



Electricity & Gas Complaints Commission

Review of the Codes of Practice

Marion Square

PO Box 6144

Wellington

Attention: Fiona Day

Powershop New Zealand Limited

PO Box 6360

Marion Square

Wellington

26 October 2007

Dear Fiona,

Powershop New Zealand Limited (Powershop) is a recently registered market participant under the Electricity Governance Regulations and Rules; however we are not yet an operational retailer. Powershop is a prospective member of the Electricity & Gas Complaints Scheme (the Scheme).

Powershop welcomes the opportunity to make submissions on the "Review of the Electricity Consumer Code of Practice and the Gas Consumer Code of Practice" (the Code).

Unfortunately it is not practical for us to make our submissions in the suggested form outlined in the Consultation Paper, nor is it practical for us to make reference to specific clauses in the code because:

1. Doing so would disclose commercially sensitive information about our business.
2. The exact nature and content of our Customer Terms and Conditions has not yet been finalised.
3. We are not presently a member of the Scheme and have no operational experience of the Code.

However, we do wish to submit on two general concerns we have in relation to the Scheme and the Code.

Powershop is being established with specific objectives around creating innovation in retailing electricity, and in particular the nature and level of engagement between Powershop as retailer and our customers. Both of our concerns relate to the unintended restrictions that the structure of the Scheme and the Code impose on delivering such innovation.

Changes to the Code

We are particularly concerned that mechanisms in place to change the Code impose too high a threshold, leading to favouring the status quo (thus inhibiting the ability to innovate) and create hold-out risks that allow other Scheme members to intentionally or unintentionally hinder Code changes designed to facilitate innovation.

Prescriptive nature of the Code

We are also concerned that the Code is (a) prescriptive in nature, and (b) prescribed around current operational practices. Combined with our concerns about limited ability to introduce changes to the Code, these issues make it very difficult to introduce new models of customer engagement that comply with the Code. In its current form, Powershop would be unable to



join the Scheme without significantly compromising the value (to customers) of our proposed model.

Suggested actions

Powershop believes that our concerns could be addressed (and thus inhibitors to innovation removed) without compromising the integrity of the Scheme (from a customer's perspective) through introduction of one or more of the following changes:

1. Recast the Code as a set of principles, rather than prescribing detailed rules that mimic current operational practices.
2. Amend the Code to allow Scheme members to seek INFORMED CONSENT from customers to depart from the code. This may also require complete and transparent disclosure of the nature and reasons for departures.
3. Amend the Code to allow the Commissioner (as opposed to Scheme members) to grant exemptions from compliance with the Code (this could be conditional on, say, meeting (2) above, or other requirements imposed by the Commissioner).
4. Position the Code as a "safe-harbours" document. That is, members who comply with the Code can use this in their defense in any complaint action. However, members could depart from the Code, at their own risk, and defend complaint actions on a case-by-case basis.

We are happy to meet with the Commission to elaborate on our concerns and our suggested actions if required.

Regards,

Ari.

Ari Sargent

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