

Introducing the Consumer Care Obligations

Decision paper

3 December 2024

Executive summary

The Electricity Authority Te Mana Hiko (Authority) is pleased to publish our final decisions in our process to mandate the Consumer Care Guidelines (Guidelines).

The Authority introduced the Guidelines in 2021 to replace earlier guidelines on arrangements for retailers to assist medically dependent and vulnerable consumers. We developed the Guidelines in collaboration with industry and consumer representatives, with a commitment to review their voluntary status to ensure protections were being consistently delivered.

In September 2023, the Authority released a consultation seeking feedback on options to improve the Guidelines, which received overwhelming feedback from consumers in Aotearoa to make them mandatory. Many retailers also indicated support for this, and in February 2024 the Authority announced its decision to mandate the Guidelines under the Electricity Industry Participation Code 2010 (Code) (subject to amendments including for reasons of workability and clarity).

Over the past year we have engaged with industry participants, consumers, consumer groups and other organisations in our process to mandate the Guidelines, as amended. Our aim has been to create clear, workable, and enforceable obligations that ensure consumers receive a standard level of care that is consistently applied across the electricity industry.

Introducing Consumer Care Obligations

The Consumer Care Obligations (Obligations) are a set of minimum standards that all retailers must comply with if they sell electricity to residential consumers. They underscore the Authority's commitment to electricity consumers receiving the care and protection needed in today's world where electricity is vital to achieving healthy and prosperous lives.

With new technologies, service offerings and innovative products coming online, the Obligations will provide a solid foundation that safeguards consumer protections as the electricity system continues to evolve. They will support retailers to provide a consistent standard of care to their customers, and ensure the right support is available, particularly during critical moments in the retailer-customer relationship.

The Obligations will provide retailers and distributors with clarity of their consumer care responsibilities and operational improvements will make it easier to achieve the mandated protections.

Amending the Code

The Authority has decided to mandate the Obligations by introducing a new Part 11A: *Consumer Care* into the Code from 1 January 2025. The *Consumer Care Obligations* will be included as a new Schedule under Part 11A. This Part will set out the regulatory framework for enhancing consumer protections in the electricity market.

The Code will be amended to include the new Part and Schedule no later than 4 December 2024.

A staged approach to implementation

We will begin implementing the Obligations from 1 January 2025, with the introduction of two protections:

- Clause 37: Prohibiting retailers from disconnecting post-pay customers where they know a medically dependent consumer may be residing at that premises. If such a disconnection does occur, the retailer must notify the Authority immediately using the prescribed form.
- Clause 68: Requiring any fees charged by a retailer to be reasonable and reflective of actual costs.

Retailers must comply with Clauses 37 and 68 from 1 January 2025.

The remaining obligations will take effect from 1 April 2025 to ensure retailers and distributors have the necessary operational changes in place to implement the new requirements for their customers.

Retailers and distributors must comply with the remaining obligations no later than 1 April 2025.

Working together for a successful implementation of the Obligations

As a kaitiaki of electricity, the Authority will support retailers and distributors in understanding and complying with the requirements as the Obligations are implemented across the sector. We are also committed to ensuring consumers are well informed about their rights and know the steps they can take to seek help when needed.

We are developing clear and accessible materials for consumers, which will explain their rights under the new Obligations and guide them through the process of what to do if they encounter an issue. Retailer guidance on Clauses 37 and 68 will be prioritised ahead of 1 January 2025, and guidance for the remaining obligations will be made available to support retailers before 1 April 2025.

The Authority would like to thank all those who have engaged with us throughout our journey to deliver the Obligations. We look forward to supporting the implementation of the Obligations in 2025 and seeing these protections embedded as a standard across the electricity sector for all electricity consumers.

Contents

Executive summary	2
1. Purpose	6
2. Our journey from Guidelines to Obligations	6
A new statutory function to protect consumers	6
Inconsistent application of the Guidelines led us to mandate them	6
We reviewed the Guidelines to make them clear for consumers and workable for retailers	7
We have collaborated with stakeholders to best promote consumer protection while enabling innovation	7
Submissions on the consultation paper	8
3. The Authority has decided to make the proposed Code amendment, with some changes	8
Further operational changes have been made to the Obligations to respond to submitter feedback	9
Retailers will be required to comply with the Obligations	9
Changes have been made to obligations relevant to distributors	10
We will take a staged approach to transitioning to the Obligations	10
Our consumer care work programme is ongoing	12
4. Changes to the Obligations in response to submissions	13
Part 2: Consumer Care Policy and related matters	13
Part 3: Signing up customers and contract denials	13
Part 4: Information and records relating to consumer care	15
Part 5: Business-as-usual account management	16
Part 6: When payment difficulties are anticipated or arise	17
Part 7: Disconnection and reconnection of residential premises	21
Part 8: Protecting medically dependent consumers	23
Part 9: Regulating fees and bonds	26
5. The amendment promotes our statutory objectives	27
The benefits of the Code amendment are greater than the costs	28
6. Next steps – implementation of decisions and supporting actions	29
Key dates	29
Guidance and support materials	30
Monitoring and enforcement	30
7. Attachments	31
Appendix A Final Code amendment	32

1. Purpose

- 1.1. The purpose of this paper is to inform consumers and industry stakeholders of the Authority's decisions to amend the Electricity Industry Participation Code 2010 (Code) to include the Consumer Care Obligations (Obligations).
- 1.2. This paper:
 - (a) sets out the Authority's final decision on the Code amendment that will mandate the Obligations,
 - (b) explains the changes made to the Code amendment as proposed in August 2024 (proposed Code amendment) to respond to feedback received in consultation, and
 - (c) outlines the next steps we will take to implement our decision.

2. Our journey from Guidelines to Obligations

- 2.1. The voluntary Consumer Care Guidelines (Guidelines) were introduced in March 2021, with effect from 1 July 2021.¹ These Guidelines were developed through engagement across the industry and with consumer groups to ensure consistent and supportive care standards for consumers.
- 2.2. The Guidelines provided a set of minimum recommended actions that retailers should take at critical points in their relationship with consumers, where vulnerabilities may emerge, and where unsupportive practices could inadvertently cause harm.
- 2.3. By introducing the Guidelines, the Authority aimed to foster better market practices. We committed to monitoring retailer alignment with the Guidelines and indicated that if voluntary Guidelines did not satisfactorily deliver their intended outcomes, we would consider mandating them (or aspects of them) in the future.

A new statutory function to protect consumers

- 2.4. In 2022, the Electricity Industry Act 2010 (Act) was amended, and the Authority was given a new statutory objective (and related function): to protect the interests of domestic and small business consumers in relation to the supply of electricity to those consumers.² This objective applies to the Authority's activities in relation to the dealings of industry participants with these consumers.³
- 2.5. Mandating the Guidelines is a significant Code amendment under our new additional objective to protect domestic consumers.

Inconsistent application of the Guidelines led us to mandate them

- 2.6. Having monitored retailer alignment with the Guidelines since their introduction, and after consultation and analysis, the Authority concluded that making the Guidelines mandatory was necessary or desirable to enhance consumer protections.

¹ The Guidelines replaced long-standing industry guidelines first introduced in 2005: the *Guideline on arrangements to assist vulnerable consumers*, and the *Guideline on arrangements to assist medically dependent consumers*.

² Electricity Industry Amendment Act 2022, sections 10 and 11.

³ Electricity Industry Act 2010, sections 15 and 16.

- 2.7. Our reviews of retailers' self-assessed alignment with the Guidelines had shown that implementation had not been as consistent as expected across the retail market, and that there was a need for more robust and enforceable standards, as highlighted in our [2023 consultation paper](#) and subsequent [decision paper](#) published February 2024.
- 2.8. More recently, the 2023/24 alignment report has revealed varying interpretations of the Guidelines and differences in how retailers apply them in practice. Retailers' ability to align using alternative actions has also likely contributed to differences in how retailers who report full alignment with the Guidelines are doing so. These findings reinforce the importance of mandating the Guidelines to provide clear, certain and consistent consumer protections, as well as to ensure accountability across the industry.

We reviewed the Guidelines to make them clear for consumers and workable for retailers

- 2.9. Retailers' submissions on our 2023 consultation paper emphasised the need for a thorough operational review, to address practical challenges they encountered in implementing the Guidelines.
- 2.10. We committed to addressing the workability issues raised by retailers, and over the past 10 months we have conducted a detailed operational review of the Guidelines. The objective of this review has been to ensure the Obligations are clear and workable, while maintaining the policy intent and consumer protections present in the Guidelines. Consumers are best protected by obligations that are clear and workable. We also want to ensure flexibility for retailers to innovate and exceed the minimum mandated requirements.

We have collaborated with stakeholders to best promote consumer protection while enabling innovation

- 2.11. During our operational review of the Guidelines we collaborated with key stakeholders, including consumer groups and industry representatives. We held two workshops in April 2024 which helped identify areas for improvement. Feedback from these discussions informed the proposed Obligations, published alongside a consultation paper in August 2024.
- 2.12. The consultation paper proposed operational changes to ensure the Obligations would be clear and workable. Improvements included:
 - (a) making the scope of some obligations clearer
 - (b) improving definitions
 - (c) simplifying some prescriptive obligations
 - (d) reducing repetition and removing unnecessary wording
 - (e) improving practicability for some obligations
 - (f) using clearer, consistent and simpler wording
 - (g) addressing some gaps in the Guidelines, and
 - (h) retaining some flexibility where this best promoted consumer protection.

Submissions on the consultation paper

2.13. We received a total of 361 submissions on the consultation paper from the submitters listed in Table 1: List of submitters.

2.14. A full list of submitters, and their submissions, are available on our [website](#).

Table 1: List of submitters

Category	Submitters
Retailers and industry organisations (13)	Contact Energy, Electric Kiwi, ERANZ, Flick Electric, For Our Good, Genesis, Independent Retailers, ⁴ Manawa Energy, Mercury, Meridian, Nova Energy, Stack Energy, Sustainability Trust – Toast Electric
Distributors and industry organisations (11)	EA Networks, Electra, Electricity Networks Aotearoa, MainPower and Marlborough Lines, Network Waitaki, Orion, The Lines Company, Unison and Centralines, Vector, Waipā Networks, Wellington Electricity
Consumer advocacy groups (5)	Citizens Advice Bureau New Zealand Ngā Pou Whakawhirinaki o Aotearoa, Common Grace Aotearoa, Community Law, Salvation Army, Takahiwai Māori Committee
Other organisations and individuals (7)	Bruce Palmer, Disabled Persons Assembly, Entrust, FinCap, Ministry of Social Development, Momentous Consulting, Utilities Disputes Limited
Consumers (325)	19 written submissions 306 consumer survey responses from individuals

2.15. This paper summarises submissions made on key issues. However, while all submissions have been considered as part of the Authority’s process, for practical reasons the summaries are not exhaustive and necessarily compress the information provided in submissions. Please refer to the individual submissions on the Authority’s website for a full account of submitters’ views.

3. The Authority has decided to make the proposed Code amendment, with some changes

3.1. We have decided to introduce Consumer Care into the Code under a new Part 11A, as proposed in our consultation paper. Some changes have been made to the final content of this Part in response to feedback from submitters.

3.2. This section outlines the Authority’s decisions and addresses the main themes identified in the consultation feedback.

⁴ The Independent Retailers are 2degrees, Electric Kiwi, Flick Electric, and Pulse Energy, who submitted jointly as the ‘Independent Electricity Retailers’ We refer to them as ‘Independent Retailers’ in this paper.

Further operational changes have been made to the Obligations to respond to submitter feedback

- 3.3. Most submitters agreed with the Authority's approach to making operational improvements to the Guidelines, to ensure the Obligations are clear and workable.⁵
- 3.4. A strong theme of submissions from retailers, however, was that further operational improvements to specific clauses were needed. We received detailed feedback from retailers on some clauses which can be broadly summarised as raising the following concerns:
- (a) Some proposed obligations would require significant operational changes and/or impose additional costs on retailers, for little perceived consumer benefit. Retailers submitted these clauses needed further refinement to ensure they are workable and effective and provided specific suggestions for improvement.
 - (b) Some proposed obligations were overly prescriptive and could hinder innovation and limit retailers' ability to offer flexible, high-quality services, benefiting consumers. Retailers raising these issues called for a more flexible approach to meet the intended outcomes of some of the proposed obligations.
 - (c) Some proposed obligations were considered to be too general and did not provide clear requirements for retailers to follow. This would impact retailers' ability to meet the obligations, and customers' ability to receive a consistent standard of care from their retailer.
- 3.5. The Authority has addressed these concerns on a clause-by-clause basis (see section 4 below). We have made changes to certain obligations where we were satisfied that changes would promote consumer protection and the long-term benefit of consumers through clear, workable and effective protections that do not stifle innovation or undermine competition in the electricity retail market.

Retailers will be required to comply with the Obligations

- 3.6. Currently, retailers can align with the Guidelines by adopting the recommended actions or by taking 'alternative actions' that achieve the purpose and outcomes of the Guidelines.⁶
- 3.7. Some retailers did not support the removal of the ability to align using alternative actions, or suggested building a mechanism into the Obligations to allow retailers to demonstrate their process meets the intent of the Obligations and the intended outcome of the relevant clause. These retailers were concerned that removing this flexibility could increase compliance costs and preclude lower cost options or alternatives that might better protect consumers.
- 3.8. Mandating the Obligations as they are means that retailers will no longer be able to align using alternative actions. We consider consumers should receive a standard and consistent level of care from their electricity provider. The Obligations are a set of minimum standards of care we expect all retailers to comply with. Allowing retailers to

⁵ Of submitters who commented on this question in their submission, this included over 95% of respondents to the consumer survey.

⁶ As explained in paragraph ix of the explanatory note to the [Consumer Care Guidelines](#).

align using alternative actions would likely result in uncertainty for consumers and could impact regulatory certainty and enforceability of the Obligations.

- 3.9. Instead of providing for retailers to align with the Obligations using alternative actions, we have responded to these concerns by addressing retailers' issues on a clause-by-clause basis, to ensure less prescriptive obligations that will allow more operational flexibility for retailers. We are also giving retailers time to transition to the Obligations, as discussed below.

Changes have been made to obligations relevant to distributors

- 3.10. Distributors provided detailed feedback on the clauses of the Obligations that affect them. They submitted that changes were needed to ensure the obligations on distributors are effective, workable, and align with existing regulatory frameworks, such as the Default Distributor Agreements and Default Price Path regime.
- 3.11. We have made changes to the Obligations to respond to this feedback (see discussion in paragraphs 4.57 to 4.59 below). We will also be consulting on a new electricity information exchange protocol (EIEP) for the provision of information about medically dependent consumers by retailers to distributors under the Obligations. Regulating the exchange of this information will ensure its consistency and reliability. A short consultation on the form and content of the EIEP will be announced shortly to ensure the new EIEP is in place when the Obligations come into effect.

We will take a staged approach to transitioning to the Obligations

Key provisions will come into effect on 1 January 2025 with a transitional period for more operational changes

- 3.12. Another theme of submissions from industry participants was the need for a transition period to enable them to make the necessary operational changes to comply with the Obligations. Most retailers requested a transition period, with a period of at least six months being the most requested timeframe.
- 3.13. Most retailers have self-assessed as aligning with the Guidelines.⁷ However, retailers highlighted the operational changes that had been made to the Obligations to make them clear and workable, and the current ability to align with the Guidelines using alternative actions, which will no longer be an option under the Obligations. In our recent alignment report, we also observed varying interpretations of the Guidelines and differences in how retailers apply them in practice.
- 3.14. These factors mean retailers will need to make changes to align current practice with the Obligations. Retailers submitted that staff training and system updates would require more time than the proposed 28 days' notice,⁸ particularly given the holiday season.
- 3.15. In response to this feedback, the Authority has decided to adopt a staged approach to introducing the Obligations and provide a three-month transition period for most obligations, ensuring industry participants have adequate time for training and

⁷ Of the 48 retailers who provided alignment statements for the 2023/24 reporting period, 43 self-reported full alignment with the Guidelines. See full alignment report here [2023/24 Consumer Care Guidelines Annual Alignment Statement Report](#)

⁸ Under the Act, the Authority must publish a Code amendment at least 28 days before it comes into force.

undertaking operational adjustments. This will ensure the Obligations are in force by winter 2025.

- 3.16. The staged approach to implementing the Obligations will ensure consumers have the benefit of protections as soon as reasonably possible while ensuring the transition is manageable for retailers.
- 3.17. Under this staged approach:
- (a) New Part 11: Consumer Care will come into force from **1 January 2025**. This new Part of the Code provides the regulatory framework for enhancing consumer protections in the electricity industry and will:
 - (i) outline the purpose of the new Consumer Care framework
 - (ii) establish new defined terms to ensure clarity and consistency
 - (iii) include a new annual compliance framework, requiring the first compliance report to be submitted by 30 September 2025 for the period covering 1 January 2025 to 30 June 2025
 - (iv) set out the obligations on both retailers and distributors to comply with the Obligations and how these are to be phased in as set out below.
 - (b) The following clauses of the Obligations will be effective and enforceable from **1 January 2025**:
 - (i) clause 37: post-pay customer premises at which a retailer knows a medically dependent consumer may be residing must not be disconnected
 - (ii) clause 68: fees must be reasonable and costs reflective.
 - (c) The remaining Obligations will be effective from **1 April 2025**.

Medically dependent consumers must not be disconnected

- 3.18. Under the Obligations a retailer must not disconnect a post-pay customer's premises if they know that a medically dependent consumer may be permanently or temporarily residing there. The Authority regards this as a key protection and no material concerns were raised with this obligation during consultation. As we explain in section 4 below, retailers will be required to notify the Authority as soon as they become aware of any such disconnections.
- 3.19. Making this obligation effective from 1 January 2025 serves as a critical step to protect medically dependent consumers. It aligns with the current Guidelines, and we do not expect any material operational changes or training will be necessary to give effect to this obligation from 1 January.

Fees must be reasonable and cost reflective

- 3.20. The Obligations will require retailers to ensure that any fees charged to customers:
- (a) do not exceed reasonable estimates of the costs the fee is contributing to
 - (b) are otherwise reasonable, balancing precision with administrative and practical efficiency
 - (c) are not used to offset future costs, and

- (d) do not attempt to recover any deficit from a previous under-recovery.
- 3.21. These obligations closely align with the existing recommended actions under the Guidelines. No material concerns were raised by retailers with this obligation during consultation and bringing this into force from 1 January is not expected to introduce unreasonable compliance costs. Retailers will need to be able to demonstrate that their fees meet these principles.
- 3.22. We will publish guidance for retailers outlining how to interpret and comply with these obligations, alongside user friendly resources for consumers to ensure they understand their rights.

Our consumer care work programme is ongoing

- 3.23. The Authority's current priority is to mandate the key existing provisions of the Guidelines. Mandating the Guidelines is the cornerstone of an ongoing journey to further strengthen and expand our work to meet our consumer protection objective and function. The Authority will continue to consider additional consumer protection initiatives and opportunities to improve the Obligations in 2025.
- 3.24. Several submitters, including consumers, consumer advocacy groups and other organisations, submitted that further measures are needed to adequately protect consumers. Suggestions for further measures included:
 - (a) banning fees for disconnection and reconnection in relation to unpaid bills
 - (b) further protections for prepay customers, such as prohibiting companies from charging more for prepay than post-pay product offerings
 - (c) further protections for medically dependent consumers who may not be able to access post-pay product offerings, such as a retailer of last resort offering
 - (d) requirements on retailers to check every six months that customers are on the cheapest plan and inform them if they offer a cheaper option
 - (e) requirements on retailers to include standard information on bills.
- 3.25. The Authority's ongoing consumer protection work will be supported by the Authority's retail data project. The Authority is improving its collection of retail data by removing multiple overlapping requests and replacing them with a single comprehensive and continuing request for information using our information gathering powers under the Code. The Authority recently consulted on an amended notice⁹ which aims to facilitate active monitoring of the retail market including collecting data relevant, but not limited to, monitoring implementation of the Obligations.
- 3.26. The Authority has proposed that the amended notice would require retail data to be provided from 1 January 2025, with a five to six-month implementation period. A notice issued on 1 February 2025, for example, would require retailers to make their first data delivery on 31 July 2025, covering the period from 1 January 2025 to 30 June 2025, followed by monthly reports thereafter.¹⁰

⁹ Further information on this project can be found here: [Amended information notice and updated analysis | Our consultations | Our projects | Electricity Authority](#)

¹⁰ As explained in the Authority's consultation paper, *Improving retail market monitoring: amended information notice and updated analysis*.

- 3.27. We are also improving consumer mobility. This workstream aims to ensure that consumers have the information and tools on hand to accurately assess their electricity consumption and determine their own best fit plan. It aims to reduce barriers consumers may face when comparing electricity plans including access to consumption data, billing information and comparison services.

4. Changes to the Obligations in response to submissions

- 4.1. We are grateful for the detailed feedback we received on the proposed Code amendment. Appendix B includes our response to issues raised in submissions and explains the changes we have made to the Code amendment as a result. Material changes we have made to the Obligations are summarised below. We start with Part 2, as no changes have been made to Part 1: Interpretation.

Part 2: Consumer Care Policy and related matters

- 4.2. This Part of the Obligations will require retailers to:
- (a) develop and publish a consumer care policy which must include specified matters
 - (b) use reasonable endeavours to work with customers in a respectful, collaborative and constructive manner, and to communicate in a manner which is understandable, timely, clear and accessible
 - (c) have in place processes for referring customers to support agencies within five business days of the customer giving their consent
 - (d) use reasonable endeavours to work with any support agencies and health practitioners they liaise with in accordance with the Obligations in a cooperative, constructive and timely manner
 - (e) clearly and prominently publish certain information in a dedicated section of its customer-facing website.

Clarifying expectations on retailers in relation to language preferences

- 4.3. Several retailers sought clarification that the proposed obligation to communicate in a manner which is 'understandable' (and a related requirement to record a customer's language preferences) does not require retailers to communicate in all languages. This is not our expectation; we accept that would be impractical.
- 4.4. We have clarified that one way a retailer might meet this obligation is by ensuring that, if a person who is not sufficiently familiar with the English language to communicate without assistance, they have the opportunity to nominate and use a support person to assist them with understanding and communicating with the retailer.

Part 3: Signing up customers and contract denials

- 4.5. This Part of the Obligations will require retailers to:
- (a) provide specified information, advice and assistance to residential consumers before they sign up, about the retailer's relevant product offerings and related

pricing plans, to help consumers understand the most suitable product for their household circumstances

- (b) ensure consumers have the option to review the retailer's terms and conditions and easy access to information about the retailer's available payment options, before they sign up
- (c) provide information to residential consumers who are declined a contract, including reasons for being declined and information on one or more support agencies from which the consumer could seek assistance
- (d) provide information to new customers about the retailer's consumer care policy, available payment options and the importance of notifying the retailer if any medically dependent consumers may be residing at the premises.

Better targeting the protections

4.6. We have made some changes to the obligations in Part 3 to better target the protections in response to submitters' feedback. We have:

- (a) clarified that retailers are only required to provide advice about their product offerings and pricing plans that are *relevant* to that person's current household circumstances, to avoid the provision of unnecessary information that would make the obligation more onerous for retailers and less helpful for consumers
- (b) clarified that information about payment options must be easily accessible to residential consumers considering signing up with a retailer, but that retailers do not have to give advice on payment options until after a customer has signed up – we agree that this information is more relevant post-sign up, to avoid overwhelming consumers with information when they are considering signing up with a retailer
- (c) simplified the information that must be given to new customers about how the retailer will support them if they face payment difficulties in the future, so that this information is provided through the consumer care policy, a copy of which must be provided to each new customer – we accept that requiring retailers to provide more detailed information to new customers about the process that will be followed if a customer does not pay their bill in the future is unlikely to be an effective support and may have a negative impact on the retailer-customer relationship.

Clarifying information to be provided on prepay and post-pay cost differences

4.7. We have clarified that the obligation to provide information about any differences between fees, bonds and rates for electricity under relevant post-pay and prepay product offerings before a residential consumer signs up to a prepay contract includes post-pay plans offered by a related retailer. This better aligns with the Guidelines and will ensure the policy intent of the obligation is not undermined by how retailers choose to structure their business. It reflects that, in practice, some retailers choose to operate prepay product offerings through separate retail brands.

Removing some clauses where costs likely outweigh benefits

4.8. We have removed the obligations on retailers that require them to consider all relevant information before declining a consumer who has a poor credit record, and to

give advice to consumers it declines. We accept the costs of mandating these obligations in their current form are likely to outweigh their benefits.

The proposed obligation to consider ‘all relevant information’

- 4.9. Some retailers expressed concerns that requiring them to consider ‘all relevant information’ before declining a customer could lead to significant additional costs as it would require changes to existing systems. There was also a concern that requesting relevant information such as a history of working with a support agency might inadvertently disadvantage higher-risk customers by flagging them as such, as a result of the information provided.
- 4.10. While we encourage retailers to put in place appropriate processes to consider relevant information beyond just credit history, we recognise these processes require careful testing, implementation and monitoring to ensure that they genuinely support consumer protection. We have not, therefore, mandated an obligation at this stage.

The proposed obligation to advise declined consumers

- 4.11. Some submitters raised concerns about the practicality of the proposed obligation to give advice to declined consumers, including advice about what they could do to reduce the risk of a retailer deciding not to enter into such a contract in future, and whether the retailer is willing to reconsider entering a contract with that person after they engage with a support agency. Retailers submitted that they cannot reliably predict whether they, or another retailer might accept that consumer as a customer in future. They also highlighted privacy issues related to the increased exchange of information, as well as the potential risk of creating false expectations for consumers about their chances of being accepted later. We recognise these concerns and that, in its current form, the risks of the proposed obligation being unworkable and ineffective likely outweigh any consumer protection benefits.

Part 4: Information and records relating to consumer care

- 4.12. This part of the Obligations will require retailers to:
- (a) request communication information from customers, including contact information for at least two communication channels, whether the customer wishes to use an alternate contact person or support person, and any other information the customer wishes to provide which may be relevant to engaging with that customer
 - (b) use the information provided to inform the retailer’s communication practices with the customer to the extent reasonably possible
 - (c) advise the customer if the alternative contact person they nominated no longer agrees to act in that capacity.

Reducing prescription in the customer information retailers must request and use

- 4.13. The proposed Code amendment as consulted on would have required retailers to record detailed information about a customer’s communication and invoicing preferences, as recommended in the Guidelines. We received significant feedback from retailers who were concerned that implementing these detailed requirements would require system changes at substantial cost. Retailers also submitted that:

- (a) some of the information required would have only limited consumer benefits (requiring retailers to record preferred day(s) and times(s) to be contacted, for example, would have short-lived benefits as people's personal situations may often change)
 - (b) retailers should be able to use all communication channels available when communicating with a customer on matters such as disconnection, not just preferred communication channels
 - (c) the requirement to record invoicing preferences is redundant, as all retailers must necessarily record this information to operate their business.
- 4.14. In response to feedback, we have simplified the obligation to require retailers to record at least two communication channels for each customer, and clarify that retailers may use all available communication channels when communicating with that customer. Retailers will be also required to give customers the opportunity to provide additional information which may be relevant to engaging with that customer. We have removed the remaining detailed requirements as we accept the operational costs likely outweigh the limited benefits of requiring retailers to record this information.
- 4.15. We have also clarified that, for existing customers, retailers can request this information (if they haven't already) at the first annual customer check-in under Part 5.

Clarifying the role of alternate contact persons

- 4.16. In response to submitters' concerns, we have clarified and simplified the role of alternate contact person, to ensure it does not prevent retailers from contacting its customers directly. Under the Obligations, a customer can nominate an alternate contact person, and when they do so the retailer may engage with that alternate contact person when they are unable to contact the consumer directly. We agree with submitters that this contact should not replace the retailer's primary relationship with the customer and have clarified this in the Obligations.
- 4.17. We have also simplified the obligations that relate to alternative contact persons, removing prescription about when to use alternate contact persons and obtaining their consent. We accept this level of prescription is unnecessary. These revisions will maintain customer support while improving workability for retailers.

Part 5: Business-as-usual account management

- 4.18. This Part of the Obligations will require retailers to:
- (a) contact customers at least annually to advise the customer that they can request access to consumption information, advise the customer of the existence of a consumer care policy and to ask the customer to confirm that the customer's information remains accurate
 - (b) provide advice and information to customers enquiring with the retailer about changing a pricing plan or product offering, including advice on relevant product offerings, pricing plans and payment options, and assistance to identify the most suitable option for that customer

- (c) use actual meter readings for invoicing whenever practicable unless otherwise agreed by the customer
- (d) include certain information on invoices, including a breakdown of the amount owed, due date or dates for payment, available payment options and, if bundled goods or services have been received, the amounts owing for each good or service
- (e) notify prepay customers when credit decreases below the equivalent of a reasonable estimation of two days of standard usage, so that customers know to top up their account to avoid disconnection.

Replacing requirement for standard invoice timeframes with more targeted protections

- 4.19. The proposed Code amendment had included an obligation to allow a minimum of 14 days for payment of all invoices issued on a monthly cycle. This reflected an existing recommendation in the Guidelines that retailers should, before taking further steps in relation to non-payment of an invoice, allow a minimum of 14 days for payment.
- 4.20. Several retailers expressed concerns with this clause centred around the potential for this clause to negatively impact affordability and competition. Retailers submitted that system changes would be necessary to comply with this clause and would impose significant operational costs, and this obligation would have a financial impact on working capital for some retailers. It was also noted that this would reduce retailers' ability to offer innovative products to consumers, and would reduce flexibility to tailor support for customers in hardship.
- 4.21. The intent of this clause was to give customers sufficient time to pay their invoices before any non-payment processes leading to disconnection are initiated. In response to the feedback and to maintain the policy intent, we have removed the requirement for standard invoice timeframes, but have clarified elsewhere that retailers cannot start the contact attempts that initiate the process under Part 6 (potentially leading to disconnection) until 14 days after the invoice is issued. This achieves the intent of providing customers adequate time to pay, without imposing a rigid 14-day payment timeframe, forcing retailers to change their existing business models.

Part 6: When payment difficulties are anticipated or arise

- 4.22. This Part of the Obligations will introduce obligations to support consumers who may be experiencing payment difficulties. This will include obligations on retailers to:
- (a) take reasonable steps to support customers who fail to pay an invoice to resolve payment issues and avoid disconnections, including sending a reminder notice after a notice becomes overdue and attempting to contact the customer if the invoice has not been paid within 14 days
 - (b) use best endeavours to engage with customers who may be experiencing payment difficulties and take a series of actions for the purposes of resolving payment difficulties, such as providing information and advice on matters such as changes a customer could make to their consumption pattern and available pricing plans that could lower their cost of electricity, offering to make a

referral to a support agency for assistance, and offering to discuss payment support plans that may be suitable for the customer's circumstances

- (c) for customers on payment support plans, take steps to continue to support these customers, including six-month check-ins to discuss whether the payment support plan continues to meet their needs, advising customers of any significant and sudden increase in consumption the retailer identifies to avoid bill shock, and offering to review the payment support plan if the customer's circumstances change
- (d) for pre-pay customers, monitoring frequency and duration of electrical disconnections and discussing options with the customer if the retailer identifies a significant and sudden increase in consumption or if the customer runs out of credit frequently or for relatively long durations.

Clarifying when Part 6 applies

- 4.23. In response to retailers' requests for clarification as to when this Part applies, we have clarified that a retailer may use information provided by the customer to identify when a customer may be experiencing payment difficulties, or use information gathered through the use of a process or methodology to identify when customers may be experiencing payment difficulties, such as processes/methods which analyse payment history and changes in consumption. This ensures that while factors such as consumption changes can be part of a broader methodology for identifying customers who may benefit from support, they are not relied on in isolation (as changes in consumption can be for a range of reasons).
- 4.24. We have also clarified that the 'bright line' for when a retailer is deemed to know that a customer may be experiencing payment difficulties is when a customer fails to pay an invoice for more than one billing cycle in a six-month period. This change addresses retailer concerns that the previous wording was too broad and could inadvertently capture customers missing isolated payments over a longer period for non-financial reasons (eg, holidays).

Increased operational flexibility for retailers to decide processes on non-payment of invoices

- 4.25. The steps retailers must take when a customer fails to pay an invoice have been simplified in response to concerns that these steps were overly prescriptive and would change existing processes that may not necessarily benefit consumers. The changes we have made will give retailers more operational flexibility to accommodate individual customer circumstances, while still maintaining a level of standardisation across retailers to ensure the process is accessible and easy to follow for consumers.
- 4.26. Key changes include:
 - (a) replacing prescriptive requirements about when and how retailers engage with customers with a general obligation to take reasonable steps to support customers to resolve payment issues, which must include (as a minimum) issuing a reminder notice and making further attempts to contact the customer if payment has still not been made

- (b) clarifying that a reminder notice must be issued as soon as reasonably practicable after an invoice becomes overdue, ensuring that customers have the best opportunity to resolve payment issues as soon as possible
- (c) clarifying that the requirement for three contact attempts spread over seven or more days must only be complied with before initiating the disconnection process for non-payment in Part 7.

Clarifying retailers' obligations in relation to support agencies

- 4.27. Some submitters, including the Ministry of Social Development, raised concerns relating to the requirements on retailers to refer customers experiencing payment difficulties to support agencies, and the utility of the obligation to offer to pause further steps to disconnect a customer while a customer is seeking assistance. Concerns included that the support available from support agencies (including Work and Income) may be limited in practice, and even if support is available, a pause of up to 14 days is not enough time for support agencies to work with its clients.
- 4.28. We have clarified that the obligation is to offer referrals 'where appropriate' to support agencies. We agree that retailers should not be required to make a referral if the retailer knows that a support agency is unlikely to be able to provide effective support to that customer, for whatever reason. This will ensure that support is appropriately targeted to the customer.
- 4.29. In relation to timing of any pause, we have clarified that the 14-day timeframe is a minimum, and we acknowledge that some retailers exceed this in practice. We have also removed the requirement for confirmation from support agencies to extend any pause from 7 to 14 days, providing retailers with the discretion to determine whether a customer is making reasonable efforts to engage with support without needing third-party confirmation. The revised wording ensures that retailers can rely on information provided directly by customers, reducing pressure on those agencies to confirm assistance within a set timeframe.

Increased operational flexibility for retailers supporting customers on payment support plans

- 4.30. We have simplified some of the obligations in respect of customers on payment support plans, to ensure the protections are appropriately targeted and do not impose unnecessary costs on retailers:
- (a) the obligation to contact a customer if a retailer identifies a material and sudden increase in consumption has been clarified to focus on preventing 'bill shock'
 - (b) the minimum frequency for making regular contact with customers on a payment support plan to discuss whether the plan is continuing to meet their needs has been changed from once every three months to once every six months, in response to concerns that once every three months is onerous relative to the benefit this will likely achieve – the Obligations still require retailers to offer to review the payment support plan whenever a customer indicates they are experiencing payment difficulties

- (c) retailers' obligations relating to referrals to support agencies have been clarified and aligned with the obligations elsewhere in the Obligations to ensure a consistent and clear process.

Removing some clauses where costs likely outweigh benefits

- 4.31. We have removed the proposed obligations relating to part payment of bundled goods and services, and monitoring customer consumption. The Authority accepts the costs of mandating these obligations in their current form are likely to outweigh their benefits.

The proposed obligation relating to part payment of bundles

- 4.32. The proposed Code amendment included an obligation that retailers offer customers the option of nominating any part payment is applied to the electricity components of a bundled plan.
- 4.33. Concerns raised in consultation highlighted this obligation may not best protect consumers (as the alternative of putting part payments against oldest debt first can instead improve a customer's credit position and support them to get out of debt faster), and that it raised workability issues as it does not reflect the commercial reality of bundled products. It was submitted that further consideration was needed to determine if and how payments against bundled products should be regulated. For these reasons we have decided to remove this obligation at this stage.

The proposed obligation to monitor customer consumption

- 4.34. The proposed Code amendment included a general obligation on retailers to work towards the capability to monitor individual customer consumption, and take action when it identifies a material decrease in electricity use. This was intended to support retailers to provide proactive assistance to consumers who may benefit from such assistance, and was supported by some consumer advocacy groups. However, some retailers and consumers raised concerns with this proposed obligation.
- 4.35. Some retailers were concerned this would be highly intrusive, may negatively impact on the customer-retailer relationship, and would be costly and difficult to implement. Developing and maintaining this capability would require significant investment in systems and staffing and might disproportionately impact smaller retailers.
- 4.36. Submitters also questioned the benefits of monitoring reductions in consumption, noting this may not necessarily be an indicator of financial hardship. Rather, it could be attributed to consumers going on holiday or voluntarily reducing their energy use. Retailers were also mindful of not overwhelming consumers with unnecessary communication, as frequent and irrelevant messaging can reduce engagement and diminish the impact of genuinely critical information.
- 4.37. While most respondents to the consumer survey did not express concerns with retailers monitoring their electricity consumption, a significant minority (34%) did have concerns.¹¹ These consumers often noted the potential for this to raise privacy concerns, and their ability to monitor their own consumption through apps. One

¹¹ Of submitters who responded to the question in the consumer survey "Do you have any concerns about retailers monitoring your electricity usage?", 34% responded 'yes', while 66% responded 'no'.

consumer advocacy group noted that the proposal may raise privacy issues, but felt these were outweighed by the intent of the clause.

- 4.38. Taking this feedback into account, we have decided to remove this clause at this stage. We encourage retailers to explore ways to identify and respond to indicators of potential hardship among payment support customers, in ways that do not involve systematic monitoring of all consumption changes. This approach respects consumer privacy and choice while balancing the costs and operational feasibility for retailers.

Part 7: Disconnection and reconnection of residential premises

- 4.39. This Part of the Obligations will introduce obligations relating to the disconnection and reconnection of premises. This will include obligations on retailers to:

- (a) use best endeavours to ensure that electrical disconnection of a post-pay customer's premises for non-payment is a measure of last resort, and only disconnect if the retailer has complied with all relevant obligations in Part 6, made at least five separate attempts to contact the customer, and issued two disconnection notices
- (b) only disconnect uncontracted premises if certain steps have been taken (discussed below)
- (c) not disconnect a post-pay customer if the retailer knows a medically dependent consumer may be residing at the customer's premises (this does not apply to emergency disconnections or planned service interruptions, which are initiated by a distributor).

- 4.40. Part 7 otherwise regulates the disconnection and reconnection of a customer's premises.

- 4.41. This Part also imposes obligations on distributors who directly invoice residential consumers for distribution services. Distributors must not disconnect a residential consumer for non-payment if they have been notified of an application or a decision to record a person residing there as a medically dependent consumer, or otherwise before providing notice to the relevant retailer.

More operational flexibility for retailers to satisfy the five contact attempts requirement

- 4.42. We have made some changes to the steps retailers must take before disconnecting a post-pay customer for non-payment, to provide more operational flexibility for retailers to choose the best way to comply with the obligation to make five contact attempts before proceeding with a disconnection.

- 4.43. This is in response to extensive feedback on the workability, effectiveness and cost of the proposed Code amendment

- 4.44. Several retailers submitted that the proposed requirement for mandatory in-person visits and 'traceable' forms of communication would impose significant operational costs.

- 4.45. Some retailers considered that such costly obligations may not yield successful customer engagement, if a customer is avoiding engaging with a retailer. Health and safety concerns may arise if they are required to visit premises prior to disconnection. Finally, some retailers argued that the cost of such requirements could limit their

ability to invest in other consumer care initiatives, ultimately affecting the level of support they can offer across their customer base. These retailers supported more flexibility to allocate resources in a way that supports more sustainable, ongoing engagement.

- 4.46. Consumer advocacy groups underscored the importance of home visits in particular, especially for those customers difficult to engage with. These groups have noted that individuals facing financial hardship may avoid contact with their energy providers, making face-to-face interactions crucial for preventing disconnection and further deepening their hardship. They argue that for these consumers, face-to-face interactions can provide a more reliable and personal way to ensure critical messages are received.
- 4.47. Key changes include:
- (a) clarifying retailers can use any communication channels available to contact the customer
 - (b) removing the requirement for 'traceable' forms of communication, noting the limited effectiveness and high costs of these compared with other forms of contact
 - (c) replacing the requirement for in-person visits to a customer's premises with an obligation to use communication channels that are reasonable in the circumstances and which the retailer reasonably considers are most likely to result in the relevant information being communicated to the customer. This recognises that in-person visits may not always be appropriate, noting the high cost of in-person visits and health and safety concerns identified by some retailers
 - (d) as a consequence of (c), removing the associated obligations applying to in-person visits, noting that the information that was proposed to be provided during in-person visits is largely covered elsewhere in the information provided else under Part 7 of the Obligations.
- 4.48. These changes aim to maintain consumer protection by ensuring customers are properly informed and have a reasonable opportunity to respond before they are disconnected, while allowing more operational flexibility and reducing prescription where it carries a significant operational cost. While we acknowledge the submissions from consumer advocacy groups, we consider these changes will best support retailers to adopt the most appropriate communication channels based on specific circumstances, aiming to encourage adequate and fit-for-purpose engagement.

Requiring immediate reporting of customer disconnections of medically dependent consumers

- 4.49. As noted above, this Part includes a prohibition on disconnecting a post-pay customer if the retailer knows a medically dependent consumer may be residing at the customer's premises. We have included an obligation on retailers to notify the Authority as soon as they become aware of disconnecting a medically dependent consumer contrary to this prohibition (including accidental or inadvertent disconnections), in response to requests from some submitters.

- 4.50. We consider that immediate reporting of medically dependent consumer disconnections is important to ensure the Authority can effectively exercise its monitoring functions. While the Obligations do include annual compliance reporting, this obligation will enable the Authority to monitor retailers more effectively, including ensuring the retailer complies with their obligation to reconnect medically dependent consumers who are disconnected as soon as possible at no cost.

Simplifying obligations in relation to uncontracted premises

- 4.51. We have made changes to the provisions relating to disconnection of uncontracted premises to respond to the practical concerns raised by retailers while ensuring core consumer protections remain and are appropriate to the context.
- 4.52. Key changes include:
- (a) replacing the requirement for a traceable form of communication or in-person visit (noting the same concerns with these contact methods as discussed above) with a requirement to issue a notice to any residential consumers at the premises and providing at least seven days' notice of disconnection – this approach protects residential consumers who may be relying on uncontracted electricity supply from immediate disconnection and gives them a reasonable opportunity to sign up with a retailer, while ensuring that consumer non-engagement cannot be indefinitely used as a strategy to avoid entering into a contract with a retailer
 - (b) clarifying that (a) does not apply if a retailer disconnects a property within 48 hours of its customer vacating the property – a retailer may decide not to maintain a supply of electricity to vacant premises, and disconnection of vacant premises before new residential consumers move in would incentivise them to sign up with a retailer and obtain the protections under the Obligations, and avoid reliance on uncontracted electricity supply which is at risk of disconnection
 - (c) replacing the prohibition on disconnection of medically dependent consumers at uncontracted premises with a more proportionate obligation to use best endeavours to encourage residential consumers at the premise to sign up with a retailer and avoid disconnection, and if that is unsuccessful, the retailer must ensure that disconnection is undertaken in a way that does not endanger the wellbeing of any medically dependent consumer residing at that premises.

Part 8: Protecting medically dependent consumers

- 4.53. This Part of the Obligations will require retailers to:
- (a) request information to identify whether any customer or residential consumer residing with a customer may be a medically dependent consumer
 - (b) request applications for medically dependent consumer status if the retailer becomes aware of information indicating a customer or residential consumer may be a medically dependent consumer
 - (c) record that a person has medically dependent consumer status, if their status is confirmed by a health practitioner or if the retailer otherwise decides to record that person as a medically dependent consumer

- (d) follow prescribed processes when it receives and considers applications for medically dependent consumer status, and reviews medically dependent consumer status
- (e) advise medically dependent consumers that supply of electricity cannot be guaranteed and of the importance of the customer or residential consumer arranging for the development of an individual emergency response plan
- (f) not recommend prepay product offerings, and use best endeavours to encourage the customer to choose a post-pay product offering, if the retailer knows a medically dependent consumer may reside at that premises
- (g) share relevant information about medically dependent consumers with distributors and metering equipment providers and coordinate on planned service interruptions and electrical disconnections that will affect medically dependent consumers.

Reducing uncertainty in the Obligations

- 4.54. This Part of the Obligations contains detailed requirements to support the effective identification and management of information about medically dependent consumers, to support the obligation on retailers to not disconnect medically dependent consumers (see Part 7) and ensure medically dependent consumers receive appropriate care and consideration in relation to planned and unplanned outages (discussed further below).
- 4.55. Feedback in submissions raised concerns with the workability of having detailed requirements in this Part alongside a more general obligation on retailers to ‘use best endeavours’ to avoid disconnecting a medically dependent consumer. The concern was that it was unclear what retailers would be expected to do to meet this general obligation, beyond complying with the detailed requirements in this Part.
- 4.56. After careful consideration we have decided to remove the general obligation, as we agree that it does not provide retailers with sufficient certainty about what they must do to comply. Our preference is to require retailers to take specific, concrete steps to ensure that medically dependent consumers are not disconnected. In removing this general obligation, we have made minor changes to the detailed obligations to address specific gaps that we consider this general obligation would have addressed. We have made changes to:
- (a) require retailers when requesting an application for medically dependent consumer status to explain the potential consequences if they do not receive an application in the specified timeframe
 - (b) require retailers to tell an applicant for medically dependent consumer status to contact them if there is a reason why they cannot provide a confirmation of status form within the specified period (for example, if they cannot arrange to see their GP in time), and for retailers to take this information into account before deciding whether to decline an application on the grounds that no valid confirmation has been received
 - (c) require the retailer to notify any person it no longer regards as a medically dependent consumer of that decision (so that they have a further opportunity to engage with the retailer if, for example, the retailer has made a mistake in

removing their status or the person wants to make an application but hasn't managed to do so in the specified time period).

Improving obligations to share information with other participants

- 4.57. An important purpose of retailers recording medically dependent consumers is to ensure the identification of residents where an interruption in electricity supply (for whatever reason) may have significant consequences. To this end, the Obligations include a requirement on retailers and traders¹² to share relevant information with the distributor.
- 4.58. Distributors provided detailed feedback on this clause, noting that requiring regular exchange of information would be costly, may not be required, and that the existing electricity information exchange protocol (EIEP) that provides for the sharing of customer information with distributors (EIEP4: Customer Information) is unregulated, only provides monthly snapshots, and is used inconsistently. It is also unsuited to the task of providing information on medically dependent consumers for the purpose of the Obligations, because it includes detailed customer information that is unnecessary, especially if the distributor is not responsible under its default distributor agreements for notifying customers of outages.
- 4.59. We consider it is important for distributors to receive information about the presence of medically dependent consumers at an ICP level, regardless of whether they are responsible for notifying consumers of outages. We agree, however, that a tailored EIEP is needed to support this obligation, and will undertake a short consultation on the form of a the new EIEP4A: Medically Dependent Consumer Information, shortly.
- 4.60. We have also clarified retailers' obligations to share information with metering equipment providers (MEPs). MEPs only require this information when working on a meter at an ICP, so we have replaced the requirement for regular information sharing about all medically dependent consumers, with a simpler obligation to notify the MEP if they are undertaking any work at premises where a medically dependent consumer may reside.

Better targeting obligations on distributors

- 4.61. The proposed Code amendment included an obligation on distributors to visit customers being disconnected in an emergency, 'if practicable and if there is sufficient time'. This obligation reflects an existing recommendation in the Guidelines. However, distributors did not support this obligation and recommended it be removed. They noted the obligation has limited utility as it is unlikely to ever be practical to make such a visit given the nature of emergency events. Distributors were also concerned this obligation could create a misleading or incorrect expectation that medically dependent consumers will always be notified before any emergency disconnection, which may mean they are less likely to take appropriate actions to safeguard themselves through the development and initiation of an emergency management plan.
- 4.62. Given these concerns, we have removed this obligation. Distributors and retailers should continue to notify customers of emergency outages in accordance with any

¹² If a retailer is not the trader recorded as responsible for an ICP in the registry, they must still share information about medically dependent consumers with the responsible trader.

arrangements agreed under the default distributor agreements (DDA). A recent Code amendment will, when in force, require retailers and distributors to have in place arrangements for notifying customers of unplanned service interruptions, under their distribution agreements, by 25 November 2027.¹³ While the Authority will, as part of increasing consumer awareness of the Obligations, emphasise the importance of medically dependent consumers developing their own emergency response plan, this does not remove the need for distributors/retailers to continue to notify customers in accordance with the DDA.

- 4.63. We have also removed unnecessary prescription from the obligation on retailers and distributors to coordinate on planned outages. The proposed Code amendment had included an obligation on distributors to not vary the time or date of a planned service interruption that would affect medically dependent consumers without first consulting that retailer. We accept, however, that this is unnecessarily prescriptive, especially considering existing regulatory obligations and arrangements for notification of decisions to change a planned service interruption. It is unclear what protection is achieved by including an additional obligation to consult before making such decisions.

Part 9: Regulating fees and bonds

- 4.64. This Part of the Obligations will require retailers to:

- (a) clearly disclose information on all fees, conditional discounts and bonds and, if applicable, the method or calculation and the maximum limit of that fee
- (b) only charge a customer a fee where the retailer is reasonably satisfied that the customer is aware of the amount of the fee
- (c) ensure any fee charged must not exceed the reasonable costs the fee is identified as contributing to, and must otherwise be reasonable – this includes a prohibition on a fee being used to offset future costs or to attempt to recover any deficit that may have arisen because of previous under recovery
- (d) use reasonable endeavours to ensure that customers are aware of the amount of any conditional discount available and how a customer can receive that conditional discount
- (e) ensure conditional discounts reflect a reasonable estimate of the costs incurred, or likely to be incurred, by the retailer as a result of a customer not meeting the conditions of that discount
- (f) ensure any bond is reasonable, taking into account a reasonable estimate of the customer's expected invoice amount for a billing cycle
- (g) refund any bond no later than after the expiry of a 12-month period of the customer paying all invoices on time.

¹³ See our decision paper for more information: [Changes to the default distributor agreement template, consumption data template, and related Part 12A clauses.](#)

Changes to the Obligations as a result of consultation

- 4.65. The Authority decided to make three key changes to this Part of the Code amendment as consulted on:
- (a) We have clarified that the obligation to include a stated maximum limit where a fee is determined via a method or calculation (clause 77) only applies 'where practicable'. This recognises that, in some situations such as for bespoke work, setting a maximum limit on a fee upfront may be impractical, due to variable inputs outside the retailer's control such as third-party contractor costs. Retailers must still comply with other obligations under this Part, including ensuring that a customer was aware of the amount of the fee before it was charged, and that the fee is reasonable.
 - (b) We have removed the proposed obligation to offer to spread the payment of fees over a period of at least five months where that fee exceeds a particular threshold (clause 79). To some extent, this would have duplicated the protection for customers who are, or may be, experiencing payment difficulties in Part 6 of the Obligations. Under that Part, a retailer must offer to discuss payment plans with any such customers, which would include plans that allow the customer to pay off any debt relating to fees charged by the retailer. Removing former clause 79 will ensure that the protections in the Obligations are better targeted to customers who may be experiencing payment difficulties, rather than applying to all customers charged with a significant fee.
 - (c) We have removed the proposed obligation to consider and advise a customer who is no longer entitled to a conditional discount of any available pricing plans that would reduce the customer's invoices (clause 81(2)). The Authority is separately considering retailers' obligations to ensure customers are on the best plan for their circumstances.

5. The amendment promotes our statutory objectives

- 5.1. The Authority's main objective is to promote competition in, reliable supply by, and efficient operation of, the electricity industry for the long-term benefit of consumers. The Authority's additional objective is to protect the interests of domestic and small business consumers in relation to their electricity supply.¹⁴
- 5.2. After considering submissions on the proposed Code amendment, the Authority considers the final Code amendment is consistent with the Authority's statutory objectives, as it would promote:
- (a) the protection of the interests of domestic consumers in relation to retailers' direct dealings with them, by establishing an enforceable regulatory framework that ensures comprehensive, consistent and supportive consumer care protections across the electricity sector
 - (b) competition in the electricity industry for the long-term benefit of consumers, by creating a level playing field and requiring all retailers to comply with the Obligations in respect of all residential consumers, giving some consumers more confidence to switch retailers if they want to

¹⁴ See [section 15](#) of the Act.

- (c) reliable supply by the electricity industry for the long-term benefit of consumers, by establishing obligations which signal that medically dependent consumers should not be disconnected and that disconnection of residential premises in all other contexts is a measure of last resort
- (d) efficient operation in the electricity industry for the long-term benefit of consumers, by mandating clear and workable obligations that consistently apply to all retailers who contract with residential consumers, reducing uncertainty and enabling retailers to more efficiently target resources at the specific areas and issues outlined by the Obligations
- (e) the performance by the Authority of its functions, by enhancing the Authority's ability to monitor retailers' compliance and enforce the Obligations to ensure consumer protections.

5.3. Further benefits of individual clauses of the Obligations are addressed in section 4 above, as well as in Appendix B and the Authority's consultation paper.

The benefits of the Code amendment are greater than the costs

5.4. The consultation paper included our assessment that the benefits of the proposed Code amendment as a whole are expected to outweigh the costs.

Feedback on the cost and benefit analysis

5.5. A significant majority of consumers and consumer advocacy groups agreed that the benefits of the proposed Code amendment outweighed its costs.¹⁵ These submitters supported the shift to mandatory consumer care obligations. Recurring themes in these submissions included the existing lack of protections and the perceived benefits of mandating the Guidelines, particularly for consumers experiencing energy hardship and medically dependent consumers. Some also pointed to reported profits of the larger retailers, arguing that retailers are well placed to absorb any additional operational costs associated with complying with the proposed Obligations.

5.6. Feedback received from other submitters was mixed. Some retailers broadly agreed with the Authority's assessment of costs and benefits, subject to their comments on specific clauses being addressed, but others raised the following concerns:

- (a) Some disagreed with the assumption in the consultation paper that the costs of shifting from voluntary Guidelines to mandatory Obligations was likely to be 'very low for the majority of retailers who are already fully aligned with the Guidelines'. Some noted the existing ability to align using alternative means and the operational changes proposed to the Guidelines to make the Obligations clear and workable.
- (b) Some retailers argued the assessment of costs and benefits should have assessed the costs and benefits clause by clause. As noted above, some retailers had concerns about the costs and benefits of specific clauses and argued a more granular analysis is required to understand the impact of the changes proposed.

¹⁵ Of the submitters who addressed this in their submission. This includes responses to the consumer survey. Of the 278 survey respondents who answered the question "Do you agree with our assessment, that the benefits of mandating the Consumer Care Guidelines will outweigh the costs?" 94% responded 'yes' and 6% responded 'no'.

- (c) Some retailers questioned the assumption that the Obligations would improve engagement between retailers and customers and considered that the assessment should have taken account of the cost to consumers in terms of reduced customer experience owing to prescriptive obligations.
 - (d) Some retailers questioned the conclusion that mandating the Guidelines would result in a net benefit, noting that the increased compliance costs will translate to higher electricity prices for all residential consumers. Some considered that only a small group might see direct benefits, such as those facing payment difficulties. Others considered the proposed Code amendment would have a negative impact on efficiency and competition.
 - (e) There was a concern that smaller retailers could bear disproportionate costs if the Obligations are developed based on larger retailers' capabilities.
- 5.7. Distributors generally disagreed that the benefits of the proposed clauses applicable to them would outweigh the costs, given their concerns with these clauses discussed in the sections above.

Response to submissions

- 5.8. We have carefully considered the feedback on the consultation paper's cost and benefit analysis of the proposed Code amendment.
- 5.9. In relation to the concerns raised by some retailers and distributors, we note that we have addressed submitters' concerns in relation to the costs and benefits of individual clauses as part of the more specific analysis provided in section 4 and the clause-by-clause assessment in Appendix B.
- 5.10. Where concerns were raised in consultation that the costs associated with a particular clause may outweigh the benefits to be gained from it, including operational costs and costs in the form of reduced consumer experience and reduced retailer flexibility to innovate, the Authority has assessed these and made amendments as needed (up to and including removing the particular clause where appropriate).
- 5.11. In light of these changes, and for many of the reasons indicated in the consultation paper, the Authority is satisfied that the benefits of the final Code amendment outweigh its costs, and that incorporating it into the Code will promote its statutory objectives.

6. Next steps – implementation of decisions and supporting actions

Key dates

- 6.1. To allow retailers time to make the necessary operational adjustments and train staff, the Authority has adopted a staged implementation approach.
- 6.2. From **1 January 2025**, retailers will be:
- (a) prohibited from disconnecting a post-pay customer's premises where they know a medically dependent consumer resides at the premises (clause 37 of the Obligations, formerly clause 45(b) as consulted on)

- (b) required to notify us as soon as they become aware of a disconnection contrary to this prohibition
 - (c) required to ensure that any fee charged (clause 68 of the Obligations, formerly clause 78 as consulted on):
 - (i) does not exceed reasonable estimates of the costs the fee is identified as contributing to
 - (ii) is otherwise reasonable, balancing precision with administrative efficiency
 - (iii) is not used to offset future costs
 - (iv) does not attempt to recover any deficit from a previous under-recovery.
- 6.3. All other Obligations will come into effect on **1 April 2025**, giving retailers time to comply with the full set of legal requirements under the Obligations.
- 6.4. Retailers must make their first compliance report by **30 September 2025**. The Authority will publish the prescribed form for this report, but it will cover:
- (a) compliance with clauses 45 and 78 from 1 January 2025 to 30 June 2025
 - (b) compliance with all remaining clauses of the Obligation from 1 April 2025 to 30 June 2025.

Guidance and support materials

- 6.5. We will shortly be publishing guidance to help retailers understand how we will assess whether a fee is reasonable, and consulting on a new EIEP to support retailers' obligations to share information about medically dependent consumers with distributors. This consultation will be notified in Market Brief.
- 6.6. New forms for confirming medical dependency are under development. We are considering further guidance to support retailers' implementation of the Obligations ahead of 1 April 2025.
- 6.7. We will also be publishing information for consumers on our website to help consumers understand their rights under the new rules. This will include guidance on what to do if they believe their retailer is in breach of the Obligations and how to seek support.

Monitoring and enforcement

- 6.8. The Authority's role under the Act is to monitor and enforce compliance with the Code, which will now include the Obligations.
- 6.9. The Authority's primary functions in relation to the Obligations going forward will include:
- (a) monitoring compliance with the Obligations to identify trends and patterns that may indicate systemic issues
 - (b) trend analysis to ensure that the obligations are functioning as intended and benefiting consumers without imposing undue costs on industry participants
 - (c) enforcement of serious breaches, where appropriate through the established Rulings Panel.

- 6.10. We will be publishing the results of the Obligations monitoring function where appropriate.
- 6.11. We adopt a targeted enforcement approach undertaken in accordance with the Electricity Industry (Enforcement) Regulations 2010 (Regulations) and relevant enforcement and compliance policies. Not all reported breaches are investigated, and the applicable processes can take some time. Only the Rulings Panel has the ability to order pecuniary penalty for breaches of the Code, of up to \$2 million, and make compensation orders in respect of any person.

Ensuring clear dispute resolution pathways

- 6.12. The Authority's role discussed above is distinct from the role of Utilities Disputes Limited (UDL), which has a critical role as a mandated dispute resolution scheme under the Act, for resolving disputes and complaints between consumers and electricity providers.
- 6.13. The roles of the Authority and UDL are separate yet complementary. We will continue to work with UDL to coordinate our approach under the Obligations for the benefit of all consumers and providers.
- 6.14. UDL remains the designated dispute resolution scheme for resolving consumer disputes with retailers. While a Code breach report could be made by the consumer to the Authority at the same time, consumers can resolve the matter through UDL in the first instance.¹⁶
- 6.15. The Authority and UDL will work together to manage their respective roles and, as noted in paragraph 6.7 above, we will be publishing information for consumers to help them understand the Authority's and UDL's roles.

Ongoing consumer care work programme

- 6.16. The Authority will continue to consider additional consumer protection initiatives and opportunities to improve the Obligations, as part of its ongoing consumer protection work programme.

7. Attachments

- 7.1. The following appendices are attached to this paper:
1. **Appendix A** Final Code amendment
 2. **Appendix B** Changes to Code amendment made in response to submissions

¹⁶ If a consumer chooses not to report to the Authority, aggregated breach information will still be received from UDL on a regular basis for monitoring purposes.

Appendix A Final Code amendment

Appendix B Changes to Code amendment made in response to submissions