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Electricity Commission and Gas Industry Company
C/- Electricity Commission
PO Box 10041
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By email

To whom it may concern

Further Submission on Approval of a Complaints Resolution Scheme

We refer to:

- Transpower's original response to the EC/GIC's March 2009 consultation paper entitled "Proposal to Approve a Joint Electricity and Gas Complaints Resolution Scheme", dated 26 March 2009; and
- the EC/GIC email of 14 April 2009 about the failure of the EGCC Scheme amendment proposals.

Transpower is strongly of the view that the EC/GIC should approve the EGCC Scheme notwithstanding the failure of some of the amendment proposals.

As indicated in our original response, there would be significant transaction costs in moving from the predominant EGCC Scheme to, effectively, a new industry or regulated scheme. The consultation paper does not put sufficient emphasis on those transaction costs:

- The EGCC Scheme has built up significant levels of market awareness and goodwill with consumers and landowners since it started in 2001. It also has the support and membership of the vast majority of electricity and gas retailers and lines companies (even though, at this stage, membership of the Scheme is voluntary). This support and the benefits of it are acknowledged in the paper that went to the 17/18 February 2009 EC board meeting, at paragraphs 41, 54, 57 and 58.

Put another way, the EGCC Scheme is a powerful brand. Changing to a different scheme would waste that brand and the electricity and gas industries' significant investment in it. It is unlikely a new scheme would have the same levels of industry, consumer and landowner support or, at least initially, market awareness.

- Under the EGCC Scheme constitution members are required to inform potential complainants about the Scheme, including by having statements in their external communications. The constitution also requires members' internal complaint handling processes to comply with certain minimum requirements and to integrate with the Scheme generally. Changing to a different scheme would likely require at least some of that work to be undone.
- It is likely the EGCC Scheme would co-exist for a period of time with any new scheme in order to dispose of current complaints or at least transition them to the new scheme. The costs of running the EGCC Scheme for that period would also co-exist with the costs of the new scheme.
- If a new scheme is approved, the EGCC Scheme, at least in its current form, would cease to exist after transition. There would likely be termination costs for the EGCC Scheme, including for redundancies and in relation to the Scheme's premises and services contracts.
- As acknowledged at paragraph 7.10 of the consultation paper, the set up and transition for a new regulated scheme would be costly and drawn out. The costs would fall not only on the EC/GIC but also on the electricity and gas industries and consumer and landowner interest groups, all of whom have already endured the costs and drawn out processes that have got us to this point.
- Transpower is not convinced there would be operational cost savings to offset the above transaction costs if the EGDRS Scheme were approved. The EGDRS budget at paragraph 5.23 of Appendix 2 of the EC board paper must only be a very rough estimate because the EGDRS Scheme has only ever operated with a maximum of two members, both of them retailers. As noted at paragraph 48 of the EC board paper, the difference between the EGCC and EGDRS budgets is less than 7%. Transpower considers that to be well within the margin for error given the speculative nature of the EGDRS budget.

As acknowledged at paragraph 7.11 of the consultation paper, the operating costs of a regulated scheme are expected to be on a par with, or more than, the operating costs of the EGCC Scheme.

In Transpower's view, these transaction costs should not be incurred for the sake of four technical deficiencies, or perceived deficiencies, in the EGCC Scheme's constitution. In regard to those deficiencies, we note the following:

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- It seems that Genesis (which voted against the failed amendments to the Scheme's constitution) does not have an insurmountable difficulty with the substance of those amendments. Genesis' issue is with having only one approved scheme. It may be possible to progress the failed amendments at a later time once the "one scheme" issue is resolved.
 - The EC/GIC appear to have no issue with the substance of members' obligations under the Scheme. In Transpower's view it is likely any new scheme would simply replicate those substantive obligations. Indeed, it may be necessary for a new scheme to do that for fairness to previous complainants and to avoid double jeopardy for members.
 - The achievement standards against which the EC/GIC are assessing the Scheme were chosen by EC/GIC rather than being imposed on them by statute, regulation or any other law. It is therefore open to the EC/GIC to depart from strict compliance with the achievement standards if they consider there is a reasonable basis for doing so.
 - The most significant of the failed amendments to the EGCC Scheme constitution (albeit only a technical issue) is the amendment relating to the process by which the constitution may be changed. As explained in our original response, Transpower does not consider that the achievement standards require that amendment. In Transpower's view, that amendment is in fact contrary to the achievement standards.

In summary, the EGCC Scheme is a long-standing and well-functioning complaints scheme that has close to full industry, consumer and landowner buy-in and that complies with the EC/GIC's substantive requirements in terms of member obligations. It would defy common sense if the EC/GIC were to abandon that position because of a handful of technical issues arising from a particular interpretation of achievement standards that the EC/GIC have imposed on themselves.

Nothing in this submission is confidential.

Yours faithfully



Chris Browne
Corporate Counsel