

To: **Electricity Commission and Gas Industry Co**
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Submission on Approval of a Joint Electricity and Gas Complaints Resolution Scheme

From: **Child Poverty Action Group**
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We thank you for the opportunity to submit our views on the proposed Electricity and Gas Complaints Resolution Scheme. Child Poverty Action Group (CPAG) comprises a group of academics and workers in the field dedicated to achieving better policies for children. Our reports *Our Children: The priority for policy* 2001, and 2003 can be found with other background material at our web site. The aims of our organisation are:

- Development and promotion of better policies for children and young people.
- Sharing information and connecting with other groups with similar concerns.
- Elimination of child poverty in Aotearoa New Zealand by 2020

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Background:

Research by Domestic Energy Users Network (DEUN) shows that while energy costs comprise only around 4% of the average households' costs, for the lowest income families, they comprise about 12% of costs. Increases to those costs therefore impact more harshly on those families who are already vulnerable. Affordability and sustainability are the central issues of energy provision for consumers. Stable and secure access to energy is a prerequisite for the efficient and profitable operation of businesses, but recent events have shown that such access can be a matter of life and death for domestic consumers. Also, fear of inability to pay the power bill means low income people often do not adequately warm their homes in winter. The health of the children suffers as a consequence. When energy prices rise, less can be spent on nutritious food, or warm clothing. Again, the health of the children is impacted. In the March 2006 year, residential electricity consumers used 32.7% of New Zealand's electricity but provided 44.2% of the revenue. Residential power bills provided \$2.1 billion to the energy sector, plus GST which added a further \$264 million to the Consolidated Fund. Given the contribution of domestic users to the sector:

CPAG recommends that the rights of vulnerable consumers are considered in the Government's decisions about the electricity and gas industry and market.

The March 2008 Consultation Paper published by the Electricity Commission and the Gas Industry Company Limited states their roles and objectives. The principal objectives of the Electricity Commission, in its role as regulator of the operation of the industry and its markets, are to ensure that electricity is produced and delivered to all consumers in an efficient, fair, reliable and environmentally sustainable manner; and to promote and facilitate the efficient use of electricity. The Gas Industry Co is an approved gas industry body that reports regularly to the Minister of Energy on the performance and state of the New Zealand gas industry and the achievement of policy objectives; and recommends arrangements, including rules and regulations, to improve the operation of gas markets, access to key infrastructure, and consumer outcomes.

The Electricity Commission and Gas Industry Co have agreed they will jointly approve a single complaints resolution scheme. A single dual-fuel scheme would provide benefits including ease of access, consistency of outcomes, and efficiencies of scale. Also, many of the same companies are involved in both sectors, many consumers buy gas and electricity from the same retailer, and the gas market is small. For consumers to be adequately protected, they need an external complaints resolution scheme that adopts the six benchmarks endorsed by the Chief Ombudsman: independence; accessibility; fairness; accountability; efficiency; and effectiveness, referred to in the discussion document as the Australian Benchmarks.

CPAG's submission follows the Discussion Paper's suggested order:

- 1:** GPAG recommends a single joint electricity and gas disputes resolution scheme; and agrees that the overall objective of the scheme would be to provide a complaints resolution scheme that adopts the Australian benchmarks, is timely, and is free to consumers.
- 2:** The proposed scope of the scheme is adequate, provided "competition" ensures pricing to domestic consumers does not continue to disproportionately subsidise pricing to industrial and commercial consumers.
- 3:** The code of practice in Appendix C for members of the scheme is not adequate.
- 4:** The code of practice needs to include provisions for adequate training of staff involved in internal complaints resolution schemes.
- 5:** The decisionmaker must be able to make awards for compensation and reimbursement of expenses to consumers; and require members to take actions to make redress when a complaint is upheld.
- 6:** Members should be required to self-monitor and report annually on their own compliance with the scheme rules.
- 7:** The scheme should also be required to report annually to the Electricity Commission, the Gas Industry Co, and the Minister of Energy.
- 8:** Member breaches should be recorded, and reported to the governing body. If persistent, member breaches should be published in the Annual Report.
- 9:** Material non-compliance by a member should be addressed by the decision-maker and if it persists it must be reported to the Electricity Commission or the Gas Industry Co, and the Minister of Energy.
- 10:** The functions of the Overseeing Entity need to include incorporation of international best practise in the members' code of practice; and an annual meeting with members for free and frank discussion of the progress of the scheme.
- 11:** The Overseeing Entity must be comprised of an independent chair, and equal numbers of consumer representatives (appointed by the Minister of Consumer Affairs), and elected industry representatives.
- 12:** Changes to the scheme rules must be taken in consultation with stakeholders, the Electricity Commission, the Gas Industry Co, and the Minister of Energy.

13: The decision-maker should be appointed by the Overseeing Entity, with the approval of the Ministers of Energy and Consumer Affairs, and the staff should be appointed by the decision-maker.

14: The balance between achieving a scheme that meets the needs of complainants and the need to limit costs is satisfactory. The existing Banking, and Insurance and Savings Schemes, as well as the Electricity and Gas Complaints Commission (EGCC) provide good examples of cost-effective schemes.

15: The performance standards need to include consumer satisfaction questionnaires for complainants after they have accessed the scheme; and annual independent “public awareness” surveys; and survey results must be included in the Annual Report.

16: Internal reviews of the scheme should be undertaken each year and published in the Annual Report which would itself be published on the website, and distributed to stakeholders at the Annual General Meeting.

17: Independent reviews of the scheme performance should be undertaken every three years and published on the website.

18: Should the Electricity Commission, Gas Industry Co and the Minister of Energy decide to wind up the scheme, 12 months notice must be given to the Overseeing Entity, the decision-maker, and the industry.

19: The scheme would be requested to co-operate in the transition to a new arrangement, and required to make its reports and records available for that purpose.

20: Annual progress reports to the scheme from the Electricity Commission, Gas Industry Co and the Minister of Energy must indicate whether they consider the scheme to be succeeding or failing. If, after 4 years that have on balance been unsuccessful, the decision is made to revoke approval with 12 months notice, revocation would not come as a surprise, and would be appropriate.

21: Initial and subsequent approval of the scheme would be granted for a period of 5 years, with annual progress reports provided to the scheme, as discussed in 20 above.

22: If the scheme is progressing well, it would be counter-productive and unnecessarily disruptive to call for multiple schemes after four years. It would, however, be useful to have a stakeholder survey on the scheme after 4 years, one year after the external review of the scheme.

Other issues:

23: In comparison to industry, consumers lack resources. In order to ensure that consumers are not disadvantaged in the complaints process, neither the member nor the complainant can employ legal representation.

24: The ruling by the decisionmaker must be binding on the member, while allowing the consumer to pursue the complaint in the Courts should they choose to do so.

25: Contracts with consumers, as well as including information on the internal and external dispute resolution schemes, must note the existence of hardship provisions ensuring that a consumer unable to pay by due date is assisted in meeting their obligations to the retailer over time, and is thus able to maintain their access to

electricity and/or gas. Members' hardship policies must meet guidelines developed in consultation with the scheme, the Electricity Commission and the Gas Industry Board.

26: A single 0800 phone number for electricity and gas, banking, and insurance savings complaints would improve access for consumers, and be a boon to a distressed consumer. During business hours, the people answering the phone would need to be skilled and informed about all three schemes, and about the criteria for having a complaint accepted. A combined call centre would remove distortions between incoming calls and complaints accepted by the schemes, and would provide immediate information and impartial support, if required, to the caller. After hours, an ansaphone would record information for call-back.

27: The scheme's website would provide access to the complaints process as well as information for consumers on internal and external complaints processes.

28: The scheme must share with members the responsibility for promulgation of consumer information and education about the scheme, consumer rights, and hardship provisions.

29: Each scheme would maintain regular contact with an Advisory Board of consumers to ensure domestic users are well-served by the scheme, and to ensure best practise, and innovation.

30: Membership by retailers and distributors of electricity and gas must be compulsory. For fairness, a tiered system of membership fees must apply.

31: The scheme must be free to consumers.