

Wellington  
J5010

30 September 2002

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**Attention: Derek Johnston / James Palmer**

**Notice of Authorisation pursuant to Section 61(1)(a) of the Commerce Act 1986**  
**Applicant: the Electricity Governance Board Limited**

On 7 December 2001 the Commerce Commission (“the Commission”) received an application (“the Application”) from the Electricity Governance Board Limited (“the Applicant”) for authorisation under s 58 of the Commerce Act 1986 (“the Act”) to enter into and give effect to an arrangement. The arrangement proposes to restructure and rationalise the basis under which electricity is traded and delivered by combining various existing market arrangements and integrating new arrangements into a single rulebook (the “Rulebook”) and implementing various supporting agreements (collectively “the Arrangement”). The Applicant further defined the Arrangement in paragraph 6.6 of the Application. The Applicant sought authorisation to the extent the Arrangement contained characteristics specified in paragraph 6.7 of the Application.

By letter dated 5 February 2002 the Applicant amended the Application. In relation to ss 58(1) and 58(5) of the Act the Applicant sought authorisation to enter into the Arrangement described in paragraph 6.6 of the Application (including the Rulebook in the form tabled with the Commission at the time of lodging the Application). In relation to ss 58(2) and 58(6) of the Act, the Applicant sought authorisation to give effect to the following provisions of the Arrangement: “Comprehensive Coverage Provisions, Uniform Standard Provisions, Performance Assurances Provisions, Transmission Service Definition and Transmission Investment Provisions, Cost Allocation Provisions and Information Disclosure Provisions” (as more particularly described in the 5 February 2002 letter) (“the Provisions”) to the extent that they breach or might breach Part II of the Act.

The Applicant divided the Provisions into “primary provisions” and “secondary provisions”. The Applicant also sought authorisation to give effect to “ancillary provisions”, and stated:

The Applicant also requests that the Authorisation cover, in relation to each set of provisions, any “ancillary provisions” which indirectly give effect to the identified provisions. The Rulebook is

integrated and giving effect to one aspect of the rules may arguably entail giving effect to the provisions for which authorisation is sought, although in an incidental manner.

Pursuant to s 61(1)(a) of the Act, the Commission grants authorisation for those persons who will become parties to the Arrangement (“the Parties”) to enter into the Arrangement and for the Parties to give effect to the primary and secondary provisions of the Arrangement set out in the attached Schedules 1 through to 7 subject to the conditions and for the period set out below.

The Commission declines to grant authorisation for the Parties to give effect to the ancillary provisions to the extent the ancillary provisions breach or might breach Part II of the Act.

## **Conditions**

This authorisation is subject to the following conditions imposed under s 61(2) of the Act:

### **Condition 1**

Prior to the Rulebook coming into effect, the Rulebook must be amended to include rules that provide that where the Electricity Governance Board established under the Rulebook (“the EGB”), in its discretion, considers that a proposal for a pro-competitive and public benefit enhancing rule change is being blocked or unduly delayed, the EGB may require that the proposal for such a rule change be put to a vote, notwithstanding that a working group has not completed its consideration of the proposed rule change.

### **Condition 2**

Prior to the Rulebook coming into effect, the Rulebook must be amended to include rules that provide that the EGB has the discretion to implement a pro-competitive and public benefit enhancing rule change when such a rule change has been rejected by a vote and an independent body chosen by the EGB considers that such a proposed rule change is pro-competitive and public benefit enhancing.

### **Condition 3**

That within 12 months from the date of authorisation the Rulebook must be amended to include in Part B of the Rulebook rules drafted in consultation with consumer groups to address consumer issues.

### **Condition 4**

Prior to the Rulebook coming into effect, the Rulebook must be amended to include rules that require the EGB to commission an independent review on the efficacy of Part F, and to publish that review publicly within 2 years from the Rulebook commencement date.

Pursuant to s 61(2) of the Act, this authorisation expires:

- (a) on the fourth anniversary of the Rulebook commencement date; or
- (b) on 31 March 2007,

whichever is the earlier.

Dated this 30<sup>th</sup> day of September 2002

MJ Belgrave  
Chair

## Schedule 1

### COMPREHENSIVE COVERAGE PROVISIONS

The Comprehensive Coverage Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

Rule	Subject matter
Part A, section IX	Rules for the provision of services to non-members
Part C, section III, rule 7	Equivalence arrangements and dispensations
Schedule C1	Approval of equivalence arrangements or grants of dispensation
Schedule C2	Approval of alternative ancillary services arrangements
Part G, section I, rule 3	Exemptions from full compliance for purchasers or generators
Part I, section II, rule 5	Transitional exemptions
Part I, section III, rule 2	Transitional dispensations

#### Secondary Provisions:

Rule	Subject matter
Part A, section I, rule 2	Every person who is a member of any other part or section of the Rulebook is also a member of part A.
Part A, section I, rule 7.4	Effective date for other rules
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 1	Admission rules
Part A, section III, rule 2	Resignation rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part C, section II, rule 5	System operator will not contract contrary to the Arrangement
Part H, rule 15	Reporting obligations of clearing manager
Part I, rule 2	All persons who are members of part A are also members of part I

## Schedule 2

### PRICE DETERMINATION PROCESS PROVISIONS

The Price Determination Process Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section IX	Rules for the provision of services to non-members
Part F, section III	Rules for pricing transmission services
Part G, section IV	Pricing
Part H, rule 6.3	Setting price and quantity

#### Secondary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part G, section II	Bids and offers
Part G, section III	Scheduling and dispatch
Part G, section V	Reconciliation
Part H, rule 10	Default
Part H, rule 15	Reporting obligations of clearing manager

### Schedule 3

#### UNIFORM STANDARDS PROVISIONS

The Uniform Standards Provisions comprise the following primary provisions and secondary provisions:

##### Primary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part C, section II	Performance objectives of the system operator
Part C, section III	Asset owner performance obligations and technical standards
Part C, section IV	Arrangements concerning ancillary services
Schedule C1	Approval of equivalence arrangement or grant of dispensation
Schedule C2	Approval of ancillary services arrangement
Schedule C3	Technical codes
Part D	Metering arrangements
Part I, section II, rule 5	Transitional exemptions
Part I, section III, rule 2	Transitional dispensations

##### Secondary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part H, rule 15	Reporting obligations of clearing manager

## Schedule 4

### PERFORMANCE ASSURANCES PROVISIONS

The Performance Assurances Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section III, rule 1	Admission rules
Part A, section III, rule 2	Resignation
Part A, section III, rule 3	Automatic suspension of trading
Part H, rule 2	Prudential requirements
Part H, rule 5	Additional security
Part H, rule 10	Default

#### Secondary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part H, rule 15	Reporting obligations of clearing manager

## Schedule 5

### TRANSMISSION SERVICE DEFINITION AND TRANSMISSION INVESTMENT PROVISIONS

The Transmission Service Definition and Transmission Investment Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

Rule	Subject matter
Part F, section I	Developing the service component of transmission contracts
Part F, section I, rule 6	Transpower to develop service delivery plan
Part F, section II	Service changes

#### Secondary Provisions:

Rule	Subject matter
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part H, rule 15	Reporting obligations of clearing manager



## Schedule 6

### COST ALLOCATION PROVISIONS

The Cost Allocation Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section I, rule 3	Fees for rules
Part A, section II, rule 1.20	Members indemnify EGB
Part A, section II, rule 1.21	EGB's initial fees, annual business plan and budget
Part A, section II, rule 1.24	Payment of budgets by members
Part A, section IX, rule 3.2	Payment for assignment
Part A, section IX, rule 3.3	Levy
Part A, section IX, rule 4.3	Initial costs of claim
Part A, section IX, rule 4.4	Ongoing costs of claim
Part A, section IX, rule 6.3	Recovery of costs
Schedule A7	Schedule of fees payable by members
Part C, section I, rule 3	Fees for part C
Part C, section IV, rule 6	Allocating ancillary services costs
Part D, section II, rule 3	Fees for section II of part D
Part D, section III, rule 3	Fees for section III of part D
Part E, rule 1.4	Fees for part E
Part F, section I, rule 1.6	Fees for part F
Part G, section I, rule 5	Fees for part G
Part H, rule 1.3	Fees for part H
Part H, rule 13	Payment of fees, invoicing to be undertaken by clearing manager

Part I, section III, rule 1	Cost recovery for MACQS fees
Part I, section III, rule 2.5.4	Costs of transitional dispensations allocated amongst all asset owners
Part I, section IV, rule 4	Cost recovery for MARIA fees
Part I, section V, rule 4	Cost recovery for NZEM fees

**Secondary Provisions:**

<b>Rule</b>	<b>Subject matter</b>
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part H, rule 10	Default
Part H, rule 15	Reporting obligations of clearing manager

## Schedule 7

### INFORMATION DISCLOSURE PROVISIONS

The Information Disclosure Provisions comprise the following primary provisions and secondary provisions:

#### Primary Provisions:

<b>Rule</b>	<b>Subject matter</b>
Part A, section VII	Information disclosure

#### Secondary Provisions:

<b>Rule</b>	<b>Effect</b>
Part A, section I, rule 8	Participants must observe the rules
Part A, section III, rule 3	Automatic suspension of trading
Part A, section V	Suspension
Part H, rule 15	Reporting obligations of clearing manager