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17 April 2007

Susan Cuthbert
Electricity & Gas Complaints Commission
PO Box 6144
Wellington

By email

Dear Susan

**Constitutional changes to the Electricity & Gas Complaints
Commissioner Scheme - consultation response**

Thank you for your email and attached consultation paper of 3 April 2007.

Transpower does not support any of the changes proposed in the paper because the Electricity Commission has not asked for them to be made. In Transpower's view it is premature for the Commission to be proposing changes to the constitution of the Scheme before:

1. the Electricity Commission has confirmed the criteria and achievement standards that it will apply to approving complaints resolution schemes under the Electricity Act; or
2. the Electricity Commission has applied those criteria and achievement standards to the current constitution of the Scheme and indicated what (if any) changes are necessary for the Scheme to be approved.

While this consultation process may provide a head start should some or all of the changes in the paper eventually be required by the Electricity Commission, for the time being the proposed changes are not much more than guesswork. Transpower cannot, therefore, support the changes at this time.

For completeness, and on the assumption that the Electricity Commission does require the changes in the paper, Transpower's answers to the questions in the paper are attached in the format requested. We emphasise, however, that Transpower's ultimate stance on any constitutional changes related to Electricity

Commission approval of the Scheme will depend entirely on the outcome of the two processes listed above.

No part of this response is confidential.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CB', with a long horizontal flourish extending to the right.

Chris Browne
Corporate Counsel

Question	Comment
Q1. Do you agree with our assessment of who should have access to the Scheme, taking into account the requirements of the Act, the GPS and the EC?	This question relates to the breadth of the definitions of Consumer and Consumer Complaint, which are not relevant to Transpower. Transpower therefore has no comment, except to say that Transpower would strongly oppose any change to constitution aimed at making Transpower subject to Consumer Complaints.
Q2. Do you agree that it is preferable not to use "materiality" as the connecting factor between the complainant and the complaint issue? Do you agree that limiting complaints to "a user or potential user ... in respect of that use or potential use" is appropriate? Is there another connecting factor that could be used?	In so far as this question relates to the definition of Land Complaint, see Transpower's answer to question 7 below.
Q3. Do you agree with the proposed drafting of "Consumer"?	This question is not relevant to Transpower.
Q4. Do you agree with our assessment that it is appropriate for the Commissioner to consider only some issues relating to potential consumers?	This question is not relevant to Transpower.
Q5. Do you agree with the proposed drafting that limits the Commissioner's ability to consider certain issues relating to potential consumers?	This question is not relevant to Transpower.
Q6. Do you agree with the proposed drafting of Consumer Complaint?	This question is not relevant to Transpower.
Q7. Do you agree with the proposal to redraft Land Complaint as suggested?	<p><i>Removing "unlawfully"</i></p> <p>The reason why "unlawfully" was added to the definition of Land Complaint was to avoid the possibility of the Scheme creating new legal rights rather than being a mechanism for land owners and occupiers to protect their existing legal rights only. Transpower supports that principle.</p>

Question	Comment
	<p>However, Transpower considers that the principle would be upheld by the constitution despite the removal of “unlawfully” because clause B1.2 requires the Commissioner to apply the law and Land Agreements in considering Complaints and granting remedies. Also, because clause B1.10 gives the Commissioner latitude to not investigate trivial or vexatious Complaints, Transpower is not concerned about the absence of a materiality threshold in the definition of Land Complaint.</p> <p>Accordingly, Transpower would not object to this change.</p> <p><i>Extension to chattels</i></p> <p>In Transpower’s view it is reasonable for land owners and occupiers to have standing to complain about Transpower interfering with chattels on their land, as long as such interference is linked to Transpower’s exercise of its rights, powers or obligations under electricity legislation or Land Agreements.</p> <p>Accordingly, and subject to Transpower supporting the specific wording proposed, Transpower would not object to this change.</p>
Q8. Do you agree with the proposed drafting of Clause 6 to provide for consultation with the EC?	Transpower would not object to this change.
Q9. Do you agree with the proposed drafting of Clause 6 to provide consistency with any GPS and relevant benchmarks?	<p>Transpower would not object to this change, subject to the amendments shown below:</p> <p>“Amendments to the Scheme shall not contain provisions that are inconsistent with the <u>current Government Policy Statement on Electricity Governance</u> or <u>(unless the Electricity Commission agrees otherwise) any criteria approved by the Electricity Commission for approving benchmarks for industry-based customer dispute</u></p>

Question	Comment
	<u>complaints resolution systems schemes under section 158G of the Electricity Act 1992.</u>
Q10. Do you agree the drafting of the Constitution needs to allow for situations where there may not be a consumer contract?	This question is not relevant to Transpower.
Q11. Do you agree that it would be preferable not to amend the Constitution to impose a confidentiality obligation on the parties unless this criterion is required by the EC?	<p>As stated in the covering letter, Transpower is of the view that no changes should be made to the constitution unless and until they are required by the Electricity Commission.</p> <p>However, if the Electricity Commission were to require changes to the constitution to ensure confidentiality, Transpower would not object. In Transpower's view the Scheme is more likely to achieve high quality outcomes if the parties are able to make full and frank disclosures without risking adverse public relations or precedent setting effects.</p>
Q12. Do you have any other comments to make regarding this proposal?	See Transpower's comments in the covering letter.