

# Proposed changes to the Guideline on arrangements to assist low income and vulnerable consumers

23 February 2009



## Executive summary

The *Guideline on arrangements to assist low income and vulnerable consumers* (Guideline) outlines the Commission's expectation of the standard for electricity disconnection due to non-payment by vulnerable consumers. The policy objectives include the protection of medically dependent vulnerable consumers (MDVC) from possible critical consequences from electricity disconnection due to non-payment.

The Electricity Commission (Commission) has, through engagement with stakeholders, identified that the existing Guideline may not be achieving its policy objectives due to:

- (a) Issues with the definition of MDVC;
- (b) No specified process for assisting a MDVC, other than a blanket statement that they cannot be disconnected for reasons of non-payment; and
- (c) District Health Boards (DHB) developing a process inconsistent with the Guideline.

The Commission proposes to revise the Guideline and wishes to obtain input from affected parties. The major revisions proposed are:

- (a) Changing the definition of MDVC to focus on the level of medical dependence and imminent harm; rather than the existence of the medical equipment;
- (b) Providing a process to help a MDVC receive the support that they may be entitled to;
- (c) Clarifying that it is the consumer's responsibility to disclose private or personal information that may be relevant to any retailer's disconnection decision;
- (d) Aligning the Guideline with the current DHB process; and
- (e) Recognising that low income consumers are a subset of vulnerable consumers.



## Glossary of abbreviations and terms

<b>CEME</b>	Critical electrical medical equipment.
<b>Commission</b>	Electricity Commission.
<b>Consumer</b>	Domestic electricity consumer.
<b>Critically dependent on a CEME</b>	<p>In the opinion of the DHB (as notified on the <i>Notice of dependency on electricity to power critical electrical medical equipment</i> issued by a DHB):</p> <ul style="list-style-type: none"><li>(a) the patient is highly dependent on the CEME – loss of equipment may result in loss of life or permanent injury; and</li><li>(b) the harm to a patient from loss of the CEME is imminent in the context of a patient’s location and access to emergency support.</li></ul>
<b>DHB</b>	District Health Board.
<b>GPS</b>	Government Policy Statement on Electricity Governance (May 2008).
<b>Guideline</b>	<i>Guideline on arrangements to assist vulnerable consumers.</i>
<b>MDVC</b>	Medically dependent vulnerable consumer. A vulnerable consumer who is critically dependent on a CEME provided or prescribed by a DHB for use in a domestic residence.
<b>Retailers</b>	Electricity retailers and distributors who directly charge their consumers.
<b>Vulnerable consumer</b>	A consumer is vulnerable if for reasons of age, health, disability or severe financial insecurity disconnection of electricity presents a clear threat to their, or a member of their household’s, health or wellbeing.



# Contents

Executive summary	A
Glossary of abbreviations and terms	C
1. Introduction and purpose of this paper	1
1.1 Purpose of this paper	1
1.2 Submissions	1
2. Background	3
2.1 Guideline	3
2.2 Monitoring performance	3
2.3 Issues identified	3
3. Analysis	5
3.1 Introduction	5
3.2 Principles	5
3.3 Policy objectives	6
3.4 Standards	7
3.5 Addition of a 'Background' section	8
3.6 Medically dependent vulnerable consumer – definition issues	8
3.7 Consistent policy between the Commission and DHBs	10
3.8 Other proposed updates	12
4. Conclusion	13
5. Summary of questions	14
Appendix 1 Draft Guideline	16
Appendix 2 Format for submissions	22



## 1. Introduction and purpose of this paper

### 1.1 Purpose of this paper

1.1.1 The purpose of this paper is to consult with interested parties on possible revisions to the Guideline.

1.1.2 The Commission invites submissions on the proposed revisions to the Guideline (attached as Appendix 1), including drafting comments on the draft Guideline.

### 1.2 Submissions

The Commission's preference is to receive submissions in electronic format (Microsoft Word). It is not necessary to send hard copies of submissions to the Commission, unless it is not possible to do so electronically. Submissions in electronic form should be emailed to [submissions@electricitycommission.govt.nz](mailto:submissions@electricitycommission.govt.nz) with *Consultation Paper: Guideline on arrangements to assist vulnerable consumers* in the subject line.

If submitters do not wish to send their submission electronically, they should post one hard copy of their submission to the address below.

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Wellington 6143

Tel: 0-4-460 8860

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1.2.1 Submissions should be received by 4.00 pm on 27 March 2009.

1.2.2 The Commission will acknowledge receipt of all submissions electronically. Please contact Bronwyn Christie if you do not receive electronic acknowledgement of your submission within two business days.

1.2.3 If possible, submissions should be provided in the format shown in Appendix 2. Your submission is likely to be made available to the general public on the Commission's website. Submitters should indicate any documents attached, in support of the submission, in a covering letter and clearly indicate any information that is provided to the Commission on a confidential basis. However, all information provided to the Commission is subject to the Official Information Act 1982.



## 2. Background

### 2.1 Guideline

- 2.1.1 The Guideline outlines the Commission's expectation of the standard for electricity disconnection due to non-payment by vulnerable consumers. The Guideline was issued in 2005, revised in July 2007 following the death of Mrs Muliaga and updated on January 2008 to address issues of discrimination with prepayment meters.
- 2.1.2 The Guideline was issued by the Commission to support the Government Policy Statement on Electricity Governance (GPS). The May 2008 version of the GPS includes, as an element of consumer protection policy, that any consumer who is dependent on electricity for critical medical support will not be disconnected for reasons of non-payment.
- 2.1.3 The Guideline is supported by:
- (a) Model Contract for Domestic Consumers;<sup>1</sup> and
  - (b) Protocol between electricity retailers and social agencies.<sup>2</sup>

### 2.2 Monitoring performance

- 2.2.1 Since December 2007, retailers have recorded a 253% growth in the number of MDVCs (14,969, or 0.9% of all domestic consumers). The increase is probably due to retailers implementing the Guideline (which requires retailers to notify consumers of the ability to be recorded as a MDVC) and the definition of MDVC in the Guideline not being precise.
- 2.2.2 Last year the Commission noted that there was a high level of compliance with the Guideline by retailers. The Commission is currently undertaking an annual monitoring process of retailers' compliance with the Guideline.

### 2.3 Issues identified

- 2.3.1 Engagement with electricity retailers, Ministry of Health officials, DHBs, and Work and Income has identified the following issues with the existing Guideline:

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<sup>1</sup> Proposal for changes to the Interposed Model Contract has been issued for consultation – which closed on 6 June 2008.

<sup>2</sup> <http://www.electricitycommission.govt.nz/advisorygroups/pjtteam/rsapwg>

- (a) The Guideline focuses on a short term issue (disconnection) and does not assist to facilitate a long term solution for MDVCs;
- (b) The definition of MDVC focuses on the medical equipment; therefore, people can claim MDVC status without having the underlying cause of the vulnerability, if they have the equipment for a non-critical medical condition;
- (c) Process inconsistency between the DHB and the Guideline (i.e., different policies on who has the responsibility to inform the retailer that a household has a MDVC resident) creates risks for vulnerable people;
- (d) The self-selection process for a MDVC creates the opportunity for:
  - (i) inconsistent application of the MDVC definition; and
  - (ii) abuse of the process.

## 3. Analysis

### 3.1 Introduction

- 3.1.1 This section provides an analysis of each of the main issues that led to the Commission's decision to propose revisions to the Guideline. A draft Guideline incorporating proposed changes to address these issues is attached as Appendix 1.

### 3.2 Principles

- 3.2.1 The existing Guideline does not specify the principles that the Guideline is based on. This leads to a lack of clarity for electricity retailers, consumers, and social agencies on what the Commission's expectations are. It is proposed that the following principles are adopted and articulated as part of the Guideline.

#### *Statement of principles*

- 1) consistency with the GPS;
- 2) the process of considering disconnection for non-payment must be fair to all parties, recognising:
  - (a) the importance of electricity supply to vulnerable consumers due to the possible disproportionate consequences of disconnection on this consumer group;
  - (b) the importance of electricity supply to a MDVC due to possible critical and imminent consequences of disconnection to consumers; and
  - (c) the potential imbalance of power in the relationship between vulnerable consumers and retailers; and
  - (d) retailers' right to be paid.
- 3) retailers must make an informed decision before disconnecting for non-payment, recognising that:
  - (a) it is the consumer's responsibility to disclose private or personal information that may be relevant to any disconnection decision. This includes information on the change in MDVC status of a consumer over time;
  - (b) a retailer will take all reasonably practicable steps to determine if a vulnerable person is resident in a property that is being considered for disconnection for non-payment; and

- (c) retailers and DHBs are not responsible for, nor required to monitor, consumer/patient choices or their social circumstances;
- 4) disconnection for non-payment is an act of last resort for vulnerable consumers who act in good faith. Acting in good faith is defined as engaging with the retailer or Work and Income, to the extent possible, by the consumer to assist in resolving any outstanding debt issue;
- 5) privacy and confidentiality of consumers will be respected; and
- 6) the Guideline does not imply a guaranteed supply of electricity; from time to time temporary outages may occur.

Q.1 The Commission seeks comments on whether a statement of principles in the Guideline is appropriate.

Q.2 The Commission seeks comments on whether each of the principles proposed above are appropriate and whether other principles should be included in the Guideline.

### 3.3 Policy objectives

3.3.1 The existing Guideline does not clearly state what the Commission's policy objectives are; which leads to a lack of clarity for retailers, consumers, and social agencies on what the Commission's expectations are. It is proposed that the policy objectives for the Guideline are clearly articulated and that the definitions and processes within the Guideline should support these objectives.

3.3.2 The proposed policy objectives are to:

- (a) provide a fair process for vulnerable consumers for electricity disconnection related to non-payment;
- (b) protect MDVCs from possible critical consequences of electricity disconnection due to non-payment; and
- (c) minimise avoidable disconnection activity for all consumers.

3.3.3 If the scope of the Guideline were not limited by defining the policy objectives, there is a risk of expansion into:

- (a) health issues associated with warm homes;
- (b) generic energy affordability issues; and

- (c) support of a wider range of medical equipment (e.g., a person who purchases a nebuliser over the internet).<sup>3</sup>

Q.3 The Commission seeks comments on whether the proposed statement of policy objectives is appropriate to be included in the Guideline.

Q.4 The Commission seeks comments on whether the policy objectives proposed above are appropriate and whether any additional policy objectives should be included.

### 3.4 Standards

3.4.1 It is proposed to add a 'Standards' section to the Guideline to provide a common understanding of the quality of the required processes that agencies are expected to develop. The following standards are designed to give effect to the principles proposed above:

- (a) early intervention is an important strategy to minimise the impacts of debt accumulation on consumers;
- (b) the medical decision relating to whether the CEME is critical to the patient's health is made by the DHB. Subsequent decisions verifying a consumer's ongoing MDVC status are made either by the DHB or a GP;
- (c) only people well enough or with sufficient support to effectively communicate with their retailer will be discharged from hospital with a CEME;
- (d) DHBs are responsible for providing knowledge, training and support to a patient discharged from a DHB with a CEME for:
  - (i) the use of the CEME; and
  - (ii) what to do in an emergency, including loss of electricity for any reason; and
- (e) any register of MDVCs is likely to be less than complete; so any exercise of a decision to disconnect for non-payment needs to consider the risks associated with incomplete information.

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<sup>3</sup> A nebuliser turns liquid medicine into a fine mist that can be inhaled into the lungs. While only a doctor can prescribe the nebuliser medication any person can buy a nebuliser directly without a prescription. Due to the need for mobility, nebulisers have different power supply options (e.g., mains (240v), car battery (12v) and rechargeable battery).

Q.5 The Commission seeks comments on whether the proposed statement of standards is appropriate to be included in the Guideline.

Q.6 The Commission seeks comments on whether the standards proposed above are appropriate and whether any additional standards should be included.

### 3.5 Addition of a 'Background' section

3.5.1 The Commission proposes to add a 'Background' section to the Guideline to provide important context. The proposed section would state that electricity is likely to be an essential service that is a necessity for individuals and household groups to maintain health, wellbeing and to sustain a reasonable standard of living. This is the justification for differentiation of electricity, by a policy of assistance to vulnerable consumers from disconnection for non-payment, compared to other commercial domestic consumables.

Q. 7 The Commission seeks comments on whether electricity should be identified in the Guideline as an essential service.

### 3.6 Medically dependent vulnerable consumer – definition issues

3.6.1 There is a risk of unintended consequences from the Guideline due to the lack of precise definitions in the Guideline and the social pressures from fuel poverty. These unintended consequences relate to including a wider class of consumer in the definition of MDVC than was intended and the inclusion of health issues that are not imminent and serious within the policy of assistance.

3.6.2 This risk is indicated by:

- (a) the growth in the number of MDVCs recorded by electricity retailers (253% since December 2007);
- (b) anecdotal evidence of individual consumers using self-serving interpretations, or gaming the Guideline; and
- (c) research indicating that fuel poverty, which in the UK is defined as the inability to heat one's home to World Health Organisation recommended standards for less than 10% of household income, is a significant social and public health problem in New Zealand. It is estimated that around 23% of the population may be experiencing some form of fuel poverty. Those

particularly at risk include older people and people with chronic illness or disability.<sup>4</sup>

- 3.6.3 The existing Guideline defines a MDVC as a vulnerable consumer who is dependent on electricity for critical medical support and allows consumers to self-nominate themselves with a possible verification process by the electricity retailer. It is suspected that this definition (which has been interpreted to focus on the medical equipment) and the process of self nomination have contributed to some policy creep.
- 3.6.4 It is recommended that a definition that focuses on:
- (a) the critical nature of the medical condition as assessed by a medical professional; and
  - (b) the role of the DHB in providing or prescribing the critical electrical medical equipment (CEME),
- will achieve better policy outcomes and provide a professional assessment of the required critical elements of the definition.
- 3.6.5 It is proposed that the definition of MDVC is amended to the following:
- A vulnerable consumer who is critically dependent on a CEME provided or prescribed by a DHB for use in a domestic residence
- 3.6.6 The definition of critically dependent on a CEME is
- In the opinion of the DHB (as notified on the *Notice of Dependency on Electricity to Power Critical Electrical Medical Equipment* issued by a DHB).<sup>5</sup>
- a) the patient is highly dependent on the CEME – loss of equipment may result in loss of life or permanent injury; and
  - b) the harm to a patient from loss of the CEME is imminent in the context of a patient's location and access to emergency support.
- 3.6.7 This definition is linked to the critical nature of the medical condition rather than the equipment and is linked to the cause of the vulnerability. By having the definition linked to a professional medical opinion and provision of the equipment by the DHB, the risks associated with self-nomination are mitigated.

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<sup>4</sup> Howden-Chapman, P., H. Viggers, et al. (accepted for publication). "Warm homes: drivers of the demand for heating in the residential sector in New Zealand." *Energy Policy*.

<sup>5</sup> The *Notice of Dependency on Electricity to Power Critical Electrical Medical Equipment* will be an agreed form that will be an element of the 'Scheme for electricity retailer and DHB co-ordination for Patients who are dependent on 'critical medical equipment' being established by the Commission.

- Q.8 The Commission seeks comments on whether the definition of MDVC should be linked to either:
- a. the medical condition (i.e., the dependency and imminence of harm); or
  - b. the medical equipment (i.e., specify equipment that qualifies); or
  - c. some other basis.
- Q.9 The Commission seeks comments on, if the definition is based on the medical condition:
- a. what is the degree of dependence on the CEME that is required in the definition; and
  - b. what is the appropriate timeframe for the harm being effective.
- Q.10 The Commission seeks comments on whether there are additional risks not considered associated with the proposed new definition of MDVC.
- Q.11 The Commission seeks comments on whether the process of identifying a MDVC should be:
- a. a process of self-selection with, or without, a verification process; or
  - b. a process of assessment by a medical professional; or
  - c. reliant on some other basis.

### 3.7 Consistent policy between the Commission and DHBs

- 3.7.1 In July 2007, the Cabinet Business Committee directed the Ministry of Health to develop a process to enable effective integration between DHBs, private health institutions and electricity retailers to identify people requiring electricity to provide critical medical support. DHBs and the Ministry of Health have developed and implemented a process whereby DHBs provide a letter to patients, as part of their partnership model for patient discharge planning, for patients to give to their electricity retailer advising that the household contains a consumer who is reliant on electricity for critical medical support. Their policy is based on clinicians guiding and providing advice, but not monitoring and taking responsibility for patient choices or for their social circumstances and the DHB not being responsible for informing the electricity retailer. This process is inconsistent with

the existing Guideline that requires the DHBs to provide the letter to the electricity retailer. The Ministry of Health has requested that the Guideline is amended.

- 3.7.2 The retailer/social agency working party rejected the DHB position as the failure of patients/consumers to notify retailers was perceived to be a significant risk. The existing Guideline was developed based on the assumption that people being released into community-based care may not be able to communicate with their electricity retailer. Since then the Ministry of Health has stated that if a patient is so unwell that they are not able to communicate with their retailer they would not be discharged, or if they are discharged they would have a support person assigned who would assist them with the notification.<sup>6</sup>
- 3.7.3 A review of similar policies for vulnerable electricity consumers in England and Australia notes that their policies are based on the consumers having the obligations to notify the electricity retailers of their vulnerability and any change in their status over time.
- 3.7.4 It is proposed that the Guideline is aligned with the Ministry of Health / DHB process that consumers are responsible for notifying electricity retailers of their reliance on electricity for critical medical support as evidenced in the *Notice of Dependency on Electricity to Power Critical Electrical Medical Equipment* issued by a DHB to the patient. This proposal is consistent with the principle that it is the consumer's responsibility to disclose private or personal information that may be relevant to any disconnection decision.
- 3.7.5 A person's dependence on medical equipment can change over time. It is proposed that the consumer has an on-going obligation to advise their electricity retailer when the resident that is MDVC is either:
- (a) No longer a MDVC; or
  - (b) Is no longer resident at the address.
- 3.7.6 This obligation is supported by electricity retailers having the right to verify the ongoing MDVC status every 12 months from either the DHB or a GP (subject to the consumer providing the appropriate consent) where there are significant non-payment issues.

Q.12 The Commission seeks comments on who should be responsible for providing information to the electricity retailer on MDVC status.

Q.13 The Commission seeks comments on who should be responsible for informing a retailer over time of any change in status of a MDVC and is a right of verification appropriate.

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<sup>6</sup> Ministry of Health Letter to the Commission; 18 February 2008.

## 3.8 Other proposed updates

### 3.8.1 Other proposed updates to the draft Guideline include:

- (a) Removal of reference to 'low income' consumers as this is a subset of 'vulnerable consumer' and expanding the definition of 'vulnerable consumer' to include 'severe financial insecurity';
- (b) Editing the Guideline to incorporate the main elements of the Electricity Consumer Code of Practice used by the Electricity and Gas Complaints Commission rather than cross-referencing to the Code; and
- (c) Inclusion of a restriction on retailer's disconnection of a consumer for non-payment of services other than electricity (e.g., telephone). Due to the "essential service" nature of electricity retailers may not use the threat of disconnection, or actual disconnection, to assist in the recovery of unpaid services relating to supplies other than electricity. While retailers may have practical issues apportioning payments between services, this issue is important as Work and Income can assist qualifying clients with electricity debt but not debts for other services.

Q.14 The Commission seeks comments on whether low income consumers should be recognised as a separate class of vulnerable consumer or is a low income consumer part of vulnerable consumers generally and there is no value in separate recognition.

Q.15 The Commission seeks comments on whether the Guideline should be consistent with the Electricity Consumer Code of Practice.

Q.16 The Commission seeks comments on whether it is appropriate to have a restriction on retailer's disconnection of a consumer for non-payment of services other than electricity and are there unforeseen practical issues with this restriction.

## 4. Conclusion

- 4.1.1 The Guideline's intention to support vulnerable consumers at risk from disconnection due to non-payment has not changed.
- 4.1.2 The fundamental changes proposed in the draft Guideline are:
- (a) recognising that consumers have responsibility for management of a range of personal issues, including notification to the retailer of any dependency;
  - (b) basing the definition of MDVC on the medical condition so there is a link between the definition and the cause of the vulnerability; and
  - (c) having a professional assessment of a consumer's medical vulnerability rather than a process of self-selection.
- 4.1.3 In the Commission's view the proposed changes to the Guideline:
- (a) support the underlying intent of the GPS, that protection will be provided to MDVCs from the possible critical consequences of disconnection for non-payment;
  - (b) address issues of definition and assessment so that there are no unintended outcomes; and
  - (c) align the Guideline with the Ministry of Health/DHB process for releasing patients that are reliant on electricity for critical medical support into community-based care.

## 5. Summary of questions

- 1) The Commission seeks comments on whether a statement of principles in the Guideline is appropriate.
- 2) The Commission seeks comments on whether each of the principles proposed above are appropriate and whether other principles should be included in the Guideline.
- 3) The Commission seeks comments on whether the proposed statement of policy objectives is appropriate to be included in the Guideline.
- 4) The Commission seeks comments on whether the policy objectives proposed above are appropriate and whether any additional policy objectives should be included.
- 5) The Commission seeks comments on whether the proposed statement of standards is appropriate to be included in the Guideline.
- 6) The Commission seeks comments on whether the standards proposed above are appropriate and whether any additional standards should be included.
- 7) The Commission seeks comments on whether electricity should be identified in the Guideline as an essential service.
- 8) The Commission seeks comments on whether the definition of MDVC should be linked to either:
  - a. the medical condition (i.e., the dependency and imminence of harm); or
  - b. the medical equipment (i.e., specify equipment that qualifies); or
  - c. some other basis.
- 9) The Commission seeks comments on, if the definition is based on the medical condition:
  - a. what is the degree of dependence on the CEME that is required in the definition; and
  - b. what is the appropriate timeframe for the harm being effective.
- 10) The Commission seeks comments on whether there are new risks associated with the proposed new definition.
- 11) The Commission seeks comments on whether the process of identifying a MDVC should be:
  - a. a process of self-selection with / or without a verification process; or
  - b. a process of assessment by a medical professional; or
  - c. reliant on some other basis.

- 12) The Commission seeks comments on who should be responsible for providing information to the electricity retailer on MDVC status.
- 13) The Commission seeks comments on who should be responsible for informing a retailer over time of any change in status of a MDVC and is a right of verification appropriate.
- 14) The Commission seeks comments on whether low income consumers should be recognised as a separate class of vulnerable consumer or is a low income consumer part of vulnerable consumers generally and there is no value in separate recognition.
- 15) The Commission seeks comments on whether the Guideline should be consistent with the Electricity Consumer Code of Practice.
- 16) The Commission seeks comments on whether it is appropriated to have a restriction on retailer's disconnection of a consumer for non-payment of services other than electricity and are there unforeseen practical issues with this restriction.

Appendix 1 Draft Guideline on arrangements to assist vulnerable consumers

# Guideline on arrangements to assist vulnerable consumers

Version 4.0

5 February 2009

## Version control

Version	Date amended	Comments
1.0	2005	
2.0	July 2007	
3.0	January 2008	
4.0	February 2009	Updated as per paragraph 1 in the 'Overview' section.

## Overview of proposed revisions

2. List of proposed revisions for the Guideline on arrangements to assist vulnerable consumers (Guideline):
  - (a) Remove reference to 'low income' as this is a subset of 'vulnerable consumer';
  - (b) Definition of 'vulnerable consumer' expanded to include 'severe financial insecurity';
  - (c) Added 'Background' with statement of institutional arrangements for consumer assistance;
  - (d) Added statement of 'Policy objectives';
  - (e) Added statement of 'Principles' and 'Standards';
  - (f) Included reference to consumers' responsibility to disclose private or personal information that may be relevant to any disconnection decision;
  - (g) Change the definition of medically dependent vulnerable consumer (MDVC) to include medical dependence and critical consequence; previous definition focused on the critical electrical medical equipment (CEME);
  - (h) Added reference to the retailer/District Health Board (DHB) scheme; and
  - (i) Aligned the Guideline with the retailer/DHB process of providing notice to the consumer/patient.



## Glossary of abbreviations and terms

<b>CEME</b>	Critical electrical medical equipment.
<b>Commission</b>	Electricity Commission.
<b>Consumer</b>	Domestic electricity consumer.
<b>Critically dependent on a CEME</b>	<p>In the opinion of the DHB (as notified on the <i>Notice of dependency on electricity to power critical electrical medical equipment</i> issued by a DHB):</p> <ul style="list-style-type: none"><li>(j) the patient is highly dependent on the CEME – loss of equipment may result in loss of life or permanent injury; and</li><li>(k) the harm to a patient from loss of the CEME is imminent in the context of a patient’s location and access to emergency support.</li></ul>
<b>DHB</b>	District Health Board.
<b>GPS</b>	<i>Government Policy Statement on Electricity Governance</i> (May 2008)
<b>Guideline</b>	<i>Guideline on arrangements to assist vulnerable consumers.</i>
<b>MDVC</b>	Medically dependent vulnerable consumer. A vulnerable consumer who is critically dependent on a CEME provided or prescribed by a DHB for use in a domestic residence.
<b>Retailers</b>	Electricity retailers and distributors who directly charge their consumers.
<b>Vulnerable consumer</b>	A consumer is vulnerable if for reasons of age, health, disability or severe financial insecurity disconnection of electricity presents a clear threat to their, or a member of their household’s, health or wellbeing.



# Contents

Overview of proposed revisions	A
Glossary of abbreviations and terms	C
Introduction	1
Background	2
Policy objectives	3
Principles	4
Standards	5
Vulnerable consumers	6
Medically dependent vulnerable consumers	7
Identify a vulnerable consumer or a medically dependent vulnerable consumer	8
Advice to all consumers	10
Payment alternatives	10
Prepayment meters	10
Smoothed payments	10
Redirection of income	11
Bonds	11
Preferred contact	12
Disconnection and reconnection standards	13
General	13
Work and Income	13
Retailers' process for vulnerable consumers	14
Retailers' process for medically dependent vulnerable consumers	16

Other requirements	18
Compliance	19
Retailers and District Health Board co-ordination	20
Sources of additional information	21

## 6. Introduction

3. This Guideline updates the Electricity Commission's (Commission) expectations of standards for electricity disconnection due to vulnerable consumers' non-payment.<sup>7</sup>
4. The Guideline covers:
  - (a) Retailers;
  - (b) Vulnerable consumers; and
  - (c) Medically dependent vulnerable consumers (MDVC).
5. The Guideline:
  - (a) defines vulnerable consumers;
  - (b) defines MDVCs;
  - (c) defines standards for disconnection of vulnerable consumers for reasons of non-payment;
  - (d) is complemented by the protocol between retailers and social agencies; and
  - (e) outlines the required interaction between a District Health Board (DHB) and a retailer for MDVCs.
6. The Guideline is not intended to protect consumers:
  - (a) who through bad faith do not intend to pay their electricity bill; and/or
  - (b) who could be considered fraudulent consumers of domestic electricity.
7. The Guideline does not imply a guaranteed supply of electricity to all vulnerable consumers and MDVCs (from time to time temporary outages may occur).

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<sup>7</sup> The original Guideline was issued in 2005 and revised July 2007 and January 2008.

## 7. Background

8. Electricity is likely to be an essential service that is a necessity for individuals and household groups to maintain health, wellbeing, and to sustain a reasonable standard of living. In certain circumstances, electrical medical equipment can be critical to support the health of an individual.
9. Current institutional arrangements relating to consumer assistance and disconnections include:<sup>8</sup>
  - (a) Government Policy Statement on Electricity Governance: May 2008;<sup>9</sup>
  - (b) Model Contract for Domestic Consumers;<sup>10</sup> and
  - (c) Protocol between electricity retailers and social agencies.<sup>11</sup>

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<sup>8</sup> Currently a *Scheme for electricity retailer and DHB co-ordination for patients who are reliant on 'critical electrical medical equipment'* is being developed.

<sup>9</sup> Section 3 Consumer protection: Arrangements for the benefit of low income consumers (paragraphs 23-24)

<sup>10</sup> Proposal for changes to the Interposed Model Contract has been issued for consultation – which closed on 6 June 2008.

<sup>11</sup> <http://www.electricitycommission.govt.nz/advisorygroups/pjtteam/rsapwg>

## 8. Policy objectives

10. The policy objectives of the Guideline are to:

- (a) provide a fair process for vulnerable consumers facing electricity disconnection related to non-payment;
- (b) protect MDVC from possible critical consequences of electricity disconnection due to non-payment; and
- (c) minimise avoidable disconnection activity for all consumers.

## 9. Principles

11. The Guideline is based on the following principles:

- (a) consistency with the *Government Policy Statement on Electricity Governance* (GPS);
- (b) the process of considering disconnection for non-payment must be fair to all parties, recognising:
  - (i) the importance of electricity supply to vulnerable consumers due to the possible disproportionate consequences of disconnection on this consumer group;
  - (ii) the importance of electricity supply to a MDVC due to possible critical and imminent consequences of disconnection to consumers;
  - (iii) the potential imbalance of power in the relationship between vulnerable consumers and retailers; and
  - (iv) retailers' right to be paid.
- (c) retailers must make an informed decision before disconnecting for non-payment, recognising that:
  - (i) it is the consumer's responsibility to disclose private or personal information that may be relevant to any disconnection decision. This includes information on the change in MDVC status of a consumer over time;
  - (ii) a retailer will take all reasonably practicable steps to determine if a vulnerable person is resident in a property that is being considered for disconnection for non-payment; and
  - (iii) retailers and DHBs are not responsible for, nor required to monitor, consumer/patient choices or their social circumstances;
- (d) disconnection for non-payment is an act of last resort for vulnerable consumers who act in good faith. Acting in good faith is defined as engaging with the retailer or Work and Income, to the extent possible, by the consumer to assist in resolving any outstanding debt issue;
- (e) privacy and confidentiality of consumers will be respected; and.
- (f) the Guideline does not imply a guaranteed supply of electricity; from time to time temporary outages may occur.

## 10. Standards

12. The following standards are designed to give effect to the principles noted above:
  - (a) early intervention is an important strategy to minimise the impacts of debt accumulation on consumers;
  - (b) the medical decision relating to whether the CEME is critical to the patient's health is made by the DHB. Subsequent decisions verifying a consumer's ongoing MDVC status are made either by the DHB or a GP;
  - (c) only people well enough or with sufficient support to effectively communicate with their retailer will be discharged from hospital with a CEME;
  - (d) DHB's are responsible for providing knowledge, training and support to a patient discharged from a DHB with a CEME:
    - (i) for the use of the CEME, and
    - (ii) what to do in an emergency including loss of electricity for any reason; and
  - (e) any register of MDVC, is likely to be less than complete; so any exercise of a decision to disconnect for non-payment needs to consider the risks associated with incomplete information.
13. These standards are complementary to any requirements in the Model Contract for Domestic Consumers.

## 11. Vulnerable consumers

14. The definition of a vulnerable consumer is:

A consumer is vulnerable if for reasons of age, health, disability or severe financial insecurity disconnection of electricity presents a clear threat to their, or a member of their household's, health or wellbeing.

15. The definition is provided to give guidance to consumers who may undertake a self selection process to be recorded by the electricity retailer as a vulnerable consumer.

16. The definition of a vulnerable consumer includes MDVCs.

## 12. Medically dependent vulnerable consumers

17. A vulnerable consumer who is critically dependent on a CEME provided or prescribed by a DHB for use in a domestic residence is called a MDVC.

18. The definition of 'critically dependent on a CEME' is:

In the opinion of the DHB (as notified on the *Notice of dependency on electricity to power critical electrical medical equipment* issued by a DHB):

- (a) the patient is highly dependent on the CEME – loss of equipment may result in loss of life or permanent injury; and
- (b) the harm to a patient from loss of the CEME is imminent in the context of a patient's location and access to emergency support.

19. A CEME is:

Any equipment provided or prescribed by a DHB that requires electricity to provide critical medical support; this also includes other electrical equipment needed to support either the CEME or the treatment regime associated with the CEME (e.g., a microwave to heat fluids for renal dialysis).

13. Identify a vulnerable consumer or a medically dependent vulnerable consumer
20. The underlying principle is that it is a consumer's responsibility to disclose private or personal information that may be relevant to any disconnection decision. This includes information on a person being notified by a DHB as a MDVC or information on their change in MDVC status over time.
21. The *Notice of dependency on electricity to power critical electrical medical equipment* issued by a DHB is the key element to identifying MDVCs.
22. Retailers must take the following steps, where practicable, to give consumers an opportunity to identify themselves as a potentially vulnerable consumer or a MDVC:
- (a) provide details on their website of the opportunity for consumers to notify the retailer that:
    - (i) they consider themselves to be a vulnerable consumer; or
    - (ii) they qualify as a MDVC and the process for notifying the retailer that a DHB has issued a Notice of dependency on electricity to power critical electrical medical equipment;
  - (b) inform all new consumers when they first join of the opportunity to notify the retailer that they consider themselves to be a vulnerable consumer or the process to be recorded as a MDVC;
  - (c) inform all consumers in writing at least once annually of the opportunity to notify the retailer that they consider themselves to be a vulnerable consumer or the process to be recorded as a MDVC; and
  - (d) inform consumers in any late payment notice that has a reference to potential disconnection of the opportunity to notify the retailer that they consider themselves to be a vulnerable consumer or the process to be recorded as a MDVC.
23. If there is any indication the consumer may meet the vulnerable consumer definition (whether due to self-selection, third party intervention, or by the retailer's processes), a verification process may be undertaken by the retailer, after the consumer has given their consent. The consent may need to include the patient's consent where the consumer and the patient are different people. The retailer can require verification from a third party such as the DHB, patient's general practitioner, budgeting agency, Work and Income, (if the consumer is a beneficiary) or from any source trusted by the retailer.
24. The scope of the consent that a retailer must obtain needs to cover:

- (a) the retailer disclosing personal information of either the consumer or patient to a third party for the purpose of verifying the vulnerability; and
  - (b) the third party disclosing personal information about the consumer or patient to the retailer.
25. Where a consumer has been verified by the retailer as being a vulnerable consumer, the retailer will record that on the consumer's file and must ensure the consumer has been offered all appropriate arrangements recommended in the Guideline, or any other arrangements more favourable than those set out in the Guideline that the retailer negotiates with the consumer.
26. Where a consumer refuses to give, or fails to give, their consent to the retailer verifying that they are a vulnerable consumer, the retailer is free to treat them as a non-vulnerable consumer, unless:
- (a) the consumer provides a reasonable justification why consent was withheld; or
  - (b) the retailer have reliable information to the contrary.
27. It is the consumer's obligation to advise their electricity retailer when the resident that is MDVC is either:
- (a) no longer a MDVC; or
  - (b) is no longer resident at the address.
28. Electricity retailers have the right to verify the ongoing MDCV status every 12 months from either the DHB or a GP (subject to the consumer providing an appropriate consent) where there are significant non-payment issues.

## 14. Advice to all consumers

### 14.1 Payment alternatives

29. Retailers must ensure all consumers are informed that payment options are available from the retailer, and that budgeting and other advice and assistance may be available from social agencies. This information should be clearly communicated to all consumers at least once every 12 months.
30. Retailers must offer consumers who are having difficulty paying their bills a range of alternatives to standard monthly payments. They must offer arrangements to recover debt within a reasonable time frame that do not create an adverse credit situation for the retailer and minimise hardship for the consumer. Payment options should include prepayment meters, smoothed payments, and redirection of income.

### 14.2 Prepayment meters

31. In some cases prepayment meters may be the best option for ensuring a consumer can manage their electricity consumption and finances.
32. Electricity retailers are to:
  - (a) endeavour to provide prepayment metering;
  - (b) use prepayment meters as an alternative to a bond where there are separate legal parties living in a single household (for example, student flats);
  - (c) investigate the use of prepayment meters to recover other electricity debt. For example, a certain percentage of each prepayment could go towards the debt, the rest towards electricity;
  - (d) where a retailer is unable to provide a prepayment meter, assist consumers who request a prepayment meter to switch to a retailer who can; and
  - (e) strongly recommend that prepayment meters not be installed in premises where there is a MDVC. Where a MDVC requests a prepayment meter, the retailer must ensure that the consumer has been fully informed of the risk of self-disconnection before installing the meter so that the consumer can make an informed choice.

### 14.3 Smoothed payments

33. Smoothed payment contracts are contracts where consumers pay an amount that varies little from one payment period to another. The payment is reassessed periodically with respect to actual consumption, but any arrears are recovered over time, not all at once. It is recommended that:

- (a) retailers promote smoothed payment contracts to those on low incomes;
- (b) smooth payment options be combined with more frequent payment periods where this would assist the consumer;
- (c) consumers using a smoothed payment option should still be able to access prompt payment discounts where appropriate; and
- (d) refunds for substantial overpayment on smoothed payments should be offered as soon as possible within reason, (e.g. there is little point in making a repayment to a consumer just before winter).

#### 14.4 Redirection of income

34. To avoid disconnection, retailers could agree with consumers to adopt direct income redirection. It is recommended that:

- (a) redirected income payments be smoothed so that consumers have more certainty around their remaining income;
- (b) the amount and frequency of redirected income be a matter of agreement between retailer and consumer;
- (c) consumers using redirection of income should still be able to access prompt payment discounts where appropriate; and
- (d) where the retailer has been made aware that the consumer is a beneficiary, the retailer should discuss with Work and Income the appropriateness of redirection of benefit for that consumer, and follow any protocols established with that agency.

#### 14.5 Bonds

35. A bond is an up-front payment of a lump sum as a condition of some electricity agreements for connections to provide security to retailers. In the case of non-payment of a bill, the retailer can use the bond to recover debt.

36. Bonds can cause undue hardship on some consumers and therefore should not be used unless:

- (a) the consumer refuses any other suitable arrangement that would provide credit security to the retailer;
- (b) there has been tampering or interfering with equipment; and/or
- (c) the consumer refuses to allow access to the premise; and / or
- (d) there is a health and safety risk involved in accessing the premise.

37. Where a bond is used, it is recommended that:

- (a) the consumer should be informed of the reason for the bond;
- (b) the amount of the bond should not exceed \$150;
- (c) the bond should normally be refunded after 12 months of the consumer paying all bills on time. If the period is extended, a reason should be provided to the consumer; and
- (d) the consumer should be informed how and when the bond will be refunded.

#### 14.6 Preferred contact

38. Consumers must be informed that, if they believe that at some time in the future they may have difficulties with their payments or with communicating with their retailer, they may provide one or more 'preferred contacts' who have agreed to assist if a disconnection or payment issue is pending. The preferred contact could be a family member or friend, or a social agency. The preferred contact's role may be to communicate with the consumer to ensure they fully understand the situation, or they may offer to provide financial assistance to prevent a disconnection.

## 15. Disconnection and reconnection standards

### 15.1 General

39. For the avoidance of doubt, this section concerns disconnection for non-payment. It does not deal with other causes of disconnection such as for bad faith, fraud, vandalism, or safety issues.
40. Prior to commencing a disconnection process, retailers must have established a process to ascertain whether a consumer is a potentially vulnerable consumer or a MDVC at the time that a disconnection is imminent.
41. The retailer may not initiate the disconnection process in the Guideline for a consumer who has provided preferred contact(s) details until the retailer has:
  - (a) made reasonable endeavours to make contact with those preferred contacts; and
  - (b) offered alternative payment arrangements to the consumer via a preferred contact.

### 15.2 Work and Income

42. Where a consumer has been identified as a vulnerable consumer (whether due to self-selection, third party intervention, or by the retailer's process) then, prior to initiating any disconnection, the retailer must (after obtaining the consumer's consent) advise Work and Income (consistent with the protocol between electricity retailers and social agencies) who will ensure all financial or other assistance that is legally possible has been provided. At no time during these processes, while the consumer participates with Work and Income in good faith, can a retailer disconnect a vulnerable consumer for reasons of non-payment.
43. Where a consumer has been identified as a MDVC who is in payment default the retailer must (after obtaining the consumer's consent) advise Work and Income (consistent with the protocol between electricity retailers and social agencies) who will ensure all financial or other assistance that is legally possible has been provided. The act of advising Work and Income does not negate the general rule that MDVC will not be disconnected for non-payment.
44. The scope of the consumer's consent needs to cover:
  - (a) the retailer disclosing personal information to Work and Income such as the consumer's details, account details and repayment options already discussed, and Work and Income collecting that information from the retailer; and

- (b) Work and Income disclosing to the retailer the progress and outcome of the consumer's referral for an assessment of whether the consumer will receive assistance regarding his or her power account.

45. The act of consulting with Work and Income does not make Work and Income responsible for the consumer's debt nor is Work and Income responsible for the retailer's future decision whether a consumer is disconnected or not.

### 15.3 Retailers' process for vulnerable consumers

46. The basic premise is that it is the consumer's responsibility to disclose private or personal information to inform the retailer of the consumer's vulnerability.

47. Retailers must make reasonable efforts to contact and inform the affected consumer before a physical disconnection takes place. "Reasonable efforts" are defined as:

- (a) ensuring that all notices that have a reference to disconnection include the following information:
  - (i) contact details of the retailer's credit department so that the consumer can contact that credit department to arrange payment of an invoice that has not been paid;
  - (ii) that payment options are available through the retailer;
  - (iii) information about the retailer's dispute resolution processes;
  - (iv) the cost of disconnection and reconnection.
  - (v) that there is a vulnerable consumer process; and
  - (vi) how the consumer can contact Work and Income.
- (b) if applicable, making telephone calls (including at least one call outside normal working hours if necessary) to try to contact a consumer who is about to be disconnected;
- (c) making use of other contact options where practicable, consisting of a mobile telephone call, text message, facsimile and one visit to the consumer's premise (which may or may not be the disconnection visit).

48. If a consumer has not responded to any of the notices sent by the retailer and the retailer has been unable to contact the consumer prior to disconnection, then the retailer must ensure that the retailer's representative that goes to disconnect the property:

- (a) makes an effort to contact the consumer (unless there is a health and safety risk) and advises them to contact the retailer, providing a link to enable them to do so if necessary; and

- (b) once contact with the consumer has been made, ascertain whether there are reasons why the disconnection should be put on hold, including whether the consumer is potentially a vulnerable consumer, in which case the retailer will follow the process for disconnection of vulnerable consumers.
- 49. If there is no person at home when the retailer's representative goes to disconnect the property, or there is a health and safety risk involved with making an effort to contact the consumer, then the retailer may disconnect the property.
- 50. If the property disconnected is subsequently identified as housing a potentially vulnerable consumer, then the retailer must reconnect the property and follow the process for vulnerable consumers.
- 51. A retailer may only disconnect a consumer for non-payment of electricity services where the non-payment relates to the electricity component of any invoice. Due to the "essential service" nature of electricity, retailers may not use the threat of disconnection, or actual disconnection, to assist in the recovery of unpaid services relating to non-electricity supplies (e.g., telephone).
- 52. Where a retailer intends to disconnect a consumer because the retailer considers that the consumer has not paid a bill (including a bond), disconnection for non-payment is the act of last resort for vulnerable consumers who act in good faith.
- 53. If the consumer has started using and is pursuing the retailer's internal dispute resolution processes, or an independent consumer complaints resolution scheme of which the retailer is a member, the retailer must not disconnect the consumer or commence credit recovery action until the processes are exhausted. This means that a consumer should not be disconnected for non-payment of part of an account that is the subject of a dispute resolution process. However, a consumer may be disconnected for non-payment of that part of an account which is not in dispute. Any part-payment shall be credited to the non-disputed debt first.
- 54. The consumer should not be disconnected on the basis of an estimated account unless it is fair and reasonable in the circumstances to do so.
- 55. Except in the case of agreed or emergency disconnections, the retailer must:
  - (a) provide for at least seven days notice of disconnection and allow an additional three days for the delivery of the notice; and
  - (b) provide for a final warning no less than 24 hours nor more than seven days before disconnection. The final warning must specify these timeframes. If the disconnection is not prevented by the consumer and not completed within these timeframes, the retailer must issue another final warning.

56. The retailer must explain when charges for temporary disconnection and/or reconnection apply. When warnings are delivered, they must include and make explicit what additional charges over and above the recovery of invoicing arrears will apply.
57. Temporary disconnection and/or reconnection charges should not be more than the level required to meet the overall costs of the disconnection and/or reconnection service.
58. If the consumer's electricity supply is disconnected, once the consumer has satisfied the requirements for reconnection the retailer must restore the consumer's electricity supply as soon as reasonably practicable.
59. If a vulnerable consumer does not cooperate or, without good cause, seriously breaches arrangements agreed after the process has been followed, the retailer may disconnect the consumer.

#### 15.4 Retailers' process for medically dependent vulnerable consumers

60. Any consumer who is dependent on electricity for critical medical support (a MDVC) will not be disconnected for reasons of non-payment. This policy is to protect those consumers from the critical and imminent consequences of disconnection, subject to:
  - (a) the consumer's medical status having been identified and recorded by a DHB;
  - (b) the consumer having provided the retailer with the *Notice of dependency on electricity to power critical electrical equipment* issued by a DHB; and
  - (c) the retailer having the right to verify, subject to consent being obtained from the consumer, the ongoing MDVC status every 12 months from either the DHB or the GP nominated by the consumer, where there are significant non-payment issues.
61. The process is designed so that all MDVCs receive the most appropriate consideration of their needs and any support that they are legally entitled to.
62. The basic premise is that it is the consumer's obligation to inform the retailer of their status as a MDVC. To support this process, a DHB will provide the patient/caregiver with a notice (*Notice of dependency on electricity to power critical electrical medical equipment*) for them to provide to their retailer.
63. Retailers will maintain a register of MDVCs that they have been notified of. This register will inform all disconnection for non-payment decisions. For the avoidance of doubt, a MDVC acting in good faith cannot be disconnected for non-payment.

64. Any consumer who has a resident that is critically dependent on a CEME (a MDVC) that is identified by a retailer as a default payer will be referred by the retailer to Work and Income, subject to the appropriate consents being obtained.

## 16. Other requirements

65. In addition to the above requirements for vulnerable consumers:

- (a) retailers must ensure consumers are able to be re-connected as soon as possible after suitable payment arrangements have been put in place. As such, no disconnections should be undertaken where re-connection on the same day would be problematic. For example, on Fridays, the day before a public holiday, during severe weather events, or a civil emergency;
- (b) all invoices must have the 'due date' clearly marked;
- (c) any notice that has a reference to potential disconnection must detail the costs which will be incurred if disconnection takes place;
- (d) where a consumer is having difficulty meeting their payments, and it is clear to the retailer that they are not on the best tariff for their consumption, the retailer must advise the consumer of all appropriate tariff options available, and assist them to move to the most appropriate tariff;
- (e) retailers must follow any protocols agreed with social agencies;
- (f) retailers must comply with any rules regarding the frequency of meter reading;<sup>12</sup> and
- (g) retailers must provide suitable training to staff and contractors who interact with consumers with overdue bills or who are involved in the identification of potentially vulnerable consumers and MDVCs.

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<sup>12</sup> As required by the Electricity Governance Rules 2003 (Rules).

## 17. Compliance

66. Retailers must report annually on their level of compliance with the Guideline, and where the Guideline has been deviated from, provide reasons for each type of deviation. The information received will be made publicly available on the Commission's website.
67. The Commission will monitor the performance of retailers in complying with the Guideline and if the uptake of the Guideline is not satisfactory, will consider recommending regulation.

## 18. Retailers and District Health Board co-ordination

68. Consistent with the Guideline, retailers and DHBs are agreeing a scheme for electricity retailers and DHB co-ordination for patients who are reliant on CEME.
69. The scheme will provide a mechanism by which DHBs can assist patients/caregivers and retailers by providing written notification that a patient is reliant on CEME.

## 19. Sources of additional information

70. If you require further assistance, please contact the Commission:

Electricity Commission

P O Box 10041

Wellington

Attention: Director Retail

Telephone: 04 460 8860

Fax: 04 460 8879

Email: [retailoperations@electricitycommission.govt.nz](mailto:retailoperations@electricitycommission.govt.nz)

## Appendix 2 Format for submissions

Question No.	General comments in regards to the:	Response
1	The Commission seeks comments on whether a statement of principles in the Guideline is appropriate.	
2	The Commission seeks comments on whether each of the principles proposed above are appropriate and whether other principles should be included in the Guideline.	
3	The Commission seeks comments on whether the proposed statement of policy objectives is appropriate to be included in the Guideline.	
4	The Commission seeks comments on whether the policy objectives proposed above are appropriate and whether any additional standards should be included.	
5	The Commission seeks comments on whether the proposed statement of standards is appropriate to be included in the Guideline.	
6	The Commission seeks comments on whether the standards proposed above are appropriate and whether any additional standards should be included.	
7	The Commission seeks comments on whether electricity should be identified in the Guideline as an essential service.	

8	<p>The Commission seeks comments on whether the definition of MDVC should be linked to either:</p> <ul style="list-style-type: none"> <li>a. the medical condition (i.e., the dependency and imminence of harm); or</li> <li>b. the medical equipment (i.e., specify equipment that qualifies); or</li> <li>c. some other basis.</li> </ul>	
9	<p>The Commission seeks comments on, if the definition is based on the medical condition:</p> <ul style="list-style-type: none"> <li>a. what is the degree of dependence on the CEME that is required in the definition; and</li> <li>b. what is the appropriate timeframe for the harm being effective.</li> </ul>	
10	<p>The Commission seeks comments on whether there are new risks associated with the proposed new definition.</p>	
11	<p>The Commission seeks comments on whether the process of identifying a MDVC should be:</p> <ul style="list-style-type: none"> <li>a. a process of self-selection with / or without a verification process; or</li> <li>b. a process of assessment by a medical professional; or</li> <li>c. reliant on some other basis.</li> </ul>	
12	<p>The Commission seeks comments on who should be responsible for providing information to the electricity retailer on MDVC status.</p>	

13	The Commission seeks comments on who should be responsible for informing a retailer over time of any change in status of a MDVC and is a right of verification appropriate.	
14	The Commission seeks comments on whether low income consumers should be recognised as a separate class of vulnerable consumer or is a low income consumer part of vulnerable consumers generally and there is no value in separate recognition.	
15	The Commission seeks comments on whether the Guideline should be consistent with the Electricity Consumer Code of Practice.	
16	The Commission seeks comments on whether it is appropriated to have a restriction on retailer's disconnection of a consumer for non-payment of services other than electricity and are there unforeseen practical issues with this restriction.	