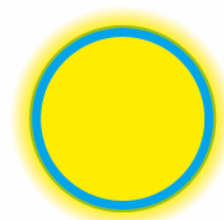


4 May 2007

Susan Cuthbert
Electricity and Gas Complaints Commission
PO Box 6144
Wellington

POWERCO



Dear Ms Cuthbert

Consultation Paper on Constitutional Changes to the Electricity and Gas Complaints Commissioner Scheme

Thank you for providing Powerco with the opportunity to resubmit on the proposed changes to the EGCC Constitution. This submission is made in the spirit of supporting the Commission in the development of a robust and fair complaints scheme for consumers, land owners, electricity retailers and electricity lines companies. Powerco notes that this round of consultation is only one step in the process of revising the EGCC Constitution.

Powerco is pleased to note the Working Group's statement that "instead of an overly broad approach, the working group considers that the legislation intends to ensure that all electricity consumers or potential consumers of retail and/or lines function services are covered by the Scheme, regardless of whether a supply contract is in place. The working group also believes that it only makes sense if the person complaining has a sufficient interest in the complaint." (para 28 of Consultation Paper). Powerco does however have some concerns that the approach proposed in the Consultation Paper would make the process too open. A key concern for Powerco is to ensure there is no cross-over between Consumer Complaints and Land Complaints.

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?

Yes, so long as Land Complaints remain separate from Consumer Complaints. Powerco has always been of the view that Parliament's intention in section 158G of the Electricity Act 1992 was to ensure that landlords and others could access the Scheme in relation to service and supply issues etc, where the contractual setup had previously excluded them as a result of a landlord/tenant relationship. Accordingly, Powerco agrees philosophically that the expansion of the wording to catch this group is appropriate.

<p>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?</p>	<p>No. In Powerco’s view, while a materiality concept may not be ideal, it should be retained until a preferable alternative emerges.</p>
<p>Q3: Do you agree with the proposed drafting of “Consumer”?</p>	<p>No. As noted above Powerco agrees with the policy position that landowners of users or potential users should be able to make a complaint but is very wary of using the defined term “Land Owner” because of the risk of giving Land Owners full access to the Consumer Complaints process. Powerco submits that the terminology of “Land Lord of such user or potential user” would avoid this confusion. “Land Lord” may need to become a defined term.</p>
<p>Q4: Do you agree with our assessment that it is appropriate for the Commissioner to consider only some issues relating to potential consumers?</p>	<p>No comment – this is not a matter within Powerco’s operations.</p>
<p>Q5: Do you agree with the proposed drafting that limits the Commissioner’s ability to consider certain issues relating to potential consumers?</p>	<p>No comment – this is not a matter within Powerco’s operations.</p>
<p>Q6: Do you agree with the proposed drafting of Consumer Complaint?</p>	<p>Powerco submits that the proposed definition is too broad and, despite the ambiguity around the term “materiality”, would prefer the definition to refer to any “material action or omission”. The term “material” does not necessarily refer to monetary value and strengthens the Commissioner’s discretion. Powerco’s primary concern would be to ensure that Land Complaints were not captured in the definition of Consumer Complaint (refer answer to question 3).</p>
<p>Q7: Do you agree with the proposal to redraft Land Complaint as suggested?</p>	<p>No. Powerco is concerned by any suggestion of widening the scope for Land Owner complaints. Lines companies “affect” Land Owners on a daily basis as a result of the presence of lines on private land. The definition of Land Complaint should be kept as narrow as possible so that it captures only unlawful</p>

	activities. The EC concept of materiality goes at least some way towards recognising the need for limits. Further thought is needed as to how this concept of materiality could be integrated with the concept of “unlawfully affecting”.
Q8: Do you agree with the proposed drafting of Clause 6 to provide for consultation with the EC?	Agree.
Q9: Do you agree with the proposed drafting of Clause 6 to provide consistency with any GPS and relevant benchmarks?	Agree.
Q10: Do you agree the drafting of the Constitution needs to allow for situations where there may not be a consumer contract?	Agree, provided Land Complaints remain separate from Consumer Complaints.
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?	Agree.

We look forward to continuing to work with the Commission in the ongoing process of providing an effective and efficient complaints resolution scheme.

Yours sincerely

Caroline Ramsey
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