

**BEFORE THE WAIKATO DISTRICT COUNCIL**

**IN THE MATTER OF  
AND**

the Resource Management Act 1991

**IN THE MATTER OF**

Proposed Waikato District Plan  
Hearing 22 - Infrastructure

**SUBMITTER**

COUNTIES POWER LIMITED  
Submitter 405  
Further Submission F-1134

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REBUTTAL STATEMENT OF SHRAVAN MIRYALA ON BEHALF OF COUNTIES POWER  
LIMITED

DATED: 6 OCTOBER 2020

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## INTRODUCTION

1. This rebuttal statement relates to primary evidence filed by Lynette Pearl Wharfe for Horticulture New Zealand on the definition of minor upgrading of existing infrastructure definition (#419.127) and Counties Power Limited's (CPL) further submission opposing the same (#FS1134.32).
2. I confirm that I have the qualifications and expertise previously set out in my primary planning evidence for Hearing 22 – Infrastructure.
3. I repeat the confirmation given in my primary evidence that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and that my evidence has been prepared in accordance with that Code.

## EVIDENCE

### Minor upgrading of existing infrastructure definition

4. HortNZ made a submission (419.127) seeking that the definition of minor upgrading of existing infrastructure limited the increase in voltage through minor upgrading provisions. The section 42A recommendation by Trevor Mackie rejected the submission (#419.127) on the basis that electricity distribution lines should be able to be upgraded to be fit for purpose.
5. Ms. Wharfe requests the definition of "minor upgrading of existing infrastructure" be amended to include the following in para 6.11 *"An increase in voltage of a line can only occur as minor upgrading if the line was constructed for the increased voltage, unless the NESETA Regulations apply."*
6. It appears the main concern of HortNZ is recognition of the impact from increased voltage and consultation with the potentially affected landowners if located on private land. CPL or any other electricity distributor generally consult with the landowners prior to a voltage upgrade if the line which is to be upgraded is on a private property as discussed below.
7. In response to the evidence of Ms Wharfe in para 6.4 regarding different clearance requirements under New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34) for lines operating at different voltages. Planning for an upgrade takes into account matters required to maintain compliance with NZECP34. A simple example would be that electricity distribution provider like CPL will utilise taller poles to increase the separation between the conductors and existing structures on the land, thereby maintaining compliance with NZECP34.

8. In response to Ms Wharfe's evidence, under paras 6.5 & 6.8. Section 23A of the Electricity Act 1992 ("the Act") states:

**23A Line owner must give written notice of intention to maintain or complete existing works**

(1) *An owner of existing works that intends to enter upon land for the purpose of maintaining or completing the works under section 23 must give reasonable notice (at least 10 working days before entry) of its intention to do so to the owner or occupier of the land.*

(2) *The notice must be in writing, and must specify—*

*(a) the location of the proposed entry and work; and*

*(b) the reasons for the entry and work and the nature of the work to be undertaken; and*

*(c) the date and time of entry; and*

*(d) the length of time that the owner of the works expects to be on the land.*

9. If CPL were to upgrade (see 23(3)(b) below) a line over private property, CPL would have to notify the landowner (and occupier if they are different) to request permission to go onto the land to undertake the work. Using the example of taller poles being required to maintain the correct clearance between the conductors operating at a higher voltage and existing structures, CPL would meet with the landowner to discuss this.

10. Section 23(3)(b) of the Act states:

**23 Rights of entry in respect of existing works**

*In this section, maintenance includes—*

*(a) any repairs and any other activities for the purpose of maintaining, or that have the effect of maintaining, existing works; and*

*(b) the carrying out of any replacement or upgrade of existing works as long as the land will not be injuriously affected as a result of the replacement or upgrade.*

11. An upgrade in the voltage does not necessarily in itself mean that the persons or property on the land are adversely/injuriously affected under the Act. Whether an upgrade injuriously affects the land is primarily a valuation matter under the Act. It is the valuation effect that determines whether the works are permissible under S23(3)(b). Where CPL owns lines crossing private property, CPL would seek advice from a registered valuer to establish if, by upgrading the line, the land would be

injuriously affected. If it would be injuriously affected, then work cannot be undertaken under S23(3)(b) of the Act. Instead, CPL would need to negotiate with the landowner to acquire a suitable right, which would need to be in the form of a registered easement. We acknowledge that these are requirements outside of the Resource Management Act tests for adverse effects; but the main intent by outlining the above is to bring to the Panel's attention that some of the matters raised by Ms Wharfe are dealt with under a different legal mechanism.

12. In response to Ms Wharfe's evidence under para 6.11. The National Environmental Standards for Electricity Transmission Activities (NESETA) applies to Transpower & the National Grid activities, and therefore the changes that are being sought will apply to all CPL network distribution lines traversing private property. While CPL construct lines which are rated to cater for the envisaged growth in demand, it may be in the future that they find that this voltage is insufficient and would seek to upgrade utilising existing line routes as opposed to constructing additional new lines. In carrying out these upgrades CPL are required to comply with the terms of the Act and any clearance distance imposed under any law, electricity standard or code of compliance.
13. I agree with Mr Mackie where he states that *"The requested amendments unnecessarily constrain the efficient use and development of existing electricity distribution lines and renewable electricity generation and transmission assets."*<sup>1</sup> The requested amendments by Ms Wharfe will result in inconsistency with Policy 6.1.17 and 6.1.2. Electricity distribution lines meets the definition of 'regionally significant infrastructure' in the Waikato Regional Policy Statement 2016. Policy 6.1.17 seeks to have particular regard to and protection of effectiveness and efficiency of the planned and existing regionally significant infrastructure. Policy 6.1.2 seeks to provide for the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure throughout the district.
14. For the reasons discussed above, I do not consider it is necessary to amend the definition of minor upgrading of existing infrastructure.

**Dated: 5 October 2020**

Shravan Miryala

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- <sup>1</sup> Para 143 in the Infrastructure section D0 – Section 42A Hearing Report prepared by Trevor? Mackie