

INDEPENDENT REGULATORY COMMISSION



For the electricity sector in the Commonwealth of Dominica

Established June 1, 2007
Under the provisions of the Electricity Supply Act
- ESA

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DECISION

PROCEDURES FOR HANDLING CUSTOMER COMPLAINTS

Document Ref: 2008/003/D

INDEPENDENT REGULATORY COMMISSION

Decision

Electricity Supply Act 2006

This document sets out the Decision of the Independent Regulatory Commission 2008/003/D - “**Procedures for handling Customer Complaints**” - taken by the Commission at its meeting on March 18, 2009.

The Commission now **ORDERS** that the relevant content be incorporated into its Rules of Practice and Procedure and will become effective on the effective date given below.

Effective date: April 1, 2009

By Order

(Lancelot McCaskey)

On Behalf of the Commission

March 18, 2009

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PROCEDURES FOR HANDLING CUSTOMER COMPLAINTS

1.0 Introduction

The Electricity Supply Act 2006, (ESA, the Act) provides the Independent Regulatory Commission (the Commission, IRC) with “*sole and exclusive authority to regulate all electricity entities that are subject to this Act and shall have full powers to regulate all Licencees with regard to all economic and technical aspects of regulation in accordance with this Act*”

In repealing the Electricity Supply Act 1996, Section 86 of the ESA 2006 at subsection (2) (a) provides:

“The Company [Dominica Electricity Services Ltd, DOMLEC] shall be licensed to generate, transmit, distribute and supply electricity up to December 31, 2015 subject to the regulations imposed by the Independent Regulatory Commission.”

The Commission is of the view that regulating service quality and delivery is an essential aspect of its regulatory responsibilities and that its remit mandates it to ensure that the Company deals fairly and equitably with its customers. The Commission is also mindful that the Company, with the resources at its disposal, exercises great leverage in its relationship with its customers and that the customers can, therefore, be placed at a significant disadvantage in that relationship.

While it is important that the Company be seen to and in fact manages its relationships with its customers, the Commission believes that under certain circumstances, should the relationship breakdown, it should intervene and seek to resolve the issues between the parties.

The Commission had set out its views on this issue in a Notice of Proposed Rule Making (NPRM), Document Ref: 2008/003/NPRM-1, Procedures for Handling Customer Complaints. The Commission received comments on its proposals from one respondent and has paid due regard these comments in its further consideration of the matter. The comments as well as the Commission’s responses are posted to the IRC’s website www ircdominica org.

The Commission now sets out its decision on its Procedures for Handling Customer Complaints which will become effective on April 1, 2009.

2.0 Legal Framework

Section 20 (1) (e) of the Act provides

"The Commission shall, without limiting the generality of this section, have a duty to perform and exercise its functions and powers under this Act in the manner which it considers best calculated to:

.....

(e) protect the interests of all classes of consumers of electricity as to the terms and conditions and price of supply;

....."

Section 21 (1) provides

"The Commission shall –

.....

(e) establish, maintain, review, monitor and amend as appropriate customer care standards;

.....

(i) Make rules, by-laws and orders as provided elsewhere in this Act"

The Commission is of the view that its duty to protect the interests of consumers extends to ensuring that DOMLEC not only deals fairly and equitably with its customers but in those circumstances where it is established that this has not been the case to prescribe the appropriate remedies. In doing so however, the Commission must carry out the necessary objective analyses of the matters referred to it and ensure that it also balances the legitimate interests of the company.

3.0 Basic Procedures for Handling Customer Complaints

1. In the event that a customer has a dispute of any kind with the company, it should first be referred to the company for resolution.
2. The company is expected to handle the complaint in accordance with its own complaints handling procedures, until the process is exhausted.
3. In the event that a complaint is not resolved by way of the relevant utility company's complaints handling process within a reasonable time (30 business days) the aggrieved customer may refer the matter to the Commission.
4. A customer who is dissatisfied with the outcome of his complaint to the company may refer the matter to the Commission.

5. Consumer contacts to the Commission are classified in the following manner:
 - a. *Enquiries* are any consumer contact requiring verification/confirmation of any information relating to a utility service, utility service provider and / or practice etc.
 - b. *Opinions* are any contact wherein the consumer is expressing a view about the actions, practice or terms of service etc of a utility service provider.
 - c. A *Referral* is any contact wherein the consumer who has been advised by the IRC to consult the relevant utility company because they either had not reported the matter to the utility company, or had not sufficiently utilized, or exhausted the utility's complaint procedure prior to presenting a matter to the IRC.
 - d. *Complaints* involve any consumer expressing dissatisfaction in the manner in which a matter, in relation to the terms of service, practice or action of a utility service provider or its employees was dealt with, after utilizing the utility's complaints process.
6. The Commission shall make a determination as to the classification of the contact based on the information provided by the customer.
7. The utility company also has the right to refer complaint matters to the Commission.
6. The Commission will accept contacts from consumers via fax, e-mail, local post, telephone and in person.
7. Upon acceptance of a complaint, an assessment is made of the IRC's jurisdiction with regards to the material facts of the matter and whether the utility's complaints procedure have been fully pursued and exhausted.
8. In the event that, it is ascertained that the IRC has the relevant jurisdiction, the Commission begins the informal complaints resolution process. Consumers are required to provide the Commission with detailed information including the specifics of the complaint, the nature and the extent of the injuries sustained and reasons for dissatisfaction with the utility's resolution of the complaint.
9. Accounts shall not be disconnected for amounts outstanding under dispute, while a complaint is being investigated by the IRC. The customer will be required to settle, discharge or pay all bills that are not the subject matter of the dispute.

10. Upon initiation of investigation, the consumer shall be advised by way of an *Acknowledgment* communicating that the matter has been accepted for investigation and that the IRC shall endeavour to complete its investigation within thirty (30) business days.
11. In the event that an investigation is likely to go beyond the thirty (30) day period, the consumer will be advised accordingly with reasons as to the status of the complaint and giving a commitment as to when the investigation is to be completed.
12. Within five (5) business days of the receipt of the complaint, the Commission shall prepare and send a *Case* letter to the General Manager of the utility company. This *Case* letter shall outline the customer's grievance as well as request that the utility respond addressing the issues raised and providing supporting documentation that will enable the Commission to conduct the investigation.
13. Utility companies will have five (5) business days to acknowledge receipt of a *Case* letter and ten (10) business days to respond to the matter in writing. Such response shall be supported by the necessary evidence to justify the utility's position in the matter. In the event that the company has difficulties providing the information requested, a formal application should be made to the Commission requesting an extension prior to the expiration of the initial 5 day period. Such extensions shall not normally be granted for more than 10 additional days.
14. Where applicable, the utility company may be required to provide an explanation as to why the customer's complaint had not been addressed when it was first brought to their attention by the customer.
15. Where applicable and depending on the nature of the complaint, a site inspection may be carried out by the Commission utilizing such staff of the IRC or contracted experts, as appropriate, who may visit the relevant site/scene in order to obtain further and better information and particulars.
16. Upon receipt of all relevant documents and information, provided and relevant to the complaint, the matter shall be subjected to evaluation and analyses by the Commission.
17. Upon completion of the analysis, the Commission shall make a decision on the matter. In the event that the IRC is of the view that the Utility's actions were appropriate, the consumer and the utility shall be advised accordingly.

18. In the event that the Commission considers the Utility to be at fault, then the Utility shall be requested in writing to address and rectify the matter. Upon completion of the analysis, both the consumer and utility shall be advised of the IRC's position in writing.
19. The Utility will have **21 days** to either, comply with the Commission's position or apply for reconsideration. In the event that the decision is not acted upon within 21 days, the Commission may initiate the Formal process.

4.0 Formal Complaints Process

If either the company or the customer is dissatisfied with the outcome of the procedure above and so advises the Commission, or if the company has not acted on the outcome of that process, a Formal process may be initiated where the matter is referred to Board of the Commission.

The Commission will consider a formal complaint after the Executive Director has notified the Commission by way of the Complaint Briefing Form (in the Form provided at Annex 1) where (i) the Utility or the Customer, as the case might be, is dissatisfied by the initial ruling on a complaint or (ii) if initiated *ab initio* by any aggrieved person affected by any practice by a Utility, which the complainant alleges is in any respect unfair, unreasonable, unjust, or inadequate and the Executive Director determines that the matter is of sufficient regulatory importance, with regards to the salient issues, that it requires the attention of the Commission.

The Formal Complaint briefing form shall be copied simultaneously to the complainant and the affected utility.

Procedure upon Receipt of a Formal Complaint

1. The Commission, upon receipt of a formal complaint (Annex 1) shall, cause the matter to be reviewed by a Commissioner (normally the Chair of the Commission's sub-committee on Consumer Affairs) who shall either:
 - a. refer the matter back to the Executive Director with guidance as to resolution of the matter or;
 - b. cause the matter to be placed before the Commission to formally proceed to consider the matter
2. If the Commission proceeds to consider the matter it shall, in the case of a complaint referred to it by the Executive Director:

- (i) analyze the information provided and, if there is sufficient information to formulate a decision, the Commission shall issue such decisions as it deems appropriate, consistent with the applicable legislative provision, or:
 - (ii) request such further and better particulars as will enable it to arrive at such decision as may be appropriate and issue the relevant enforcement order.
- 3. In the case of a complaint initiated *ab initio*, the Commission shall cause a copy of the complaint to be served on the Utility accompanied by a notice from the Commission calling upon the Utility to answer to the same in writing within ten (10) business days, providing all supporting documentation and further information as the Commission may request; and to satisfy and or rectify the matter within twenty one (21) business days, notifying the Commission of the method and manner of such rectification.
- 4. In the event that the Utility is unable to rectify the matter within the 21 days prescribed, the Utility's response shall state its defenses to each claim asserted by the complainant and shall admit or refute the assertions upon which the complainant relies. In the event that the Utility desires an extension of time, it should apply to the Commission for same. Such extension shall not be unreasonably denied but shall not normally exceed a further 10 business days. If the Utility is without knowledge or information sufficient to form a belief as to the truth of an assertion, the answer shall so state and this shall have the effect of a denial, providing the necessary evidence to substantiate such a position.
- 5. In the event that the Utility is desirous and/or able to satisfy the complaint, it shall submit to the Commission in its response a statement of the relief which it is willing to give, a copy of which shall be simultaneously served upon the complainant. Upon acceptance of this offer by the complainant and notice to the Commission, the complaint shall be deemed dismissed whereupon the Commission's files on the matter shall be closed. If there is an offer of partial settlement of the case, the Commission shall (a) determine whether there is justification for the partial settlement and, if negative, shall issue such appropriate enforcement order as the circumstances warrant or (b) if there is justification for the partial settlement, the Commission shall advise the complainant accordingly and the Commission's files on the matter shall be closed.

ANNEX 1

CUSTOMER COMPLAINT BREIFING FORM

To The Commission

(Pursuant to the Electricity Supply Act of 2006

Particulars of Complainant and Relevant Utility

Case No. CC_____

Complainant

Street

Address:_____

**Mailing Address (if different from
above):**_____

Electronic Mailing

Address:_____

Telephone Number: _____ **Mobile**

Number:_____

Fax Number: _____

vs.

Dominica Electricity Services Ltd

Street Address:_____

Mailing Address (if different from above)_____

Electronic Mailing Address:_____

Telephone Number: _____ **Fax Number:** _____

Complaint Origin

(Tick where applicable)

(I) Initiated as Formal Complaint by complainant. []

(II) Referred to the Commission as Formal Complaint by the Consumer and Executive Director of the IRC. []

The complaint/petition of the above-named _____, complainant states the following:

1. That the above-named _____, is a Public Utility engaged in the business of providing electricity services in Dominica and as such is subject to the provisions of the **Electricity Supply Act of 2006** (The Act), as well as the relevant subsidiary legislation/instruments/Terms and Conditions of Service and the provisions thereof applicable to said Regulated Entity.

Particulars of Complaint

2. Background and Facts of the Complaint

It is the Complainant(s) view:

3. That the said Public Utility has violated (*tick area(s) relevant to complaint*):

- (i) the laws of Dominica, governing said **public** utility business []
 - (ii) subsidiary legislation/licenses []
 - (iii) licences []
 - (iv) the relevant terms and conditions of service to the customer []
 - (v) Commission instruments, e.g. Decisions/Orders []

in the following particulars, to-wit:

(a) [Here state concisely the matters complained of]

(If Applicable) Further and better particulars of the matter are attached hereto as

Appendix 1.

(b) The Complainant seeks the following remedy:

(If Applicable) copies of the relevant documents from the Complainant's Case File are attached hereto as **Appendix 2**.

4. (If applicable) Actions taken by the Executive Director with a view to resolution.
(State concisely all actions taken by the Executive Director regarding said Complaint, as well as reasons for lack of resolution via the Informal Complaints Process).

(If Applicable) Further and better particulars of the actions taken by the Executive Director are attached hereto as **Appendix 3**.

Wherefore, the Complainant and/or the Executive Director hereby requests that the said Public Utility _____ be required by the Commission to answer to the matter and issues set out herein, and that after due investigation pursuant to the provisions of the Act or other applicable legislation of the Act , where applicable, a **Decision** and/or an **Order** pursuant to the Act may be issued commanding the said Public Utility to rectify and remedy the conduct complained of, and for such other and further order or determination as the Commission may deem necessary, reasonable and just in the premises.

Dated the _____ day of _____, 20____.

Signed_____

Executive Director

Complainant's Attorney, (if applicable)

Attorney's Address: _____
Contact Information: _____

Dated the _____ day of _____, 20_____