

Appendix I

PROPOSED AMENDMENTS TO EGCC CONSTITUTION FOLLOWING FEEDBACK FROM REGULATORS' EVALUATION PANEL

1. Definition of Gas Consumer (Deed 1.1)

In the case of a Gas Consumer ~~includes~~, **means a small consumer as defined in the Gas Act, including potential small consumers.**: [AS1.2.4]

- ~~(a) a Person who is supplied, or who applies to be supplied, with Gas by a Gas Retailer in accordance with a Consumer Contract for consumption of Gas;~~
- ~~(b) a Person who is supplied, or who applies to be supplied, Line Function Services for Gas in accordance with a Consumer Contract;~~
- ~~(c) a Person using the Services supplied under that Consumer Contract or paying part or all of the fees for the Services provided under the Consumer Contract; and~~
- ~~(d) a Person in relation to a Consumer Complaint under paragraph (b) or (c) of the definition of "Consumer Complaint" who:
 - ~~(i) has been disconnected in error by a Gas Company Council Member (whether or not that Council Member has a Consumer Contract with a Consumer); or~~
 - ~~(ii) has been transferred (switched) without consenting to the transfer from his or her Gas Retailer Council Member to another Gas Retailer Council Member.~~~~

2. Amending the process for making changes to the Constitution

Alterations to the ~~Constitution Deed or Protocol~~

7.10A Any person can propose to the Commission that the Constitution be amended provided the proposed amendment is consistent with the objectives and outcomes of the Government Policy Statements for Electricity Governance and Gas Governance. If the Commission determines that the proposed amendments- [AS7.2.1]

- (a)** may allow the scheme to develop in response to changes in the environment; or
- (b)** may improve the performance of the scheme in meeting its purpose in a timely manner,

the Commission must consult with all relevant stakeholders, including the Council Members, Gas Industry Co and the Electricity Commission on the proposed amendments [AS7.2.3]

7.10B Any proposal for amendments to or substitution for the Constitution can be approved by:

- (a)** a resolution at the next meeting of the Commission by a vote in favour of at least four Commission members.
- (b)** all Commission members agreeing in writing to the proposed amendment or substitution.

7.10C If the amendments or substitutions are approved under Clause 7.10B, the Commission must notify:

- (a) The Electricity Commission;
- (b) The Gas Industry Co;
- (c) The Board; and
- (d) Council Members

of the approved amendments or substitutions to the Constitution and provide a copy of the Constitution incorporating the approved amendments or substitution, at least 30 working days before the approved amendment or substitution takes effect. [Amended AS 7.2.2]

7.10D If the Electricity Commission and Gas Industry Co consider that the approved amendments would have a material impact on the nature of the Scheme or a substantial impact upon the Council Members' obligations they may notify the Commission within 20 working days (from the date of notice provided under Clause 7.10C);

7.10E If the Commission receives a notice from the Electricity Commission and the Gas Industry Co under Clause 7.10D, the approved amendments will not take effect unless the Electricity Commission and Gas Industry Co notify the Commission in writing that they agree to the approved amendments.

7.10F If the Commission receives notice in writing from the Electricity Commission and the Gas Industry Co approving those amendments under Clause 7.10E, the Commission must:

- (a) determine, by resolution, the date those amendments come into force; and
- (b) notify Council Members of the approved amendments and provide a copy of the Constitution incorporating the approved amendments at least 20 working days before the amendments take effect.

7.10 ~~Unless Clauses 7.11A and 7.11B apply, any proposals for amendments to or substitution for this Deed or Protocol or any part of them must be approved by:~~

- ~~(a) a resolution at a general meeting of 75% of the total number of votes able to be cast for each Joint Class of Council Member (whether all Council Members are present or not); or~~
- ~~(b) all Council Members agreeing in Writing to the proposed amendment or substitution.~~

~~7.11 The Board must give Council Members notice of the precise details of the proposal for amendment or substitution, including details of any consultation on the proposal, and at least 14 Working Days to consider the proposal.~~

~~7.11A Any proposals for amendments to or substitution of:~~

- ~~(a) the Electricity Consumer Dispute Resolution Protocol that do not apply to the Gas Consumer Dispute Resolution Protocol may only be voted on by Electricity Company Council Members; and~~
- ~~(b) the Gas Consumer Dispute Resolution Protocol that do not apply to the Electricity Consumer Dispute Resolution Protocol may only be voted on by Gas Company Council Members,~~
- ~~(c) provided that when voting on such amendments or substitutions, Electricity Company Council Members and Gas Company Council Members (as the case may be) must be mindful of the~~

desirability of consistency between the Protocols, but only in circumstances where it is appropriate.

~~7.11B — If Clause 7.11A applies, Clauses 7.5 to 7.7, 7.10 and 7.11 must be read, with all necessary modifications, as if the other Class of Council Member in the Joint Class did not exist.~~

~~7.11C — Any proposals for amendments to or substitution of:~~

~~(d) — (a) Clauses DB1.1 to DB1.3, DB1.5 and DB1.8 of the Land Complaints Dispute Resolution Protocol may be voted on by all Council Members; and~~

~~(e) — (b) The rest of the Land Complaints Dispute Resolution Protocol may only be voted on by Lines Company Council Members, provided that, when voting on such amendments or substitutions, Lines Company Council Members must be mindful of the desirability of consistency between the Protocols, but only in circumstances where it is appropriate.~~

~~[7.11D — **NOT USED**]~~

~~Approved amendments~~

~~7.11E — The Commission must advise Council Members and the Board of any amendments to the Scheme and provide a copy of the Constitution incorporating the approved amendments at least 20 Working Days before the amendment takes effect.~~

~~7.12 — Notwithstanding Clauses 7.10 and 7.11, the Board must not give Council Members notice of an amendment under Clause 7.11 and no amendment may be approved under Clause 7.10 in respect of Clause 6 of the Deed unless:~~

~~— (a) the Council chairperson has convened a meeting of the Scheme Amendment Committee for the specific purpose of considering the proposal; and~~

~~— (b) the proposed amendment has been approved by a resolution of at least 10 out of 12 Scheme Amendment Committee members.~~

~~7.13 — The provisions of Clauses 6.1, 6.2, 6.3, 6.4 and 6.7 apply to a proposal under Clause 7.12 as if it were a proposal by the Commission for amendment to the Scheme.~~

A6.2 The Commission may at any other time propose to the Board amendments to the Scheme that the Commission considers necessary or conducive to the continuing effectiveness of the Scheme.

3. Purpose statement

A1.1A The purpose of the Commission is to provide a an independent, timely and cost effective complaints resolution scheme **to investigate and facilitate the satisfaction, settlement or withdrawal of complaints about Council Members.** is in the long-term interests of gas and electricity sector consumers (including potential consumers) and owners and occupiers of land. [AS1.1.1]

4. Monitoring Member compliance

Duties of the Commission

A2.2 Subject to these Rules, the Commission must:

- (faa) monitor compliance with the Scheme by Members using a variety of means (including, for example, mystery shopper surveys); [AS6.1.1]
 - (i) with the Electricity and Gas Complaints Commissioner, publish an annual report in relation to the preceding Financial Year which is to be widely distributed to all stakeholders and contain:
 - (iii) a report on Member compliance with the Scheme rules including a list of Council Member breaches of the Scheme rules as set out in Clause A2.2(fb);

5. Advising complainants on process

B1.1A Subject to the other provisions of these Terms of Reference, the Electricity and Gas Complaints Commissioner must, in his or her own discretion, decide the procedure to be adopted for considering Complaints made to the Electricity and Gas Complaints Commissioner. The procedures established by the Electricity and Gas Complaints Commissioner must be simple for Complainants to understand and easy to use, and provide for:

- (a) contact personnel to use a checklist to ensure complainants are given an explanation in simple terms the nature of the Scheme, how the Scheme works, any relevant restrictions on its powers, and the time limits applicable to the relevant processes in the Scheme. [AS4.3.2]

6. Non-confidential decisions

B1.4A A recommendation must not be confidential except to the extent legislation requires; [AS5.2.1]

7. Referral to other agencies

B1.5 The Electricity and Gas Complaints Commissioner does not have the jurisdiction to:

- (g) consider a Complaint where the Electricity and Gas Complaints Commissioner decides it is more appropriate that the Complaint be considered by another body or Person or under a statutory process, provided that the Electricity and Gas Complaints Commissioner should in such cases refer the Complainant to that other body or Person; [AS3.5.1]

8. Code of practice for conduct in complaint handling [AS1.3]

Schedule CC

Code of Conduct for Complaint Handling

CC1. What is the Code of Conduct for Complaint Handling?

- CC1.1. The Code of Conduct for Complaint Handling (the Code of Conduct) governs the conduct of Council Members in handling electricity and gas complaints. This Code must be read in conjunction with the Dispute Resolution Protocols found in Schedules D, DA and DB. [AS1.3.1]
- CC1.2. Words that are capitalised (eg. Consumer) have specific meanings as defined in the Constitution for the Electricity and Gas Complaints Commissioner Scheme.

CC2. To whom does the Code of Conduct apply?

- CC2.1. The Code of Conduct applies to all Council Members. [AS1.3.3]

CC3. Statement of purpose

- CC3.1. The Electricity and Gas Complaints Commissioner Scheme is designed to create a forum where a Complainant can access an independent complaint resolution service for complaints about their electricity or gas Retailer and Lines Company (including Transpower). [AS1.1.1]
- CC3.2. The purpose of the Electricity and Gas Complaints Commission is to provide a complaints resolution scheme to investigate and facilitate the satisfaction, settlement or withdrawal of complaints about Council Members. The Commission's role is to ensure the Scheme is:
- (a) Free to Consumers;
 - (b) Accessible;
 - (c) Fair;
 - (d) Effective;
 - (e) Efficient;
 - (f) Accountable;
 - (g) Independent; and
 - (h) Known in the community. [AS1.1.1]
- CC3.3. The purpose of the Code of Conduct is to ensure Council Members provide an effective in-house complaints handling process that is consistent with the purpose of the Scheme as set out above. [AS2.2.1]

CC4. Principles of the Code of Conduct [AS1.3.2]

- CC4.1. Council Members must adhere to the following principles when handling Complaints:
- (a) Council Members must treat any expression of dissatisfaction or concern about a service or good provided by a Council Member as a Complaint.
 - (b) Council Members must respond to all queries and Complaints as soon as reasonably practicable, but in any case where deadlines are set out in the

Dispute Resolution Protocols below, before the deadlines specified in the applicable Protocol:

- Schedule D – Electricity Consumer Dispute Resolution Protocol;
- Schedule DA – Gas Consumer Dispute Resolution Protocol; and
- Schedule DB – Land Complaints Dispute Resolution Protocol

(c) Council Members must treat Complainants courteously and with respect.

(d) Council Members must be sensitive to any health, disability or language issues relating to Complainants.

(e) Council Members must interact with Complainants and any other person involved in the complaints process (including the Electricity Commission and Gas Industry Co) in an open and professional manner.

CC5. Requirement to promote the Scheme

CC5.1. Council Members (excluding Transpower) who directly invoice Consumers must include on any invoice:

(a) advice that the member has a free internal complaints process at no extra charge, and the notice must include the relevant contact information; [AS2.2.3] and

(b) information about the existence, nature of, and contact details for the Electricity and Gas Complaints Commissioner Scheme. [AS2.2.4]

CC5.2. Council Members (including Transpower) must include information about the existence and nature of, and the contact information for, the Scheme in/on any material published specifically for landowners and land occupiers. [AS2.3.4]

CC6. Requirements for in-house complaints handling

CC6.1. Council Members must have a free, accessible, fair and effective, in-house complaint handling process that is simple for Complainants to understand and easy to use. [AS1.1.1, AS2.2.1, AS2.2.2, AS2.2.3,]

CC6.2. Council Members must accept Complaints in any reasonable form from a Complainant including written and oral, and via a variety of delivery mechanisms including face-to-face, posted, hand-delivered, facsimile or electronic. [AS2.2.2 and existing provision in EGCC Scheme codes of practice]

CC6.3. Council Members must:

(a) provide written information about their complaint handling process presented in plain and accessible language; [AS2.2.4]

(b) provide information to Complainants about how their Complaint will be dealt with, and by when; and [AS2.2.2]

(c) keep Complainants informed of the progress of a Complaint; [AS3.6.4]

CC6.4. Council Members must:

- (a) Train their staff about their complaints handling processes, including recognition of complaints and active referrals to their in-house Complaints handling processes and to the Electricity and Gas Complaints Commissioner where required; [AS2.2.5]
- (b) Provide adequate resources for their internal complaints handling processes; [AS2.2.1]
- (c) Tell Consumers who have a Complaint that may fall within the jurisdiction of the Scheme that there is an Electricity and Gas Complaints Commissioner to whom they can go if their Complaint is not resolved (including contact information, and information about the nature of the Scheme), regardless of whether the Council Member considers the Complaint to be frivolous or vexatious. [AS1.2.6]

9. Existing Codes of Practice to become non-mandatory

Schedule C The Electricity Consumer Code of Practice

C1. WHAT IS THE ELECTRICITY CODE AND TO WHOM DOES IT APPLY?

C1.1 The Code contains undertakings by Electricity Company members of the Electricity and Gas Complaints Council to Consumers under the Scheme for fair and reasonable dealings with Consumers.

C1.2 The provisions of the Code should be interpreted in light of Clause C2 and Clause C3 and should be applied in a manner which is consistent with these Statements of Purpose and Principles.

C1.3 This Code only applies to those Council Members who have separately agreed to be bound by this Code by signing the Deed of Adoption of Codes of Practice in Schedule F.

~~C5. WHO IS COVERED BY THE CODE?~~

~~C5.1 Every Electricity Retailer and Electricity Lines Company who is a member of the Electricity and Gas Complaints Council is covered by this Code.~~

~~C5.2 This means that they must follow the provisions set out in the Code.~~

Schedule CA The Gas Consumer Code of Practice

CA1. WHAT IS THE GAS CODE AND TO WHOM DOES IT APPLY?

CA1.1 The Code contains undertakings by Gas Company members of the Electricity and Gas Complaints Council to Consumers under the Scheme for fair and reasonable dealings with Consumers.

CA1.2 The provisions of the Code should be interpreted in light of Clause CA2 and Clause CA3 and should be applied in a manner which is consistent with these Statements of Purpose and Principles.

CA1.3 This Code only applies to those Council Members who have separately agreed to be bound by this Code by signing the Deed of Adoption of Codes of Practice in Schedule F.

~~**CA5. WHO IS COVERED BY THE CODE?**~~

~~CA5.1 Every Gas Retailer and Gas Lines Company who is a member of the Electricity and Gas Complaints Council is covered by this Code.~~

~~CA5.2 This means that they must follow the provisions set out in the Code.~~

Schedule CB

The Code of Practice for land owners, land occupiers, electricity lines companies and gas lines companies
("Land Code")

CB1.6 This Code only applies to those Council Members who have separately agreed to be bound by this Code by signing the Deed of Adoption of Codes of Practice in Schedule F.

Schedule F
Deed of Adoption of Codes of Practice

Date:

PARTIES:

1. **THE BOARD OF THE ELECTRICITY AND GAS COMPLAINTS COUNCIL** on behalf of the Council Members (the "Council Members")
2. *[Insert full legal name]* having its registered office (or head office if it does not have a registered office) at *[Insert address]* (the "New Party")

BACKGROUND

- A. The Council Members are the parties to the Electricity and Gas Complaints Scheme Deed which came into effect on 7 August 2001 (the "Constitution").
- B. The Constitution contains certain Codes of Practice in Schedules C (the Electricity Consumer Code of Practice), CA (the Gas Consumer Code of Practice) and CB (the Land Code).
- C. Any Council Member may elect to become a party to one or more of the Codes of Practice. As a party to a Code of Practice the Council Member agrees to observe and perform all of the obligations under that Code of Practice.
- D. Any Council Member who is a party to one or more Codes of Practice may elect to withdraw from that Code of Practice by giving notice in writing to the Board of the Electricity and Gas Complaints Council.

NOW BY THIS DEED the parties agree as follows:

1. With effect from [*Insert date*] (the "Effective Date"), the New Party:
 - (a) adopts the following Codes of Practice:
 - Schedules C (the Electricity Consumer Code of Practice);
 - Schedule CA (the Gas Consumer Code of Practice);
 - Schedule CB (the Land Code); and

[delete as appropriate]
 - (b) agrees to observe and perform all of the obligations under these Codes of Practice.
2. All the parties to this Deed of Adoption of Codes of Practice confirm that the Constitution remains in full force and effect.
3. All terms defined in the Constitution and used in this Deed of Adoption of Codes of Practice have the same meaning herein as contained in Clause 1 of the Constitution.

EXECUTED AS A DEED)
SIGNED for and on behalf of)
THE BOARD OF THE ELECTRICITY AND GAS)
COMPLAINTS COUNCIL by)
[*Insert names*])
under the authority vested in [*Insert*)
names] in the Deed in the presence of)

Signature

Witness signature

Full name

Address

Occupation

SIGNED for and on behalf of)
[*Insert full legal name*])
in the presence of)

Director

Director/Authorised
Signatory

Witness signature

Full name

Address

Occupation

