



HELLENIC REPUBLIC



Athens, 28 September 2007

**To:**

European Commission  
Directorate General for Energy and Transport  
Rue De Mot 28  
B-1049 Brussels

**Re:** Public consultation on a European Charter on the Rights of Energy Consumers

### **1. The Hellenic Consumers' Ombudsman**

The Hellenic Consumers' Ombudsman is a newly-founded independent authority, whose head enjoys personal and operational freedom during the performance of his/her duties and is simply supervised by the Minister of Development. According to its founding Law (3297/2004), the authority's institutional role is to intervene in consumer disputes and seek their out-of-court consensual settlement. The advantage of such an alternative dispute resolution scheme is that it offers more flexibility than going to court and can better meet the needs of both consumers and professionals. Compared to going to court, these schemes are cheaper, quicker and more informal, which means they are an attractive means for consumers seeking redress.

The Ombudsman is also legally endowed with the power to issue public recommendations and directives to providers in order to ensure smooth market operation and effective protection of consumers' rights from misleading and unfair commercial practices. Additionally, the Ombudsman operates as a legal consultant to the State, making concrete propositions and detailed legislative suggestions for tackling various market dysfunctions and promoting consumer protection in a constantly and rapidly changing world-wide economic environment.

The establishment of the authority followed a series of legal texts of the European Union, such as the results included in the Green Bible (a text elaborated by the EU in order to reinforce European competitiveness) concerning consumers' legal redress for the settlement of their disputes with providers, the Commission Recommendation of 30 March 1998 (98/257/EC) on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes, and also the Commission Recommendation of 4 April 2001 (2001/310/EC) on the principles for out-of-court institutions involved in the consensual resolution of consumer disputes. From this point of view, the Hellenic Consumers' Ombudsman facilitates convergence of local public administration with European and international patterns.

When dealing with consumer disputes, in order to guarantee the fairness of the outcome for the parties involved, the Ombudsman is dedicated to the objective and impartial investigation of the disputes in accordance with the principles of:

- (a) **transparency** (rendering information about the functioning and availability of the settlement procedure readily available to the parties, so that they can access it before submitting a dispute)
- (b) **effectiveness** (cost-free and immediate reaction to the disputes submitted)
- (c) **liberty** (permitting freedom to the parties to accept or decline a proposed solution to the dispute)
- (d) **representation** (ensuring parties the right to be represented or assisted by a third party at all stages of the dispute settlement procedure)

## **2. Liberalization of the electricity and gas market in Greece**

The last few years, the Greek energy sector undergoes a phase of considerable and rapid changes due to the penetration of natural gas in the local energy market, the construction of inter-European energy provision networks, and the gradual promotion of the use of renewable energy sources. Last to this long line of changes comes the liberalization of the electricity and gas market as from 1 July 2007, following a determined European effort to complete the Internal Energy Market in order to meet the major challenges of competitiveness, sustainability and security of supply. Enacted legislation for the incorporation of the European Directive 2003/54 into domestic law order includes Bill 3426/2005 for the liberalization of the electricity market<sup>1</sup> and Bill 3428/2005 for the liberalization of natural gas market. The “Code of Management of the Electric Energy Transaction System”, signed by the Greek Minister of Development on 9 May 2005, performs a strong supplementary role to the aforementioned legislation, by creating an attractive environment for the flourishing of major private corporate initiatives in the area of producing and selling electric energy, in competition with the Public Power Company. The main institutional and financial means for supporting and further promoting private investments in the energy sector are cited in Bill 3299/2004 (the so-called “Developmental Law”), as well as in the Operation Program “Energy” under the third Community Support Framework 2000-2006.

## **3. The situation with the rights of energy consumers in Greece**

The Regulatory Authority for Energy (RAE) of Greece, an independent administrative authority under the auspices of the Ministry of Development, had elaborated back in 14 February 2001 on a “Code of Energy Provision to Customers”. The Code emphasizes on the normative nature of the provision agreements between suppliers and customers, setting out general terms of contract (tariff policy, measurement of consumption, termination of contract, etc.) and specifying associated responsibilities and obligations for both parts depending on the enforcement degree of those contractual terms. In as much as the Code contributes to the contractual regulation of supply agreements, nonetheless it lacks the character of a solid rights-sort document

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<sup>1</sup> Law 2773/1999 had brought the Greek legal framework in line with older Directive 96/92 of the European Union, with an aim to provide for: **(a)** the entrance of independent producers into the market of electric energy in competition with the Public Power Company, **(b)** the possibility of allowing access to third parties to the public transmission and distribution network, and **(c)** the possibility for customers of high and medium voltage to choose their energy provider.

with ethical protrusions as regards a wider deontological framework of engagements that electricity providers should bear against their customers.

Additionally, the Public Power Company has been among the first State companies to introduce a Charter, back in 1997, for the rights of consumers. The Charter is a relatively short document, laying out the company's unilateral commitment for the provision of eight (8) so-called "guaranteed services" (mainly in relation to technical matters, such as electrical network installation and connection) to customers within specified deadlines, breach of which simply incurs a symbolic compensation of 15 euros. The Charter is of no binding legal nature to the company, let alone it has not been the product of a public consultation process, which is considered essential for the reinforcement of its acceptance and pervasiveness among the parties involved. The Charter also lacks amplitude, in that it neglects to take into consideration further aspects of the supplier-customer relation, such as unfair commercial practices, social responsibility, dispute settlement, etc.

#### **4. Proposed elements for the Charter**

In light of the above, the Hellenic Consumers' Ombudsman welcomes the initiative of the Directorate General for Energy and Transport of the European Commission to launch a public consultation on a Charter on the Rights of Energy Consumers, the final text of which will hopefully comprise a resourceful tank with prompt legal power for the regulation of the liberalized electricity market in member-states, making sure that providers realize their corporate and social obligations and offering effective protection to recipients of their services.

Most of the following observations made by the Ombudsman in this respect stem from his experience in dealing with complaints submitted by consumers against: **(a)** the Attiki and Thessaloniki Gas Supply Companies, and **(b)** the Public Power Company, which for the time being continues to be the largest energy supplier in Greece. As a matter of fact, the company's dominant position in the local energy sector can be seen as the major culprit for the existence of these complaints, exactly because competition with other electricity companies remains in embryonic level and its merits on the betterment of customer services are still to be expected.

##### **A. CONNECTION**

- Whereas connection problems and other service quality issues cannot be dealt with through established help-lines, technical departments of suppliers or network operators should be able to perform house-visits at the shortest time possible after receiving notification from customers. Fixed appointments must be followed with punctuality and with outmost respect for the social or professional engagements of customers.
- Electricity provision must comply with quality standards that guarantee the highest degree of smooth and uninterrupted flow of energy supply to customers.
- Electrical devices and equipment installed in households by suppliers or network operators for connection to the main public power transmission circuit should conform to high standards of safety to avoid potential harms to consumers' health. To this end, consumers should be properly (even pre-

contractually) informed on the technical specifications of the energy-using equipment.

- Needed service repairs and other necessary technical interventions for the periodic maintenance of the main public power transmission circuit, which may result in mild or heavy power blackouts, should be communicated to affected customers in advance and should be carried out with an aim to restore energy supply rapidly and with the minimum discomfort for the public possible.
- Electricity suppliers should ensure that consumers enjoy continuous and secure electricity supply. In case of non-payment, any penalty imposed on consumers should abide by the rule of proportionality. Disconnection should be regarded as the final measure against non-payment, especially during vacation periods and public holidays, taking into account the consumers' payments track record and the number of days the payment is due, as well as their vulnerability (consumers with disability, low income, or residents of rural and remote areas).
- Connection problems and other service quality issues should be dealt with by easily accessible (preferably costless) help-lines. Suppliers should keep a record of all problems encountered by consumers and publish, on an annual basis, a categorized list of all complaints received and of the delivered solutions.

## **B. CONTRACT**

- Damages occurred to the electrical equipment of households should, if proved to be the supplier's or the network operator's liability, be compensated accordingly.
- In the case of billing disputes with customers, suppliers or network operators should check possible malfunction of the appropriate consumption measurement devices and bear the total cost of the repair, as well as rectify the disputed amount, if malfunction is proved.
- Suppliers should refrain from demanding advanced payment from customers in the form of a deposit that exceeds the actual or estimated energy consumption of a period of three months.

## **C. PRICES, TARIFFS AND MONITORING**

- Supply contracts should include provisions concerning the supplier's obligation of measuring consumption on regular basis and fixed dates, in order for the consumers to receive energy bills based on actual energy consumption. In case of the supplier's failure to abide by the schedule for technical or other reasons, consumption should be measured on the basis of reasonable, proportionate and transparent criteria, set out straight from the contract's body.
- Potential amendments of the contractual terms, especially tariffs, should also be communicated to consumers in the most proper way, if possible individually.

#### **D. FREE CHOICE OF SUPPLIER**

- Exercise of the right to switch supplier after expiration of minimum contract duration (where applicable and clearly specified) should be at no cost for customers in the form of penalty charges.
- In order to safeguard consumers' fundamental right to choose, contracts should not include unjustified binding conditions. Minimum contract duration should be clearly mentioned on every bill received by the consumer. No prior notification should be needed in case consumers desire to switch electricity supplier at expiration date. Automatic renewal should be allowed only under the explicit contractual statement of the consumer, after he has been appropriately informed by the supplier of the coming expiration of the contract.

#### **E. INFORMATION**

- All consumers should have access to costless information concerning energy supply, especially the availability in their area, the programs offered and the pricing of services provided. Costless information should also be provided as far as technical support offered by help-lines and customers' services departments is concerned.

#### **F. SOCIAL MEASURES**

- Suppliers and network operators should embrace a high sense of environmental responsibility, straining every nerve to keep emissions of CO<sub>2</sub> and radioactive waste resulting from the electricity produced by each energy source at the lowest level possible, in accordance with standing European and member-states' environmental laws.
- All consumers should enjoy continuous and undistorted access to electricity. We agree that any distinction between categories of consumers should be clearly justified, further taking under consideration the specific characteristics of vulnerable citizens, such as citizens with disabilities, low income, or residence in rural and remote areas. With respect to the Commission's unfair commercial practices Directive, vulnerable citizens should be protected from becoming victims of misleading and unfair commercial practices.

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