

01 March 2007

Jenny Walton  
Electricity Commission  
PO Box 10041  
WELLINGTON

Dear Jenny

**Re: Consultation Paper Approval Method for Consumer Complaints Resolution Schemes**

Thank you for the opportunity to provide a submission in respect of the above.

Attached you will find specific detailed comments in the prescribed format.

At a higher level TrustPower would like to see an approval process and structure that:

- i) is based on a principled and not prescriptive standards based approach;
- ii) allows for multiple schemes;
- iii) has determinations that are binding on both the Consumer and the Company so settlements are final;
- iv) is resolution and conciliation focused providing common sense solutions;
- v) is timely;
- vi) is easy to access, and remains efficient and cost effective.

Yours faithfully



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**TrustPower - Feedback form 1:**

| Question  | Response   |
|---|--|
| <p>1 Do you see any problems with the Commission using the Australian Benchmarks consumer complaints resolution schemes? If so what valuation method should the Commission use?</p>   | <p>We do not see too many issues with using the Australian Benchmarks but they need to be modified in some respects to reflect the New Zealand situation and market.</p>   |
| <p>2 The suggested level of achievement is to indicate the level at which the Commission believes the benchmark criteria would be met. Is it useful to have a suggested level of achievement for each of the benchmark criteria?</p>  | <p>TrustPower would prefer to have principle based benchmark criteria only rather than more prescriptive (and therefore less flexible) achievement criteria as well. The benchmark criteria are in themselves quite prescriptive which is reflected in the fact that many of the Achievement Standards are the same as the Benchmark Criteria in any case.</p> <p>If achievement criteria should be deemed necessary they should only be used in conjunction with the Electricity Commissions proposal that the Commission is able to consider applications that do not meet the level of achievement and that it should be able to accept alternative evidence that a benchmark principle is met to an acceptable standard.</p> |
| <p>3 The Commission is seeking comments on the individual benchmark criteria and achievement standards detailed in the table attached as Appendix one:</p> <p>a) Identify <u>benchmark criteria</u> that are not suitable for the evaluation of an electricity consumer complaints resolution scheme. If possible, suggest an</p> | <p>See Feedback Form 2.</p>  |

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| <p>alternative;</p> <p>b) Identify <u>achievement standards</u> that are not suitable for the evaluation of an electricity complaints resolution scheme. If possible, identify an alternative; and</p> <p>c) Should any additional benchmark criteria be inserted? If so, what should the additional benchmark criteria specify, and what would the achievement standard be?</p> |   |
| <p>4 Should the Commission approve more than one scheme?</p>   | <p>Yes. If there is only one scheme it creates a monopoly which could lead to poor service standards, additional expense, and less innovation and customer focus than if there were competing schemes. Also given regional differences within the New Zealand market it may be appropriate to have different schemes that are able to reflect those differences and provide customers with a face-to-face opportunity to deal with complaints.</p>  |
| <p>5 If the Commission were to approve more than one scheme, what should be required of each scheme to ensure that consumer confusion is avoided? Are the achievement standards under criteria 6.2(a) sufficient?</p>  | <p>The key to making multiple complaint schemes work is identifying clearly in each scheme which company is the complaint handling company. To do this requires clear definitions of what is a Retail, Line or Land complaint in each scheme. This will then determine which scheme handles the complaint based on the membership of the company the complaint has been made about. The third achievement criteria should be deleted. If schemes are clear on which party should deal with the complaint then another scheme should not be able to enforce a decision on a party who is</p> |

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|  | <p>not a member of that scheme. It must also be remembered that a customer has other forms of inexpensive redress in New Zealand through the Small Claims Tribunal which can make binding decisions. In that respect if there was the unexpected and unusual circumstance that a complaint did not meet the criteria for any scheme the customer still has an inexpensive option to get resolution of the complaint. This could be used as a “catch all” with the company the complaint had been made against funding the Small Claims application fee.</p> |
| <p>6 Is it appropriate that the Commission is able to consider applications that do not meet the level of achievement for each benchmark criterion? That is, should the Commission be able to accept alternative evidence that a benchmark principle is met to an acceptable standard even though individual benchmark criteria are not satisfied as specified by the achievement standards?</p> | <p>It is entirely appropriate for that to occur. A principle based approach would be far more flexible and enduring than a rigid prescriptive standards based approach.</p>   |
| <p>7 Do you have any comments on the performance monitoring process?</p>   | <p>No.</p>  |

**TrustPower - Feedback form 2: Submissions relating to specific benchmark criteria and achievement standards (question 3)**

| Benchmark/benchmark criteria reference | Feedback on benchmark criteria  | Feedback on achievement standard  |
|--|---|---|
| 1.1                                    | <p>This is too wide. It would seem inappropriate that “all customers of the industry” are aware of the schemes existence. It would seem more appropriate that “those that need to be aware” are made aware of the scheme. To have to publicise schemes to all in New Zealand would be inefficient and have a considerable cost associated with it especially if they were regionally based. These costs would eventually be borne by Customers in increased charges which would be inefficient.</p> | <p>In general these standards are too prescriptive. Periodic insertion on invoices should be allowable – not on every invoice issued. Also when a complaint is raised to a member company then notification at that time of the existence of the scheme would be much more focused. Option d is extremely wide – who decides which organisations are “major community groups”? This could vary from region to region and is open to wide interpretation. Other options could be putting information on a companies website, in welcome packs or in periodic newsletters. Another option would be to make sure that national organisations that assist the public such as the Citizens Advice Bureau, the Consumers Institute and Grey Power know about the schemes existence and have its contact details. Option e is unwieldy, extremely costly and lacks in focus to target those that most need to know about a scheme.</p> |
| 1.3                                    | <p>Benchmark Criteria is fine.</p>  | <p>Once again these achievement standards are too prescriptive. There should not be any</p>   |

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|     |   | <p>requirement for a separate Code of Practice. The agreed contract between the customer and the member company sets out the relationship between them. The terms of reference set out how the scheme is to be run. Member companies are being monitored against the EC Model Consumer Contracts which also set out how the relationship between a member company and a customer should be handled. A separate code of Practice is therefore superfluous and not necessary. The information should not be required to be provided in languages other than the official language of New Zealand. There are thousands of different languages in the world that may need to be catered for given the wording of this requirement. Once again the costs of doing this would be borne by the Customer eventually in pricing and there appears to be very little cost/benefit analysis in setting these achievement standards. The use of the occasional interpreter would be more cost effective.</p> |
| 1.6 | Benchmark is fine.  | If these are required then delete the second sentence – the first sentence provides enough criteria.   |
| 1.7 | The criteria assumes a national presence in all markets. This may not be the case. Delete |  |

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|      | the word “nation-wide”.   |   |
| 1.12 | Benchmark Criteria is fine.   | Once again – too prescriptive. Delete part b. Training should be provided when required to address shortcomings not at an arbitrary six month timeframe which may or may not be optimum.  |
| 1.13 | Benchmark Criteria is fine.   | Once again too prescriptive. a should be deleted. Information about the scheme should only be required to be given if the query is of a nature that it should be. For example, a query asking who is a member of a scheme should not require a scheme explanation if the company in question is not a member. |
| 1.16 | Benchmark Criteria is fine.   | Delete – this standard seems inappropriate.   |
| 2.2  | Delete this Benchmark. How the decision maker is appointed is up to the scheme. Competence should be the main criteria.   |   |
| 3.2  | Since the scheme is free to the consumer it is only fair that if the complaint goes to the determination stage that it is binding on the complainant (as well as the member company). This is similar to the Small Claims Tribunal. If this is not the case claims could be litigated again and again in different forums | Delete.   |

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|     | which is both costly and inefficient given the low value of most complaints.   |  |
| 3.8 | If a customer submits to the schemes process to resolve their dispute they should have the same standards apply to them in relation to providing relevant information as the Schemes members have. |  |
| 4.2 | Benchmark is fine.   | These standards contradict the benchmark in that both parties are not to be named. Any standard should be reciprocal as between the parties.   |
| 6.2 | Benchmark should be altered to reflect multiple schemes.   | The requirement to enforce another scheme's decision should be deleted. An investigation of a complaint about a member should be made by the scheme the member belongs to in line with the process they have agreed and subscribed to. Other schemes of which the member does not belong should not have jurisdiction over that member when they may not be aware of let alone agreed to the requirements of that particular scheme. Delete the last bullet point. |