay plan.

The Authority should be proactive in monitoring prepay usage across New Zealand. We recommend that retailers be required to report all prepay usage as well as all disconnection information.

Finally, we object to clause 72 of the guidelines which asserts that a disconnection resulting from a prepayment service running out of credit is not considered a disconnection.

- d. Some of our clients inform us they were required to provide a 'bond' for their power connection. Many also inform us they are given 'late payment fees' on an accumulative basis. We see this treatment as counter-intuitive to the 'balance' of interest between supplier and customer, when it may be already established that the customer is in financial hardship and finding it hard to pay the bill at all. We note that Australia has prohibited the practice of charging bonds or late payment fees to customers in hardship⁸.

Question 8. Are there any other options you think we should consider?

As a charitable not-for-profit organization we are disappointed to see the consultation paper failing to extend protections to us as business consumers. We understand the guidelines were written in the interests of domestic consumers and our submission has focused on discussing and representing these as we understand them, from our own service-orientation viewpoint alongside individual clients. We hold that the provisions would offer these domestic clients even more improved protections, if business consumers such as ours that serve the same clientele, were also given protections inside these guidelines.

The Consumer Advocacy Council 2023 survey showed that 28% of small businesses were under pressure financially due to operational power bills. Presbyterian Support has dozens of Family Works and Enliven Centres operating singularly under our umbrella brands, accruing costs each for their necessary power connections to serve New Zealanders in need. At our Enliven Aged Residential Care and Disability Residential Care facilities, our power connection serves clients with medical and technological needs for continuous power supply.

We urge the Authority to address the omission of small business consumers, with particular consideration for community social, health and disability services that operate charitably and not for profit.

Question 9. Do you agree with our criteria to assess options? Are there any other criteria you think the Authority should use?

The criteria used by the Authority to assess options should align with its statutory objectives.

We therefore recommend the first criterion should be protecting the interests of domestic consumers, reflecting section 15(2) of the act. Using this criterion to inform the assessment framework will require the Authority to review the outcomes listed in clause 7.2 of the consultation document. The second criterion should be improving the market for the long-term benefit of consumers, reflecting section 15 (1) of the Act.

⁸ See [National Energy Retail Rules](#)

We disagree with criterion 3 and do not believe it aligns with the Authority's statutory objectives. We recommend the Authority remove this criterion.

Question 10. Do you agree criteria four and five should be weighted less than the first three criteria?

We hold that timeliness and cost to the Authority should be weighted less than criterion related to consumer outcomes.

Question 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?

We hold no view on this except to note this is an industry that enjoys significant profits due to everyone's need for power use to live a normal way of life. Members of this industry each have capacity to absorb higher costs of compliance to more rigorous power supply standards.

Question 12. Do you agree that under the status quo, concerns regarding retailer alignment with the Guidelines are likely to continue?

The problems we see among our clients only seem to be worsening year on year, particularly as global supply chains heighten their food insecurity and climate events and disasters increase their needs for support as well as connection to their community. We therefore hold that keeping these guidelines voluntary for power suppliers will only deepen the cost of living crisis across New Zealand, while making them mandatory with the recommendations we make included can go far to ensuring equitable health, mental health and social outcomes regardless of income.

Question 15. What do you think the benefits to domestic consumers will be under options two to four?

Option 2 would provide little, if any, benefit to consumers.

Option 3, by mandating parts 2, 6, 7 and 8 of the guidelines, would provide additional protections for domestic consumers than currently exist. This would be a marked improvement on the status quo. But there are major gaps in the protections provided in these sections, most notably for vulnerable consumers like those we serve, especially those on prepay plans. Consumer harm would therefore not be adequately addressed and may also create confusion; having some parts that are mandatory and some that are voluntary.

Option 4, by mandating parts 1 to 9, provides the most comprehensive option and hence could be expected to result in additional benefits for consumers. However, as with option 3, notable gaps in protection for vulnerable consumers and prepay customers would remain unless the guidelines' provisions are strengthened as we have recommended above.

Implementation of requirements relating to information disclosure and monitoring will also be crucial to the effective operation of the consumer protection framework put in place. Without robust monitoring processes, and meaningful penalties for non-compliance, the incentives on retailers to change their behaviour will be limited and consumer benefits will be undermined.

Question 16. Do you agree with our initial assessment of the options against the status quo? If not, what is your view and why?

We agree with the Authority that option 2 will not deliver improvements to consumer welfare and should not be progressed.

We disagree that option 4 will result in negative effects on the market that will outweigh consumer benefits. We consider the effects on retailers are overstated, particularly in view of the profits being made in the sector.

We see the industry's failure to adequately address financial hardship amongst its clientele one that has necessitated government intervention, even compounded government interventions (such as funding for social support and advocacy services on top of hardship grants for individuals). We see

firsthand how the costs of lax protections fall heavily on consumers. These costs include the adverse health effects that can result when consumers are denied access to electricity to heat their homes, cook healthy food, or connect to internet so that school and university homework can be done.

Question 17. Do you agree with our preliminary view? If not, what is your view and why?

We strongly support the overall direction of the proposal. As noted above, we prefer an augmented version of Option 4.

We hope the augmentations we have recommended are clear, in the interests of those we serve, children, young people, their families, including older people and whaikaha New Zealanders.

Signed:



Dr Prudence Stone, NEO
Presbyterian Support NZ