

CONSUMER COALITION ON ENERGY (CC93)

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The Coalition: Business NZ Inc
Consumers' Institute
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Mr Bill Naik
Commerce Commission
PO Box 2351
WELLINGTON

Dear Bill

Comments on Rules to Satisfy Conditions on Authorisation

On 6th December 2002 the Commission circulated for comment rule changes to the EGBL rulebook for:

- Proposed rules to implement the conditions to the authorisation; and
- Changes to the appeal provisions in Section II of Part F.

We have no comments on the latter.

We do have comments on the "conditions" rules:

- The rules are purportedly "approved" by EGEC (refer first sentence of the Commission's email of 6th December 2002). This is incorrect. As members of EGEC we were never invited to attend a meeting to approve these rules. If we had been given that opportunity, we would not have approved them without consideration of the points that follow.

It is important that the Commission is not misled by the illusion that EGEC reaches a majority or consensus view on such matters. What is tabled before the Commission and recently what has been advised to other stakeholders as the view of EGEC is more often the view of the Chairman, the Project Team or a sub-set of

EGEC. For example refer to the CC93 letter to the Chair of EGEC titled “*EGEC letter to Ministers*” of 4th December 2002 copied to the Commission.

- As CC93 representatives we were invited to comment to the Project Team on the proposed rule changes. We duly did so and a copy of our submission is attached (refer letter to Mr Lee Wilson, “*Rules to satisfy conditions on Authorisation: Amendments and Commission comments*”, 4th December 2002). There has been no change in the proposed rules to accommodate our comments.

The comments in our letter to the Project Team still apply.

- In addition to the comments noted above, there is also an issue about who may be considered representative of consumers for Part B. In the current process to allocate consumer-voting rights for the referendum, several electricity Trust companies have sought decision rights and some have been granted those. In our view that is double dipping because those Trust companies have an influence over their line company also. The primary source of advice for Trustees is also from their line company. The Trustees should, in exercising their fiduciary responsibility to beneficiaries, support their company and maximise the value and profitability of their asset.

There is a risk that should Trusts have voting rights in Part B that they will use that influence to protect their line investments to the detriment of rule changes rule changes that that would benefit end consumers. There is nothing in the proposed rule change for condition no. 3 to ensure this does not occur.

There needs to be more explicit rules about how Part B will be developed and who will make the final decisions if the Commission’s condition no. 3 is to be meet. This point was raised in bullet point number two of the CC93 letter of 4th December 2002 to the Project Team also.

- There are still several important parts of the EGBL package to be solved, ie ring fencing of the Meridian-Comalco contracts and changes that have emerged during the negotiation of the System Operator contract. The Commission will need to consider how any rule changes to accommodate those yet to be completed parts of the package affect the “conditions” rules also.

Yours sincerely

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CC93 representative on EGEC

Ralph Matthes
CC93 representative on EGEC