



10 February 2022

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

Via online portal

Tēnā koutou,

Powerco submission on the Water Services Legislation Bill

1. Powerco Limited (Powerco) welcomes this opportunity to provide feedback on the Water Services Legislation Bill (the *Bill*).

About Powerco

2. Powerco is New Zealand's largest electricity and second largest gas distributor in terms of network length. Our network spreads across the upper and lower central North Island, servicing around 1.1 million customers across 450,000 homes, businesses and industries. This represents 46% of the gas connections and 16% of the electricity connections in New Zealand. Powerco is also a requiring authority and operates assets within six regions of Aotearoa.
3. Our electricity distribution network measures over 28,000km in length, while our gas distribution network measures over 6,170km (see attachment One below). Accordingly, Powerco has extensive electricity and gas infrastructure installed on, along, over and under roads around the North Island.
4. Powerco's existing distribution networks need to be operated, maintained, repaired, and upgraded to maintain or improve capacity or security of supply. New network infrastructure is also needed to meet growing electricity demand driven by decarbonisation, new technology, population and economic growth. In recognition of the critical nature of our distribution networks, Powerco is a "Lifeline Utility" as described in Part B of Schedule 1 of the Civil Defence Emergency Management Act 2002.

Powerco's submission on the the Bill

5. Powerco has closely monitored the three waters reform program. As Powerco understands, the reform proposes to establish four publically-owned water services entities (*WSEs*) who will operate New Zealand's water, wastewater and stormwater services. Powerco recognises that these services are currently provided by local authorities.
6. Upon review of the Bill, Powerco is concerned that its capacity to operate and maintain its electricity and gas infrastructure on, along, over, across and under road will be materially impacted by the inclusion of section 211 of the Water Services Entities Act 2022 (*WSEA*) (section 22 of the Bill) in its current form.
7. This section as drafted is inconsistent with current industry practices, in proposing to allow **WSEs** to alter the position of, or remove any electricity and gas infrastructure or any part of that infrastructure on, along, over, across or under any road where it considers such act necessary for the provision of water services. As drafted, the WSEs would need only exercise such powers in accordance with any reasonable conditions imposed by the utility operator whose infrastructure is likely to be affected by the work.
8. Empowering an unrelated third party (such as WSEs) to undertake work on a sophisticated electricity and gas network raises significant network security concerns for Powerco, not to mention potential health and safety risks.
9. Powerco does not consider the ability to impose reasonable conditions on the WSEs exercise of its rights under section 211 sufficient to protect its ability to effectively operate and maintain its electricity and gas infrastructure on, along, over, across and under road.
10. At present, sections 32 and 33 of the Electricity Act 1992 (the EA) and Gas Act 1992 (the GA) respectively empower the local authority to require that the owner of works or fittings raise, lower or otherwise alter the position of such works or fittings that are fixed to or installed under or over any road.
11. This reflects the standard in the telecommunications industry which grants the local authority corresponding rights under section 147A of the Telecommunications Act 2001 (the TA).
12. This standard reflects the understanding that the owner of works or fittings (or network operator (as the case may be)) is best positioned in both resources and knowledge to undertake works to its own electricity, gas or telecommunications infrastructure.
13. The existing compensation framework under sections 33 and 34 of the EA and GA respectively support this understanding in that they require the local authority to compensate the owner of works or fittings for the reasonable costs incurred in relation to any works undertaken in accordance with these sections. This same position is reflected in section 147B of the TA.

Recommendations

14. Powerco considers that section 211 of the WSEA (section 22 of the Bill) should be amended:
- a) so that:
 - i. the power for WSEs to alter the position of, or remove any electricity or gas infrastructure or any part of that infrastructure on, along, over, across or under any road is removed; and
 - ii. a power for WSEs to require that the owner raise, lower or otherwise alter the position of works or fittings that are fixed to or installed under or over any road is included (generally in line with the drafting contained in sections 32 and 33 of the EA and GA respectively); and
 - b) to include an obligation that any WSE requiring work to be done in accordance with section 211 of the WSEA compensates the utility operator for the reasonable costs incurred in undertaking such work (generally in line with the drafting contained in sections 33 and 34 of the EA and GA respectively).

Conclusion

15. Powerco strongly considers that the proposed inclusion of section 211 of the WSEA (section 22 of the Bill), as drafted, will impede Powerco's ability to effectively maintain and operate its electricity and gas infrastructure.
16. Powerco considers that the owner of works or fittings are best positioned to undertake works in respect of its own electricity and gas infrastructure. Likewise, that Powerco's ability to undertake such works will ensure the continued successful and effective delivery of electricity and gas services across New Zealand.

If there is any further support Powerco can provide to the committee in considering this submission, please contact Adam Du Fall (planning@powerco.co.nz).

Ngā mihi nui,

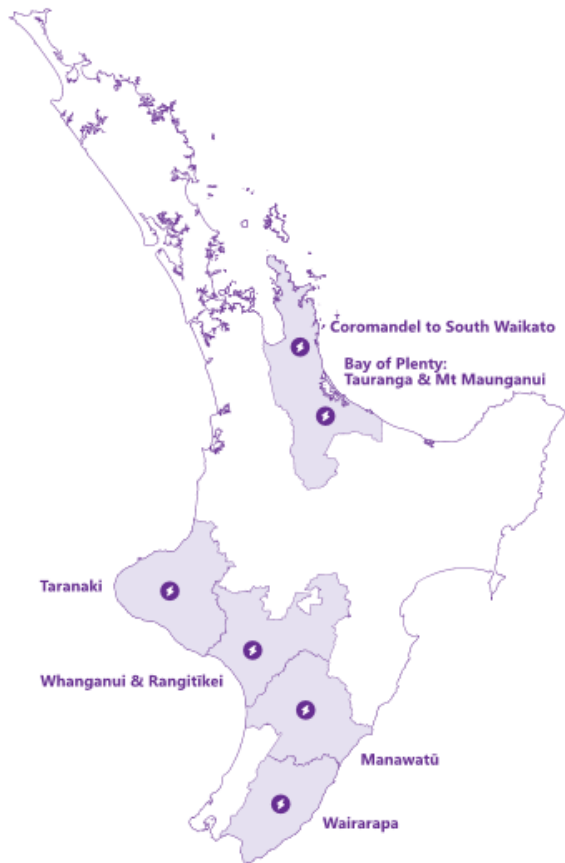


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POWERCO

Attachment One – Further information about Powerco

Powerco network info

Electricity footprint



Gas footprint

