
**SUBMISSION OF WEL NETWORKS LTD
ON THE APPLICATION FOR AUTHORISATION
OF THE PROPOSED ARRANGEMENT –
ELECTRICITY GOVERNANCE BOARD
("THE APPLICATION")**

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1. INTRODUCTION

- 1.1 WEL Networks Limited ("WEL") is an electricity lines company basing its operations in the Waikato region. It is owned by a community trust. WEL is the fifth largest distribution company and has 72,000 customers connected to its network.
- 1.2 WEL believes that the current regulatory environment has been expensive, slow to operate and unable to address many of the issues facing the electricity industry ("the Industry") and its customers. WEL believes that Industry self-regulation provides a more effective and accountable environment.
- 1.3 With overseas experience showing that compliance costs and implementation costs increase substantially with an increased (Government) regulated environment, WEL accepts that the onus is then on the Industry to self-regulate. Self-regulation has the advantages of lower cost, greater efficiency and operating in a more responsive framework in which to ensure the Industry meets the objectives of the Government.
- 1.4 WEL acknowledges that Industry self regulation, to comply with the Government's requirements, requires an Industry electricity governance board ("IEGB"), and that certain rules and requirements are required to govern the IEGB, and its members.
- 1.5 Submissions have been invited on the Application in respect of three particular areas: public benefits and detriments of the proposed arrangements ("the Arrangement"); whether competition is lessened in any market; and any relevant aspects of the application.
- 1.6 WEL is generally supportive of the Application, but has some reservations about particular aspects of the Arrangement.
- 1.7 Overall WEL believes that the Arrangement will facilitate and stimulate competition while at the same time enhancing public benefit.

2. PUBLIC BENEFITS AND DETRIMENTS

- 2.1 The Government's overall objective is "to ensure that electricity is delivered in an efficient, fair reliable and environmentally sustainable manner to all classes of consumer".
- 2.2 The Industry has been under virtual reform and re-structuring since 1987. A recently released chronology of reform shows that there has been 55 major reform initiatives in that period. These reforms go back to the original scope of the Industry task-force in 1989, which was tasked with examining the structural and regulatory changes necessary to ensure that the electricity industry is as efficient as possible.

2.3 Two critical outcomes of this process of continuous reform have occurred:

1. The reform has focused primarily on the inter-relationship between Industry participants, and has taken very little regard for the requirements of the final customer. In our view the satisfaction of the final consumer is a critical part of the test of public benefit.

Because the focus of the Industry was on inter-relationships between Industry participants, the rights and the interests of the final consumers were often neglected, and this became the catalyst for further reform.

2. Since 1987 the Industry has been in a process of continuous reform and transition between reforms. This has meant that the Boards and management of Industry participants have devoted most of their governance duties to either submitting or commenting on proposed reform, or taking their companies through the transitional consequences arising from reform. In our view this has imposed a serious lack of focus on the efficient development of the Industry.

We believe that the Industry will be condemning itself to an ongoing future of further reform and resulting lack of focus unless it satisfactorily addresses consumers needs as specified in the Government's policy statement.

The October 2000 guiding principles lay out a very clear challenge to ensure that the current reform delivers benefits to the consumer. WEL believes that this should be a primary test for the approval of this Application.

2.4 The IEGB has drafted the Arrangement in consultation with the Industry. WEL believes that following the introduction of the "Bill" in July 2000, the IEGB and its rules are the only alternative to a Government electricity governance board ("GEGB"). Industry participants are therefore incentivised to ensure the IEGB operates in the most effective and efficient manner possible. The Industry can ensure the IEGB operates in this manner by exercising its powers at election time, and in its approval or otherwise of new or changed rules.

2.5 As any costs in operating the IEGB will be passed directly or indirectly to the consumer, and accepting that the costs of the IEGB are likely to be substantial, a detriment to the public is obviously a result of the IEGB, if the Arrangement is approved. However WEL submits that for the reasons outlined in the above paragraph, the GEGB would be more costly, and therefore GEGB, which will result if the Arrangement is not approved, will pose more detriment to the public, than the IEGB.

- 2.6 Accordingly in terms of cost, it is reasonable to expect greater public benefit from the IEGB, than the GEGB, due to the reduced costs that the IEGB will impose on the Industry when compared to the likely scenario under a GEGB.
- 2.7 WEL believes that the Arrangement is substantially the bringing together of three separate Industry governance processes i.e. NZEM, MARIA & MACQS. As these three areas have been operating for some time, their rolling forward into forming the substantial part of the rules means that there is no substantial change to the present arrangements in the Industry.
- 2.8 WEL believes the rules provide additional public benefit by envisaging a chapter on consumer issues and including requirements for model pricing and use of system requirements, and for adopting guiding principles, that refer to both national and customer benefits.
- 2.9 In the past, arrangements in the Industry generally related to relationships between Industry participants. The current Arrangement recognises the critical role of the consumer, both in terms of the election of the Board and the voting on certain chapters of the rules. This brings into play an opportunity for the parties most affected by the operation of the Industry to have direct input into the process of its governance.

3. LESSENING/ENHANCING OF COMPETITION

- 3.1 Historically the Industry has operated in an environment of monopoly and exclusive franchises. New Zealand has led the world in introducing competition particularly for residential consumers. Taking world leadership has meant that New Zealand has had to address issues not yet faced around the world. Experience to date has shown there to be a number of Industry issues that discourage effective competition. The Arrangement puts in to place mechanisms to minimise these adverse effects.
- 3.2 WEL believes that for an orderly electricity market to operate in a manner in which competition is enhanced, there needs to be a set of Industry rules.
- 3.3 This is particularly important in an Industry where issues such as incumbency, size and national or local monopolies can pose significant barriers to the entry of new participants. WEL is satisfied that the rules permit both the orderly operation of the market and the breaking down of the barriers to entry. The following examples illustrate the point:
(1) the ownership of meters by incumbent retailers initially required new entrants to install their own meters, thus imposing significant cost to entry;

(2) the lack of common elements in use of system agreements throughout the country meant that national retailers had difficulty in tailoring efficient national pricing and supply conditions;

(3) the national monopoly grid provider Transpower inadvertently imposed barriers to the satisfactory operation of the market during the winter 2001 power shortage because of constraints imposed by its operating procedures.

- 3.4 At present competition particularly in the residential market is driven by consumer dissatisfaction, with their existing retailer and price.

The constant reform process has taken the focus off retail electricity companies from offering a range of competitive and service advantages to enhance their competition. WEL believes that the framework set up by the Arrangement and its ongoing development will lead to an environment where companies can move their focus from reform and transition, to the delivery of competitive service to consumers. WEL believes that the Arrangement enhances the likelihood of that outcome.

- 3.5 WEL supports the concept of a high level model Use of System Agreement and model pricing methodology, provided that the Government's guiding principles are adhered to in the drafting of these documents or principles. The availability of documents or principles to the Industry will encourage a commonality characteristic in contractual relationships which will be of benefit to the public.
- 3.6 Compared with the current operating regime WEL does not believe these rules will lead to any lessening of competition.

4. OTHER RELEVANT ASPECTS

- 4.1 WEL identified several issues to the Electricity Government Establishment Committee ("EGEC") when initial feedback was sought on the draft rules. These issues are relevant to the Application, and are outlined in paragraphs 4.2 - 4.7 below.
- 4.2 WEL believes that the Government took a significant step in defining its Government policy statement of "to ensure that electricity is delivered in an efficient, fair reliable and environmentally sustainable manner to all classes of consumer".

The policy statement formed an umbrella of measuring the benefit to the consumer and also introduced the concept of sustainability in terms of measuring the national benefit.

WEL believes that the guiding principles needs to better reflect the Government's policy statement.

WEL is pleased that the rules contain a chapter on consumer matters, but is disappointed that this is an empty chapter at present.

WEL believes that renewables and energy efficiency, particularly as anticipated in the National Energy Efficiency and Conservation Strategy, will have a significant impact on the future operation and investment of the Industry. WEL believes that the importance of this is not adequately addressed in either the guiding principles or the rules.

WEL is concerned that there are many issues to be addressed to enable the Industry to operate most effectively in terms of both national good and in an effective competitive environment. It is critically important to ensure that the new governance arrangement allows the prioritisation of these many issues to take place.

- 4.3 **Governance Board** – WEL supported the initial concept of a governance board of Industry participants as this would ensure governance decisions were made on a background of wide Industry knowledge. WEL is concerned that the current proposed board structure of all independent members, leaves the board exposed:
- (1) in terms of their lack of Industry knowledge; and
 - (2) their reliance and potential capture by the powerful electricity industry consulting industry.

We accept that the proposed governance arrangements are a better outcome than the alternative of a Government Electricity Governance Board (“GEGB”), but our preference would be for at least the majority of that board to be Industry participants.

- 4.4 **The Board and Rule making** - The concept that any person can notify the Board for a proposed Rule change is appropriate with the Board deciding to proceed with the consideration of the Rule change, after referring the proposal to a Working Group. The Working Groups should be required to have at least one member from a party or parties that could be affected by the Rule change. Where the Rule change could affect the value or the sovereignty of any party, then there needs to be some additional process before signoff.
- 4.5 **Mandatory aspects** - WEL believes that there needs to be a mechanism to ensure industry wide buy-in to the rules. We believe that the application of the quantum meruit principle is to be strong force to ensure buy-in.
- 4.6 **Embedded Generation and Demand Side Participation** - It is acknowledged there are some technical issues that embedded generation or distributed generation must meet before being connected to the wider distribution or transmission system. There should be a minimum trigger point below which distributed generation is considered too small to require meeting the range of compliance issues. The nature of the market must not in itself prevent small-scale distributed

generation from being installed. In many cases the distributed generation will be related to a specific load and in this case, the minimum levels should apply to the net generation i.e. total generation minus the associated load. Since line companies can own distributed generation, then there needs to be provision for line companies to be members of the trading arrangements chapter.

- 4.7 **Prudential Management Regime** - Prudential management is not simply an issue for the wholesale market. It also applies to the line companies and Transpower as they are paid for their services at least a month in arrears. There needs to be a process to ensure that sufficiently strong guarantees or bonds are available to provide prudential security.

5. SUMMARY

- 5.1 WEL believes that competition will be enhanced by the introduction of the rules in the Arrangement.
- 5.2 If the Commerce Commission determines that competition will be lessened, then WEL submits that the benefits of the Arrangement to the public, outweighs any lessening of competition that may occur
- 5.3 WEL has concerns regarding specific aspects of the Arrangement that do not directly relate to competition, or public benefit (or detriment) and these primarily focus on the governance of the IEGB, and the prioritisation of dealing with Industry issues.
- 5.4 WEL believes that the previous 15 years of intensive reform have been hugely expensive and have hindered the innovative and competitive development of the Industry. It is committed to ensuring that this Arrangement works as a method of avoiding 15 further years of intensive reform.

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