

Proposed amendments and deletions marked up (March 2009)
CONTENTS

A1. ESTABLISHMENT OF THE COMMISSION.....	37
Purpose and role of the Commission.....	37
Composition of the Commission.....	37
Termination of Commission Member's appointments.....	38
Term of office.....	39
Requirements for Commission chairperson.....	39
A2. POWERS AND DUTIES OF THE COMMISSION	39
Powers of the Commission.....	39
Duties of the Commission.....	40
Exercising and delegating Commission powers.....	42
Committees.....	43
General requirements for the application of income.....	43
A3. FUNDING	43
Fixed levy.....	43
Administration of levies.....	44
A4. THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER.....	45
Appointment of the Electricity and Gas Complaints Commissioner.....	45
Term of office for the Electricity and Gas Complaints Commissioner.....	45
Requirements for Electricity and Gas Complaints Commissioner.....	45
Discretion to suspend or terminate appointment and appointment of acting Electricity and Gas Complaints Commissioner.....	45
A5. ADMINISTRATION.....	46
Use of Information.....	46
Reporting.....	46
Commission meetings.....	46
Questions decided by majority.....	47
Written Resolution by the Commission.....	47
Validity of acts of Commission Members.....	47
Minutes.....	47
Conflicts of interest.....	47
Appointment of Secretary.....	48
Powers and duties of Secretary.....	48
Secretary to attend meetings.....	48
Inspection of records.....	48
Annual meetings to be held.....	48
Publication of Annual Report.....	49
A6. GENERAL	49
Review of the Scheme.....	49
Notices.....	51
Register.....	51
B1. POWERS AND OBLIGATIONS OF THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER	52
Statement of jurisdiction.....	52
Limits on jurisdiction.....	53
Limit on jurisdiction in relation to Council Members that are subject to the Chief Ombudsman's jurisdiction.....	54
Council Members can extend jurisdiction on ad hoc basis.....	54
Consideration, or continued consideration, of a Complaint.....	55
Factors relevant to decision not to investigate a Complaint.....	55
B2. PROCEDURAL REQUIREMENTS.....	56

Establishing procedures.....	56
Confirmation of waivers	57
Initial consideration of jurisdiction to consider Land Complaints	57
Information relating to Complaints	57
Disclosure of information to parties.....	58
Responding to General Enquiries	58
Use of company information on ownership of Lines Equipment.....	59
B3. SETTLEMENTS, RECOMMENDATIONS AND AWARDS.....	59
Settlement by agreement.....	59
Recommendations	59
Awards.....	60
Reimbursement for incidental expenses or inconvenience suffered	62
B4. TEST CASES	62
Pursuing a Complaint as a "test case"	62
Requirements on Council Members for "test cases"	63
Effect on Electricity and Gas Complaints Commissioner	63
B5. ADMINISTRATIVE RESPONSIBILITIES	63
Responsibilities and requirements	63
C1. WHAT IS THE ELECTRICITY CODE?.....	67
C2. STATEMENT OF PURPOSE.....	67
C3. STATEMENT OF PRINCIPLES.....	67
C4. LOCATION OF DEFINITIONS.....	68
C5. WHO IS COVERED BY THE CODE?	68
C6. WHAT IS A CONSUMER CONTRACT?	68
C7. WHAT IS THE CONNECTION BETWEEN THE CODE AND A CONSUMER CONTRACT?	68
C8. WHO DEALS WITH COMPLAINTS RELATING TO THE CODE?	68
C9. WHAT CAN THE CONSUMER EXPECT FROM A CONSUMER CONTRACT?	68
C10. CHANGES TO CONSUMER CONTRACTS.....	69
C11. CHANGES TO PRICE	69
C12. SERVICES PROVIDED	69
C13. PRICE INFORMATION.....	70
C.14 BILLING.....	70
C15. METERING.....	71
C16. PAYMENT OPTIONS	71

C17. BONDS.....	71
C18. DISCONNECTION AND RECONNECTION	72
C19. FAULTS	73
C20. PLANNED SHUTDOWNS	73
C21. OBLIGATIONS FROM POINT OF SUPPLY	73
C22. ACCESS TO PREMISES	73
C23. CONSUMER COMPLAINT RESOLUTION	73
C24. LIABILITY	74
C25. FORCE MAJEURE CLAUSES.....	75
C26. PRIVACY.....	75
C27. OVERSIGHT AND REVIEW OF THIS CODE	75
C28. ENFORCEMENT OF THE CODE.....	75
C29. DEFINITIONS	75
CA1. WHAT IS THE GAS CODE?	78
CA2. STATEMENT OF PURPOSE	78
CA3. STATEMENT OF PRINCIPLES	78
CA4. LOCATION OF DEFINITIONS	79
CA5. WHO IS COVERED BY THE CODE?	79
CA6. WHAT IS A CONSUMER CONTRACT?.....	79
CA7. WHAT IS THE CONNECTION BETWEEN THE CODE AND A CONSUMER CONTRACT?.....	79
CA8. WHO DEALS WITH COMPLAINTS RELATING TO THE CODE?	79
CA9. WHAT CAN THE CONSUMER EXPECT FROM A CONSUMER CONTRACT?.....	79
CA10. CHANGES TO CONSUMER CONTRACTS	80
CA11. CHANGES TO PRICE.....	80
CA12. SERVICES PROVIDED.....	80

CA13. PRICE INFORMATION.....	81
CA14. BILLING.....	81
CA15. METERING.....	82
CA16. PAYMENT OPTIONS.....	82
CA17. BONDS.....	82
CA18. DISCONNECTION AND RECONNECTION.....	83
CA19. FAULTS AND EMERGENCIES.....	84
CA20. PLANNED SHUTDOWNS.....	84
CA21. OBLIGATIONS FROM POINT OF SUPPLY.....	84
CA22. ACCESS TO PREMISES.....	84
CA23. CONSUMER COMPLAINT RESOLUTION.....	84
CA24. LIABILITY.....	86
CA25. FORCE MAJEURE CLAUSES.....	86
CA26. PRIVACY.....	86
CA27. OVERSIGHT AND REVIEW OF THIS CODE.....	86
CA28. ENFORCEMENT OF THE CODE.....	86
CA29. DEFINITIONS.....	86
CB1. WHAT IS THE LAND CODE?.....	89
CB2. STATEMENT OF PRINCIPLES.....	89
CB3. DEFINITIONS.....	89
CB4. SCOPE OF THE LAND CODE.....	91
CB5. THE LAND CODE, LAND AGREEMENTS AND LEGISLATION.....	92
CB6. LINES COMPANY OBLIGATIONS UNDER THE LAND CODE.....	92
CB7. COMPLAINTS RELATING TO THE LAND CODE.....	95
CB8. ELECTRICITY AND GAS COMPLAINTS COMMISSIONER SCHEME.....	96

CB9. PRIVACY	96
CB10. OVERSIGHT AND REVIEW OF THE LAND CODE	97
CB11. ENFORCEMENT OF THE LAND CODE	97
CB12. TRANSPOWER'S COMMITMENT TO LAND OWNERS AND/OR OCCUPIERS AND THE COMMUNITY ("THE CHARTER")	98
CB13. GAS TRANSMISSION LINES COMPANIES' OBLIGATIONS	100
D1. GENERAL PROVISIONS APPLYING TO ALL ELECTRICITY COMPANY COUNCIL MEMBERS	104
Objectives of Protocol.....	104
Application.....	104
General obligations under the Protocol.....	104
Requirements for in-house Consumer Complaints handling service	105
Clearing-house mechanism for referral of Consumer Complaints to correct Contracting Company	106
D2. OBLIGATIONS OF ELECTRICITY COMPANIES FOR MANAGEMENT AND RESOLUTION OF CONSUMER COMPLAINTS UNDER DIFFERENT KINDS OF CONSUMER CONTRACT	106
Conveyance Only Consumer Contracts.....	106
Compensation under Conveyance Only Consumer Contracts	107
Supply Only Consumer Contracts.....	107
Compensation under Supply Only Consumer Contracts	107
Interposed Consumer Contracts.....	107
Complaint management referral requirements for Interposed Consumer Contracts.....	108
Compensation under Interposed Consumer Contracts.....	108
Responsibility for management costs not to conflict with award for expenses by Electricity and Gas Complaints Commissioner	109
D3. RESPONSIBILITIES OF ELECTRICITY COMPANIES IN RESPECT OF PROCEEDINGS BEFORE THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER	109
Lines Complaints under Interposed Consumer Contracts	109
Electricity Retailers acting as Complaint Managing Companies for Electricity Lines Companies require consent of Electricity Lines Companies for discretionary or "test case" proceedings	109
Electricity Companies to co-operate in the provision of information in respect of Lines Complaints.....	110
D4. AGREEMENTS BETWEEN ELECTRICITY COMPANIES	110
Bilateral agreements between Electricity Companies	110
Resolution of disputes between Electricity Companies about Consumer Complaints	110
DA1. GENERAL PROVISIONS APPLYING TO ALL GAS COMPANY COUNCIL MEMBERS	111
Objectives of Protocol.....	111
Application.....	111
General obligations under the Protocol.....	111
Requirements for an in-house Consumer Complaints handling service	111
General timeframes for dealing with Complaints	112
Clearing-house mechanism for referral of Complaints to correct Council Member	112
DA2. OBLIGATIONS OF GAS COMPANIES FOR MANAGING AND RESOLVING COMPLAINTS	113
Conveyance Only Consumer Contracts.....	113
Compensation under Conveyance Only Consumer Contracts	113
Supply Only Consumer Contracts.....	113
Compensation under Supply Only Consumer Contracts	113
Interposed Consumer Contracts.....	113
Referrals for Interposed Consumer Contracts	114
Compensation under Interposed Consumer Contracts.....	114
Responsibility for management costs not to conflict with award for expenses by Electricity and Gas Complaints Commissioner	115

DA3. RESPONSIBILITIES OF GAS COMPANIES IN RESPECT OF PROCEEDINGS BEFORE THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER.....	115
Lines Complaints under Interposed Consumer Contracts.....	115
Gas Retailers require Gas Lines Companies' consent for certain discretionary or "test case" proceedings	115
Gas Companies to co-operate in the provision of information in respect of Complaints	115
DA4. AGREEMENTS BETWEEN GAS COMPANIES	116
Bilateral agreements between Gas Companies.....	116
Resolution of disputes between Gas Companies about Complaints.....	116
DB1. GENERAL PROVISIONS APPLYING TO ALL COUNCIL MEMBERS	117
Objectives of Protocol.....	117
Application	117
General obligations under the Protocol.....	117
Requirements for an in-house Land Complaints handling service	117
Responsibility for Land Complaints.....	118
General timeframes for dealing with Land Complaints.....	118
Clearing-house mechanism for referral of Land Complaints to correct Council Member	118
DB2. AGREEMENTS BETWEEN COMPANIES	119
Bilateral agreements between Companies.....	119
Resolution of disputes between Companies about Land Complaints	119

SCHEDULE A

RULES OF THE ELECTRICITY AND GAS COMPLAINTS COMMISSION

A1. ESTABLISHMENT OF THE COMMISSION

Purpose and role of the Commission

- A1.1A The purpose of the Commission is to provide ~~an independent, timely and cost-effective~~ complaints resolution scheme **to investigate and facilitate the satisfaction, settlement or withdrawal of complaints about Council Members.** ~~that is in the long term interests of gas and electricity sector consumers (including potential consumers) and owners and occupiers of land.~~
- A1.1 The role of the Commission is to establish and maintain the office of the Electricity and Gas Complaints Commissioner and to provide independent implementation and administration of the Scheme to ensure that the Scheme is:
- (a) free to Complainants;
 - (b) accessible;
 - (c) fair;
 - (ca) efficient
 - (d) effective;
 - (e) accountable;
 - (f) independent; and
 - (g) known in the community.

Composition of the Commission

- A1.2 The Commission comprises:
- (a) an independent Commission chairperson appointed by the Commission, following consultation with the Electricity Commission and the Gas Industry Co;
 - (b) two representatives of Council Members being one Retailer and one Lines Company, appointed by the Board who are
 - (i) capable of understanding the viewpoints and concerns of consumers;
 - (ii) persons in whom consumers and consumer organisations can have confidence; and
 - (c) two consumer representatives appointed by the Minister of Consumer Affairs (or if there is no such portfolio, such other Minister of the Crown responsible for consumer issues) who are:
 - (i) capable of understanding the viewpoints and concerns of consumers;
 - (ii) persons in whom consumers and consumer organisations can have confidence.

- A1.3 The chief executive officer of the Retailer and the chief executive officer of the Lines Company appointed as a Commission Member may from time to time nominate a representative.
- A1.4 In acting in their role as Commission Members, each appointed Council Member, and its nominated representative, must have regard to the interests of all Council Members.
- A1.5 One alternate Commission Member may be appointed by the Minister of Consumer Affairs for each consumer representative Commission Member. Each alternate Commission Member:
- (a) must meet the criteria for appointment set out in Clause A1.2(c) and be appointed at the same time and for the same term as the Commission Member for whom he or she acts as alternate (unless that Commission Member's term finishes before his or her appointed expiry date, in which case the alternate Commission Member acts as the Commission Member until a new Commission Member is appointed);
 - (b) is entitled to notice of all meetings of the Commission and if the Commission Member for whom he or she acts as alternate is not present, to attend and vote in that Commission Member's stead; and
 - (c) may exercise all the powers of the Commission Member for whom he or she acts as alternate and may exercise powers as a Commission Member.
- A1.5A In appointing consumer representatives to the Commission under Clause A1.2, and alternate Commission Members under Clause A1.5, the Minister of Consumer Affairs may take into account the extent to which the representatives are able to represent the interests of Land Owners and Land Occupiers.
- A1.5B In acting in their role as Commission Members, the consumer representatives appointed by the Minister of Consumer Affairs must take into account the interests of Consumers and Land Owners and Land Occupiers.

Termination of Commission Member's appointments

- A1.6 A Commission Member must immediately cease to be a Commission Member if:
- (a) in the case of a Commission Member who is a natural person, he or she:
 - (i) is adjudged bankrupt;
 - (ii) becomes of unsound mind;
 - (iii) is absent for more than three meetings without permission of the Commission chairperson;
 - (iv) is convicted of an indictable offence or commits any act of dishonesty whether relating to the Commission or otherwise;
 - (v) is removed in Writing by the Person that appointed the Commission Member; or
 - (vi) has resigned by notice in Writing to the Commission and copies the notice to the appointee; or

- (b) in the case of a Commission Member who is a body corporate, it:
 - (i) becomes insolvent;
 - (ii) is not represented at a meeting of the Commission for more than three meetings without permission of the Commission chairperson;
 - (iii) has ceased to be a Council Member; or
 - (iv) has resigned by notice in Writing to the Commission and copies the notice to the Board.

Term of office

- A1.7 Subject to Clause A1.9, Commission Members may be appointed for periods of up to two years. A Commission Member may be re-appointed at the expiry of any period of office but he or she cannot hold office for more than six consecutive years.
- A1.8 Subject to Clause A1.9, the independent Commission chairperson is appointed for a four year period.
- A1.9 The Commission may, in consultation with the Board or, as the case may be, the Minister of Consumer Affairs that appointed the Commission Member(s) concerned, extend the duration of a Commission Member's term by up to six Months to ensure that the final period of office of the Commission chairperson or of two or more Commission Members does not coincide in the same half of any calendar year.

Requirements for Commission chairperson

- A1.10 The Commission must use its best endeavours to ensure that the individual appointed as the Commission chairperson is independent, that he or she has no material interest (including but not limited to employment in an electricity or Gas related capacity or the provision of consultancy advice on electricity or Gas sector issues) in the electricity or Gas sector that may conflict with his or her duties as the Commission chairperson. Such endeavours may include consulting with Consumer, Land Owner and Land Occupier, and electricity and Gas industry interest groups, and Government.

A2. POWERS AND DUTIES OF THE COMMISSION

Powers of the Commission

- A2.1 The Commission has all the powers of a natural person when implementing and administering the operation and administration of these Rules and the Terms of Reference, including but without limitation, the power to do all or any of the following things:
 - (a) **Invest:** To invest the income and capital of the Commission not immediately required in any property in New Zealand and to vary those investments;
 - (b) **Purchase:** To purchase goods and services or acquire any property in New Zealand from any Person;
 - (c) **Sell:** To sell any property to any Person in such manner and on such terms as the Commission thinks fit;

- (d) **Lease:** To lease any property in New Zealand to any Person on such terms as the Commission thinks fit and to accept renewals or surrenders of leases;
- (e) **Take on lease:** To lease, licence or take on bailment of any property in New Zealand from any Person on such terms as the Commission thinks fit, and to renew or surrender such leases, licenses and bailments and generally to deal with these as the Commission thinks fit;
- (f) **Lend:** To lend or advance moneys to or leave moneys with any Person either with or without security and at such rate of interest or without any interest and generally upon such terms as the Commission thinks fit;
- (g) **Levy:** To levy, charge, collect and receive levies and fees from Council Members and expend the funds on administering the Scheme;
- (h) **Borrow:** To borrow moneys with or without security from any Person;
- (i) **Employ:** Taking into account the financial budget for the Commission, to retain or employ Persons in connection with the objects of the Commission and to pay them fees, salary, wages or other remuneration;
- (j) **Remunerate:** To remunerate:
 - (i) the Commission chairperson, the consumer representative Commission Members and the Electricity and Gas Complaints Commissioner for services to the Commission;
 - (ii) the Commission chairperson, Commission Members and the Electricity and Gas Complaints Commissioner for costs arising from attending Commission meetings and other identifiable and reasonable costs arising from services actually rendered to the Commission; and
 - (iii) identifiable and reasonable costs incurred by any Council Member in return for any services actually rendered to the Commission; and
- (k) **General:** To do all things and make such arrangements and enter into agreements as are incidental or conducive to the functions of the Commission and which in the opinion of the Commission can advantageously be carried out, performed, done or executed for the benefit of the Commission or for the furtherance of its functions.

Duties of the Commission

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

- (aa) ensure the Scheme meets its purposes;
- (ab) set performance standards, sufficient to allow external parties to readily determine if the Scheme is providing an effective complaints resolution service, against which the performance of the Scheme will be measured. The performance standards include:
 - (i) Total time to close cases;
 - (ii) Internal time to close cases;

- (iii) Cost per case;
 - (iv) Complainant satisfaction;
 - (v) Council Member satisfaction
 - (vi) External review of cases;
 - (vii) Awareness in the community and accessibility;
 - (viii) reporting - compliance reporting complete, accurate and on time.
- (a) give any assistance it considers necessary to the Electricity and Gas Complaints Commissioner concerning the performance of his or her duties;
 - (b) appoint an independent chairperson to the Commission after consulting with, and taking account of the views of, the Electricity Commission and the Gas Industry Co;
 - (c) receive and consider all recommendations from the Electricity and Gas Complaints Commissioner for changes to the Scheme;
 - (d) commission independent reviews of the Scheme in accordance with Clause A6.1 and, at any other time, propose amendments to the Scheme in accordance with Clause A6.2;
 - (e) monitor the Scheme (generally and by way of the review procedure set out in Clause A6) and, if it considers that amendments are required, propose amendments to the Scheme in accordance with Clause A6.2;
 - (ea) investigate complaints about the operation of the Scheme;
 - (eb) review the operation and performance of the Scheme;
 - (ec) take actions to improve the performance of the Scheme where reports suggest that is necessary;
 - (ed) receive information about, and take appropriate action in relation to, systemic industry problems referred to it by the Electricity and Gas Complaints Commissioner;
 - (ee) ensure that the Scheme continues to meet the requirements of the Electricity Commission and the Gas Industry Co for the approval of a scheme;
 - (ef) develop and implement a code of practice that sets out minimum standards of conduct for Council Members;
 - (f) at its annual meeting receive and, if considered appropriate, approve the annual report of the Electricity and Gas Complaints Commissioner for the period corresponding to the Commission's previous Financial Year, but this subclause does not entitle the Commission to consider, approve or disapprove the exercise of the independent responsibility of the Electricity and Gas Complaints Commissioner in respect of a particular Complaint;
 - (fa) report annually on all breaches of the Scheme rules by all Council Members to the Electricity Commission and the Gas Industry Co;

(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 a report on Member compliance with the Scheme rules including a list of any Council Member breaches of the Scheme rules as set out in Clause A2.2(fb);

(fb) publish annually details of breaches of the Scheme rules, name the Council Member/s involved and the award made (if any), but the Commission has the discretion to not publish details of insignificant or technical breaches if to do so would, in the Commission's opinion, unfairly disadvantage or harm the Council Member without just cause;

(g) subject to paragraph (h), consider the Electricity and Gas Complaints Commissioner's proposed annual plan, and approve the overall financial budget;

(h) before approving an overall financial budget, the Commission must be satisfied that the Scheme will be funded sufficiently to allow its caseload to be managed efficiently and to meet the other requirements of the Scheme rules so far as this is consistent with providing a cost effective outcome, and must consult with the Board on the proposed overall financial budget;

(i) in relation to each Financial Year, prepare or procure the preparation of appropriate financial statements of the Commission in respect of that period; and

(j) 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:

(i) information about how the Scheme ensures that it meets its purposes;

(ii) a list of Council Members together with any changes to the list during the year;

(iii) a list of Council Member breaches of the Scheme rules as set out in Clause A2.2(fb);

(iv) a report against the performance standards set out in Clause A2.2(ab);

(v) a report on compliance with the approved criteria set by the Electricity Commission and the Gas Industry Co;

(vi) the findings of annual reviews;

(vii) the findings of the independent review (if relevant for that year);

(viii) a financial report containing sufficient information to allow Council Members and other stakeholders to understand how the Scheme funding is being used.

Exercising and delegating Commission powers

A2.3 The Commission may determine the most appropriate and prudent manner in which to exercise its powers, including the manner of signing all cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Commission.

A2.4 The Commission may delegate any of its powers and duties where it is appropriate or prudent to do so to the Electricity and Gas Complaints Commissioner, the Secretary, a committee or the Commission chairperson. The delegate must exercise the powers, duties or functions delegated in accordance with these Rules, the Terms of Reference and any directions or instructions issued to the delegate by the Commission.

Committees

A2.5 Committees can consist of Commission Members, officers and/or employees of the Commission and any other Person the Commission considers appropriate. The chairperson(s) of committees must manage meetings and proceedings according to these Rules (with any necessary alterations to the Rules made by the Commission in its instructions to the committee).

General requirements for the application of income

A2.6 The Commission must:

- (a) operate on a not for profit basis; and
- (b) apply all the income and property of the Commission as set out in these Rules and towards the promotion of the purpose and objects of the Commission.

A3. FUNDING

[A3.1 DELETED]

[A3.2 DELETED]

[A3.3 DELETED]

Fixed levy

A3.4 Council Members must pay a fixed levy required by the Commission to fund the Commission. The fixed levy and the manner of payment is:

- (a) determined annually by the Commission;
- (b) raised from Council Members on a Proportionate Basis; and
- (c) notified to Council Members, along with each Council Member's specific contribution to the fixed levy.

[A3.5 DELETED]

[A3.6 DELETED]

[A3.7 DELETED]

[A3.8 DELETED]

Administration of levies

- A3.9 The Commission must give notice to each Council Member requesting payment of any levy amount to be raised from that Council Member stating the total amount to be raised and the amount of the Council Member's contribution. The Commission may at its absolute discretion allow Council Members to pay their contributions in instalments.

- A3.10 The amount of any Council Member's contribution to a levy:
- (a) must be plus GST payable (if any); and
 - (b) is due and payable by each Council Member within 30 Working Days of the Commission sending the notice requesting payment.

A4. THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER

Appointment of the Electricity and Gas Complaints Commissioner

- A4.1 The Commission must appoint an Electricity and Gas Complaints Commissioner under a contract for services.
- A4.2 The Commission must require the Electricity and Gas Complaints Commissioner to implement the Terms of Reference and must set out in the contract for services its terms of appointment and provision for annual performance agreements, to be entered into from time to time between the Commission and the Electricity and Gas Complaints Commissioner.

Term of office for the Electricity and Gas Complaints Commissioner

- A4.3 The Electricity and Gas Complaints Commissioner must be engaged by the Commission to hold office with the Commission for such period on such terms and conditions as the Commission thinks fit. The individual holding the office of Electricity and Gas Complaints Commissioner may be re-appointed at the expiry of any period of office.

Requirements for Electricity and Gas Complaints Commissioner

- A4.4 The Electricity and Gas Complaints Commissioner must:
- (a) not be, nor have been, an employee of, nor hold nor have held any office or position with a Council Member, nor must he or she, either personally or by his or her firm, act in a professional capacity for the Commission or any Council Member.
 - (b) be free from any other interest that would give rise to an actual or perceived conflict of interest.
- A4.5 In the exercise of his or her Complaint functions the Electricity and Gas Complaints Commissioner must act independently and not be subject to the direction or control of any other Person.

Discretion to suspend or terminate appointment and appointment of acting Electricity and Gas Complaints Commissioner

- A4.6 The Commission has an absolute discretion to suspend or remove the Electricity and Gas Complaints Commissioner at any time for:
- (a) not complying with the terms of his or her contract for services or performance agreement;
 - (b) becoming incapacitated on health grounds; or
 - (c) being adjudged bankrupt or convicted of any offence involving dishonesty or likely to bring the Commission into disrepute.

A4.7 If the Electricity and Gas Complaints Commissioner is suspended, indisposed or otherwise prevented from carrying out his or her duties, the Commission must appoint a person in an acting capacity as the Electricity and Gas Complaints Commissioner for as long as the Commission considers necessary. While an acting Electricity and Gas Complaints Commissioner holds office, the Terms of Reference and performance agreement (if any) applies to him or her, with any necessary alterations, as if he or she were the Electricity and Gas Complaints Commissioner.

A5. ADMINISTRATION

Use of Information

A5.1 Commission Members and the Electricity and Gas Complaints Commissioner must establish procedures for the use of and holding of information (taking into account legal requirements relating to the management and release of information).

A5.2 Except as otherwise provided by these Rules, employees of the Commission and the Electricity and Gas Complaints Commissioner must not disclose to any Person, other than to each other, or the Commission chairperson, any information concerning a Complaint referred to the Electricity and Gas Complaints Commissioner from which it would or might be possible to identify the Complainant or any Council Member named in a Complaint or any other information or matter of a confidential nature. This Clause does not prohibit the disclosure of any information to any Council Member named in a Complaint or any information relating to the non-compliance with the Scheme rules by a Council Member.

Reporting

A5.3 The Commission is responsible for the preparation of detailed accounts for each Financial Year and reporting, quarterly, to the Board on the Commission's financial status. In addition to the detailed accounts, the Commission must report separately on the costs of its activities relating to Land Complaints and the costs of its activities relating to Consumer Complaints.

A5.4 In addition, the Commission must also report, consider and refer to the Board any comments or submissions regarding the electricity and Gas sector and any initiative that impacts, or potentially will impact, on the Scheme. The Commission must also refer any similar reports, comments or submissions from the Electricity and Gas Complaints Commissioner.

Commission meetings

A5.5 Commission Members may meet together and regulate their meetings as they think is necessary but must have the Commission chairperson and at least three Commission Members, one of whom must be a Commission Member appointed as a consumer representative and one of whom must be Commission Member which is a Council Member, present to constitute a quorum.

A5.6 A Commission Member may request the Secretary to convene a meeting of the Commission at any time.

A5.7 Any form of communication where the Commission Members (and any other Persons required to be present) can hear each other simultaneously is sufficient for the parties to consider that each is present, for the purposes of the Rules, at the meeting.

Questions decided by majority

A5.8 Each Commission Member has one vote. Except where these Rules provide otherwise, questions arising at a meeting of the Commission are decided by a majority of votes of Commission Members present and voting. In the event of there being an equality of votes, the Commission chairperson of the meeting, in addition to his or her deliberative vote, has a casting vote. Any question decided by a vote is deemed a decision of the Commission.

Written Resolution by the Commission

A5.9 If all the Commission Members have signed a document containing a statement that they are in favour of a resolution of the Commission in the terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the Commission held on the date on which the document was last signed by a Commission Member.

A5.10 For the purposes of Clause A5.9, two or more separate documents containing statements in identical terms signed by one or more Commission Members are together deemed to constitute one document containing a statement in those terms signed by those Commission Members on the respective dates on which the separate documents are signed.

Validity of acts of Commission Members

A5.11 Even if it is discovered after a meeting that there was some defect in the appointment of a Person as a Commission Member or power to act as a Commission Member or that a Person so appointed was disqualified, all acts done by that meeting of the Commission or by any Person acting as a Commission Member are valid.

Minutes

A5.12 The Commission must:

- (a) take minutes of:
 - (i) the names of those present at all meetings of the Commission or its committees; and
 - (ii) all proceedings of annual meetings and other meetings of the Commission or its committees, and
- (b) make those available within one Month to all Commission Members after the relevant meeting is held.

A5.13 The Commission chairperson or chairperson of the committee of each meeting must sign correct the minutes of each meeting.

Conflicts of interest

A5.14 Except as otherwise provided by these Rules, a Commission Member cannot vote at a meeting of the Commission on any resolution concerning a matter in which he or she has directly or indirectly an interest which is material and which conflicts or may conflict with the interest of the Commission and the Commission Member is not to be counted in the quorum present at the meeting. However:

- (a) the Commission may suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the Rules prohibiting a Commission Member from voting at a meeting of the Commission;
- (b) if a question arises at a meeting of the Commission as to the right of a Commission Member to vote, the question may, before the conclusion of the meeting, be referred to the Commission chairperson and his or her ruling in relation to a Commission Member other than him or herself is final and conclusive; and
- (c) Commission Members that are representatives of Council Members do not have a conflict of interest merely because they operate within the electricity and Gas sector.

A5.15 Commission Members may not hold another office of profit under the Commission nor, either personally or by his or her firm, act in a professional capacity for the Commission.

Appointment of Secretary

A5.16 The Commission must appoint a person to act as Secretary to the Commission. The appointment may be an employee of or party contracted to the Commission. The appointment may be made on such terms, at such remuneration and upon such conditions as the Commission thinks fit. The Commission has the power to suspend or remove the Secretary.

Powers and duties of Secretary

A5.17 The Commission may vest in the Secretary any powers, duties and authorities it considers appropriate and the Secretary must accept all such powers, duties and authorities subject at all times to the control of the Commission.

Secretary to attend meetings

A5.18 The Secretary must attend all annual and other meetings of the Commission but is not required to attend committee meetings unless he or she is a member of the committee. The Secretary may be heard on any matter.

Inspection of records

A5.19 The Commission may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Commission will be opened to the inspection of Council Members. A Council Member does not have the right to inspect any document of the Commission except as provided by law or authorised by the Commission.

Annual meetings to be held

A5.20 The Commission must, in addition to any other meeting held by it, hold a meeting to be called the annual meeting within 3 months of the end of each Financial Year at which it receives the Annual Report of the Electricity and Gas Complaints Commissioner.

A5.21 Notice of every annual and general meeting under Clause A5.20 must be given to:

- (a) every Council Member;

- (b) every Commission Member;
- (c) the Board;
- (d) the Electricity and Gas Complaints Commissioner;
- (e) the Secretary;
- (f) any auditor appointed to audit the Commission's or the Electricity and Gas Complaints Commissioner's financial records;
- (g) the Ministry of Consumer Affairs;
- (ga) the Electricity Commission;
- (gb) the Gas Industry Co;
- (h) consumer groups recommended by the Consumers' Institute Inc; and
- (i) Land Owner and Land Occupier groups recommended by the Ministry of Consumer Affairs.

A5.22 No other Person is entitled to receive notices of annual and general meetings under Clause A5.20.

A5.23 Persons notified may attend annual or general meetings held under Clause A5.20 of the Commission. However, only Commission Members may vote on matters put to the meeting.

A5.24 Any Person who is entitled to receive notice under Clause A5.21 may speak at an annual or general meeting held under Clause A5.20 of the Commission.

Publication of Annual Report

A5.25 After the Electricity and Gas Complaints Commissioner's Annual Report is accepted, the Commission must make it publicly available, together with any additional comments it considers appropriate.

A6. GENERAL

Review of the Scheme

A6.1AA The Commission must annually review the Scheme's performance including against:

- (a) the requirements of the Electricity Commission and the Gas Industry Co for an approved scheme;
- (b) the performance standards set out in Clause A2.2(ab);
- (c) any particular issues raised by the Electricity Commission or the Gas Industry Co.

The annual review must include seeking feedback from stakeholders about the performance of the Scheme.

A6.1AB The Commission must include the results of the review in its annual report.

A6.1 The Commission:

- (a) must commission an independent review of the performance and effectiveness of the Scheme at least every three years (including within one year of approval of the Scheme by the Electricity Commission and the Minister of Energy); and
- (b) will determine the terms of reference and appoint the independent reviewer for any independent review following consultation with the Electricity Commission and the Gas Industry Co;
- (c) the review will assess:
 - (i) whether the Scheme is meeting its purpose;
 - (ii) whether the Scheme is continuing to meet the requirements of the Electricity Commission and the Gas Industry Co;
 - (iii) whether the requirements of the Electricity Commission and the Gas Industry Co are appropriate;
 - (iv) whether the performance standards set by the Commission are adequate;
 - (v) the quality and results of the annual internal reviews;
 - (vi) whether the codes of practice provide appropriate assurance to stakeholders about the conduct of Council Members:

and report publicly (including to the Electricity Commission, the Gas Industry Co, the Ministers of Energy and Consumer Affairs, and the Board) on the findings of the independent review and any amendments to the Scheme proposed by the Commission as a result of the independent review. The findings of the independent review must be made publicly available.

[A6.1A **DELETED**]

A6.1B The Commission must commission a special independent review at any time if requested by both the Electricity Commission and the Gas Industry Co in response to clearly articulated policy concerns. If such a review is required, the independent reviewer will be appointed by the Electricity Commission and the Gas Industry Co.

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.

A6.2A Any amendments to, or substitution for, the Constitution:

- (a) must be consistent with any statement of government policy on governance of the electricity industry issued under section 172ZK of the Electricity Act 1992;
- (b) must be consistent with any statement of government policy on governance of the gas industry issued under section 43Z0 of the Gas Act 1992;
- (c) must be consistent with any requirements of the Electricity Commission and Gas Industry Co specified from time to time in relation to an energy-based complaints resolution scheme;
- (d) must be approved by the Electricity Commission and the Minister of Energy; and
- (e) must be consistent with the purpose of the Commission.

- A6.3 Before making any proposal under Clauses A6.1 or A6.2, the Commission must consult with the Electricity Commission, the Gas Industry Co, Chief Ombudsman (in relation to any applicable guidelines issued by the Chief Ombudsman under section 28A of the Ombudsmen Act 1975), the Ministry of Consumer Affairs, Council Members, representatives of consumer, Land Owner and Land Occupier organisations and any other person that the Commission considers should be consulted.
- A6.3A Despite Clause A6 the Minister of Energy may, by notice in writing to the Commission, request that amendments be made to the Scheme in order that the Scheme apply to Gas Retailers and Gas Distributors, to the extent they supply reticulated liquid petroleum gas services.
- A6.3B On receipt of a request from the Minister of Energy under Clause A6.3A, the Commission must propose amendments to the Scheme that the Commission considers necessary to give effect to the request by the Minister of Energy.

Notices

- A6.4 The Commission may give a notice to any Council Member or other Persons in any Written form where it is clear that the notice is authentic and originated from the Commission.

Register

- A6.5 The Secretary must keep a Register recording the names and contact details of Council Members, the names of Commission Members and the name of the Electricity and Gas Complaints Commissioner.
- A6.6 The Register must be publicly available and be updated at least once a Financial Year.

SCHEDULE B
TERMS OF REFERENCE

B1. POWERS AND OBLIGATIONS OF THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER

Statement of jurisdiction

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.

B1.1 The Electricity and Gas Complaints Commissioner's principal powers and duties are to:

- (a) consider, at no charge to the Complainant, a Complaint:
 - (i) about the provision of Services; or
 - (ii) about any other matter in respect of which a Complaint may be made under this Scheme;
- (b) consider, at no charge to the Land Owner or Land Occupier, any Land Complaint; and
- (c) facilitate the resolution of such Complaints in accordance with these Terms of Reference, the Codes of Practice, and the Protocols.

[B1.2 **DELETED**]

B1.2A In considering any Complaint and in granting any remedy under Clause B3 the Electricity and Gas Complaints Commissioner must determine what he or she considers is fair and reasonable in the circumstances having regard to all relevant information including:

- (a) good industry practice;
- (b) relevant codes of practice;
- (c) model contracts; and
- (d) the law.

B1.3 In determining what is good industry practice, the Electricity and Gas Complaints Commissioner must consult within the industry and, as he or she thinks fit, with the Board, the Electricity Commission and the Gas Industry Co.

B1.4A A recommendation must not be confidential except to the extent legislation requires.

B1.4 In considering any Complaint and in granting any remedy under Clause B3, the Electricity and Gas Complaints Commissioner will seek to achieve consistency of determinations. However, the Electricity and Gas Complaints Commissioner is not bound by any previous decisions made by the Electricity and Gas Complaints Commissioner or any predecessor in his or her office except in relation to the interpretation of the Scheme rules.

Limits on jurisdiction

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

- (a) consider a complaint about the price Council Members choose to set for their goods or services but the Electricity and Gas Complaints Commissioner may consider whether appropriate information about charges has been made available to the Consumer and whether these charges for Services specified in a Consumer Contract have been correctly applied;
- (b) consider any matter where it appears to the Electricity and Gas Complaints Commissioner that the Complaint is part of, or is related to, another Complaint which the Complainant has made;
- (c) consider a Complaint that involves a claim in excess of the applicable monetary amount set out in Clause B1.5A, unless agreed to by the Council Member concerned in accordance with Clause B3.10 and that Council Member has given any consent that is required by Clause D3.2(a) or DA3.2(a);
- (d) consider a Complaint which has become a "test case" in accordance with Clause B4 and proceedings have been initiated;
- (e) consider a Complaint if it appears to the Electricity and Gas Complaints Commissioner that on the basis of the facts presented by the Complainant that the relevant Council Member has made a reasonable offer in settlement of the Complaint; or
- (f) consider any matter excluded from the definition of Land Complaint under Clause 1.3.
- (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;**
- (h) consider a Complaint that is being pursued in a manner that is trivial, vexatious or was not made in good faith;
- (i) consider a Complaint and any other Complaint by the same Complainant in respect of the same subject matter which is, has been, or during the course of any investigation by the Electricity and Gas Complaints Commissioner becomes, the subject of any proceedings in or before any court, tribunal or arbitrator, or any other independent or statutory complaints or conciliation body, or any investigation by an Ombudsman under the Ombudsman Act 1975.

B1.5AA The Electricity and Gas Complaints Commissioner will ensure Complainants are advised of the reasons their Complaint is outside the jurisdiction of the Scheme or otherwise excluded.

B1.5A For the purposes of Clauses B1.5(c), B3.9, B3.10, and B3.11, the applicable monetary amount is:

- (a) where the act or omission giving rise to the Complaint first occurred prior to 18 April 2005, \$10,000; or
- (b) where the act or omission giving rise to the Complaint first occurred on or after 18 April 2005, \$20,000.

B1.5B For Land Complaints:

- (a) in determining the value of a claim for the purposes of Clause B1.5(c), the Electricity and Gas Complaints Commissioner will take into account the reasonable costs that would be incurred by a Council Member in carrying out any actions that might reasonably be required by any award in respect of the Complaint, if it is upheld; and
- (b) in determining the value of an award or Complaint for the purposes of Clauses B3.9, B3.10, and B3.11, the Electricity and Gas Complaints Commissioner will take into account the reasonable costs that would be incurred by a Council Member in carrying out any actions required by the award.

B1.5C For the avoidance of doubt, in applying Clause B1.5B, the Electricity and Gas Complaints Commissioner must not take into account:

- (a) any administrative (including legal) costs of a Council Member in responding to a Complaint or any request from the Electricity and Gas Complaints Commissioner relating to a Complaint; or
- (b) any levy payable by a Council Member under Clause 4.1 B(b).

Limit on jurisdiction in relation to Council Members that are subject to the Chief Ombudsman's jurisdiction

B1.6 The Electricity and Gas Complaints Commissioner may act as a first-point of review for Complaints against Council Members who are subject to the Chief Ombudsman's jurisdiction under the Ombudsmen Act 1975 (the Chief Ombudsman's jurisdiction) if the Complaint relates to a matter within the Electricity and Gas Complaints Commissioner's jurisdiction.

B1.7 When conveying his or her decision to a Complainant, who has made a Complaint against a Council Member which is subject to the Chief Ombudsman's jurisdiction, the Electricity and Gas Complaints Commissioner must advise the Complainant that he or she has the right to reject the Electricity and Gas Complaints Commissioner's decision and seek an investigation of his or her Complaint by the Chief Ombudsman's office.

Council Members can extend jurisdiction on ad hoc basis

B1.8 Subject to Clause D3.2(a) and Clause DA3.2(a), a Council Member may consent to a Complaint being received by the Electricity and Gas Complaints Commissioner where the Electricity and Gas Complaints Commissioner would not otherwise have jurisdiction to determine that Complaint. A Council Member extending the Electricity and Gas Complaints Commissioner's jurisdiction on this ad hoc basis can elect to limit the Electricity and Gas Complaints Commissioner's ability to resolve the Complaint to making a recommendation or a finding of facts.

Consideration, or continued consideration, of a Complaint

- B1.9 The Electricity and Gas Complaints Commissioner may only consider (or continue to consider) a Complaint if he or she is satisfied that:
- (aa) the complaint meets the definition of complaint within the Scheme;
 - (a) the Complainant is, or has the authority to represent the Consumer, Land Owner or Land Occupier to whom the Complaint relates;
 - (b) the Complainant has made the Complaint to the Council Member concerned and the Complaint has reached deadlock, that is:
 - (i) the Complaint has taken longer to resolve than 20 Working Days provided the Electricity and Gas Complaints Commissioner has not extended the time for resolving the Complaint where the Complaint is likely to be complicated and either party would be disadvantaged by staying within the time limit; or
 - (ii) the Electricity and Gas Complaints Commissioner is satisfied that:
 - (1) the Council Member concerned has made it clear that they do not intend to do anything about the Complaint; or
 - (2) the Complainant would suffer unreasonable harm from waiting; or
 - (3) it would otherwise be unjust.
 - (c) the Council Member concerned has informed the Complainant that deadlock has been reached and the Complainant makes the Complaint to the Electricity and Gas Complaints Commissioner within two Months of being informed that deadlock is reached. (The Electricity and Gas Complaints Commissioner may extend the two Month time limit if the Council Member did not comply with Clause D1.3(a) and Clause D1.3(g), Clause DA1.3(a) and Clause DA1.3A(c), or Clause DB1.4(a) and Clause DB1.7(c), or there are good grounds for doing so); and
 - (d) the act or omission giving rise to the Complaint first occurred:
 - (i) in the case of an electricity-related Complaint, on or after **1 October 2001**;
 - (ii) in the case of a Gas-related or a combined electricity and Gas Complaint, on or after **1 April 2005**; or
 - (iii) in the case of a Land Complaint, on or after **1 October 2006**,provided that the Electricity and Gas Complaints Commissioner may decide not to consider (or continue to consider) a Complaint if the Complainant knew of the act or omission giving rise to the Complaint for more than three Months before the Complaint was made to the Council Member.

Factors relevant to decision not to investigate a Complaint

- B1.10 The Electricity and Gas Complaints Commissioner may decide not to investigate a Complaint if he or she considers that:

- [(a) **DELETED]**
- [(b) **DELETED]**
- (c) a Complainant does not, or ceases to, have a sufficient interest in the subject matter of the Complaint
- [(d) **DELETED]**
- (e) the Complainant (or any Consumer he or she represents), to whom any Council Member concerned or interested in the Complaint owes a duty of confidence, has not waived the duty of confidence owed to the Complainant (or the Consumer, as the case may be) in respect of any information which the Electricity and Gas Complaints Commissioner may request a Council Member to produce for the purpose of his or her consideration of a Complaint.

B2. PROCEDURAL REQUIREMENTS

Establishing procedures

- B2.1 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) the use of appropriate techniques including conciliation, mediation, and facilitated negotiation between the parties, in attempting to settle complaints;
 - (b) informal proceedings which discourage a legalistic adversarial approach;
 - (c) a Complainant's case to be presented orally or in writing at the discretion of the Complainant;
 - (d) each party to be informed of the issues and be given sufficient information to understand the position of the other party, and to have the opportunity to address information provided by the other party;
 - (e) discouragement of the use of legal representatives at any face to face hearings before the decision maker except in special circumstances;
 - (f) any party to have legal representation if they wish;
 - (g) ensuring Complainants are kept informed of the progress of the Complaint.
- B2.1A The Electricity and Gas Complaints Commissioner will arrange services to assist Complainants to access the Scheme (such as appropriate services to meet the needs of Complainants with disabilities or from non-English speaking backgrounds) at no cost to the Complainant.
- B2.1B Where the Complainant is unable to put a Complaint in writing, the Electricity and Gas Complaints Commissioner will arrange to record the Complaint in writing and send it to the Complainant for confirmation.

- B2.2 If the Complaint is a Lines Complaint in respect of Services provided under an Interposed Consumer Contract the relevant Lines Company or the Retailer with the Consumer Contract (whichever Council Member is not the Council Member designated under the relevant Protocol as the Council Member responsible for managing and resolving the Complaint) must be recognised by the Electricity and Gas Complaints Commissioner as a Person with an interest in the Complaint.
- B2.2A The Electricity and Gas Complaints Commissioner will ensure Complainants receive a receipt indicating the acceptance of the Complaint within five Working Days of receiving the Complaint. The receipt is to include information relevant to the Complaint, such as the process for resolving Complaints.

Confirmation of waivers

- B2.3 The Electricity and Gas Complaints Commissioner must promptly advise the Council Member named in the Complaint (and where necessary, any Council Member with an interest in the Complaint) that the Complainant has waived that Council Member's duty of confidentiality referred to in Clause B1.10(e).

Initial consideration of jurisdiction to consider Land Complaints

- B2.3A For a Land Complaint, as soon as reasonably possible after receiving a Complaint, the Electricity and Gas Complaints Commissioner must:
- (a) identify the matters that the Complaint relates to and the Lines Company Council Member that the Complaint is about;
 - (b) request the Council Member to provide any information by a specified date (which must allow a reasonable period of time to provide the information) that, in the view of the Electricity and Gas Complaints Commissioner, would assist the Electricity and Gas Complaints Commissioner in determining the value of the claim for the purposes of Clause B1.5(c);
 - (c) after receiving any information requested under Clause B2.3A(b) or the date specified under Clause B2.3A(b) (in the event no information is provided) or as soon as reasonably possible after notifying the Council Member of the Complaint (in the event no request is made under Clause B2.3A(b)), determine whether or not he or she has jurisdiction to consider, and should investigate, the Complaint under the Terms of Reference and the Constitution.

Information relating to Complaints

- B2.4 The Electricity and Gas Complaints Commissioner may require:
- (a) a Council Member named in a Complaint and any Council Member with an interest in a Complaint to provide any information that, in the view of the Electricity and Gas Complaints Commissioner, relates to that Complaint; and
 - (b) that any Council Member provide the Electricity and Gas Complaints Commissioner with any information reasonably requested regarding the Council Member's in-house Complaints handling process and a nominated point of contact to work with the Electricity and Gas Complaints Commissioner in the resolution of any Complaint in which the Council Member is named or the Council Member has an interest and to update this information when necessary.

- B2.5 Council Members must, as soon as is reasonably required, disclose the information requested by the Electricity and Gas Complaints Commissioner within the timeframe specified but no later than 10 working days. However, a Council Member is exempt from disclosing such information if the Council Member certifies to the Electricity and Gas Complaints Commissioner:
- (a) that the disclosure of the information would place the Council Member in breach of its duty of confidentiality to a third Person who has refused its consent to disclosure despite the Council Member using its best endeavours to obtain such consent; or
 - (b) the Council Member does not have the information requested.
- B2.5A Where a Council Member provides information to the Electricity and Gas Complaints Commissioner which identifies a third party, the information may be provided to the Complainant with deletions, where appropriate, at the discretion of the Electricity and Gas Complaints Commissioner.
- B2.5B The Electricity and Gas Complaints Commissioner will encourage but cannot compel Complainants to provide information about a Complaint. The Electricity and Gas Complaints Commissioner will inform the Complainant that failure to provide information is grounds for discontinuing the investigation into the Complaint.

Disclosure of information to parties

- B2.6 If any party to a Complaint:
- (a) supplies information to the Electricity and Gas Complaints Commissioner and requests that he or she treat it as confidential, the Electricity and Gas Complaints Commissioner must not disclose that information to any other Person (subject to Clauses A5.1 and A5.2), except with the consent of the party supplying the information;
 - (b) requests access to any information on the Electricity and Gas Complaints Commissioner's file, the Electricity and Gas Complaints Commissioner must, subject to these Terms of Reference, legal requirements and any procedural standard developed by Commission and the Electricity and Gas Complaints Commissioner, make the information available; and
 - (c) supplies information to the Electricity and Gas Complaints Commissioner in relation to a Complaint and the Electricity and Gas Complaints Commissioner has resolved the Complaint or ceased to consider the Complaint, he or she must if requested return any information supplied by the party to that party as soon as is reasonably practicable.
- B2.7 If any Person threatens a Council Member's staff, agents or property and the Electricity and Gas Complaints Commissioner becomes aware of that threat, the Electricity and Gas Complaints Commissioner must report that threat to that Council Member.

Responding to General Enquiries

- B2.8 The Electricity and Gas Complaints Commissioner may respond to General Enquiries, provide general information and give advice on the procedure for referring a Complaint to the Electricity and Gas Complaints Commissioner. It is not a function of the Electricity and Gas Complaints Commissioner to provide information about Retailers or Lines Companies or Services if that information is not related to a Council Member's participation in the Scheme or resolving a Complaint.

Use of company information on ownership of Lines Equipment

B2.9 Where a Land Complaint is dependent for its resolution on determining whether or not a Lines Company owns the Lines Equipment that the Complaint relates to, and the Electricity and Gas Complaints Commissioner would be prevented by Clause B1.5(f) from considering that matter, the Lines Company's geographical information system or equivalent network records will be taken by the Electricity and Gas Complaints Commissioner as evidence of ownership, unless the Complainant provides evidence to the contrary. The Electricity and Gas Complaints Commissioner will not inquire into the issue of whether the Lines Company's records are accurate, unless such contrary evidence is provided by the Complainant.

B3. SETTLEMENTS, RECOMMENDATIONS AND AWARDS

Settlement by agreement

B3.1 At any time that the Electricity and Gas Complaints Commissioner is considering a Complaint he or she may:

- (a) send the Complaint back to the Council Member for settlement; or
- (b) seek to promote a settlement or withdrawal of the Complaint by agreement between the Complainant and the Council Member(s) concerned.

Recommendations

B3.2 If there is no such agreement, the Electricity and Gas Complaints Commissioner, at the request of the Complainant or the Council Member concerned, may make a recommendation for settlement or withdrawal of the Complaint. He or she must:

- (a) first give the Complainant and the Council Member concerned (and any Council Member with an interest in the Complaint) 15 Working Days notice of his or her intention to make such recommendation;
 - (b) during the period of that notice (or such longer period as the Electricity and Gas Complaints Commissioner may agree) allow the Complainant and the Council Member(s) concerned to make further representations to the Electricity and Gas Complaints Commissioner in respect of the Complaint; and
 - (c) if no agreement has been reached at the end of the period of notice, make a recommendation -
- provided that if no response is received from either party within the 15 Working Days, the Electricity and Gas Complaints Commissioner may, at his or her discretion, not proceed to make a recommendation.

B3.3 A recommendation must:

- (a) state the name of the Council Member(s) concerned in relation to the Complaint;
- (b) be in Writing;

- (c) state the recommendation, and if the Complaint is upheld against a Council Member (and if upheld against more than one Council Member the proportions to which each is recommended to contribute to resolve the Complaint); and
- (d) include a summary of the Electricity and Gas Complaints Commissioner's reasons for making his or her recommendation.

B3.4 If, in making a recommendation:

- (a) the Electricity and Gas Complaints Commissioner is minded to:
 - (i) propose that a Complaint be settled or withdrawn on terms which appear to him or her to be acceptable to both the Complainant and the Council Member concerned; or
 - (ii) make a recommendation for the settlement or withdrawal of a Complaint; and
- (b) that settlement or withdrawal would involve the provision by a Council Member(s) of any service or require an action to be taken or the provision of valuable consideration (whether in the form of a money payment or otherwise);

the Electricity and Gas Complaints Commissioner's recommendation must, unless the Council Member(s) concerned named in the recommendation has otherwise requested or agreed, state that it is open for acceptance by the Complainant only if he or she accepts it in **full and final settlement** of the subject matter of the Complaint.

B3.5 [Not used]

Awards

B3.6 If the Electricity and Gas Complaints Commissioner has made a recommendation which, within 15 Working Days after it is made, has been accepted by the Complainant but not by the Council Member(s) named in the recommendation, the Electricity and Gas Complaints Commissioner may make an award against that Council Member(s).

B3.7 Council Members are bound by the terms of an award and they must pay any money sum, provide any service (in respect of a Consumer Complaint only) or take any action required to carry out and implement an award made against them in accordance with these Terms of Reference.

B3.8 An award may comprise the provision of a service (in respect of a Consumer Complaint only) or require an action to be taken or the provision of valuable consideration (whether in the form of money payment or otherwise).

B3.9 Subject to Clause B3.10, the value of any award must not exceed the applicable monetary amount set out in Clause B1.5A and must not include any sum granted under Clause B3.16 or any award levy payable (or part thereof) by the Council Member(s).

B3.10 Any Complaints involving a claim with a value in excess of the applicable monetary amount set out in Clause B1.5A may be considered by the Electricity and Gas Complaints Commissioner if the Council Member concerned:

- (a) in the case of a Complaint not exceeding the Extended Amount in value, agrees to extend the Electricity and Gas Complaints Commissioner's jurisdiction to allow the Electricity and Gas Complaints Commissioner to make a recommendation and if required make an award up to the value of the Extended Amount (whether in the form of money or otherwise). The Council Member is then be bound by any such award made; and
- (b) in the case of a Complaint exceeding the Extended Amount in value, agrees to allow the Electricity and Gas Complaints Commissioner to review the circumstances of the Complaint and make a finding of fact for the Council Member (but the Electricity and Gas Complaints Commissioner cannot make any recommendation or award).

For the purposes of this Clause B3.10, the **Extended Amount** means:

- (c) where the act or omission giving rise to the Complaint first occurred prior to 18 April 2005, \$25,000; or
- (d) where the act or omission giving rise to the Complaint first occurred on or after 18 April 2005, \$50,000.

B3.11 For the avoidance of doubt:

- (a) any decision of a Council Member not to allow Complaints exceeding the applicable monetary amount set out in Clause B1.5A in value to be considered by the Electricity and Gas Complaints Commissioner must not be able to be the subject of a further Complaint to the Electricity and Gas Complaints Commissioner from the Complainant (or if representing a Consumer, from that Consumer);
- (b) the Electricity and Gas Complaints Commissioner will not make awards for punitive damages or award monetary penalties.

B3.12 An award must:

- (a) state the name of the Council Member(s) against whom the Complaint is being upheld;
- (b) be in Writing;
- (c) state the nature and value of the award and if the award is made against more than one Council Member, the proportions to which each Council Member must contribute to the cost of the award;
- (d) include a summary of the Electricity and Gas Complaints Commissioner's reasons for making the award; and
- (e) state that, if within 15 Working Days after its issue the Complainant agrees to accept it in full and final settlement of the subject matter of the Complaint, the award is binding on the Complainant and (in accordance with Clause B3.6) the Council Member(s) against which it is made.

B3.13 Despite the requirements in Clause B2.6, the Electricity and Gas Complaints Commissioner must issue a copy of the award to:

- (a) the Complainant;
- (b) any Council Member against which the award is made; and
- (c) any Council Member interested in the Complaint.

B3.14 The Electricity and Gas Complaints Commissioner must require a Written statement from the Complainant or any Consumer he or she represents which:

- (a) is addressed to the Electricity and Gas Complaints Commissioner and the Council Member(s) against which the award is made and any Council Member interested in the Complaint; and
- (b) indicates his or her acceptance of the award together with any amount awarded under Clause B3.15 in **full and final settlement** of the subject matter of the Complaint.

B3.15 If a Complainant elects not to accept a recommendation or award of the Electricity and Gas Complaints Commissioner, then the Complainant is entitled to pursue his or her remedies in any other forum and the Council Member will be fully released from the Electricity and Gas Complaints Commissioner's decisions in relation to that Complaint.

Reimbursement for incidental expenses or inconvenience suffered

B3.16 The Electricity and Gas Complaints Commissioner may, in addition to any award, specify a sum to be paid to the Complainant (or any person the Complainant represents), up to a maximum of \$2,000, that he or she considers is appropriate:

- (a) reimbursement for incidental expenses reasonably incurred in making and pursuing the Complaint; or
- (b) compensation for inconveniences arising from making and pursuing the Complaint, including any inconvenience attributable, in whole or in part, to the failure of one or more Council Members to comply with the Protocol.

[B3.17 **DELETED**]

B4. TEST CASES

Pursuing a Complaint as a "test case"

B4.1 At any time before the Electricity and Gas Complaints Commissioner has made an award, a Council Member named in the Complaint may (subject to Clause D3.2(c) or Clause DA3.2(c) where applicable) give the Electricity and Gas Complaints Commissioner notice in Writing stating that in the opinion of the Council Member and for the reasons set out in the notice, the Complaint should be pursued in court proceedings, as it involves or may involve:

- (a) an issue which may have important consequences for the business of the Council Member or similar businesses to the Council Member's business; or
- (b) an important or novel point of law.

B4.2 The Council Member must also write to the Complainant (addressing the notice to any Consumer the Complainant may be representing) stating that it proposes to pursue the Complaint as a "test case"

and outlining the process by which this will occur. The Council Member must copy that correspondence to the Electricity and Gas Complaints Commissioner.

Requirements on Council Members for "test cases"

- B4.3 The Council Member must:
- (a) institute in any Court in New Zealand proceedings in respect of the Complaint within four Months of the date of the notice to the Complainant; or
 - (b) assist the Complainant (or any Consumer, Land Owner or Land Occupier the Complainant represents) to institute proceedings in any Court in New Zealand within six months of the date of the notice to the Complainant;
 - (c) pay the Complainant's (or any Consumer, Land Owner or Land Occupier the Complainant represents) costs and disbursements (including reasonable costs of legal representation on a solicitor/own client basis) of the proceedings at first instance and any subsequent appeal proceedings commenced by the Council Member (except by way of respondent's notice, cross-appeal or other similar procedure); and
 - (d) make interim payments on account of such costs identified in Clause B4.3(c) if and to the extent that it is reasonable to do so.
- B4.3A For the avoidance of doubt, in relation to a Land Complaint, the Council Member is liable to pay the Complainant's costs under Clause B4.3(c) only to the extent the costs relate to the aspect of the Court proceedings that was the subject of the Complaint.

Effect on Electricity and Gas Complaints Commissioner

- B4.4 Providing the Electricity and Gas Complaints Commissioner concurs with the Council Member's statement and considers the notice required under Clause B4.2 to the Complainant (and any Consumer the Complainant represents) is accurate and clear, the Electricity and Gas Complaints Commissioner must suspend consideration of the Complaint for six Months.
- B4.5 Once proceedings are instituted, the Complaint is deemed to be withdrawn. If proceedings are not instituted within six Months, the Electricity and Gas Complaints Commissioner may elect to resume consideration of the Complaint.

B5. ADMINISTRATIVE RESPONSIBILITIES

Responsibilities and requirements

- B5.1 The Electricity and Gas Complaints Commissioner is responsible for:
- (a) meeting the performance standards set out in Clause A2.2(ab) and any other requirements agreed with the Commission from time to time as set out in the Electricity and Gas Complaints Commissioner's performance agreement and reporting regularly against them including:
 - (i) ensuring that he or she employs or contracts, at a reasonable cost and as considered necessary to assist in resolving disputes, one or more persons with expertise in and

- knowledge of the electricity and gas sectors, including in the operation of electricity lines and gas pipelines and in dealing with Land-related issues; and
- (ii) forming a technical advisory panel with particular knowledge of the electricity and gas sectors, including good industry practice in the operation of electricity lines and gas pipelines and in dealing with Land-related issues;
- (b) attending, in a non-voting capacity, meetings of the Commission and/or the Board at the invitation of the Commission and/or the Board;
 - (c) liaising, and consulting with other industry bodies, and developing working procedures with these bodies where appropriate;
 - (d) promoting the Scheme and the Electricity and Gas Complaints Commissioner's complaint-handling procedures generally, and in such a way as to be sensitive to people who are disadvantaged or who have special needs, including liaising with organisations working with or consisting of people who may not be able to find out about the Electricity and Gas Complaints Commissioner by standard means;
 - (e) reviewing these Terms of Reference and the Codes of Practice and making recommendations to the Commission on any amendments he or she considers are required;
 - (f) in consultation with the Commission, preparing:
 - (i) an Electricity and Gas Complaints Commissioner's plan that includes goals, output targets and performance standards for a period corresponding with the Financial Year; and
 - (ii) a financial budget in respect of a period that corresponds with the Financial Year;
 - (g) controlling and monitoring expenditure within the financial budget and providing regular reports to the Commission on expenditure;
 - (ga) report regularly to the Commission on the performance of the Scheme against the achievement standards set by the Electricity Commission and the Gas Industry Co;
 - (gb) responding in a timely and appropriate manner to any recommendations of the Commission in response to complaints about the operation of the Scheme
 - (gc) identifying and reporting on material and persistent breaches of the Scheme rules by Council Members to the Commission
 - (gd) keeping systematic records of all Complaints and enquiries, their progress and outcomes
 - (ge) having mechanisms and procedures for referring systemic industry problems to Council Members and to the Electricity Commission and the Gas Industry Co that become apparent from Complaints
 - (gf) having a mechanism to monitor whether time limits for handling Complaints are complied with
 - (gg) referring complaints about the operation of the Scheme, other than complaints about a decision of the Electricity and Gas Complaints Commissioner, to the Commission for appropriate action

- (h) together with the Commission, preparing an annual report containing, in relation to the preceding Financial Year;
 - (i) a general review of his or her activities during that year (including information identifying the separate costs of the Electricity and Gas Complaints Commissioner's activities relating to Land Complaints and Consumer Complaints respectively;
 - (ii) problems with Council Member compliance reported to the Commission;
 - (iii) information about how the Scheme works;
 - (iv) the number of enquiries the Scheme receives;
 - (v) the number and type of Complaints the Scheme receives and their outcomes;
 - (vi) the time taken to resolve Complaints;
 - (vii) systemic problems arising from Complaints;
 - (viii) examples of representative case studies;
 - (ix) information about how the Scheme ensures equitable access
 - (x) information about new developments or key areas in which policy or education initiatives are required
 - (xi) a report on compliance with the achievement standards set by the Electricity Commission and the Gas Industry Co
 - (xii) a report on the performance standards set out in Clause A2.2(ab) or otherwise agreed with the Commission
 - (xiii) any other information the Commission requests and, at least 28 days before the Commission's annual general meeting, sending that annual report to the Commission, the Council chairperson and Council Members;
- (ha) providing written reports of determinations to Council Members and to any interested bodies for the purpose of:
 - (i) educating Council Members and consumers;
 - (ii) demonstrating consistency and fairness in decision-making;
- (i) at the Electricity and Gas Complaints Commissioner's discretion, making:
 - (i) ad hoc confidential reports to Council Members on matters coming to his or her attention concerning their general compliance with Scheme;
 - (ii) general observations about the purpose and operation of the Scheme in any public forum;
 - (iii) a report to the Commission on issues arising that relate to the electricity and Gas sector as a whole, or any other initiative, affecting the Scheme;

(iv) observations to Council Members about the effectiveness of the Council Member's internal complaints process;

(ia) having a mechanism to ensure that the time limits for dealing with Complaints are complied with as far as possible;

(j) keeping data in accordance with the Privacy Act 1993, on General Enquiries and Complaints and remedies for reporting purposes, to identify the sources of practices giving rise to similar Complaints, and to assist in the Board and Commission's determination and application of award levies;

(k) reporting quarterly to the Commission whether the Electricity and Gas Complaints Commissioner has achieved the performance standards set out in Clause A2.2(ab) or otherwise agreed with the Commission, the reasons for the failure and providing recommendations if similar failures are likely to occur again.

B5.2 The Electricity and Gas Complaints Commissioner is responsible to the Commission for the day to day administration and conduct of the operations of the Electricity and Gas Complaints Commissioner. He or she has the power to incur expenditure on behalf of the Commission in accordance with the current financial budget and expenditure authority approved by the Commission.

B5.3 The Electricity and Gas Complaints Commissioner must not exercise any power which the Rules expressly give to the Commission or to any other Person.

B5.4 In consultation with the Commission chairperson and subject to his or her approval, the Electricity and Gas Complaints Commissioner has the power on behalf of the Commission to appoint and dismiss employees, consultants, independent contractors and agents, and to determine their terms of employment or engagement including delegating to employees decision-making powers (but excluding the power to recommend settlement of Complaints). Before making any appointment, the Electricity and Gas Complaints Commissioner must be satisfied that employees are independent of Council Members.

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.

C2. STATEMENT OF PURPOSE

- C2.1 The Electricity and Gas Complaints Commissioner Scheme is designed to create a forum where Consumers can access an independent dispute resolution service for complaints about electricity Lines Companies or Retailers.
- C2.2 The purpose of the Electricity and Gas Complaints Commissioner Scheme is to provide a service that is:
- (a) Free to Consumers;
 - (b) Accessible;
 - (c) Fair;
 - (d) Effective;
 - (da) Efficient;
 - (e) Accountable;
 - (f) Independent; and
 - (g) Known in the community.
- C2.3 The Code is a document which sets out the principles, requirements, services and actions a Consumer can reasonably expect from an Electricity Retailer or Electricity Lines Company.

C3. STATEMENT OF PRINCIPLES

- C3.1 The following Principles articulate the basic values which underpin the Code's purpose and objectives:
- (a) Consumer complaints and enquiries should be handled promptly (and within relevant timeframes), fairly, and with respect to complainants throughout the process;
 - (aa) Companies must be sensitive to any health, disability or language issues relating to Complainants;
 - (b) All information given to Consumers should be accurate, up to date and easy to understand;

- (c) Consumer Contracts should clearly define the rights and obligations of the contracting parties, and companies must bring these rights and obligations to the attention of Consumers; and
- (d) The Code sets out certain minimum standards of behaviour of good industry practice, and Consumer Contracts should seek to exceed those minimums where possible.

C4. LOCATION OF DEFINITIONS

C4.1 Words that are capitalised (e.g. Consumer Contract, and Company) have specific meanings in this Code. If these words are not defined when first used, they are defined under C29 Definitions at the back of the Code.

~~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.~~

C6. WHAT IS A CONSUMER CONTRACT?

C6.1 A Consumer Contract is an agreement between a Consumer and a Company for the supply of electricity and/or Line Function Services.

C7. WHAT IS THE CONNECTION BETWEEN THE CODE AND A CONSUMER CONTRACT?

C7.1 The Code explains to Consumers what they can expect in their dealings with an Electricity Retailer or Electricity Lines Company.

C7.2 A Consumer Contract must not contain provisions which are inconsistent with the Code. The provisions of the Code will apply to the extent of any inconsistency.

C7.3 A Consumer Contract may include terms or conditions additional to or more favourable to the Consumer than those set out in the Code but these terms or conditions must not be inconsistent with the undertakings of the Code.

C8. WHO DEALS WITH COMPLAINTS RELATING TO THE CODE?

C8.1 Only the Company and the Electricity and Gas Complaints Commissioner can deal with complaints relating to the Code.

C9. WHAT CAN THE CONSUMER EXPECT FROM A CONSUMER CONTRACT?

C9.1 A Consumer Contract must:

- Be easy to understand;
- Clearly set out the rights and obligations of both the Company and the Consumer;
- Refer to any other information that is part of the terms and conditions of the Consumer Contract;
- Be easy for Consumers to obtain;

- Allow Disconnection only as a last resort except for reasons of safety or other reasons authorised under the Electricity Regulations 1997; and
- Provide for free, accessible, fair and effective systems for resolving Complaints within a Company.

C10. CHANGES TO CONSUMER CONTRACTS

C10.1 If a Company changes the terms and conditions of a Consumer Contract, the Company must:

- Give no less than 30 days notice before making any changes to the terms and conditions of the Consumer Contract; and
- Explain the reasons for the changes to the Consumer Contract terms and conditions when it gives the Consumer notice about the change.

C10.2 The Consumer Contract must describe how the Company will communicate any changes to the terms and conditions of the Consumer Contract that may be made under the Consumer Contract. However, any change in the frequency of billing and/or frequency of meter reading must be individually communicated to the Customer in writing.

C11. CHANGES TO PRICE

C11.1 If a Company increases the price of electricity supplied under a Consumer Contract, including for example any increase in variable electricity prices and/or daily fixed charge prices, the Company must:

- Give no less than 30 days notice before increasing the price of electricity; and
- Explain the reasons for the increase in price when it gives the Consumer notice about the change.

C11.2 The Consumer Contract must describe how the Company will communicate any increases in the price of electricity. If the increase in price is more than 5%, then a separate notice of the increase must be individually communicated to the Consumer in writing as soon as practicable.

C11.3 For the avoidance of doubt, a Company is not required to give a Consumer advance notification of a decrease in the price of electricity supplied.

C12. SERVICES PROVIDED

C12.1 The Consumer Contract must describe the services provided to the Consumer. This includes any quality standards that the Consumer should expect from the Company in providing these services.

C12.2 A Consumer Contract must set out how the Company will respond to the Consumer where quality of service standards are not met, including any compensation that would be paid to the Consumer if the Company does not meet its obligations.

C12.3 The quality of service standards must:

- Comply with the Electricity Act 1992 and the technical regulations and technical electrical codes of practice;

- Be no less than good industry practice prevailing in New Zealand; and
- Require that equipment used in the provision of Line Function Services will be monitored and maintained in line with good industry practice prevailing in New Zealand.

C12.4 The Consumer Contract must include a warning to Consumers to protect Sensitive Appliances from voltage spikes.

C13. PRICE INFORMATION

C13.1 The Consumer Contract must refer to the relevant prices or pricing schedule (as may be produced by the Company from time to time) of products and services available to the Consumer.

C.14 BILLING

C14.1 Consumer Contracts must set out:

- That the Consumer is liable for the charges for all the services included in the Consumer Contract and is responsible for making sure that the contractual requirements are met;
- That the Consumer will only be liable for charges from the date of occupancy or responsibility unless another date has been agreed between the Consumer and the Company;
- That, except in the case of bills based on estimates, if the Company makes an error and charges an incorrect amount, the Consumer:
 - is entitled to a refund of the difference between the incorrect and correct amounts where the Consumer has paid too much; or
 - is only liable to the Company for the correct amount.
- The billing period and/or reconciliation period.

C14.2 Where a Consumer has chosen a price option offered by an Electricity Retailer that includes fixed charges for electricity and Line Function Services, the Company's bill must identify the fixed charge component of the bill separately from the variable charge.

C14.3 If a Company's bill includes charges for goods and services other than the supply of electricity or Line Function Services, these should be itemised separately unless the Consumer has agreed otherwise under the Consumer Contract.

C14.4 If a Company's bill to a Consumer is based on a method of estimating electricity and/or Line Function Services usage:

- The Consumer should be given the opportunity of reading their own meter(s) and giving the reading(s) to the Company until the Company arranges for the meter to be read;
- The Company must provide, on request, a simple explanation of how estimates are calculated and amend an estimated bill when the Consumer provides a valid meter reading;
- The Company must make sure that its bills state clearly if an estimate has been used; and

- The Company must state in the Consumer Contract whether the Consumer is required to pay estimated accounts.

C15. METERING

- C15.1 Meter readings used by a Company for billing a Consumer must comply with electricity industry standards and codes of practice for meter reading. Meter readings should take place a minimum of four times a year unless the Consumer agrees individually otherwise or does not provide the Company with reasonable access to the meter.
- C15.2 On request the Company must inform the Consumer of the results of any meter test, and, if it is not clear in the Consumer Contract, inform the Consumer of any extra charge the Consumer may incur as a result of the Company testing the Consumer's meter prior to undertaking the work.
- C15.3 The Company must inform the Consumer prior to taking any action on the Consumer's meter which may impact on the Consumer's bill or result in an extra charge.
- C15.4 The obligations on Companies to inform Consumers under Clause C15.2 and Clause C15.3 do not apply where the Company has reasonable cause to suspect that fraud, theft or meter tampering has taken place.

C16. PAYMENT OPTIONS

- C16.1 A Company with a Consumer Contract (or the person who does that Company's billing on its behalf) must have policies in place that assist a Consumer who is having difficulty paying a bill.
- C16.2 Where currently offered payment options are to change, reasonable notice must be given and adequate information provided to explain the changes to Consumers before the change takes effect. The minimum notification provisions of Clause C10 Changes to Consumer Contracts apply.
- C16.3 If alternative payment options are offered to Consumers, these should be supported by a simple explanation of how the options operate, either in the Consumer Contract or in a separate publication or notice.

C17. BONDS

- C17.1 If a Company requires a Bond:
- The Company must give to the Consumer the reason for that decision;
 - The Bond must not be more than the expected loss if a Consumer doesn't pay;
 - The Consumer Contract should state if interest is payable on the Bond;
 - The Bond must be held on trust in a separate account; and
 - The Consumer Contract must state:
 - the period of time within which the Bond must be paid to the Company;
 - how long the Company will keep the Bond and that if the Company keeps the Bond for longer than 12 months, it must provide its reasons for doing so to the Consumer; and

- how the Bond will be refunded.

C18. DISCONNECTION AND RECONNECTION

- C18.1 Consumer Contracts must set out the conditions under which Consumers can be disconnected.
- C18.2 Consumer Contracts must state that a Company may only disconnect a Consumer for nonpayment where the non-payment relates to bills (including a Bond) associated with the supply of retail services, Line Function Services, and/or electrical energy.
- C18.3 Where a Company intends to disconnect a Consumer because the Company considers that the Consumer has not paid a bill (including a Bond), Disconnection should be the Company's last course of action.
- C18.4 If a Consumer has started using and is pursuing the dispute resolution processes set out in the Consumer Contract (including the Electricity and Gas Complaints Commissioner Scheme) in relation to that Consumer not paying the bill, the Company must not disconnect that Consumer or commence credit recovery action until the processes are exhausted.
- C18.5 This means that a Consumer should not be disconnected for non-payment of part of an account that is the subject of a dispute resolution process. However, a Consumer may be disconnected for non-payment of that part of an account which is not in dispute.
- C18.6 A Consumer should not be disconnected on the basis of an estimated account unless it is fair and reasonable in the circumstances to do so.
- C18.7 Except in the case of agreed or emergency Disconnections, Consumer Contracts must:
- Provide for at least seven days notice of warning of Disconnection and allow an additional three days for the delivery of the notice; and
 - Provide for a Final Warning no less than 24 hours nor more than seven days before Disconnection. The Final Warning must specify these timeframes. If the Disconnection is not prevented by the Consumer and not completed within these timeframes, the Company must issue another Final Warning.
- C18.8 Consumer Contracts must explain when charges for temporary Disconnection and/or Reconnection apply. When warnings are delivered as per the provisions of C18.7, they must include and make explicit what additional charges over and above the recovery of billing arrears will apply.
- C18.9 Temporary Disconnection and/or Reconnection charges should not be more than the level required to meet the overall costs of the Disconnection and/or Reconnection service.
- C18.10 Disconnection notices should include:
- Information about the Company's dispute resolution processes;
 - Contact details of the Company's credit department so that the Consumer can contact that credit department to arrange payment of a bill that has not been paid, and
 - The cost of Reconnection.

C19. FAULTS

C19.1 Information about 24-hour telephone numbers to call for faults must be provided on every bill to a Consumer.

C20. PLANNED SHUTDOWNS

C20.1 A Consumer Contract must clearly state a minimum notice period before a Planned Shutdown which should be no less than four days unless agreed otherwise in the Consumer Contract.

C20.2 Companies must notify Consumers of a Planned Shutdown within the notice period.

C21. OBLIGATIONS FROM POINT OF SUPPLY

C21.1 Company must supply information (on request) to a Consumer about a Consumer's electricity supply that explains where the Electricity Lines Company's ownership and responsibilities end in relation to the network.

C21.2 A Consumer Contract must set out the responsibilities of the Consumer, the Electricity Retailer and the Electricity Lines Company in relation to ownership of equipment. For example, a Consumer Contract must clearly set out the extent to which the Consumer is responsible for the maintenance of trees and/or other structures on the property where these could affect the supply.

C21.3 A Consumer Contract must explain the Consumer's responsibilities for compliance with all Line Function Services safety and technical requirements under regulations and codes of practice.

C22. ACCESS TO PREMISES

C22.1 Consumer Contracts must include provisions permitting reasonable access to a Consumer's Premises for the direct purposes of the Electricity Retailer or Electricity Lines Company and any agent or subcontractor of that Company. The consequences of not granting access should also be set out in the Consumer Contract. Other conditions of access should be in line with the provisions of the Electricity Act 1992.

C22.2 Where a Company is in the possession of keys and/or security information for a Consumer's Premises, the Company should have formal procedures for the secure storage and use of and return of these keys and/or security information.

C23. CONSUMER COMPLAINT RESOLUTION

C23.1 Companies must have a free, accessible, fair and effective, internal Consumer Complaints handling process that is simple for Complainants to understand and easy to use.

C23.2 C23.1 A Companies must treat any expression of dissatisfaction or concern about a service or good provided by a Company as a Complaint

C23.3 C23.1B Companies must include a message on any invoices to Consumers advising that the Company has a free internal complaints process at no extra charge, and the notice must include the relevant contact information

- C23.4 C23.1C Companies (excluding Transpower) who directly invoice Consumers must include on Consumer invoices information about the existence, nature of, and contact details for the Electricity and Gas Complaints Commissioner Scheme
- C23.5 Companies must accept Consumer Complaints in any reasonable form from a Consumer including written and oral, and via a variety of delivery mechanisms including face-to-face, posted, hand-delivered, facsimile or electronic.
- C23.6 Companies must:
- Provide information to Consumers about how their Complaint will be dealt with, and by when;
 - Provide written information about their Consumer Complaints handling processes;
 - Treat Consumers courteously, and with respect; and
 - interact with Complainants and any other person involved in the Complaints process (including the Electricity Commission and the Gas Industry Co) in an open and professional manner.
- C23.7 Companies must also:
- Train their staff about their Consumer Complaints handling processes, including recognition of complaints and active referrals to their Consumer Complaints handling processes and to the Electricity and Gas Complaints Commissioner where required;
 - Use processes that are easy to understand, easy to use and free to Consumers;
 - Provide adequate resources for their Complaints handling processes;
 - Keep Complainants informed of the progress of a Complaint;
 - 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 Company considers the complaint to be frivolous or vexatious; and
 - Review their Consumer Complaints handling process regularly.
- C23.8 Companies must provide for appropriate remedies to Consumers
- C23.9 Companies must collect and analyse information about Complaints, and use it to adjust business practices as required.
- C23.10 For Consumers, Electricity Retailers, must have in place an effective process to ensure there has been an offer and acceptance of the Consumer Contract.

C24. LIABILITY

- C24.1 Except as permitted under Clauses C24.2 and C24.3, a Consumer Contract must not limit the scope of liability, in contract or tort, of a Company to a Consumer to less than liability for physical damage to property where it can be shown that the Company has been negligent and the amount and nature of the Consumer's loss was reasonably foreseeable.

- C24.2 A Consumer Contract must not limit the monetary amount of liability, whether in contract or tort, of a Company to a Consumer for an event or a series of closely related events occurring on a network system to any amount less than \$10,000. This clause does not prevent or limit any provision in a Consumer Contract stating that liability is subject to any monetary cap contained in the Consumer Contract for an event or series of closely related events in relation to more than one Consumer on a network system.
- C24.3 A Consumer Contract must not fix a per annum cap on liability in respect of one or more Consumers on a network system or for events or a series of closely related events occurring on a network system.
- C24.4 Notwithstanding the provisions of the Code, and in particular Clause C24, Consumers have access to any remedies that arise under the Consumer Guarantees Act 1993. Where the Code conflicts with the Consumer Guarantees Act, the Consumer Guarantees Act will take precedence.

C25. FORCE MAJEURE CLAUSES

- C25.1 A Consumer Contract must define the situations covered under Force Majeure clauses and explain how a Company will respond in such circumstances.

C26. PRIVACY

- C26.1 A Consumer Contract must adhere to the provisions of the Privacy Act 1993 and accordingly:
- Set out the purposes for which the Company collects information from individuals; and
 - Confirm that Consumers will have ready access to information held about them and the opportunity to correct this information.

C27. OVERSIGHT AND REVIEW OF THIS CODE

- C27.1 The Electricity and Gas Complaints Commission is responsible for overseeing and reviewing this Code.

C28. ENFORCEMENT OF THE CODE

- C28.1 The undertakings of a Company in this Code are not intended to create rights enforceable by a Consumer against a Company under the Contracts (Privity) Act 1982.

C29. DEFINITIONS

- C29.1 Terms used in this Code have the following meanings:

Bond means the bond or sum of money provided by a Consumer as security for non-payment.

Code means this Code of Practice which comprises Schedule C of the Constitution for the Electricity and Gas Complaints Commissioner Scheme.

Company means a member of the Electricity and Gas Complaints Commissioner Scheme who is either an Electricity Retailer or an Electricity Lines Company. "Companies" and Electricity Companies have corresponding meaning.

Consumer includes:

- A person who is supplied, or who applies to be supplied, with electricity by an Electricity Retailer in accordance with a Consumer Contract for consumption of electricity;
- A person who is supplied, or who applies to be supplied, with Line Function Services in accordance with a Consumer Contract and who also consumes electricity; and
- Includes any 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.

Consumer Contract means the agreement with a Consumer providing for the supply of electricity and/or Line Function Services to a Consumer and includes any additional publications, which contain information about the service to Consumers.

Disconnection means the movement or removal of equipment so that no electricity can flow to a Consumer's Premises.

Electricity and Gas Complaints Commission means the Commission set up under the Electricity and Gas Complaints Commissioner Scheme. It provides an independent overview of the Scheme and comprises an independent chairperson, two representatives of industry members and two Consumer representatives appointed by the Minister of Consumer Affairs.

Electricity and Gas Complaints Commissioner is the person appointed to that position by the Electricity and Gas Complaints Commission.

Electricity and Gas Complaints Commissioner Scheme means the Electricity and Gas Complaints Commissioner Scheme implemented by the Electricity and Gas Complaints Council.

Electricity and Gas Complaints Council means the governing body under the Electricity and Gas Complaints Commissioner Scheme.

Electricity Lines Company means an electricity distributor as defined in the Electricity Act 1992.

Electricity Retailer means an electricity retailer as defined in the Electricity Act 1992.

Force Majeure means circumstances beyond the control of the Company, for example failure to supply electricity due to causes beyond the Company's control such as a storm.

Line Function Services has the meaning set out in section 2 of the Electricity Act 1992 and as further provided for in a Consumer Contract and includes metering services where an Electricity Lines Company provides or has provided these services.

Planned Shutdown means the period when electricity is not available due to routine planned maintenance. A planned shutdown excludes situations where the electricity network needs to be taken out of service for emergency reasons such as to ensure the integrity of the electricity network or for safety. In general, planned shutdowns (where required) would be used for all work falling under the Lines Company's Asset Management Plan.

Point of Supply has the same meaning as given to it in the Electricity Act 1992.

Premises means the site to which electricity is supplied or is to be supplied to a Consumer.

Provide a Final Warning means that the Company must take all reasonable steps to ensure a Consumer receives this warning. This may include making contact to the Consumer's last known address or phone number.

Reconnection means the movement or replacement of equipment so that electricity can flow to a Consumer's Premises which had been disconnected.

Sensitive Appliances means electrical equipment that has electronic circuitry or control systems in them. Major household appliances that fall into this category include, but are not limited to, TVs, microwaves, stereos, computers, radios, washing machines and driers, fridges, freezers, videos, DVDs and dishwashers.

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.

CA2. STATEMENT OF PURPOSE

CA2.1 The Electricity and Gas Complaints Commissioner Scheme is designed to create a forum where Consumers can access an independent dispute resolution service for complaints about a Gas Retailer and Gas Lines Company.

CA2.2 The purpose of the Electricity and Gas Complaints Commissioner Scheme is to provide a service that is:

- (a) Free to Consumers;
- (b) Accessible;
- (c) Fair;
- (d) Effective;
- (da) Efficient;
- (e) Accountable;
- (f) Independent; and
- (g) Known in the community.

CA2.3 The Code is a document which sets out the principles, requirements, services and actions a Consumer can reasonably expect from a Gas Retailer or Gas Lines Company.

CA3. STATEMENT OF PRINCIPLES

CA3.1 The following Principles articulate the basic values which underpin the Code's purpose and objectives:

- (a) Consumer complaints and enquiries should be handled promptly (and within relevant timeframes), fairly, and with respect to Complainants throughout the process;
- (aa) Companies must be sensitive to any health, disability or language issues relating to Complainants;
- (b) All information given to Consumers should be accurate, up to date and easy to understand;

- (c) Consumer Contracts should clearly define the rights and obligations of the contracting parties, and Companies must bring these rights and obligations to the attention of Consumers; and
- (d) The Code sets out certain minimum standards of behaviour of good industry practice, and Consumer Contracts should seek to exceed those minimums where possible.

CA4. LOCATION OF DEFINITIONS

CA4.1 Words that are capitalised (e.g. Consumer Contract, and Company) have specific meanings in this Code. If these words are not defined when first used, they are defined under CA29 Definitions at the back of the Code.

~~**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.~~

CA6. WHAT IS A CONSUMER CONTRACT?

CA6.1 A Consumer Contract is an agreement between a Consumer and a Company for the supply of Gas and/or Line Function Services.

CA7. WHAT IS THE CONNECTION BETWEEN THE CODE AND A CONSUMER CONTRACT?

CA7.1 The Code explains to Consumers what they can expect in their dealings with a Gas Retailer or Gas Lines Company.

CA7.2 A Consumer Contract must not contain provisions which are inconsistent with the Code. The provisions of the Code will apply to the extent of any inconsistency.

CA7.3 A Consumer Contract may include terms or conditions additional to or more favourable to the Consumer than those set out in the Code but these terms or conditions must not be inconsistent with the undertakings of the Code.

CA8. WHO DEALS WITH COMPLAINTS RELATING TO THE CODE?

CA8.1 Only the Company and the Electricity and Gas Complaints Commissioner can deal with complaints relating to the Code.

CA9. WHAT CAN THE CONSUMER EXPECT FROM A CONSUMER CONTRACT?

CA9.1 A Consumer Contract must:

- Be easy to understand;
- Clearly set out the rights and obligations of both the Company and the Consumer;
- Refer to any other information that is part of the terms and conditions of the Consumer Contract;
- Be easy for Consumers to obtain;

- Allow Disconnection only as a last resort except for reasons of safety or other reasons authorised under the Gas Regulations 1993; and
- Provide for free, accessible, fair and effective systems for resolving Complaints within a Company.

CA10. CHANGES TO CONSUMER CONTRACTS

CA10.1 If a Company changes the terms and conditions of a Consumer Contract, the Company must:

- Give no less than 30 days notice before making any changes to the terms and conditions of the Consumer Contract; and
- Explain the reasons for the changes to the Consumer Contract terms and conditions when it gives the Consumer notice about the change.

CA10.2 The Consumer Contract must describe how the Company will communicate any changes to the terms and conditions of the Consumer Contract that may be made under the Consumer Contract. However, any change in the frequency of billing and/or frequency of meter reading, must be individually communicated to the Consumer in writing.

CA11. CHANGES TO PRICE

CA11.1 If a Company increases the price of Gas supplied under a Consumer Contract, including for example any increase in variable Gas prices and/or daily fixed charge prices, the Company must:

- Give no less than 30 days notice before increasing the price of Gas; and
- Explain the reasons for the increase in price when it gives the Consumer notice about the change.

CA11.2 The Consumer Contract must describe how the Company will communicate any increases in the price of Gas. If the increase in price is more than 5%, then a separate notice of the increase must be individually communicated to the Consumer in writing as soon as practicable.

CA11.3 For the avoidance of doubt, a Company is not required to give a Consumer advance notification of a decrease in the price of Gas supplied.

CA12. SERVICES PROVIDED

CA12.1 The Consumer Contract must describe the services provided to the Consumer. This includes any quality standards that the Consumer should expect from the Company in providing these services.

CA12.2 A Consumer Contract must set out how the Company will respond to the Consumer where quality of service standards are not met, including any compensation that would be paid to the Consumer if the Company does not meet its obligations.

CA12.3 The quality of service standards must:

- Comply with the Gas Act 1992 and the technical regulations and technical Gas codes of practice;

- Be no less than good industry practice prevailing in New Zealand; and
- Require that equipment used in the provision of Line Function Services will be monitored and maintained in line with good industry practice prevailing in New Zealand.

CA13. PRICE INFORMATION

CA13.1 The Consumer Contract must refer to the relevant prices or pricing schedule (as may be produced by the Company from time to time) of products and services available to the Consumer.

CA14. BILLING

CA14.1 Consumer Contracts must set out:

- That the Consumer is liable for the charges for all the services included in the Consumer Contract and is responsible for making sure that the contractual requirements are met;
- That the Consumer will only be liable for charges from the date of occupancy or responsibility unless another date has been agreed between the Consumer and the Company;
- That, except in the case of bills based on estimates, if the Company makes an error and charges an incorrect amount, the Consumer:
 - is entitled to a refund of the difference between the incorrect and correct amounts where the Consumer has paid too much; or
 - is only liable to the Company for the correct amount; and
- The billing period and/or reconciliation period.

CA14.2 Where a Consumer has chosen a price option offered by a Gas Retailer that includes fixed charges for Gas and Line Function Services, the Company's bill must identify the fixed charge component of the bill separately from the variable charge.

CA14.3 If a Company's bill that relates to the supply of Gas and Line Function Services includes charges for other goods and services, those goods and services should be itemised separately unless the Consumer has agreed otherwise under the Consumer Contract.

CA14.4 If the Consumer Contract is a Combined Electricity and Gas Consumer Contract, the amount payable for electricity and the amount payable for Gas should be itemised separately.

CA14.5 If a Company's bill to a Consumer is based on a method of estimating Gas and/or Line Function Services usage:

- The Consumer should be given the opportunity of reading their own meter(s) and giving the reading(s) to the Company until the Company arranges for the meter to be read;
- The Company must provide, on request, a simple explanation of how estimates are calculated and amend an estimated bill when the Consumer provides a valid meter reading;
- The Company must make sure that its bills state clearly if an estimate has been used; and

- The Company must state in the Consumer Contract whether the Consumer is required to pay estimated accounts.

CA15. METERING

CA15.1 Meter readings used by a Company for billing a Consumer must comply with Gas industry standards and codes of practice for meter reading. Meter readings should take place a minimum of four times a year unless the Consumer agrees individually otherwise or does not provide the Company with reasonable access to the meter.

CA15.2 On request the Company must inform the Consumer of the results of any meter test, and, if it is not clear in the Consumer Contract, inform the Consumer of any extra charge the Consumer may incur as a result of the Company testing the Consumer's meter prior to undertaking the work.

CA15.3 The Company must inform the Consumer prior to taking any action on the Consumer's meter which may impact on the Consumer's bill or result in an extra charge.

CA15.4 The obligations on Companies to inform Consumers under Clause CA15.2 and Clause CA15.3 do not apply where the Company has reasonable cause to suspect that fraud, theft or meter tampering has taken place.

CA16. PAYMENT OPTIONS

CA16.1 A Company with a Consumer Contract (or the person who does that Company's billing on its behalf) must have policies in place that assist a Consumer who is having difficulty paying a bill.

CA16.2 Where currently offered payment options are to change, reasonable notice must be given and adequate information provided to explain the changes to Consumers before the change takes effect. The minimum notification provisions of CA10 Changes to Consumer Contracts apply.

CA16.3 If alternative payment options are offered to Consumers, these should be supported by a simple explanation of how the options operate, either in the Consumer Contract or in a separate publication or notice.

CA16.4 In the case of a Combined Electricity and Gas Consumer Contract, a Consumer may direct a Company on how payments for the supply of electricity and/or Gas must be applied to that Consumer's account.

CA17. BONDS

CA17.1 If a Company requires a Bond:

- The Company must give to the Consumer the reason for that decision;
- The Bond must not be more than the expected loss if a Consumer doesn't pay;
- The Consumer Contract should state if interest is payable on the Bond;
- The Bond must be held on trust in a separate account; and
- The Consumer Contract must state:
 - the period of time within which the Bond must be paid to the Company;

- how long the Company will keep the Bond and that if the Company keeps the Bond for longer than 12 months, it must provide its reasons for doing so to the Consumer; and
- how the Bond will be refunded.

CA18. DISCONNECTION AND RECONNECTION

CA18.1 Consumer Contracts must set out the conditions under which Consumers can be disconnected.

CA18.2 Consumer Contracts must state that a Company may only disconnect a Consumer for non-payment where the non-payment relates to bills (including a Bond) associated with the supply of Gas retail services, Line Function Services, and/or Gas.

CA18.3 Where a Company intends to disconnect a Consumer because the Company considers that the Consumer has not paid a bill (including a Bond), Disconnection should be the Company's last course of action.

CA18.4 If a Consumer has started using and is pursuing the dispute resolution processes set out in the Consumer Contract (including the Electricity and Gas Complaints Commissioner Scheme) in relation to that Consumer not paying the bill, the Company must not disconnect that Consumer or commence credit recovery action until the processes are exhausted.

CA18.5 This means that a Consumer should not be disconnected for non-payment of part of an account that is the subject of a dispute resolution process. However, a Consumer may be disconnected for non-payment of that part of an account which is not in dispute.

CA18.6 A Consumer should not be disconnected on the basis of an estimated account unless it is fair and reasonable in the circumstances to do so.

CA18.7 Except in the case of agreed or emergency Disconnections or in the case of Disconnections under the Gas Act or Gas Regulations for safety reasons, Consumer Contracts must:

- Provide for at least seven days notice of warning of Disconnection and allow an additional three days for the delivery of the notice; and
- Provide for a Final Warning no less than 24 hours nor more than seven days before Disconnection. The Final Warning must specify these timeframes. If the Disconnection is not prevented by the Consumer and not completed within these timeframes, the Company must issue another Final Warning.

CA18.8 Consumer Contracts must explain when charges for temporary Disconnection and/or Reconnection apply. When warnings are delivered as per the provisions of CA18.7, they must include and make explicit what additional charges over and above the recovery of billing arrears will apply.

CA18.9 Temporary Disconnection and/or Reconnection charges should not be more than the level required to meet the overall costs of the Disconnection and/or Reconnection service.

CA18.10 Disconnection notices should include:

- Information about the Company's dispute resolution processes;

- Contact details of the Company's credit department so that the Consumer can contact that credit department to arrange payment of a bill that has not been paid, and
- The cost of Reconnection.

CA19. FAULTS AND EMERGENCIES

CA19.1 Information about 24-hour telephone numbers to call for faults and emergencies must be provided on every bill to a Consumer.

CA19.2 The Company must provide advice, whether in the Consumer Contract or by any other means (for example in brochures or advertisements), to Consumers on how to turn off their Gas supply in an emergency situation. This advice must be easy for Consumers to obtain and understand.

CA20. PLANNED SHUTDOWNS

CA20.1 A Consumer Contract must clearly state a minimum notice period before a Planned Shutdown which should be no less than four days unless agreed otherwise in the Consumer Contract.

CA20.2 Companies must notify Consumers of a Planned Shutdown within the notice period.

CA21. OBLIGATIONS FROM POINT OF SUPPLY

CA21.1 A Company must supply information (on request) to a Consumer about a Consumer's Gas supply that explains where the Gas Lines Company's ownership and responsibilities end in relation to the distribution system.

CA21.2 A Consumer Contract must set out the responsibilities of the Consumer, the Gas Retailer and the Gas Lines Company (the Gas Retailer and Gas Lines Company may be the same Company) in relation to ownership of equipment. For example, a Consumer Contract must clearly set out the extent to which the Consumer is responsible for maintaining a tree's root system and whether a Consumer may build over underground equipment.

CA21.3 A Consumer Contract must explain the Consumer's responsibilities for compliance with all Line Function Services safety and technical requirements under regulations and codes of practice.

CA22. ACCESS TO PREMISES

CA22.1 Consumer Contracts must include provisions permitting reasonable access to a Consumer's Premises for the direct purposes of the Gas Retailer or Gas Lines Company and any agent or subcontractor of that Company. The consequences of not granting access should also be set out in the Consumer Contract. Other conditions of access should be in line with the provisions of the Gas Act 1992.

CA22.2 Where a Company is in the possession of keys and/or security information for a Consumer's Premises, the Company should have formal procedures for the secure storage and use of and return of these keys and/or security information.

CA23. CONSUMER COMPLAINT RESOLUTION

CA23.1 Companies must have a free, accessible, fair, and effective internal Consumer Complaints handling process that is simple for Complainants to understand and easy to use.

- CA23.1A Companies must treat any expression of dissatisfaction or concern about a service or good provided by a Company as a complaint.
- CA23.1B Companies must include a message on any invoices to Consumers advising that the Company has a free internal complaints process at no extra charge, and the notice must include the relevant contact information.
- CA23.1C Consumers who directly invoice Consumers must include on Consumer invoices information about the existence, nature of, and contact details for the Electricity and Gas Complaints Commissioner.
- CA23.2 Companies must accept Consumer Complaints in any reasonable form from a Consumer including written and oral, and via a variety of delivery mechanisms including face-to-face, posted, hand-delivered, facsimile or electronic.
- CA23.3 Companies must:
- Provide information to Consumers about how their Complaint will be dealt with, and by when;
 - Provide written information about their Consumer Complaints handling processes;
 - Treat Consumers courteously and with respect; and
 - Interact with Complainants and any other person involved in the complaints process (including the Electricity Commission and the Gas Industry Co) in an open and professional manner.
- CA23.4 Companies must also:
- Train their staff about their Consumer Complaints handling processes, including recognition of complaints and active referrals to their Consumer Complaints handling processes and to the Electricity and Gas Complaints Commissioner where required;
 - Use processes that are easy to understand, easy to use and free to Consumers;
 - Provide adequate resources for their Complaints handling processes;
 - Keep Complainants informed of the progress of a Complaint;
 - 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 Company considers the Complaint to be frivolous or vexatious; and
 - Review their Consumer Complaints handling process regularly.
- CA23.5 Companies must provide for appropriate remedies to Consumers.
- CA23.6 Companies must collect and analyse information about Complaints, and use it to adjust business practices as required.
- CA23.7 For Consumers, Gas Retailers must have in place an effective process to ensure there has been an offer and acceptance of the Consumer Contract.

CA24. LIABILITY

CA24.1 Except as permitted under Clauses CA24.2 and CA24.3, a Consumer Contract must not limit the scope of liability, in contract or tort, of a Company to a Consumer to less than liability for physical damage to property where it can be shown that the Company has been negligent and the amount and nature of the Consumer's loss was reasonably foreseeable.

CA24.2 A Consumer Contract must not limit the monetary amount of liability, whether in contract or tort, of a Company to a Consumer for an event or a series of closely related events occurring on a distribution system to any amount less than \$10,000. This clause does not prevent or limit any provision in a Consumer Contract stating that liability is subject to any monetary cap contained in the Consumer Contract for an event or series of closely related events in relation to more than one Consumer on a distribution system.

CA24.3 A Consumer Contract must not fix a per annum cap on liability in respect of one or more Consumers on a distribution system or for events or a series of closely related events occurring on a distribution system.

CA24.4 Notwithstanding the provisions of the Code, and in particular Clause CA24, Consumers have access to any remedies that arise under the Consumer Guarantees Act 1993. Where the Code conflicts with the Consumer Guarantees Act, the Consumer Guarantees Act will take precedence.

CA25. FORCE MAJEURE CLAUSES

CA25.1 A Consumer Contract must define the situations covered under Force Majeure clauses and explain how a Company will respond in such circumstances.

CA26. PRIVACY

CA26.1 A Consumer Contract must adhere to the provisions of the Privacy Act 1993 and accordingly:

- Set out the purposes for which the Company collects information from individuals; and
- Confirm that Consumers will have ready access to information held about them and the opportunity to correct this information.

CA27. OVERSIGHT AND REVIEW OF THIS CODE

CA27.1 The Electricity and Gas Complaints Commission is responsible for overseeing and reviewing this Code.

CA28. ENFORCEMENT OF THE CODE

CA28.1 The undertakings of a Company in this Code are not intended to create rights enforceable by a Consumer against a Company under the Contracts (Privity) Act 1982.

CA29. DEFINITIONS

CA29.1 Terms used in this Code have the following meanings:

Bond means the bond or sum of money provided by a Consumer as security for non-payment.

Code means this Code of Practice which comprises Schedule CA of the Constitution for the Electricity and Gas Complaints Commissioner Scheme.

Combined Electricity and Gas Consumer Contract means a Consumer Contract for the sale of electricity and for the sale of Gas by the Company to a Consumer. To avoid doubt, a Consumer who has separate Consumer Contracts for the sale of electricity and for the sale of Gas does not, by virtue of having those two separate Consumer Contracts, have a Combined Electricity and Gas Consumer Contract.

Company means a member of the Electricity and Gas Complaints Commissioner Scheme who is either a Gas Retailer and/or a Gas Lines Company. "Companies" and Gas Companies have corresponding meaning.

Consumer includes:

- 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;
- A person who is supplied, or who applies to be supplied, with Line Function Services in accordance with a Consumer Contract and who also consumes Gas; and
- Includes any 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.

Consumer Contract means the agreement with a Consumer providing for the supply of Gas and/or Line Function Services to a Consumer and includes any additional publications, which contain information about the service to Consumers.

Disconnection means the movement or removal of equipment so that no Gas can flow to a Consumer's Premises.

Electricity and Gas Complaints Commission means the Commission set up under the Electricity and Gas Complaints Commissioner Scheme. It provides an independent overview of the Scheme and comprises an independent chairperson, two representatives of industry members and two consumer representatives appointed by the Minister of Consumer Affairs.

Electricity and Gas Complaints Commissioner is the person appointed to that position by the Electricity and Gas Complaints Commission.

Electricity and Gas Complaints Commissioner Scheme means the Electricity and Gas Complaints Commissioner Scheme implemented by the Electricity and Gas Complaints Council.

Electricity and Gas Complaints Council means the governing body under the Electricity and Gas Complaints Commissioner Scheme.

Force Majeure means circumstances beyond the control of the Company. For example, failure to supply Gas due to causes beyond the Company's control such as a storm.

Gas means natural gas that is supplied to a Consumer through a gas distribution system (a network of pipelines) but excludes, to avoid doubt:

- LPG; and
- CNG for transportation purposes.

Gas Lines Company means a gas distributor as defined in the Gas Act 1992.

Gas Retailer means a gas retailer as defined in the Gas Act 1992.

Line Function Services has the meaning set out in section 2 of the Gas Act 1992 (but excludes Gas transmission, as that term is defined in the Gas Act 1992) and as further provided for in a Consumer Contract and includes metering services where a Lines Company provides these services.

Planned Shutdown means the period when Gas is not available due to routine planned maintenance. A planned shutdown excludes situations where the Gas distribution system needs to be taken out of service for emergency reasons such as to ensure the integrity of the Gas distribution system or for safety. In general, Planned Shutdowns (where required) would be used for all work falling under the Gas Lines Company's Asset Management Plan.

Point of Supply means the point at which a Gas Lines Company's distribution system is connected to a Consumer's Premises.

Premises means the site to which Gas is supplied or is to be supplied to a Consumer.

Provide a Final Warning means that the Company must take all reasonable steps to ensure a Consumer receives this warning. This may include making contact to the Consumer's last known address or phone number.

Reconnection means the movement or replacement of equipment so that Gas can flow to a Consumer's Premises which had been disconnected.

SCHEDULE CB

THE CODE OF PRACTICE FOR LAND OWNERS, LAND OCCUPIERS, ELECTRICITY LINES COMPANIES AND GAS LINES COMPANIES ("LAND CODE")

CB1. WHAT IS THE LAND CODE?

- CB1.1 The Land Code contains undertakings by Lines Companies for fair and reasonable dealings with Land Owners and Land Occupiers. It sets out standards of behaviour Land Owners and Land Occupiers can reasonably expect from Lines Companies.
- CB1.2 The Land Code relates solely to dealings between Land Owners and Land Occupiers, on the one hand, and Lines Companies on the other hand, in relation to access to and use of the Land occupied by Lines Equipment, and the actions of Lines Companies' staff and contractors while on that Land.
- CB1.3 The Land Code does not apply in the circumstances arising in connection with or leading to the types of disputes listed in Clause 1.3 of the Constitution for the Electricity and Gas Complaints Commissioner Scheme.
- CB1.4 The Land Code comprises Schedule CB of the Constitution for the Electricity and Gas Complaints Commissioner Scheme.
- CB1.5 The provisions of the Land Code should be interpreted in light of Clause CB2 (Statement of Principles) and should be applied in a manner which is consistent with law and this Clause CB1.
- 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.

CB2. STATEMENT OF PRINCIPLES

- CB2.1 The following principles articulate the basic values that underpin the Land Code's purpose:
- (a) Lines Companies dealing with Land Owners and Land Occupiers should be fair and respect the interests of Land Owners and Land Occupiers, and be sensitive to any health, disability or language issues relating to complainants.
 - (b) At the same time, Lines Companies have a commitment to, and are obliged to, ensure the efficient, safe and reliable supply of electricity and/or gas for the benefit of energy consumers.
 - (c) The Land Code sets out minimum standards of conduct for all Lines Companies. A Lines Company's conduct, including the provisions of a Land Agreement, may exceed the standards of conduct set out in the Land Code. Land Owners and Land Occupiers may agree on a lesser standard of conduct with a Lines Company, but only in accordance with Clauses CB5.3 and CB5.4.
 - (d) Complaints and enquiries from Land Owners and Land Occupiers should be handled promptly (and within relevant timeframes), fairly and with respect to complainants throughout the process.

CB3. DEFINITIONS

- CB3.1 Terms used in the Land Code have the following meanings:

Effective Date means 1 October 2006.

Electricity and Gas Complaints Commissioner means the Electricity and Gas Complaints Commissioner appointed by the Electricity and Gas Complaints Commission.

Electricity and Gas Complaints Commissioner Scheme means the Electricity and Gas Complaints Commissioner Scheme implemented by the Electricity and Gas Complaints Council.

Electricity Lines Company means a member of the Electricity and Gas Complaints Commissioner Scheme that is:

- (a) A company that operates a local network for conveying electricity and providing line function services to electricity retailers or directly to consumers; or
- (b) Transpower New Zealand Limited.

Electricity Works means:

- (a) any fittings that are used, or designed or intended for use, in or in connection with the generation, conversion, transformation, or conveyance of electricity; but
- (b) does not include:
 - (i) any fittings that are used, or designed or intended for use, by any person, in or in connection with the generation of electricity for that person's use and not for supply to any other person; or
 - (ii) any part of any electrical installation,

and for the purposes of this definition, any terms defined in the Electricity Act 1992 have the same meaning in this definition.

Emergency Situation means a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity or gas.

Existing Land Agreement means a Land Agreement entered into before the Effective Date.

Gas means natural gas, which meets the New Zealand Specification for Reticulated Natural Gas NZS5442:1990 (as amended or replaced from time to time), that is supplied to a consumer through a distribution system (as that term is defined in the Gas Act 1992), but excludes, to avoid doubt:

- (a) LPG; and
- (b) CNG for transportation purposes.

Gas Lines Company means a gas distributor as defined in the Gas Act 1992.

Gas Pipelines means any equipment that is used in, or in connection with, the conveyance of Gas.

Gas Transmission Lines Company means a company that operates Gas Transmission Pipelines for the purposes of supplying Gas.

Gas Transmission Pipelines means any Gas Pipelines that are operated at a gauge pressure exceeding 2000 kilopascals.

Land includes any interest or estate in land.

Land Agreement means any agreement, including any easement, lease or licence, under which a Lines Company is granted rights by a Land Owner or Land Occupier to access or use any Land, other than a Consumer Contract.

Land Code means this Land Code of Practice, which comprises Schedule CB of the Constitution for the Electricity and Gas Complaints Commissioner Scheme, as amended or substituted from time to time by the Council.

Land Occupier means, in relation to Land, an inhabitant occupier of the Land, or any person who has a right to occupy the Land by virtue of a lease, sub-lease or licence granted by the Land Owner or another Land Occupier entitled to so grant.

Land Owner means:

in relation to Land that is held under:

- (a) the Land Transfer Act 1952, the person(s) that own(s) the Land in fee simple;
- (b) the Land Act 1948, means the Crown; and
- (c) any other statute, means the legal or beneficial owner of the Land (as appropriate) as specified in that statute.

Legislation includes any statute, regulation or Order in Council.

Lines Company means an Electricity Lines Company or a Gas Lines Company.

Lines Equipment means Electricity Works and Gas Pipelines, as the case may be.

New Land Agreement means a Land Agreement entered into on or after the Effective Date.

CB3.2 Any term that is defined in the Constitution for the Electricity and Gas Complaints Commissioner Scheme and used in this Code, but not defined in this Code, has the same meaning as in the Constitution.

CB4. SCOPE OF THE LAND CODE

CB4.1 Every Lines Company must comply with the Land Code from the Effective Date, and must also ensure that their employees, contractors and other permitted representatives comply with the obligations contained in the Land Code.

CB4.2 Subject to Clauses CB5.3 and CB5.4, the Land Code applies to the exercise by Lines Companies of their rights of access to Land under Legislation and Land Agreements and the actions of their staff and contractors while on the Land. The Land Code applies regardless of whether the Lines Equipment on the Land was in existence or operational before or after the Effective Date. However, the Land Code does not apply in the circumstances arising in connection with or leading to the types of disputes listed in Clause 1.3 of the Constitution for the Electricity and Gas Complaints Commissioner Scheme.

CB5. THE LAND CODE, LAND AGREEMENTS AND LEGISLATION

CB5.1 Certain legal rights and obligations of Land Owners, Land Occupiers and Lines Companies in respect of access to, use of, and behaviour on Land are set out in Land Agreements, and:

- (a) For Electricity Lines Companies, in the Electricity Act 1992 (and associated Legislation¹); and
- (b) For Gas Lines Companies, in the Gas Act 1992 (and associated Legislation).

CB5.2 Subject to Clauses CB5.3 and CB5.4, this Land Code sets out the minimum standards that Land Owners and Land Occupiers can expect in their dealings with a Lines Company in the exercise of the particular rights and in undertaking the particular obligations set out in Land Agreements and Legislation.

CB5.3 In relation to Land Agreements:

- (a) if a Land Agreement provides for terms or conditions additional to, or more favourable to the Land Owner or Land Occupier than, those set out in the Land Code, the Lines Company must comply with the additional or more favourable terms or conditions of the Land Agreement;
- (b) in the case of any ambiguity as to the meaning of a term or condition of a Land Agreement, the relevant provisions of the Land Code will apply to resolve that ambiguity; and
- (c) if a Land Agreement provides for terms or conditions less favourable to the Land Owner or Land Occupier than those set out in the Land Code, the Lines Company need only comply with the lesser or less favourable terms of the Land Agreement, but in the case of a New Land Agreement, only if the specific provisions of the Land Code that do not apply are stated in the New Land Agreement.

CB5.4 In relation to Legislation:

- (a) if Legislation provides for obligations on a Lines Company additional to, or more favourable to the Land Owner or Land Occupier than, those set out in the Land Code, the Lines Company must comply with the additional or more favourable obligations in the Legislation;
- (b) if Legislation provides for obligations on a Lines Company less favourable to the Land Owner or Land Occupier than those set out in the Land Code, the Lines Company need only comply with the less favourable obligations in the Legislation; and
- (c) the obligations of a Lines Company under this Land Code shall otherwise apply to the fullest extent permitted under the Legislation.

CB6. LINES COMPANY OBLIGATIONS UNDER THE LAND CODE

CB6.1 Transpower New Zealand's obligations under the Land Code are set out in Appendix A "Transpower's Commitment to Land Owners and/or Occupiers and the Community (The Charter)". For Gas Transmission Lines Companies, to the extent that they operate Gas Transmission Pipelines, the obligations are set out in Appendix B "Gas Transmission Lines Companies' Obligations under the Land Code".

¹ Such as the Electricity (Hazards from Trees) Regulations 2003.

- CB6.2 The exclusions in Clause 1.3 of the Constitution for the Electricity and Gas Complaints Commissioner Scheme and the definition of "Land Complaint" in the Constitution apply to the Charter. As a result, complaints about some of the obligations in the Charter cannot be considered by the Commissioner under the Scheme, notwithstanding their inclusion in the Charter.
- CB6.3 The obligations under the Land Code set out in this Clause CB6 apply to all other Lines Companies but not to Transpower or Gas Transmission Lines Companies, to the extent that the Gas Transmission Lines Companies operate Gas Transmission Pipelines.
- CB6.4 In carrying out any work on particular Lines Equipment, Lines Companies will take reasonable steps to minimise any direct impacts on the Land on which the Lines Equipment is situated, or that is near the Lines Equipment. However some direct impact to Land while work is being carried out may be inevitable.
- CB6.5 Subject to Clause CB6.10, Lines Companies undertake to consult to the extent possible in the circumstances with Land Owners or Land Occupiers, as appropriate, before entering Land. In consulting, Companies will:
- (a) Make reasonable efforts to identify the relevant Land Owner or Land Occupier;
 - (b) Identify the work they intend to carry out;
 - (c) Advise the Land Owner or Land Occupier of the matters set out in Clause CB6.7 (unless already advised when notice given); and
 - (d) Consider any concerns of Land Owners or Land Occupiers, as appropriate, and accommodate these if practical.

For the avoidance of doubt, consultation can occur after the Lines Company has given notice to the Land Owner or Land Occupier, as appropriate, to enter the Land. Lines Companies are not required by reason of the obligations in this Clause to delay entry onto the Land by more than 15 working days from the date notified.

- CB6.6 Subject to Clause CB6.10, the Lines Company (or their contractors or agents) must give at least 10 working days notice of their intention to enter the Land to undertake construction, upgrade, repair or maintenance work to the Land Owner or Land Occupier (as appropriate). In meeting this obligation, Lines Companies will take all reasonable measures to identify the relevant Land Owner or Land Occupier.

Subject to Clause CB6.10, the Lines Company (or their contractors or agents) must give reasonable prior notice of their intention to enter the Land to inspect or operate the Lines Equipment to the Land Owner or Land Occupier (as appropriate). In meeting this obligation, Lines Companies will take all reasonable measures to identify the relevant Land Owner or Land Occupier.

- CB6.7 Subject to Clause CB6.10, notices must specify:
- (a) Location of the proposed entry and work;
 - (b) Reasons for the entry and nature of the work to be undertaken;
 - (c) Date and time of the proposed entry;

- (d) Length of time that the Lines Company expects to be on the Land; and
- (e) Contact details of the Lines Company's authorised representative for follow-up communications in respect of the proposed work.

Notices of intention to enter the Land to undertake construction, upgrade, repair or maintenance work must be conveyed in writing (not electronically). Notices of intention to enter Land to inspect or operate Lines Equipment may be conveyed in writing (not electronically) or verbally.

CB6.8 In entering land, Lines Companies must take reasonable steps to minimise inconvenience to the Land Owner or Land Occupier and must comply with the reasonable requirements of the Land Owners or Land Occupiers (as appropriate), including (but without limiting the ability of Land Owners or Land Occupiers to impose reasonable requirements):

- (a) The time of entry (unless this is not possible due to an Emergency Situation);
- (b) Leaving gates as found;
- (c) Driving in a safe manner and taking reasonable steps not to disturb stock; and
- (d) Avoiding access through specific areas unless necessary to access the Lines Equipment,

but Lines Companies are not required to delay entry onto the Land by more than 15 working days or to pay any money or other consideration (apart from compensation for actual damage caused) by reason of the obligations in this Clause.

CB6.9 Lines Companies must ensure that their authorised representatives who enter or intend to enter land:

- (a) Carry identification that shows they are authorised representatives of the Lines Company and present this identification on request;
- (b) Identify themselves to the Land Owner or Land Occupier before entering land, unless this is not practicable; and
- (c) Act courteously, considerately and professionally at all times, answer any queries from Land Owners or Land Occupiers and do their best to comply with any reasonable requests made by Land Owners or Land Occupiers.

CB6.10 The Lines Company is not required to give notice as required in Clauses CB6.6 and CB6.7 or consult under Clause CB6.5 if access to the Lines Equipment is necessary due to an Emergency Situation.

CB6.11 If it is not possible for the Lines Company to give notice to the Land Owner or Land Occupier (as appropriate) before entering Land, the Lines Company will advise the Land Owner or Land Occupier (as appropriate) of the times they accessed the Land, and the work they carried out, as soon as reasonably practicable afterwards and in no case later than 5 working days after entry.

CB6.12 If, in carrying out any work, the Lines Company causes damage to Land, the Lines Company must restore the Land to as close as reasonably possible to the condition it was in prior to commencement of the work or pay compensation to the Land Owner or Land Occupier (as appropriate) in accordance with the Lines Company's legal or contractual obligations. If it is likely that carrying out the work proposed could result in significant damage to the Land, the Lines Company must make a record of the

condition of the Land prior to commencement of the work and verify this record with the Land Owner or Land Occupier (as appropriate).

- CB6.13 The Lines Company undertakes to respond to enquiries from Land Owners or Land Occupiers (including as to the likely impact of the work on the Land) as soon as reasonably possible and, where requested, provide Land Owners or Land Occupiers with information on any Lines Equipment installed on the Land Owner's or Land Occupier's Land.
- CB6.14 Each Lines Company must identify on their company website, and in any relevant published material available to Land Owners and Land Occupiers, an appropriate contact person who can deal with land-related issues on behalf of the Lines Company.

CB7. COMPLAINTS RELATING TO THE LAND CODE

- CB7.1 Only the Lines Company and the Electricity and Gas Complaints Commissioner can deal with complaints relating to the Land Code.
- CB7.2 Lines Companies must:
- (a) Provide a free, accessible, fair and effective internal process for handling complaints that is simple for complainants to understand and easy to use;
 - (b) Provide information to Land Owners and Land Occupiers about how and within what timeframe their complaint will be responded to, along with information about the Lines Company's complaint handling process;
 - (c) Provide adequate trained resources for their internal complaints handling process including training in recognition of complaints and active referrals to their complaints handling processes and to the Electricity and Gas Complaints Commissioner where required;
 - (d) Provide for appropriate remedies to Land Owners and Land Occupiers;
 - (e) Review internal complaints handling process regularly;
 - (f) Inform Land Owners and Land Occupiers about their right to refer their complaint to the Electricity and Gas Complaints Commissioner if their complaint is not resolved by the Lines Company;
 - (g) Include information about the existence and nature of the Electricity and Gas Complaints Commissioner (including contact details) in any material published specifically for Land Owners and Land Occupiers;
 - (h) Treat any expression of dissatisfaction or concern about a service or good provided by a Company as a complaint;
 - (i) Interact with Complainants and any other person involved in the complaints process (including the Electricity Commission and the Gas Industry Co) in an open and professional manner;
 - (j) Keep Complainants informed of the progress of their complaint; and

- (k) Tell Land Owners and Land Occupiers 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 Company considers the complaint to be frivolous or vexatious.

CB7.3 Where a complaint has been made by a Land Owner or Land Occupier to the Lines Company or the Electricity and Gas Complaints Commissioner about work to be undertaken in what a Lines Company reasonably believes is an Emergency Situation, the Lines Company can still enter the Land Owner or Land Occupier's Land and undertake the required work, despite the complaint.

CB7.4 Where a complaint has been made by a Land Owner or Land Occupier to the Lines Company or the Electricity and Gas Complaints Commissioner about work to be undertaken in situations other than Emergency Situations, the Lines Company will attempt to defer the date of entry to the extent that this is reasonably possible and will not involve the Lines Company incurring significant expense. If such deferral is not reasonably possible, the Lines Company will be entitled to enter the land, despite the complaint.

CB8. ELECTRICITY AND GAS COMPLAINTS COMMISSIONER SCHEME

CB8.1 This Land Code of Practice is part of the Electricity and Gas Complaints Commissioner Scheme. In addition to dealing with Consumer Complaints, the Scheme is designed to create a forum where Land Owners and Land Occupiers can access an independent dispute resolution service for certain complaints about Lines Companies in relation to this Land Code.

CB8.2 The purpose of the Electricity and Gas Complaints Commissioner Scheme is to provide a service that is:

- (a) Free to Consumers, Land Owners and Land Occupiers;
- (b) Accessible;
- (c) Fair;
- (d) Effective;
- (da) Efficient;
- (e) Accountable;
- (f) Independent; and
- (g) Known in the community.

CB9. PRIVACY

CB9.1 Lines Companies must protect the privacy of information relating to Land Owners and Land Occupiers, consistent with the Privacy Act 1993.

CB10. OVERSIGHT AND REVIEW OF THE LAND CODE

CB10.1 The Electricity and Gas Complaints Commission is responsible for overseeing and reviewing the Land Code.

CB11. ENFORCEMENT OF THE LAND CODE

CB11.1 The Land Code is not intended to create any rights enforceable by a Land Owner, Land Occupier or other person against a Company under the Contracts (Privity) Act 1982.

made. In giving notice, Transpower will take reasonable steps to minimise disturbance to land owner and/or occupier operations. Occasionally under Emergency Situations the notice may need to be given after the entry as provided in the Electricity Act.

- CB12.12 Employees, contractors and agents of Transpower will provide evidence when requested of their authority to enter land and appropriate identification.
- CB12.13 Transpower will repair any damage to land, reinstating it to its previous condition where its employees, contractors or agents cause this, or if necessary, compensate individual land owners and/or occupiers where reinstatement is not possible. Before any material work has begun, Transpower will take a record of the condition of any affected property. The land owner and/or occupier will be given an opportunity to confirm its accuracy.
- CB12.14 In designing and operating transmission lines, Transpower will comply with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for electric and magnetic fields as recommended by the Ministry of Health.

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.
- 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.

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).
- 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.
- 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.

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; and
 - (b) information about the existence, nature of, and contact details for the Electricity and Gas Complaints Commissioner Scheme.
- 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.

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.
- 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.
- CC6.3. Council Members must:

provide written information about their complaint handling process presented in plain and accessible language;
provide information to Complainants about how their Complaint will be dealt with, and by when; and
keep Complainants informed of the progress of a Complaint;

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;
- (b) Provide adequate resources for their internal complaints handling processes;
- (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.

SCHEDULE D

ELECTRICITY CONSUMER DISPUTE RESOLUTION PROTOCOL

D1. GENERAL PROVISIONS APPLYING TO ALL ELECTRICITY COMPANY COUNCIL MEMBERS

Objectives of Protocol

- D1.1 The primary objectives of this Protocol in accordance with the provisions of the Constitution are to:
- (a) ensure ease of access for Consumers to a means of dispute resolution with Council Members which is also free, fair and effective;
 - (b) promote the efficient and timely resolution of Consumer Complaints; and
 - (c) prevent disputes between Electricity Retailers and Electricity Lines Companies over their relative responsibilities from impeding the efficient and timely resolution of Consumer Complaints.

Application

- D1.1A This Protocol applies to Electricity Retailer Council Members and Electricity Lines Company Council Members only.

General obligations under the Protocol

- D1.2 Council Members have the following general obligations under this Protocol:
- (a) the Council Member who is the Contracting Company with the Consumer for the supply of electricity or Line Function Services, or both, which is the subject of the Complaint must comply with the provisions of this Protocol for the referral (if any), management and resolution of Consumer Complaints;
 - (b) the Council Member designated under this Protocol as the Council Member responsible for managing and resolving a Consumer Complaint (the Complaint Managing Company) must comply with the provisions of this Protocol relating to Consumer Complaints received by them from the Consumer or referred to them by the Contracting Company;
 - (c) Council Members must not allow disputes between them about the responsibility of a Council Member as a Contracting Company or a Complaint Managing Company for Consumer Complaint to compromise the efficient and timely resolution of Consumer Complaints;
 - (d) all Council Members must have an in-house Consumer Complaints handling service for responding to Consumer Complaints which complies with this Protocol;
 - (e) Council Members must act as clearing-houses for any Consumer Complaints made to them as a Contracting Company in error and refer the Complaint to the correct Contracting Company in accordance with this Protocol;

- (f) if a Complaint reaches deadlock, the Complaint Managing Company must inform the Consumer that the Consumer may ask the Electricity and Gas Complaints Commissioner to consider the Complaint in accordance with his or her jurisdiction under the Terms of Reference; and
- (g) Council Members must co-operate with each other in order to achieve the objectives in Clause D1.1, and to give full effect to these obligations and the requirements of Council Members under this Protocol.

Requirements for in-house Consumer Complaints handling service

D1.3 Council Members must comply with the following requirements in providing their in-house Consumers Complaints handling services:

- (a) a Contracting Company must inform Consumers, in its Consumer Contract, on its website and in any other relevant Consumer information materials it makes available to Consumers from time to time, of the way in which, and to whom in the Contracting Company, Consumer Complaints may be made and of the Council Member's participation in the Electricity and Gas Complaints Commissioner Scheme (including details of its nature and contact information);
- (b) all Council Members must have an efficient system with adequate resources for receipting, recording and monitoring Complaints received, referred (to or by them), managed and resolved by them;
- (c) all Council Members must nominate an individual(s) to be the point of contact for the receipt, referral management and resolution of Consumer Complaints;
- (d) Consumer Complaints must be acknowledged by the Contracting Company in Writing as soon as possible but not later than two Working Days after the receipt of a Complaint;
- (e) if a Contracting Company refers a Consumer Complaint to another Council Member which is to be the Complaint Managing Company, it must:
 - (i) conform with the provisions of this Protocol governing referrals; and
 - (ii) monitor and facilitate the management and resolution of the Complaint by the Complaint Managing Company;
- (f) a response by the Contracting Company or the Complaint Managing Company to a Consumer Complaint (whether an initial response or otherwise) must be given to the Consumer as soon as possible, commensurate with the urgency of the Consumer Complaint, but in any event no later than seven Working Days, after the Complaint is received by the Contracting Company; and
- (g) if the Complaint reaches deadlock, that is:
 - (i) the Complaint has taken longer to resolve than 20 Working Days provided the Electricity and Gas Complaints Commissioner has not extended the time for resolving the Complaint where the Complaint is likely to be complicated and either party would be disadvantaged by staying within the time limit; or
 - (ii) the Electricity and Gas Complaints Commissioner is satisfied that:

- (1) the Council Member concerned has made it clear that they do not intend to do anything about the Complaint; or
- (2) the Complainant would suffer unreasonable harm from waiting; or
- (3) it would otherwise be unjust-

the Complaint Managing Company must inform the Consumer of his or her right to take the Complaint to the Electricity and Gas Complaints Commissioner for determination in accordance with his or her jurisdiction under Schedule B;

- (h) all Council Members must monitor their compliance with the Constitution and report annually on their compliance to the Electricity and Gas Complaints Commission.

Clearing-house mechanism for referral of Consumer Complaints to correct Contracting Company

D1.4 If a Consumer makes a Complaint to a Council Member, which is not the Contracting Company in respect of the subject of the Consumer Complaint, that Council Member must:

- (a) forward, within 1 Working Day, the Complaint on the Consumer's behalf to the Contracting Company which has agreed that it is the correct Contracting Company; or
- (b) where it is not clear which Council Member is the correct Contracting Company, use its best endeavours to identify as soon as possible after receiving the Complaint the correct Contracting Company and forward the Complaint to that Contracting Company; and
- (c) provide the Consumer at that time with the point of contact details of the correct Contracting Company.

To avoid doubt, this clause D1.4 applies even if the Complaint relates to Gas and is made to an Electricity Company in error.

D1.5 When the correct Contracting Company receives a Complaint forwarded to it, it must:

- (a) acknowledge the referral; and
- (b) inform the Consumer of its receipt of the Complaint, the date of receipt and the process it will follow for the referral (if any), management and resolution of the Complaint by the Complaint Managing Company.

D2. OBLIGATIONS OF ELECTRICITY COMPANIES FOR MANAGEMENT AND RESOLUTION OF CONSUMER COMPLAINTS UNDER DIFFERENT KINDS OF CONSUMER CONTRACT

Conveyance Only Consumer Contracts

D2.1 Conveyance Only Consumer Contracts must provide that:

- (a) the Contracting Electricity Lines Company is responsible as the Complaint Managing Company for managing and resolving Consumer Complaints relating to the Services provided under the Conveyance Only Consumer Contract; and

- (b) if a Complaint is not resolved under its in-house Consumer Complaints handling service in accordance with Clause D1.3(g), the Consumer may refer the dispute to the Electricity and Gas Complaints Commissioner for determination in accordance with the Electricity and Gas Complaints Commissioner's jurisdiction under the Terms of Reference.

D2.2 [Not used]

Compensation under Conveyance Only Consumer Contracts

D2.3 The Electricity Lines Company is responsible for the payment of all compensation (including any award of the Electricity and Gas Complaints Commissioner) and its management costs and for taking all remedial action with respect to a Consumer Complaint arising out of a Conveyance Only Consumer Contract.

Supply Only Consumer Contracts

D2.4 Supply Only Consumer Contracts must provide that:

- (a) the Electricity Retailer is responsible as the Complaint Managing Company for managing and resolving Consumer Complaints relating to the Services provided under the Supply Only Consumer Contract; and
- (b) if a Complaint is not resolved under its in-house Consumer Complaints handling service in accordance with Clause D1.3(g), the Consumer may refer the dispute to the Electricity and Gas Complaints Commissioner for determination in accordance with the Electricity and Gas Complaints Commissioner's jurisdiction under the Terms of Reference.

Compensation under Supply Only Consumer Contracts

D2.5 The Electricity Retailer is responsible for the payment of all compensation (including any awards of the Electricity and Gas Complaints Commissioner) and its management costs and for taking all remedial action with respect to a Consumer Complaint arising out of a Supply Only Consumer Contract.

Interposed Consumer Contracts

D2.6 Interposed Consumer Contracts must provide:

- (a) that Consumer Complaints should, in the first instance, be made to the Electricity Retailer, as the Contracting Company;
- (b) That the Electricity Retailer is responsible as the Complaint Managing Company for managing and resolving Retail Complaints arising under the Interposed Consumer Contract;
- (c) Unless otherwise agreed with an Electricity Lines Company, that all Lines Complaints arising under the Interposed Consumer Contract must be referred by the Electricity Retailer to an Electricity Lines Company as the Complaint Managing Company to manage and resolve;
- (d) if the Electricity Retailer has agreed with an Electricity Lines Company not to refer certain Lines Complaints to the Electricity Lines Company, the circumstances in which it will not do so, and

that the Electricity Retailer must be the Complaint Managing Company for managing and resolving those Lines Complaints; and

- (e) if a Consumer Complaint is not resolved under the Complaint Managing Company's in-house Consumer Complaints handling service then, in accordance with Clause D1.3(g), the Consumer may refer the Complaint to the Electricity and Gas Complaints Commissioner for determination in accordance with his or her jurisdiction under the Terms of Reference.

Complaint management referral requirements for Interposed Consumer Contracts

D2.7 The Electricity Retailer must refer all Lines Complaints arising under its Interposed Consumer Contract to the Electricity Lines Company, whose Services are the subject of the Complaint, for management and resolution as the Complaint Managing Company unless the Electricity Retailer has agreed with that Electricity Lines Company that certain Lines Complaints may be managed and resolved by the Electricity Retailer as the Complaint Managing Company. Unless so agreed:

- (a) the Electricity Retailer must refer full details of the Complaint and relevant information held by the Electricity Retailer on the identity of the Complainant and its ICP details to the Electricity Lines Company, as the Complaint Managing Company, as soon as possible but no later than two Working Days after the Complaint is made to the Electricity Retailer;
- (b) the Electricity Retailer must inform the Consumer in Writing of the Electricity Lines Company that will manage and resolve the Complaint and the point of contact details of the Electricity Lines Company; and
- (c) the Electricity Lines Company must acknowledge the referral to both the Electricity Retailer and the Consumer within two Working Days of the referral.

D2.8 Where an Electricity Retailer is authorised to deal with a Lines Complaint, the Electricity Retailer must not admit breach or liability or offer or agree to any compensation without the prior agreement of the Electricity Lines Company, and must comply with any reasonable directions given by the Electricity Lines Company on the handling of that Complaint where that compliance is required in accordance with the agreement between the Electricity Retailer and the Electricity Lines Company.

D2.9 If the Electricity Retailer and the Electricity Lines Company have agreed that the Electricity Retailer is authorised to resolve an individual Consumer Complaint, or categories of Consumer Complaints, by way of defined maximum amounts ex gratia, the Electricity Retailer must advise the Electricity Lines Company of the Complaint, the action taken to resolve the Complaint and the amount paid (if any).

Compensation under Interposed Consumer Contracts

D2.10 The responsibilities of Council Members are as follows:

- (a) the Electricity Retailer is responsible for compensation (including any award of the Electricity and Gas Complaints Commissioner) or remedial action and management costs in respect of any Retail Complaint; and
- (b) the Electricity Lines Company, whether or not the Complaint is referred to the Electricity Lines Company, is responsible for any compensation paid or payable to the Consumer and the costs of the management of a Lines Complaint, including the compensation paid by or management

costs of the Electricity Retailer in the case of a Lines Complaint not referred to the Electricity Lines Company.

- D2.11 The management costs to be paid by the Electricity Lines Company to the Electricity Retailer in the case of a Lines Complaint not referred to the Electricity Lines Company under D2.10(b) may be determined in advance by agreement between the Electricity Retailer and the Electricity Lines Company in relation to an individual Consumer Complaint, or categories of Consumer Complaint.
- D2.12 Electricity Lines Company's responsibility for compensation or management costs incurred by an Electricity Retailer in respect of a Lines Complaint not referred to the Electricity Lines Company does not apply to the extent that the Electricity Retailer has not complied with its obligations under Clauses D2.7 and D2.8 or an agreement under D2.11.

Responsibility for management costs not to conflict with award for expenses by Electricity and Gas Complaints Commissioner

- D2.13 A Council Member is not liable under this Clause D2 to pay the Complaint management costs of another Council Member to the extent that those costs comprise an award of the Electricity and Gas Complaints Commissioner against that other Council Member under Clause B3.15.

D3. RESPONSIBILITIES OF ELECTRICITY COMPANIES IN RESPECT OF PROCEEDINGS BEFORE THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER

Lines Complaints under Interposed Consumer Contracts

- D3.1 If a Lines Complaint is referred by a Consumer to the Electricity and Gas Complaints Commissioner, and
- (a) if the Electricity Retailer is the Complaint Managing Company, the Electricity Retailer must inform the Electricity Lines Company whose Line Functions Services are the subject of the proceedings; or
 - (b) if the Electricity Lines Company is the Complaint Managing Company, the Electricity Lines Company must inform the Electricity Retailer,
- of the reference within two Working Days of being notified of the reference by the Electricity and Gas Complaints Commissioner.

Electricity Retailers acting as Complaint Managing Companies for Electricity Lines Companies require consent of Electricity Lines Companies for discretionary or "test case" proceedings

- D3.2 An Electricity Retailer which is the Complaint Managing Company in respect of a Lines Complaint referred to the Electricity and Gas Complaints Commissioner may not without the prior agreement in Writing of the Electricity Lines Company whose Line Functions Services are the subject of the proceedings:
- (a) consent to an extension of the Electricity and Gas Complaints Commissioner's jurisdiction under Clause B1.8;

- (b) allow an increase in the amount able to be awarded to the Extended Amount (as that term is defined in Clause B3.10) or make a request for a finding of fact by the Electricity and Gas Complaints Commissioner under Clause B3.10; or
- (c) notify the Electricity and Gas Complaints Commissioner under Clause B4 that a Consumer Complaint will be pursued as a "test case".

Electricity Companies to co-operate in the provision of information in respect of Lines Complaints

D3.3 An Electricity Lines Company or an Electricity Retailer which is not the Complaint Managing Company in respect of a Consumer Complaint referred to the Electricity and Gas Complaints Commissioner must provide all relevant information and assistance reasonably required by the Complaint Managing Company for its effective participation in the proceedings before the Electricity and Gas Complaints Commissioner.

D4. AGREEMENTS BETWEEN ELECTRICITY COMPANIES

Bilateral agreements between Electricity Companies

D4.1 This Protocol neither prevents nor limits an Electricity Lines Company and an Electricity Retailer from giving effect to or entering into a bilateral agreement which divides or allocates between themselves any responsibility or liability under this Protocol or the Deed or has the effect of limiting responsibility or liability of either of them to the other for compensation payable to a Consumer or the cost of managing any Consumer Complaints in respect of any Services either of them supply to a Consumer. However, such an agreement must neither override nor compromise the responsibility of an Electricity Lines Company or an Electricity Retailer to pay compensation or expenses awarded by the Electricity and Gas Complaints Commissioner, any award levy, and provide remedial action, to a Consumer in accordance with the Scheme.

D4.2 To the extent that a Use of System Agreement, or any other agreement between two or more Council Members, is otherwise inconsistent with the provisions of this Protocol, the Protocol overrides such provisions to the extent they conflict with this Protocol.

Resolution of disputes between Electricity Companies about Consumer Complaints

D4.3 Electricity Retailers and Electricity Lines Companies must:

- (a) use their best endeavours to ensure that any disputes between them about which of them is the Contracting Company or the Complaints Managing Company, the payment of compensation and management costs for resolving a Consumer Complaint (if applicable) or any other matter connected with this Protocol (inter-company disputes) does not adversely affect the efficient and timely resolution of Consumer Complaints; and
- (b) subject to any agreement between the parties governing inter-company disputes, refer any inter-company dispute to mediation, arbitration or expert determination undertaken under the auspices of the Council if the matter is not one determined by the Electricity and Gas Complaints Commissioner under this Deed and it cannot be resolved by agreement between the Council Members concerning the handling and management of, and responsibility for, or action required to resolve, Consumer Complaints.

SCHEDULE DA

GAS CONSUMER DISPUTE RESOLUTION PROTOCOL

DA1. GENERAL PROVISIONS APPLYING TO ALL GAS COMPANY COUNCIL MEMBERS

Objectives of Protocol

- DA1.1 The primary objectives of this Protocol are to:
- (a) ensure Consumers can easily resolve disputes with Council Members;
 - (b) promote the efficient and timely resolution of Complaints; and
 - (c) prevent disputes between Gas Retailers and Gas Lines Companies (where they are not the same Person) over their relative responsibilities.

Application

- DA1.1A This Protocol applies to Gas Retailer Council Members and Gas Lines Company Council Members only.
- DA1.1B Clauses DA2 and DA3 do not apply to a Gas Company Council Member to the extent that it provides both the retail services and Line Function Services to which the Consumer Contract relates.

General obligations under the Protocol

- DA1.2 A Council Member must:
- (a) comply with the provisions of this Protocol that are applicable to it; and
 - (b) co-operate with other Council Members in order to achieve the objectives in Clause DA1.1 and to give full effect to this Protocol.

Requirements for an in-house Consumer Complaints handling service

- DA1.3 A Council Member must:
- (a) inform Consumers in its Consumer Contract (where it is the Council Member contracting with the Consumer), on its website, and in any other relevant Consumer information materials it makes available to Consumers from time to time, of:
 - (i) the way in which, and to whom in the Council Member's organisation, Complaints may be made; and
 - (ii) the Council Member's participation in the Electricity and Gas Complaints Commissioner Scheme (including details of its nature and contact information);
 - (b) have an efficient system with adequate resources for receipting, recording and monitoring Complaints received, referred (to or by them), managed, and resolved by, them;
 - (c) nominate an individual(s) to be the point of contact for dealing with Consumer Complaints; and

- (d) monitor their compliance with the Constitution and report annually on their compliance to the Electricity and Gas Complaints Commission.

General timeframes for dealing with Complaints

DA1.3A The Council Member responsible under this Protocol for a Complaint must:

- (a) acknowledge the Complaint in Writing as soon as possible but not later than two Working Days after receipt of the Complaint. However, if the Council Member responsible for a Complaint is not the Council Member contracting with the Consumer, then the Council Member contracting with the Consumer must perform this obligation;
- (b) provide a response (whether an initial response or otherwise) to the Consumer as soon as possible, commensurate with the urgency of the Complaint, but in any event no later than seven Working Days, after the Complaint is received; and
- (c) notify the Consumer that the Complaint has reached "deadlock", and inform the Consumer of his or her right to refer the Complaint to the Electricity and Gas Complaints Commissioner, if:
 - (i) the Complaint has taken longer than 20 Working Days provided the Electricity and Gas Complaints Commissioner has not extended the time for resolving the Complaint where the Complaint is likely to be complicated and either party would be disadvantaged by staying within the time limit; or
 - (ii) the Electricity and Gas Complaints Commissioner is satisfied that:
 - (1) the Council Member concerned has made it clear they do not intend to do anything about the Complaint; or
 - (2) the Complainant would suffer unreasonable harm from waiting; or
 - (3) it would otherwise be unjust.

Clearing-house mechanism for referral of Complaints to correct Council Member

DA1.4 If a Consumer makes a Complaint to a Council Member who is not the Council Member contracting with the Consumer, that Council Member must:

- (a) forward, within 1 Working Day, the Complaint to the Council Member who has agreed that it is the Council Member contracting with the Consumer; or
- (b) where it is not clear which Council Member has the contract with the Consumer, use its best endeavours to identify the Council Member contracting with the Consumer as soon as possible after receiving the Complaint and forward the Complaint to that correct Council Member; and
- (c) at the time of forwarding the Complaint, provide the Consumer with the contact details of the Council Member contracting with the Consumer.

To avoid doubt, this Clause DA1.4 applies even if the Complaint relates to electricity and is made to a Gas Company in error.

DA1.5 When the Council Member contracting with the Consumer receives a Complaint forwarded to it, it must:

- (a) acknowledge the referral to the Council Member that forwarded the Complaint; and
- (b) inform the Consumer of its receipt of the Complaint, the date of receipt, and the process it will follow for dealing with the Complaint.

DA2. OBLIGATIONS OF GAS COMPANIES FOR MANAGING AND RESOLVING COMPLAINTS

Conveyance Only Consumer Contracts

DA2.1 Conveyance Only Consumer Contracts must provide that:

- (a) the Gas Lines Company is responsible for managing and resolving Complaints relating to the Services provided under the Conveyance Only Consumer Contract; and
- (b) if a Complaint is not resolved by the Gas Lines Company in accordance with Clause DA1.3A(c), the Consumer may refer the dispute to the Electricity and Gas Complaints Commissioner.

Compensation under Conveyance Only Consumer Contracts

DA2.2 The Gas Lines Company is responsible for paying all compensation (including any award of the Electricity and Gas Complaints Commissioner), its management costs, and for taking all remedial action for a Complaint arising out of a Conveyance Only Consumer Contract.

Supply Only Consumer Contracts

DA2.3 Supply Only Consumer Contracts must provide that:

- (a) the Gas Retailer is responsible for managing and resolving Complaints relating to the Services provided under the Supply Only Consumer Contract; and
- (b) if a Complaint is not resolved by the Gas Retailer in accordance with Clause DA1.3A(c), the Consumer may refer the dispute to the Electricity and Gas Complaints Commissioner.

Compensation under Supply Only Consumer Contracts

DA2.4 The Gas Retailer is responsible for paying all compensation (including any award of the Electricity and Gas Complaints Commissioner), its management costs, and for taking all remedial action for a Complaint arising out of a Supply Only Consumer Contract.

Interposed Consumer Contracts

DA2.5 Interposed Consumer Contracts must provide:

- (a) that Consumers should complain, in the first instance, to the Gas Retailer;
- (b) that the Gas Retailer is responsible for managing and resolving Retail Complaints arising under the Interposed Consumer Contract;
- (c) unless otherwise agreed by the Gas Lines Company, that the Gas Retailer must refer all Lines Complaints arising under the Interposed Consumer Contract to the relevant Gas Lines Company to manage and resolve;

- (d) if the Gas Retailer has agreed with a Gas Lines Company not to refer certain Lines Complaints to the Gas Lines Company, the circumstances in which it will not do so, and that the Gas Retailer is responsible for managing and resolving those Lines Complaints; and
- (e) if a Complaint is not resolved by the Council Member responsible for managing and resolving the Complaint in accordance with Clause DA1.3A(c), the Consumer may refer the Complaint to the Electricity and Gas Complaints Commissioner.

Referrals for Interposed Consumer Contracts

- DA2.6 If a Gas Retailer is required to refer a Lines Complaint to a Gas Lines Company under clause DA2.5:
- (a) as soon as possible but not later than two Working Days after the Complaint is made to the Gas Retailer, the Gas Retailer must refer to the Gas Lines Company full details of the Complaint, relevant information held by the Gas Retailer on the identity of the Consumer (or the Complainant, as the case may be), and the Consumer's ICP details;
 - (b) the Gas Retailer must inform the Consumer in Writing of the Gas Lines Company that will manage and resolve the Complaint and the contact details of the Gas Lines Company; and
 - (c) the Gas Lines Company must acknowledge the referral to both the Gas Retailer and the Consumer within two Working Days of receiving the referral.
- DA2.7 Where a Gas Retailer is authorised to deal with a Lines Complaint, the Gas Retailer must not admit a breach of contract or liability, or offer or agree to any compensation on the Gas Lines Company's behalf, without the prior agreement of the Gas Lines Company.
- DA2.8 If the Gas Lines Company has authorised the Gas Retailer to resolve an individual Consumer Complaint, or categories of Consumer Complaints, by way of defined maximum amounts ex gratia, the Gas Retailer must advise the Gas Lines Company of the Complaint, the action taken to resolve the Complaint, and the amount paid (if any).

Compensation under Interposed Consumer Contracts

- DA2.9 The Gas Retailer is responsible for paying all compensation (including any award of the Electricity and Gas Complaints Commissioner), its management costs, and for taking all remedial action for any Retail Complaint arising out of an Interposed Consumer Contract.
- DA2.10 The Gas Lines Company is responsible for paying all compensation (including any award of the Electricity and Gas Complaints Commissioner), management costs, and for taking all remedial action for any Lines Complaint arising out an Interposed Consumer Contract, including all compensation paid by, and management costs of, the Gas Retailer if a Lines Complaint is not referred to the Gas Lines Company.
- DA2.11 The management costs to be paid by the Gas Lines Company to the Gas Retailer for a Lines Complaint that is not referred to the Gas Lines Company may be agreed in advance by the parties.
- DA2.12 The Gas Lines Company's responsibility for compensation and management costs incurred by a Gas Retailer for a Lines Complaint that is not referred to the Gas Lines Company does not apply to the

extent that the Gas Retailer has not complied with its obligations under Clauses DA2.6 and DA2.7, or an agreement under DA2.11.

Responsibility for management costs not to conflict with award for expenses by Electricity and Gas Complaints Commissioner

DA2.13 A Council Member is not liable under this Clause DA2 to pay the Complaint management costs of another Council Member to the extent that those costs comprise an award of the Electricity and Gas Complaints Commissioner against that other Council Member under Clause B3.15.

DA3. RESPONSIBILITIES OF GAS COMPANIES IN RESPECT OF PROCEEDINGS BEFORE THE ELECTRICITY AND GAS COMPLAINTS COMMISSIONER

Lines Complaints under Interposed Consumer Contracts

DA3.1 If a Lines Complaint that is being managed by a Gas Retailer is referred to the Electricity and Gas Complaints Commissioner, the Gas Retailer must inform the relevant Gas Lines Company of the referral within two Working Days of the Gas Retailer being notified of the referral by the Electricity and Gas Complaints Commissioner.

DA3.1A If a Lines Complaint that is being managed by a Gas Lines Company is referred to the Electricity and Gas Complaints Commissioner, the Gas Lines Company must inform the relevant Gas Retailer of the referral within two Working Days of the Gas Lines Company being notified of the referral by the Electricity and Gas Complaints Commissioner.

Gas Retailers require Gas Lines Companies' consent for certain discretionary or "test case" proceedings

DA3.2 A Gas Retailer that is managing a Lines Complaint that has been referred to the Electricity and Gas Complaints Commissioner may not, without the prior agreement in Writing of the relevant Gas Lines Company:

- (a) consent to an extension of the Electricity and Gas Complaints Commissioner's jurisdiction under Clause B1.8;
- (b) allow an increase in the amount able to be awarded to the Extended Amount (as that term is defined in Clause B3.10) or make a request for a finding of fact by the Electricity and Gas Complaints Commissioner under Clause B3.10; or
- (c) notify the Electricity and Gas Complaints Commissioner under Clause B4 that a Consumer Complaint will be pursued as a "test case".

Gas Companies to co-operate in the provision of information in respect of Complaints

DA3.3 A relevant Gas Lines Company or a relevant Gas Retailer who is not managing a Complaint referred to the Electricity and Gas Complaints Commissioner must provide all information and assistance reasonably required by the Council Member managing the Complaint so that Council Member managing the Complaint may effectively participate in the proceedings before the Electricity and Gas Complaints Commissioner.

DA4. AGREEMENTS BETWEEN GAS COMPANIES

Bilateral agreements between Gas Companies

DA4.1 A Gas Lines Company and a Gas Retailer may agree to divide or allocate between themselves any responsibility or liability under this Protocol, including responsibility or liability of either of them to the other for compensation payable to a Consumer or the cost of managing any Complaint. However, such an agreement does not override the responsibility of a Gas Company to pay compensation, expenses, or provide any remedial action, to a Consumer under an Electricity and Gas Complaints Commissioner award, or to pay any award levy.

DA4.2 To the extent that a Use of System Agreement, or any other agreement between two or more Gas Company Council Members, is otherwise inconsistent with the provisions of this Protocol, the Protocol overrides such provisions.

Resolution of disputes between Gas Companies about Complaints

DA4.3 Gas Retailers and Gas Lines Companies must:

- (a) use their best endeavours to ensure that any dispute between them about who is the Council Member contracting with the Consumer or who is the Council Member responsible for managing a Complaint, about the payment of compensation and management costs for a Complaint, or about any other matter connected with this Protocol ("**inter-company disputes**"), does not adversely affect the efficient and timely resolution of Complaints; and
- (b) subject to any agreement between the parties governing inter-company disputes, refer any inter-company dispute about responsibility for a Complaint to the Council to arrange mediation, arbitration or expert determination.

SCHEDULE DB

LAND COMPLAINTS DISPUTE RESOLUTION PROTOCOL

DB1. GENERAL PROVISIONS APPLYING TO ALL COUNCIL MEMBERS

Objectives of Protocol

DB1.1 The primary objectives of this Protocol are to:

- (a) ensure Land Owners and Land Occupiers can easily resolve disputes with Lines Company Council Members;
- (b) promote the efficient and timely resolution of Land Complaints; and
- (c) prevent disputes between Lines Companies, and between Retailers and Lines Companies, over their relative responsibilities from impeding the efficient and timely resolution of Land Complaints.

Application

DB1.2 This Protocol applies to all Council Members.

General obligations under the Protocol

DB1.3 A Council Member must:

- (a) comply with the provisions of this Protocol that are applicable to it; and
- (b) co-operate with other Council Members in order to achieve the objectives in Clause DB1.1 and to give full effect to this Protocol.

Requirements for an in-house Land Complaints handling service

DB1.4 A Lines Company Council Member must:

- (a) inform Land Owners and Land Occupiers on its website and in any other relevant information it makes available to Land Owners and Land Occupiers from time to time, of:
 - (i) the way in which, and to whom in the Council Member's organisation, Land Complaints may be made; and
 - (ii) the Council Member's participation in the Scheme;
- (b) have an efficient system for receipting, recording and monitoring Land Complaints received, referred (to or by them), managed, and resolved by, them;
- (c) nominate an individual(s) to be the point of contact for dealing with Land Complaints; and
- (d) monitor their compliance with the Constitution and report annually on their compliance to the Electricity and Gas Complaints Commission.

DB1.5 A Retailer Council Member must have an efficient system for receiving Land Complaints and expeditiously referring those Land Complaints to the Lines Company that is responsible for the Complaint under Clause DB1.6.

Responsibility for Land Complaints

DB1.6 The Lines Company Council Member that owns the Lines Equipment on the Land Owner's or Land Occupier's Land that is the subject of a Land Complaint is responsible for that Land Complaint.

General timeframes for dealing with Land Complaints

DB1.7 The Lines Company Council Member responsible under this Protocol for a Land Complaint must:

- (a) acknowledge the Complaint in Writing as soon as possible but not later than two Working Days after receipt of the Complaint, such acknowledgement to include confirmation that the Council Member is a member of the Scheme and information on the Land Owner's or Land Occupier's right to complain to the Electricity and Gas Complaints Commissioner;
- (b) provide a response (whether an initial response or otherwise) to the Land Owner or Land Occupier as soon as possible, commensurate with the urgency of the Complaint, but in any event no later than seven Working Days after the Complaint is received; and
- (c) notify the Land Owner or Land Occupier that the Complaint has reached "deadlock", and inform the Land Owner or Land Occupier of his or her right to refer the Complaint to the Electricity and Gas Complaints Commissioner, if:
 - (i) the Complaint has taken longer to resolve than 20 Working Days provided the Electricity and Gas Complaints Commissioner has not extended the time for resolving the Complaint where the Complaint is likely to be complicated and either party would be disadvantaged by staying within the time limit; or
 - (ii) the Electricity and Gas Complaints Commissioner is satisfied that:
 - (1) the Council Member concerned has made it clear that they do not intend to do anything about the Complaint; or
 - (2) the Complainant would suffer unreasonable harm from waiting; or
 - (3) it would otherwise be unjust.

Clearing-house mechanism for referral of Land Complaints to correct Council Member

DB1.8 If a Land Owner or Land Occupier makes a Land Complaint to a Council Member who is not the Council Member responsible for the Complaint under Clause DB1.6, that Council Member must:

- (a) forward, within 1 Working Day, the Complaint to the Lines Company Council Member who has agreed that it is the Lines Company Council Member responsible for the Complaint; or
- (b) where it is not clear which Lines Company Council Member is responsible for the Complaint, use its best endeavours to identify the Lines Company Council Member responsible for the

Complaint as soon as possible after receiving the Complaint and forward the Complaint to that correct Lines Company Council Member; and

- (c) at the time of forwarding the Complaint, provide the Land Owner or Land Occupier with the contact details of the Lines Company Council Member responsible for the Complaint.

To avoid doubt, this Clause DB1.8 applies even if the Land Complaint is made to a Retailer in error.

DB1.9 If Transpower, or any Gas Lines Company Council Member who operates Gas Transmission Pipelines and does not operate any Gas Pipelines at a gauge pressure of less than 2,000 kilopascals, receives a Consumer Complaint, it must:

- (a) forward, within 1 Working Day, the Complaint to the Council Member who has agreed under the Electricity Consumer Dispute Resolution Protocol or the Gas Consumer Dispute Resolution Protocol that it is the Council Member contracting with the Consumer; or
- (b) where it is not clear which Council Member has the contract with the Consumer, use its best endeavours to identify the Council Member contracting with the Consumer as soon as possible after receiving the Complaint and forward the Complaint to that correct Council Member; and
- (c) at the time of forwarding the Complaint, provide the Consumer with the contact details of the Council Member contracting with the Consumer.

DB1.10 When the Lines Company Council Member responsible for the Land Complaint under Clause DB1.6 receives a Land Complaint forwarded to it, it must:

- (a) acknowledge the referral to the Council Member that forwarded the Complaint; and
- (b) inform the Land Owner or Land Occupier of its receipt of the Complaint, the date of receipt, and the process it will follow for dealing with the Complaint.

DB2. AGREEMENTS BETWEEN COMPANIES

Bilateral agreements between Companies

DB2.1 Council Members may agree to divide or allocate between themselves any responsibility or liability under this Protocol, including responsibility or liability of either of them to the other for the cost of referring any Land Complaint. However, such an agreement does not override the responsibility of a Lines Company to pay compensation, expenses, or provide any remedial action, to a Land Owner or Land Occupier under an Electricity and Gas Complaints Commissioner award, or to pay any award levy.

DB2.2 To the extent that any agreement between two or more Council Members is otherwise inconsistent with the provisions of this Protocol, the Protocol overrides such provisions.

Resolution of disputes between Companies about Land Complaints

DB2.3 Council Members must:

- (a) use their best endeavours to ensure that any dispute between them about whether the Complaint is a Consumer Complaint or a Land Complaint, about the payment of compensation

and management costs for a Land Complaint, or about any other matter connected with this Protocol ("**inter-company disputes**"), does not adversely affect the efficient and timely resolution of Complaints; and

- (b) subject to any agreement between the parties governing inter-company disputes, refer any inter-company dispute about responsibility for a Complaint to the Council to arrange mediation, arbitration or expert determination.

SCHEDULE E
DEED OF ADOPTION

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

- B. The Council Members are the parties to the Electricity and Gas Complaints Scheme Deed which came into effect on 7 August 2001 (the "Constitution").
- C. Under the Constitution, the New Party is required to execute this Deed of Adoption to become a Council Member.

NOW BY THIS DEED the parties agree as follows:

1. With effect from *[Insert date]* (the "Effective Date"), the New Party:
 - (a) becomes a party to the Constitution as if it had been named as a Council Member and had executed the Constitution; and
 - (b) must observe and perform all of the obligations of a Council Member under the Constitution and will be bound by the terms of the Constitution.
- 1A. The New Party will be a Council Member in the following class(es):
[Electricity Retailer/Electricity Lines Company/ Gas Retailer/ Gas Lines Company] [Delete as appropriate.]
2. All the parties to this Deed of Adoption confirm that the Constitution remains in full force and effect.
3. The New Party agrees with the Council Members that it will observe and perform its obligations under the Constitution and will be bound by the terms of the Constitution.
4. For the purposes of the Constitution, the designated address of the New Party is as follows:

[Insert address details]
5. All terms defined in the Constitution and used in this Deed of Adoption have the same meaning herein as contained in Clause 1 of the Constitution.

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

