

## 2014 EGCC consultation – preferred form for submissions

Meridian Energy (Andrew Kerr, Jason Woolley)

Questions for submitters	Yes/No	Comment
1. Do you agree that the EGCC indemnity dispute process should be mandatory for both parties if one party refers the indemnity dispute to the EGCC and it meets the criteria for the Commissioner to consider it?	Yes	
2. Do you agree that the existing financial limits for complaints should apply to Indemnity Disputes?	Yes	Meridian agrees that the financial limits that apply should <b>exclude costs</b> as per the currently proposed drafting of clause G16.4.
3. Do you agree with the Board's proposed levy system for indemnity disputes?	It's not clear to Meridian how the proposed levy system will operate for indemnity disputes and therefore Meridian cannot give a Yes or No answer.	<p>Meridian agrees that a 'user-pays' approach should apply to indemnity disputes. Meridian also considers that the Commissioner should generally award costs (both the Commissioner's costs of deciding the indemnity dispute and the successful party's costs of bringing or defending the indemnity dispute) against the losing party to an indemnity dispute. This will incentivise Scheme Members to resolve indemnity disputes between themselves and discourage members from bringing meritless claims or pursuing meritless defences before the Commissioner.</p> <p>Currently there seems to be no ability in G16.4 for the Commissioner to order that one member pays the other member's costs relating to an indemnity dispute. There is only an ability for the Commissioner to order payment to the Commissioner of the Commissioner's costs. Meridian suggests G16.4 should be amended accordingly.</p> <p>In relation to the current levy system, this is based on hours spent on deadlocked complaints with the balance of the EGCC budget collected on a Proportionate Basis. Meridian is not clear how this will be applied to indemnity disputes. It would make sense, Meridian suggests, for the Commissioner to develop hourly rates intended to recover the costs of the Commissioner and the Commissioner's staff working on indemnity disputes. This would allow the costs of resolving an indemnity dispute to be allocated and recovered immediately after resolution of such a dispute from the member or members involved. Consideration could be given to making this information available to parties prior to, and during, any dispute process. This could be addressed by further drafting in Parts D or G of the Scheme Document.</p>

Questions for submitters	Yes/No	Comment
4. Do you agree that reporting of Indemnity Disputes to the responsible Minister should be limited to the number of cases considered?	Yes	
5. Do you have any other comments or concerns about the proposed changes you would like the Board to consider?	No	