

**Submission Bay of Plenty Energy – Approval of a Joint Electricity and Gas Complaints Resolution Scheme**

<b>Question</b>	<b>Comment</b>
1. Do you agree that the "overall objectives" of the scheme should be to provide independent, timely and cost-effective complaints resolution scheme that is in the long-term interests of gas and electricity consumers (including potential consumers) and the owners and occupiers of land?	Yes. However, timely or cost-effective do not seem to be defined in any way. Given that it is intended within this process that only one scheme will be approved we suggest that these terms are defined further. Given that any complaint that makes it to the scheme is probably been outstanding for 30 days it is essential that the complaint is resolved as quickly as possible. Cost is also an important factor. We suggest that some guidelines are set regarding cost, including that cost should be kept mainly variable rather than fixed.
2. Is the proposed scope of the scheme sufficient to cover all the necessary elements?	Yes.

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<p>3. Do you agree that the code of practice should include the particular features outlined in Section 1.3 of the Proposed Requirements (refer Appendix C)?</p>	<p>The first three terms seem more like commonsense than terms required in a code of conduct.</p> <ul style="list-style-type: none"> <li>• <i>Ensure all consumers are aware of the payment options and services offered by retailers and social agencies.</i></li> </ul> <p>This is too onerous and places all responsibility on the retailer ensure <b>all</b> consumers are aware of the above options. It should be considers that:</p> <ol style="list-style-type: none"> <li>1) Not all consumers will need the services offered by social agencies.</li> <li>2) The services offered by social agencies will change it would seem more logical for members to refer customers who were having difficulty paying to social agencies directly.</li> <li>3) Consumers themselves must take some responsibility themselves for finding out what payment options are available from a retailer and what social services are available to it.</li> </ol> <p>An absolute obligation on only the retailer can result in unnecessary costs being imposed on a retailer and this conflicts with a GPS requirement to ensure that prices are exposed to sustained downwards pressure.</p> <ul style="list-style-type: none"> <li>• <i>Ensure that consumers enter into the most appropriate contracts for their needs.</i></li> </ul> <p>The person or entity that is in the best position to understand which is the most appropriate contract for the consumer is the consumer. In a domestic or commercial situation activities can change at anytime that could have a marked change on energy use and in term what the most appropriate contract for the consumer. It makes more sense for members to make consumers aware of the options available to them and provide advice to consumers on these options so they can make an informed choice.</p> <p align="center">Page 2 of 11</p>

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Question	Comment
3. Continued	<p>The most effective tool for ensuring that customers are on the best contract is effective retail competition. Currently in the gas industry there are significant barriers to customer switching due to the lack of a proper switching process similar to that in the electricity industry. The Gas Industry is currently in the process of implementing a similar switching regime to that of the electricity industry that will remove barriers to switching and provide consumers with the ultimate sanction against a retailer who has not provided them with an acceptable level of service.</p> <p>The electricity industry has been served and retail customers are able to change supplier if they believe they have not received an appropriate level of service and value for money from their retailer.</p> <p>A compulsory complaints scheme will introduce the opportunity for monopoly rentals from the provider and will reduce dynamic and allocative efficiencies inherent in a competitive market outcome. The costs of the proposed single complaints scheme are in effect, a tax on all electricity and gas consumers. In this regard 2.2.3 is a misrepresentation of the situation. Any compulsory complaints system is not a “free” service. The associated costs are bundled into their electricity prices by all retailers and providers of distribution services.</p> <ul style="list-style-type: none"> <li>• <i>Cooperate with low income and vulnerable consumers to establish arrangement that meet their needs.</i></li> </ul> <p>We are not sure what is required by this clause. Given that requires for low income and vulnerable customers are covered in other legislation we suggest that this is either not required or needs to be reworded to clearly outline the intent.</p>

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<b>Question</b>	<b>Comment</b>
<p>4. Are there other requirements that should be included in the membership requirements?</p>	<p>We suggest that “robust internal complaints scheme” be given some parameters to minimise the number of complaints that end up with the external resolution process.</p> <p>There are some requirements that we believe need to be amended.</p> <p>2.1.2 &amp; 2.2.2 We question whether promoting the scheme on consumer invoices is the correct place. It is also becoming less achievable to fit adequate messages on invoices as the industry asks retailers to put more and more messages on invoices and is also suggesting separating charges (i.e. line and energy etc). The result is less room on invoices or extended invoices (i.e. adding pages) that adds cost to the invoicing process and ultimately cost to the consumer.</p> <p>Most retailers have newsletters that are sent to all customers. We suggest that similar to the requirements in other guidelines (such as vulnerable consumer) that this requirement be amended to be required in writing at least once annually and on disconnection notices.</p> <p>2.5.1 While decisions need to be binding a suitable appeal process also needs to be allowed for.</p>
<p>5. Do you agree that the decision-maker should be able to make awards for compensation and reimbursement of expenses, and require members to take actions to make redress when a complaint is upheld?</p>	<p>Yes, but this should be subject to certain guidelines. For example the application of the Consumer goods act may not be appropriate. The decision maker needs to be provided with clear guidance on the basis on which awards should be made, and this may include different award limits for different circumstances</p>

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<b>Question</b>	<b>Comment</b>
6. Do you agree that members should be required to self-monitor and report annually on their own compliance with the scheme rules?	No. Annual compliance audits will result in unnecessary costs. Breaches of scheme rules will become apparent on investigations of complaints.
7. Do you agree that the scheme should have the right to identify and report on member compliance?	Yes.
8. Do you agree that member breaches should be reported to the governing body and published in the Annual Report?	Yes, but only recidivist offenders.

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<p>9. Do you agree that any persistent and material non-compliance by a member should be reported by the governing body to the Electricity Commission and/or Gas Industry Co as appropriate?</p>	<p>Yes. This highlights a problem with a single compulsory scheme – what do you do with a non-compliant member?</p> <p>In a competitive market, if there is value in being a member of a scheme they will willingly join and remain compliant or face having their membership terminated. If there is intrinsic value to customers in the availability of a complaints scheme then they will differentiate those retailers who are a member and those who are not.</p> <p>Those who do not value a complaints scheme should not be forced to pay the additional costs included in electricity prices.</p> <p>If a retailer has a more cost effective means of delivering service including a different complaints scheme, then again they are able to differentiate themselves and offer a different value proposition to consumers.</p> <p>The single scheme approach reduces the ability of retailers to innovate, reduce costs of supply to consumers, and provide the ability for consumers to make price/service tradeoffs.</p> <p>The compulsory single scheme approach must mean that compliance can only be ensured through a series of escalating and punitive measures such as: publication of non-compliance, financial penalties and ultimately prevention of trading.</p>

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10. Do you agree with the functions of the Overseeing Entity as set out in Section 7.1.3 of the Proposed Requirements?	<p>No. Since the Scheme is to be a single compulsory scheme selected by the Electricity and Gas Commissions then they should be responsible for governance functions as well as the overall economic outcomes of the complaints scheme.</p> <p>It is not right that a regulatory body should abrogate responsibility and accountability for governance of an entity that is provided with a monopoly position through a non contestable process.</p>
11. Do you agree with the composition and process for appointment of the members of the Overseeing Entity?	There does not appear to be enough detail included in the paper to comment on the composition. However, In keeping with our comments above we suggest the Electricity and Gas Commissions should appoint the members.
12. Do you agree that any changes to the scheme rules should be undertaken in consultation with stakeholders, the Electricity Commission and Gas Industry Co?	Changes to rules should go through the established consultation processes currently used the Gas and Electricity Commissions.
13. Do you agree that the decision-maker should be appointed by the Overseeing Entity and the staff should be appointed by the decision-maker?	Yes.
14. Is the balance between achieving a scheme that meets the needs of complainants and the need to limit costs satisfactory? If not, how would you propose to amend the requirements outlined in Section 8.2 of the Proposed Requirements?	<p>No. The issues of costs and budgets are less of a concern if there is potential for competition in the provision of complaints services. This will provide a self-regulating outcome as members of schemes will switch to other cheaper providers if schemes are too costly. It also creates a natural tension in ensuring that costs are minimised.</p> <p>Without such tension, costs will escalate and the monopoly service will not be efficient provided and nor will it meet the requirements of its members and users as there is no incentive to.</p>

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Question	Comment
15. Are there other performance standards that should be set out in 9.1.2?	
16. Do you agree that internal reviews of performance should be undertaken each year and reported in an Annual Report?	Yes.
17. Do you agree that independent reviews of scheme performance should be undertaken every three years and made widely available?	Yes
18. Do you agree that 12 months' notice to the Electricity Commission and Gas Industry Co should be provided before winding up the scheme?	12 months may be too long. Six months may be more practical.  This is more of an issue in a single compulsory scheme environment.
19. Do you agree that the scheme should be required to cooperate in the transition to a new set of arrangements	Yes
20. Do you agree that 12 months' notice of any revocation of approval is appropriate?	6 Months should be sufficient.
21. Do you agree that approval should be granted for a period of five years?	5 years is too long. We suggest two or three years.
22. Do you agree that a call for applications should be made after four years of service?	Should be modified to 6 months before term length above.

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<b>Other</b>	<b>Comment</b>
1 Scheme decisions are only binding on members (1.2.2 and 2.5.1).	The scheme should also be binding on consumers. This should be made clear to the consumer that they can either go through the external complaints process and be bound by the result or choose to follow other remedies such as the disputes tribunal.
2. Ability to appeal	There should be the ability for either party to appeal the decision in a cost effective manner.
3. Scheme information on invoices	See answer to question 4 of main table.
4. Timeframe to approve scheme.	It has been suggested that no scheme currently meets the required standards. Once the standards are complete the schemes who will want to apply need to be given sufficient time to meet the requirements so an applications can be submitted. Therefore it would make more sense to give a longer period for scheme approval.
5. Funding	Scheme should be majority user pays by variable component to ensure a cost-effective solution.

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<b>Other</b>	<b>Comment</b>
6. Regional approach for ease of face to face meetings.	<p>3.3.1 suggests that ability needs to be made for face-to-face meeting. With a decision maker and staff based in a central location this could be an expensive exercise in most situations.</p> <p>We suggest that a regional approach with adjudicators (or mediators or arbitrators) that are paid on an as required basis would be most satisfactory.</p> <p>It has been our experience with both internal and external complaints resolution that face to face meetings is the best way to resolve complaints. Complaints are usually a result of the supplier/consumer relationship has broken down. Trying to resolve the complaint and restore the relationship by phone and letters is usually futile. Face to face meeting are far more effective,</p> <p>For these reasons we strongly recommend that the EC and GIC adopt a regional requirement for adjudicators. Such an approach is illustrated in the IECRS and EGDRS schemes.</p>
7. Legal representation	3.3.2 and 3.4.1 seem contradictory.
8. Revoking approval and Term of Appointment	<p>As stated in the document 6.38 that it is the intention to only approve one scheme. It is also stated that it is intended to call again for applications after four years. We believe this process would make it very hard to for the EC and GIC to consider another scheme once one scheme has been approved. To explain this further it would be hard to discount the current approved scheme in favour of a scheme that is likely to be a paper scheme (i.e. not currently in operation).</p> <p>If this type of process is suggested it provides a clear indication that more than one scheme should be approved in line with the regulations. This would enable schemes to prove their effectiveness at resolving complaints and reduce the need to have a new scheme created if the current scheme needs to be revoked.</p>

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<b>Other</b>	<b>Comment</b>
9. Reaching settlement	<p>In the document 3.17 it is stated, “the IECRS and EGDRS schemes have an emphasis on reaching settlement rather than interpreting contractual rights”. Is unclear whether the EC and GIC see this as a negative or a positive.</p> <p>Our view is this is positive and that this should be a requirement of whichever scheme is approved. As stated within 6 above, complaints are often a result of the supplier/customer relationship breaking down. The complaints process should be conducted in a manner to help restore this relationship, if possible.</p> <p>In our view, the decision reached by the decision maker should take into account all aspects of the complaint including (but not limited too) contractual rights.</p>