electricity & gas
complaints commission

case notes

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The Electricity and Gas Complaints Commissioner Scheme is a free and independent service for resolving complaints about electricity and gas companies.

The Scheme was approved on 1 April 2010. Membership is compulsory for electricity and gas companies, unless the Minister of Consumer Affairs grants an exemption. The Scheme can only look at complaints about member companies.

In the 2009-10 year, the Scheme received 1173 enquiries and 653 complaints. The Scheme encourages settlement between the parties. See the inside back cover of this booklet for a summary of the complaint handling process.

Of the 653 complaints, only 17 reached the stage of needing a preliminary recommendation from the Commissioner. The EGCC website publishes anonymous summaries, or case notes, of every complaint that reaches that stage. This is to provide guidance to member companies and complainants, and to show consistent and fair decision making.

The Commissioner also publishes selected case notes of complaints settled between the complainant and the company for the same reasons.

Not everyone has access to the internet, so this booklet is the first of what will be an annual publication of selected case notes from the website.

November 2010

contents

1 Mrs R complained her electricity retailer misled her about the benefits of switching from her previous retailer.

Case number	22010	**Issues**	Outcome
Year	2009	Customer service – provision of information Billing – price increase	**Settled**
Category	Electricity		

The complaint

Mrs R complained her electricity retailer misled her about the benefits of switching from her previous retailer. A telemarketer representing the electricity retailer phoned Mrs R in October. Mrs R said the telemarketer gave her the prices for a particular plan, and said she would save about $300 a year.

Mrs R also understood from the discussions that prices were not fixed for any period of time. However, she said the telemarketer did not say there would soon be an increase and she assumed the quoted prices would continue to apply for the next 6-12 months.

Mrs R switched to the new retailer in November. In December Mrs R received a letter from her new retailer saying it was going to increase the prices from the beginning of February. Mrs R said between November and January she received bills and notices from her new retailer showing four different pricing plans on which she was either being, or going to be, billed.

Mrs R said when she spoke to her new retailer about the December price rise, her new retailer told her she would not save $300 a year, but only about $50 a year. She said she would not have bothered switching to the new company for such a small saving.

Mrs R said she was frustrated about the way her new retailer had treated her, the information she had been given, and about her new retailer increasing the prices so quickly after sales-pitching lower prices.

The outcome

The EGCC discussed with both parties the issue of the retailer increasing the prices closely following a sales-pitch of lower prices. Mrs R did not think it was an acceptable period within which to raise prices. She believed it would be more reasonable for the company to not increase prices within 6 to 12 months of a sales-pitch. She said if the company is going to raise prices earlier, then they should tell you at the time of the sales-pitch.

The EGCC noted the Electricity Consumer Code of Practice only specifies the company must give 30-days notice before a price increase.

The EGCC looked at Mrs R's possible savings if she was billed at the quoted electricity prices for 12 months, compared to the charges from her previous electricity retailer. This confirmed Mrs R would have saved about $300 if she used the same electricity as the prior year.

To settle the complaint, Mrs R's retailer offered to:

- Bill Mrs R based on the prices quoted in October, for six months, and then the new prices would take effect
- Apply a credit of $100 to Mrs R's electricity account, as compensation for any inconvenience caused

Mrs R accepted this offer in full and final settlement of her complaint.

Ms R's meters had not been read for five years and the estimated bills had not covered the actual use.

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Case number	22367	**Issues**	Outcome
Year	2009	Billing – estimate – meter – quantum meruit – estoppel	**Settled**
Category	Electricity		

The complaint

Ms R, who ran a business, switched electricity retailers and her new retailer noticed some inconsistencies in the records of her account.

Ms R's meters had not been read for five years and the estimated bills had not covered the actual use. On top of this, Ms R's neighbour had been billed and paid for some of Ms R's electricity use.

Ms R's account was switched back to the previous retailer so the matter could be sorted out. The neighbour was credited for the amount paid in error.

This resulted in Ms R getting a bill of $35,727. Ms R did not believe she was solely responsible for the events.

The retailer agreed to extend the Commissioner's jurisdiction to consider the complaint. Normally, the Commissioner's jurisdiction is limited to $20,000.

The outcome

The parties had a telephone conciliation conference to review the information and clarify the issues. Each party got information on the property's electricity use, price tariffs and relevant legal information before the teleconference.

Ms R's property was subdivided in 2004 but the Electricity Registry was not correctly updated at the time. The registry is a national database that contains information on every point of connection on a network from which electricity is supplied to a site. These points of connection are installation control points (ICPs), and each one has a unique identifier. The registry is the electricity industry's 'database of record' of all ICPs. The failure to update the register led to a neighbour paying for some of Ms R's electricity use, and giving Ms R a false impression of the actual cost of the electricity used by her business.

Ms R rebuilt her business in 2007 and the meter was replaced. A contractor told the retailer the ICP did not match, but nothing happened. (The retailer acknowledged it could have solved the problem then if it had acted on the contractor's information.)

The incorrect ICP meant readings of the meter did not match the information in the retailer's system. The retailer's system therefore rejected the readings and calculated estimated bills. Ms R did not realise this as she has 15 ICPs and looks at quarterly account totals, not individual bills.

The parties noted the Commissioner has previously applied the legal principles of quantum meruit and estoppel to back-billing cases.

Quantum meruit is where something, often a service, has been used but not paid for. A party can then ask for payment for the reasonable value of services. In this case the electricity retailer could ask for payment of electricity used.

Estoppel is where one party makes a statement to another party intending the other party to rely on the statement. If the other party relied on the statement and changed their position, then the first party has to stand by the statement. Ms R had relied on the cheaper electricity bills and upgraded the capacity of her business to use more electricity, now to her loss.

During the conference Ms R offered to pay $20,000 in full and final settlement of the complaint, so long as she could pay the amount owing over time. The retailer accepted this in principle.

Following the conference, the parties agreed Ms R would pay $20,000 over 66 months. The retailer also agreed to amend the electricity registry.

3 Miss B complained about having low voltage at her house, which she says burnt out appliances.

Case number	22805	**Issues**	Outcome
Year	2009	Low voltage – damaged appliances – replacement of appliances	**Settled**
Category	Network		

The complaint

Miss B complained about having low voltage at her house, which she says burnt out appliances that were on at the time. She wanted compensation for her washing machine ($800), and Freeview box ($200) and for the kitchen light and damaged wiring.

Miss B said the light bulb in her kitchen burnt out and now blows every time she replaces it. Miss B was also unhappy about the burnt smell that remained in the house for days after the event.

The network company said the problems were not its responsibility, and declined to compensate Miss B.

The outcome

After Miss B contacted the EGCC, the network company discovered the neutral transformer was accidently disconnected while it was working on the network. The network company then accepted this had damaged Miss B's appliances, and repaired or replaced all the damaged items.

4 Mrs G believed the network company supplied low voltage electricity to her home, causing damage...

Case number	22810	**Issues**	Outcome
Year	2009	Supply – voltage variation – damaged appliances – customer service – failure to respond	**Settled**
Category	Electricity		

The complaint

Mrs G believed the network company supplied low voltage electricity to her home, causing damage to some of her electric appliances.

Mrs G said the low voltage supply burnt out her fridge-freezer, mains pressure hot water cylinder, alarm system, and Sony UHF twin channel karaoke wireless microphone receiver. She said she also lost food stored in the fridge-freezer. She said by the time she realised the fridge was not working properly the food inside had gone off. Mrs G had five adults and three children living in the home and said it was very difficult without hot water and a fridge.

Mrs G said she reported the damages to both her electricity retailer and the network company. She said the companies told her the fridge-freezer and hot water cylinder must have already been broken. She said both companies told her they would not do anything with this complaint because it is not their responsibility.

Mrs G said she wanted the network company to replace her fridge/freezer and microphone, and repair her hot water cylinder and alarm.

The outcome

During the EGCC's investigation, the network company discovered another network company was replacing a transformer canopy at the time of the damage. The company said it may have disconnected the neutral during the transformer work, and this would have caused the damage to Mrs G's appliances.

Mrs G's network company arranged to repair or replace her damaged appliances. Mrs G accepted this offer as resolution of her complaint.

Mr M said his bills over this four year period were much higher than normal, and reduced when the retailer changed his meter.

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Case number	23109	**Issues**	Outcome
Year	2009	Billing – estimated readings – backbill – disputed Meter – accuracy – whether being billed on the correct meter	**Settled**
Category	Electricity		

The complaint

Mr M complained his bills had been high since the local council changed his address from number 6 to number 8 Pine Grove in 2005. The bills continued to be high until his retailer changed his meter in February 2009. Mr M said his bills over this four year period were much higher than normal, and reduced when the retailer changed his meter. He therefore believed the earlier bills were wrong.

Mr M also complained about his retailer having estimated his bills for five consecutive months. At the end of this period, his retailer sent a catch up bill of $2,472. Mr M said because his retailer had only estimated his bills, he did not realise how much electricity he was using and had not had the chance to manage his use of electricity.

Mr M's retailer offered to reduce the amount owing by $1,236. Mr M did not accept this offer, and asked the EGCC to check whether the bills were correct.

The outcome

The EGCC investigated the issues and sent the parties a summary of findings.

The EGCC believed Mr M received high bills because he had used a lot of electricity – particularly over winter months. Mr M used electricity to heat his house, and had more people living in the house during the period.

The EGCC found the retailer was billing Mr M for the correct meter at the correct address, despite the change of street number. The meter was likely to be accurate, as it passed all meter tests.

The retailer had increased the price of electricity in the period, which had increased the cost for Mr M. Additionally, Mr M's use of electricity had increased overall.

The EGCC said the retailer had problems getting access to the meter, which meant Mr M's bills were (under) estimated for five months. The EGCC also noted the retailer had given Mr M confusing information about the meter when he first complained about his bills.

After a discussion with the Commissioner, Mr M accepted the retailer's offer of a 50% credit of $1,236 and agreed to pay the balance of the account in instalments.

6 Ms B got estimated electricity bills for 24 months. She then received a back bill of $4530.

Case number	23321	**Issues**	Outcome
Year	2009	Meter access issue – estimates made – back bill disputed	**Settled**
Category	Electricity		

The complaint

Ms B got estimated electricity bills for 24 months. She then received a back bill of $4,530.

The company said it could not read the meter because there were dogs loose on the property.

Ms B disputed both the amount of power used and that she had dogs on the property.

Ms B wanted to continue to pay $30 a week for power because this is what she had budgeted for.

The outcome

The company said it discussed access with the customer, but had not done anything to ensure it got meter readings. It offered Ms B a 75% discount off the back bill, with time to pay the balance of $1,129.

During the Commissioner's investigation the retailer provided recordings of calls in which Ms B talked about her dogs and problems for the retailer in reading the meter.

Ms B listened to the call recordings and then decided she would accept the company's offer of a 75% discount in full and final settlement of the complaint.

Mr C got a back bill of $3,582.60 because his retailer had not read the meter for 22 months.

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Case number	23331	**Issues**	Outcome
Year	2009	Billing – backbill – disputed amount – meter – access difficulties	**Settled**
Category	Electricity		

The complaint

Mr C got a back bill of $3,582.60 because his retailer had not read the meter for 22 months. During this time, Mr C had received estimated bills, and paid an agreed amount of $33 a week.

Mr C lives up a long driveway and suspects the meter reader did not bother to walk up it to read the meter. The meter is inside the house. Mr C's wife is home most days and he believes the retailer could have read the meter if the meter reader had walked up the driveway.

The retailer agreed it had not read the meter for a long period, but said this was because it could not get access to the meter. The retailer said the customer was not home when the meter reader visited the property. The retailer said it had sent Mr C a key pack and left 'no access' cards. Mr C said he did not recall receiving either the key pack or cards saying the retailer had not been able to access the meter.

Initially the retailer said Mr C had to pay the full amount, but could do so over 90 weeks. Mr C complained that he felt he had no choice but to accept the payment plan. He also asked the retailer to offer a 25% discount because he believed it had contributed to the problem.

The outcome

The EGCC arranged a telephone conciliation conference, during which Mr C and the retailer discussed the issues in the complaint. After the conference, the retailer offered Mr C a 30% discount, reducing the outstanding amount to $2437.82.

Mr C wanted to accept the offer but said as he did not have a job, he needed to be able to pay the debt off over time. The retailer agreed to let Mr C pay back the amount owing over a 99 week period at $24.82 a week. Mr C accepted this offer.

8 Mr R's new six digit meter was incorrectly read as a five digit meter for a period of two years.

Case number	23495	**Issues**	Outcome
Year	2009	Meter replaced – misreads – large back bill	**Settled**
Category	Electricity		

The complaint

Mr R's business needed 3-phase power supply. The five digit meter was replaced by a six digit meter. The electricity retail company did not update its records. The new six digit meter was incorrectly read as a five digit meter for a period of two years.

The electricity retail company realised the error it had made during an investigation into why Mr R's business was receiving low bills. As his business was being billed on the basis of the incorrect meter readings, Mr R's business received a back bill of $15,904.

The electricity retail company applied a 20% discount in good faith, but Mr R was unhappy the company would not agree to allow him to pay $500 a month to clear the back bill. Mr R was also unhappy the company sent the debt to a debt collection agency without sending an invoice to him for the debt

The outcome

The electricity retail company agreed it had misread the meter and was happy to negotiate a settlement.

The company offered to recall the debt from the debt collection agency and wiped the back bill of $15,904. Other arrears on Mr R's business account of approximately $1,000 were to be paid back in a lump sum.

Mr R accepted this as full and final settlement of the dispute.

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9 Mr O complained that his retailer had overcharged him for electricity.

Case number	21504	**Issues**	Outcome
Year	2009	Billing – high bills – meter readings	**Withdrawn**
Category	Electricity		

The complaint

Mr O complained that his retailer had overcharged him for electricity. He was disputing three bills - 3 June $356, 1 Aug $597, 2 Sept $413. Mr O said his average bills are $195 a month. Mr O did not know why the bills were so high. Mr O was not sure if his retailer had read his meter.

Mr O lives in his apartment for two weeks each month and spends the rest of the month on his lifestyle block.

Because of this Mr O disputed the high bills and wanted an explanation about why they were high.

The outcome

After investigating, the EGCC sent the parties a summary. The investigation showed Mr O's June, August, and September 2008 bills were likely to be a reflection of his May, June, and July 2008 consumption because of the way his retailer calculates the bills.

The retailer confirmed it held keys for Mr O's property and so was able to read the (inside) meter.

Mr O's electricity use followed expected seasonal patterns, and decreased in 2008 compared to 2006 and 2007. These factors suggested the meter was less likely to be faulty.

These preliminary findings settled Mr O's complaint and he did not want to pursue the complaint further.

Mrs W complained an electricity retailer took money from her bank account without her permission...

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Case number	21041	**Issues**	Outcome
Year	2009	Privacy – improper direct debits	**Preliminary recommendation – upheld**
Category	Electricity		

The complaint

Mrs W complained an electricity retailer took money from her bank account without her permission to pay her ex-husband's electricity bills.

During marriage, Mrs and Mr W both signed a direct debit form to pay electricity account X from a joint bank account.

After a divorce, Mr W closed electricity account X and each opened separate electricity accounts. In addition, the divorce settlement changed the bank account from a joint one to being solely in Mrs W's name. Therefore, Mr W no longer had authority on the bank account.

Six months later Mr W changed properties again and opened another electricity account (Y) with the same retailer. When he set up account Y over the phone, the retailer asked Mr W if he wanted to continue with a previous direct debit and he said 'yes'.

The retailer amended the old direct debit (for closed electricity account X) and applied it to Mr W's account Y. This means the retailer began debiting Mrs W's (sole) bank account to pay for Mr W's electricity use. The retailer did not check whether the bank information it held for Mr W was correct. In addition, the retailer did not get Mrs W's permission to debit her bank account to pay for Mr W's electricity account Y.

The outcome

After an investigation, the Commissioner's preliminary recommendation was to uphold the complaint and recommend the retailer repay Mrs W the amount wrongly debited from her bank account.

The parties accepted the preliminary recommendation, which was based on the following conclusions:

- The retailer did not have authority to take money from Mrs W's bank account to pay electricity account Y
- The retailer's privacy policy and the Privacy Act say the retailer should not keep personal information (like bank account numbers) indefinitely
- The retailer's privacy policy and the Privacy Act requires the retailer to do more to ensure information (like bank account authority) it uses is accurate
- As a 'preferred initiator' the retailer is responsible for managing the direct debits correctly

11 The electricity went off, Mrs H contacted the electricity retailer, who said a contractor would be sent within four hours...

Case number	21959	**Issues** Supply – outage – delay in responding Customer service – failure to provide explanation Complaint handling – delay in response	Outcome **Preliminary recommendation – upheld**
Year	2009		
Category	Electricity		

The complaint

The electricity went off at Mrs H's house at 8.07pm on 1 November. Mrs H contacted the electricity retailer, who said a contractor would be sent within four hours. A contractor came to the house at 2 am but was unable to fix the problem in the dark. The contractor left without talking to Mrs H and recorded the fault as completed. Mrs H called the retailer (at 9.40am) to say the electricity was still off. A new contractor came and fixed the problem by 10.30am.

Mrs H complained to her retailer on 3 November. On 7 November, the retailer told her someone would call the following week (the staff member was going on leave). Mrs H did not hear anything further, and again called the retailer on 27 January to ask about her complaint.

In February, Mrs H's retailer and network company explained why the fault had not been dealt with properly, and offered $100 to settle the complaint.

Mrs H did not accept this. She felt the network company had failed to deal with the fault in a timely manner and did not give an accurate explanation of how the fault occurred. Mrs H was also concerned about the time the network company and retailer took to address the complaint.

The outcome

The parties discussed the issues but were unable to agree on how to resolve the complaint. They asked the Commissioner to recommend a settlement.

After completing an investigation, the Commissioner agreed there had been a problem and the complaint should be upheld. The Commissioner proposed Mrs H accept the offer of settlement from the companies of $100. All parties accepted the Commissioner's preliminary recommendation.

The Commissioner said the network company had failed to deal with the fault promptly. Mrs H had been without electricity for almost 15 hours. The Commissioner noted the network company's policy is to attend to faults within four hours of them being reported.

The Commissioner agreed that neither the network company nor Mrs H's retailer had given a satisfactory explanation about the delay in fixing the fault. The Commissioner found the first contractor should have told Mrs H that he had not been able to find the fault, even though this was at 2 am.

The Commissioner found that both companies had also given Mrs H an unsatisfactory explanation about why the fault was not reassigned rather than being closed and shown as 'completed'.

The Commissioner agreed the companies had taken too long to respond to the complaint from Mrs H.

On 20 February 2004 there was an electricity outage at Mr W's property.

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Case number	8679	**Issues**	Outcome
Year	2004	High voltage fuse blew – power surge – damage to appliance	**Recommendation – not upheld**
Category	Electricity		

The incident – a stray wire blew a high voltage fuse

On 20 February 2004 there was an electricity outage at Mr W's property. The electricity fluctuated, the lights flickered and the electricity was then off for 53 minutes. The incident affected 104 properties. Mr W said when the electricity came back on, he could not turn on his television.

The network company said the fault was caused by a stray wire across an 11kV overhead line, blowing a high voltage fuse. The origin of this wire is unknown. The network company's fault crew did not record this information at the time.

Mr W's complaint

Mr W complained to the network company and the retailer. He sought $244.47 as compensation for the television's repair costs.

However, Mr W had a contract with the retailer for supply of electricity to the property, not the network company.

The retailer said it was not party to the dispute as it did not manage the lines network where the incident occurred. Therefore, the retailer said it had no liability for Mr W's damage.

The retailer declined to compensate Mr W, saying it was the consumer's job to install surge protection equipment to protect their equipment.

The Commissioner's considerations

The Commissioner's terms of reference required her to recommend a fair and reasonable settlement after applying the relevant law, the consumer contract, codes of practice and if relevant, good industry practice.

The Commissioner determined the Consumer Guarantees Act (CGA) was relevant law in this complaint, as the Act defined electricity as a good and a service. Network companies supply lines services for electricity; retailers supply electricity as a good.

Expert advice

The Commissioner got expert advice on the fault, the likely cause of the damage to the television, and on surge protection devices.

The expert said when the stray wire first touched the 11kV lines, contact would have been intermittent until the fuse ruptured. In the early stage of the fault (before the fuse ruptured), transient over-voltage surges would likely have occurred. The expert believed it was likely these over-voltage surges caused the damage to Mr W's television.

The expert said it is technically not possible to prevent short-term transient disturbances in a customer's supply voltage. He noted these are rare events for most customers and the Electricity Regulations 1997 consider "momentary" transient voltages being acceptable.

The Consumer Guarantees Act and electricity as a good

Applying the CGA to electricity involved complex legal issues which had not yet been addressed by the courts. The Commissioner and a group of retailers agreed the issues surrounding how to apply the CGA to electricity were best addressed by the High Court.

The group of retailers issued High Court proceedings to clarify how the Commissioner should interpret and apply the CGA to electricity retailers. In particular, how the Commissioner should interpret and apply the guarantee that electricity (as a good) must be of "acceptable quality".

The Wellington High Court heard the matter in January 2009 and Miller J issued his judgment on 24 April 2009[1]. After Miller J issued his judgment, Mr W's retailer confirmed its position remained unchanged on the complaint.

Miller J's judgment

Miller J's judgment stated the legislature has opted for strict liability for electricity retailers. Electricity retailers may be liable under the guarantee of acceptable quality for fluctuations or outages attributable to the distribution system.

However, parliament did not want consumers to prove whether the defect in the quality of electricity supplied was the responsibility of a network or a retail company. The companies should work that out between them, and the consumer should be free to claim against either.

The judgment said questions of fact and degree have to be asked about whether the retailer breached its guarantee of acceptable quality.

Miller J explained the test is what the reasonable consumer, fully acquainted with electricity distribution in New Zealand would regard as acceptable.

Miller J says the reasonable consumer must be taken to have an understanding of the nature and properties of electricity, beyond simply knowing what it is. They know how electricity is distributed and how this may affect the quality of the electricity which arrives at their property.

This does not mean the reasonable consumer will find the known risks of electricity and electricity distribution acceptable. Nor does it follow the consumer will always find it acceptable when their electricity supply is affected. This is a matter of fact and degree, dependent on individual facts.

The judgment sets out a two-part test for the Commissioner.

The first part is a list of seven (non-exhaustive) considerations the Commissioner must address in deciding whether a given supply of electricity has breached the guarantee of acceptable quality.

These considerations cover the: common use of the electricity; nature and extent of risks; extent of the incident, duration and frequency of the incident; point at which the fault becomes unacceptable; cause; price; and anything the supplier may have said to the consumer about the goods.

Miller J says the Commissioner must balance these considerations against one another, using the individual facts of the complaint, to reach a preliminary view.

If the Commissioner's preliminary view is the delivered electricity supply met the guarantee of acceptable quality, this is the end of the process.

If the Commissioner's preliminary view is the delivered electricity supply did not meet the guarantee of acceptable quality, the retailer is prima facie liable.

The Commissioner must then look at other factors that might limit or exclude the retailer's liability. This consideration is no longer about the 'reasonable consumer'; it is about the circumstances and knowledge of the particular consumer and the individual facts.

In this second part of the test, the factors the Commissioner must consider are:

- Did the retailer adequately tell the customer about specific defects in the electricity before they agreed to supply?
- Did the circumstances of the incident or way in which the consumer used the electricity exclude the retailer's liability?
- Was the loss claimed reasonably foreseeable?
- Should the consumer and retailer share the liability (where the consumer's actions may have contributed to the damage)?

The Commissioner's recommendation

The Commissioner applied Miller J's two part test to the facts of Mr W's complaint. She found the complaint did not meet the initial threshold and so did not continue to the second part of the test. The Commissioner issued a final recommendation (15 December 2009) that Mr W's complaint not be upheld.

With regard to Miller J's mandatory considerations, the Commissioner held:

- There was nothing unusual about Mr W's electricity use. He had a legitimate expectation to be able to use electricity safely to power his appliances
- The nature and extent of the fault's associated risks were not extreme. Mr W's television was his only affected appliance. The Commissioner was satisfied the fault did not cause risks to personal safety
- The surge was an isolated incident and likely to have been brief. The Electricity Regulations expect momentary fluctuations like this to occur
- Overhead lines delivered electricity to Mr W's property. Miller J says a reasonable consumer must be taken to know electricity supply through overhead lines may be affected by environmental hazards, such as a stray wire
- The Commerce Commission quality standards are set at a network level. They are of limited relevance to an isolated fault affecting an individual customer. Despite this, the length of the outage was within expectations
- A stray wire fell across the high voltage lines, eventually causing a fuse to blow. The expert said the damage to the television was likely caused by a surge when the stray wire touched the 11kV line. Not enough information is available about the origin or nature of the wire for the Commissioner to know how it came to be there
- The retailer did not give Mr W any specific advice or warnings about the risk of a fault which could cause property damage, or the need to protect himself against this fault. (The retailer said its terms and conditions acknowledge voltage fluctuations may occur and say consumers can install surge protection equipment to reduce the risk of damage.)
- The retailer did not give Mr W the choice of paying more for a more secure electricity supply. However, the Commissioner acknowledged the costs of undergrounding the lines would be disproportionate to the harm suffered

The Commissioner balanced these considerations against one another with regard to what a reasonable consumer would view as acceptable. The Commissioner determined the goods did not fall below the standard of acceptable quality and Mr W's retailer was not liable under the CGA.

The Commissioner noted:

- While Mr W had a legitimate expectation to use the delivered electricity safely to power his appliances, it is technically not possible to prevent this fault occurring
- The aspect of the fault likely to have damaged Mr W's television was likely to have been within the range considered by the Electricity Regulations
- According to Miller J, a reasonable consumer must be taken to know environmental hazards can and will occur, adversely affecting their electricity supply when it is delivered through an overhead network

1 Contact Energy Ltd v Jones [2009] 2 NZLR 830

Mr and Mrs I complained a power line on their land broke and caused the death of six cows.

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Case number	19077	**Issues**	Outcome
Year	2008	Land – damage – stock	**Recommendation – not upheld**
Category	Electricity		

The complaint

Mr and Mrs I complained a network company power line on their land broke and connected with the ground. This caused the death of six cows. The complainants were seeking reimbursement for the value of the stock, about $6,000.

The couple's view was the death of the cows was caused by a broken electrical line owned by the network company. The couple believed the company should pay compensation for the damage caused by its asset.

The network company's position was the broken line was caused by lightning, which was not within its control. The company did not believe it was negligent in operating and maintaining the line causing the damage.

The outcome

The Commissioner did not uphold the complaint.

The complainants had a contract with their energy retailer. The standard terms and conditions of this contract included the following:

"If the network company causes you loss or damage, you may wish to advise us. […]

"If the network company is a member of the Electricity and Gas Complaints Commissioner Scheme then the network company will not be liable to you (in contract or in negligence) for any loss or damage you may suffer unless that loss or damage is physical damage to property where it can be shown that the network company has been negligent and the amount and nature of the loss was reasonably foreseeable."

This means that to find the network company liable, the Commissioner must be satisfied the line fell because the network company had been negligent. If the Commissioner believed the network company was negligent, then she must decide whether the death of the cows was a reasonably foreseeable outcome of the network companies' negligent act or omission.

The Commissioner asked an expert whether lightning caused the damage to the lines. It was found lightning did not damage an insulator, but lightning the day before the incident may have contributed. The main contributing cause to the damage was a pre-existing crack in an insulator which caused a flashover, severing the conductor. This crack was of such a nature that it may not have been found during inspections of the lines, or it may have happened after the last inspection.

The network company conducts five-yearly inspections of their lines which is the industry norm. The network company also inspects lines following bad weather. There was nothing to suggest there was a continuing problem on this line, and so no reason to carry out extra tests.

Energy Safety also completed an investigation into the incident. Energy Safety is responsible for ensuring the safe supply and use of electricity in New Zealand. Energy Safety did not consider the network company had failed to comply with legislative requirements.

The Commissioner concluded the network company had not been negligent in its maintenance and inspection of the lines. This meant the network company was not responsible for the death of the cows.

14 Mrs S complained that her electricity bills were too high to be an accurate reflection of the energy she used.

Case number	20046	**Issues**	Outcome
Year	2009	Billing – high bills – difficulty with payment – disputed	**Recommendation – not upheld**
Category	Electricity		

The complaint

Mrs S complained that her electricity bills were too high to be an accurate reflection of the energy she used. Mrs S said she lived alone in a two-bedroom retirement unit and had a shower, washing machine, television, oven, fridge-freezer, small fan, oil heater, radio, jug and microwave, but no dryer, electric blanket or dishwasher. She used energy-saving bulbs and only ever used cold water in her washing machine.

Because of ill-health, Mrs S was sometimes in hospital for two to three weeks at a time. At these times, she turned off all appliances except for the fridge-freezer. Nevertheless, her electricity bills remained high.

Mrs S did not know why her bills were so large, and thought her retailer was billing her for someone else's power.

The outcome

The parties were unable to resolve the complaint and asked the Commissioner to recommend a settlement.

After completing an investigation, the Commissioner said she did not uphold the complaint.

The Commissioner based her conclusion on several factors, including:

- The bills from the retailer appeared to be for electricity used at Mrs S's property. Mrs S had not been billed for other people's energy use, nor for common area lighting at Mrs S's complex
- The bills were likely to be an accurate reflection of the electricity Mrs S used
- The retailer's response to Mrs S's calls was reasonable (the Commissioner noted Mrs S called her retailer twenty times between May 2002 and December 2007 about the bills)

Mrs S did not accept the Commissioner's recommendation and made a further complaint to the retailer about other matters.

Mr G complained about the accuracy of a meter reading taken from a meter at his property.

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Case number	21570	**Issues**	Outcome
Year	2009	Meter – reading error	**Recommendation – not upheld**
Category	Electricity		

The complaint

Mr G complained about the accuracy of a meter reading taken from a meter at his property. Mr G said the electricity retailer billed him based on the wrong meter reading in August. Mr G said the electricity retailer read the meter as 4123, when he read the meter that day as showing 3123.

Mr G had an old clock dial meter at his property. The electricity retailer read the meter in June as 3021, causing Mr G to receive a credit of $205 on his electricity account. In August the electricity retailer read Mr G's meter as 4123. This meter reading caused a bill of $223 for the month. Mr G said he believed the meter read as 3123.

The retailer said that while the arrow on the 1000 dial read as a "3" it believed the dial may not have turned far enough because a cog was not correctly aligned. The retailer said this can occur in old clock dial meters. The retailer said it believed the dial should have turned to "4", and therefore the company made a manual adjustment to the meter reading it recorded on Mr G's bill so it could accurately calculate his billing.

Mr G did not accept the retailer's reason for the difference in meter readings, and believed the company was acting fraudulently.

The retailer tried to resolve Mr G's complaint by:

- Apologising for billing him on the wrong meter reading of 3021 in June
- Crediting $149.63 as customer service payments
- Offering to remove the clock dial meters at Mr G's property and replace with standard meters
- Offering to test the meter at no cost to Mr G

The outcome

The parties asked the Commissioner to recommend a settlement of the complaint. After completing an investigation, the Commissioner did not uphold Mr G's complaint. The Commissioner recommended Mr G allow the retailer to replace the meters at his property.

The Commissioner said she believed the retailer was correct in billing Mr G on the meter reading of 4123. This is because she believed the misaligned cogs in the meter were the reason for the problems with the meter readings.

The Commissioner said the sequence of meter readings before June meant it was likely the meter read 4021 not 3021 in June. She said the current metering reading of 4130 was consistent with Mr G's electricity use of about 1.5 units a day (about 45 units a month) since December two years ago.

Mr G's electricity use through the meter had remained constant until the reading of 3021 taken in June.

The Commissioner said clock dial meters are an old-style of meter, and the cogs are likely to wear down over time and become misaligned. She believed the electricity retailer had taken reasonable steps to try to resolve the matter.

16 A not-for-profit organisation's retailer had reclassified the pricing tariff, changing it from residential to business.

Case number	21718	**Issues**	Outcome
Year	2009	Classification of property – pricing	**Recommendation – not upheld**
Category	Electricity		

The complaint

Mr R was acting for a not-for-profit organisation.

The organisation's retailer had reclassified the pricing tariff, changing it from residential to business. A business tariff is more expensive than a residential tariff, so the organisation's running costs had increased.

The organisation noted the bill showed as being for a 'pump', but there was no pump at the site.

Mr R thought the price increase was unfair as this was a community organisation, which did not make a profit and so should not be classified as a 'business'.

The outcome

The parties were unable to agree on a resolution of the complaint, and asked the Commissioner to recommend a settlement.

After completing an investigation, the Commissioner advised she did not uphold the complaint. The Commissioner noted she did not have jurisdiction to look at the price set by retailers but could check to see whether the retailer had applied the tariff correctly.

The Commissioner said the retailer had correctly classified the property as a 'business' within the retailer's pricing structure. This was because the organisation did not qualify for the 'residential' tariff as no one lived at the property, and the retailer did not have a separate tariff for non-profit or charitable organisations. The Commissioner explained that she does not have jurisdiction to change a retailer's pricing structure.

The retailer explained that it had not reviewed the organisation's electricity prices since 2001. This meant when the retailer reset the tariff in late 2008, the price increase was larger than it would have been if the organisation had received more regular but smaller increases.

The retailer agreed there was no pump at the property and had removed any reference to a pump from the invoices.

Mrs C asked her daughter to telephone their network company to find out if power fluctuation was because of a problem in the area, or just their house.

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Case number	21745	**Issues**	Outcome
Year	2008	Billing – supply – billing other	**Recommendation – not upheld**
Category	Electricity		

The complaint

Mrs C asked her daughter to telephone their network company to find out if power fluctuation was because of a problem in the area, or just their house. Mrs C told her daughter if it was just their house, then she would reset the power when she got home. When Mrs C got home she found out someone from the network company had come to the house to fix the problem.

Mrs C complained the network company had invoiced her $121.50 for visiting her property and resetting the circuit-breaker at the switchboard. Mrs C disputed having to pay this as she, as the account holder, did not consent to the call out. Mrs C said her daughter would not have allowed the call out if she had been told it was chargeable.

The network company said their staff would have warned Mrs C's daughter there would be a service charge for coming out to check the property. When the fault man checked the property, he fixed the problem by resetting the circuit-breaker on the switchboard. Although the network company did not accept that it was at fault, it did offer to reduce the invoice by 50%.

The outcome

The parties were not able to agree on an outcome for the complaint, and asked the Commissioner to recommend a settlement.

The Commissioner recommended Mrs C accept the network company's offer to reduce the invoice by 50%.

The Commissioner reviewed information provided by Mrs C and the network company, both of whom genuinely believed in their view of the facts. Having reviewed the information, the Commissioner was not able to be sure whether:

- Mrs C's daughter had asked the question her mother had directed her to, or
- The network company clearly advised Mrs C's daughter there could be a charge if the fault man came to the house and the fault was on the customer's service line or inside the house.

Given the direct conflict of information, the Commissioner decided the lines company's offer to reduce the invoice by 50% was a fair and reasonable settlement of the complaint.

18 Between 1 August 2003 and 31 July 2004 there were 20 unplanned and seven planned outages...

Case number	9180	**Issues**	Outcome
Year	2004	Unplanned outages – lines clashing – damage to property	**Recommendation – upheld**
Category	Electricity		

The incident – unplanned outages

Between 1 August 2003 and 31 July 2004 there were 20 unplanned and seven planned outages on a particular distribution feeder. This feeder supplied 1,567 properties, including Mrs W. The network company says 13 of these unplanned outages affected the electricity supply at Mrs W's property.

On 21 March 2004 the electricity went off at Mrs W's property for about nine hours. Mrs W received a payment of $40 from her network company (through her retailer) for this outage.

The network company initially believed the outages were because of insulators failing. It tried to fix the problem by replacing a large number of insulators and intensifying the tree trimming programme.

The network company later identified the cause as being the overhead lines clashing. It fixed the problem by installing spacers on the lines to prevent further clashing.

Mrs W's complaint

Mrs W initially complained to her retailer. The retailer denied liability, saying it was not principally responsible for lines ownership and operation.

Mrs W complained to the Commissioner about the unreliability of her electricity supply over the 2003-04 period and the outage on 21 March 2004. She said during the outage, a fridge's internal icebox defrosted, leaking water on to the floor and damaging a multicoloured mat. Mrs W sought $176.88 compensation.

Mrs W quantified the loss as being her insurance excess ($150) and loss of her no-claims discount ($66.88). Mrs W reduced her claim by $40 in recognition of the payment received for the outage on 21 March 2004.

Mrs W believed the interruptions to her electricity supply were caused by negligence and a lack of spending on upgrades and maintenance in the area. Mrs W believed since she paid the retailer for electricity, it is up to the retailer to fix the problem. She saw the network company as the retailer's subcontractor.

Expert advice

The Commissioner got advice on the outages from a technical expert.

The expert said Mrs W's lines company had trimmed trees around the overhead lines as part of its normal maintenance programme. This trimming changed the wind patterns around the lines and caused them to clash together.

The expert explained linesmen cannot easily identify outages caused by clashing lines as there is no evidence of what caused the outage.

The Commissioner's considerations

The Commissioner's terms of reference required her to recommend a fair and reasonable settlement after applying the relevant law, the consumer contract, codes of practice and if relevant, good industry practice.

The Commissioner determined the Consumer Guarantees Act (CGA) was relevant law in this complaint, as the Act defined electricity as a service and a good. Network companies supply lines services for electricity; retailers supply electricity as a good.

Network company liability – lines function services as a "service" under the CGA

The network company agreed to manage Mrs W's complaint.

The network company later told the Commissioner's office it would not pay Mrs W for the damage as it did not guarantee uninterrupted electricity supply to customers. It relied on the retailer's terms and conditions in support of this. The network company said further it would not reimburse Mrs W for the damaged mat as it was a "consequential loss" of the outage, also excluded by the retailer's terms and conditions.

Mrs W said she would not accept any explanation the network company provided and the file should go to decision making by the Commissioner.

The Commissioner got a technical expert's opinion on the cause of the outages (above). This opinion allowed the Commissioner to consider whether the network company had acted with acceptable care and skill.

The Commissioner was satisfied the network company had not breached its duty of care in designing the distribution network or identifying and responding to the problems. The Commissioner's view was there were no grounds to find the network company had failed to provide the lines function services with reasonable care and skill.

Retailer liability – electricity as a "good" under the CGA

The Commissioner referred Mrs W's complaint back to the retailer's in-house complaints process. The retailer said it was unable to resolve the complaint, referring to its previous dealings with Mrs W.

The Commissioner also sought any comments the retailer may have on applying the CGA to electricity as a "good". The retailer said it did not feel able to comment meaningfully as the Commissioner had not advised how she proposed to apply the guarantee to Mrs W's complaint. However, its initial view was the acceptable quality guarantee was not relevant to Mrs W's complaint.

The Consumer Guarantees Act and electricity as a good

Please see corresponding section in Case Note 8679 (page 10).

Miller J's judgment

Please see corresponding section in Case Note 8679 (page10).

The Commissioner's proposed recommendation

The Commissioner applied the facts of Mrs W's complaint to Miller J's test. The Commissioner issued a proposed recommendation (22 December 2009) that Mrs W's complaint be upheld and the retailer pay Mrs W:

- $176.88 compensation for the damage
- A further $150 in recognition of the inconvenience she experienced in pursuing the complaint

The retailer accepted the Commissioner's proposed recommendation.

With regard to Miller J's mandatory considerations, the Commissioner held:

- There was nothing unusual about Mrs W's electricity use. She had a legitimate expectation to be able to reliably use electricity to power her appliances
- Mrs W's complaint was about general unreliability of supply and the specific loss from one outage – the information available does not suggest any safety concerns
- The duration and frequency of the outages was significant. Mrs W experienced 13 outages over 12 months, including some lengthy outages
- Tree trimming caused the wind patterns to alter around the overhead lines. This caused the overhead lines to clash, resulting in multiple outages on the feeder. The information available suggests the outages were caused by ordinary, rather than extraordinary, wind conditions
- For the year ending 31 March 2004, the lines company's target SAIDI for the network was 85.5 minutes and its target SAIFI was 1.313 outages.[1] The expert calculated the SAIDI and SAIFI results for the individual feeder as 1,789 minutes and 12.85 outages respectively
- The information available suggests the outages occurred during ordinary wind conditions. NIWA wind records show 21 March 2004 was a relatively calm day
- The retailer did not give Mrs W any specific advice or warnings about the risk of multiple outages occurring. The advice and warnings about electricity quality in the retailer's terms and conditions were general in nature. The Commissioner held these statements on their own were inadequate as a warning, without further clarification or direction. The Commissioner also noted the retailer's terms and conditions contained clauses excluding responsibility for loss or damage which arises from an event beyond its control or for consequential damage. The Commissioner commented section 43(1) of the CGA says the provisions of the Act will apply, irrespective of contrary provisions like this one
- The outages Mrs W experienced were unrelated to the price she paid for electricity. While the outages would likely have been prevented if the network was underground, the costs of doing this would be disproportionate to the harm suffered

1 SAIDI and SAIFI are industry quality standards used by the Commerce Commission as reliability indicators for the electricity distribution system. Each network company has individual annual target levels for SAIDI and SAIFI, calculated by taking the average of the company's results from the previous five years. These targets take into account (and apply to) the performance of the entire network, not just particular feeders.

The Commissioner balanced these considerations against one another with regard to what a reasonable consumer would view as acceptable. Looking overall at the incident and the quality of electricity Mrs W experienced, the Commissioner determined the goods fell below the standard of acceptable quality and Mrs W's retailer was prima facie liable under the CGA.

In reaching this preliminary view, the Commissioner noted:

- While the reasonable consumer is taken to know severe weather conditions can and will adversely affect their electricity supply when it is distributed in an overhead network, the weather conditions in these circumstances were not severe
- The frequency and duration of outages Mrs W experienced were beyond the level a reasonable consumer should be taken to regard as an acceptable and inevitable part of electricity distribution in New Zealand

The Commissioner then looked at whether other factors limited or excluded the retailer's liability. The Commissioner addressed each of these further factors with regard to Mrs W's circumstances and the individual facts of her complaint.

The Commissioner held:

- The retailer's standard terms and conditions did not exclude liability for the damage as they did not adequately describe the possibility of multiple outages or outages of an extended nature. The retailer did not provide any information to show it gave Mrs W specific information or warnings beyond its standard residential terms and conditions
- There is no information suggesting Mrs W used electricity unreasonably
- It is reasonably foreseeable an extended electricity outage would result in a fridge defrosting and water seeping out. Therefore, Mrs W may validly claim for this damage since it was reasonably foreseeable to result from a fault of this kind
- Although Mrs W was not using an uninterruptible power device, it is not reasonable to expect the ordinary domestic consumer to install such a device to protect a domestic fridge. Therefore, the Commissioner believed loss sharing between Mrs W and her retailer was not appropriate in the circumstance

The Commissioner determined there were no factors limiting or excluding the retailer's prima facie liability for the damage. The Commissioner recommended the retailer pay Mrs W $176.88 compensation for the damaged mat.

The Commissioner also recommended the retailer pay Mrs W a further $150 in compensation for the inconvenience she incurred in making her complaint.

Mr B asked his network company to fix a problem on the line which came across a neighbouring property...

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Case number	18190	**Issues**	Outcome
Year	2008	Supply – fault in service line – whether customer liable for cost of repair	**Recommendation – upheld**
Category	Electricity		

The complaint

Mr B asked his network company to fix a problem on the line providing him with electricity. Mr B's electricity supply came across a neighbouring property following a subdivision by the previous owner. The problem was on the section of the line that was on the neighbouring property. The network company carried out the repairs and billed Mr B.

A few days later the same section of line needed further repairs. Mr B was concerned about the quality of the repairs, as well as his liability to pay at all. Mr B refused to pay for the second repair, saying, "the lines that broke and needed repair are the network company's and not my financial responsibility".

Mr B disputed he was liable to maintain the lines.

The outcome

The parties realised they would be unable to agree on a settlement of the complaint, and asked the Commissioner to recommend a settlement.

After completing an investigation, the Commissioner decided the network company was responsible for repair of the section of line between the network connection point and the point of supply which was at the boundary to Mr B's property. She recommended the network company pay Mr B $395.78 (the cost of the repairs).

The Commissioner based this on Mr B's contract with his retailer which said the customer was responsible for "ensuring the security and maintenance of the electric line and all electricity past your network connection point on your premises". Though the section of line needing repair and maintenance was past the point of supply, it was not on Mr B's property. Therefore, under the retail contract Mr B was not responsible for the repair and maintenance of the line.

The Commissioner recognised the network company had not agreed or been party to the subdivision. However, she had to apply the terms of the consumer contract which meant (in the facts of this particular case), Mr B was not liable for the repairs.

20 Mr P complained about the network company replacing an old power pole with a new pole that obstructed the sea views.

Case number	18227	**Issues**	Outcome
Year	2008	Land – poles and wires – placement	**Recommendation – upheld**
Category	Land Code		

The complaint

Mr P complained about the network company replacing an old power pole with a new pole that obstructed the sea views from his balcony. The network company said the old pole was unsafe and no longer complied with the Electricity Regulations, and it had no choice but to replace it.

Mr P was also concerned the position of the new pole meant he would not be able to widen his driveway in the future.

The outcome

The EGCC facilitated discussions between the parties, including having meetings on-site.

The old wooden pole was about half a metre on to a shared driveway and was leaning to one side. The replacement pole was concrete and installed at the edge of the formed driveway. The new pole was taller than the replaced wooden pole, and did not lean. The new pole obstructed the view from Mr P's deck and living area. The wooden pole had not previously affected the view because it was shorter and leant away from Mr P's view.

The old pole was on a shared driveway. Four properties shared the driveway, and each had an easement over the driveway.

The parties were not able to agree, and asked the Commissioner to recommend a settlement. The Commissioner recommended the network company replace the concrete pole with a wooden pole that met the minimum height requirements in the same position as the current concrete pole. The network company and Mr P accepted the Commissioner's recommendation.

In recommending a settlement, the Commissioner noted:

- Mr P did not have a legal right to a view
- The local council's district plan specified that when the network replaced a piece of utility equipment, the replacement must be something of a similar character and of the same height, and in a position that did not detract from the visual amenity
- Mr P would not be able to widen the driveway as it would be over an area over which a neighbour had an easement
- She could not compel the network company to contribute to the cost of undergrounding the lines, and to do this, all members of the shared driveway would have to agree
- The network company had confirmed it could replace the current pole with a wooden pole in the same location

Ms B (a diary farmer) complained to both her electricity retailer and network company about the timing of five planned outages...

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Case number	20471	**Issues**	Outcome
Year	2008	Customer service – failure to respond – provision of information	**Recommendation – upheld**
Category	Electricity	Provision – outage (planned) – frequency	

The complaint

Ms B (a diary farmer) complained to both her electricity retailer and network company about the timing of five planned outages, and the customer service each provided.

Timing of the planned outages

Ms B said the network company timed five planned outages poorly, given the drought conditions existing at the time. Ms B said it was important she had electricity supply during the drought, so she could pump water to her animals.

Ms B said she had no streams or other water supplies available, so needed electricity supply to the water pump. She arranged to hire a 65kVA diesel generator to give electricity supply during each planned outage. Ms B said she had to upgrade the electricity connection on her property so she could connect a three-phase generator to the water pumps.

Ms B said the planned outages caused her unnecessary cost and inconvenience. She believed the network company could (and should) have postponed the outages until after the drought.

Customer service received

Ms B said she received poor customer service from the electricity retailer and the network company when she tried to tell them of her concerns about the planned outages and information both companies gave her.

Ms B said she called the electricity retailer after she received notice of the planned outages. She said she expressed her concerns about how the outages would affect her animals because of the drought, but said the company would not act on her concerns by delaying the planned outages.

On the day on which one of the outages was planned, Ms B said she called her retailer to see if the outage was going ahead. The retailer said it was, but in fact the network company postponed the outage because of poor weather. Ms B said this was frustrating – she had driven some distance to collect a generator only to find the power remained on.

The outcome

After completing an investigation, the Commissioner advised the parties she proposed recommending the electricity retailer pay Ms B $150. This was in recognition of the poor customer service Ms B received, not for repayment of any costs she incurred.

The Commissioner said the network company is entitled to make business decisions about when to hold a planned outage, and whether to continue with the outages on the day. The only constraint in the Electricity Consumer Code of Practice is that customers affected by the outage have to be told four days in advance.

The Commissioner said the code does not require companies to give reasons for planned outages. However, the code does say companies have to provide customers with accurate information. The Commissioner said both the electricity retailer and the network company gave Ms B poor quality information about the reasons for the outages.

The Commissioner said when Ms B tried to talk to the companies about postponing the outages, neither the retailer nor the network company ensured Ms B's concerns were passed on to the right person. Ms B should have been able to rely on her retailer to get the information to the right person. When a member of the local drought committee called, the network company failed to ensure he spoke to the person deciding whether the outages should go ahead.

The Commissioner said the network company did not appear to listen to Ms B's concerns and see if there was anything it could do to help.

The Commissioner said the electricity retailer did not provide accurate information to Ms B on one of the planned outage days – this was about whether the outage would go ahead. However, the Commissioner noted Ms B did not suffer any financial loss from this misinformation.

22 Mr D complained his electricity retailer did not tell him he had a boost on his ripple relay control when he signed up...

Case number	21462	**Issues**	Outcome
Year	2009	Billing – meter setup – afternoon boost	**Recommendation – upheld**
Category	Electricity		

The complaint

Mr D complained his electricity retailer did not tell him he had a boost on his ripple relay control when he signed up for electricity supply in 2001.

Mr D had a "Day/Night" meter, with a relay and a boost setting. This meant appliances connected to the relay would only receive electricity supply during night hours. But the settings also meant Mr D received an extra 3-hour "boost" of electricity in the afternoon to those appliances.

Mr D said he initially had three appliances connected to the "Day/Night" meter (one hot water cylinder and two nightstore heaters). In 2005 he added another hot water cylinder. He said there was no visual indicator on the appliances to let him know the appliances were using electricity in the afternoon. Mr D discovered in June 2008 that his hot water cylinders and nightstore heaters were receiving electricity during the day, and told his retailer.

Mr D said the boost meant he received electricity during time when he had not asked for it. He said he installed a hot water solar panel in 2005 to help reduce his use of electricity. He said the boost meant he was not receiving as much benefit from the solar panel. He said the nightstore heaters were also heating during the day, which he did not want to happen.

Mr D said his retailer should have told him what his metering setup was, or given him information about who owned the meter so he could find out this information for himself. He said he could then use the information to decide about the most suitable metering and pricing plans to suit his needs.

Mr D said he believed his retailer should compensate him for the extra electricity expense he had incurred since 2001 from the afternoon boost setting.

Mr D's retailer said the meter at Mr D's property had accurately recorded the electricity used. The retailer said the property owner before Mr D chose to have the "Day/Night" meter installed, with the added night plus boost setting. When Mr D bought the property, he inherited this set up.

Mr D's retailer said it does not have information about the metering and relay setup at a property, and therefore believed it was not responsible for Mr D not knowing about the boost attached to his relay.

The parties were unable to agree and asked the Commissioner to recommend a settlement.

The outcome

After completing an investigation, the Commissioner recommended Mr D's retailer pay him $1,100 to compensate him for the extra electricity costs incurred.

The Commissioner said she believed a retailer should know what the metering setup is at its customers' properties. She said Mr D's retailer had access to the information about the metering setup at the property. Neither Mr D nor an electrician would be able to tell from looking at the meter that he had a boost function. She said she believed a customer would not usually be aware of the different types of metering and relay setups that are possible. The customer would usually rely on what their retailer tells them about the electricity metering at their property. Mr D's retailer had failed to give him clear information in 2001 about the type of relay he had.

How the Electricity and Gas Complaints Commissioner Scheme works

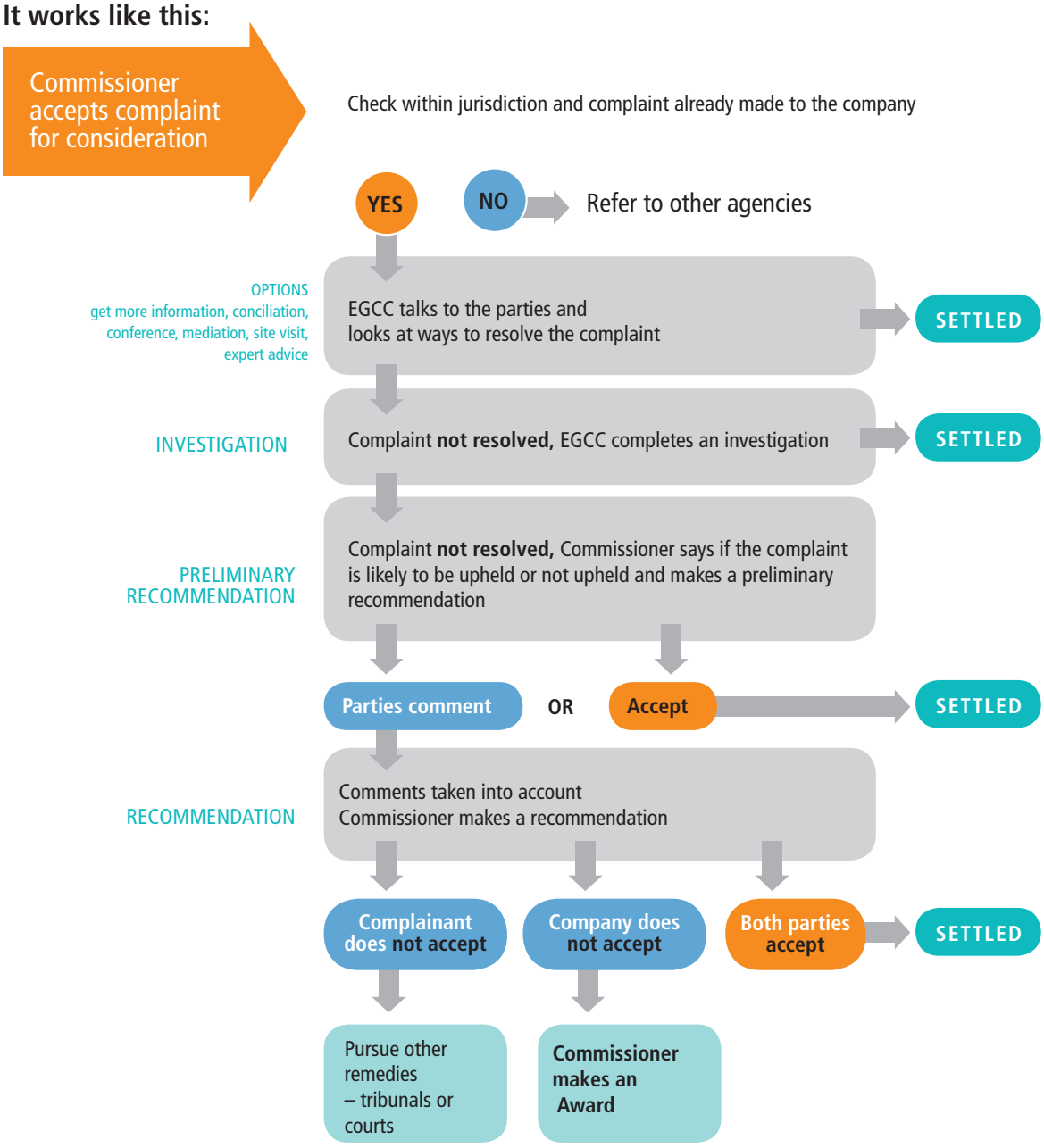
You can contact the office of the Electricity and Gas Complaints Commissioner (EGCC) at any stage for help with a complaint about an electricity or gas company.

We encourage you to resolve the complaint directly with the company. You may be able to use the EGCC Scheme if this is not possible.

We will need to check if the complaint is about something the Scheme can look at. For example, the Scheme cannot look at complaints about price.

The Scheme is designed to get the parties to resolve the complaint between them as soon as possible.

It works like this:



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