

AMINZ PROTOCOL FOR REVIEWERS UNDER THE ETNZ GUIDELINES FOR ACCESS TO INFORMATION BY BENEFICIARIES OF ELECTRICITY COMMUNITY AND CUSTOMER TRUSTS

1 INTRODUCTION

- 1.1 Energy Trusts of New Zealand Inc (“ETNZ”) has established guidelines for access to information by Beneficiaries of Electricity Community and Customer Trusts (“ETNZ Guidelines”).
- 1.2 Under the ETNZ Guidelines, the Arbitrators’ and Mediators’ Institute of New Zealand (“AMINZ”) has been named the appointing authority to appoint Reviewers under clause 8 to carry out the Review Process provided by clause 9.
- 1.3 This protocol applies to Reviewers who are appointed by AMINZ to carry out reviews under the ETNZ Guidelines.
- 1.4 In the event of a conflict between the Guidelines and this Protocol the terms of the Guidelines shall prevail.

2 APPOINTMENT OF REVIEWER

- 2.1 Where AMINZ is requested to appoint a Reviewer under clause 8 of the ETNZ Guidelines, AMINZ shall appoint a suitable person from the AMINZ Panel of Arbitrators.
- 2.2 A person who is requested by AMINZ under clause 8.1 of the ETNZ Guidelines to conduct a review must confirm his or her willingness and availability to act within 5 working days of receiving the request.
- 2.3 The Reviewer must then serve a signed notice of acceptance on AMINZ, the Trust and the Beneficiary.

3 REVIEW PROCESS

- 3.1 The Reviewer shall investigate the complaint referred for review. (ETNZ Guideline 9.1)
- 3.2 The Reviewer may act as conciliator in relation to the complaint. (ETNZ Guideline 9.1)

- 3.3 The Reviewer shall conduct and conclude the investigation with due expedition and no later than 60 working days after receipt of the complaint. (ETNZ Guideline 9.2)
- 3.4 Within the time frame provided by clause 3.3 above, the Reviewer shall give the Beneficiary and the Trust the opportunity to provide written submissions in respect of the complaint. (ETNZ Guideline 9.2)
- 3.5 The Reviewer may request further written submissions from the Beneficiary or the Trust, but must give the relevant parties an opportunity to comment on those submissions.
- 3.6 The Reviewer may set deadlines for the provision of further submissions and comments by the parties, thereon.
- 3.7 No in-person hearings (including hearings by conference call or video conference) shall be held unless the Reviewer determines in his or her sole discretion and in exceptional cases that such a hearing is necessary to enable the Reviewer to decide the complaint and to issue his or her written opinion concerning the complaint.
- 3.8 At the conclusion of the investigation of the complaint, the Reviewer shall issue a written opinion concerning the complaint. (ETNZ Guideline 9.3)
- 3.9 In the written opinion, the Reviewer may, among other things: (ETNZ Guideline 9.3)
- (a) Recommend to the Trust that the whole or any part of the information requested by the Beneficiary be provided to the Beneficiary;
 - (b) Uphold the Trust's decision not to disclose the information on the grounds advanced by the Trust, or on other grounds identified by the Reviewer which are consistent with the provisions of the ETNZ Guidelines;
 - (c) Without limiting the above, the Reviewer may decide to recommend that the information not be disclosed to the Beneficiary if the Reviewer considers that:
 - (i) the length of time that has elapsed between the date when the complaint arose and the date when the complaint was made is such that actions or recommendations in respect of the complaint are no longer practicable or desirable; or
 - (ii) the subject matter of the complaint is trivial; or
 - (iii) the complaint is frivolous or vexatious or is not made in good faith.
- 3.10 The Reviewer shall deliver a copy of the opinion to the Beneficiary and the Trust.
- 3.11 The Reviewer shall deliver a copy of the opinion to the Secretary of ETNZ and the Chief Executive Officer of AMINZ. (ETNZ Guideline 9.3(d))

4 THE REVIEWER

- 4.1 The Reviewer must disclose any conflict of interest that may affect his or her ability to consider the request to act as Reviewer. This requirement is one of continuing disclosure.
- 4.2 The Reviewer may conduct the investigation in any manner that he or she thinks appropriate.
- 4.3 The Reviewer will investigate and decide the complaint and will not delegate any part of the review process to any other person.
- 4.4 The Reviewer is and must remain independent of the Beneficiary and the Trust and must not act as an advocate for either party.
- 4.5 The Reviewer must act impartially and treat each party fairly.

5 CONFIDENTIALITY

- 5.1 Other than providing a copy of the opinion to the parties, ETNZ and AMINZ as provided by clauses 3.10 and 3.11 of this protocol, the Reviewer shall maintain confidentiality and shall not divulge any aspect of the review to the media or others not involved with the review process without the prior agreement of the Beneficiary and the Trust.

6 SETTLEMENT

- 6.1 If the parties reach a settlement of the complaint under review prior to the conclusion of the review, the Reviewer may prepare his or her opinion in a manner which reflects those terms of settlement.
- 6.2 Settlement of the complaint will terminate the review but will not relieve the Trust from its obligation to pay the Reviewer's fees and expenses.

7 FEES AND EXPENSES

- 7.1 The Reviewer is entitled to be paid his or her fee and reasonable expenses which are to be charged directly to the Trust.
- 7.2 The Reviewer's fee will be charged on an hourly basis in accordance with the range set from time to time by AMINZ in consultation with the Energy Trusts of New Zealand.

7.3 All tax invoices are to set out in detail the hours worked and the Reviewer's hourly or daily rate.

8 EXCLUSION OF LIABILITY

8.1 Any comments or opinions by the Reviewer are not intended to be, or to be, relied upon as professional advice.

8.2 AMINZ shall not be liable to any person, including a Beneficiary or a Trust, for any act or omission including negligence or breach of confidentiality or any action taken or advice or information provided in relation to the review, or for any other matter arising out of the review or the opinion.

8.3 The Reviewer shall not be liable to any person, including the parties, for any act or omission including negligence or breach of confidentiality or any action taken or advice or information provided in relation to the review, or for any other matter arising out of the review or the opinion.