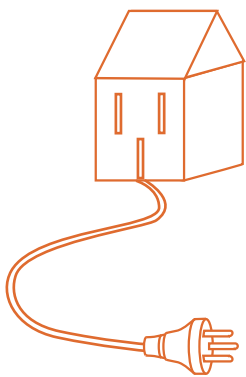


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# Annual Report 04

To provide an effective complaints resolution service and work with the industry to achieve self - resolution of complaints and the improvement of service delivery to consumers.



The office of the **Electricity Complaints Commissioner** offers an **independent, dispute resolution service for customer complaints** about electricity lines or retail companies in New Zealand.

- The office can **investigate complaints about member companies** of the scheme, once a complaint has been through the company's own complaints process and reached deadlock.
- All member companies in the scheme agree to be bound by the Terms of Reference and to follow the Code of Practice. They must have their own complaints process. Customers should take up complaints with their company first.
- The office is completely **independent of the industry**, and any decision made by the commissioner is binding on member companies, if the customer accepts the decision.
- **Customers do not have to accept any decision the commissioner makes** – they can go to the Disputes Tribunal, through the court system or, if the company is a State Owned Enterprise, to the Ombudsman. But if a customer accepts the commissioner's decision, it is binding on both the customer and the company.
- The office of the commissioner was **established in Wellington in January 2002** and now employs a staff of 16.
- The service is **free to customers** and the commission's phone (0800 22 33 40) and fax numbers (0800 22 33 47) are free to callers.
- The service is **confidential** – the commissioner does not publish the names of customers whose complaints the office handles.
- The commissioner can consider complaints about a wide range of issues but **cannot comment on the amount companies charge** for their services. However, the commissioner can check that a company has applied its charges appropriately and given proper notice of changes to those charges.
- The commissioner can handle issues that have occurred since October 1, 2001 only and is authorised to handle **claims for amounts less than \$10,000**. Her jurisdiction can be increased to up to \$25,000 with the agreement of member companies.

The structure of the scheme includes:

**council** - through its board provides industry oversight of the scheme and appoints industry members to the commission;

**commission** – establishes and maintains the office of the Electricity Complaints Commissioner and ensures the scheme provides an independent and accessible service;

**commissioner** - receives, investigates and facilitates the resolution of complaints.

Key Facts

# Message from the chairperson

The second full financial year for the Electricity Complaints Commission has been one of significant growth, presenting challenges to the commissioner and her team. As a backlog of files for investigation built up, the office had to restructure and refine its procedures. The commission was fortunate to have a commissioner with change management skills and a competent and committed team behind her to rise to the challenges of this past year.

The commission is happy with the level of consumer awareness of the scheme and the ongoing efforts of the commissioner and her team to ensure electricity consumers understand the role of her office. With the possible addition to the scheme of gas, Transpower and energy trusts over the next year, there will be challenges to the identity of the scheme and its promotion. Possible legislative changes and a review of the scheme will make the year ahead a significant one in the establishment of the commission.

## Office of the commissioner

I would like to thank the commissioner, Judi Jones, for her continued professionalism and passion for the role and for maintaining the independence of the office. Judi's staff numbers have grown in the past year and the office now has 10 full time and six part-time people.

There is further expansion planned for the coming year and I am confident the commissioner and her staff are ready for that continuing growth and have adequate funding.

One of the goals of the office is to establish benchmarking to ensure best practice service to customers and members so they remain confident in the cost of delivery of the scheme. It has been difficult to identify companies in New Zealand to benchmark against, so we are pleased the commissioner has been able to establish such good connections with compatible ombudsmen schemes in Australia. As a member of ANZEWO (Australia and New Zealand Energy and Water Ombudsman Network), Judi has been able to share the experiences of more established schemes across the Tasman.

## Membership

We are approaching the commission's goal of 100 percent membership. New members joining the scheme this year were Mainpower and Eastland Network. Genesis acquired Fresh Start's customer base, enabling the office to assist Fresh Start customers. Electra and Unison have indicated their intention to join the scheme, which will leave only two retailers (Bay of Plenty Electricity and King Country Energy) outside the scheme.

We are encouraged by this level of support from industry for the scheme.



### Review of the code of practice

As required by the constitution, the commission initiated an independent review of the Code of Practice. Chen Palmer & Partners carried out the review and the commission's work on this process is now completed. We learnt a lot from the process and this will assist in the development of the process for the review of the scheme, which is required by the constitution to commence in August 2004.

In respect of the code, the commission, after consultation with stakeholders, recommended a number of changes to the Electricity Complaints Board. The board will be completing the process of deciding which changes to adopt early in the 2004-05 financial year.

### The year ahead

The Electricity and Gas Industries Bill and the Government Policy Statement (GPS) present challenges for the office of the commissioner in the year ahead.

The bill reflects the establishment of the Electricity Commission and makes provision for a consistent framework to apply to both the electricity and gas sectors. It is intended to give legislative effect to the Government's policy goals, which include:

- a code of practice for electricity distributors and retailers;
- membership by all distributors and retailers;
- robust internal complaints-handling processes within all member companies;
- an independent, external complaints resolution scheme;
- self-funding by industry, and
- compensation where appropriate.

The bill also provides for the Electricity Commission to recommend regulation to the Government in respect of a number of issues including distribution and retailing. Regulation by the Government in these areas will change the legal framework that applies to the supplier-customer relationship and hence to complaints. The bill also enables the Electricity Commission to approve one or more consumer complaint resolution schemes.

The draft GPS notes that the Government supports the existing Electricity Complaints Commission Scheme and the associated Electricity Consumer Code of Practice, however, coverage falls short of the expected 100 percent membership. Once the Electricity Commission approves a scheme, membership of that approved scheme will be mandatory.

The Government's expectation of the jurisdiction of the scheme includes covering complaints where the amount in dispute is up to \$20,000. The scheme currently provides for coverage where complaints are less than \$10,000 (although the companies can agree to jurisdiction being extended to \$25,000 on a case by case basis). The commission plans to commence the process of consultation with members and other stakeholders during the coming year with regard to changing the scheme to enable it to meet the Government's expectations.

Judi Jones and I have met with the chairman of the Electricity Commission, Roy Hemmingway. Given that the office of the Electricity Complaints Commissioner is already well established, it is the commission's view that it is well positioned to be the only approved complaints resolution scheme for all electricity and gas companies, landowners dealing with Transpower and issues surrounding Energy Trusts.



It is the commission's view that it is well positioned to be the only approved complaints resolution scheme for all electricity and gas companies.

The bill has mirror expectations in respect of the gas industry and the expectation is that the gas industry, including consumer representatives, will develop efficient and effective arrangements for the proper handling of consumer complaints by 1 December 2004.

The gas industry has established the Gas Industry Steering Group (GISG) and this group is working with the governing bodies of this scheme to extend the jurisdiction to include complaints in respect of gas. The commissioner and I have met with this group and it is anticipated that gas will be covered by the scheme, with an appropriate change in name to reflect this. The costs of extension of the scheme are expected to be met by the gas industry.

We have also met with Transpower to discuss their inclusion in the scheme and similarly, there is the expectation that the costs of any such inclusion will be met by that organisation.

The commission has also agreed the office of the commissioner is well placed to provide the reviewer function for the disclosure guidelines for energy trusts. This makes sense in terms of sharing the overhead costs of the scheme, and maximising the use of the knowledge and experience of the staff of the office of the commissioner. As with gas and Transpower, it has been agreed that the trusts should meet the costs of the changes required to the scheme.

Commission

I would like to thank my fellow commission members – Murray Jackson (Genesis), Kerry Nickels (Vector), Nick Toonen (consumer representative), Pat Hanley (consumer representative) and the alternates Josephine Bartley (Ministry of Consumer Affairs) and David Russell (Consumers' Institute) – for their interest in the scheme and for their support.

I would also like to thank the board of the council and in particular the independent chair, John Robertson, for his effective communication and support.

For the commission



**Alison Paterson**

Independent Chairperson, Electricity Complaints Commission





## Commissioner's Report

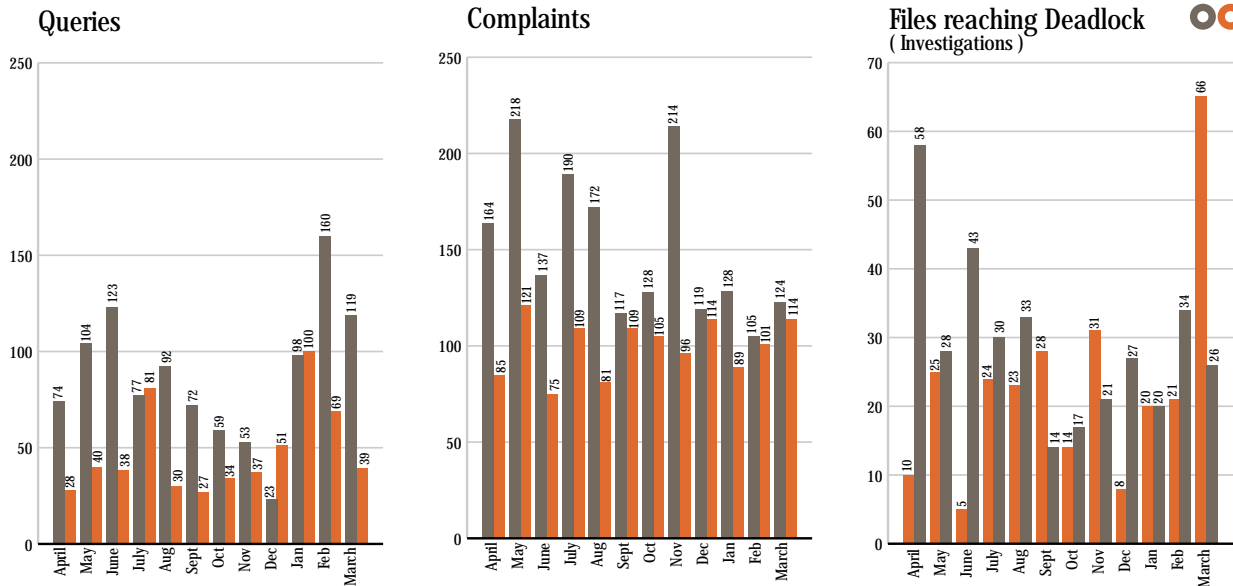
The second full year of operation of the office of the Electricity Complaints Commissioner has been one of both consolidation of processes, and growth in the number of investigations.

While the number of investigations has increased, the number of customers contacting the office overall has fallen. This reduction is consistent with customers having a better understanding of the nature and processes of the scheme, and member companies having improved complaint handling processes.

The sharp increase in files reaching deadlock and requiring investigation in the final month of the last financial year and the first two months of this year caught us by surprise. We reviewed our processes to streamline them, but it soon became apparent that we needed more staff to deal with what had become a backlog. I was grateful to the board for agreeing to the office retaining part of the budget surplus to allow us to increase staffing levels during the year.

The successful operation of the scheme depends not only on transparent and effective processes within my office, but also on the co-operation of member companies. The continued development of positive working relationships with both companies and consumer groups while maintaining complaint handling remains an important focus for the office. It was with reluctance that I suspended regular visits to our stakeholders during the year in order to focus on the backlog.

Ensuring our processes and procedures are efficient and effective is an important goal. The network I have developed with similar organisations in New Zealand and in Australia, and my visit to London, has assisted us greatly in quality assuring our processes, and will assist in the development of realistic and challenging performance standards.



## Complaint handling

### Categorisation of customer contacts

We record the work of the office in three categories: queries, complaints and investigations.

A customer contact is classified as a query if it is a matter where advice only is given (for example, about the process) or the matter is outside my jurisdiction (perhaps about a gas matter or the price of electricity). Contacts where it is obvious that the event occurred before October 1, 2001, the matter is trivial, or it is obvious that the company has responded appropriately to a problem are also recorded as queries.

A number of customers contact us at the time, or shortly after, they have made a complaint to the member company. Others make their complaint to us in the first instance. In all of these situations, we refer the customer to their electricity company, and write to the customer advising them that the matter needs to be dealt with through the company's own complaints process before I have jurisdiction to investigate. We also notify the company that their customer has contacted us to let us know about their concerns. These contacts are categorised as complaints.

Once a complaint reaches deadlock, we categorise the file as an investigation. It is allocated to a conciliator, who then investigates the complaint and also takes steps to see whether the complaint can be resolved by agreement between the company and their customer. If no resolution is achieved, I commence the recommendation process.

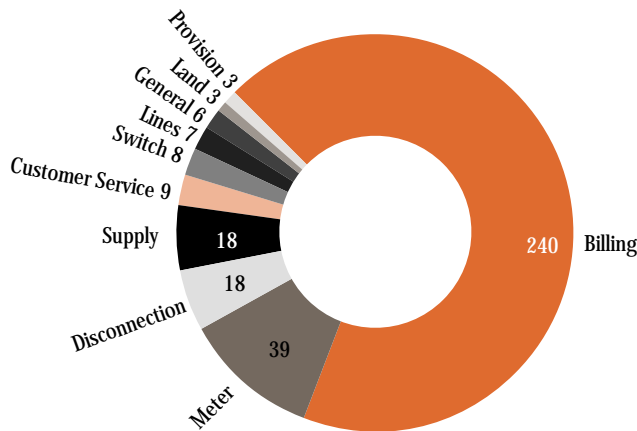
### Workload

As I have mentioned earlier, while the total number of enquiries and complaints for the 2003-04 year was lower than the previous year, there was a significant increase in files for investigation. A good many of these files involved complex fact situations, and/or complex or novel legal issues, which meant the files took a while to resolve.

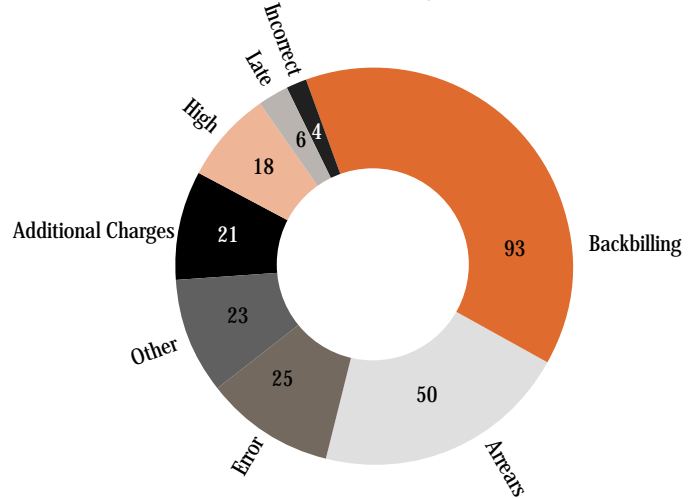
This, combined with the sharp increase in deadlocked files, meant that we developed a backlog of files awaiting investigation. The good news is that with improved processes and an increase in staffing we caught up with the workload during the year. We now start work on deadlocked files as soon as we receive a signed "waiver of confidentiality" form from the customer.

The office dealt with 574 enquiries and referred 1199 complaints to member companies during the year. This is a percentage decrease in customers contacting the office. There was a 28% increase in deadlocked files and we achieved a 183% increase in the file closure rate.

Numbers of files reaching Deadlock



Breakdown of billing issues



### Issues

In terms of the issues involved in the deadlocked files – the biggest issue remained billing (68.4%) followed by metering (11.1%). Within billing, the biggest issue was a customer receiving a backbill (38.8%). Customers receive backbills for a variety of reasons, such as having received estimates for a long period followed by a meter reading, where the meter was being read but the data was not correctly used in the invoices, or where the price or consumption had been incorrectly calculated by the retailer. Complaints about lines members constituted 5.4% of the total number of files for investigation.

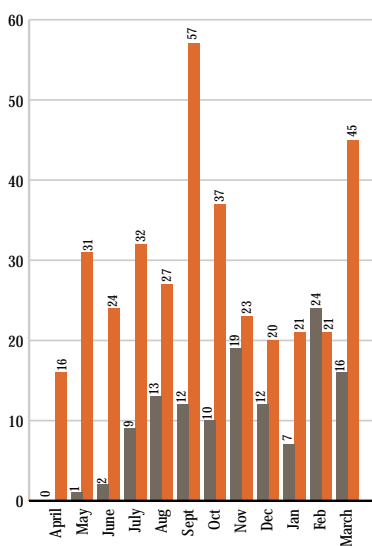
### Outcomes

It is reassuring for stakeholders in the scheme to note that while 1199 customers contacted us about a complaint about their retailer or lines company, only 351 files reached deadlock during the year. And of the 354 files we closed during the year, most were closed after the customer and their company reached agreement on a settlement during the investigation/conciliation process.

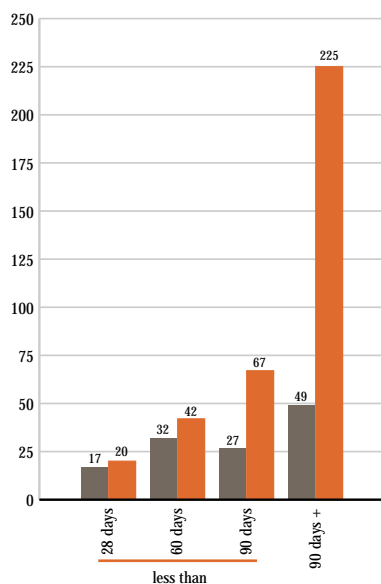
On 34 occasions, I wrote to both parties to give my preliminary view on the complaint and giving them notice of the recommendation I intended to make. In 25 cases, both the company and the customer accepted the proposed recommendation or reached agreement. However, in nine cases, either the customer or the company made further comment and asked me to review my proposed recommendation. In three of these, I did not uphold the complaint against the member company.

A new process introduced during the year was “no further investigation”. Part way through an investigation it sometimes becomes apparent that there are either no reasonable grounds for the complaint, and/or that the offer made by the company to the customer is a reasonable one. In these situations, I write to the customer advising that I do not intend to continue the investigation into their complaint and invite their comment. I wrote 32 “no further investigation” letters during the year. On two occasions further submissions from the customers persuaded me to complete the investigation. In the remaining 30 cases, the file was then closed.

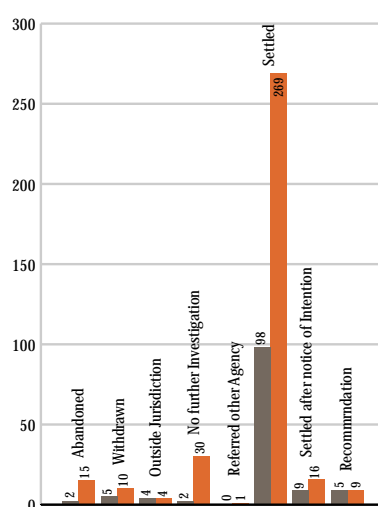
### Investigations Completed



### Time to Close Investigations



### Outcomes



## Communication

Part of my terms of reference is a requirement to publicise the scheme. We continue to do this in a fairly “organic” way rather than spending significant amounts of money on marketing material or advertising.

The website was revamped and updated during the year to make it a more useful resource for both customers and member companies. The website is one of our primary tools of communication.

I have done some media interviews during the year and such coverage increases public understanding of the role of the office.

During the year I have visited member companies and spoken to industry and consumer groups.

As the offices of the Banking Ombudsman and Insurance & Savings Ombudsman have similar processes, I have combined with these two to present consumer forums in Wellington and Lower Hutt and to speak to electoral workers at Parliament. The Minister of Consumer Affairs visited the office, as did MP Chris Carter. I have also had meetings with the Minister of Energy and the Parliamentary Ombudsman.

In March, I spent two weeks in London while attending the Financial Sector Ombudsman Conference and visited a number of organisations connected with energy, including Ofgem, energywatch and a number of energy companies. I appreciated the opportunity to talk and meet with the more than 100 ombudsmen from 30 countries who were present at the conference, and to explore the different ways similar issues relating to the provision of energy services are dealt with by the regulatory authorities and service providers in the UK.

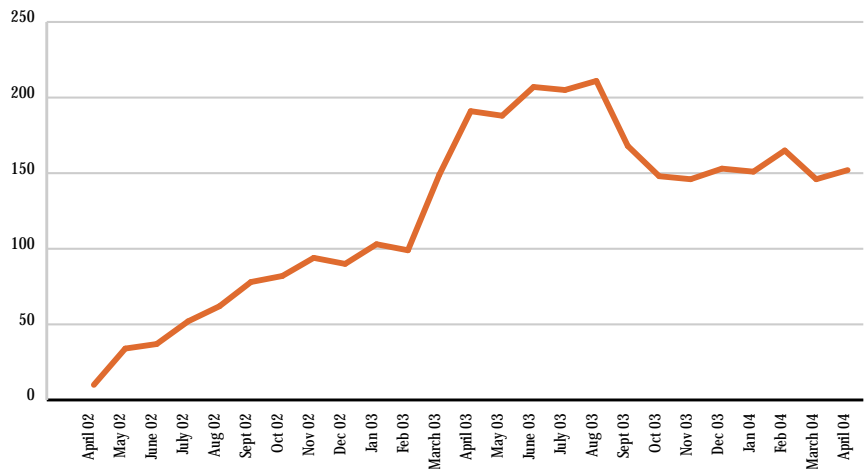
## Resources

### Premises

We made changes to the layout of the office in May to accommodate the growth in staff numbers and we are now at capacity. We have asked our sub-tenants – N M Associates Ltd (architects and planners) – to move so we can take over their offices. This will allow us, with minor modifications, to remain here until our lease comes up for renewal in 2005. We will be looking for new premises in the new year.

The office had a small burglary during the year and my laptop, a camera, a hard drive and some network cables, as well as small amounts of money and other minor things were taken. As a result the building owners increased security to our floor and we increased security in the office with an alarm and coded entry to the offices.

## Net Investigations



### Database

After more than a year, we believe the Merit database is up and running as it should be. However, the process has not been easy. One of the versions of Merit caused significant problems for staff working on Windows 98. As a result all of the office's computers had software upgrades to Windows XP.

The database supply company Merit sent one of its staff from Australia to spend a week working through the outstanding issues and planning for resolving them. The upshot of that was a re-launch in November.

The database writer was keen to demonstrate a desire to ensure that changes were made to the database to complement the office's work processes. The improved functionality of Merit enabled us to audit investigation files and the improved reporting has meant I am satisfied that the paperwork in the office is being maintained in accordance with procedural standards. Where it is not, the problem is able to be identified and addressed.

Useful outcomes of the visit included a greater understanding of the logic of the system. However, at the end of the financial year, we had not signed off on the database as meeting contractual requirements.

### Finance

I am pleased to report we finished the year with another surplus, although this is smaller than in previous years. This will be returned to members as a credit against levies for the 2004-05 year.

### Jurisdiction

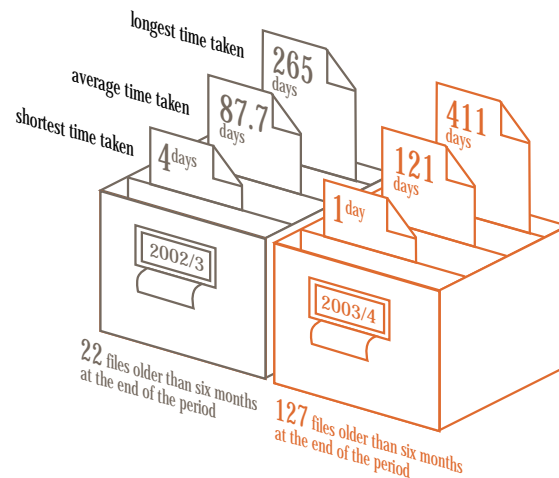
New members joining the scheme this year were Mainpower and Eastland Network. Genesis acquired Fresh Start's customer base, enabling the office to assist Fresh Start customers.

Together with commission chairperson Alison Paterson, I have had talks with the Gas Industry Steering Group (GISG) to discuss legal drafting for gas to be included in the scheme. The GISG anticipates that the final decision will not be made in respect of extension of the scheme to cover gas until later in 2004. The commission has responsibility for consulting with stakeholders in respect of the required changes to the schedules to the constitution, but it is expected that the gas industry should fund this work. We have met with Transpower to discuss progress towards it joining the scheme. Transpower is reinvesting in the grid and is keen to utilise the services of the office as a final resort for landowners and is preparing a proposal to put to the commission to join the scheme. As for gas, the responsibility for consultation with stakeholders prior to making changes to the scheme rests with the commission, but it is expected that Transpower should fund this work.

## Files reaching Deadlock

	2002/3	2003/3
open at beginning of period	0	150
reaching deadlock during year	275	351
closed during year	125	354
open at end of period	150	147

## File Closure Times



We have been working with the Energy Trusts Association of NZ to take on the reviewer function in respect of their disclosure guidelines. Assisting electricity related organisations in this way means that the overheads of the scheme are shared more widely.

### Ombudsman Networks

#### ANZEWON

I am a member of the Australia and New Zealand Energy and Water Ombudsman Network (ANZEWON). The other members of this are Fiona McLeod (Energy and Water Ombudsman Victoria), Clare Petre (Energy and Water Ombudsman New South Wales), Nick Hakof (Electricity Industry Ombudsman South Australia) and Jan O'Grady (Tasmanian Electricity Ombudsman). ANZEWON members met quarterly and I attended meetings in Melbourne (May), Adelaide (August) and Sydney (November).

The group has agreed to extend its joint projects to include a comparison of HR policies and practices and on the format and content of binding decisions.

The meetings provide a lot of useful information and ideas and there have been discussions on the issues involved in prepayment meters; the issues involved in referral of debts to credit agencies; and the approach taken in each jurisdiction to complaints regarding high bills.

#### ANZOA

I hosted the inaugural meeting of the Australia and New Zealand Ombudsman Association in July 2003. This association is intended to provide a forum for both industry and parliamentary ombudsmen to work together on issues affecting us all. While the association is relatively small, a number of projects have been initiated, including an examination of the possibility of benchmarking across schemes. The association is expected to be officially launched around October 2004.

#### NZ Industry Ombudsman

I meet regularly with the Banking, and Insurance & Savings Ombudsmen as we have similar processes and are often wrestling with similar issues. Our meetings provide a further forum for discussion and debate on policies and practice, and we can provide peer support to each other. I find the meetings of real benefit and thank both ombudsmen for their support.

### Looking forward

The commission has a challenging year ahead. In addition to natural growth, we will be dealing with compulsory membership/full voluntary membership of the scheme and changes to fulfil the draft Government Policy Statement on requirements for a complaints resolution scheme for electricity consumers, membership of the scheme by Transpower, and rebranding to avoid confusion with the Electricity Commission and/or to accommodate the addition of reticulated natural gas to the scheme.

After two full years of operation, it is time to review and consolidate processes and practices. Performing against industry benchmarks is identified as a goal for 2004-05. Determining benchmarks is the first important step.

The board of the council is anticipating that changes to the levy regime for funding (to introduce a level of complaints based funding) will be confirmed to be implemented some time during the year. These changes will have an impact on the numbers of files reaching deadlock.

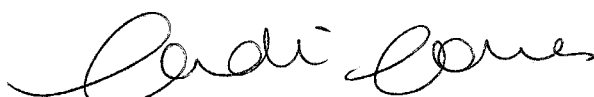
And finally, the first review of the scheme as a whole is required to begin in August 2004.

We feel we are well equipped to meet this year's challenges while continuing our work providing a sound, independent complaints resolution service that is valued by both consumers and member companies.

I would like to thank my staff for their continued willingness to respond to the challenges of working in the office. Their constant cheerfulness, resilience and professionalism while dealing with a high workload is an inspiration to me. In particular, I would like to thank Nanette Moreau for her valued support and for willingly taking on increasing responsibility for the management of the complaints team.

And I would like to finish with thanks to the members of the commission for their support of me in my role as commissioner. In particular I would like to acknowledge the support and wise counsel provided by the chairperson, Alison Paterson. I have appreciated it.

I am looking forward to the challenges of the next year, and will continue to work hard to ensure the aim of the scheme of providing an independent dispute resolution forum for electricity customers is well met.



**Judi Jones**

Electricity Complaints Commissioner

## Electricity Complaints Commission Staff

### Electricity Complaints Commissioner

**Judi Jones**, LLB, MBS (Distinction), Dip Bus Stud, DipTertTeach, AAMINZ

### Manager Conciliation

**Nanette Moreau**, B Comm, LLB, trained mediator (United States)

### Assistant Managers Conciliation

**Moira Ransom**, Dip Bus Stud (Dispute res)

**Heather Sinclair**, BA, BTP, Dip Bus Stud (Dispute res)

### Conciliators

**Sue Trezise**, BEd, Dip Bus Stud (Dispute res), FAMINZ

**Debbie Bidlake**, BA/LLB

**Chavdar Petkov**, MEng (Electrical)

### Part-time contract staff:

**Annabel James**, LLB, Dip Bus Stud (Dispute res)

### Resolution Officers

**Iain Kinsey**, BA (History)

**Anna Naisbitt**, LLB

### Team Support

**Monica Singleton**, 4<sup>th</sup> year BCA & LLB

**Tamzin Hine**

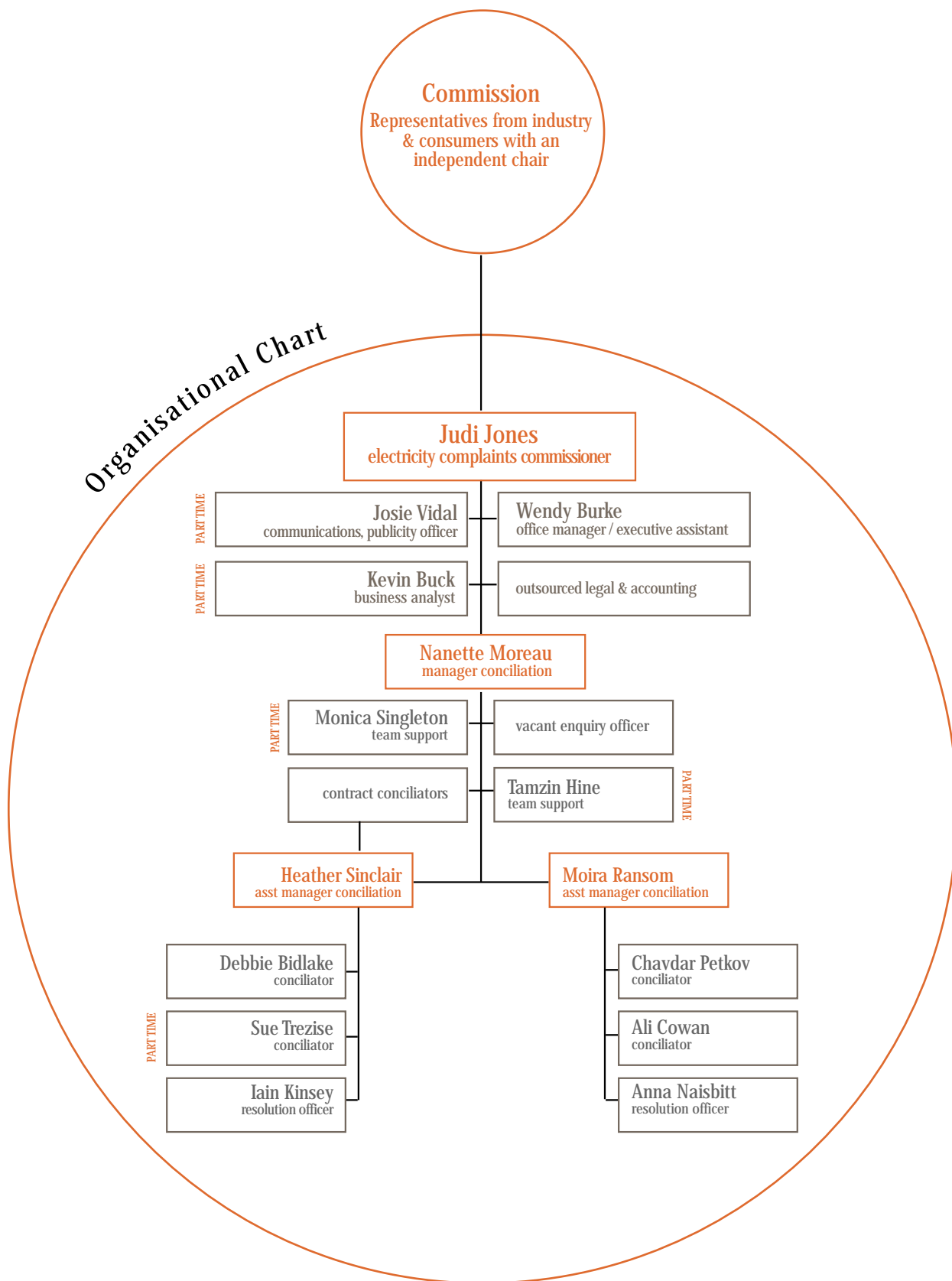
### Administration

**Wendy Burke**, TCB Advanced

**Kevin Buck**, BSc (Mathematics)

**Josie Vidal**, Journalism Diploma

**Organisational Chart**



## Meter tampering hard to prove

A customer contacted the office of the Electricity Complaints Commissioner after it was discovered that their meter had been tampered with and they were billed for estimated consumption, as well as the repair of the meter.

When the customer moved into the property, they did not supply a key to the electricity supplier, but did supply phone reads periodically.

After seven months at the property, a meter reader visited when there was an occupant at home and was able to get a reading. The meter reader suspected the meter had been tampered with and an inspection confirmed the shunt wire was out and the bottom seal was broken, meaning the meter was not recording consumption correctly.

After a telephone discussion with the customer, the electricity company wrote to the customer and advised that the damage to the meter was not accidental. It said while “not assuming that you as the account holder were responsible for the tampering” its terms and conditions entitled it to seek reparation in the amount of \$465.39. This included an estimated \$201.04 of unbilled consumption and the remainder was for repair of the meter.

The customer disputed the account on the basis that they did not tamper with the meter (they believed possibly previous tenants at the property might have) and never saw the company’s terms and conditions advising that they would be held liable for associated fees.

They engaged a lawyer, as well as coming to the office of the Electricity Complaints Commissioner and expressed concern about the company’s demands and its treatment of the alleged electricity theft.

### the recommendation

The office of the commissioner investigated the claim of meter tampering and found that it was highly likely that the meter was damaged intentionally. The shunt wire is attached through the seal to the meter. It is fixed to the meter by a screw and protected by a seal. Both can be removed, but only by the use of specific tools or the deliberate application of force, not by something hitting the meter or by dusting.

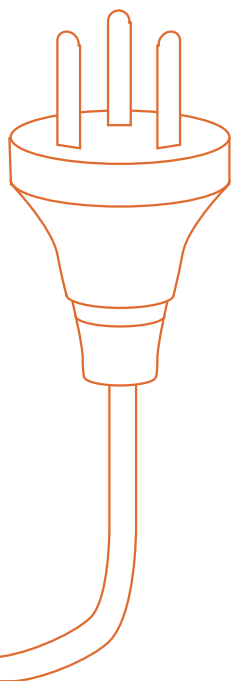
Since the shunt wire was completely out when the meter reader inspected it, none of the electricity consumed was being recorded by the meter at that time. Because the customer did not give access to the meter, it was difficult to determine when the damage occurred and therefore, estimates of electricity consumption were made on previous consumption history. It was also impossible to prove one way or the other whether the previous tenants had tampered with the meter.

The commissioner felt that because the company could not gain access to the meter to take readings or inspect, as the customer elected not to provide a spare key or arrange to be home, if the previous occupants did tamper with the meter, the company could not take sole responsibility for not having discovered it earlier.

She also found that because the terms and conditions of supply by the company included provision for meter tampering, the company was entitled to invoice the customer for any costs incurred in repairing damage to the meter. The customer does not have to have tampered with the meter themselves to be liable for the costs.

After negotiation, the company recognised the customer’s distress and inconvenience and agreed to deduct the contractor’s fee of \$168.75 and allow the customer to repay the remaining amount over 24 weeks at \$12.50 per week.

Satisfied that the company had made a reasonable offer of settlement, the commissioner elected to do no further investigation on the file.



## Switching confusion

When a customer moved houses within the North Island they called their electricity retailer and told them about the move. The company said this was not a problem and that they could remain their customer.

However, after the move the customer did not receive any accounts for a couple of months, in spite of several calls to the retailer's call centre to ask where they were.

The customer received a cheque for \$90 two weeks after they moved homes, which was a refund from their account for their previous home. When they received this refund they called the company and asked when their bill for the new premises would be coming and they were told it would be soon.

However, they did not receive a bill for 119 days and when they did it was for \$433.07 and from a company other than the one they thought was their retailer. The customer was upset because they had previously always paid their bills on time and had often run their account in credit.

When they called the original retail company for an explanation, the company told the customer they could not supply their new home. The company said it was normal practice to have a customer service representative phone a customer and advise if they were unable to switch their property and the reason why they were unable to supply. They also arrange for the property to be returned to the previous electricity retailer. In this case they said they did arrange for the switch to the original supplier, but they did not contact the customer.

When the customer phoned them after receiving their first bill at the new premises, the original retail company offered a refund of \$75. The company said it felt this was adequate compensation in the circumstances however, the customer did not agree.

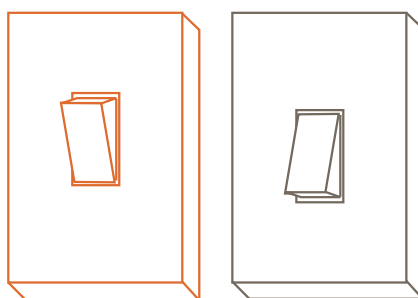
The customer then complained to the office of the Electricity Complaints Commissioner about the company's failure to contact them about their inability to supply the new address, the company's misleading information that the billing for the new property was imminent and the company's failure to contact them even when it had identified what the problem was.

The customer felt that because they had to arrange their own connection with a new retailer and subsequently, had to wait a long time for a bill and then received a large bill of \$433, that their original retailer should meet half the cost of this.

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After negotiation through the office of the commissioner, the original retailer agreed to the customer's request to pay \$216.55 in compensation. The company said they strived to achieve customer service of the highest standard and were disappointed that this was not what the customer received. The customer accepted this offer in settlement of the dispute.

### the recommendation



## Missing multiplier results in massive back bill

A customer contacted the office of the Electricity Complaints Commissioner after receiving a back bill for \$16,451.35. The explanation from the electricity company was that for a period of 14 months it had incorrectly charged the customer by overlooking a multiplier of factor 60. A multiplier is used where electricity meters are not large enough to record the actual electricity used.

While the amount in dispute was outside the commissioner's jurisdiction (\$10,000) the company agreed in this instance to extend jurisdiction and she conducted an investigation into the complaint.

The customer was a club which switched electricity suppliers to secure a lower unit price. When the electricity invoices were 25 percent less per month than with the previous supplier, club management did not have any cause to investigate, as this is what they were expecting.

The club relied on the invoices to the extent of budgeting and dealing with expenditure on the basis of the invoices that were received. They did not realise the multiplier had not been applied.

The commissioner sought the advice of a QC regarding the application of estoppel in cases such as this and received a comprehensive opinion from him.

Estoppel can be applied when one party (the electricity company) makes a representation to another party (the customer) with the intention that the customer will rely on that representation and alter their position. The representation can be made in words (whether orally or in writing) or by conduct. Where such a representation is made the company is estopped (stopped) from denying the truth of the representation.

The commissioner found that the invoices supplied to the club, which were based on actual meter readings, were representations made by the electricity company which meant that estoppel could apply. The club was, in the absence of facts which would have led the reasonable customer to suspect that there was undercharging, entitled to rely on these invoices.

To someone with the knowledge and familiarity with the information supplied by the company on its invoices, the failure to apply a multiplier should have been obvious. However, after looking at a similar case that had gone through the court system (Eichelbaum J in *Wanganui Rangitikei Electric Power Board v. Wanganui Abattoir Co Limited* (1987) 6 NZAR 504) the commissioner found that the club couldn't be expected to notice that the multiplier was not applied. The club had been promised savings and considered that because the invoices were lower than with the previous company, this was just part of the promised lower rates.

The commissioner also found that because the club relied on the invoices it was deprived of the opportunity to know the real cost of its electricity.

The commissioner's recommendation was that a fair and reasonable settlement of the complaint would be that it was upheld and that the company was estopped from recovering the disputed balance of \$16,451.35.

Both parties accepted this recommendation.

the recommendation

X60

## Complaint not upheld

Extreme weather over Easter weekend 2002 resulted in a complaint to the office of the Electricity Complaints Commissioner that, on viewing all the evidence, the commissioner could not uphold.

The customer said their rural property was without power for extended periods over the weekend and that the outages had a significant and detrimental impact on “personal daily activities as well as professional”. For this, they wanted some financial compensation.

They approached their electricity retailer which said that the lines company was responsible for the delivery of energy to the property. Therefore, the retailer had no liability for loss or inconvenience resulting from the outages.

The customer then dealt with the lines company which said the outages had occurred as a result of severe weather conditions during Easter weekend 2002 and the effect that these conditions had on the local network. The lines company had to deal with numerous cable faults and other damage to the network that were caused by the weather, including high winds, heavy rain and trees falling across lines.

While the lines company did make payments to some customers who were without power for a qualifying period (set out in their contract with the electricity retail company), the events that caused this customer’s outages were “force majeure” events, that is, events beyond the company’s control for which it has no liability.

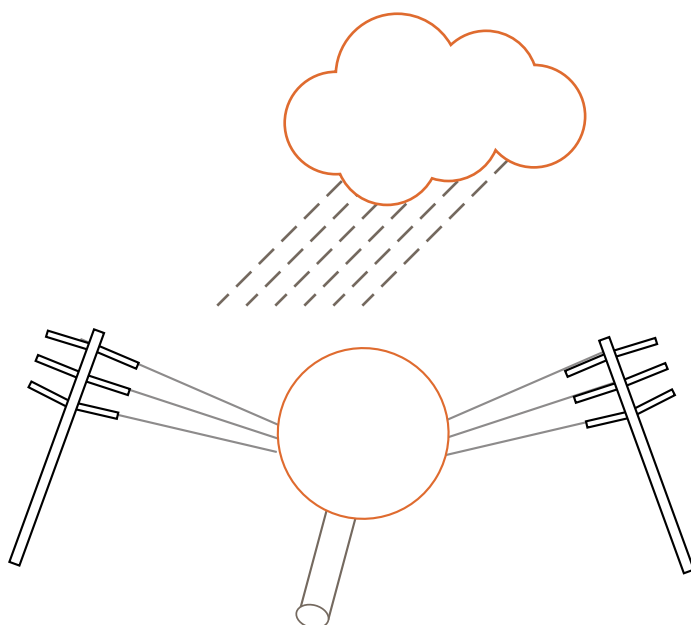
The customer did not qualify for a payment because their power had not been continuously cut for the required period of time.

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After considering all the evidence and representations the commissioner concluded that the damage to the network during Easter weekend 2002 was the result of severe weather conditions beyond the lines company’s control. In addition, the property was not disconnected continuously for the period of time required to qualify for a compensatory payment, so the complaint could not be upheld.

The customer remained free to pursue the matter through the Disputes Tribunal.

the recommendation



## Applying the correct tariff

A scout group that believed it had found a cheap electricity deal took a complaint with the office of the Electricity Complaints Commissioner when they realised all was not as they had understood.

The group did their research and took some comparative prices to an electricity company, which then signed them up as a residential customer with a favourable tariff compared with other companies.

When the first invoice arrived however, it showed the group was being charged a commercial tariff. When the scout group queried this, they were told the company had made a mistake signing them up on a residential tariff. The company did offer some compensation.

The scout group took a complaint to the office of the Electricity Complaints Commissioner because it was concerned about the absence of paper work in the signing up process, wanted to remain on a residential rate as originally agreed and believed the retail company was in breach of the Fair Trading Act.

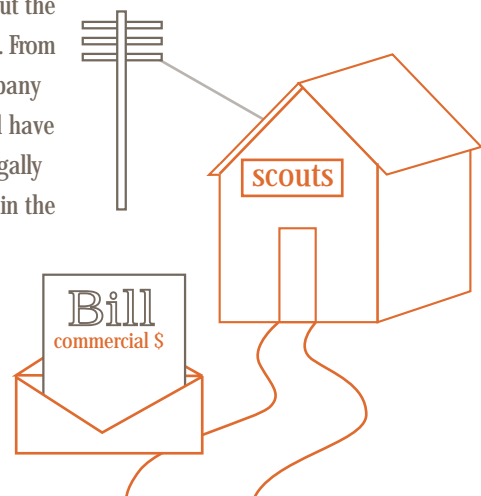
### the recommendation

The commissioner said that the issue of whether or not the electricity company could correct the error it made at sign on was central to the complaint. The company could legally change the terms and conditions of a consumer contract, including the tariff package. Both the individual consumer contract and the Code of Practice to the Electricity Complaints Commissioner Scheme, which is binding on members, allowed the company to amend this position.

But the electricity company must provide 30 days notice of any rate changes

In this case, no such notice was received prior to the first account, which effectively changed the tariff. This was followed up by a letter a couple of weeks later, dated September 2, 2002, which was not specifically a notice of change in terms and conditions, but did explain the situation. Allowing for mail delivery time and putting into place a 30 day notice period, the company could have put the amended tariff into effect on October 7, 2002. From when the customer signed up with the company on July 12, 2002 until that date, they should have been billed at a residential rate. However, legally the company could not be compelled to retain the customer at the quoted residential rate.

As the company was in error by failing to provide the required notice in writing of its intention to alter the tariff package, the commissioner determined that some compensation was appropriate for that. The company had already offered a sum that comprised the difference between the two daily tariffs for a one year period from sign up, as well as an additional amount to cover any difference in unit charges for the first year. This was accepted by the scout group, following the commissioner's investigation and preliminary decision.



# Financial Statements

Auditor's Report

Statement of Financial Performance

Statement of Movements in Equity

Statement of Financial Position

Notes to the Financial Statements

# 04

## Audit Report to the Members **Electricity Complaints Commission**

We have audited the attached financial report on pages 21 to 25. The financial report provides information about the past financial performance and financial position of the Electricity Complaints Commission as at 31 March 2004. This information is stated in accordance with the accounting policies as attached.

### Commission's Responsibilities

The Commission is responsible for the preparation of the financial report which gives a true and fair view of the financial position of the Electricity Complaints Commission as at 31 March 2004, and of the results of operations for the year ended 31 March 2004.

### Auditors' Responsibilities

It is our responsibility to express an independent opinion on the financial report presented by the Commission and report our opinion to you.

### Basis of Opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial report. It also includes assessing:

- the significant estimates and judgements made by the Commission in the preparation of the financial report, and
- whether the accounting policies are appropriate to the Electricity Complaints Commission's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with generally accepted auditing standards in New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary to provide us with sufficient evidence to give reasonable assurance that the financial report is free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial report.

### Unqualified Opinion

We have obtained all the information and explanations we have required.

In our opinion:

- proper accounting records have been kept by the Electricity Complaints Commission as far as appears from our examination of those records; and
- the attached financial report:
  - complies with generally accepted accounting practice;
  - gives a true and fair view of the financial position of the Electricity Complaints Commission as at 31 March 2004, and the results of their operations for the year ended on that date.

Our audit was completed on 2 June 2004 and our unqualified opinion is expressed as at that date.



**Horwath Wellington Audit**

Chartered Accountants • WELLINGTON

## Electricity Complaints Commission

### Statement of Financial Performance

For the Year Ended 31st March 2004	This Year	Budget	Last Year
<b>Income</b>			
Fixed Levies	1,101,202	1,094,000	1,040,686
Special Levies	(1,196)	-	-
Award Levy	3,500	-	3,000
Other Income	3,872	-	1,975
Interest Received	9,507	10,000	15,356
<b>Total Income</b>	<b>1,116,885</b>	<b>1,104,000</b>	<b>1,061,017</b>
<b>Less Expenses</b>			
ACC Levy	1,974	2,000	274
Accommodation & Travel	28,188	30,000	19,356
Auditor's Fees	5,537	3,000	2,550
Bank Fees & Interest	323	300	441
Commission Meeting Costs	89	1,500	574
Commission Member Fees	28,354	49,000	47,045
Commission Member Expenses	4,707	7,200	4,679
Communications and Marketing	15,083	40,000	21,080
Computer Support	17,845	41,000	14,146
Contractors & Temporaries	26,876	30,000	77,223
Contingency	-	6,000	-
Depreciation	67,160	3,500	35,182
Employee Settlements	7,500	-	-
Entertainment Expenses	4,400	-	-
Library Expenses	8,477	7,000	9,711
General Expenses	4,652	5,000	10,605
Insurance	8,852	10,000	6,006
IRD Penalties	-	-	806
Loss on Disposal of Fixed Assets	561	-	-
Payroll Expenses	1,142	-	1,366
Premises Expenses	43,972	40,000	37,650
Professional Development	7,076	12,000	3,185
Professional Advice	31,380	58,000	48,653
Recruitment	8,634	15,000	2,828
Review of Code of Practice	27,529	20,000	50,022
Salaries & Wages	674,230	711,000	451,128
Stationery, Copying, and Postage	19,221	28,000	25,172
Telecommunications	37,911	30,000	31,978
<b>Total Expenses</b>	<b>1,081,673</b>	<b>1,149,500</b>	<b>901,660</b>
<b>Net Surplus / (Deficit)</b>	<b>\$35,212</b>	<b>(\$45,500)</b>	<b>\$159,357</b>

The Notes form part of these Financial Statements and should be read in conjunction with them.

Electricity Complaints Commission

Statement of Movements in Equity

For the Year Ended 31st March 2004	This Year	Last Year
<b>Accumulated Surpluses</b>		
Opening Accumulated Surpluses	348,717	232,565
Plus Net Surplus for Year	35,212	159,357
	383,929	391,922
Less Member Distributions	62,848	38,609
Resident Withholding Tax	1,833	4,596
	64,681	43,205
<b>Accumulated Surpluses As At 31st March 2004</b>	<b>\$319,248</b>	<b>\$348,717</b>

The Notes form part of these Financial Statements and should be read in conjunction with them.

Electricity Complaints Commission

Statement of Financial Position

For the Year Ended 31st March 2004	This Year	Last Year
<b>Current Assets</b>		
The National Bank of New Zealand - Cheque Account	4,060	8,172
The National Bank of New Zealand - Call Account	192,290	184,139
Pledges Receivable	3,916	8,440
Prepayments	7,924	7,154
GST Receivable	16,638	26,471
<b>Total Current Assets</b>	<b>224,828</b>	<b>234,376</b>
<b>Fixed Assets</b> (2)	<b>147,013</b>	<b>168,230</b>
<b>Total Assets</b>	<b>371,841</b>	<b>402,606</b>
<b>Less Liabilities:</b>		
<b>Current Liabilities</b>		
Accounts Payable	39,962	45,921
Provision for Annual Leave	12,631	7,968
<b>Total Current Liabilities</b>	<b>52,593</b>	<b>53,889</b>
<b>Net Book Value of Assets</b>	<b>\$319,248</b>	<b>\$348,717</b>
<b>Represented By:</b>		
<b>Accumulated Surpluses</b> As At 31st March 2004	<b>\$319,248</b>	<b>\$348,717</b>

The Notes form part of these Financial Statements and should be read in conjunction with them.

For and on Behalf of the Commission

Dated 2 / 6 / 04



Judith Jones  
Commissioner

## Notes to the Financial Statements

For the Year Ended 31st March 2004

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### 1 Statement of Accounting Policies

#### Reporting Entity

The Commission is an Unincorporated Association.

#### Measurement Base

The general accounting policies recognised as appropriate for the measurement and reporting of results and the financial position and unless otherwise stated is historic cost.

#### Specific Accounting Policies

##### Differential Reporting

The Commission is a qualifying entity for Differential Reporting because it is not publicly accountable and does not qualify as a large entity as defined in the framework for Differential Reporting by the Institute of Chartered Accountants of New Zealand. The Commission has taken advantage of all differential reporting exemptions except for the fact that the Financial Statements have been prepared on a GST exclusive basis.

##### Fixed Assets

Fixed Assets are stated at cost less accumulated depreciation.

##### Depreciation

Depreciation is provided on a Diminishing Value or Cost Price Basis using the maximum rates allowed by the Inland Revenue Department. The principal rates in use are -

Leasehold Improvements	11.4%	-	39.6%	DV
Office Furniture & Improvements	9%	-	39.6%	DV
Computer Equipment	33%	-	48.0%	DV
Database			48.0%	DV

##### Receivables

Receivables are stated at expected realisable value.

##### Goods and Services Tax

The Financial Statements have been prepared on a Goods and Services Tax exclusive basis.

##### Changes in Accounting Policies

There have been no changes in accounting policies. All policies are applied on bases consistent with the standards of the Institute of Chartered Accountants of New Zealand.

The Notes form part of these Financial Statements and should be read in conjunction with them.

## ② Fixed Asset Schedule

The following gives details of the cost or valuation of assets and depreciation written off to date:

This Year	Cost or Valuation	Depreciation For Year	Accumulated Depreciation	Book Value This Year
Leasehold Improvements	58,109	6,445	11,306	46,803
Office Furniture	46,280	6,934	12,605	33,675
Computer Equipment	85,169	29,224	50,109	35,060
Database	58,006	24,557	26,531	31,475
	247,564	67,160	100,551	147,013

Last Year	Cost or Valuation	Depreciation For Year	Accumulated Depreciation	Book Value Last Year
Leasehold Improvements	45,832	4,816	4,861	40,971
Office Furniture	32,316	5,653	5,671	26,645
Computer Equipment	78,234	22,739	24,096	54,138
Database	48,450	1,974	1,974	46,476
	204,832	35,182	36,602	168,230

## ③ Commitments

The Commission has the following operating lease commitments:

	2004	2003
Current	51,773	51,773
Non-Current	5,590	57,363
Total	\$57,363	\$109,136

The Notes form part of these Financial Statements and should be read in conjunction with them.

## The Commission

The commission acts like a board of directors for the commissioner, and monitors how well the scheme is working. Commission chairperson, Alison Paterson, is completely independent. Four commission members have been appointed from both industry and consumer backgrounds. The industry representatives are Murray Jackson and Kerry Nickels; the consumer representatives are Pat Hanley and Nick Toonen. Alternate commission members are David Russell from the Consumers' Institute and Josephine Bartley, Ministry of Consumer Affairs.

### ALISON PATERSON

Independent Chair

- Formerly a chartered accountant in sole practice in a farming community and subsequently partner of a larger practice in Hamilton.
- First appointment to the board of a large organisation was in 1976 and she has had chair and directorship roles continuously since that date in mainly the health, agricultural and electricity industries.
- Currently chair of Landcorp Farming Ltd, CORE Growth and Development University of Auckland, BPAC NZ Ltd. She is a director of the Reserve Bank of NZ, Wrightson, Abano Ltd, Metrowater Ltd, Nga Pae O Te Maramatanga, Bamados.

### MURRAY JACKSON

Industry Representative

- Chief executive of Genesis Power since 1 April 1999. Genesis Power has a generating capacity of 1600MW; comprising hydro, thermal, wind and cogeneration plants, as well as a large portfolio of commercial and industrial customers and approximately 600,000 residential electricity and gas customers.
- Previous roles include commissioning of 200MW, 500MW and 660MW coal fired power plants in Victoria and New South Wales; and commissioner of the Snowy Mountains Hydro-Electric Authority, where his responsibilities included restructuring to participate in the national electricity market as a provider of 3700MW of renewable energy.
- Bachelor degree in economics, Masters degree in business and diploma in mechanical engineering.
- Fellow of the Institution of Engineers, Australia and Fellow of the Australian Academy of Technological Sciences and Engineering.
- Guarantor member of the Mt Eliza Business School, Melbourne; chairman of the Genesis Oncology Trust; chairman of Energy Online, a wholly owned subsidiary of Genesis Power.
- Awarded Centenary Medal for service to industry and society by the Australian Government 2003.

### KERRY NICKELS

Industry Representative

- Legal Services Manager Vector since April 2003, responsible for corporate governance, company secretarial, legal and external authority liaison services. Vector is a major network utility operator involved in the distribution and supply of electricity and gas, and in communications. It has assets of \$3 billion and services over 620,000 electricity connections and 6500 gas connections.
- Previous roles include Industry Affairs Manager and Commercial Contracts Manager at Vector; Legal Counsel, New Zealand Futures and Options Exchange and 10 years in a variety of roles at the Electricity Trust of South Australia.
- Bachelor of Laws and Bachelor of Economics degrees and Graduate Diploma in Legal Practice. Admitted as a Barrister and Solicitor of the Supreme Court of South Australia.
- Represented lines companies on various industry working groups, including the Steering Group responsible for the development of the Electricity Complaints Commissioner Scheme.

### NICK TOONEN

Consumer Representative

- Chief Executive, NZ Association of Citizens Advice Bureaux, responsible for leadership of the Citizens Advice service involving 2700 volunteers.
- Previous roles include executive director Volunteering Tasmania; general manager Tasmania AIDS Council.
- Has held a range of Board roles including: Chair NZ 2001 International Year of Volunteers Ministerial Advisory Committee; national board Volunteering Australia; national board Australian Council of Social Services; national Board Family Planning Australia; national board Australian Federation of AIDS Organisations; President Family Planning Tasmania; President Tasmanian Council of Social Services.
- Strong focus on advocacy, making policy and legislative change, and social policy and equity issues.
- BSc (Information Science) University of Tasmania, Australia.
- Advanced Diploma in Community Services Management, NG Training, Hobart, Tasmania.
- Awarded Order of Australia Medal 2003.

### PAT HANLEY

Consumer Representative

- BA History and Political Science, St Francis Xavier University, Nova Scotia, Canada.
- Diploma in Town Planning, Auckland University.
- Independent public policy advisor.
- Projects manager, Association of Non-Governmental Organisations of Aotearoa; facilitator community sector roundtable; President of New Zealand Federation of Voluntary Welfare Organisations; convenor of Trustees Social & Civic Policy Institute; member Disability Survey Consultative Committee, Statistics New Zealand; member New Zealand Human Rights Network.
- Has worked in policy management for New Zealand CCS and the Royal New Zealand Foundation for the Blind.
- Is skilled in public policy analysis and research, community development and planning, organisational development, voluntary sector leadership, social impact assessment, local government planning and policy development, public advocacy and community-government relationships management.
- Has published work on the voluntary sector.

## Member Companies

### Retail Companies

Contact Energy (includes Contact and Empower)

Genesis Power (includes Genesis Energy, Energy Online and Fresh Start)

Meridian Energy

Mighty River Power (includes Mercury)

TrustPower

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### Lines Companies

Aurora Energy Network

Buller Electricity

Centralines

Counties Power

Eastland Network

Electricity Ashburton

Horizon Energy Distribution Limited

Main Power

Marlborough Lines

Nelson Electricity

Networks South (includes Alpine Energy and Network Waitaki)

Network Tasman

Northpower

Orion NZ

Powerco (includes Central Power)

Powernet (includes Electricity Invercargill, The Power Company and Otago Power)

ScanPower

The Lines Company

Top Energy

Vector ( includes United Networks )

Waipa Networks

WEL Energy Group

Westpower