

22 February 2002

Bill Naik
Chief Advisor
Commerce Commission
P O Box 2351
WELLINGTON

Dear Mr Naik

Thank you for the opportunity to make an initial submission in relation to the application for authorisation of a proposed arrangement by Electricity Governance Board Limited.

We are aware that the Commission intends holding a conference on the application later in the year, and we propose to make our main submission at that time. However, there are a number of brief comments that we would like to make now.

We would note at the outset that the arrangement has been developed through a consultative process that involves many participants. Because these parties hold different views on most issues, the outcome necessarily reflects some compromises. Put another way, we doubt whether any participant supports every aspect of the proposed arrangement. Nonetheless, we believe the proposed arrangement represents a major step forward compared with the status quo.

In particular, we believe the proposed new arrangement has the following benefits:

- *all key stakeholders would be represented by the new governance structure* – the successful evolution of the sector requires input from all key stakeholders – producers, sellers, transporters and buyers. The new structure will see the Board selected by a vote of consumers, transporters and generator/retailers in equal shares. This should ensure that the Board can reflect the interests of different groups, while also ensuring that no one sector can dominate governance issues;
- *a unified governance structure would be created* – at present there are three different codes¹ covering the electricity sector, with differing governance and enforcement provisions. As a result there is some duplication of overheads, and also the potential for overlaps, inconsistencies and/or gaps between the codes. These codes also have a narrower scope than the new arrangement. A unified structure will address these problems; and
- *transmission investment would be facilitated* – there has been virtually no new investment in transmission in New Zealand for almost a decade. This is despite strong growth in demand, and the increasing emergence of transmission constraints. The fundamental reason for inaction has been that investment cannot occur without unanimous agreement by those who will be affected. This is too high a threshold for effective decision-making and the new arrangement should address this by requiring support of a significant majority, rather than unanimity, before investment will occur. While this mechanism is untested, we are optimistic that it will unblock investment in this critical area.

We should also note that if the proposed arrangement is not authorised, the Government has stated that it will use its reserved powers to create a Crown Electricity Governance Board. We believe this would be a sub-optimal outcome. The electricity sector is extremely complex and there is a very high likelihood that government-imposed

¹ New Zealand Electricity Market, Metering and Reconciliation and Information Agreement, and Multilateral Agreement on Common Quality Standards

outcomes for the areas covered by the arrangement will be inflexible and costly, to the detriment of the economy as a whole. Experience in other markets such as California and the United Kingdom supports this view.

Finally, we would note that this application comes at a critical time for the industry. The 2001 winter has shown that the demand/supply situation has become very tight, and there is an urgent need for new investment to be committed in generation, transmission and fuel sources. We see a significant risk that ongoing uncertainty about the business environment will delay investment decisions. While the effects of a delay may not be felt for a few years, they could be quite severe. For this reason, we are keen to see this application considered as soon as possible.

We look forward to involvement in this process as it unfolds.

Yours sincerely

Stephen P. Barrett
Chief Executive