



## COMMERCE COMMISSION

### Decision No. 361

Determination pursuant to the Electricity Industry Reform Act 1998 (the EIR Act) of an application for exemption of an involvement in an electricity lines business and an electricity supply business from the application of the EIR Act. The application is made by:

#### **ALLIANT INTERNATIONAL NEW ZEALAND LIMITED AND UTILITY INVESTMENTS LIMITED**

**The Commission:** K M Brown  
E M Coutts  
E C A Harrison

**Commission Staff:** D R Ainsworth  
S P Brown

**Summary of Application** Alliant International New Zealand Limited, and Utility Investments Limited are involved in an electricity lines business and an electricity supply business, and seek an exemption, pursuant to section 81 of the EIR Act, from the application of the EIR Act and, in particular, from the application of section 35(1)(e), until 30 June 2000.

**Determination:** The Commission, pursuant to section 81 of the EIR Act, exempts Alliant International New Zealand Limited, and Utility Investments Limited from the application of section 35(1)(e) of the EIR Act in relation to a prohibited cross-involvement in an electricity lines business and an electricity supply business until 30 June 2000. The exemption is subject to the conditions stated in this Decision.

**Date of Determination:** 1 July 1999

**Date of Exemption:** On publication of the Notice of Exemption in the *Gazette*

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## INTRODUCTION

- 1 On 26 May 1999 the Commerce Commission (the Commission) received a joint application from Alliant International New Zealand Limited (Alliant) and Utility Investments Limited (UIL) for exemption from the application of the EIR Act.
- 2 The Commission's powers to exempt businesses, involvements or interests from the application of the EIR Act or persons from compliance with any provisions of any regulations made under the EIR Act are specified in section 81 of the EIR Act.
- 3 The Commission notes that, unusually, one application for exemption has been received and one fee paid which is intended to cover the Commission's consideration of the exemption of two companies. [

] Further, as the analysis below indicates the two companies are associates in terms of section 12 of the EIR Act. Therefore, because of [ ], the association in terms of the EIR Act, and the degree of common purpose in respect of their shareholding in Powerco, the Commission has in this case accepted a joint application from the two companies.

## THE PARTIES

### Alliant

- 4 Alliant is the wholly owned New Zealand subsidiary of an ultimate parent, Alliant Energy Corporation Inc, a large corporate based in Wisconsin whose principal activities are the provision of electricity, natural gas, water and steam energy to more than one million consumers in various parts of the United States.
- 5 Alliant's New Zealand electricity sector investments are in shareholdings of TrustPower Limited (TrustPower), Powerco Ltd (Powerco) and CentralPower Limited (CentralPower). These shareholdings are quantified in Appendices One, Two and Three.
- 6 Alliant has informed the Commission that it intends to maintain its shareholdings in TrustPower but wishes to sell its entire shareholdings in Powerco and CentralPower.
- 7 Subsequent to 23 June 1998, the date on which the ownership separation rules of the EIR Act came into force, Alliant has acquired additional shareholdings in Powerco and TrustPower. These acquisitions were notified to the Commission pursuant to section 35(d) of the EIR Act.

Alliant has [ ] agreements with Infrastructure & Utilities NZ Ltd (Infratil) all dated 17 February 1999. These are[

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- the Investment Agreement in Relation to Investments in the New Zealand Electricity Sector. This agreement is to disclose to each other investment opportunities in electricity businesses, to decide together, and the manner by which to pursue, investment opportunities and to invest in TrustPower; and
- the Infratil Investment Agreement by which Alliant agreed to buy not less than 9.0% and not more than 10.9% of Infratil.

## **UIL**

8 UIL is a wholly-owned subsidiary of Oceania & Eastern Investments Limited, a member of Oceania & Eastern Group, a privately-owned New Zealand Investment Group. UIL holds 10.1% of the shares in Infratil as per the Infratil Investment Agreement and 9.53% of TrustPower. [ ]

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10 UIL's New Zealand electricity sector investments are shareholdings of TrustPower and Powerco. These shareholdings are quantified in Appendices One and Three. UIL intends to maintain its shareholdings in TrustPower. UIL intends to sell its shares in Powerco.

11 Subsequent to 23 June 1998, the date on which the ownership separation rules of the EIR Act came into effect, UIL has acquired additional shareholdings in TrustPower. These acquisitions were notified to the Commission pursuant to section 35(d) of the EIR Act.

12 [ ], UIL became party to the agreements between Infratil and Alliant previously mentioned above. However, as mentioned these agreements specifically exclude the parties' shareholdings in Powerco and CentralPower.

## **Powerco**

13 Powerco is a company registered under the Companies Act 1993. Although it is not listed on the New Zealand Stock Exchange, a secondary market for the shares of the company exists. Powerco's shareholders are as shown in Appendix One.

14 Powerco is an electricity lines business<sup>1</sup>. Its electricity distribution networks (networks) provide line function services to electricity consumers in Taranaki, in the

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<sup>1</sup> It also owns natural gas networks in Taranaki but such ownership is not relevant to the consideration of Infratil's application.

Wanganui region and in the Wairarapa. Powerco distributes about 1,200 gigawatt-hours of electricity over its networks. Powerco is an entity made up from mergers of the former New Plymouth City Council Electricity Department, the Taranaki Electric Power Board, Egmont Electricity Limited, the Wanganui based Powerco and Wairarapa Electricity Limited. Powerco has also publicly announced its interest in, and active attempts to promote, a merger with CentralPower.

### **CentralPower**

- 15 CentralPower is a company registered under the Companies Act 1993. Although it is not listed on the New Zealand Stock Exchange, a secondary market for the shares exists. CentralPower's shareholders are shown in Appendix Two.
- 16 CentralPower is an electricity lines business. Its electricity networks provide line function services to electricity consumers in the Rangitikei District, and in the city of Palmerston North. CentralPower distributes about 680 gigawatt-hours over its networks. CentralPower merged with the Palmerston North City Council's electricity company in 1997.

### **TrustPower**

- 17 TrustPower is a company registered under the Companies Act 1993. It is listed on the New Zealand Stock Exchange.
- 18 TrustPower is an electricity supply business. Its assets include a number of electricity generation stations and the retail electricity sale contracts of a number of groups of electricity consumers, which it purchased from various electricity companies in 1998 and 1999. TrustPower sold its networks<sup>2</sup> to United Networks Limited in 1999.
- 19 TrustPower's shareholders are shown in Appendix Three. Investment Agreements exist between Infracore and Alliant, to which UIL is also a party in relation to their respective shareholdings in TrustPower.

## **INVOLVEMENTS OF ALLIANT AND UIL**

### **Electricity Lines Businesses**

#### *Powerco and CentralPower as Lines Businesses*

- 20 Powerco and CentralPower are the owners and operators of networks. In terms of the EIR Act they:
- own businesses that convey electricity by line in New Zealand (s4(1)(a));
  - own and operate, directly, lines in New Zealand and other core assets of electricity lines businesses (s4(1)(b)); and

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<sup>2</sup> Which provided line function services to consumers in the Taupo, Rotorua, Tauranga and Bay of Plenty areas.

- have no activities excluded from the definition of an electricity lines business by section 4(2).

22 Therefore Powerco and CentralPower are electricity lines businesses in terms of the EIR Act. Alliant and UIL agree with this interpretation of the EIR Act.

*Alliant and UIL Exceed 10% Threshold in Powerco*

23 Alliant and UIL have, respectively, 9.82% and 6.69% direct holdings in Powerco. UIL also holds an indirect holding of 0.54% through its shareholding in Infratil.

24 For the purposes of this application under the EIR Act, Alliant and UIL believe they are “associates” in respect of Powerco in terms of section 12(1)(g) of the EIR Act as a result [ ]described above.

25 Alliant and UIL, as associates, have 16.5% of the control and equity return rights in Powerco. Therefore, Alliant and UIL both exceed the 10% threshold in respect of Powerco (section 8(c)).

*Alliant and UIL’s Involvement in Powerco*

26 Alliant and UIL exceed the 10% threshold in section 8 of the EIR Act in respect of Powerco. They are, therefore, both involved in Powerco in terms of the EIR Act (section 7(1)(b)). Alliant and UIL agree with this interpretation of the EIR Act.

*Alliant and UIL’s Involvement in CentralPower*

27 Alliant has a 6.92% direct shareholding in CentralPower. UIL, although holding no direct shareholding in CentralPower, has through its holding in Infratil, a 2.23% indirect holding in CentralPower. Together these shareholdings total 9.15% of the shares of CentralPower.

28 Therefore, Alliant and UIL do not exceed the 10% threshold of section 8 of the EIR Act in respect of CentralPower, either individually or in aggregate, and are not involved in CentralPower (section 7(1)(b)). Alliant and UIL agree with this interpretation of the EIR Act.

29 Alliant and UIL are involved in Powerco, an electricity lines business in the terms of the EIR Act.

**Electricity Supply Business**

*TrustPower as a Supply Business*

30 TrustPower, in terms of the EIR Act:

- sells electricity in New Zealand (s5(1)(a)(i));
- generates electricity in New Zealand;

- owns and operates directly generators in New Zealand;
- owns and operates directly core assets of an electricity retail business which include the benefit of contracts to sell electricity (s5(1)(c)); and
- has no other activities excluded from the definition of an electricity supply business by section 5(2).

31 Therefore, TrustPower is an electricity supply business in terms of the EIR Act. Alliant and UIL agree with this interpretation of the EIR Act.

#### *Alliant and UIL's Involvement in TrustPower*

32 Alliant and UIL have respective direct individual shareholdings in TrustPower of 2.07% and 9.53%. UIL has a further indirect shareholding of 2.6% in TrustPower as a result of its shareholding in Infratil.

33 Investment Agreements, which have been discussed earlier, exist between Infratil, Alliant and UIL. These Agreements result in these three parties being associated in terms of section 12(1)(g) of the EIR Act with regard to TrustPower. The total shareholding of the associates is 37.4%.

34 As a result Alliant and UIL:

- have more than 10% of the control rights in the business (section 8(a)); and
- have more than 10% of the equity return rights in the business (section 8(b)); and
- are one of three associates<sup>3</sup> who, in aggregate, have 37.4% of the control and equity return rights in TrustPower (sections 8(c) and (d)).

35 Therefore, Alliant and UIL exceed the 10% threshold of section 8 of the EIR Act in respect of TrustPower and are involved in TrustPower (section 7(1)(b)). Alliant and UIL agree with this interpretation of the EIR Act.

36 Therefore, Alliant and UIL are also involved in an electricity supply business in terms of the EIR Act.

#### **PROHIBITED CROSS-INVOLVEMENTS**

37 Section 17 of the EIR Act provides:

- “(1) No person involved in an electricity lines business may be involved in an electricity supply business.
- (2) No person involved in an electricity supply business may be involved in an electricity lines business.”

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<sup>3</sup> Alliant, UIL and Infratil.

- 38 Alliant and UIL are involved in both an electricity lines business and an electricity supply business. Alliant and UIL have, in terms of section 17 of the EIR Act, a prohibited cross-involvement.
- 39 Section 30 of the EIR Act is a general prohibition on the expansion of cross-involvements after 23 June 1998. However, section 35 of the EIR Act provides an option for persons who wish to expand their cross-involvements. Such people must, after expanding, notify the Commission of the expansion, and either carry out ownership separation or revert to the previous level of their cross-involvements before 1 July 1999. An expansion of a cross-involvement, therefore, removes the option which cross-involved persons have of delaying ownership separation until 31 December 2003.
- 40 Alliant and UIL have notified the Commission of expansions of their cross-involvements as follows:
- on 30 July 1998, Alliant acquired additional shares in Powerco giving it a direct or indirect holding (through UIL) of 16.47% of the shares in Powerco;
  - 24 March 1999, Alliant acquired 1.73 million ordinary shares in TrustPower and sold those shares to UIL;
  - subsequent to 23 March 1999 Alliant has acquired a further 2.34 million ordinary shares in TrustPower;
  - 17 February 1999, UIL acquired 15.4 million convertible notes in TrustPower which were converted into ordinary shares on 1 April 1999;
  - 5 March 1999, UIL acquired 3.49 million ordinary shares in TrustPower; and
  - 24 March 1999 UIL purchased 1.73 million shares in TrustPower from Alliant.
- 41 Alliant and UIL do not, pursuant to section 35(1)(e)(ii), wish to revert to their former shareholdings in TrustPower before 1 July 1999 as they wish to be long term investors in that company. They state that they wish to comply with section 35(1)(e)(i) and sell their Powerco and CentralPower shares but cannot do so at prices that they consider reflect the true value of the shares. They believe they will be able to effect such a sale by 30 June 2000.
- 42 Alliant and UIL have, therefore, applied to the Commission for exemption from the application of the EIR Act. In particular, they wish to be exempted until 30 June 2000 from the requirement that because of their expansion of cross-involvements, they must comply with the ownership separation rules before 1 July 1999.

## **COMMISSION PROCEDURES**

### **General**

- 43 For the purpose of considering this application for exemption, pursuant to section 58 of the EIR Act which applies section 105 of the Commerce Act 1986 to the EIR Act, the



Commission has delegated its powers under section 81 of the EIR Act to K M Brown, E C A Harrison, and E M Coutts.

44 The Commission's decision is based on an investigation conducted by its staff and their subsequent advice to the Commission.

45 During their investigation into this application for exemption, Commission staff interviewed and obtained information from:

- Powerco;
- CentralPower;
- the Palmerston North City Council;
- the CentralPower Electricity Trust;
- Infratil; and
- Alliant.

### **Criteria Used by the Commission to Consider Exemption Applications**

46 The EIR Act gives the Commission wide powers of enforcement, extension and exemption. To provide assistance to parties affected by the EIR Act, the Commission sets out its role and processes in Practice Note No.3<sup>4</sup>

47 The Commission stated in Practice Note No.3 that:

“The EIR Act provides for the Commission to make exemptions in terms of section 81 of the Act. In considering applications for exemptions, the Commission will have specific regard to the particular purpose of Parts 1 to 5 of the EIR Act as defined in section 2(2) of the EIR Act. The Commission is likely to grant an exemption in respect of a business or involvement or interest only where doing so:

- (a) would not result in certain involvements in electricity lines businesses and electricity supply businesses which may create incentives or opportunities:
  - (i) to inhibit competition in the electricity industry; or
  - (ii) to cross-subsidise generation activities from electricity lines businesses; and
- (b) would not result in relationships between electricity lines businesses and electricity supply businesses which are not at arms length.

In determining exemptions, the Commission will also have regard to the overall purpose of the EIR Act as set out in section 2(1) of the Act. That is, the purpose of the EIR Act is to reform the electricity industry to better ensure that:

- (a) costs and prices in the electricity industry are subject to sustained downward pressure; and
- (b) the benefits of efficient electricity pricing flow through to all classes of consumers by –
- (c) effectively separating electricity distribution from generation and retail; and
- (d) promoting effective competition in electricity generation and retail.”

48 The Commission noted in Practice Note No.3 that:

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<sup>4</sup> Practice Note No.3, September 1998, Electricity Industry Reform Act 1998 Commission's Role and Processes.

“...the EIR Act provides for maximum cross-ownership limits and specific structural and behavioural requirements to ensure that the purposes of the Act are met. Strict compliance with these limits and requirements is, other than in exceptional circumstances,<sup>(5)</sup> expected.”

49 The Commission stated in Practice Note No.3 that:

“On receipt of an application in the proscribed form, the Commission will determine whether granting an exemption would be contrary to any element of the particular purpose of Parts 1 to 5 of the EIR Act or the overall purpose of the Act.

The Commission’s tests would necessitate obtaining and evaluating objective answers to the following three questions in relation to the particular purpose of Parts 1 to 5 of the EIR Act:

- Would the Commission, by granting an exemption in respect of a business or involvement or interest, create incentives or opportunities to inhibit competition in the electricity industry?
- Would the Commission, by granting an exemption in respect of a business or involvement or interest, create incentives or opportunities to cross-subsidise generation activities from electricity lines businesses?
- Would the Commission permit, by granting an exemption in respect of a business or involvement or interest, a relationship between an electricity lines business and an electricity supply business which is not at arms length?

In relation to these questions, the Commission will consider factors such as:

- Relevant market(s)<sup>6</sup> within the electricity industry;
- The nature of any incentives or opportunities created;
- The temporal nature of any incentives or opportunities created;
- The nature of any relationship which is not at arms length; and
- The temporal nature of any relationship which is not at arms length.”

## RELEVANT MARKETS

50 The national electricity generation market and the national retail electricity markets appear relevant to the application of the Commission’s criteria to the facts of Alliant and UIL’s application for exemption.<sup>7</sup>

## ALLIANT AND UIL’S ARGUMENTS

51 Alliant and UIL wish to sell their entire investment holdings in Powerco and CentralPower in order to comply with the ownership separation rules in the EIR Act and concentrate their efforts on adding value to TrustPower’s activities. However, the parties state that in spite of strenuous efforts to effect a sale, they will be unable to do so by 1 July 1999.

52 Alliant and UIL are only cross-involved in Powerco and TrustPower. They state that they are passive investors in Powerco, and that they have no managerial or directorial control of either of the two companies. They are, therefore, not in a position where they can cause conflicts with the purposes of the EIR Act, particularly as they only

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<sup>5</sup> For example, of the types provided for in section 19 of the EIR Act.

<sup>6</sup> Defined using the same process as used for market definitions in respect of Commerce Act matters.

<sup>7</sup> Other markets in the electricity industry, for example local distribution markets, wholesale electricity market, the electrical construction and maintenance market and the market for the reticulation of new subdivisions, do not appear to be relevant to this application for exemption.

seek a temporary exemption for one year. They submit the purposes of the EIR Act are directed at electricity businesses, themselves actively involved in electricity markets, rather than passive and temporary investors such as Alliant and UIL. They say they have no opportunity to inhibit competition in any electricity market as a result of their cross-ownerships. Alliant and UIL instance the major decisions made by Powerco to become an electricity lines business rather than an electricity supply business, in respect of which agreement from Alliant and UIL was not required, as an example of the minor influence they have on the two companies.

53 Alliant and UIL have offered undertakings to the Commission that in the event of their application being granted they will:

- continue to use all reasonable endeavours to cease their involvement in Powerco;
- keep their relationship with Powerco at arms length; and
- not seek to exercise any right they may have to promote or veto the appointment of any director of Powerco.

54 Alliant and UIL argue that they have no directors on the board of Powerco, nor do they have any ability to make decisions regarding the operations of the company. They say that they are not in any position to inhibit competition in electricity markets. Likewise, they insist they have insufficient influence on the operations of Powerco to induce the company to offer TrustPower as a generator such favourable terms for the provision of line function services that would lead to a cross-subsidy from an electricity lines business to an electricity generator. Alliant and UIL argue that any exemption granted to them would not lead to the creation of a relationship not at arms length between an electricity supply and an electricity lines business in respect of the relationships either between TrustPower and Powerco or between Alliant/UIL and Powerco. Alliant and UIL note that they have no knowledge of any contractual arrangements between TrustPower and Powerco in respect of the provision of line function services to TrustPower as both a generator and electricity retailer.

55 Alliant and UIL argue that even if they did have the opportunity to inhibit competition, cross-subsidise electricity generation activities or establish a relationship between an electricity lines and an electricity supply business which is not at arms length (although they assert they have no such opportunity) such prohibited activities would all operate to promote TrustPower's interests over those of Powerco. Alliant and UIL then would have no incentive to promote the prohibited activities because the value of Powerco's shares which Alliant and UIL wish to sell would decline in value.

56 Alliant and UIL argue that they, acting in concert with Infratil, have made strenuous attempts to sell their shareholdings in Powerco and CentralPower as a single lot since the middle of 1998 at values they regard as fair. That value, in their view, has been established by the recent sales of the networks of TransAlta New Zealand Ltd, TrustPower and Central Electric Ltd together with a recent offer by GPU International

Inc (GPU)<sup>8</sup>. They state that the sale is complicated by the existence of complex shareholder agreements, and by the presence of shareholders whose motives may be other than the maximisation of the value of their shareholdings.

57 Alliant and UIL say that they have had [ ] offers for their shares in Powerco and CentralPower. One offer was part of an offer from GPU to Powerco and CentralPower for the assets of the companies. [

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<sup>8</sup> A United States based subsidiary of GPU Inc, a large utility holding company which owns and operates generation, transmission and distribution facilities in the United States. It is among the top 20 United States electricity utilities in size.

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## **EXAMINATION IN TERMS OF THE COMMISSION'S CRITERIA**

75 The focus of the Commission's analysis is on those parts of the national electricity generation and national retail electricity markets in which Alliant and UIL's cross-involvement between TrustPower and Powerco:

- has the potential to create incentives or opportunities to inhibit competition;

- has the potential to create incentives or opportunities to allow the cross-subsidisation of generation activities from an electricity lines business; and
- has the potential to create a relationship between electricity lines and supply businesses which are not at arms length as defined in the EIR Act.

76 The results of Alliant and UIL's cross-involvement might include:

- the negotiation of more favourable terms for the provision of line function services for TrustPower, as both a generator connected to the networks of Powerco and as a retailer to consumers connected to the networks, than other generators and retailers are able to negotiate;
- a cross-subsidy between the electricity lines business of Powerco and TrustPower's generators; and
- a breach of the arms length rules of Schedule 1 of the EIR Act<sup>9</sup>.

77 The issues for the Commission are whether:

- in a practical sense, Alliant and UIL are able to eliminate their cross-involvements to achieve compliance by 1 July 1999; and
- given Alliant and UIL's arguments that, in practical terms, they are unable to influence those operations of Powerco which are relevant to the purposes of the EIR Act, the granting of a limited time period exemption would result in the creation of the aforesaid incentives or opportunities or breaches of the arms length rules which were more than minimal and which would result in the suborning of the purposes of the EIR Act.

78 The Commission does not accept Alliant and UIL's argument that any use of their cross-involvements to suborn the purposes of the EIR Act would act to their disadvantage in the sale of their Powerco shares by lowering the value of those shares. It is not possible for the Commission to judge whether the net benefit of any anti-competitive behaviour, cross-subsidies or breach of the arms length rules would reside with Powerco or TrustPower. Alliant and UIL are of course shareholders of the two companies.

79 This application for exemption is one in which there are:

- cross-involvements in the form of minority shareholdings rather than as wholly owned electricity lines and supply businesses. The ownership separation which has occurred as the result of the enactment of the EIR Act has been of wholly owned electricity lines and supply businesses. This application and that of Infratil are the first, and to the Commission's knowledge, the only potential cases which involve minority shareholdings;

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<sup>9</sup> The Commission considers that the Arms Length Rules in Schedule 1 to the EIR Act can be used to determine whether a relationship not at arms length exists.

- the presence of other shareholders who may have non-commercial imperatives;
- the existence of complex agreements between the shareholders of Powerco and CentralPower containing provisions, amongst other things, allowing pre-emptive rights in respect of the shares of the parties to the agreements and “piggy-backing” of offers to purchase some of those shares;
- one offer for purchase of the assets of Powerco and CentralPower which Alliant and UIL’s co-shareholders in the two companies have rejected;

- [

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- [

] and

- undertakings by Alliant and UIL not to interfere in the operation and management of Powerco.

80 In addition, this application is for exemption for a defined period of one year.

81 The Commission considers that incentives or opportunities to inhibit competition, to cross-subsidise and to breach the arms length rules are likely to be present whenever cross-involvements exist. However, given *the combination* of facts revealed by the investigation of Alliant and UIL’s application, the Commission considers that a limited time exemption for Alliant and UIL will have a minimal effect on these criteria, such as to not suborn the purposes of the EIR Act.

## THE COMMISSION’S DECISION

82 Alliant and UIL’s application passes the Commission’s three criteria it uses for considering applications for exemption.

83 In making its decision the Commission notes that section 81(5) provides that the Commission may vary or revoke any exemption at any time.

84 Therefore, having considered the stated criteria, the Commission exempts Alliant and UIL from the application of section 35(1)(e) of the EIR Act, subject to the terms and conditions specified in the Notice of Exemption.

## **NOTICE OF EXEMPTION**

The Commission, pursuant to section 81 of the Electricity Industry Reform Act 1998, exempts Alliant International New Zealand Ltd and Utility Investments Ltd from the application of section 35(1)(e) of that Act in relation to prohibited cross-involvements in an electricity lines business, comprising the electricity distribution networks owned and operated by Powerco Ltd, and an electricity supply business owned and operated by TrustPower Ltd.

### **THE EXEMPTION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- (a) Alliant International New Zealand Ltd and Utility Investments Ltd will continue to use all reasonable endeavours to cease their involvements in Powerco Ltd by procuring the prompt sale of sufficient of their shares in Powerco Ltd so as to become not involved in that company in terms of the Electricity Industry Reform Act 1998.
- (b) During the period of the exemption, Alliant International New Zealand Ltd and Utility Investments Ltd will maintain an arms length relationship with Powerco Ltd. Maintaining an arms length relationship means complying with the arms length rules defined in Schedule 1 of the Electricity Industry Reform Act 1998.
- (c) Alliant International New Zealand Ltd and Utility Investments Ltd will not exercise any right they may have to promote or veto the appointment of any directors of Powerco Ltd.
- (d) The exemption expires at midnight on 30 June 2000 unless any variation or earlier revocation in terms of section 81(5) occurs.
- (e) Alliant International New Zealand Ltd and Utility Investments Ltd will notify the Commission two weeks in advance of additional involvement in any electricity lines or supply business, as defined in the Electricity Industry Reform Act 1998, which provides either company on its own, or together with any associate, with an additional 0.5% of the assets, control rights or equity return rights of the electricity business.
- (f) Alliant International New Zealand Ltd and Utility Investments Ltd will provide the Commission with monthly written reports beginning one month after the date of this Decision on the progress they are making to achieve compliance with the Electricity Industry Reform Act 1998.



The Commission may vary or revoke this exemption at any time in accordance with section 81(5) of the EIR Act.

The exemption takes effect from the date of publication of this Notice in the Gazette.

Dated this                      day of July 1999

The Commission