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Submission on the Proposed EGCC Membership Exemptions

Introduction

1. Vector Limited ("Vector") welcomes the opportunity to make a submission on the Ministry of Business, Innovation and Employment's ("MBIE") Discussion Paper, *Electricity and Gas Complaints Commissioner Scheme: Membership Exemptions*, dated 15 July 2013.
2. No part of this submission is confidential and Vector is happy for it to be made publicly available.
3. Vector's contact person for this submission is:

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General comments

4. Vector broadly supports MBIE's consultation on its proposed class and individual exemptions from membership in the Electricity and Gas Complaints Commissioner ("EGCC") Scheme ("the Scheme").
5. In particular, Vector supports the proposed class exemption for businesses supplying only small LPG bottles (10kg or less), given the competitive nature of this market and the very low switching costs for consumers.
6. Vector has no objection to the proposed class exemption for embedded electricity and gas distribution network operators, but proposes a tighter threshold of 10

instead of 20 consumers. This would ensure greater consumer coverage without putting the existence of very small embedded networks at risk.

7. Vector also supports the proposed framework for individual exemptions, which is clear and simple, and appears to be a low-cost and expeditious process.
8. Further, Vector recommends that MBIE re-consider granting sub-class exemptions to:
 - retailers who only supply commercial and industrial consumers, i.e. those who have no mass market or domestic consumers; and
 - Scheme Members who have not had any complaints for a period of time.
9. Vector believes the above sub-class exemptions would further promote the fairness and efficiency objectives of the Scheme. This more targeted approach would not harm any consumer groups, but would reduce costs to the EGCC and the relevant businesses, which have positive flow-on impact on consumers.
10. Vector's views are further discussed below.

Responses to specific questions

Question	Vector's Comment
1. Are there any other groups not identified here that have not yet joined the Scheme?	No comment.
2. Are there any other groups that should be considered for a class exemption? This could be other groups that have not joined the scheme (which we have not identified) or groups who have joined, but should nonetheless be exempted from the membership requirement.	<p>The Discussion Paper states that "[i]ndividuals cannot be exempt from a subset of the scheme's requirements". Vector recommends that MBIE re-consider this arrangement by granting some form of a 'sub-class/automatic' exemption for retailers who do not supply mass market or domestic consumers.</p> <p>For example, Vector's gas retail business (OnGas), which supplies reticulated natural gas only to commercial and industrial consumers, never had any complaints through the Scheme. OnGas has never used the Scheme's resources, but contributes to the cost of its operations and incurs compliance costs as a Scheme Member.</p> <p>OnGas negotiates (non-standard) contracts individually with all its consumers. It has not had any</p>

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	<p>consumer concerns that were not resolved satisfactorily through contractual means. Having the Scheme as a 'back-up' system for complaints has, in fact, caused some confusion for its consumers, who expect to resolve issues contractually and are used to doing so.</p> <p>There is a strong incentive for retailers to address the complaints of industrial and commercial consumers expeditiously and to their satisfaction in order to retain them; a loss of even one or a few consumers could be significant.</p> <p>While OnGas has the option of applying for an individual exemption on the basis that complaints are unlikely to be made, or should be made in another forum, a sub-class exemption would eliminate the costs for businesses in similar circumstances across the board, including those intending to enter the market. It is an arrangement where no one would be worse off (it would not harm any consumer groups), but would reduce costs to businesses, which would have a positive flow-on impact on consumers.</p> <p>More targeted exemptions are used in other regulatory regimes, for example, in the Gas Industry Company's ("GIC") proposed amendments to the <i>Gas (Critical Contingency Management) Regulations 2008</i> ("CCM Regulations"). Following its recent review of the CCM Regulations, the GIC recommended to the Minister of Energy and Resources that in making deferred curtailment designations for Essential Service Providers and Critical Care Providers, the designation should only be for gas used in the provision of the essential or critical care services.¹</p> <p>MBIE should also consider a sub-class exemption for Scheme Members who never had any complaints over a certain period of time, say for the past two to three years. Scheme Members with zero or very few complaints are effectively subsidising those with many. This is inconsistent with the principles of fairness and</p>

¹http://gasindustry.co.nz/sites/default/files/u254/recommendation_to_the_minister_of_energy_and_resources_to_amend_the_gas_governance_critical_contingency_management_regulations_2008_w_appendix_a_187078.pdf, page 18

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	<p>efficiency ('causer/user/beneficiary pays'), which are among the key objectives of the Scheme.</p>
<p>3. Is it appropriate to only exempt <i>distributors</i> operating embedded and customer networks?</p> <p>4. Will there be any unintended harms to the customers of small embedded network distributors through a loss of access to the Scheme's dispute resolution?</p> <p>5. Is the correct size threshold for exemption twenty customers?</p> <p>6. Is ten years an appropriate duration for the exemption?</p>	<p>All embedded electricity and gas networks must be covered by the Scheme except for the very smallest networks. Vector recommends tightening the threshold from 20 to 10 consumers to ensure wider consumer coverage without putting the existence of the smallest networks at risk, which would not be to the interest of their consumers.</p> <p>A 10-consumer threshold would ensure that consumers who may need protection from the Scheme are covered to the extent possible. It could be costly for consumers on an embedded network to switch to a similar alternative network in the same location, if at all available, and switch to one that can provide immediate access to the Scheme.</p> <p>On the other hand, mandatory Scheme membership for all embedded networks would be too onerous on the smallest networks and could put their existence at risk. Their exit from the market would not promote market competition and could potentially disrupt supply, which would not be in the interest of consumers.</p> <p>Vector believes a 10-consumer threshold would strike a reasonable balance between maximising Scheme membership coverage and ensuring that onerous costs for very small embedded networks are avoided.</p> <p>A 10-year duration for this exemption is too long. The size of embedded networks could grow or contract significantly over a shorter period of time. Vector considers a five-year exemption to be more appropriate, after which such exemption could be reassessed. To ensure a low-cost process, Vector recommends that the assessment of membership exemptions be considered as part of the five-year regular reviews of the Scheme.</p>
<p>7. Should small gas distributors operating on embedded or customer</p>	<p>Any exemption for embedded gas distribution networks should be considered on the same basis as that for embedded electricity networks, to ensure consistency</p>

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<p>networks also be exempted as a class?</p>	<p>across sectors. This is particularly relevant for dual-fuel consumers of embedded networks, if any, or in the future.</p> <p>The exemption for embedded networks should be determined by the number of consumers on the network (e.g. no more than 10 consumers) more than the network's configuration. This would ensure that consumers who need access to the Scheme, and those who face high switching costs, or do not have alternative sources of energy, are covered to the extent possible.</p>
<p>8. Do you agree that it is appropriate to exempt suppliers of LPG in small containers from the requirement to join the Scheme?</p> <p>9. Is 10kg the correct threshold? Does it risk exempting too large or too small a group of suppliers?</p> <p>10. Is twenty years an appropriate duration for this exemption?</p>	<p><i>Proposed class exemption</i></p> <p>Vector agrees that suppliers of small LPG bottles (10kg or less) should be exempt from Scheme membership.</p> <p>Firstly, the small LPG bottle market is contestable and highly competitive, with near-zero switching costs. Consumers not satisfied with the quality or price of the product or service of a bottle supplier can easily purchase from any of the multiple suppliers, for example, from nearby petrol stations. The list of multiple LPG wholesalers, retailers and equipment suppliers on the LPG Association's website, http://www.lpga.co.nz/membersFind.php#retailers, reflects the competitive nature of this market.</p> <p>Secondly, the monitoring of all small LPG bottle suppliers, including petrol stations, would be impractical and costly. It would unnecessarily add to the cost of running the Scheme and to the levies paid by Scheme Members, which have negative flow-on impact on consumers.</p> <p>Thirdly, the value of complaints relating to small LPG bottles are likely to be very small, i.e. equivalent to the 'loss' of one or a few bottles. The cost of addressing these complaints through the Scheme are likely to exceed the benefits to consumers. Addressing these complaints through market mechanisms such as low-cost switching or suppliers swapping the bottles in question with bottles to the consumer's satisfaction (to</p>

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	<p>retain that consumer's loyalty) would be far more efficient and effective.</p> <p>Lastly, consumers already face a higher price for LPG compared to natural gas. Including the supply of small LPG bottles in the Scheme, complaints of which can be addressed more efficiently through market mechanisms, would add to the cost of small LPG bottle suppliers. This would not be to the interest of their consumers, particularly those who have no access to reticulated natural gas.</p> <p><i>Proposed threshold</i></p> <p>Vector considers the proposed 10kg threshold to be appropriate. As stated above, consumers of this volume or less face very low switching costs, i.e. they have alternative options which consumers facing a good or service provided by a single supplier (natural monopoly) do not have. Switching costs for small LPG bottle consumers have further declined more recently with the introduction of 'bottle swap' services, which are increasingly getting popular.</p> <p><i>Proposed duration of exemption</i></p> <p>Vector considers 20 years to be an appropriate duration for an exemption for small LPG bottle suppliers. The ability of their consumers to 'vote with their feet', enabled and sustained by a competitive market environment, would provide greater choice and built-in protection for consumers for a very long period.</p> <p><i>EGCC levy for LPG bottle suppliers who would be Scheme Members</i></p> <p>The proposed exemption would mean that some LPG bottle suppliers (those supplying both bottles containing 10kg or less, and higher-volume bottles) would become members of the Scheme while others would not (those supplying only bottles containing 10kg or less). Vector recommends that the EGCC levies paid by the former should reflect only the portion of their business supplying the non-exempt product.</p>

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<p>11. Do you agree that [sic] with the Ministry's assessment that it is not appropriate to grant a class exemption for non-grid connected integrated electricity companies?</p>	<p>Vector agrees with this assessment. The diverse nature of non-grid suppliers and their evolution in the next decade or two would make it difficult, if not impossible, to lump them into a single class. They would also be costly to identify and monitor.</p> <p>It would be efficient for non-grid suppliers to apply for individual exemptions (opt-out approach), where they can be assessed on a case-by-case basis.</p>
<p>12. Do the proposed guidelines adequately capture the statutory criteria for individual exemption applications?</p>	<p>Yes, under existing legislation.</p> <p>As stated in our responses to questions 2 and 8-10, MBIE should re-consider introducing (more targeted) sub-class exemptions, e.g. for retailers who do not supply any mass market or domestic customers, and Scheme Members who have not had any complaints for a period of time. This would ensure that the costs of running the Scheme and costs to the relevant businesses and consumers are minimised without harming any group of consumers.</p> <p>The above arrangement would promote the fairness and efficiency objectives of the Scheme because 1) only electricity and gas businesses whose consumers need access to the Scheme are required to become Scheme Members, and 2) some Scheme Members do not have to bear a disproportionate share of the costs of running the Scheme, i.e. cross-subsidisation between Scheme Members is avoided.</p>
<p>13. Will the proposed guidelines provide sufficient certainty to prospective applicants?</p>	<p>As above.</p>
<p>14. Do you foresee any unintended consequences of the proposed guidelines?</p>	<p>While unintended consequences can never be totally ruled out, their occurrence can be minimised by ensuring that existing and potential Scheme Members are well informed of the guidelines and criteria for exemption, the application process, and timeframe. This would assist potential applicants in weighing the costs and benefits of seeking an exemption, including the prospects of an exemption being granted.</p>

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	<p>A low-cost and expeditious application process (which the Guidelines suggest) would further reduce unintended consequences and encourage those for whom exemptions are intended to make an application.</p> <p>It would assist applicants for exemption if their applications can be made online, if such an arrangement does not already exist.</p>

Other comments

11. Vector appreciates the ample time provided to stakeholders to make submissions on the proposed Scheme membership exemptions. Vector suggests that to enhance stakeholder awareness, any such consultations in the future be communicated as widely as possible, e.g. it could be announced by the Minister of Consumer Affairs or on MBIE's main website.
12. Vector is happy to discuss with MBIE officials any matters in relation to this submission.

Yours sincerely



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