

GREYPOWER SUBMISSION ON:

**THE COMMERCE COMMISSION DETERMINATION ON
THE ELECTRICITY GOVERNANCE BOARD APPLICATION**

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1: BACKGROUND

This submission is made in response to the invitation in Media Release 2002/43, dated 26/4/02.

2: SUMMARY

While GreyPower supports the establishment of a governance board, it believes that the present application to the Commerce Commission is fatally flawed in a number of ways:

- a) The fundamental objective of the board should be to ensure that the industry is as *economically efficient* as possible. Practical markets (such as exist in New Zealand) are not ideal free markets, and to that extent competition is not a guarantee of economic efficiency. Therefore the board should have powers to promote efficiency separately where this is desirable.
- b) The function of the board should be to develop and implement *policy*, by providing an interface and a forum for debate between *all* the stakeholders: that is, government, the industry, *and consumers*.
- c) The present application concentrates on administration of the existing and developing intra-industry agreements by means of a common rule book. This will preclude the board from fulfilling the functions noted in a) and b) above, and also severely inhibit its ability to respond to changes in the market environment.
- d) The present intra-industry agreements support the competitive basis of the industry. This needs to be complemented with *contestability*, so that individual company's interpretations of the rules and regulations can be challenged. This requires the board to act as a forum in which these interpretations can be debated.
- e) Economic efficiency comprises three component efficiencies: *productive, dynamic and allocative*. The industry agreements relate mainly to *productive efficiency*; it is assumed that competition will automatically promote the other two (but see a) above). The board's functions should cover all the component efficiencies.

It is GreyPower's contention that these issues are so fundamental that they should be addressed before any further consideration is given to the application.

2: GREYPOWER POLICY

Relevant points in GreyPower's published energy policy include:

- a) Energy (electricity, gas, solid and liquid fuels) should be produced, delivered and used in the most effective ways possible.
- b) GreyPower believes that an independent organisation should be set up to oversee the operation of the energy supply industries in accordance with a set of objectives established by government.
- c) GreyPower believes that the independent organisation should oversee supply adequacy, reliability and security and that the pricing structure is stable, reflects costs, and takes into consideration the strategic importance of energy to all consumers.
- d) GreyPower believes that the independent organisation or a subsidiary should be empowered to settle disputes over policy interpretation and disagreements within

the industry (in particular, with reference to consumers) and require restitution and impose penalties where appropriate.

3: THE FUNCTIONS OF THE EGB

These comments refer to the EGB in general, but may also be seen as a response to question 48 in the draft determination. Question 48 reads:

"The Commission seeks comment on whether the issues that have been considered in this Draft Determination provide a reasonable summary of the issues of which it should be aware before making a final decision on this Application. The views of interested parties are sought on any additional issues that might be of relevance when considering the benefits or detriments to the public that might result from the proposed arrangements, should they proceed."

- a) GreyPower believes that the application by the EGB unreasonably constrains what should be the reasonable functions of an Electricity Governance Board. Its primary function should be the promotion of economic efficiency in the industry. GreyPower contends that competition in the present electricity markets is imperfect (and indeed the Minister of Energy is on record as agreeing, with respect to the retail market at least), and less effective than is required. The board should have the power to intervene (without contravening the powers of the Commerce Commission) in the interests of increasing efficiency.
- b) As presented in the application, the board is concerned with governance of the industry, by the industry, and *for the industry*. The function of the industry is to serve consumers, but this is nowhere in evidence in the application
- c) The board should act as an industry association based on triple bottom line principles (ie, concerned with commercial, environmental and social outcomes). Thus, it should be primarily concerned with developing industry policy in accordance with principles established by government, by providing the interface and forum for debate between government, the industry, consumers and other interested parties. Its role in administering the existing and developing industry agreements (NZEM, MARIA and MACQS) *at a policy level* should follow from this, not vice versa.
- d) The need to develop an organisation representing consumers follows from this. This organisation needs to have financial and technical resources sufficient to enable it to debate with the industry at a comparable level of technical sophistication. A sensible place to develop this organisation, and arrange its funding, is under the umbrella of the EGB.
- e) The board will need the flexibility to deal with rapid development and change (eg, caused by the ratification of Kyoto, changes in technology, gas supply, etc). The rule book approach as it presently exists will inhibit this flexibility.
- f) The board should take responsibility for overseeing dynamic efficiency issues (ie it should review system adequacy, including dry year adequacy on a regular basis) so that these can be debated at board level by stakeholders (*including consumers*),.
- g) The board should also be required to consider allocative efficiency issues outside the industry. For example, the GPS states "Industry arrangements should promote the satisfaction of consumers' electricity requirements". It should, of course, say "energy end use requirements". The board should (at least) not promote the use of electricity where the use of other resources is more efficient.
- h) The board should provide a forum for settling policy interpretation issues, making policy interpretations *contestable*. For example, interneccine squabbles such as *Meridian vs Transpower* should never proceed to court; consumers should be able to challenge price rises, and the setting of individual line charges. The CommerceCommission and the Complaints Commissioner are precluded from this by their terms of reference.