

8 May 2008

Electricity Commission
Level 7, ASB Bank Tower
2 Hunter Street
PO Box 10041
Wellington

By email: info@electricitycommission.govt.nz

**SUBMISSION ON APPROVAL OF A JOINT ELECTRICITY AND GAS COMPLAINTS
RESOLUTION SCHEMES CONSULTATION PAPER**

- 1 Orion welcomes the opportunity to submit on the approval of a joint Electricity and Gas consumer complaints resolution schemes consultation paper (the *paper*).
- 2 Our submission is in two parts:
 - 2.1 general comments; and
 - 2.2 our response to the specific questions raised in the paper, which we set out in the schedule to this letter.

General comments

- 3 Orion was a founding member of the Electricity Complaints scheme (the *current scheme*) and we are pleased that the Electricity Commission and the Gas Industry Co have joined together to approve a single complaints resolution scheme. Orion has in earlier submissions recommended that a single scheme be implemented.
- 4 The outcome of this consultation process is to provide a mechanism for the Electricity Commission and the Gas Industry Co to approve a complaints resolution scheme that meets the requirements which are currently proposed in appendix C of the paper. While appendix C sets out in high level terms the requirements that any approved scheme must meet, this focus on high level means that considerable additional detail will be required in the final scheme.

- 5 We are concerned that the indicative timetable to approve the scheme does not appear to include any process for consultation on the actual detail of any approved scheme.
- 6 Considerable consultation went into developing the current scheme, including subsequent changes to include land issues and Transpower's participation.
- 7 We question at what stage of the process the proposed scheme(s) will be available for stakeholder comment? If further consultation is not carried out, then a proposed scheme may be accepted by the Electricity Commission and the Gas Industry Co that appears to meet the high level requirements set out in the approval criteria, but introduces changes in the detail that are unacceptable and/or unworkable for various stakeholders. This could result in immediate requests for changes to the scheme.
- 8 For example, schedule D of the current scheme includes a protocol for all electricity company council members. This protocol contains important provisions to facilitate a complaints clearing house mechanism to allow complaints to be referred to the correct contracting company. These provisions are necessary as a number of the parties (distributors) do not have specific contracts with the end-use customer. Yet it is unclear whether this issue will be addressed via the high level requirements in the proposed scheme.
- 9 We also emphasise that changes affecting land issues may be particularly sensitive and may have significant impact in the absence of consultation on any transitional changes to a new scheme.
- 10 Thank you for the opportunity to make this submission. Orion does not consider that any part of this submission is confidential. If you have any questions, please contact Dennis Jones (Industry Developments Manager), DDI 03 363 9526, email dennis.jones@oriongroup.co.nz.

Yours sincerely



Dennis Jones
Industry Developments Manager

SCHEDULE

Responses to the Commission's questions

Question	Response/Recommendations
<p>Q1. Do you agree that the “overall objective” of the scheme should be to provide an 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?</p>	<p>Yes.</p>
<p>Q2. Is the proposed scope of the scheme sufficient to cover all the necessary elements?</p>	<p>While the scope of the scheme at a high level looks appropriate, the detail of the scheme will be most significant. As indicated in our general comments, we have concerns about the level and availability of consultation on the detail of any proposed scheme.</p>
<p>Q3. 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>Yes, in broad terms. However the detail of the code of practice will be significant and will require consultation.</p>
<p>Q4. Are there any other requirements that should be included in the membership requirements?</p>	<p>We suggest that the Commission consider whether it is appropriate to include all distributors and retailers on embedded networks, or whether some exceptions should be considered where distribution or retailing is not an entities' primary activity.</p>
<p>Q5. 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>We conditionally agree that the decision-maker should be able to make awards and reimbursement of expenses, and require members to make redress when a complaint is upheld. Any awards, reimbursement of expenses and requirements on members to make redress must be limited to the extent that is agreed under the scheme.</p>

<p>Q6. Do you agree that members should be required to self-monitor and report annually on their own compliance with the scheme rules?</p>	<p>No. This is an unnecessary additional compliance cost – the scheme can provide adequate reporting provisions for breaches by members. See Q7 and Q8</p>
<p>Q7. Do you agree that the scheme should have the right to identify and report on member compliance?</p>	<p>Yes.</p>
<p>Q8 Do you agree that member breaches should be reported to the governing body and published in the Annual Report?</p>	<p>Yes.</p>
<p>Q9 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, however, there needs to be some clarity around what is considered “persistent and material non-compliance”. Also, it is unclear just what the role of the Electricity Commission and/or Gas Industry Co would be in this case. As proposed, the Electricity Commission and Gas Industry Co are only approving a scheme, as opposed to regulating a complaints resolution scheme of their own. A regulated scheme would presumably be subject to the penalties provided for in the Electricity Governance Rules/Regulations. In this case, evidence of persistent and material non-compliance may give an incentive for the Minister to regulate a consumer complaints scheme; however it is unclear what other purpose this reporting may provide.</p>
<p>Q10 Do you agree with the functions of the Overseeing Entity as set out in Section 7.1.3 of the Proposed Requirements?</p>	<p>Yes.</p>
<p>Q11 Do you agree with the composition and process for appointment of the members of the Overseeing Entity?</p>	<p>Yes.</p>
<p>Q12 Do you agree that any changes to the scheme rules should be undertaken in consultation with stakeholders, the Electricity Commission and Gas Industry Co?</p>	<p>Yes, this should also apply to any changes in the transition phase – see our comments above.</p>

<p>Q13 Do you agree that the decision-maker should be appointed by the Overseeing Entity and the staff should be appointed by the decision-maker?</p>	<p>Yes.</p>
<p>Q14 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>	<p>No comment.</p>
<p>Q15 Are there other performance standards that should be set out in 9.1.2?</p>	<p>No comment.</p>
<p>Q16 Do you agree that internal reviews of performance should be undertaken each year and reported in an Annual Report?</p>	<p>Yes.</p>
<p>Q17 Do you agree that independent reviews of scheme performance should be undertaken every three years and made widely available?</p>	<p>Yes.</p>
<p>Q18 Do you agree that 12 months' notice to the Electricity Commission and Gas Industry Co should be provided before winding up the scheme?</p>	<p>Yes.</p>
<p>Q19 Do you agree that the scheme should be required to co-operate in the transition to a new set of arrangements?</p>	<p>Yes.</p>
<p>Q20 Do you agree that 12 months' notice of any revocation of approval is appropriate?</p>	<p>Yes.</p>
<p>Q21 Do you agree that approval should be granted for a period of five years?</p>	<p>No. We consider that the ability to provide 12 months notice of revocation of any authorisation of a scheme, in the event that the Electricity Commission and Gas Industry Co consider that the scheme providers are failing to meet reasonable performance standards, provides sufficient discipline. We also consider that a fixed term of five years may create adverse consequences that offset the benefits that a competitive approval mechanism would provide. Such adverse</p>

	<p>issues could include:</p> <ul style="list-style-type: none">• additional costs of the scheme from such a frequent review period• additional costs in training and transitional arrangements• loss of institutional knowledge from previous cases and precedents set, leading to inconsistent decisions over time• difficulties in staff appointment and retention.
<p>Q22 Do you agree that a call for applications should be made after four years of service?</p>	<p>No. See our response to Q21.</p>