

22 May 2002

The Chair
Commerce Commission
Landcorp House
WELLINGTON

ELECTRICITY GOVERNANCE BOARD LIMITED: APPLICATION FOR AUTHORISATION OF NEW RULEBOOK

The Grid Security Committee has reviewed the draft determination issued by the Commerce Commission on 26 April 2002 and the submissions filed by other stakeholders on the application and would like to take this opportunity to make a further submission on certain common quality issues.

1. Comments on Draft Determination

1.1 Part C – Common Quality

The GSC agrees with the Commission that as many of the rules in Part C are of a technical nature, and they appear to have widespread support, it is likely that the rules of Part C will be adopted in any reasonably foreseeable counterfactual. It follows that no competition issues arise from their incorporation in the rulebook.

The GSC has considered whether it has any evidence of generator-retailers hindering rule changes in its development process and does not believe it has any evidence to support or refute this proposition. Technically the GSC has yet to propose a rule change, as it has decided to implement the new arrangements by way of incorporation in the new rulebook rather than vote under MACQS.

In its development work to date the GSC has focussed on recording existing levels of quality and providing a mechanism for change through the annual Common Quality Development Plans. It is anticipated that a number of pro-competitive rule changes will result from the completion of these development plans. Under the new rulebook, the responsibility for progressing these initiatives will be with the Board. Currently this resides with Transpower.

1.2 Part I Transitional Arrangements

The Commission discusses the transitional arrangements in the rulebook in paragraphs 349-352 of its draft determination and concludes that similar provisions to Part I would be likely in the counterfactual. The GSC concurs with this view.

The GSC would however like to draw the Commission's attention to one part of its comments on the transitional arrangements. In paragraph 352 the Commission commented that, being limited to a six month period, the transitional arrangements

are not of undue duration. The GSC notes that this statement is true of some but not all of the transitional arrangements.

In particular it would like to draw the Commission's attention to the fact that transitional dispensations under the Part C Rules may be granted for the lifetime of the plant concerned (refer clause 2.5 of schedule 2 of the Transitional Dispensation Agreement). The rationale for this is discussed further below.

2. Comments on Other Submissions

2.1 Transparency in relation to grant of transitional dispensations

The Commission notes in its draft determination that Comalco had submitted that "any transitional dispensation application being considered must be done in a transparent manner".

The GSC supports the concept that wherever possible transactions under the rulebook should be transparent. In relation to the transitional dispensation process, the GSC comments:

- the process and decision criteria for transitional dispensations are publicly available information and were arrived at following extensive consultation;
- the System Operator is obliged under the transitional dispensations agreement to provide monthly updates on the applications received and its progress in processing them;
- the initial applications have been made under existing confidentiality agreements which the parties are reluctant to waive until there is more certainty about the new rulebook becoming operational;
- when the rulebook becomes operational all transitional dispensations will be published and stakeholders will be able to verify that everyone has been treated fairly.

2.2 Favourable treatment of existing generators

The Commission refers in its draft determination to a submission by MEUG which suggests that transitional dispensations treat existing generators more favourably than new entrants. It is the GSC's understanding that Transpower's submission made a similar point.

In reply, the GSC would like to draw the Commission's attention to the following:

- the transitional dispensation regime applies to all asset owners not just generators. To date applications have been received from generators, distributors and grid owners;
- the migration to a new regime involves the transfer of plant which was connected in accordance with agreed standards or other arrangements of the day and therefore the transition involves "joining into a game which has already begun".
- as joining the arrangement will require industry participants to sign an adopting need for the new arrangements, incentives are needed for players to join;

- asset owners made it clear in the consultation round that they would need to be satisfied about the treatment of existing connected plant before joining the rulebook;
- the intention behind the transitional regime is to provide that as equipment is upgraded over time, quality standards would need to be met but there is no need to undertake premature upgrades if the System Operator is currently able to meet its principal performance objectives;
- this approach is consistent with the GSC's objective of using existing levels of quality as the platform for the new regime. The approach means that unless new information becomes available to the System Operator, no new ancillary services will be needed from those currently purchased.

For this reason the GSC does not believe that new standards unreasonably favour incumbents over new entrants. Any new equipment installed by incumbents will be required to comply with the standards applicable at that time – except to the extent of any new dispensation. New entrants may also seek dispensations from the standards applicable to them.

2.3 Evolution of Standards

The GSC is mindful that any regime is unlikely to be perfect at the outset and has accordingly built into Parts A and C of the rulebook a process for ongoing review of existing standards with the intention of improving or replacing them with market arrangements where that is economically, commercially and technically feasible.

A recent example of the intended process is the work of the FSWG in under-frequency rule development. This has resulted in recommendations for rule changes and criteria for dispensation arrangements which will incentivise compliance with the new agreed standard. This process has accommodated new technologies, rather than being based on the standard historically promoted by Transpower, with significant public benefits. It is intended that this process of standards review be ongoing once the new rulebook has become operational.

The Grid Security Committee is available to answer any questions the Commission has on common quality issues. This letter represents the majority views of the Committee, and does not necessarily represent the views of individual members.

Yours faithfully

D Caygill
Chair
Grid Security Committee