

# Submission Re: Proposal to Approve a Joint Electricity and Gas Complaints Resolution Scheme

**Chris O’Hara, Divisional Manager, TrustPower Limited**

*Question 1: Do you agree that the EGCC scheme arrangements represent an appropriate basis for a single nationwide complaints resolution scheme for electricity and gas?*

## **Comment**

The EC and GIC have, under the appropriate acts, the ability to approve one or more complaints resolution schemes for electricity and gas.

The EC/GIC has concluded that the appointment of a single scheme is the only “reasonably practicable” option, because the status quo has “some deficiencies”. This conclusion is flawed, and is discussed below under each of the identified deficiencies.

Deficiency	Discussion
Not all potential scheme users have access to a resolution scheme	This is not impacted by the number of available schemes. Arguably more schemes create greater consumer access, and membership of an approved scheme is mandatory regardless
The existing schemes comply to varying degrees with the Australian Benchmarks	EC/GIC has not detailed where these schemes fail to meet these benchmarks
Difference in approaches to complaint resolution leading to varying levels of support for complainants and inconsistent determinations	<p>The EC/GIC’s proposed objective is “that all energy consumers (and owners and occupiers of land) should have access to a free complaints scheme that is founded on the principles of accessibility, independence, fairness, accountability, efficiency, effectiveness, and community awareness”.</p> <p>In TrustPower’s view the mediation approach and availability of face to face resolution proposed by the EGDRS is in fact superior for consumers (in terms of outcomes and support) to the judicial, Wellington office based approach of the EGCC. There is no evidence that the alternate (to the EGCC) schemes in operation under the status quo provide lesser levels of support to consumers than the EGCC. There is in fact evidence to the contrary.</p> <p>Absolute consistency of determinations between schemes is not paramount. The</p>

	purpose of the service from a consumer's perspectives is an acceptable resolution outcome. This is not and should not be a judicial process based on legal precedent.
Possible confusion among complainants about where to complain	We believe it is very clear to consumers of the non-EGCC schemes where complaints should be directed, and it is simple for various schemes to redirect consumers appropriately, as currently happens. All scheme members, regardless of the scheme they belong to, have the same requirement to make consumers aware of the availability of the appropriate resolution scheme, and there is no evidence presented that consumers are confused.
The costs associated with the operation of multiple schemes	As noted by the EC/GIC, the proposed appointment of the EGCC scheme will in fact increase costs. It is likely, in fact, that for non-EGCC schemes, cost per customer served will double.
Complications where complaints cover issues related to members of different schemes	While this is potentially an issue, it can be easily resolved through cooperation between scheme providers, and there is no evidence that this has affected complaint resolution for consumers under the status quo.

In summary, TrustPower proposes that the EC/GIC exercise its ability to approve two schemes, being the EGCC and the EGDRS. **King Country Energy and Bay of Plenty Electricity, which currently operate independent schemes, have committed to membership of the EGDRS should it be approved as a scheme provider.**

This move will allow EC/GIC to approve two schemes (EGCC and EGDRS) and require membership for all industry participants of one of these two schemes.

***Question 2: Do you have particular areas of concern that would lead you to making suggestions for changes to the EGCC Scheme?***

**Comment**

There are several areas of concern:

1. Scheme structure – the scheme structure based on a single decision maker has resulted in a judicial approach to resolution. This problem will be perpetuated under the proposed scheme. The EGDRS scheme places significantly more emphasis on internal resolution by scheme members, which is evidenced by the very small number of consumer complaints that have reached external resolution.
2. Cost – based on information from an EGCC member, the cost per consumer served is on average double that of the current EGDRS scheme.
3. Speed of resolution – in EGDRS’s entire time of operation, only 2 consumer complaints have required external resolution, having reached “deadlock”. Both of these have been resolved through mediation within 2 months. In contrast, the average speed of resolution for complaints that reached deadlock during TrustPower’s membership of EGCC ranges from 2 months to 12 months as evidenced by the examples below:
  - Example one – 7 months, not upheld
  - Example two – 7 months, not upheld
  - Example three – 6 months, upheld
  - Example four – 2 months, file closed
  - Example five – 12 months, ruled that TrustPower’s offer to consumer was fair and reasonable
4. Method of resolution – the EGCC relies on essentially remote judicial resolution. This does not provide for dialogue between consumers and scheme members during the resolution process. The EGDRS process is mediation based and allows for either telephone or face to face contact between scheme members and consumers, facilitated by a trained and experienced mediator. TrustPower is confident that this not only achieves better consumer outcomes, but also faster resolution, and greater exposure of scheme members to consumers, which allows consumers to “have their say” and also ensures that scheme members understand the consumer’s perspective. This is much more likely to ensure scheme members modify their behaviour with respect to consumers, and avoids the current combatative judicial approach of the EGCC which pits the opposing parties against one another.
5. Quality of resolution – EGDRS utilises existing skilled mediators (on a per mediation basis) with a depth of both resolution and life experience. EGCC relies on a decision maker and a number of conciliation staff of mixed experience. A model that relies only on employees for resolution (unless it has huge internal overhead costs) will not be able to provide the average quality of resolution staff that the EDGRS model is able to provide.

***Question 3: Do you agree that approval should be on the basis of an indefinite term, while encouraging cost-effective performance through the independent review process? If not, do you have any additional observations on the merits of a fixed-term?***

**Comment**

Provided that any element of an approved scheme can be modified an indefinite term is fine. More important is the term of appointment of the decision-maker which should be for no more than 2 year periods.

***Question 4: Do you agree that the transition to an approved EGCC Scheme should be relatively straight-forward? Do you have any views on how the transition should be managed?***

**Comment**

Regardless of whether the EGCC scheme is appointed as the single approved scheme, its likely that at least some non-EGCC schemes will be maintained. If any transition is required, existing schemes would require at least 12 months notice so that existing contractual obligations can be managed. This is the same notice period required to exit the EGCC scheme at present.

***Question 5: Do you agree that the Service Provider Regulated Scheme and the Fully Specified Regulated Scheme are the only reasonably practicable options to approving an applicant scheme, which meet the proposed regulatory objective? If not, what other reasonably practical options exist in your view?***

**Comment**

As noted in TrustPower's response to Question 1, the EC's proposed objective is met by the approval of both the EGCC and EGDRS schemes, and the identified deficiencies are either not deficiencies, or able to be managed as they are under the status quo. Approval of both schemes is a practicable option, with the proviso that any participant that is not currently a scheme member is required to join either EGCC or EGDRS.

From a regulatory and governance perspective, the EC/GIC is able to impose the same regimes (including reporting and monitoring) on both schemes and this is not an onerous task.

Further, the differing structural and resolution approaches taken by the EGDRS and EGCC would allow the EC/GIC to compare the efficacy and consumer outcomes of the schemes to gain a view of which is the more effective approach. To date the EC has not assessed the comparative performance of EGCC and EGDRS.

***Question 6: Do you agree that the costs and benefits set out in the table are the main costs and benefits that need to be considered? If not, what other costs and benefits would you suggest?***

**Comment**

The complainant benefits as described relate only to the availability and independence of a resolution scheme. This does not adequately describe the quality or timeliness of resolution. To accurately assess any proposed scheme, complainant benefits need to be assessed at this level of detail.

***Question 7: Do you agree that the simple scoring system set out in the table is a reasonable way of comparing costs and benefits across the options?***

**Comment**

No. It would have been straight forward to assess actual comparative operating costs for the schemes within the status quo. As noted above, there is a substantial difference in cost per customer served across the current schemes.

Further, a quantitative view of consumer benefits could have been completed through a sample post assessment of consumer satisfaction and outcomes for those consumers that have been served by alternate status quo schemes.

The scoring system seems to have been taken as an easy option but it's accuracy is doubtful.

***Question 8: Do you agree that the range of weighting of costs and benefits in the table are reasonable? If not, what alternative weightings would you suggest?***

**Comment**

The range of weightings is OK, though if the lowest end of the range for some items is combined with the highest end of the range for others, the overall ranking doesn't make sense – it would likely be better to have set an absolute value. That aside, this is the wrong question to ask. The appropriate question is “Are the conclusions of the cost benefit analysis accurate and valid”.

As discussed above, on a per consumer basis for those consumers served by non-EGCC schemes currently, migration from the status quo to the EGCC will likely double costs.

In terms of benefits, the assessed benefits are exaggerated.

- Complainant benefits from the migration are likely to be negative, other than for those consumers that don't currently have access to an appropriate scheme, which as discussed could be achieved from multiple approved schemes rather than a single scheme.
- There may be some enforcement benefits, but again provided the number of approved schemes is limited to two as proposed, this benefit is not significant
- Transition benefits are irrelevant if two schemes are approved
- Adaptability benefits are likely to be greater if two schemes are in operation, allowing, as discussed above, the EC/GIC to assess the merits for consumers of different approaches to resolution

***Question 9: Do you agree that the Approved Scheme option (approving the EGCC Scheme) is the best of the reasonably practical options?***

**Comment**

This point is moot, given that in TrustPower's view, not all reasonably practicable options have been considered.

***Question 10: Do you agree that the Approved Scheme option (approving the EGCC Scheme) would yield overall benefits that are reasonably material and that these benefits would outweigh the slight increase in overall costs that would be expected relative to the Status Quo?***

**Comment**

No, for the reasons described above.