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SUBMISSION to the COMMERCE COMMISSION

**Re: Draft Determination of 26 April 2002
on the application by**

ELECTRICITY GOVERNANCE BOARD Ltd for authorisation of restrictive trade practices

Introduction

The New Zealand Wind Energy Association (NZWEA) is an industry association committed to the promotion of New Zealand's wind resource as a reliable, sustainable and clean energy source. We have a wide membership including a number of New Zealand's major energy sector participants and people that have been involved in this area for a number of years.

Over the last two years NZWEA has written to the Minister and the EGB regarding the proposed governance arrangements and in particular has expressed dismay that it appeared that the governance arrangements were not going to be inclusive of features appropriate for renewable energy distributed generation.

We contend that the situation has not significantly changed with the presentation of the current application by EGBL. The future for electricity in New Zealand lies in the introduction of significant quantities of distributed, sustainable electricity supplies. There is significant potential for the currently proposed governance structures and rules to be a barrier to the development of these future solutions.

The proposed EGB governance structure is not representative of the role of renewable and distributed generation, sustainable development or environmental integrity and responsibility, and therefore does not represent a public benefit.

It is essential that this aspect be corrected before the application is approved.

Recommendations

NZWEA recommends that:

- The current application is rejected.
- The EGB governance structure and rules be rewritten to include an irrevocable undertaking to include the Government's Electricity Industry Policy Statement & Guiding Principles.

In particular, NZWEA recommends:

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1. That the EGB structure, rules and decision making process and voting are formulated such that new technologies and entrants are not disadvantaged in any way. There is an inherent conflict between existing incumbents desire to protect the status quo, their investment and or erect barriers to entry for new entrants, and the ability of new technologies to offer consumer choice, least cost, better value and sustainable development with environmental integrity and responsibility.
2. That conflicts in the proposed industry arrangements that are inconsistent with the Government's Electricity Industry Policy Statement and Guiding Principles are changed.
3. That the views of renewable and distributed generation interests are addressed by inclusion of a representative on the EGB.
4. That there be a specific a working party group on distributed generation interface issues, as the proposals will not facilitate the benefits that these technologies offer to consumers.

Yours sincerely.

Alistair Wilson
Chairman
New Zealand Wind Energy Association.

Attached
The Government's "Guiding Principles" which are supported by NZWEA.

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Government's Guiding Principles for the Electricity Industry

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. Industry arrangements should promote the satisfaction of consumers' electricity requirements in a manner which is least-cost to the economy as a whole and is consistent with sustainable development.

Consistent with this overall objective, the Government is seeking the following specific outcomes:

- a. Energy and other resources are used efficiently, and in particular, hydro spill is minimised;
- b. risks relating to security of supply, in particular the risks of dry years and inadequate transmission and distribution security, are properly and efficiently managed;
- c. the full costs of producing and transporting each additional unit of electricity are signalled so that investors and consumers can make decisions consistent with obtaining the most value from electricity;
- d. delivered electricity costs and prices are subject to sustained downward pressure;
- e. the quality of electricity services, and in particular trade-offs between quality and price, should as far as possible reflect customers' preferences;
- f. transmission losses and constraints are signalled to ensure that overall costs to the economy, including the costs of insufficient competition in local regions, are minimised; and
- g. greenhouse gas emissions are minimised.

To meet these objectives and outcomes, an Electricity Governance Board is to ensure that rules are developed as set out in this Government Policy Statement. The rules are to be consistent with these Guiding Principles. In particular, the rules are to:

- h. promote enhanced competition wherever possible and, where it is not, seek outcomes that mirror as far as possible those that would apply in competitive markets;
- i. facilitate and promote active demand-side participation;
- j. ensure that the use of new electricity technologies and renewables, and distributed generation, is facilitated and that generators using these approaches do not face barriers; and
- k. be consistent with government policies on climate change and energy efficiency.

Greenhouse gas emissions are to be minimised through these arrangements, in particular by minimising hydro spill, efficiently managing transmission losses and constraints, ensuring consistency with climate change and energy efficiency policies, promoting demand-side participation and facilitating new generation technologies and renewables.

The Electricity Governance Board should also ensure that:

- l. services that are most efficiently provided on a common basis are provided at a quality and quantity, set through a process of collective agreement with participants, which enables those participants to make trade-offs between alternative levels of service and price;
- m. the range of common services and mandatory rules is reduced over time where technological developments challenge the efficiency of ongoing compulsion;
- n. the provision of services is contestable wherever possible;

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- o. rules and standards are robust and enforceable through a supervisory body that is neutral, separate from the body responsible for rule-making, and has sufficient power to monitor and enforce the rules (including fines for rule breaches);
- p. where appropriate, efficient and effective alternative dispute resolution processes are provided;
- q. processes by which rules are set and changed:
 - o are transparent;
 - o do not provide for or allow bias towards any party and, in particular, limit the potential for any party to amend rules in a manner which introduces bias inconsistent with these Guiding Principles; and
 - o achieve a balance between providing certainty and the need to ensure that progress in setting and amending the rules meets the Government's expectations for rapid evolution of the market; and
 - o the Commerce Act 1986 and all other relevant laws are observed.