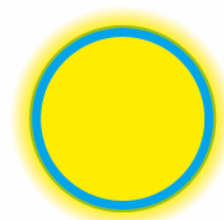


Thursday, 22 February 2007

Jenny Walton
Electricity Commission
P O Box 10-041
WELLINGTON



Dear Jenny,

APPROVAL METHOD FOR CONSUMER COMPLAINTS RESOLUTION SCHEMES

Thank you for the opportunity to comment on the proposed approval method for consumer complaints resolution schemes. Powerco has a number of observations regarding the methodology. We have structured our comments along the format of Appendix Three. However, some of our observations include queries where more information is desirable.

1. Use of the Australian Benchmarks consumer resolution schemes.

Overall Powerco believes that the use of a framework is helpful. We believe, however, that the framework needs to be more adaptable. It would also benefit from modifications to work in with the New Zealand environment. For example, we note that there is no benchmark principle regarding the right of appeal against a determination by either party. Financial reporting requirements should also be considered, for example, the requirements in Public Finance Act (1989), or the Crown Entities Act (2004).

2. Use of Suggested Levels of Achievement

Again, while Powerco believes that the use of achievement standards is helpful, we believe that they need to be adaptable and flexible. For example, some of the standards could be set as minimum standards (see comment below under standard 1.12b).

3. Commentary on Individual Benchmark criteria and achievement standards

The criteria and the wording of the standards appear to assume that there is an issue with businesses not informing customers of their rights, and being prepared to work issues through with them. There is no criterion to encourage customers to deal firstly with the company concerned. Perhaps under the principle of 'Staff Assistance' should be a criteria and a standard to the effect that the scheme's staff ensure that the complainant has tried to resolve the issue with the company involved. We note that the Office of the Ombudsman requires people to try to sort the issue out with the department or organisation concerned in the first instance before it will become involved.

Awareness and Promotion 1.1: The standard here needs to be more flexible in terms of suitable activity and the mix between different activities. There is a risk that by only mentioning the activities in a. to e., the Commission may inadvertently limit what activities are seen as acceptable. It is also not necessary to specify how many strategies a promotional programme should have. One powerful strategy could be all that is required, or a scheme might employ a dozen including

one-off promotional activities such as a stand or display at a local festival. Schemes should be required to have a promotional programme but it need to be considered in totality on its merits.

Use 1.17, Non-Adversarial Approach 1.18 and 1.19, and Legal Representation 1.20: It could be difficult to manage customers' expectations if they are allowed a support person but you are discouraging legal representation. Will schemes be discouraging the complainant's sibling from supporting them because he/she happens to be a lawyer? The inclusion of these criteria raises the issue of what will be the predominant process used to resolve complaints. It is unclear as to whether a hearing process will be used, or an investigation process. The criteria 1.18 and 1.19 under the principle of 'Non-adversarial Approach' seem to indicate that hearings will be used, however the Electricity and Gas Complaints Commission uses an investigation approach.

Staff Assistance 1.12: This could be set as a minimum standard if it was written as 'There is ongoing staff training at least every six months.'

Funding 2.9: This criterion appears to be very short on detail as to how the scheme will be funded and what principles will be used. For example, all businesses could be levied a fixed rate, or an amount in proportion to their market size. The funding arrangements also need to be neutral in terms of not influencing the determinations of the decision-maker(s). Powerco believes more detail is necessary and that the funding arrangements will require consultation.

Powerco believes that there should be rules regarding responsibility if schemes operate at a surplus or loss. If a scheme makes a surplus, due to the fines it may hand out, there should be a criteria by which extra funds are redistributed back to businesses. It could be in proportion to the number of complaints upheld against them, or it could be a reduction in the following year's levies.

Determinations 3.1: Powerco notes that under the current scheme, determinations are binding on businesses but not on customers. Powerco believes that the scheme needs to try businesses and complainants equally in terms of whether or not the determinations are binding. Powerco notes that the ACC code of claimants' rights has the same right of appeal (lack of) for the Corporation and the claimant.

Reporting 4.3: The Funding criterion is also linked to reporting requirements of the scheme. Powerco believes that the scheme(s) need to provide financial accounts, showing income and expenses. It believes that the requirements in the Crown Entities Act could be used as a model, for example the disclosure of salaries. This is important to assess the cost-effectiveness of the scheme.

4. Approval of more than one scheme

Powerco believes that while regional schemes could provide a targeted programme for their local area, it is also important that there is consistency and certainty of outcomes for businesses and customers. Having one organisation would also avoid duplication of resources and loss of a central body of knowledge. It is not clear from the Commission's consultation paper, what regional differences would require a targeted complaints programme. Criteria may need to be developed to provide guidance on when a regional complaints scheme is warranted.

Boundaries between schemes would need to be worked through, although this should not be insoluble as long as it is approached with good will. If there is more than one scheme, there may need to be a criterion under the Access principle that schemes co-operate with each other in good faith.

Powerco notes that under the Access principle, the criterion to ensure **nation-wide access** to a scheme, does appear to have a bias to national rather than regional schemes. Regional schemes could still meet the standard of having an 0800 number and freepost service without necessarily ensuring nation-wide access.

5. Requirements to avoid confusion between schemes

In essence, this will come down to how well schemes promote themselves and manage customer inquiries. A criteria could be for schemes to use the 'no wrong door' approach to customer service, where they proactively ascertain what scheme the customer should be contacting and provide them with the appropriate contact details if they customer has initially contacted the wrong scheme.

6. Consideration of applications that do not meet the level of achievement for each benchmark criterion.

Powerco believes that the Commission should be able to accept alternative evidence that a benchmark principle is met. The principles, criteria and standards should be reviewed regularly, and if schemes are able to offer alternative evidence to support their proposals then this could be built into any such review.

7. Performance Monitoring Process

Powerco agrees that schemes will need to be monitored to ensure they continue to meet standards. As noted above, the annual reporting specified under 4.3 also needs to include financial information so schemes can be monitored for cost-effectiveness.

I trust that this feedback is useful.

Yours faithfully

Caroline Ramsey
Manager, Regulatory Affairs and Corporate Counsel
(04) 978 0514