



Consumer protections in the electricity sector

Final report

20 September 2023

Table of contents

Executive Summary	3
Introduction	5
Purpose	6
Scope	6
Methodology	6
Overview of New Zealand consumer protections	10
Medically dependent consumers	13
New Zealand approach to medically dependent consumers	14
Gaps in protections for medically dependent consumers	14
International approaches to medically dependent consumers	17
Options to improve protections for medically dependent consumers	18
Energy hardship, affordability, and financial assistance	20
New Zealand approach to energy hardship	21
Gaps in protections for people in energy hardship	22
International approaches to energy hardship, affordability, and financial assistance	26
Options to improve protections for people in energy hardship	29
Disconnection and reconnection	30
New Zealand approach to disconnections and reconnections	31
Gaps in protections for disconnections and reconnections	31
International approaches to disconnections and reconnection	34
Options to improve protections for disconnections and reconnections	37
Prepayment services	38
New Zealand approach to consumers on prepayment services	39
Gaps in protections for consumers on prepayment services	40
International approaches to consumers on prepayment services	41
Options to improve protections for consumers on prepayment services	43
Fees and bonds	45
New Zealand protections for fees and bonds	46
Gaps in protections for fees and bonds	46
International approaches to fees and bonds protections	49
Options to improve protections for fees and bonds	51
Consumer awareness	52
New Zealand approach to consumer awareness	53
Gaps in consumer awareness	53
International approaches to consumer awareness	55
Options to improve consumer awareness	57

Executive Summary

Allen + Clarke was commissioned by the Consumer Advocacy Council (the Council) to assess consumer protections in the electricity sector and identify gaps and opportunities to improve protections for residential and small business consumers. This assessment will inform the Council's ongoing work to advocate on behalf of electricity consumers.

Allen + Clarke used two data sources to conduct this assessment – interviews with a range of stakeholders and a document review of legislation and publicly available documents related to New Zealand and international consumer protections in the electricity sector.

Many of the stakeholders we interviewed consistently stated that electricity is an essential service and that retailers need to embrace their social responsibility. Consumers depend on a reliable supply of electricity for their basic needs, health, and overall quality of life. Therefore, ensuring robust consumer protections is imperative, safeguarding consumers from unfair practices, ensuring equitable access, addressing affordability concerns, and maintaining a high standard of service.

New Zealand has limited consumer protections specific to electricity. The voluntary Consumer Care Guidelines (the Guidelines) operate as a minimum code of conduct for retailers. Compared to other countries such as Australia, the United Kingdom (UK), and Canada, New Zealand has significant consumer protections gaps, particularly for medically dependent and vulnerable consumers. These countries have mandatory minimum requirements for retailers and have made further improvements to consumer safeguards over the past decade. In 2021, the UK introduced a new requirement for electricity suppliers to offer emergency credit to customers struggling to top up their prepayment meters. In 2022, Australia introduced new rules requiring retailers to implement a Family Violence Policy and prioritise an affected customer's safety.

Medically dependent consumers (MDCs) lack sufficient protections. Retailers are not legally obligated to adhere to the minimum standards of care recommended in the Guidelines. The disconnection of electricity for an MDC poses significant risks. MDCs rely on a consistent and uninterrupted power supply to maintain their health and wellbeing. Setting mandatory minimum standards for MDCs based on the Guidelines would ensure MDCs have an uninterrupted supply of electricity, equip retailers to provide an adequate level of service, and ensure MDCs receive a consistent level of care.

There are significant consumer protection gaps for consumers in **energy hardship**. Despite the existing support mechanisms, stakeholders that work directly with consumers stated that superannuitants, low-income households, people with disabilities, the unemployed, and consumers with mental health issues struggle to access affordable and reliable electricity services. Offering extra financial support to vulnerable consumers and mandating the Guidelines' requirements related to energy hardship would help consumers avoid disconnection and ensure they have access to adequate support. Additionally, requiring retailers to implement a Family Violence Policy would provide additional protections for consumers in violent or dangerous situations. Some international jurisdictions set electricity

price caps to protect consumers from excessive electricity prices. A price cap would need to be carefully considered to avoid retailer exit and market distortion.

The absence of minimum requirements around **disconnections** is a significant risk for consumers. Retailers may have varying interpretations of acceptable minimum standards of conduct. Retailers could disconnect a consumer who misses payments without assisting the consumer to resolve payment difficulties. Additionally, consumers may be disconnected when it would endanger their wellbeing or when it would be difficult to seek rapid reconnection. There is also no minimum timeframe for reconnecting a consumer after they have paid their invoice. Most of the issues we identified can be addressed by mandating the corresponding requirements in the Guidelines. The Energy Hardship Expert Panel has also raised the option of establishing a government-backed social retailer to ensure vulnerable consumers have access to affordable electricity.

Prepayment services often involve higher transaction costs and customers are more likely to face disconnection. Many stakeholders raised concerns about lack of information on the number of households auto-disconnecting and the consumer experience of using prepayment meters. Without adequate information, the government cannot develop targeted support programmes, implement appropriate safeguards, or tailor policies to address issues with market competition. The options we considered could help address the barriers prepayment customers face to switching to alternative plans. Additionally, prohibiting auto-disconnection outside certain timeframes and mandating emergency credit for all prepayment meters would reduce the risk of disconnections.

The lack of mandatory rules for **fees and bonds** means consumers could face excessive costs and face barriers to accessing security deposits. Most energy retailers charge a range of fees and consumers on prepay services may be charged additional fees. In addition to the recommendations in the Guidelines, the Electricity Authority provides guidance to retailers in the guidelines for domestic consumer contracts. Mandating the Guidelines' recommendations around fees and bonds would promote fairness in the retail market and reduce financial strain on low-income households. The government could also consider placing a time limit on back billing to protect consumers from excessive or unexpected charges.

The Electricity Industry Participation Code 2010 provides statutory requirements to promote **consumer awareness** by informing consumers about Powerswitch and Utilities Disputes. However, the \$61 switching fee charged to retailers by Powerswitch discourages some retailers from joining Powerswitch. Additionally, Powerswitch lacks features that would better inform consumers. We considered different options to address retailer exclusion from Powerswitch. We also considered various options to address stakeholders' concern that consumers struggle to navigate the various sources of information about electricity.

Implementing the options considered in this report will be ineffective without robust monitoring and enforcement by the Electricity Authority. Proactive monitoring fosters an environment that prioritises consumer wellbeing and promotes compliance, accountability, and improved consumer experience. Additionally, taking appropriate disciplinary actions, imposing penalties, and issuing public warnings or fines plays a pivotal role in safeguarding consumer rights, promoting fair competition, and maintaining a trustworthy electricity retail market.

Introduction





Purpose

The Consumer Advocacy Council (the Council) commissioned *Allen + Clarke* to assess the consumer protections in the electricity sector and identify gaps and opportunities to improve protections for residential and small business consumers.

This work has been commissioned in the context of the Government’s response to the Electricity Price Review (the Review). In 2023, the Council commissioned *Allen + Clarke* to assess the implementation of key recommendations from the Review impacting small consumers. Among the findings, the assessment noted the Review’s recommendation to introduce mandatory minimum standards to protect vulnerable and medically dependent consumers had not been implemented.

To date, only voluntary Consumer Care Guidelines (the Guidelines) have been developed by the Electricity Authority (the Authority). In deciding to make these Guidelines voluntary, the Authority stated it was confident retailers would continue to do the “right thing by their most vulnerable consumers”.¹

On 1 June 2023, the Authority published a summary of the first annual review of electricity retail brands’ alignment with the Guidelines.² It found alignment was variable - nine of the 38 retailers that responded to the Authority’s request reported only partial alignment. The Authority expressed concern that a significant portion of the non-alignment related to provisions to protect vulnerable customers and medically dependent consumers.

Scope

This assessment has focused on existing New Zealand consumer protections to understand if, and how, the government is currently addressing risks to consumers and unfair practices in the electricity sector. The assessment considered consumer protections in overseas jurisdictions to understand the range of approaches being taken and the variance of these approaches. This helped us identify gaps in the New Zealand regime and opportunities to enhance the consumer protection regulatory regime.

Gaining awareness of how New Zealand is currently addressing consumer protection issues compared to other countries will help the Council’s ongoing work to advocate on behalf of residential and small business electricity consumers.

Methodology

Allen + Clarke has undertaken two streams of data collection to support this assessment – interviews and a document review. The data collection process was underpinned by the Project Plan, which was developed in collaboration with the Council.

¹ [Incoming electricity consumer care guidelines not enforceable](#)

² This report relied on retailers’ self-assessment of alignment with the Guidelines. See [Summary of Retail Brands’ self-assessments of alignment with the Consumer Care Guidelines](#)

Stakeholder interviews

Allen + Clarke completed 10 interviews between 11 May and 1 June 2023.

An initial stakeholder interview list was developed by Allen + Clarke in collaboration with the Council's electricity sector adviser. Allen + Clarke contacted stakeholders via email to explain the work and the objectives of the engagement and to organise a time for an interview. We explained that information collected in the interviews would be non-attributable and obtained consent from interviewees prior to starting the interview.

Allen + Clarke engaged a broad sample of stakeholders, achieving a spread across:

- Industry
- Government/regulation
- Academia
- Social agencies
- Financial mentoring
- Consumer education.

A list of the stakeholders interviewed is mapped to key focus areas below in Table 1. While the areas relevant to the stakeholders were the initial focus of the interview, data was generally collected across multiple areas where appropriate in each interview.

Table 1 - Completed interviews

Stakeholder	Area
Electricity Authority	Medically dependent consumers, disconnection and reconnection, prepayment services, fees and bonds, consumer awareness, networks, and distributed energy resources
Commerce Commission	Fees and bonds, networks, and distributed energy resources
Academic	Medically dependent consumers, energy hardship, disconnection and reconnection, prepayment services, fees and bonds, consumer awareness, networks, and distributed energy resources
SolarZero	Networks and distributed energy resources
FinCap	Medically dependent consumers, energy hardship, financial assistance, prepayment services, fees and bonds
Sustainable Energy Association of New Zealand (SEANZ)	Disconnection and reconnection, consumer awareness, networks, and distributed energy resource
Consumer NZ	Medically dependent consumers, energy hardship, disconnection and reconnection, prepayment services, fees and bonds, consumer awareness
Salvation Army	Energy hardship, financial assistance, disconnection and reconnection, prepayment services, fees and bonds, consumer awareness

Stakeholder	Area
Independent expert 1	Medically dependent consumers, energy hardship, disconnection and reconnection, prepayment services, consumer awareness, networks, and distributed energy resource
Independent expert 2	Energy hardship, financial assistance, disconnection and reconnection, prepayment services, fees and bonds

Document review

Allen + Clarke also undertook a document review to support the assessment. We searched the websites of key New Zealand government agencies (for example, Electricity Authority, Commerce Commission, and Ministry of Business, Innovation and Employment (MBIE)) for relevant legislation and policy documents that have been published.

We also undertook a document search for international consumer protection examples. The following countries and territories were agreed with the Council at the project inception meeting:

- Australia
- Canada
 - New South Wales
 - Victoria
- European Union
- Germany
- Japan
- Norway
- United Kingdom.

Guided by the issues raised in stakeholder interviews, *Allen + Clarke* performed an in-depth analysis of legislation and policy documents from these jurisdictions. The document review excluded any material that did not relate to consumer protections in the electricity sector and non-English language sources.

Analysis

During Phase 1 of the project, *Allen + Clarke* developed a matrix to support the analysis of documents during the in-depth document review process. New Zealand and international consumer protection approaches were grouped by key area for comparison. The matrix was amended during the project as new approaches were discovered. Interview notes were analysed by creating short summaries by interview which were themed across key areas.



On 7 June 2023, *Allen + Clarke* provided the Council with an overview of the key issues, examples of international approaches, and opportunities to enhance the consumer protection regulatory regime. This was used as the basis for this report.

Allen + Clarke developed an evaluation framework to assess each option against the following criteria:

1. **Electricity supply:** Does the option enhance or maintain a consumer's electricity supply?
2. **Reduction of unfair practices:** Does the option contribute to reducing unfair practices in the market?
3. **Financial impact on consumers:** Does the option have a financial impact on consumers? This may include costs to retailers or distributors that will be passed on to the consumer.
4. **Market competition and innovation:** Does the option foster market competition and innovation?

Using this framework, we evaluated the potential impact of each option on enhancing consumer protections in New Zealand. The results of this assessment provide valuable insights that can inform policymakers, regulators, and industry stakeholders in making decisions to strengthen consumer protections in the New Zealand market.

This report presents the results of the analysis for the following areas:

- Medically dependent consumers
- Energy hardship, affordability, and financial assistance
- Disconnection and reconnection
- Prepayment services
- Fees and bonds
- Consumer awareness.

Overview of New Zealand consumer protections

New Zealand has limited consumer protections specific to electricity

The Electricity Industry Act 2010 established the Electricity Authority and gave it a statutory objective “to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers”.³ In August 2022, the Electricity Industry Act was amended to give the Authority an additional statutory objective to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.⁴

The Act also provides for the Minister of Energy and Resources to establish a Small Electricity Consumers Agency. While the Consumer Advocacy Council has been established to represent small consumers, it is currently a Ministerial Advisory Committee appointed by the Minister of Commerce and Consumer Affairs and supported by secretariat services provided by MBIE.⁵

The Consumer Care Guidelines (the Guidelines) operate as a guide for minimum standards of conduct by retailers.⁶ The Guidelines are voluntary and intended to guide retailers in providing good service to consumers. The Authority updated the Guidelines in 2021 and they took effect on 1 July 2021.

The Authority also makes and administers the Electricity Industry Participation Code 2010 (the Code).⁷ The Code is the set of rules that governs the electricity industry, including competition, reliable supply of electricity to consumers, efficient operation of the industry, and the protection of the interests of domestic and small business consumers.

Under the Code, retailers must:

- give consumers information about their electricity consumption within five business days of receiving a request;
- provide consumers with information about Powerswitch and Utilities Disputes; and
- operate a customer compensation scheme, which requires them to pay qualifying customers when asked to conserve electricity. The minimum weekly amount is \$10.50 and will increase to \$12 per week from 1 August 2023.

³ [Electricity Industry Act 2010](#)

⁴ [Electricity Industry Amendment Act 2022](#)

⁵ [Terms of Reference for the Consumer Advocacy Council](#)

⁶ [Consumer Care Guidelines](#)

⁷ [Electricity Industry Participation Code 2010](#)



The Electricity Industry (Enforcement) Regulations 2010 include provisions related to Code breaches and the proceedings of the Rulings Panel.⁸ The rulings panel may impose a maximum fine of \$2 million for breaches. The Rulings Panel has fined retailers for non-compliance with these requirements.⁹

The Authority also provides guidelines for retailers for domestic consumer contracts.¹⁰ Like the Consumer Care Guidelines, the contracting principles and minimum terms guidelines are voluntary. Similarly, the Authority provides voluntary guidelines on how to communicate price changes to consumers and the media.¹¹

Under Parts 11 and 14 of the Code, the Authority is responsible for ensuring that a consumer will never be without a retailer because of a trader's financial default.¹² The Authority follows a prescribed process for managing a default by a trader, including the power to assign consumers to other traders servicing customers in the same network area.

Under the Consumer Guarantees Act 1993, electricity provided to a consumer must be safe and reliable and of an acceptable quality.¹³ If the supply of electricity fails to comply with the guarantee of acceptable quality, the Consumer Guarantees Act gives consumers a right of redress against retailers under Part 2 of the Act.

The Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 require electricity retailers to offer a low fixed charge tariff option or options to domestic consumers at their principal place of residence.¹⁴ However, this requirement is being phased out over five years (from April 2022 to April 2027).¹⁵

General consumer protections

The general consumer protection laws in New Zealand are designed to safeguard the rights and interests of consumers, ensuring fair and transparent transactions, and providing avenues for redress in case of disputes.

The Commerce Act 1986 focuses on promoting competition in the marketplace and preventing anti-competitive behaviour.¹⁶ It prohibits restrictive trade practices, such as price-fixing, collusion, and abuse of market power. The Commerce Act establishes the Commerce Commission, which is responsible for enforcing competition laws, investigating anti-competitive behaviour, and ensuring fair competition in the New Zealand market.

⁸ [Electricity Industry \(Enforcement\) Regulations 2010](#)

⁹ For example, in June 2023, the Panel ordered Ecotricity Limited Partnership to pay \$57,000 for refusing to provide consumers' electricity consumption data ([Rulings Panel Decision C-2022-003](#)).

¹⁰ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity Guidelines for communications about price changes](#)

¹¹ [Electricity Industry Participation Code 2010](#)

¹² [Consumer guarantees Act 1993 \(section 7A and 7B\)](#)

¹³ [Electricity \(Low Fixed Charge Tariff Option for Domestic Consumers\) Regulations 2004](#)

¹⁴ [Electricity \(Low Fixed Charge Tariff Option for Domestic Consumers\) Amendment Regulations 2021](#)

¹⁵ [Commerce Act 1986](#)



The Fair Trading Act 1986 aims to protect consumers from misleading, deceptive, or unfair trade practices.¹⁷ It prohibits false representations, misleading advertising, and unfair contract terms. The Fair Trading Act also covers areas such as product safety, product labelling, and pricing transparency. The Fair Trading Act is enforced by the Commerce Commission, which investigates complaints and takes legal action against businesses engaging in unfair trade practices.

The Consumer Guarantees Act 1993 establishes a framework of guarantees and protections for consumers regarding the quality, fitness for purpose, and performance of goods and services.¹⁸ It provides statutory guarantees that go beyond any warranties offered by the seller. Consumers have the right to remedies, such as repair, replacement, or refund, if the goods or services do not meet the specified standards. The Consumer Guarantees Act also outlines consumers' rights in relation to unsolicited goods, layby sales, and auctions. While the Consumer Guarantees Act specifically excludes electricity as a service covered by the Act generally, it has specific provisions for electricity, as outlined above.

While not specifically focused on consumer protection, the Human Rights Act 1993 plays a crucial role in safeguarding consumers from discrimination and ensuring equal treatment.¹⁹ It prohibits discrimination on various grounds, including age, gender, race, disability, and sexual orientation. The Human Rights Act ensures that consumers are protected from unfair treatment or denial of goods and services based on these protected attributes.

¹⁷ [Fair Trading Act 1986](#)

¹⁸ [Consumer Guarantees Act 1993](#)

¹⁹ [Human Rights Act 1993](#)

Medically dependent consumers



New Zealand approach to medically dependent consumers

The voluntary Consumer Care Guidelines were introduced by the Electricity Authority in 2021. They replaced previous guidelines to assist vulnerable and medically dependent consumers (MDCs). Guidelines for medically dependent consumers were brought in after Folole Muliaga died in 2007. She used an electrically powered oxygen machine that was turned off after the electricity at her home was disconnected due to an unpaid bill.

The Guidelines contain voluntary recommendations to retailers to take specific actions when supplying domestic premises where medically dependent consumers permanently or temporarily reside. The Authority requests that retailers provide it with an annual self-assessment of alignment with the Guidelines. However, this is not mandatory and the Authority has no power to address non-compliance.²⁰

Gaps in protections for medically dependent consumers

The disconnection of electricity for an MDC poses significant risks and concerns. MDCs rely on a consistent and uninterrupted power supply to maintain their health and wellbeing. Electricity is vital for powering medical equipment, such as life support systems, oxygen concentrators, or refrigeration for medication storage.

MDCs may incur higher electricity bills than a standard consumer due to the costs of powering medical equipment or requirements to maintain certain household temperatures.

Retailers are not required to confirm that a medically dependent consumer lives at a premise to which it supplies electricity

The Guidelines recommend that retailers should “make all reasonable efforts” to:

- contact a consumer on sign up to obtain an application for MDC status if the retailer believes they could be an MDC. Retailers should also have a process in place to confirm potential MDCs are verified as medically dependent via a Health Practitioner (HP) Notice; and
- confirm if an MDC resides at a premises which the retailer intends to disconnect.²¹

While it is recommended that retailers take these actions, there is no statutory requirement. It is possible some MDCs are unknown to their retailers.

²⁰ [Consumer Care Guidelines \(P. 8 & 10\)](#)

²¹ [Consumer Care Guidelines \(P. 8\)](#)



Retailers and distributors are not required to have consideration of medically dependent consumers for planned electricity outages or disconnections

The Guidelines recommend that retailers should use “reasonable endeavours” to put a coordination plan in place with the electricity distributor to communicate planned electrical outages or disconnections to MDCs.²²

It is also recommended that at sign up stage, retailers should advise MDCs that the supply of electricity cannot be guaranteed and that the customer needs to develop an individual emergency response plan to use during any electricity outages.

If the MDC process is not executed effectively by the retailer under its voluntary obligations, there is a high risk that MDCs could be left unprepared for outages and disconnections with potentially life-threatening consequences.

Retailers can disconnect a premise with a medically dependent consumer

A ‘post-pay’ service arrangement is when energy customers pay for their electricity or gas after they have consumed it and on receipt of a bill from their energy provider.

The Guidelines recommend that retailers should “*make sure, as far as practicable, that no premises at which an MDC permanently or temporarily resides are disconnected for reasons of non-payment of a debt to the retailer*”.²³

It is recommended that retailers have processes and systems in place to request and record sufficient information on MDCs, including obtaining verifying information that a customer is considered medically dependent via a Notice of Potential Medically Dependent Consumer (MDC) Status (HP Notice) completed by a health practitioner. It is also recommended that before disconnecting a premises because of unpaid electricity, the retailer sends a representative to visit a customer who has not responded to other engagement attempts.

In cases of non-compliance with the voluntary guidelines, it is still possible that MDCs on a post-pay plan could have their service disconnected with little or no warning from the retailer (or where communication has been attempted but was unsuccessful – e.g., missed phone calls, unreceived mail, account holder being uncontactable for medical reasons etc).

Retailers can put a premise with a medically dependent consumer on a prepay service and are not required to make sure that the customer understands the risk of a prepay plan

The Guidelines recommend that retailers should not proactively recommend a prepayment service to an MDC but can agree to provide a prepayment service for the premises of an MDC if requested by the customer, so as to avoid discrimination against the customer on the basis of their medical condition.²⁴

²² [Consumer Care Guidelines \(P. 8\)](#)

²³ [Consumer Care Guidelines \(P. 8\)](#)

²⁴ [Consumer Care Guidelines \(P. 8\)](#)



There are higher risks of potential disconnection associated with a prepayment service. A consumer needs to have a smart meter to get a prepay account. Consumers prepay for their energy service by “topping up” their account balance before energy consumption takes place. They must then maintain a credit balance to receive continued energy service. If their credit amount is exhausted, then the customer becomes at risk of their energy supply being disconnected. This could pose a very dangerous situation for a medically dependent consumer if they forget or are unable to top-up their balance.

Under the Guidelines, it is recommended that the retailer should take the following steps to mitigate this risk:

- suggest that the MDC requesting a prepayment service should first discuss this option with their health practitioner;
- confirm that the customer is aware of warnings they will receive when credit for the prepayment service is running low and prior to the credit expiring; how to purchase additional or emergency credit for the prepayment service; and that when credit for the prepayment service is used up disconnection will occur; and
- ensure the MDC understands the risk of there being no electricity supply if the prepayment service runs out of credit.

There is no guidance on how this consultation with the customer on potential risks should take place (e.g., via verbal or written communication), or any requirement to keep a record of the information provided and the customer’s level of understanding and informed consent regarding the risks involved.

Retailers can allow a medically dependent consumer’s prepay meter to auto-disconnect

Under the Guidelines, a disconnection resulting from a prepayment service running out of credit is not considered a disconnection for non-payment.²⁵ This is based on the argument that the customer is considered to have understood and accepted the risks associated with being on a prepayment service where disconnection will occur if the prepayment service runs out of credit. This situation poses a high risk for MDCs in circumstances where they may have forgotten or are unable to top-up their credit for reasons beyond their control (e.g., hospital admission).

There are certain times when it is recommended that retailers avoid carrying out the disconnection of a prepay service, including times that sudden and unexpected disconnection would endanger the wellbeing of the customer or any consumer at the premises (e.g., just before nightfall, or during severe weather events), and when it would not be easy for customers to seek rapid reconnection (e.g., at night, after midday on the day before a weekend or public holiday, during a public holiday, or during severe weather events or emergency situations). Failure to comply with these voluntary recommendations could result in especially dangerous circumstances for MDCs.

²⁵ [Consumer Care Guidelines \(P. 8\)](#)

International approaches to medically dependent consumers

Australia

Under the National Energy Retail Rules (NERR), retailers have a special obligation to customers who advise them that a person who is residing or intending to reside at the customer's premises requires life support equipment.²⁶ The retailer must register the customer for life support protections and must not disconnect a customer's premise where the premises are registered as having life support equipment. In the case of a planned interruption, a distributor must give the consumer at least four business days written notice of the interruption to supply at the premises. Failure to comply with the life support obligations attracts a Tier 1 civil penalty, meaning retailers could be fined up to \$10m.

A consumer using a prepayment service must inform the retailer if a person residing at the customer's premises has or requires life support equipment.²⁷ The retailer must then advise the consumer of the retailer's obligations.

Ontario (Canada)

Electricity providers cannot disconnect residential customers for non-payment in the winter months, between November 15 and April 30.²⁸ Providers must give 14 days' notice before disconnecting a customer and 60 days' notice if disconnection poses a risk of significant adverse effects on their physical health.²⁹

United Kingdom

The energy regulator, the Office of Gas and Electricity Markets (Ofgem), has a statutory duty to protect the interests of particularly vulnerable consumers including individuals who are disabled or chronically sick, of pensionable age, on low incomes, or residing in rural areas.³⁰

Energy supply and distribution network companies have an overarching responsibility to protect customers in vulnerable situations through statutory obligations placed on them in their licences.³¹ Suppliers and distributors are required to maintain a Priority Services Register (PSR).³² PSR is a free support service that makes sure extra help is available to people in vulnerable situations.

²⁶ [National Energy Retail Rules \(P. 7\)](#)

²⁷ [National Energy Retail Rules \(s. 139\)](#)

²⁸ [Amending Electricity Distributor Licences to Prohibit the Disconnection of Residential Customers and Related Matters](#)

²⁹ [Distribution System Code \(s. 4.2.3\)](#)

³⁰ [Electricity Act 1989](#)

³¹ [Standard conditions of electricity supply standards](#)

³² [Standard conditions of electricity supply standards \(s. 26\)](#)

Electricity suppliers cannot make a consumer move to a prepayment service if their disability or illness makes it hard to use the meter, or if their condition would get worse if they lost power.³³

A new voluntary code of practice states retailers should refrain from “all involuntary installations” of prepayment meters for the highest risk customers including:

- households which require a continuous supply for health reasons, including dependence on powered medical equipment
- people over 85 years of age (if there is no other support in the house)
- households with residents with severe health issues including terminal illnesses or those with a medical dependency on a warm home (for example, due to illness such as emphysema, chronic bronchitis, sickle cell disease)
- where there is no one within the household that has the ability to top up the meter due to physical or mental incapacity.³⁴

There are also special protections in place to support vulnerable older adults during the winter months between October 1 and March 31. A consumer who has reached the State Pension age cannot be disconnected during this period if they live alone, with other people who have reached the State Pension age, or only with children under 18 years old.³⁵

Options to improve protections for medically dependent consumers

We considered a range of options for strengthening the consumer protections for MDCs based on stakeholder feedback, previous reviews of the electricity sector, and overseas approaches.

Making the Guidelines mandatory would improve protections for MDCs and each of the subsequent areas discussed in this report.³⁶ Setting mandatory minimum standards would go a long way to ensure MDCs receive a consistent level of service, empower MDCs to advocate for their rights and avoid serious health complications and loss of life that can result from disconnections.

To strengthen the standards, the following protections used in other jurisdictions could also be considered for inclusion:

- Expand the protections for MDCs to include consumers who are particularly vulnerable, due to age, to health impacts from the loss of electricity.

³³ [Standard conditions of electricity supply standards \(s. 28.1A\)](#)

³⁴ See [Energy suppliers sign up to new Code of Practice on involuntary prepayment installations](#)

³⁵ [Standard conditions of electricity supply standards \(s. 27.10\)](#)

³⁶ Recommended by the Electricity Price Review (B6)



- Strengthen the wording of the Guidelines to specifically prohibit disconnection of MDCs.
- Prohibit retailers from allowing prepay meters to automatically disconnect if there is an MDC residing at the premises.
- Prohibit retailers from requiring MDCs to switch to prepayment services.
- Introduce penalties for retailers for failure to comply with their obligations. Penalties could be set at a level similar to that in Australia.



**Energy
hardship,
affordability, and
financial
assistance**

New Zealand approach to energy hardship

Stakeholders involved in social work and academia emphasised that medically dependent consumers are only a small portion of vulnerable consumers. Vulnerable consumers encompass a broad range of individuals, including low-income households, elderly individuals, people with disabilities, and those experiencing financial hardship. These stakeholders asserted that it is crucial for regulations and support systems to extend beyond medically dependent consumers and provide comprehensive protections for all vulnerable consumers.

MBIE has developed a definition of energy hardship, which it states is the opposite of energy wellbeing. It defines energy wellbeing as “when individuals, households and whānau are able to obtain and afford adequate energy services to support their wellbeing in their home or kāinga”.³⁷

The Electricity Price Review (the Review) estimated that more than 100,000 households in New Zealand experience energy hardship.³⁸ For the year ended June 2022, MBIE reports:

- 110,000 households reported that they could not afford to keep their homes adequately warm
- 110,000 households found heating their homes a major problem
- 100,000 households put up with feeling cold a lot to keep costs down
- 88,000 households reported paying utility bills late more than once
- 74,000 households reported major problems with damp and/or mould.³⁹

Those in situations of energy hardship (disproportionately low-income families with children) may struggle to make their homes more energy efficient, find and switch to plans best suited to their consumption and circumstances, and access community or financial support services.

The Guidelines include several recommendations that encourage retailers to support vulnerable consumers and consumers experiencing difficulty making payments.

The government provides financial assistance to help consumers and communities reduce energy costs as follows:

- Consumers can apply to Work and Income for up to \$200 to pay for an urgent power bill or reconnecting electricity.⁴⁰ Additionally, Work and Income may also provide financial assistance for bedding, blankets, curtains, or heaters. Work and Income may require assistance to be repaid.
- From May to October, people who are eligible to receive the **Winter Energy Payment** get it automatically with their regular weekly or fortnightly payments.⁴¹

³⁷ See [Defining Energy Hardship](#)

³⁸ [Electricity Price Review: Final Report](#)

³⁹ See [Report on energy hardship measures – Year ended June 2022](#)

⁴⁰ [Power, gas, water bills or heating](#)

⁴¹ [Winter Energy Payment](#)



- The **Warmer Kiwi Homes Programme** provides grants to cover 80% of the cost of ceiling and underfloor insulation, and up to 80% of the cost of heaters.⁴² Established in 2018, the programme has received several funding increases including an additional \$402.6 million in 2023.⁴³
- The \$8 million **Support for Energy Education in Communities (SEEC) Programme**, a funding programme that delivers community-level energy education to help households in need through partnering with community providers.⁴⁴
- The \$28 million **Māori and Public Housing Renewable Energy Fund**, which was established in 2020 to trial small-scale renewable energy technologies in Māori and public housing.⁴⁵
- The \$16 million **Community Energy Fund** to support low-income communities or communities with insecure access to energy.⁴⁶

Gaps in protections for people in energy hardship

Retailers are not required to publish a Consumer Care Policy

Many of the stakeholders interviewed said that it is essential for electricity providers to embrace their social responsibility towards consumers. The Guidelines recommend that retailers publish a consumer care policy and provide detailed guidance on how this policy should be structured and what information should be included.⁴⁷ The guidance also recommends that this policy be made available on the retailer's website and the information described in an accessible format for consumers. While the Guidelines provide detailed instructions for retailers, these are not mandatory.

The Guidelines recommend that the Consumer Care Policy should:

- commit the retailer to understandable, timely, clear, and accessible communications with customers and consumers;
- commit the retailer to seeking customer agreement for referrals to support/social agencies should the customer experience payment difficulties;
- commit the retailer to allowing customers reasonable time to receive assistance from support/social agencies without incurring a financial penalty from the retailer;
- commit the retailer to working with support/social agencies and health agencies cooperatively, constructively, and in a timely manner;

⁴² [Warmer Kiwi Homes programme](#)

⁴³ [Wellbeing Budget 2023](#)

⁴⁴ [Support for Energy Education in Communities Programme](#)

⁴⁵ [Māori and Public Housing Renewable Energy Fund](#)

⁴⁶ [Community Renewable Energy Fund](#)

⁴⁷ [Consumer Care Guidelines \(P. 2\)](#)



- commit the retailer to aligning their practices with any protocols agreed between retailers and support/social agencies or health agencies;
- commit the retailer to ensuring, where possible, that all customers have access to the support offered in accordance with the Guidelines; and
- clearly explains in a prominent place all fees and bonds.

The Authority's first annual review of electricity retail brands' alignment with the Guidelines reported that one retailer had not published a Consumer Care Policy.⁴⁸ The review is based on self-assessment and the Authority did not verify that the Consumer Care Policies aligned with the recommendations in the Guidelines. Additionally, nine retailers did not respond to the Authority's request to provide their self-assessment.

In the absence of a Consumer Care Policy consumers may be exposed to unexpected disconnections and experience inadequate customer service and support, difficulty with issue resolution, and struggle to navigate their relationship with the retailer.

Retailers are not required to publish a Family Violence Policy

The Guidelines do not include recommendations for retailers to publish a Family Violence Policy. They do include general recommendations for retailers to work cooperatively with and align practices with protocols from support/social agencies and health agencies. Intimate partner violence contributes to death, disability, homelessness, and illness in adult women. Perpetrators can use the need for utilities like electricity to control and harm people.

Retailers are not required to follow a standard process when consumers face payment difficulties

The Guidelines include recommendations for retailers dealing with households facing payment difficulties and disconnection. However, they do not provide recommendations for adjusting payment plans for customers in energy hardship.⁴⁹ The Guidelines recommend that retailers should:

- send the customer a late payment notice after 14 days of non-payment;
- contact the customer three times if payment is not made after 21 days;
- advise the customer of the range of electricity pricing plans and payment plans;
- refer the customer to budgeting and social agencies;
- monitor individual customer consumption to help them anticipate which customers may benefit from assistance;
- refer the customer to Work and Income to ascertain if any benefits are available to the customer;
- monitor the customer's debt repayments and electricity usage; and

⁴⁸ [Summary of Retail Brands' self-assessments of alignment with the Consumer Care Guidelines](#)
⁴⁹ [Consumer Care Guidelines \(P. 6\)](#)



- communicate with the customer every three months or as often as required to see how the customer is managing a debt payment plan.

Stakeholders we interviewed that deal directly with consumers reported that consumers are often not aware that retailers are expected to provide them with support if they face payment difficulties. One commented that in their experience retailers immediately refer consumers to Work and Income without first attempting to work with them to manage payments. The number of Work and Income hardship grants for electricity and gas has increased from 30,725 in 2013 (\$13.79 million) to 40,470 in 2022 (\$17.75 million).⁵⁰

Without mandatory requirements, retailers may have varying interpretations of acceptable minimum standards of conduct. As a result, consumers may face increased financial hardship, struggle with debt management, or be disconnected.

Retailers are not required to refer customers to support services

The Guidelines include the following recommendations for referring consumers to agencies offering budgeting advice:

- Include a statement in the Consumer Care Policy committing the retailer to seeking customer agreement for referrals to support/social agencies should the customer experience payment difficulties.
- When a retailer denies a consumer a contract for electricity supply, it refers the consumer to a support/social agency (e.g., one or more reputable budgeting advice service – one of which must be funded by the Ministry of Social Development).
- Communicate with the customer every three months about debt management and refer them to an agency offering budgeting advice if they are having payment difficulties.
- Refer a customer to an agency offering budgeting advice within five days of a customer falling behind in their repayments.
- Discuss budgeting options with customers on a prepayment service whose usage is abnormally low/high or whose prepayment service runs out of credit frequently.
- Include contact details of agencies offering budget advice in notices and final notices of disconnection.
- Provide information on agencies offering budget advice when a retailer visits a customer's premise about non-payment.
- Provide information about agencies offering budget advice if a customer does not reconnect within five business days of being disconnected.⁵¹

If a retailer does not fulfil the above mentioned actions, the lack of support can expose consumers to exacerbated financial hardship, debt mismanagement, and extended disconnection.

⁵⁰ [National level data tables](#)
⁵¹ [Consumer Care Guidelines](#)



Consumers with bundled services do not have the right to elect for partial payments to clear electricity debt

An electricity bundle is when a company offers a discounted deal to supply power plus one or more utilities, for example, power and broadband. Bundling of goods and services allows companies to offer consumers innovative solutions and may offer consumers potential benefits in terms of overall price, choice, convenience, or simplicity. However, bundled services may raise risks for consumers:

- Bundling electricity with other services can make it challenging for consumers to understand the breakdown of costs associated with each individual service.
- Bundled offerings restrict consumers' ability to choose different providers for each service.
- The electricity component of a bundled service may be higher than a standalone electricity service. Consumers may unknowingly bear the financial burden of cross-subsidisation, paying more for electricity to support a lower-priced bundled service.
- Consumers may face challenges resolving disputes or seeking redress for issues with a bundled package.

The Guidelines include recommendations specifically for customers on a bundled service, including allowing customers to elect to have part payments clear debt related to electricity supply or distribution services first.⁵² However, without a mandatory requirement, retailers may clear part payments against the non-essential component of the service and disconnect their electricity.

New technologies and secondary networks pose potential consumer protection issues

During our stakeholder interviews, concerns were raised regarding the potential impact of new technologies in the electricity sector, such as solar panels and electric vehicles. Early adopters of these technologies will reap the benefits of connecting to the electricity network, while consumers who have not yet connected might face restrictions or limitations accessing these benefits. This could potentially lead to an inequitable distribution of advantages among consumers, raising issues related to fairness and equal access. Some stakeholders emphasised the importance of ensuring that consumer protections remain robust and inclusive in the face of evolving technologies, to prevent any undue advantage or disadvantage to specific consumer groups.

Some stakeholders (including the Authority) also stated there are consumer protection gaps in relation to secondary networks. A secondary network is a network indirectly connected to the national transmission grid (e.g., a shopping mall, a retirement home, or a caravan park). On some secondary networks, consumers do not have a choice of retailer and may not be protected if they pay for electricity as part of an overall service charge (e.g., a weekly fee for a retirement home). There is also ambiguity about whether they must join the Utilities Disputes'

⁵² [Consumer Care Guidelines \(P. 8\)](#)



energy complaints scheme. Utilities Disputes states secondary network owners are “probably” required to join.⁵³ At present, 129 secondary network owners are members.

International approaches to energy hardship, affordability, and financial assistance

International jurisdictions have a range of approaches to protect consumers experiencing energy hardship, including minimum requirements for the responsibilities of retailers, price caps, special payment plans for consumers in energy hardship and financial assistance programmes.

Australia

In Australia, the legislative framework for the energy retail sector requires that energy retailers develop a Customer Hardship Policy, which must be submitted to and approved by the Australian Energy Regulator (AER) and published on the retailer’s website.⁵⁴ The purpose of this is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis. At a minimum, retailer’s Customer Hardship Policy must contain:

- processes to identify residential customers experiencing payment difficulties due to hardship;
- processes for the early response by the retailer in the case of residential customers identified as experiencing payment difficulties due to hardship;
- processes to review the appropriateness of a hardship customer’s market retail contract;
- processes or programmes to assist customers with strategies to improve their energy efficiency;
- processes to identify appropriate government concession programmes and appropriate financial counselling services and to notify hardship customers of those programmes and services;
- outline of flexible payment options for the payment of energy bills by hardship customers; and
- outline of a range of programmes that the retailer may use to assist hardship customers.

Under the National Energy Retail Rules, retailers are required to waive late payment fees for small customers who are hardship customers.⁵⁵

Additionally, in 2022, the Australian Energy Market Commission (AEMC) introduced new rules under the NERR to protect customers’ physical safety by safeguarding their identities and

⁵³ [Secondary network providers must join the Energy Complaints Scheme](#)

⁵⁴ [National Energy Retail Rules \(r. 71\)](#)

⁵⁵ [National Energy Retail Rules \(r. 73\)](#)



locations, as well as helping with the financial challenges that frequently arise after leaving a violent household.⁵⁶ The rule requires retailers to implement a Family Violence Policy and prioritise an affected customer's safety. The rule also requires that retailers take into account the impact and liability of other people before it takes action to recover arrears or sell electricity debt owed to a third party.

In 2022, the Australian Government announced the Energy Price Relief Plan (the Plan) to provide targeted energy bill assistance to consumers experiencing energy hardship.⁵⁷ The Plan placed a temporary price cap on the price of gas and coal and provided bill relief specific to states and territories.⁵⁸

The Victorian Essential Services Commission sets the Victoria Default Offer (VDO), which applies to standing offers that electricity retailers must provide service in certain circumstances (e.g., if a consumer moved into a new address and used electricity without entering into a contract).⁵⁹ While it may not be the lowest price available to consumers, it provides consumers access to a fair electricity deal when they are unable or unwilling to engage in the retail market.

The Australian Energy Regulator also sets the default market offer, which is similar to the VDO but applies to more jurisdictions.

European Union

The European Union (EU) requires member states to take appropriate measures to protect customers and ensure that there are adequate safeguards to protect vulnerable customers experiencing energy poverty.⁶⁰ While the EU legislation does not prescribe specific protections, it includes possible safeguards, including price setting interventions, providing benefits by means of their social security systems, and the prohibition of disconnection of electricity to such customers in critical times.

Germany

In November 2022, the German Government implemented a temporary cap on electricity, gas and heating prices for a proportion of consumption.⁶¹ From March 2023 to April 2024, electricity prices for residential consumers and small businesses will be capped at a gross price of 40¢/kWh. This applies to 80% of forecast consumption.

⁵⁶ [National Energy Retail Amendment \(Protecting Customers Affected by Family Violence\) Rule 2022](#)

⁵⁷ [Treasury Laws Amendment \(Energy Price Relief Plan\) Act 2022](#)

⁵⁸ [Energy Bill Relief Fund](#)

⁵⁹ [Victoria Default Offer 2023-24: Final Decision Paper](#)

⁶⁰ [Directive \(EU\) 2019/944 - on common rules for the internal market for electricity \(A. 28\)](#)

⁶¹ [Federal cabinet adopts brake on gas and electricity prices – important relief for consumers and businesses](#)

Norway

In 2022, in response to the increasing gas and electricity prices in Europe, the Norwegian Government introduced a subsidy to pay for 80% of the portion of power bills above prices of 0.70 crowns/KWh, up from 55% in the regime introduced in 2021.⁶²

Ontario (Canada)

In Ontario, consumers can be supplied by a ‘utility’ or ‘energy retailer.’ The Ontario Energy Board (OEB) regulates the electricity rates for utilities but not energy retailers. The OEB sets three different types of electricity rates (time-of-use, ultra-low-overnight, and tiered) that utilities must charge.⁶³ For customers who have signed up with an energy retailer, the price is set out in the contract. Fewer than 1 in 10 customers in Ontario buy their electricity from an electricity retailer.⁶⁴

The Ontario Electricity Support Program reduces electricity bills by providing eligible low-income customers with a monthly on-bill credit generally ranging from CAD\$35 to \$75, depending on household income and size, to reduce bills.⁶⁵

Through the Low-income Energy Assistance Program, eligible low-income customers who are in arrears may receive a one-time grant towards their electricity and gas bills, up to an annual maximum of CAD\$500 (up to CAD\$600 for homes that are electrically heated).⁶⁶

United Kingdom

Ofgem sets a maximum price that energy suppliers can charge consumers for each kWh of energy they use.⁶⁷ From 1 July 2023, the energy price cap will be set at £0.30 per kWh with a maximum £0.53 daily standing charge.⁶⁸

As part of their electricity supply licences, energy suppliers are required to provide the energy regulator with information on their performance in relation to their social obligations, including debt levels, disconnection rates, prepayment meters, smart meters, payment methods used by customers and help for vulnerable customers.⁶⁹ If a customer is having difficulty making payment, the supplier must make proactive contact with the customer and set repayment rates based on the customer’s ability to pay.

The Energy Bills Support Scheme (EBSS) provided temporary cost of living assistance for consumers from October 2022 to March 2023. The EBSS provided domestic consumers with

62 [Norway to further raise household electricity subsidy](#)
63 [Standard Supply Service Code for Electricity Distributors \(s. 3\)](#)
64 [Electricity rates](#)
65 [Distribution System Code \(s. 9\)](#)
66 [Low-income Energy Assistance Program](#)
67 [Domestic Gas and Electricity \(Tariff Cap\) Act 2018](#)
68 [Energy price cap explained](#)
69 [Standard conditions of electricity supply standards \(s. 32\)](#)



£400 of support, delivered by electricity suppliers over six months.⁷⁰ This is in addition to an annual £150 discount on electricity bills offered under the Warm Home Discount Scheme.⁷¹

Financial support is also provided through the Winter Fuel Payment (between £250 and £600 to help pay heating bills) and through the Cold Weather Payment.⁷²

Options to improve protections for people in energy hardship

As signalled previously, mandating the minimum standards in the Guidelines would go a long way to improve protections for people in energy hardship. To strengthen the standards, the following protections used in other jurisdictions could also be considered for inclusion:

- Require retailers to publish and implement a Family Violence Policy.
- Require retailers to waive certain fees (e.g., non-payment fees, disconnection fees, reconnection fees) for hardship customers.

Stakeholders that deal directly with consumers felt that existing support mechanisms do not go far enough to support the most vulnerable consumers, particularly superannuitants, low-income households, the unemployed, and consumers with mental health issues. They echoed the recommendation by the Electricity Price Review to offer extra financial support to alleviate the effects of energy hardship.

Finally, we considered the option to set a maximum price cap for each kilowatt hour of energy charged to consumers. As outlined above, many overseas jurisdictions have set permanent or temporary price caps, including Victoria (Australia), Germany, Ontario (Canada), and the UK. A price cap can help protect consumers from excessive electricity prices, ensuring they have access to affordable energy. The Electricity Price Review also considered a retail price cap but favoured other options. It highlighted the difficulty in implementing a price cap and the risks of retailer exit, market distortion, and stifling innovation.

⁷⁰ [Energy Bills Support Scheme: Guidance for Electricity Suppliers](#)

⁷¹ [Warm Home Discount Scheme](#)

⁷² See [Winter Fuel Payment](#)

Disconnection and reconnection



New Zealand approach to disconnections and reconnections

The Guidelines include a specific section relating to disconnections and reconnections of energy services, and several clauses that make recommendations for best practice in these circumstances.⁷³ In addition, the Authority outlines retailers' obligations to consumers with regard to minimum information requirements for inclusion in the terms and conditions of their consumer contracts.⁷⁴

Gaps in protections for disconnections and reconnections

Consumers do not have the fundamental right to electricity

Electricity is widely considered an essential service. This sentiment was endorsed by many of the stakeholders interviewed for this report. However, people in energy hardship can struggle with access to and choice of electricity retailer.

The Consumer Guarantees Act 1993 provides a specific guarantee of acceptable quality for the supply of electricity and piped gas, supplied by a retailer.⁷⁵ However, consumers in New Zealand do not have the fundamental right to an electricity connection and supply.

The Energy Hardship Expert Panel (the Panel), appointed by the government to recommend actions to alleviate energy hardship, talked to a range of key stakeholders as part of its work, including iwi/Māori, public interest groups, consumer advocates, academics, industry participants, electricity retailers, and regulators.⁷⁶ The Panel's March 2023 discussion paper stated:

"The resounding message from all groups and people the Panel engaged with, including Māori and Pacific peoples, is that access to energy is a basic necessity and should be available to all whānau, regardless of their income or location."

Consumers can be denied a contract by all retailers

Under the Guidelines, retailers may deny a contract with a consumer based on location and suitability of the customer's premises for the retailer to provide the service, or concerns over poor credit history and current financial circumstances affecting the customer's ability to pay for services.⁷⁷

⁷³ [Consumer Care Guidelines \(P. 7\)](#)

⁷⁴ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)

⁷⁵ [Consumer Guarantees Act 1993 \(s. 7A\)](#)

⁷⁶ [Te Kore, Te Pō, Te Ao Marama Energy Hardship: The challenges and a way forward](#)

⁷⁷ [Consumer Care Guidelines \(P. 4\)](#)

If a retailer decides not to enter into a contract with a person, the Guidelines recommend the retailer:

- provides the consumer with the reason the retailer has decided not to enter a customer contract with the person;
- informs the consumer about any actions they could take to address the retailer's concerns;
- informs the consumer about alternative options on the market that may better suit the person's circumstances than those offered by the retailer; and
- directs the customer to a pricing plan comparison website (e.g., Powerswitch).

The Panel reported that stories of individuals, households, and whānau going without any energy source have “not been uncommon over the past decade”.⁷⁸ While social retailers have emerged, the Panel reported they face barriers associated with absorbing the elevated costs involved in offering tailored services and reaching the scale required to accept all customers.

It considered four options to promote and facilitate social retailing:

- support for accredited social retailers (e.g., through an industry fund, wholesale generation social contract (hedge) obligations, or government funding)
- government contracts for one or more retailer to act as a social retailer.
- government support for a community/regional integrated social generator-retailer
- government support for a nationwide integrated social generator-retailer.

Its final report and recommendations are yet to be published, although they have been delivered to the government.

Retailers are not required to follow a standard process before disconnecting consumers for non-payment

The Guidelines recommend retailers follow a set process before disconnecting a consumer for non-payment.⁷⁹ They state retailers should:

- ensure that disconnection for non-payment of one or more electricity invoices is only used as a last resort measure;
- follow the process to assist a customer who is having payment difficulties;
- contact customers at least five times, three of which must be through the customer's preferred communication channel;
- issue the customer with a final disconnection notice at least 44 days after the invoice was issued;

⁷⁸ [Te Kore, Te Pō, Te Ao Marama Energy Hardship: The challenges and a way forward](#)
⁷⁹ [Consumer Care Guidelines \(P. 6\)](#)



- ensure the final disconnection notice is issued not less than 24 hours or more than 10 days before remote disconnection; and
- include certain information in the final disconnection notice (such as payment options, and contact details for Work and Income).

The Guidelines also recommend that retailers do not disconnect a premise in certain circumstances (such as a premise with an MDC).

Without mandatory requirements, retailers may have varying interpretations of acceptable minimum standards of conduct. As a result, consumers may be disconnected before they explore all alternative options for repayments.

Retailers can disconnect consumers during the winter/extreme weather

Under the Guidelines, there are certain times when it is recommended that retailers avoid carrying out the disconnection of a service, including times that sudden and unexpected disconnection would endanger the wellbeing of the customer or any consumer at the premises (e.g., just before nightfall, or during severe weather events), and when it would not be easy for customers to seek rapid reconnection (e.g., at night, after midday on the day before a weekend or public holiday, during a public holiday, or during severe weather events or emergency situations).⁸⁰ However, these are not mandatory.

Disconnecting electricity during severe weather events poses significant risks, particularly when it comes to heating and cooling the home and boiling water for safe drinking. Severe weather conditions such as storms, cold snaps, or heatwaves can have a detrimental impact on the wellbeing and safety of individuals, especially vulnerable populations such as the elderly, young children, or those with health conditions. Without electricity, the ability to heat the home becomes compromised, exposing individuals to extremely cold temperatures in winter or excessive heat in summer. This can lead to hypothermia, heat-related illnesses, or exacerbation of existing health conditions. Additionally, access to hot water for cooking and sanitisation becomes limited, increasing the risk of foodborne illnesses and inadequate hygiene practices.

Retailers are not required to reconnect a customer after payment within a minimum timeframe

Once a customer has been disconnected for non-payment, there is no obligation on retailers to reconnect their service. The Guidelines recommend that if a retailer disconnects a premise, it should reconnect the premise as soon as possible where the disconnection was inadvertent, or there is an MDC living at the premise.⁸¹

The Guidelines recommend that retailers reconnect a consumer on a post-pay service “as soon as reasonably practicable” after the consumer has paid their invoice. For prepayment services that have been disconnected, the Guidelines suggest that retailers should ensure

⁸⁰ [Consumer Care Guidelines \(P. 7\)](#)

⁸¹ [Consumer Care Guidelines \(P. 7\)](#)



that reconnection occurs as soon as reasonably practicable, but no more than 30 minutes after the customer has purchased credit to top-up their prepay meter.

Without mandatory requirements, retailers may have varying interpretations of acceptable minimum standards of conduct for reconnections. Consumers may face prolonged disruption of electricity, impacting their daily lives, comfort, and wellbeing. This may lead to additional expenses, such as purchasing alternative energy sources or relying on temporary accommodation, which can strain already limited financial resources.

Customers with bundled services (e.g., internet and electricity) may be disconnected due to missed payments for non-electricity utilities

Bundled services like electricity and internet are typically provided by the same company. While bundling services may offer convenience and potential cost savings for consumers, they also mean a debt related to one service can affect the other. Disconnecting electricity for unrelated debt fails to distinguish between the individual services and can lead to adverse consequences.

Disconnecting electricity for non-payment of a non-essential service can be seen as an excessive measure, especially if there are alternative ways to address the debt. Electricity is considered an essential service, as it is crucial for basic daily activities such as heating, cooling, and cooking.

The Guidelines recommend a retailer should not disconnect a post-pay customer's electricity supply where the debt does not relate to electricity supply or where there is a dispute on the amount owed.⁸² Similarly, Utilities Disputes says a retailer should not disconnect a customer's electricity when the debt does not relate to energy supply (e.g., it relates to unpaid broadband services).⁸³

International approaches to disconnections and reconnection

Australia

Under Australia's National Energy Retail Rules, retailers must give effect to the general principle that disconnection of the premises of a hardship customer due to the inability to pay is a last resort option. A retailer may only disconnect a customer after it has:

- sent the customer a reminder notice;
- sent the customer a disconnection warning notice; and

⁸² [Consumer Care Guidelines, paras 66\(f\) and 66\(g\)](#)
⁸³ [Disconnections](#)



- used its best endeavours to contact the customer in connection with the failure to pay, or to agree to the offer or to adhere to the payment plan or instalment arrangement.⁸⁴

Retailers must not disconnect a premise where the customer is a hardship customer or a residential customer on a payment plan, unless the retailer has offered the customer two payment plans in the previous 12 months and the customer has rejected them or the customer has not maintained payments on the payment plan.

Retailers must not disconnect a premise where:

- the premise is registered as having life support equipment;
- the customer has made a complaint to the retailer or energy ombudsman related to the disconnection and the complaint is unresolved;
- the customer has failed to pay an amount on a bill that relates to goods and services other than for the sale of energy;
- the customer informs the retailer, or the retailer is otherwise aware, that the customer has formally applied for assistance;
- the customer is a hardship customer or residential customer and is adhering to a payment plan;
- the amount outstanding is less than an amount approved by the Australian Energy Regulator and the customer has agreed with the retailer to repay that amount; or
- the disconnection would occur during an extreme weather event.⁸⁵

Retailers must provide to hardship customers, or other residential customers experiencing payment difficulties, information about the availability of government-funded energy rebates, concessions, or relief schemes.⁸⁶ Retailers must offer and apply payment plans for hardship customers and customers experiencing payment difficulties.

Once a customer (hardship customer or residential customer) informs the retailer that the customer is experiencing payment difficulties, a retailer must not disconnect the customer's premises for not paying the bill.⁸⁷

European Union

The EU requires member states to take appropriate measures to protect customers experiencing energy hardship including through the prohibition of disconnection of electricity to such customers in critical times.⁸⁸ The EU also requires member states to provide customers with adequate information on alternative measures to disconnection sufficiently in advance of any planned disconnection (this may include sources of support to avoid disconnection, prepayment systems, energy audits, energy consultancy services, alternative

⁸⁴ [National Energy Retail Rules, \(P. 6\). The rules govern the sale and supply of energy in New South Wales, Queensland, South Australia, Tasmania and the Australian Capital Territory.](#)

⁸⁵ [National Energy Retail Rules, \(P. 6\)](#)

⁸⁶ [National Energy Retail Rules, \(r. 33\)](#)

⁸⁷ [National Energy Retail Rules, \(r. 111\)](#)

⁸⁸ [Directive \(EU\) 2019/944 - on common rules for the internal market for electricity \(A. 28\)](#)



payment plans, debt management advice) at no extra cost to the customers facing disconnection.

In March 2023, the EU proposed to reform the EU's electricity market, including consumer protections. The reform includes the proposal that member states ensure that vulnerable customers are protected from electricity disconnections and should, as well, not be put in a position that forces them to disconnect.⁸⁹

Norway

In Norway, electricity providers cannot disconnect a consumer if there is a danger to life, health, or significant damage to property.⁹⁰

Ontario (Canada)

Under the Distribution System Code, electricity providers are required to follow a specific process before disconnecting customers and are required to suspend disconnection in certain circumstances.⁹¹

Electricity providers are required to establish a process for disconnection and reconnection that specifies timing and means of notification. Before disconnecting a customer, an electricity provider must give them an account overdue notice at least seven days before issuing a notice of disconnection. The provider must then provide a customer with 14 days' notice before disconnecting them. The disconnection notice must include information about additional assistance that may be available to low-income customers and where the customer can obtain further information about the additional assistance.

If the customer does not pay the amount owed, the provider must make reasonable efforts to contact the customer at least 48 hours prior to the scheduled date of disconnection and provide advice on avoiding disconnection.

If a customer is being assessed for eligibility to receive assistance through the Low-income Energy Assistance Program, the electricity provider must suspend disconnection for 21 days. Additionally, if a customer provides documents confirming that disconnection would pose a significant physical health risk to someone at the premises, the provider must suspend disconnection for 60 days.

If a low-income customer is disconnected, they do not have to pay a reconnection fee.

United Kingdom

In the UK, electricity suppliers have several obligations set out in their licences to afford protection to customers regarding debt and disconnection.⁹² As mentioned previously,

⁸⁹ [Proposal for a Regulation of the European Parliament and of the Council amending Regulations \(EU\) 2019/943 and \(EU\) 2019/942 as well as Directives \(EU\) 2018/2001 and \(EU\) 2019/944 to improve the Union's electricity market design \(A. 28a\)](#)

⁹⁰ [What do I do if the power goes out?](#)

⁹¹ [Distribution System Code \(s. 4.2\)](#)

⁹² [Standard conditions of electricity supply standards](#)



suppliers are prohibited from disconnecting a customer during the winter months if the occupants include a person who is elderly, disabled, or chronically ill. The supplier must not disconnect a premise unless it has taken all reasonable steps to recover the charges.

Once a customer has paid all the charges, the supplier must reconnect the customer within 24 hours - or within 24 hours of the start of the next working day if they make payment out of working hours. If the supplier doesn't reconnect them within 24 hours, it must pay the customer £30 compensation. It must do this within 10 working days.⁹³

Options to improve protections for disconnections and reconnections

As signalled previously, mandating the minimum standards in the Guidelines would go a long way to reduce the risks of disconnection. Mandatory minimum standards would prioritise consumer safety and wellbeing, ensure consumers are treated fairly, and maintain a transparent and consistent disconnection process.

To strengthen the standards, the following protections could also be considered for inclusion:

- Require retailers to reconnect a customer within a specified timeframe of paying all charges.
- Prohibit disconnection of vulnerable consumers.
- Strengthen wording of the Guidelines to specifically prohibit disconnection during extreme weather events and national regional emergencies.
- Introduce penalties for retailers for failure to comply with their obligations. Penalties could be set at a level similar to that in Australia.⁹⁴

⁹³ [If you've been told your energy supply will be disconnected](#)

⁹⁴ [Te Kore, Te Pō, Te Ao Marama Energy Hardship: The challenges and a way forward \(AC5\)](#)

Prepayment services



New Zealand approach to consumers on prepayment services

Prepayment services involve a form of payment where the meter is credited in advance of electricity being used. There are potential advantages to using prepayment metering, such as an increased ability to monitor and reduce consumption, manage electricity budget, and avoid debt.

However, prepayment services often involve higher transaction costs and increased pressure on households experiencing financial hardship. Prepay customers may also be required to pay back previous debt; each time they top-up their meter, a proportion of the payment may be allocated to debt repayment.

For retailers, prepay provides the benefit of payment in advance and no debt collection costs.

In addition to the specific recommendations for MDCs, the Guidelines recommend that retailers:

- advise new customers on prepay services how to purchase additional or emergency credit for the prepayment service;
- provide at least 24 hours' notice to the customer of any low credit balance;
- monitor the frequency and duration of disconnections for customers with a prepayment service; and
- liaise with customers whose usage is abnormally low/high or whose prepayment service runs out of credit frequently.

The Guidelines recommend that retailers only allow a customer's prepay meter to auto-disconnect when:

- it does not endanger the wellbeing of anyone at the premises;
- it would be reasonably easy for the customer to seek rapid reconnection;
- the debt relates to the supply of electricity or the provision of distribution services; and
- the customer has not disputed the charges.

As mentioned above, the Guidelines also recommend that retailers ensure that reconnection of a prepayment service occurs no more than 30 minutes after the customer has purchased credit, unless reconnection fails due to connectivity issues, or the meter owner has system issues.

Gaps in protections for consumers on prepayment services

There is no oversight of people experiencing payment difficulty on prepay services

There is no collection of information on the number of households auto-disconnecting or on the consumer experience of using prepayment meters in New Zealand. Evidence suggests that consumers on prepayment services are more likely to experience high rates of fuel poverty.⁹⁵

There is currently no mandated or external oversight of prepay customers experiencing payment difficulties, which weakens the available protections for these customers. Some stakeholders noted the lack of information about consumers on prepay services was a significant gap preventing the Authority and MBIE from developing targeted policies to assist consumers in energy hardship.

The Guidelines recommend that retailers disclose certain information to the Authority to enable the Authority to assess retailers' alignment with the guidelines' recommendations and intended outcomes.⁹⁶ The Authority confirmed that it does not collect information on people experiencing payment difficulty on prepay services (e.g., number of auto-disconnections, length of disconnections etc). The Authority does collect and report on the number of disconnections due to non-payment, but auto-disconnection of a prepayment service is not considered a disconnection for non-payment.⁹⁷

While the Authority does not collect information about the number of consumers on a prepay service, Globug (the main prepay retailer) and Wise Prepay collectively provide power to 24,863 consumers.⁹⁸ While official disconnection statistics show disconnections are reducing, the exclusion of automatic disconnections by prepay consumers provides a skewed picture of the real rate of disconnections. It is important statistics on the real rate of disconnections are available as international evidence suggests prepayment services are often used by low-income consumers with electricity debt or consumers who have difficulty budgeting.⁹⁹

⁹⁵ [Empowered? Examining self-disconnection in a postal survey of electricity prepayment meter consumers in New Zealand](#)

⁹⁶ [Consumer Care Guidelines \(P. 10\)](#)

⁹⁷ [Consumer Care Guidelines \(P. 7\)](#)

⁹⁸ [Metering Snapshot](#)

⁹⁹ [Empowered? Examining self-disconnection in a postal survey of electricity prepayment meter consumers in New Zealand](#)

Retailers are not required to contact prepay customers whose usage is abnormally low/high or whose prepayment service runs out of credit frequently or for long durations

The Guidelines recommend that retailers should monitor and engage with customers on prepay services whose usage is abnormally low/high or whose prepayment service runs out of credit frequently or for relatively long durations.¹⁰⁰

The Guidelines recommend that retailers monitor the frequency of disconnections for customers using prepayment. As mentioned, there is also very little oversight of people experiencing payment difficulty on prepay services.

The Guidelines recommend that retailers should liaise with customers whose usage is abnormally low/high or whose prepayment service runs out of credit frequently (e.g., on average one day in seven) or for relatively long durations (e.g., for several days). The Guidelines recommend, as part of this communication, retailers discuss ways to avoid disconnection such as energy efficiency and budgeting or refer the customer to a support or social agency that can assist with maintaining credit.

Retailers are not required to provide prepay customers with emergency credit

There is no requirement for retailers to provide emergency credit. The Guidelines recommend that retailers advise customers using prepay services how to purchase additional or emergency credit for the prepayment service.¹⁰¹

International approaches to consumers on prepayment services

Australia

Prepay is relatively rare in many Australian states. However, it's understood to be common in many Aboriginal and Torres Strait Islander communities in remote Australia (including in north-west Western Australia, off-grid parts of Queensland and the remote Northern Territory).¹⁰²

A retailer must set out in a prepayment meter market retail contract with a small customer all tariffs and charges payable by the customer.¹⁰³

¹⁰⁰ [Consumer Care Guidelines \(P. 6\)](#)

¹⁰¹ [Consumer Care Guidelines \(p. 4\)](#)

¹⁰² See [Disconnected during disruption: Energy insecurity of Indigenous Australian prepay customers during the COVID-19 pandemic](#) and [Prepayment Meter System Code Review – Issues paper](#)

¹⁰³ [National Energy Retail Rules \(r. 143\)](#)

A retailer must provide the Australian Energy Regulator with a statement of its methodology for determining the average cost of energy supply for prepayment meter systems within 10 days of being required to do so by notice from the AER.¹⁰⁴

A small customer who enters a prepayment meter market retail contract with a retailer has the right to withdraw from the contract at or before the end of the trial period (minimum three months) with no penalty, exit or termination charges, or meter removal or conversion charges.¹⁰⁵

The prepayment meter system must provide an amount of emergency credit not less than a level equivalent to the average cost of three days of electricity or gas supply (as applicable) to within \$1, or another amount as is approved by the AER.¹⁰⁶

Where a small customer owes a debt to a retailer, the retailer must not recover any repayments of the debt under a prepayment meter market retail contract or under any other contract or agreement that adjusts the charges in the prepayment meter system to recover the amount of the debt.¹⁰⁷

If a consumer with a prepayment meter is experiencing payment difficulties or the retailer identifies that they have auto-disconnected three times in three months or for longer than four hours, the retailer must:

- offer a standard meter and provide information to help them; and
- provide information about alternative options, its customer hardship policy, and government-funded relief schemes.¹⁰⁸

The prepayment meter system must not disconnect supply to the small customer as a result of a self-disconnection, otherwise than between the hours of 10am and 3pm on a weekday.¹⁰⁹

European Union

Member states of the EU are required to ensure that household customers who have access to prepayment systems are not placed at a disadvantage by the prepayment systems.¹¹⁰

United Kingdom

In 2021, Ofgem introduced new licence requirements for electricity suppliers to identify prepayment meter customers who are automatically disconnected and offer short-term support through emergency credit and friendly-hours credit (credit applied if emergency credit

¹⁰⁴ [National Energy Retail Rules \(r. 129\)](#)

¹⁰⁵ [National Energy Retail Rules \(r. 130\)](#)

¹⁰⁶ [National Energy Retail Rules \(r. 129\)](#)

¹⁰⁷ [National Energy Retail Rules \(r. 133\)](#)

¹⁰⁸ [National Energy Retail Rules \(r. 141\)](#)

¹⁰⁹ [National Energy Retail Rules \(r. 129\)](#)

¹¹⁰ [Directive \(EU\) 2019/944 - on common rules for the internal market for electricity \(A. 10\)](#)



runs out between 8pm and 8am) as well as to offer additional support credit to consumers on prepayment services in vulnerable situations who have auto-disconnected or self-rationed.¹¹¹

In 2017, the Competition and Markets Authority (CMA) implemented a temporary cap on the amount suppliers can charge prepayment customers from 2017 to 2020.¹¹² The price cap methodology determines the cap for 14 regions in the UK. In 2019, the CMA reviewed the temporary price cap and adopted an adjusted version of the methodology used for Ofgem's default tariff price cap.¹¹³ It also recommended Ofgem extend protection to prepayment customers beyond the end of 2020.

Options to improve protections for consumers on prepayment services

As signalled previously, mandating the minimum standards in the Guidelines would help support consumers on prepayment services to maintain uninterrupted electricity supply and avoid disconnection.

To strengthen the standards, the following protections used in other jurisdictions could also be considered for inclusion:

- Require retailers to report information about customers on prepayment services to the Electricity Authority.
- Require retailers to provide the Electricity Authority with the methodology for determining the average cost of energy supply for prepayment meter systems.
- Establish a right for residential and small business customers to withdraw from a prepayment service contract at or before the end of a trial period.
- Require retailers to offer customers a standard meter if they experience payment difficulties or are automatically disconnecting multiple times.
- Prohibit retailers from allowing prepay meters from auto-disconnecting outside certain hours on a weekday.
- Require retailers to contact a prepay customer before allowing the prepay meter to auto-disconnect.
- Prohibit retailers from recovering debt through a prepayment plans.
- Require retailers to ensure prepay customers are not disadvantaged, compared with post-pay customers, by tariffs and fees.

¹¹¹ [Self-disconnection and self-rationing: decision](#)

¹¹² [The Energy Market Investigation \(Prepayment Charge Restriction\) Order 2016](#)

¹¹³ [Review of the Energy Market Investigation \(Prepayment Charge Restriction\) Order 2016](#)



- Require retailers to provide emergency credit on every prepayment meter for three days of electricity.

The option to require retailers to offer customers a standard meter if they experience payment difficulties is based on the same requirement in Australia. This would help alleviate the financial burden associated with prepayment meters but could inadvertently incentivise retailers to implement more restrictive criteria for accepting prepayment customers.

Fees and bonds



New Zealand protections for fees and bonds

The Authority provides guidance to retailers concerning fees and bonds both in the Guidelines¹¹⁴ and the guidelines for domestic consumer contracts.¹¹⁵

Additionally, retailers are required to comply with general consumer protection laws:

- The Commerce Act 1986 prohibits restrictive trade practices, such as price-fixing, collusion, and abuse of market power.¹¹⁶
- The Fair Trading Act 1986 prohibits false representations, misleading advertising, and unfair contract terms.¹¹⁷

Following a breach of the Acts, the Commerce Commission may bring civil proceedings for a penalty, compensation, declaration, or other remedy, and is empowered to bring criminal prosecution under specific sections of the Acts.¹¹⁸ Penalties include:

- Requirement to disclose publicly that a person has breached the misleading and deceptive conduct rules in the Fair Trading Act.¹¹⁹
- A fine of \$200,000 for an individual and \$600,000 for a body corporate for breaching the misleading and deceptive conduct rules in the Fair Trading Act.¹²⁰
- A pecuniary penalty of \$500,000 for an individual and \$10 million (or, if greater, three times the value of any commercial gain or 10% of the company's turnover) for any other case for breaching restrictive trade practice laws under the Commerce Act.¹²¹

Gaps in protections for fees and bonds

There are no maximum fee limits that retailers can charge consumers

Most energy retailers charge a range of fees, including fees for disconnection and reconnection, late payment, dishonoured payment, failing to meet a payment arrangement, and paper billing. Additionally, consumers on prepay services may be charged fees for account balance notifications, account balance requests, balance alert texts, credit refunds, account statements, replacement top up cards, and topping up their credit.

The Guidelines recommend retailers ensure all fees and conditional discounts are reasonable and that fees set via a method or calculation include a stated maximum limit.¹²² The guidelines for domestic consumer contracts recommend that a consumer contract should provide details

¹¹⁴ [Consumer Care Guidelines \(P. 9\)](#)

¹¹⁵ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)

¹¹⁶ [Commerce Act 1986 \(P. 2\)](#)

¹¹⁷ [Fair Trading Act 1986 \(P. 1 & 2\)](#)

¹¹⁸ [Criminal Prosecution Guidelines](#)

¹¹⁹ [Fair Trading Act 1986 \(s.42\)](#)

¹²⁰ [Fair Trading Act 1986 \(s.40\)](#)

¹²¹ [Commerce Act 1986 \(s. 80\)](#)

¹²² [Consumer Care Guidelines \(P. 9\)](#)



of any fees the retailer may charge and the circumstances in which the consumer may incur these fees.¹²³ They do not recommend maximum fee limits.

A stakeholder who works with financial mentors reported consumers can be charged vastly different fees for the same service. Extra fees charged to prepay customers may also have a significant effect on low-income households, who often face barriers to switching to standard price plans. In the absence of regulations, retailers may take advantage of a captured market and impose excessive fees. For example, an investigation into the United Kingdom energy market found that savings available to customers on prepayment meters were substantially lower than those available to other customers, due to weak competition incentives and financial barriers to customers switching retailers.¹²⁴

Retailers are not required to inform customers of conditional discounts and how they can receive them

Some retailers offer ‘time conditional’ and ‘time of use’ power plans to post-pay customers (these discounts are typically not available to those on prepay). Under these plans, the price of electricity changes depending on the time of the day it is used.

Additionally, some consumers may receive ‘prompt payment discounts’ if they pay their bills on time (these ‘discounts’ have gradually been removed from the market since the Electricity Price Review criticised them as late payment fees in disguise).

The Guidelines recommend that retailers ensure customers are aware of the amount of any conditional discount and how a customer can receive that conditional discount.¹²⁵ The guidelines for domestic consumer contracts recommend that retailers ensure consumers know or are able to find out about costs that they may be liable for before incurring them.¹²⁶

Transparent and accessible information regarding conditional discounts is crucial for empowering consumers to make informed choices about their energy usage, optimise their electricity costs, and support efficient grid management. Without mandatory requirements, retailers may not inform customers about conditional discounts. Customers may miss out on potential cost savings or incentives for shifting their electricity usage to off-peak hours.

Furthermore, the absence of clear communication about these plans may limit competition among retailers, as customers may be less inclined to switch providers or explore alternative pricing structures.

Retailers are not required to allow customers to spread payment for a large fee

Faced with a large fee, households facing financial constraints or unexpected expenses may find it difficult to pay in a single lump sum. The Guidelines recommend that, except for a final

¹²³ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)

¹²⁴ [Energy market investigation: Final report](#)

¹²⁵ [Consumer Care Guidelines \(P. 9\)](#)

¹²⁶ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)



invoice, retailers allow customers to spread a fee over a period of at least five months if it is over 20% of the customer's average monthly cost during the past 12 months.¹²⁷

Without the option to spread the payment over time, consumers may find it difficult to manage their finances and continue to pay their power bills. This can lead to financial stress, arrears, and disconnection. The requirement to pay a large fee in a single lump payment disproportionately impacts vulnerable and low-income households and could push them further into energy poverty.

Retailers are not required to set bonds at a level that is reasonable considering a customer's expected invoice amount for a billing cycle

Retailers may require consumers with bad credit to pay a bond. The Guidelines recommend that retailers set bonds at a level that is reasonable taking into account a customer's expected invoice amount for a billing cycle.¹²⁸

The purpose of a bond is to provide a form of security for the retailer, ensuring that customers fulfil their payment obligations. However, high bonds can lead to financial hardship and unnecessary burden. High bonds can create barriers to entry making it difficult for consumers, particularly low-income households, to establish or maintain electricity services. This can result in exclusion and exacerbate energy poverty and inequality.

Additionally, excessive bond requirements may discourage competition among retailers, as customers may not be able to switch providers due to the financial constraints imposed by high bonds.

Retailers are not required to refund a bond after 12 months of the customer paying all invoices on time

The Guidelines recommend that retailers refund a customer bond after 12 months of the customer paying all invoices on time.¹²⁹ The guidelines for domestic consumer contracts recommend retailers provide reasons to the consumer if a bond is kept for more than 12 months.¹³⁰

Security deposits are typically collected by retailers as a form of guarantee against potential non-payment or default. However, holding onto security deposits after a consumer has demonstrated a consistent payment record can cause financial strain, especially for those living on tight budgets. It can prevent customers from utilising the refunded deposit for other essential expenses or investing in energy-efficient appliances.

¹²⁷ [Consumer Care Guidelines \(P. 9\)](#)

¹²⁸ [Consumer Care Guidelines \(P. 9\)](#)

¹²⁹ [Consumer Care Guidelines \(P. 9\)](#)

¹³⁰ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)



There is no time limit for retailers back billing customers

A back bill, or catch-up bill, is for energy used by a consumer that was not included on past bills. The Guidelines do not make specific recommendations related to back billing and there is no time limit on back billing.

The contracting principles and minimum terms guidelines state that a contract should:

- Provide that the consumer is liable, from the date the contract commences, for the charges for all the products and services provided to the consumer.
- Provide that the retailer may invoice the consumer for any underpayments, but only to the extent reasonable, taking into account whether the retailer or the consumer contributed to the error or could reasonably have been expected to know of the error.¹³¹

The lack of a time constraint on back bills can create uncertainty and financial strain for consumers. Customers may suddenly receive large, unexpected bills for energy usage from previous periods, making it difficult to budget and manage their expenses. Such situations can lead to financial hardship, especially for vulnerable and low-income households.

Utilities Disputes has received complaints from consumers receiving back bills for thousands of dollars.¹³² For example, in October 2016, a small business received a bill for \$18,481.27.¹³³ The retailer offered to discount the bill to \$13,554.80 and later offered to discount the back bill by 50%. Utilities Disputes reduced the back bill to \$6,234.35.

International approaches to fees and bonds protections

Australia

Australia has a number of requirements for retailers charging fees and bonds. A retailer may only charge a fee that does not exceed a reasonable estimate of the costs incurred by the retailer.¹³⁴ Similarly, a retailer can only provide a conditional discount (a price reduction tied to the timing or method of bill payment) that does not exceed a reasonable estimate of the costs incurred, or likely to be incurred, by the retailer resulting from the customer's failure to satisfy the relevant payment condition.¹³⁵

A retailer must waive a late payment fee for a small customer who is a hardship customer.¹³⁶

¹³¹ [Principles and Minimum Terms and Conditions for Domestic Contracts for Delivered Electricity](#)

¹³² [Electricity & Gas Complaints Commission case notes](#)

¹³³ [Utilities Disputes Case number 71536](#)

¹³⁴ [National Energy Retail Rules \(s. 52B\)](#)

¹³⁵ [National Energy Retail Rules \(s. 46C\)](#)

¹³⁶ [National Energy Retail Rules \(s. 73\)](#)



A retailer cannot require a residential customer to pay a bond if the customer is identified as a hardship customer by the retailer in relation to any premises.¹³⁷ Additionally, a retailer cannot require a bond unless it has offered a payment plan that the customer has either declined or cancelled.¹³⁸

A retailer must ensure that a bond is not greater than 37.5% of the customer's estimated bills over a 12-month period.¹³⁹ If a customer pays a bond, the retailer must pay interest to the customer.¹⁴⁰ If a consumer has paid a bond, the retailer must repay the bond with interest, within 10 business days after the customer completes one year's payment (in the case of a residential customer) or two years' payment (in the case of a business customer).¹⁴¹

In Australia, retailers may only back bill a customer for the previous nine months where the customer is not at fault.¹⁴² In Victoria, the Essential Services Commission set a four-month limit on back-billing where the customer is not at fault.¹⁴³

Ontario (Canada)

If an eligible low-income customer requests a waiver, they do not have to pay a security deposit.¹⁴⁴ Additionally, when a supplier issues a bill for a security deposit it must advise the customer that the security deposit requirement will be waived for an eligible low-income customer upon request.

If a consumer is being assessed as a low-income customer through the Low-income Energy Assistance Program, the provider must extend the due date for payment of the security deposit for at least 21 days.¹⁴⁵

United Kingdom

As part of their electricity supply licences, retailers must not charge a security deposit that exceeds a reasonable amount.¹⁴⁶ Ofgem guidance also states that in most cases a security deposit is not expected to exceed one-and-a-half times the value of the average quarterly consumption.¹⁴⁷

Electricity suppliers cannot back bill domestic and microbusiness consumers for energy consumed more than 12 months prior to the date of the bill (subject to certain exceptions such as a consumer acting in an obstructive way).¹⁴⁸

137 [National Energy Retail Rules \(s. 40\)](#)

138 [National Energy Retail Rules \(s. 40\)](#)

139 [National Energy Retail Rules \(s. 42\)](#)

140 [National Energy Retail Rules \(s. 43\)](#)

141 [National Energy Retail Rules \(s. 45\)](#)

142 [National Energy Retail Rules \(s. 30\)](#)

143 [Energy Retail Code of Practice \(s. 70\)](#)

144 [Distribution System Code \(s. 2.4.11\)](#)

145 [Distribution System Code \(s. 2.4.11.2\)](#)

146 [Standard conditions of electricity supply standards \(s. 27.4\)](#)

147 [Prepayment review: understanding supplier charging practices and barriers to switching](#)

148 [Standard conditions of electricity supply standards \(s. 21BA.1\)](#)

Options to improve protections for fees and bonds

As signalled previously, mandating the voluntary guidance in the Guidelines and the guidelines for domestic consumer contracts about transparency, minimum payment periods for large fees, reasonable bond levels, and timeframes for bond refunds would strengthen consumer protections around fees and bonds.

To improve the standards, the following protections used in other jurisdictions could also be considered for inclusion:

- Regulate fees that retailers can charge prepay consumers (e.g., top-up fees).
- Prohibit retailers from requiring a bond from an energy hardship customer. This would require a legislative definition of ‘hardship customer’.¹⁴⁹
- Require retailers to pay interest to a customer on a bond.
- Prohibit retailers from back billing customers for energy consumption prior to a specified period.

¹⁴⁹ For example, Australia defines a ‘hardship customer’ as ‘a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer’s customer hardship policy. ([National Energy Retail Law, P.1](#))

Consumer awareness



New Zealand approach to consumer awareness

As highlighted in the Review, “Those who shop around get good deals, while those who stay put miss out.”¹⁵⁰ There are certain types of consumers who may be at a particular disadvantage in this regard as they lack the knowledge (visibility of their own energy use), understanding (energy literacy), or means to seek out the best market offer. This may include for example: new migrants who have limited knowledge of the home heating advice in the local climate, those with limited technological skills and internet access to be able to access information and compare prices via the internet, and individuals who are time-poor (e.g., those working multiple jobs).

Under the Code, retailers must provide clear and prominent information on their websites and in their communications to inform consumers about Powerswitch and Utilities Disputes.¹⁵¹ A 2022 survey of residential consumers indicates that awareness and use of Powerswitch is improving.¹⁵²

Gaps in consumer awareness

Consumer awareness of Utilities Disputes is low

Utilities Disputes is an independent and free disputes resolution service that operates the approved Energy Complaints Scheme under the Electricity Industry Act 2010 and the Gas Act 1992. In 2020, in response to a recommendation in the Electricity Price Review, the Authority placed new requirements on retailers and distributors to provide clear and prominent information on their websites and in their communications to inform consumers about the dispute resolution scheme.

The Authority’s 2020/21 Annual Report noted that since 1 April 2021, there had been a significant increase in the number of cases received by Utilities Disputes (~90% increase from previous year), indicating greater consumer awareness. However, consumer awareness of Utilities Disputes remains low. A 2022 survey of residential consumers found that only 12% had heard of Utilities Disputes.¹⁵³ Additionally, research commissioned by the Council found that only 10% of respondents would contact Utilities Disputes to resolve a complaint they had with their electricity provider.¹⁵⁴ More respondents did not know who they would contact (26%) or would contact the Authority (18%), the Citizens Advice Bureau (17%), Consumer Affairs (15%), or the Commerce Commission (11%).

¹⁵⁰ [Electricity Price Review: Final Report](#)

¹⁵¹ [Electricity Industry Participation Code 2010 \(s. 11.30A\)](#)

¹⁵² [Electricity Authority survey of residential electricity consumer perceptions 2021/22](#)

¹⁵³ [Electricity Authority survey of residential electricity consumer perceptions 2021/22](#)

¹⁵⁴ [Electricity consumer sentiment survey – residential consumers and small businesses \(Kantar Public report\)](#)



Powerswitch excludes retailers that refuse to pay the switching fee

Powerswitch is a free energy price comparison run by Consumer NZ. It performs an important role in helping consumers compare retail power prices.

The Authority has provided \$1.2 million annual funding for the site. This has risen to just under \$1.4 million from 1 July 2023.¹⁵⁵ The Gas Industry Company and MBIE also provide contributions. In addition, retailers are charged a \$61 fee if a customer switches to one of their plans through the site. Consumer NZ's 2022 financial report lists Powerswitch revenue of \$2 million for the year to 31 December 2022.¹⁵⁶

While Powerswitch is intended to be a single source of power plans for consumers, it does not list plans from retailers unwilling to pay the \$61 switch fee. Excluding some retailers from the comparison website impairs consumers' ability to hunt out better deals. Five submissions on the current funding model for Powerswitch were made in response to the Authority's consultation on the 2022/23 and 2023/24 levy-funded appropriations. Views were mixed, though several supported a review of funding arrangements.

Information on Powerswitch is incomplete

In 2018, the Review recommended that the Authority and Consumer NZ merge their price comparison websites and add more functions and features to improve consumers' ability to find the best tariff.¹⁵⁷ In December 2019, the websites were merged into Powerswitch.¹⁵⁸

In response to the Review, the Government stated that merging the websites was an opportunity to develop additional features regarding other improvements recommended by the Review, such as access to historical consumption data and estimating the effect on a consumer's bill due to the installation of solar panels or batteries.¹⁵⁹

In response to the Authority's consultation on the 2022/23 and 2023/24 levy-funded appropriations, several submitters commented that Powerswitch does not provide a comprehensive model.¹⁶⁰ When the Authority extended the Powerswitch contract in 2023, it stated enhancements would need to be made to the website over the next two years.¹⁶¹

¹⁵⁵ [Powerswitch contract extended](#)

¹⁵⁶ [Consumer NZ 2022 Financial Report](#)

¹⁵⁷ [Electricity Price Review: Final Report](#)

¹⁵⁸ [Merging price comparison sites with Consumer NZ](#)

¹⁵⁹ [Electricity Price Review: Government Response to Final Report](#)

¹⁶⁰ [Funding proposals should have a clear focus on “consumer centricity” and “thriving competition”](#)

¹⁶¹ [Powerswitch contract extended](#)

Consumers face barriers to information and support

Many stakeholders that we engaged with (including government agencies) stated that consumers find it difficult to navigate the various sources of information about electricity, finding the best deal, consumer rights, and retailers' obligations. For example, if a consumer searches the internet for information about disconnections, they may be directed to the Authority, Consumer NZ, retailer websites, news websites, Utilities Disputes, Citizens Advice Bureau, MBIE, the Commerce Commission, and the New Zealand Legislation website.

Additionally, low-income consumers are more likely to lack access to the internet and face language and education barriers that can make it hard for them to find information and support.

This sentiment was mirrored in the Panel's 2023 consultation, which stated a need to boost "energy literacy".¹⁶² It acknowledged that there are many community-based programmes working to assist those in energy hardship, but that some people face barriers to engaging with them, such as location, awareness of the service, and embarrassment seeking help. It also heard a need for energy information to be conceptualised within te ao Māori and mātauranga Māori (traditional concepts of knowledge and knowing) so that it resonates with Māori.

International approaches to consumer awareness

Australia

The AER is required by legislation to establish and maintain a Customer Consultative Group (CCG). This is an advisory group to the regulator.¹⁶³

For states and territories where the National Energy Retail Rules have commenced,¹⁶⁴ the AER is required to provide independent energy comparison tools similar to Powerswitch.¹⁶⁵ Retailers must provide the AER with information it requests for the price comparison tool. The current Retail Pricing Information Guidelines require retailers to provide electricity unit prices, demand charges, fixed or standing charges, information on discounts (including for solar plans), conditional discounts, incentives, fees, contract length, among other information.¹⁶⁶

Energy ombudsmen are the primary avenue for dispute resolution in the energy industry. In New South Wales, if a matter is not resolved, the Ombudsman may make a binding decision.¹⁶⁷ If it is accepted by the complainant, the retailer is bound by the determination,

¹⁶² [Te Kore, Te Pō, Te Ao Marama Energy Hardship: The challenges and a way forward](#)

¹⁶³ [National Energy Retail Rules \(r. 172\)](#)

¹⁶⁴ Tasmania, Australian Capital Territory, South Australia, New South Wales and Queensland.

¹⁶⁵ [National Energy Retail Law \(s. 62\)](#)

¹⁶⁶ [Retail Pricing Information Guidelines](#)

¹⁶⁷ [Constitution of Energy and Water Ombudsman \(NSW\) Limited \(s. 6\)](#)

which is published on the Ombudsman's website.¹⁶⁸ Provided that the value of the decision does not exceed \$20,000, the Ombudsman can direct a retailer to:

- pay compensation to a complainant;
- provide an energy or water service;
- amend, or not to impose, a charge in relation to a service;
- supply goods or services the subject of the complaint or undertake any necessary corrective or other work to resolve the complaint;
- make an appropriate correction, deletion or addition to a record;
- attach a statement of a correction, deletion or addition to a record provided by the complainant; and
- to do, not to do, or to cease doing, an act.

The Ombudsman, with the consent of the retailer, may also make a binding decision for the value between \$20,000 and \$50,000.

European Union

The EU requires member states to ensure that household customers, and micro-enterprises with an expected yearly consumption below 100,000 kWh, have free access to at least one tool comparing the offers of suppliers, including offers for dynamic electricity price contracts.¹⁶⁹

Germany

Germany implements the EU requirement by requiring the Federal Network Agency (FNA) to ensure household customers and micro-enterprises have access to an independent comparison tool that includes contracts with dynamic electricity tariffs in terms of prices and contract terms.¹⁷⁰ The FNA provides trust marks to third party comparison tools that meet the legislative requirements, including being open to all energy suppliers and including a wide range of offers covering the entire market. If the information provided does not constitute a complete market overview, a clear statement to that effect must be given before the results are displayed.

Norway

While the Norwegian Consumer Council (Forbrukerradet) has advocated for an independent price comparison tool, Norway does not have a legislative requirement for the government to provide one.¹⁷¹

In Norway, consumers can complain to the Electrical Complaints Board (Elklagenemnda) if a complaint is not resolved directly with the energy company. The Board consists of two

¹⁶⁸ [Binding decisions](#)

¹⁶⁹ [Directive \(EU\) 2019/944 - on common rules for the internal market for electricity \(A. 14\)](#)

¹⁷⁰ [Energy Industry Act \(EnWG\) \(s. 41c\)](#)

¹⁷¹ [Check Norway's most expensive electricity contracts - switch if you have one of these](#)



representatives appointed by the Consumer Council and two representatives appointed by Energi Norge (a combined employer and interest organisation for the energy industry). Although the board's decisions are advisory, it publishes decisions on its website.¹⁷² In the case of a decision that goes against the respondent, the respondent must give a reasoned notice to the complainant and the tribunal within four weeks if the decision will not be followed.

United Kingdom

Similarly, the UK relies on private price comparison websites. Ofgem administers the Confidence Code, a voluntary code of practice for domestic energy price comparison services.¹⁷³ The Code includes requirements around independence, including all available tariffs, explanation of payment methods, providing consumers with at least 10 of the cheapest tariffs, service quality, accuracy, and complaints mechanisms.

In 2015, the Climate Change Select Committee reviewed the state of energy price comparison websites.¹⁷⁴ It found that:

- some comparison websites were hiding the best deals from consumers by concealing tariffs from suppliers that do not pay the website a commission;
- some websites attempted to lure consumers into choosing particular deals by the use of misleading language;
- there was a lack of transparency about commission arrangements between the websites and suppliers; and
- the regulatory oversight of price comparison websites is inadequate.

Domestic and micro-business customers have the right to access a redress scheme if they have not been able to resolve a complaint directly with their energy provider.¹⁷⁵ The Ombudsman independently handles disputes between consumers and energy suppliers. The Ombudsman can make a binding decision and require an energy provider to:

- provide an apology or explanation to the consumer;
- award a financial payment not exceeding £10,000 per complaint;
- take some other practical action of direct benefit to the consumer; or
- provide any combination of the above remedies.¹⁷⁶

Options to improve consumer awareness

The following options would improve consumers' electricity literacy and provide avenues for increased consumer representation in decision making:

¹⁷² [Vedtak \(Resolution\)](#)

¹⁷³ [Confidence Code](#)

¹⁷⁴ [Protecting consumers: Making energy price comparison websites transparent](#)

¹⁷⁵ [Gas and Electricity Regulated Providers \(Redress Scheme\) Order 2008](#)

¹⁷⁶ [Terms of reference – post 2015; Terms of reference – Energy sector](#)



- Establish a Consumer Group within the Electricity Authority to represent the views and perspectives of consumers.
- Increase consumer awareness of Utilities Disputes.
- Increase resourcing and promote the Consumer Advocacy Council as the primary, dedicated organisation to advise consumers on energy matters.

There are different options to address the exclusion of some retailers from Powerswitch:

- Undertake an independent review of Powerswitch to ascertain the annual funding required from the Electricity Authority levy to run the site.
- Charge a variable switching fee to retailers (e.g., \$50 for first 500 switches, \$40 for second 500 switches etc.).
- Charge a fixed fee to retailers (e.g., \$10,000 annually).

Funding Powerswitch entirely through the levy and removing the \$61 switching fee would remove the funding burden on price-leading retailers and provide consumers with a true single source of power plans. Varying how the switching fee is structured would encourage retailers to join, but some retailers may still refuse to pay. Alternatively, an independent review of Powerswitch funding could be initiated to establish levy-funding requirements and opportunities to improve the service's efficiency.



+64 4 890 7300

office@allenandclarke.co.nz

www.allenandclarke.co.nz