

27 April 2007

Computerland House
154 Featherston Street
PO Box 715, Wellington
New Zealand
Tel (04) 473-7269
Fax (04) 473-1081
Email: receptionwgton@fedfarm.org.nz
Website: <http://www.fedfarm.org.nz>



Susan Cuthbert
Electricity & Gas complaints Commission
P O Box 6144
WELLINGTON

Email: s.cuthbert@egcomplaints.co.nz

Dear Susan,

Submission : Constitutional Changes to the Electricity & Gas Complaints Commissioner Scheme

Federated Farmers of New Zealand (Inc) welcomes the opportunity to comment on the Commission's consultation paper *Constitutional Changes to the Electricity & Gas Complaints Commissioner Scheme*.

Federated Farmers is an industry organisation with approximately 17,000 members representing farming and agricultural businesses. Federated Farmers has a long and proud history of representing the interests of rural farming communities throughout New Zealand.

The Federation aims to add value to its members' farming business. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:

- Our members may operate their business in a fair and flexible commercial environment;
- Our members' families and their staff have access to services essential to the needs of the rural community; and
- Our members adopt responsible management and environmental practices.

Federated Farmers is strongly supportive of accessible, independent, fair, accountable, efficient and effective means to resolve consumer complaints in the energy sector. The Federation fields a large number of member enquiries disputing or complaining about the service received from electricity retailers. We have found the Electricity and Gas Complaints Commission (EGCC) to be a vital tool and it has certainly helped the Federation reassure its members that their disputes and complaints will be addressed in a timely manner.

The Federation has had the opportunity to work through the proposed constitutional amendments to the EGCC scheme, and two issues emerge from the paper, namely:

- The timing of the proposed amendments; and
- Supportive reasoning behind some of the proposed amendments

Federated Farmers is aware the Electricity Commission (EC) is still considering feedback received to their discussion document *Approval for Consumer Complaints*

Resolution Schemes. In the absence of clear direction from the EC on the issues raised in their paper, it seems premature on the part of the Working Group to propose constitutional amendments that may need to be reversed or require further amendment.

The supportive reasoning behind the proposed amendments to the definition of “consumer” leaves the Federation uncomfortable. The Working Group’s approach seems counter-intuitive and does little to assure this consumer organisation that the proposed amendments are necessarily an improvement to our member constituents. It would have been helpful if the Working Group had organised the proposals in such a way that reinforced how the proposed amendments were of benefit to consumers and other stakeholders (the extent to which the amendment is an improvement on the status quo), and provided sufficient supportive reasoning for retaining the limitations of the EGCC constitution and code of practice. As it stands, the Federation finds itself unable to substantively respond to questions 1 through 5 of the consultation paper..

Attached are the Federation’s specific comments against the questions raised in the consultation paper.

Federated Farmers would be happy to discuss its submission with the EGCC.

Yours sincerely,

Frank Brenmuhl
National Board member

Appendix A: Format for Submissions

To assist the working group in the orderly and efficient consideration of stakeholders' responses, a suggested format for submissions has been prepared. This is drawn from the questions posed throughout the body of this consultation paper.

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?	Not entirely – the Working Group’s approach to addressing this issue seems counter-intuitive – it makes sense that a consumer complaints scheme focus on complaints from consumers and yes the “every person” approach promoted by the EC seems to broaden the scope of consumer complaints schemes beyond that of simple definitions of consumers, but the proposal gives no reasoning for why there should be limits on access to the Scheme.
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?	Not entirely – as for response to Q1.
Q3. Do you agree with the proposed drafting of “Consumer”?	Not entirely – as for response to Q1.
Q4. Do you agree with our assessment that it is appropriate for the Commissioner to consider only some issues relating to potential consumers?	Not entirely – the Working Group’s approach to addressing this concern seems counter-intuitive – the proposed amendment also lacks sufficient reasoning to support the change, especially in respect of why Clause B1.5 should continue to place restrictions on what the Commissioner does or does not have jurisdiction to consider.
Q5. Do you agree with the proposed drafting that limits the Commissioner’s ability to consider certain issues relating to potential consumers?	Not entirely – as for response to Q4.
Q6. Do you agree with the proposed drafting of Consumer Complaint?	Yes – it is appropriate that the definition is widened to include both consumers and potential consumers in respect of the use or potential use in dispute Results in better situation for consumers
Q7. Do you agree with the proposal to redraft Land Complaint as suggested?	Yes – many land access disputes would relate to chattels as well as the land. Results

	in better situation of land owners/occupiers.
Q8. Do you agree with the proposed drafting of Clause 6 to provide for consultation with the EC?	Yes – it is sensible for the Electricity Commission to be consulted on amendments to the EGCC constitution or code of practice
Q9. Do you agree with the proposed drafting of Clause 6 to provide consistency with any GPS and relevant benchmarks?	Yes – it is sensible for the EGCC to operate in line with GPS and other relevant benchmarks on performance and operation.
Q10. Do you agree the drafting of the Constitution needs to allow for situations where there may not be a consumer contract?	Yes – it is sensible to address those situations where consumers may not have consumer contracts.
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?	Yes – transparency in dealings with complaints is a necessary part of working towards companies addressing issues so that they can avoid disputes brought by consumers and other complainants.
Q12. Do you have any other comments to make regarding this proposal?	The timing of these proposed changes seems odd given the Electricity Commission has not given any indication of their specific requirements arising from the recent consultation. Federated Farmers is concerned the EGCC is considering implementing changes that may prove contrary to whatever results from the EC consultation on <i>Approval for Consumer Complaints Resolution Schemes</i> .