

Retail Advisory Group

Domestic Contracting Arrangements

Issues Paper

20 February 2013

Note: This paper has been prepared for the purpose of the Retail Advisory Group. Content should not be interpreted as representing the views or policy of the Electricity Authority.

The Retail Advisory Group

The Retail Advisory Group (RAG) provides independent advice to the Electricity Authority (Authority) on the development of the Electricity Industry Participation Code 2010 (Code) and market facilitation measures, focusing on the relationships between the retailer, distributor and consumer.

The members of the RAG approving this discussion paper are:

Peter Allport, Chair

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The RAG has been requested by the Authority to identify arrangements to examine the operational effectiveness of aspects of the domestic contracting arrangements, and to identify and recommend alternatives that promote competition in, reliable supply by, and efficient operation of the electricity industry for the long-term benefits of consumers.

The Authority has statutory responsibility for the Code, and for undertaking market facilitation measures and monitoring the operation and effectiveness of market facilitation measures.

The RAG will use feedback from participants and consumers to develop advice and recommendations to the Authority Board on domestic contracting arrangements.

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1 What you need to know to make a submission

1.1 What this consultation paper is about

- 1.1.1 The Electricity Authority (Authority) has requested the Retail Advisory Group (RAG) to review domestic contracting arrangements, including an assessment of:
- a) whether to develop minimum terms and conditions for the relationship between consumers and distributors (where the distributor has a direct relationship) and retailers (referred to as conveyance model arrangements)
 - b) whether to more closely monitor retailers' behaviours by monitoring their compliance with their domestic contracts, for example, by collecting and reporting consumer complaints data
 - c) the potential to improve the operational efficiency of the arrangements to assist medically dependent and vulnerable consumers.
- 1.1.2 The objective of this project is to examine the operational effectiveness of aspects of the domestic contracting arrangements, and to identify and recommend alternatives that promote competition in, reliable supply by, and efficient operation of the electricity industry for the long-term benefits of consumers.
- 1.1.3 Before the RAG commences its review, it wants to ensure it clearly understands any problems relating to the operational effectiveness of the domestic contracting arrangements. The purpose of this paper is to seek feedback on the relevant issues for each limb of this project.
- 1.1.4 The RAG invites you to make a submission on the issues discussed in this paper.

1.2 How to make a submission

- 1.2.1 Your submission is likely to be made available to the general public on the Electricity Authority's (Authority's) website. If necessary, please indicate any documents attached in support of your submission and any information that is provided on a confidential basis. However, you should be aware that all information provided to the Authority is subject to the Official Information Act 1982.
- 1.2.2 The RAG's preference is to receive submissions in electronic format (Microsoft Word) in the format shown in Appendix A. Submissions in electronic form should be emailed to RAG@ea.govt.nz with "RAG – Domestic Contracting Arrangements" in the subject line.
- 1.2.3 Do not send hard copies of submissions unless it is not possible to do so electronically. If you cannot or do not wish to send your submission electronically, you should post one hard copy of the submission to either of the addresses provided below or you can fax it to 04 460 8879. You can call 04 460 8860 if you have any questions.

Postal address

Retail Advisory Group
C/- Electricity Authority
PO Box 10041
Wellington 6143

Physical address

Retail Advisory Group
C/- Electricity Authority
Level 7, ASB Bank Tower
2 Hunter Street
Wellington

1.3 Deadline for receiving a submission

- 1.3.1 Submissions should be received by **5pm** on **[date]**. Please note that late submissions are unlikely to be considered.
- 1.3.2 The Authority will acknowledge receipt of all submissions electronically. Please contact the Submissions' Administrator if you do not receive electronic acknowledgement of your submission within two business days.

2 Introduction

2.1 Background

- 2.1.1 The domestic contracting arrangements are a package of market facilitation measures relating to the relationships between retailers, distributors and customers. The package includes voluntary good practice contracting principles and minimum terms and conditions for domestic retail contracts (interposed model arrangements – where the consumer has a relationship with the retailer, and the retailer has the relationship with the distributor) (minimum terms and conditions (interposed)), guidelines on arrangements to assist medically dependent consumers (guidelines for medically dependent consumers) and guidelines on arrangements to assist vulnerable consumers (guidelines for vulnerable consumers).
- 2.1.2 The RAG was requested to review domestic contracting arrangements as part of its 2011/12 work plan. The project involved considering updating the minimum terms and conditions (interposed) and any consequential changes to the guidelines for medically dependent consumers and vulnerable consumers.
- 2.1.3 The RAG's early investigations indicated that there may be operational issues in certain areas of the domestic contracting arrangements, but that a wholesale review is unlikely to be beneficial. In particular, the RAG did not consider that the existing minimum terms and conditions (interposed) should be reviewed at this stage, because retailers are aligning their contracts with these arrangements. Accordingly, the RAG suggested to the Authority that a more narrowly defined scope is appropriate for the project.
- 2.1.4 As a consequence, and in line with the RAG's suggestion, the Authority agreed that the scope of the project should focus on the three issues set out in paragraph 1.1.1 above.

2.2 Next steps

- 2.2.1 The next steps for the RAG in undertaking this project are as follows:
- a) release issues paper to identify problems/issues
 - b) release discussion paper on options to address problems, as necessary
 - c) make final recommendations to the Board.

3 Minimum terms and conditions for domestic contracts

3.1 Existing arrangements

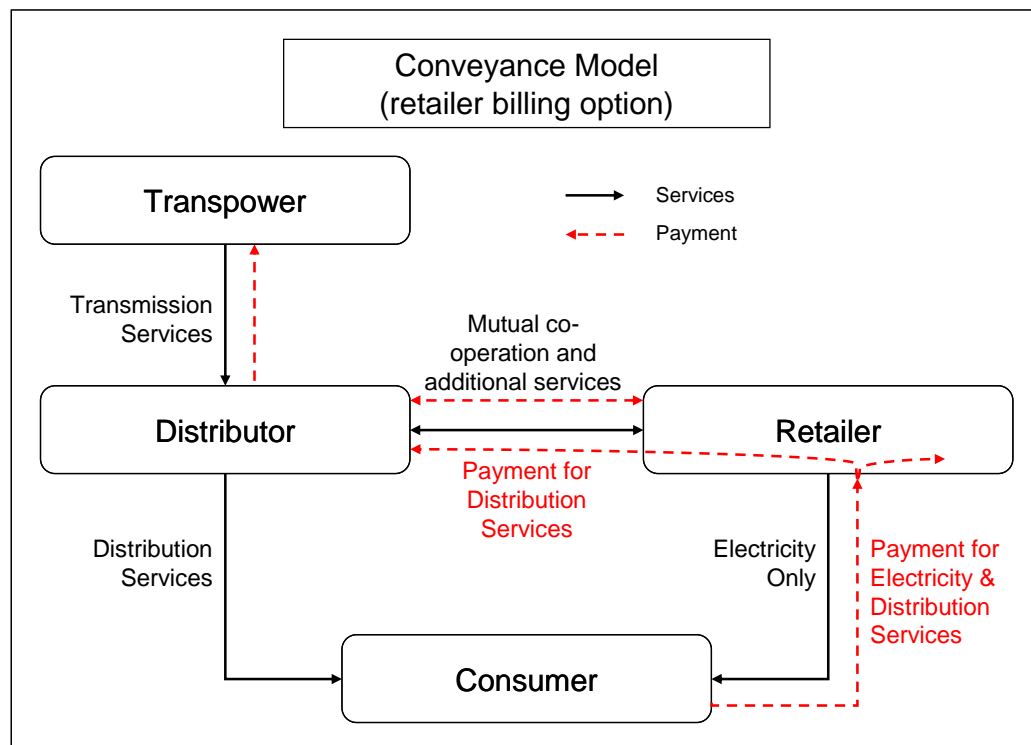
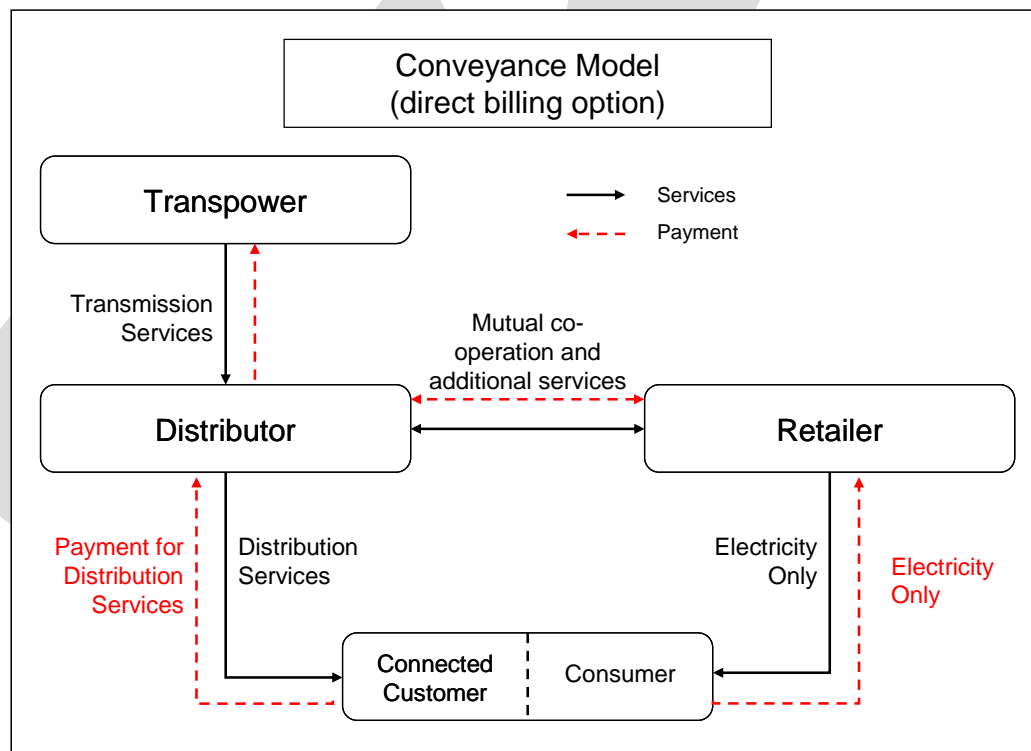
- 3.1.1 On 17 May 2010, the Electricity Commission published the minimum terms and conditions for contractual relationship between retailers and consumers, where the consumer does not have a

relationship with their distributor (referred to as interposed distribution arrangements).¹ The minimum terms and conditions provide a framework for identifying terms and conditions in retailer's domestic contracts that reflect the reasonable expectations of consumers. They are a reasonable set of terms and conditions that the retailer should fulfil.

- 3.1.2 The minimum terms and conditions also provide consumers with information about what kind of clauses they can expect in their contracts with their electricity retailer. This enables consumers to better distinguish between retailers based on their terms and conditions, as well as encouraging competition between retailers. Retailers that better cater to the needs of consumers and have real points of difference should gain more consumers than retailers that do not. About 80% of consumers receive electricity under an interposed arrangement.
- 3.1.3 This leaves about 20% of consumers currently receiving electricity under a conveyance arrangement, which is used by Vector,² Mainpower and The Lines Company. Other distributors may also move to using conveyance arrangements in some or all network areas. The Electricity Commission had intended to develop minimum terms and conditions for conveyance arrangements, once those for interposed arrangements were complete.
- 3.1.4 Under conveyance distribution arrangements, the distributor contracts directly with the consumer for the provision of distribution services. The consumer also contracts with a retailer for the purchase of electricity (and all services that do not fall within their contract with the distributor). There are two forms of conveyance arrangements:
- a) retailer billing, where the retailer invoices the consumer on behalf of the distributor
 - b) direct billing, where the distributor invoices the consumer for distribution services, and the retailer invoices the consumer for electricity usage.
- 3.1.5 Figure 1 and Figure 2 show the two forms of conveyance arrangements. Vector and Mainpower both use the retailer billing option in Figure 1. TLC uses the direct billing option in Figure 2.

¹ Minor amendments were made by the Authority in June 2011. The minimum terms and conditions (interposed) are available at: <http://www.ea.govt.nz/our-work/programmes/market/consumer-rights-policy/domestic-electricity-retail-contracts/>.

² Vector uses conveyance arrangements for its Auckland City, Manukau and Papakura networks, and uses interposed arrangements for its North Shore, Waitakere and Rodney networks.

Figure 1 Conveyance electricity delivery model (retailer billing option)**Figure 2** Conveyance electricity delivery model (direct billing option)

3.2 What are the issues?

- 3.2.1 As noted above, the majority (80%) of domestic consumers receive electricity under an interposed arrangement, with the remaining 20% receiving electricity under a conveyance arrangement. As there are no minimum terms and conditions for conveyance arrangements, there is potentially a level of uncertainty about the relationship between distributors and consumers. There may also be a lack of clarity for consumers about what services are provided by retailers and what services are provided by distributors where there is a conveyance arrangement. In addition, individual consumers do not have the same ability as retailers to negotiate terms and conditions with distributors.
- 3.2.2 Vector (central), Mainpower and The Lines Company use conveyance arrangements and publish the standard terms and conditions for supply of distribution services on their websites. A preliminary assessment indicates variation in form and content of the terms and conditions of the three distributors.^{3, 4, 5} This could make it difficult for consumers to ascertain what is reasonable to include in their agreements with distributors, and whether they are receiving an equivalent level of service as consumers elsewhere.
- 3.2.3 The RAG understands that there are some consumers who receive electricity under conveyance arrangements have experienced problems in their relationship with their distributor, including in relation to having difficulty understanding distributors' pricing methodologies, identifying when a consumer is a customer of a distributor, and understanding when and how a distributor can change terms and conditions.
- 3.2.4 The Electricity and Gas Complaints Commissioner (EGCC) provided the RAG with the following main themes of complaints received in relation to conveyance arrangements:
- a) [insert following discussions with EGCC on 20 February]
- 3.2.5 The RAG considers the Authority should publish minimum terms and conditions for conveyance arrangements if there is likely to be a long-term benefit gain for consumers from clarifying the nature of the relationship between consumers and distributors, where there is a direct contractual relationship.
- 3.2.6 The RAG is seeking submitters' views on whether publishing minimum terms and conditions for conveyance arrangements may provide the following benefits for consumers:
- a) more certainty about the relationship between distributors and consumers
 - b) improved clarity about what services are provided by retailers and what services are provided by distributors where there is a conveyance arrangement
 - c) support for consumers to negotiate more efficiently with distributors
 - d) potential to reduce the number of complaints between consumers and distributors using conveyance arrangements.

³ Vector's standard terms and conditions for conveyance arrangements can be found at:
<http://vector.co.nz/sites/vector.co.nz/files/Standard%20Terms%20and%20Conditions%201009.pdf>.

⁴ Mainpower's standard connection agreement can be found at:
<http://www.mainpower.co.nz/index.cfm/3,392,554/connectionagreementinside1aug09.pdf>.

⁵ TLC's domestic and commercial terms and conditions can be found at:
http://www.thelinescompany.co.nz/termsandconditions/Terms_Conditions_2009.pdf.

- 3.2.7 The RAG is also seeking submitter's views of the potential costs of this policy intervention, including:
- a) transaction costs, associated with more prescription about the approach to contracting between distributors and consumers
 - b) compliance costs, associated with being more prescriptive about the nature of the relationship between distributors and consumers.

- Q1.** What would be the benefits of developing minimum terms and conditions for conveyance arrangements to clarify the nature of the relationship between distributors and consumers, where they have a direct relationship?
- Q2.** Do you agree with the issues described above?
- Q3.** Are there any other issues in respect of the relationship between distributors and consumers under conveyance arrangements? Please provide a description of the issue and supporting evidence.

4 Monitoring retailers' compliance with their domestic contracts

4.1 Existing arrangements

- 4.1.1 Retailers' domestic contracts set out the terms and conditions under which they supply electricity to domestic consumers.
- 4.1.2 The Authority has asked the RAG to consider whether to more closely monitor retailers' behaviours by monitoring their compliance with their domestic contracts, for example, by collecting and reporting consumer complaints data.

4.2 What are the issues?

- 4.2.1 On 3 December 2012, the Authority published a report on the alignment of retailers' domestic contracts with the Authority's minimum terms and conditions (interposed).⁶ The results of the 2012 review show that alignment with the minimum terms and conditions is generally good. However, alignment doesn't necessarily mean that consumers are receiving electricity on the basis contracted because retailers are not complying with their domestic contracts. If retailers are not complying with their domestic contracts, consumers will not be receiving the intended benefits of the minimum terms and conditions regime, and there may be a case for the Authority to reconsider its voluntary approach to the minimum terms and conditions regime.
- 4.2.2 The RAG is seeking submitters' views on whether monitoring retailers' compliance with their domestic contracts is likely to lead to benefits to consumers and, if so, what those benefits might be.
- 4.2.3 In addition, although the Authority has a function to monitor the performance of the electricity market and sector, this monitoring function has the potential to cross over into the jurisdiction of other organisations. For example:

⁶ Available at: <http://www.ea.govt.nz/our-work/programmes/market/consumer-rights-policy/domestic-electricity-retail-contracts/>.

- a) Consumer NZ undertakes a survey of its members (approximately 60,000) on their satisfaction with their electricity retailer
- b) the EGCC collects complaints information, and reports on deadlocked complaints⁷ by retailer.

4.2.4 The RAG is seeking submitters' views on whether the Authority is the best party to provide information on the service quality of retailers, or whether consumers are able to seek this out from other sources. Views on whether such information should be provided as part of the 'What's My Number' website are also sought.

Q4. What would be the benefits of the Authority monitoring retailers' compliance with their domestic contracts?

Q5. Is the Authority the best party to provide information on the service quality of retailers, or can consumers seek this out from other sources?

Q6. Are there any other issues in respect of monitoring retailers' compliance with their domestic contracts that the RAG should consider?

5 Improving the operational efficiency of the arrangements to assist medically dependent and vulnerable consumers

5.1 Existing arrangements

5.1.1 A medically dependent consumer is defined as a domestic consumer who is dependent on mains electricity for critical medical support, such that loss of electricity may result in loss of life or serious harm. For the avoidance of doubt, medical dependence on electricity could be for use of medical or other electrical equipment needed to support the treatment regime (for example, a microwave to heat fluids for renal dialysis or equipment such as that listed in Appendix 2 of the medically dependent consumer guidelines).

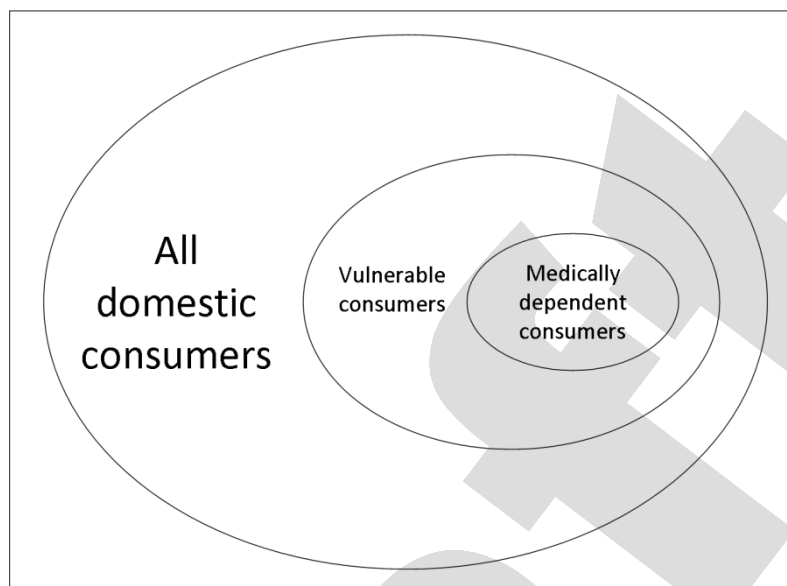
5.1.2 A vulnerable consumer is defined as a domestic consumer for whom:

- a) for reasons of age, health or disability, the disconnection of electricity to that domestic consumer presents a clear threat to the health or wellbeing of that domestic consumer and/or
- b) it is genuinely difficult to pay his or her electricity bills because of severe financial insecurity, whether temporary or permanent.

5.1.3 Medically dependent consumers are a subset of vulnerable consumers, which are a subset of all other consumers. Figure 3 below shows this relationship.

⁷ The EGCC considers deadlocked complaints, which are complaints that have not been resolved by discussions between the retailer and the consumers.

Figure 3 Relationship between vulnerable consumers, medically dependent consumers and all domestic consumers



5.2 Purpose and background of the guidelines

- 5.2.1 The Authority administers guidelines⁸ on arrangements to assist medically dependent and vulnerable consumers, which were created to meet Government policy objectives.⁹
- 5.2.2 The guidelines were first published by the Electricity Commission in November 2005 and provided guidance on arrangements to assist low income consumers (now a subset of vulnerable consumers). The guidelines were substantially reviewed in July 2007, updated in 2008 and reviewed again during 2009. As a result of the 2009 review, the Electricity Commission split the arrangements into two guidelines and produced fact sheets for medically dependent consumers and vulnerable consumers. The current versions of the guidelines were published in March 2010.
- 5.2.3 Monitoring compliance with the guidelines is now the responsibility of the Authority. After the Authority completes a compliance review, it sends a report to the Minister of Energy and Resources outlining the findings and any recommendations.¹⁰
- 5.2.4 The guidelines articulate the Authority's expectations of electricity retailers in dealing with vulnerable consumers and medically dependent consumers. They suggest actions designed to assist retailers, vulnerable consumers, and medically dependent consumers in avoiding or at least minimising:
- a) incidences of non-payment by vulnerable and medically dependent consumers
 - b) the accumulation of debt by vulnerable and medically dependent consumers
 - c) the accumulation of credit risk by retailers.

⁸ The Vulnerable Consumer Guideline and the Medically Dependent Consumer Guideline are available at: <http://www.ea.govt.nz/consumer/mdvc/>.

⁹ CBC Min (07) 11/10 paragraph 5.

¹⁰ The most recent report can be found at: [\[insert link\]](#)

5.2.5 The vulnerable consumer guidelines intend to:

- a) define standards for the disconnection of vulnerable consumers for reasons of non-payment
- b) assist retailers in ensuring that no vulnerable consumers are disconnected inappropriately for non-payment
- c) assist retailers and vulnerable consumers to minimise disconnections for non-payment.

5.2.6 The medically dependent consumer guidelines intend to:

- a) assist retailers in ensuring that no medically dependent consumers are disconnected for non-payment
- b) ensure that all medically dependent consumers receive the most appropriate consideration of their needs and any support that they are legally entitled to
- c) outline the process for a consumer to become registered with his or her retailer as a medically dependent consumer.

5.2.7 The guidelines support the Authority's statutory objective by:

- a) suggesting retailers provide information to consumers which will encourage more efficient behaviour (promoting efficient operation)
- b) reducing the risk of disconnection for non-payment (promoting reliability of supply).

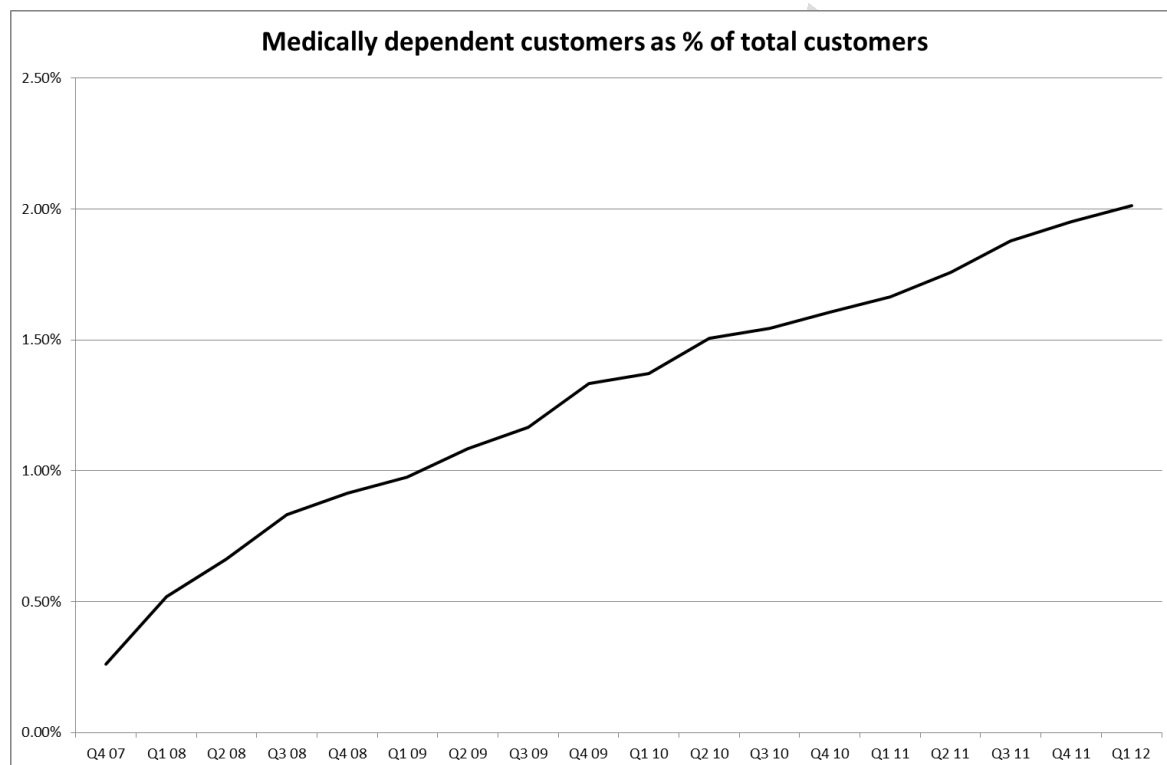
5.3 What are the issues?

5.3.1 In considering whether to review the arrangements to assist medically dependent and vulnerable consumers, the RAG is seeking submitters' views on the following potential issues:

- a) the guidelines have been in their current form since they were published in March 2010. Since their release and implementation, there has not been a comprehensive assessment of their effectiveness. It is considered good policy practice to regularly assess the effectiveness of market facilitation measures
- b) while certain objectives of the guidelines fall within the responsibility of the Authority, there are other aspects that fall under social agencies such as Work and Income or health agencies (for example, vulnerable consumers fall under the ambit of social agencies)

- c) there has been a steady increase in the number of medically dependent consumers over the past four years (see Figure 4 below) and further investigation would be needed to determine why this is the case

Figure 4 Proportion of medically dependent consumers



Source: Electricity Authority

- d) there are some overlaps between clauses in the guidelines and clauses in the minimum terms and conditions (interposed), which may create confusion in terms of the relative responsibilities of retailers, distributors and consumers
- e) retailers have indicated there are operational problems with the medically dependent and vulnerable consumer guidelines, and improvements could be made to the guidelines to make them work better. These are discussed further in the next section.

5.4 Operational issues with the medically dependent and vulnerable consumer guidelines

- 5.4.1 The RAG is keen to understand the full extent of any operational issues with the medically dependent and vulnerable consumer guidelines. Some of the issues summarised below were raised in a letter¹¹ to the RAG from Genesis Energy, while others arose during discussions by the RAG. The RAG invites other interested parties to advise whether they share the concerns set out below, and to also submit any additional concerns with the operational aspects of the medically dependent and vulnerable consumer guidelines, for consideration in the review.

¹¹ Genesis' letter can be found at: <http://www.ea.govt.nz/our-work/advisory-working-groups/rag/30Aug12/>.

The medically dependent and vulnerable consumer guidelines should be “future-proofed” to accommodate the full range of benefits possible from the introduction of advanced metering

- 5.4.2 One particular example of this is customer disconnections. The vulnerable consumer guidelines currently require a representative to be sent out to the property when it is to be disconnected, if no contact has been made with the customer. It may become increasingly common for disconnections and reconnections to be made remotely, as the penetration of advanced meters increases nationwide.
- 5.4.3 However, the benefits of advanced meters may not be fully realised if the vulnerable consumer guidelines continue to require physical site visits for disconnection when no contact can be made with the customer.

The medically dependent and vulnerable consumer guidelines do not always easily transfer across to dual-fuel customers

- 5.4.4 Examples of issues in relation to dual-fuel customers include:
- a) the medically dependent and vulnerable consumer guidelines do not specify what an acceptable bond amount would be for a dual-fuel customer. The guidelines only specify a maximum bond of \$150 for electricity
 - b) the vulnerable consumer guidelines specify that customers should only be disconnected for non-payment of electricity services (clause 31). However, in practice dual-fuel customers that do not pay their bill for both electricity and gas, could still have their electricity disconnected.

Not all retailers offer a prepayment option to their customers

- 5.4.5 The medically dependent and vulnerable consumer guidelines require retailers to offer prepayment meters as an alternative to a bond. However, not all retailers offer a prepayment option to their customers and, as the electricity market evolves, there will be retailers for whom prepayment meters do not fit their business model.

It is unclear whether disconnection notices must be posted, or whether they may be emailed

- 5.4.6 Paragraph 2.11(a) of the minimum terms and conditions (interposed) provides that disconnection notices can be provided to a physical or electronic address, while the vulnerable consumer guidelines just refer to a notice and do not specify whether it has to be sent to a postal address.

It is unclear whether a retailer can remove the medically dependent status on an account if a customer does not respond to any communications

- 5.4.7 Retailers are able to ask medically dependent customers to re-verify their medically dependent status if the account is overdue. However, it is unclear the retailer is able to remove the medically dependent status on an account if a customer does not respond to any communications.

Retailer default situations – onus on vulnerable and medically dependent consumers to self-identify

- 5.4.8 In a retailer default situation, a vulnerable or medically dependent consumer may be switched to a new retailer who may not know the consumer’s status, as this information is not held on the registry. Similarly, a distributor might disconnect a vulnerable or medically dependent consumer if the distributor has not been informed of the consumer’s status.

Co-ordination between retailers and social agencies

- 5.4.9 Some instances of non-payment by vulnerable or medically dependent consumers occur as a result of poverty or hardship issues. Improved co-ordination between retailers and social agencies may reduce occurrences of non-payment and subsequent disconnection.

- Q7.** What are the benefits of the Authority undertaking a review of the medically dependent and vulnerable consumer guidelines?
- Q8.** How comprehensive should such a review be?
- Q9.** Do you agree with the issues described above?
- Q10.** Are there any other issues in relation to the medically dependent and vulnerable consumer guidelines the RAG should consider?

6 Other matters

- 6.1.1 The RAG has been asked to consider the operational effectiveness of aspects of the domestic contracting arrangements, focusing on specific issues with the relationship between distributors and consumers, with the minimum terms and conditions for domestic contracts; and the arrangements for medically dependent and vulnerable consumers. However, the RAG is interested in feedback about other issues with aspects of the domestic contracting arrangements that influence operational effectiveness.

- Q11.** Are you aware of other issues with the domestic contracting arrangements adversely affecting operational effectiveness? Please describe the issue and provide evidence.

Appendix A Format for submissions

Submitter		
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Question	Comment
<p>Q1. What would be the benefits of developing minimum terms and conditions for conveyance arrangements to clarify the nature of the relationship between distributors and consumers, where they have a direct relationship?</p> <p>Q2. Do you agree with the issues described above?</p> <p>Q3. Are there any other issues in respect of the relationship between distributors and consumers under conveyance arrangements? Please provide a description of the issue and supporting evidence.</p> <p>Q4. What would be the benefits of the Authority monitoring retailers' compliance with their domestic contracts?</p> <p>Q5. Is the Authority the best party to provide information on the service quality of retailers, or can consumers seek this out from other sources?</p> <p>Q6. Are there any other issues in respect of monitoring retailers' compliance with their domestic contracts that the RAG should consider?</p> <p>Q7. What are the benefits of the Authority undertaking a review of the medically dependent and vulnerable consumer guidelines?</p> <p>Q8. How comprehensive should such a review be?</p> <p>Q9. Do you agree with the issues described above?</p> <p>Q10. Are there any other issues in to relation to the medically dependent and vulnerable consumer guidelines the RAG should consider?</p> <p>Q11. Are you aware of other issues with the domestic contracting arrangements</p>	

<p>adversely affecting operational effectiveness? Please describe the issue and provide evidence.</p> <p>Clause X.X</p>	
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