

# **Electricity Networks Association**

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The Chair  
Commerce Commission  
Landcorp House  
**WELLINGTON**

## **ELECTRICITY GOVERNANCE BOARD LIMITED: APPLICATION FOR AUTHORISATION**

1. The Electricity Networks Association (ENA) represents most of New Zealand's electricity distributors. A list of distributors, with ENA members marked, is annexed to this submission. Governance of ENA is through an elected Board, representing a cross-section of the lines industry.
2. The ENA Board has considered the Electricity Governance Board authorisation request, and has agreed that the following points should be submitted to the Commission for consideration in dealing with this application.

### ***An Industry-Based Governance Board***

3. The ENA supports the concept of an industry-based EGB, as opposed to a government-appointed one. A primary focus of electricity industry reform since 1987 has been on divorcing the industry from politically driven investment and pricing decisions, and the re-emergence of a government agency directing the industry would imply an eventual return to a regime where pricing and investment were driven by political priorities. We do not believe that such a regime would deliver a net benefit to the public comparable to the net public benefit that an industry-based EGB would provide.
4. As just two examples, we consider that investment by the private sector in key electricity supply infrastructure would decline unless it was either underwritten by the government or else undertaken by a government agency, and that the government would become exposed to lobbying from various issues on electricity and lines services pricing that could well mean economically inefficient cross-subsidies.

5. In the case of investment, we are conscious that the Crown has become a significantly larger commercial presence in the electricity industry over the past four years. Crown agencies control about 85% of national hydro storage, about 65% of generation capacity, (we estimate) around 55% of retail electricity supply and all of the transmission function. The degree of Crown dominance in the industry if the government were to appoint an agency to oversee industry arrangements and perform the other functions envisioned for the EGB would give a clear message to would-be investors that they would be exposed to potentially open-ended risks from political directives and from the underlying possibility of regulatory intervention driven either by non-commercial priorities or by successful lobbying by Crown controlled agencies seeking commercial advantage.
6. In the case of pricing, the government has made it clear that it expects the lines industry to maintain uneconomic rural lines at least until 2013, that it expects (in effect) urban electricity users to subsidise rural ones, and that all lines companies should offer a '90% or more' variable pricing option despite the fact that Transpower (a Crown-owned agency) facing the same 'selling capacity' issues as lines companies is not required to move away from capacity-based pricing.
7. Political interventions of this type invariably mean cross-subsidisation of lines services, which we do not consider likely to result in a net national benefit. In the past such interventions included special electricity supply deals to six major industrial users. The possibility of a return to such a process of responding to interest group lobbying and 'picking winners' would again arise if the government appointed an EGB.

***Minimising Regulatory 'Scope Creep' And Other Imposed Costs and Inefficiencies***

8. The proposed industry EGB gives ENA members and other industry participants the opportunity to apply some discipline to governance and related expenditure. There is a rising level of concern among ENA members about new costs that have arisen or are threatening to arise due to regulatory and quasi-regulatory changes. Two examples are the new levy – imposed via the *Electricity Line Owners (Commerce Commission Costs) Levy Regulations 2001* – to cover the Commission's regulatory costs, and the new rating regime on network issues due to result from changes associated with the *Local Body (Rating) Bill*.
9. While the EGB will impose additional costs on participants, under the proposed arrangements line companies and others will be able to opt not to become participants, or to withdraw from the agreement, if they do not consider that these costs are warranted. (This is considered an important principle in the industry: an effort has been made to ensure that NZEM and MARIA are voluntary organisations, and even ENA has been deliberately structured on this basis.) Also, the balance of interests and informed parties within the proposed EGB arrangement (including the referral of proposals to

working groups for consideration and development) should promote sensible scrutiny of workstreams and budgets.

10. We support this dynamic oversight of imposed processes and costs. We also recommend that the Commission consider how its own electricity line industry expenditures might be subjected to similar disciplines.

### ***The Counterfactual***

11. While we recognise that the *Electricity Industry Amendment Act 2001* makes it fairly likely that the counterfactual to the EGB described in the application would be a government-appointed body, we are uncertain whether this is a 'counterfactual' in economic terms. The industry is managing its own affairs reasonably well, without any disquieting signs of consumer disbenefit, and the status quo (perhaps modified by the amalgamation of NZEM and MARIA, followed by further evolutionary change) would seem a reasonable counterfactual if the government did not decide to make a political incursion into the industry.
12. We do not know how the Commission's 'counterfactual' test applies in a situation of this type. Does the Commission argue that, in its view, politicians will be so disquieted by a situation which they can see but which it (we would hope) cannot that they will impose an alternative arrangement, or does it simply look at the counterfactual that would exist if politicians behaved rationally? The Electricity Governance Establishment Committee has already absorbed some \$6 million in industry funds (along with sizeable uncoded resource inputs from participants), and we would expect the EGB will add significant administrative costs to a number of existing processes that have achieved ongoing and progressive reforms through a very turbulent period for the electricity industry.

### ***Compatibility of EGB Arrangements and Regulation of Lines Industry***

13. There is no clarity about how costs and standards imposed on line companies through EGB processes will be treated in the yet-to-be-defined Commerce Commission price control thresholds regime. In considering the EGB application, we believe that it would be helpful for the Commission to consult with the staff involved in developing the lines industry thresholds regime in order to avoid contradictory signals. The most rational approach could be to seek a postponement of the thresholds scheme until the EGB (assuming it is approved) has come to grips with service standards and other issues that will be relevant to defining meaningful thresholds.
14. Given the government's interest in seeing the EGB arrangements succeed, we believe that it should be prepared to adjust the Commission's timetable for work on price control thresholds to accommodate the work that the EGB may do in this area. We would hope that the Commission has the flexibility to investigate this option.

***A Focus on Output Efficiency Rather Than Internal Processes***

15. In considering the public benefit aspects of the application we believe that the Commission should have a focus on output efficiency rather than on internal processes. Issues such as the effectiveness of the proposal in promoting competition in energy trading, including avoiding barriers to distributed generation, should be given priority. We do not consider that there is much public benefit associated with a detailed examination of principles that will supposedly guide the EGB.
16. Thus, if the Commission is to be satisfied that net public benefits will result from the EGB package then we believe that it will have concluded that the proposed assembly of NZEM, MARIA, and MACQS into an integrated rulebook overseen by an elected EGB with a majority of non-industry members will not lead to trading, transmission or distribution arrangements that are likely to strengthen the dominance of existing players or impede new entrants.
17. We are reasonably satisfied that the arrangement covered by the application will have more capacity to accommodate new entrants and their priorities than the existing industry governance arrangements. However, apart from the threat of inefficiencies resulting from the government appointing its own EGB, we are also reasonably satisfied that the existing arrangements would continue to evolve to meet the changing needs of the market, possibly at less cost.

Alan Jenkins  
Chief Executive

	Chief Exec.	Company	Phone No.	Company Home Page	City
1	Mike McSherry	Buller Network	03 788-8171	<a href="http://www.buller.network.co.nz">http://www.buller.network.co.nz</a>	Westport
2	See Scanpower	Centralines Ltd	06 858-7770	<a href="http://www.centralines.co.nz">http://www.centralines.co.nz</a>	Waipukurau
3	Neil Simmonds	Counties Power Ltd	0800 100 202	<a href="http://www.countiespower.com">http://www.countiespower.com</a>	Pukekohe
4	John Walsh	Delta Utility Services	03 474-0322	<a href="http://www.electricity.co.nz">http://www.electricity.co.nz</a>	Dunedin
5	Ken Mitchell	Eastland Network Ltd	06 867-0100	<a href="http://www.eastland.net.nz">http://www.eastland.net.nz</a>	Gisborne
6	John Yeoman	Electralines	06 366-0944	<a href="http://www.electralines.co.nz">http://www.electralines.co.nz</a>	Levin
7	Gordon Guthrie	Electricity Ashburton	03 307-9800	<a href="http://www.electricityashburton.co.nz">http://www.electricityashburton.co.nz</a>	Ashburton
8	(See PowerNet)	Electricity Invercargill Ltd	03 214-9448	<a href="http://www.eil.co.nz">http://www.eil.co.nz</a>	Invercargill
9	Malcolm Walker (Ken Sutherland from end March 02)	Hawkes Bay Network Ltd	06 870-6881	<a href="http://www.hbnetwork.co.nz">http://www.hbnetwork.co.nz</a>	Hastings
10	Johan Bankers	Horizon Energy Distribution Ltd	07 307-2800	<a href="http://www.hedl.co.nz">http://www.hedl.co.nz</a>	Whakatane
11	Allan Berge	MainPower NZ Ltd	03 313-9980	<a href="http://www.mainpower.co.nz">http://www.mainpower.co.nz</a>	Rangiora
12	Ken Forrest	Marlborough Lines Ltd	03 577-7007	<a href="http://www.marlboroughlines.co.nz">http://www.marlboroughlines.co.nz</a>	Blenheim
13	Jim Pearce	Networks South Ltd	03 688-9079	<a href="http://www.networks-south.co.nz">http://www.networks-south.co.nz</a>	Timaru
	Phil Goodall Commercial Manager	(Nelson Electricity) (Network Tasman & Marlborough Lines JV)	03 546 9256	<a href="http://www.nel.co.nz">http://www.nel.co.nz</a>	Nelson
14	Mark Gatland	Northpower Ltd	09 430-1803	<a href="http://www.northpower.co.nz">http://www.northpower.co.nz</a>	Raumanga
15	Chris Laurie	Orion Group Ltd	03 363-9898	<a href="http://www.oriongroup.co.nz">http://www.oriongroup.co.nz</a>	Christchurch
		Otago Power Ltd = See PowerNet			
16	Steven Boulton	Powerco Ltd	06 759-6200	<a href="http://www.powerco.co.nz">http://www.powerco.co.nz</a>	New Plymouth
17	Martin Walton	PowerNet Ltd	03 211-1899	<a href="http://www.powernet.co.nz">http://www.powernet.co.nz</a>	Invercargill
18	Jeff Farnworth	Scanpower Ltd (Also manage Centralines)	06 374-8039	<a href="http://www.scanpower.co.nz">http://www.scanpower.co.nz</a>	Dannevirke
19	Wayne Mackey	Network Tasman *	03 544-8098	<a href="http://www.networktasman.co.nz">http://www.networktasman.co.nz</a>	Richmond
20	John Anderson	The Lines Company Ltd	07 878-0600	<a href="http://www.thelinescompany.co.nz">http://www.thelinescompany.co.nz</a>	Te Kuiti
	(See PowerNet Ltd)	The Power Company Ltd	03 217-1870	(See PowerNet Ltd)	Invercargill
21	Roger de Bray	Top Energy Ltd	09 401-3100	<a href="http://www.topenergy.co.nz">http://www.topenergy.co.nz</a>	Kaikohe
22	Dan Warnock	UnitedNetworks Ltd *	09 979-4000	<a href="http://www.unitednetworks.co.nz">http://www.unitednetworks.co.nz</a>	North Shore Mail Centre, Auckland
23	Patrick Strange	Vector Ltd	09 978-7788	<a href="http://www.vector-network.co.nz">http://www.vector-network.co.nz</a>	Auckland
24	Mike Underhill	WEL Networks Ltd	07 838-1399	<a href="http://www.wel.co.nz">http://www.wel.co.nz</a>	Hamilton
25	Ray Milner	Waipa Networks Ltd	07 870-4014	<a href="http://www.waipanetworks.co.nz">http://www.waipanetworks.co.nz</a>	Te Awamutu
26	Robert Caldwell	Westpower Ltd} ElectroNet Ltd }	03 768-9300	<a href="http://www.westpower.co.nz">http://www.westpower.co.nz</a>	Greymouth

\* The 2 non-ENA Members are Network Tasman and UnitedNetworks