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Hon Heather Roy
Independent Chair
Electricity and Gas Complaints Commissioner Scheme
Wellington

Dear Madam Chair

**Submission on the Proposed Establishment
of Utilities Complaints Limited**

1. This is Vector Limited's (Vector) submission on the Electricity and Gas Complaints Commissioner Scheme's (EGCC Scheme) consultation document on the proposed establishment of Utilities Complaints Limited (UCL), released on 24 February 2016. We appreciate the EGCC's face-to-face engagement with Scheme Members on this proposal on 7 March 2016.
2. We agree that the proposal would place the EGCC Scheme in a better position to take advantage of opportunities that would provide better value for consumers in the rapidly evolving utilities sector. However, any new governance arrangements should not impose additional costs on Scheme Members and consumers and should retain, if not enhance, the efficiencies achieved under the current EGCC Scheme.
3. Our responses to the specific questions in the consultation document are set out below using the EGCC's preferred forms for submissions (Appendices 1 and 2).
4. We are happy to discuss with you any aspect of our submission. Please contact me at 09 978 8215 or Siobhan.Mckenna@vector.co.nz.
5. No part of this submission is confidential and we are happy for it to be made publicly available.

Yours sincerely
For and on behalf of Vector Limited

A handwritten signature in blue ink, appearing to read "Siobhan".

Siobhan Mckenna
Head of Customer Excellence

Appendix 1: Vector's comments on specific questions in the consultation document

Questions for submitters	Yes/No	Vector's Comments
<p>1. Do you agree with the Board's proposal that establishes a Company to operate the existing EGCC scheme?</p>	<p>Yes</p>	<p>We agree with the EGCC Chair that "the time is right" to make changes to the governance of the EGCC Scheme to enable it to take advantage of future opportunities that would provide better value for consumers, e.g. considering consumer complaints in a more holistic manner.</p> <p>However, the EGCC should ensure that any new governance arrangements, and the transition to those arrangements, will not impose additional costs on Scheme members and ultimately, consumers.</p>
<p>2. Do you agree with the Board's proposal that the scheme be able to cover complaint handling for energy and other related services?</p>	<p>Yes</p>	<p>While we agree that the proposal is a step in the right direction in the context of the rapidly evolving energy sector and the wider utilities sector, we would not want to see the efficiencies achieved by the current EGCC Scheme to be diminished or lost under any new arrangements. These include, for example, the EGCC services and processes that were developed when the EGCC Scheme became mandatory and are now widely accepted and practiced by energy lines and retail companies.</p> <p>Maintaining the above arrangements and further enhancing them under the proposed UCL would ensure that costs are kept to a minimum and provide 'value for money' for Scheme Members and consumers.</p>
<p>3. Do you agree with the Board's proposal that the scheme be able to cover complaint handling for other utilities?</p>	<p>Yes</p>	<p>The proposed inclusion of complaints outside of the energy sector may be a bit premature, given that the EGCC Scheme is mandated under the <i>Electricity Industry Act 2010</i> and <i>Gas Act 1992</i> as the "approved scheme" for the resolution of electricity and gas consumer complaints, respectively. We suggest that the EGCC discuss this matter with the Ministry of Business, Innovation and Employment to ensure that any issues about the EGCC Scheme's authority to cover complaint handling for other industries will be identified and addressed.</p>

Questions for submitters	Yes/No	Vector's Comments
		<p>We note that a separate independent complaints resolution scheme already exists for the telecommunications sector - the Telecommunications Dispute Resolution (TDR) Scheme. Having been in existence since 2007, the TDR Scheme has developed specialist expertise in complaints resolution in the New Zealand telecommunications sector.</p> <p>While the TDR Scheme is a voluntary scheme, and only members of the NZ Telecommunications Forum are obliged to participate in it, we understand it covers some 99% of telecommunications consumers in New Zealand.</p> <p>We understand that the impact of the proposed expansion of the Scheme to other industries, e.g. telecommunications, would not be immediate and would be implemented in a way that would not be disruptive and onerous for Scheme Members and consumers. Telecommunications service providers also need ample time to prepare for any possible changes to how telecommunications consumer complaints may be handled in the near future.</p> <p>We prefer that any future complaints resolution arrangements avoid overlapping obligations or unnecessary compliance costs for Scheme Members, and avoid confusion for consumers.</p>
<p>4. Do you agree with the Board's proposal that establishes an independent professional board?</p>	<p>Yes</p>	<p>We suggest that the Advisory Committees be given the authority to appoint at least 25% of UCL Board Members, to facilitate communication and information flow between the Board and the Advisory Committees. As the Advisory Committees consist of industry and consumer representatives, whose constituents bear the cost of funding the prospective UCL, they would face strong incentives to nominate people who would make decisions that would ensure the efficiency and effectiveness of the Scheme.</p>

Questions for submitters	Yes/No	Vector's Comments
		<p>Vector values diversity and inclusion in its own businesses, believing that diversity of ideas brings about successful outcomes. Vector supports the formation of a Board made up of a diverse group of people, who represent both technical expertise relevant to the utilities sector and the diverse makeup of New Zealand society.</p> <p>We also suggest that the Advisory Committees be consulted on the appointment of UCL Board Members.</p>
<p>5. Do you agree with the Board's proposal that establishes a standing committee (Advisory Committee) to provide the board with industry and consumer advice and guidance?</p>	<p>Yes</p>	<p>This is an arrangement that has worked well under the current Scheme, and should be continued.</p> <p>Advisory Committee Members also have direct engagements with industry participants and consumers, and would be able to provide advice on practical and cost-effective solutions in relation to the operation of the Scheme.</p>
<p>6. If the name of the organisation were to change, what suggestions do you have?</p>		<p>We have no issue with the name "Utilities Complaints Limited".</p>
<p>7. Do you have any other comments you would like the Board to consider about the proposed changes?</p>		

Appendix 2: Mapping information

Part of Scheme document	Current	Proposed	Vector's Comments
A	Scheme established - by Deed, as a continuation of original agreement	<ul style="list-style-type: none"> GR - Introduction and general principles Electricity Industry Act 2010 (EIA) schedule 4 Constitution - 2 	<p>To provide continuity for existing members and (together with a provider agreement) the means for new members to join the scheme.</p> <p>Comment: We agree.</p>
A	Purpose - Resolving complaints	GR1 GR2 Electricity Industry Act 2010 (EIA) Schedule 4, clauses 1 and 5 Constitution 2.1, 2.2	<p>Purpose of the current EGCC scheme remains the same.</p> <p>Comment: We agree.</p>
A	Founding principles	GR3 EIA schedule 4, clauses 1 and 5	<p>Core principles remain the same. 'Known in the Community' is removed - covered by principle of accessibility and effectiveness. Requirement for natural justice highlighted.</p> <p>Comment: We agree.</p>
A	Diagram	Removed to simplify document Detail in Constitution	<p>Comment: We agree.</p>
A	Definitions / Interpretation	GR pages 8-9 Constitution 1.1, 1.2	<ul style="list-style-type: none"> Current document is overly prescriptive - covers issues, requirements, and definitions already in legislation.

Part of Scheme document	Current	Proposed	Vector's Comments
			<ul style="list-style-type: none"> No material impact on consumer access of provider obligations. <p>Comment: We welcome the move towards making the Scheme documents (i.e. the proposed Constitution, General Rules, and Scheme Rules) simpler and more flexible.</p>
B	Terms of Reference / Jurisdiction	GR 2, 3, 13-18, 23, 24, 26, 30, 31, 37-41 GR12 – 16 applies to B.6 – B.9.10 SR 6 - Claim value limit	<ul style="list-style-type: none"> Requirements for approved scheme are to ensure any person who has a complaint about a member has access to a scheme for resolving the complaint. Current SD has arbitrary exclusions that disadvantage consumers and may impact on ongoing approval. <p>Comment: We have no issue with this proposal. The value of a complaint that can be considered under the EGCC Scheme should be retained under the proposed UCL, which is no more than \$50,000 (and \$100,000 by agreement between the parties). The EGCC Scheme is intended to address the complaints of "small consumers". It is reasonable to assume that parties with complaints involving more than \$100,000 have the wherewithal to take their complaints to more appropriate bodies, or would be covered by contracts stipulating how complaints between the contracting parties would be resolved through commercial means.</p>

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B	Deadlock - A period before which the scheme can accept a complaint for consideration	GR Definitions - <i>Deadlock</i> GR 13, 16, 23	<ul style="list-style-type: none"> • Ongoing approval requires the rules to provide for or set out a period after which the scheme must investigate a complaint. • The concept of deadlock, as used in the current scheme, is familiar to the majority of members and provides continuity. • There are limited exceptions to ensure the scheme remains fair, efficient and effective. <p>Comment: We have no issue with this proposal.</p>
B	Extending jurisdiction	GR 13, 14, 37 SR 6, 7	<ul style="list-style-type: none"> • The Board originally proposed an increase to the financial limits to ensure we meet the accessibility principle (currently \$50,000 and up to \$100,000 by agreement) and because the relevant Minister proposed an increase to \$100,000 in 2012. • The Advisory Group recommended the limits remain as is and the Board has agreed in response to this feedback. <p>Comment: We support the Advisory Group's recommendation. Also see our comments above on the value of complaints that the proposed UCL should be able to consider, under "Terms of Reference/Jurisdiction".</p>
B	Procedures	GR 2, 3, 16-24, 26-43 Accessibility Principle	<ul style="list-style-type: none"> • The Board sees real value in the Commissioner having flexible and adaptable procedures, fit for purpose, for resolving complaints. The amended rules are therefore less prescriptive. The Board

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			<p>believes this will assist in meeting the accessibility principle by catering for differences in complainant abilities, including language, physical disabilities and education.</p> <ul style="list-style-type: none"> The scheme will be better able to respond to changes in industry and complaint patterns. <p>Comment: We agree.</p>
B	Information about complaints	GR 25 – 29	<ul style="list-style-type: none"> Effective information collection is key to resolution of complaints. Proposed wording gives flexibility to get appropriate information in a timely and effective way. Proposed wording allows for changes in communication and technology. <p>Comment: We agree.</p>
B	Recommendations	GR 32 – 35	<ul style="list-style-type: none"> Current SD is overly prescriptive Principles of accessibility, effectiveness and natural justice serve to cover prescriptive aspects, for example, for recommendations to be in writing. <p>Comment: We agree.</p>
B	Binding Decisions	Determinations - GR 30, 36 – 41 SR 7 - Claim value limit	The principles that apply to recommendations (above) apply here.

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		Accountability, Accessibility, Natural Justice	<p>Comment: We agree.</p>
B	Test Cases	Removed	<p>The test case procedure has not been used since the scheme began, despite examples of complaints where the Scheme Member considered the complaint involved issues that had important consequences for their business (a trigger point for a test case under the current rules).</p> <p>Comment: Vector does not support this proposal. While the test case procedure has never been applied in practice, this does not indicate that it will never be applicable in any future cases in an expanded Scheme.</p> <p>In rapidly evolving markets, we cannot foresee all potential consumer issues and their consequences on various Scheme Members, particularly the introduction of new and innovative products and services.</p> <p>We therefore recommend that the existing provisions in relation to test cases be retained under the relevant UCL document(s). This would provide confidence for Scheme Members that they have the option of pursuing in court proceedings issues of important consequences for their business, particularly those which also have significant consequences for their customers.</p>

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B	Commissioner Responsibilities	GR 3 - Complaint handling GR 44, 45 - Administration, compliance, reporting EIA Schedule 4, clause 16 – Annual Report	<ul style="list-style-type: none"> • Less prescriptive. • Enables fit for purpose compliance monitoring that achieves its aims and is less onerous for members and EGCC staff. • Accounts for considerable differences in member size and scope and maintains proportionality. <p>Comment: We agree.</p>
C	Provider obligations/ Code of Conduct	GR 5, 8, 12, 27, 34, 36, 42-46, 48, 50-52 SR 10, 11 EIA s96, 97	<ul style="list-style-type: none"> • Less prescriptive. • Simplified clearing-house mechanism for members referring complaints to other members • Promotes accessibility and efficiency. <p>Comment: We agree.</p>
D	Fees / levies / costs	GR 38, 42, 43 SR - Appendix Transition arrangements	<p>Existing levy mechanism continues until proposed structure and new Board in place.</p> <p>The Board proposes a levy and cost structure underpinned by principles of:</p> <ul style="list-style-type: none"> • Fairness • Self-funded • Avoiding cross-subsidisation across schemes <p>Comment: As stated in our cover letter, the transition to any new governance arrangements should not impose additional costs on Scheme Members. It is reasonable to expect that the efficiency gains from streamlined services and</p>

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			<p>expanded Scheme membership would result in cost reductions for Scheme Members over time.</p> <p>We support all Scheme Members paying their proportional share of the Scheme levy. We recommend that the review of the EGCC Scheme later this year assess the fairness of the current allocation of the EGCC levy, and propose a mechanism that would ensure that future costs are efficient and provide value for money for Scheme Members and consumers.</p> <p>As the proposed UCL evolves (should it be adopted), the company may consider providing incentives for Scheme Members with no or much fewer complaints relative to other Members of the same category (i.e. less intensive use of the Scheme), for example, through reductions in their share of the levy for the following year.</p> <p>We recommend that any proposals relating to levies and cost structure be subject to stakeholder consultation.</p>
E	Governance	Constitution - Parts 7-9	<p>Removed from operational parts of the rules to make the rules easier for providers and consumers to locate, understand and use.</p> <p>Comment: We agree.</p>
E	Advisory committee	Transition of existing member committee	<ul style="list-style-type: none"> The Board's advisory Committees are standing committees of the Board, with industry and consumer representatives.

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			<ul style="list-style-type: none"> The model of the member committee will be used in transition. <p>Comment: We agree.</p>
E	Meetings	Constitution - Part 8	<p>This change allows for a downsized rules document making it easier for members and stakeholders to use and understand.</p> <p>Comment: We agree.</p>
E	Independent Review	EIA schedule 4 cl 15	<p>No Change</p> <p>Comment: We have no issue with the existing arrangements in relation to the conduct of independent reviews of the Scheme.</p>
E	Amendments	EIA schedule 4	<p>No Change - statutory process for changes to rules governing the scheme</p> <p>Comment: We have no issue with this item.</p>
F	Withdrawal / default	SR 3 GR 8, 51	<p>The Scheme rules can modify the General Rules. In this instance SR 3 ensures the Board is not able to expel (for default or non-compliance with the rules) those providers whose membership is mandatory. (GR 7)</p> <p>Comment: We have no issue with this proposal.</p>

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G	Indemnity Disputes	SR 10 EIA schedule 4 cl 1	Ongoing requirement that the scheme allow for investigation and determination of indemnity disputes. Comment: We have no issue with this proposal.
Appendix	Adoption deed	Provider agreement	A fit for purpose document that achieves the same aims as the deed and allows for flexibility in signing, circulation and storage. Comment: We agree.