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31 January 2014

The Commissioner
Electricity and Gas Complaints Commissioner
PO Box 5875
Lambton Quay
WELLINGTON 6145

Without prejudice
By email

Email: s.ramsay@egcomplaints.co.nz

Attention: Sarah Ramsay

Dear Commissioner

FINAL RECOMMENDATION FOR SETTLING COMPLAINT OF MR CLIVE GIFFORD REF: 39982

1. Thank you for the copy of the Commissioner's Final Recommendation, dated 10 January 2014 relating to the complaint of Mr Clive Gifford (Ref: 39982).
2. Although TLC has no objection to apologising and paying \$500 to Mr Gifford, we disagree with the conclusions and findings that support the Final Recommendation. Accordingly, TLC rejects the Final Recommendation.
3. TLC appreciates that the Commissioner has considered TLC's submissions on the Proposed Recommendation and has outlined reasons why it takes a different view to TLC. However, given the Commissioner directs that the Final Recommendation should be read in conjunction with the Proposed Recommendation, TLC reiterates its earlier comments on the Proposed Recommendation (contained in Appendix 1 of the Final Recommendation). We make the following additional comments on the Final Recommendation.
 - (a) TLC is concerned that the Final Recommendation maintains that TLC's interpretation of the exemption is incorrect and that it was not entitled to exempt Mr Gifford's home, and that TLC acted unreasonably in advancing that view. TLC's view of the correct legal interpretation remains as outlined in its response to the Proposed Recommendation.
 - (b) The Final Recommendation does not reflect the additional factors sought by TLC to be considered by the Commissioner. In particular, the Final Recommendation does not acknowledge that TLC automatically places eligible consumers on the low tariff option (instead of simply making the tariff available for customers to select), which maximises the benefit to consumers.

4. TLC also notes that there is inconsistent wording used in the description of the alleged third criteria of the Exemption Notice. The Notice itself uses the phrase:

... lines serving **few homes** (with no other significant electricity consumers) ... [emphasis added]
5. This is consistent with the relevant criterion in the Regulations.
6. However at page 7, the Final Recommendation refers to the criterion of "a line serving fewer than *10 customers*", which is inconsistent with the Notice and Regulations. Page 10 correctly refers to "a line serving *few homes* and has no significant electricity consumers."
7. In conclusion, although TLC rejects the Final Recommendation and fully reserves its position in relation to the Final Recommendation and findings and conclusions that support it, in the event that Mr Gifford agrees with the Final Recommendation, TLC confirms that it will comply with any binding decision issued as a result.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Elizabeth Anglesey'. The signature is written in a cursive, flowing style with a large initial 'E'.

Elizabeth Anglesey
Chief Customer Officer