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18 January 2002

Bill Naik
Investigator
Commerce Commission
PO Box 2351
WELLINGTON

Dear Bill,

Genesis Submission on the Application for authorisation of proposed arrangement – Electricity Governance Board Limited (EGBL)

1. Introduction

1.1 Genesis Power Limited (Genesis) is a generator, wholesaler and retailer of electricity. It owns and operates the following generation plants:

Huntly	1000MW	Gas and Coal
Tongariro Power Development	360MW	Hydro
Waikaremoana	142MW	Hydro
Hau Nui Wind Farm	3.5MW	Wind
Kourarau Hydro Scheme	0.9MW	Hydro
Te Awamutu Cogeneration	54MW	Gas

1.2 Genesis is also New Zealand's largest electricity retailer.

1.3 Genesis has actively contributed to the industry process that formulated the proposed arrangement.

2. The proposed arrangement

2.1 Like most other participants in the EGEC reform process, Genesis made a significant effort in documenting parts of the proposed arrangement that it disagreed with and wanted changed. The process provided us with the opportunity to debate those points and in some cases our concerns were addressed. In many instances the process did not accommodate our concerns.

- 2.2** We do not propose re-iterating those points in this forum. Rather we observe that any process of this nature will be controversial and involve compromise. For our part we have accepted the compromise represented by the proposed arrangement. We do however wish the Commission to note that there has been a significant body of concessions made by Genesis in respect of the rules and processes governing the assets we have at risk. These concessions have been made in recognition of the need to move forward, to resolve the weakness in the current market arrangements and to recognise the vision for the future outlined in the Government Policy Statement.
- 2.3** Genesis accepts the applicant's analysis of the detriments and net public benefit. The proposed arrangement is a significant and necessary evolution of the current arrangements, which are clearly unsatisfactory. They are also broadly in line with the Government Policy Statement and for the reasons outlined in the application preferable to regulation.

3. Genesis support for the Application

- 3.1** Genesis support for the application is qualified only by our concern that participants in the industry may elect not to join the arrangement yet continue to accept the benefits flowing from it. We note for the record that we supported a mandatory market from the outset.
- 3.2** Genesis, along with other NZEM members, has been a victim of the type of free riding that the current multi-governance arrangement allows. Because electricity is an essential commodity it is difficult to prevent parties using arrangements which preserve quality and security and standards of behaviour - without paying the associated costs.
- 3.3** We accept that the "...intent of the Arrangement is for all industry players in New Zealand's wholesale electricity market to be members of the Rulebook." (Paragraph 23.1). We also note that "...the Industry EGB will seek quantum meruit recovery for any benefits or services received which could have been received under the Rulebook. (Paragraph 23.14(C)).
- 3.4** In supporting the application we are relying on the Applicant taking action against free riders on the basis of a quantum meruit claim or such other claim, to ensure parties who enjoy the benefits of the arrangement pay the costs and abide by its rules. This was because of our real concern that free riding would emerge as some parties sought commercial gain from avoiding their responsibilities by not joining a voluntary arrangement.
- 3.5** We look forward to the early resolution of these governance issues in order that the industry can focus on the many process improvements possible.

Murray Jackson
CHIEF EXECUTIVE