

4 April 2014

Submissions
Electricity and Gas Complaints Commissioner Scheme
PO BOX 5875
Lambton Quay
Wellington 6145



sent by email to submissions@egcomplaints.co.nz

Dear Sir/Madam

Consultation Paper – Indemnity Disputes under the Consumer Guarantees Act

Introduction

1. WEL Networks (WEL) welcomes the opportunity to comment on the Consultation Paper – Amendments to the Scheme document – Indemnity Disputes under the Consumer Guarantees Act (CGA), published by the Electricity and Gas Complaints Commissioner Scheme (EGCC) on 24 March 2014.
2. WEL's contact person for this submission is:
Kevin Sharp
Regulatory and Pricing Manager
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3. WEL does not support the EGCC indemnity dispute process being mandatory as processes exist within Use of System Agreements (UoSA) between Retailers and Network Operators. WEL believes the commercial arrangements that already exist within the UoSA's should be the primary process followed. Retailers are indemnified against the CGA and should a dispute arise there are agreed dispute resolution arrangements in the UoSA. This process should remain the primary foundation of indemnity dispute resolution between the parties.
4. Only if both parties agree to not use the UoSA dispute resolution process then can the EGCC process be used. A proposed indemnity dispute process is included in Appendix B. This appended process would not see the Commissioner involved until the initial discussions held between the parties had failed to reach a conclusion.
5. Minimising the costs of this process is in the best long term interests of the consumer. Minimisation of costs can only be achieved by allowing the parties the flexibility to decide which dispute process to use based on the circumstances involved.
6. It is unclear how charging for the service provided by the EGCC will work. WEL believes that further work needs to be undertaken to define the charging to ensure it incentivises a good faith process where erroneous claims are not made.

Initial complaint process

7. In WEL's UoSA there is a requirement for a Retailer to notify and consult if a complaint is made that the retailer wishes to be indemnified for. This is based on the principal that the network operator holds the relevant information or can investigate the service quality. Any EGCC process must ensure that adequate safeguards and processes are in place to ensure there are appropriate incentives for all parties to work in partnership.
8. A retailer should be required to consult with the network operator throughout the complaint process to ensure due diligence into the service standard actually delivered is undertaken. If this consultation occurred during the complaint process then there would be little requirement for an indemnity dispute process.

Conclusion

9. WEL concludes that the commercial arrangements agreed to by the two parties within a UoSA be the primary process for indemnity disputes
10. WEL would like to see it become a requirement that if a Retailer is engaged in a complaint process with a customer that potentially could result in an indemnity claim against the Distributor then the Distributor is notified, consulted on and updated on the complaint to ensure due diligence into the service standard actually delivered has taken place.
11. Thank you for the opportunity to make this submission. If the EGCC wishes to discuss any aspects of this submission please do not hesitate to contact me.

Regards

Kevin Sharp
Regulatory and Pricing Manager
WEL Networks

Appendix A – Detailed Questions

Questions for Submitters	Yes/No	Comment
1. Do you agree that the EGCC indemnity dispute process should be mandatory for both parties if one party refers the indemnity dispute to the EGCC and it meets the criteria for the Commissioner to consider it?	No	WEL believes that the primary process to follow by the parties is that which is defined within the UoSA's as this has been the commercially agreed to by both parties previously as the dispute resolution process.
2. Do you agree that the existing financial limits for complaints should apply to Indemnity Disputes?	Yes	
3. Do you agree with the Board's proposed levy system for indemnity disputes?	Unknown	Unable to answer until more information around how the levy will be split amongst the parties.
4. Do you agree that reporting of Indemnity Disputes to the responsible Minister should be limited to the number of cases considered?		
5. Do you have any other comments or concerns about the proposed changes you would like the Board to consider?	Yes	WEL would like to see the initial step, should the dispute be required to go through the EGCC, be open discussions between the Retailer, Distributor and EGCC prior to the Commissioner becoming involved.

Appendix B – Proposed Process

1. Do both parties agree to proceed through the EGCC

and

2. Is the Indemnity Dispute something the Commissioner can look at

