

CONSUMER COALITION ON ENERGY (CC93)

Spokesperson: Sue Chetwin

Consumer NZ, Private Bag 6996, Marion Square, Wellington 6141
Phone (04) 384 7963; Fax No (04) 385 8752

The Coalition: Business NZ Inc
Consumer NZ
Federated Farmers of NZ Inc
Major Electricity Users' Group Inc

16 March 2009

Lisa White
Electricity Group
Energy & Communications Branch
Ministry of Economic Development
WELLINGTON

Delivered by email to electricity@med.govt.nz

Dear Lisa

Draft Government Policy Statement on Electricity Governance

The Consumer Coalition on Energy (CC93) has been concerned for a long time with the lack of independence of the Electricity Commission from short-term political objectives of governments compared to the independence of the Commerce Commission. The most recent analysis detailing this lack of independence was the LECG report for Business New Zealand, "*Determining outcomes or facilitating effective market processes: a review of regulation and governance of the electricity sector*" dated 4th February 2009¹.

One of the important tools Ministers can use to impose political goals on the Electricity Commission is by revising the Government Policy Statement on Electricity Governance (the "GPS").

We believe the power of Ministers to direct the Electricity Commission through the GPS should be removed. If the Government wishes the Commission to have different primary objectives than those set out in the Electricity Act; then the Act should be changed. This approach would provide scrutiny by Parliament and public consultation through a select committee process.

Amending the Electricity Act to remove the power of Ministers to direct the Commission through revisions of the GPS will take time. In the meantime the GPS is part of the governance framework and a revision to emphasise that over-arching policy directions are consistent with a focus on supporting economic growth is needed. CC93 agrees with all of those proposed changes to the GPS; including removing the politically directed bias for consideration of renewable generation sources and evaluation of electricity efficiency proposals.

CC93 also agrees, subject to one caveat, with the removal of the direction in the GPS for the Electricity Commission to make extensive use of advisory groups. If there was no GPS, the Electricity Commission in managing resources to achieve its primary statutory goals would use advisory groups where it believed they add value. This is exactly how the Commerce Commission uses expert panels (eg cost of capital) and it is considering working groups for input methodologies even though it has no GPS requirement to do so.

The caveat CC93 have is the risk the Electricity Commission may decide to reduce the role of Advisory Groups. End consumers have a significant information and resource disadvantage compared to suppliers (including Transpower and distributors) in considering and promoting competition enhancing rule changes. The incentive and observed behaviour of suppliers is often to frustrate changes that erode their market power or make them more accountable. We believe the Advisory Groups provide an opportunity for consumer representatives and suppliers to debate proposed changes that help inform Commission staff and the Board more effectively than relying on a completely arm's length consultation process. Greater transparency of how the Commission Board weighs various factors in making decisions, including the advice it receives from the Advisory Groups, should be a preferred outcome. CC93 hopes that removal of paragraph 7 of the GPS does not send the wrong message to the Commission that Advisory Groups and the facilitation of consumer views those generate are considered by Government to be of little value.

The one aspect of the proposed changes to the GPS that concerns CC93 is the new section titled "Investment in minor transmission works". This is a specific instruction and is contrary to our view, as stated above, that the GPS should not be used to direct the Electricity Commission. In addition no material has been provided clearly identifying what the policy problem is, what solutions have been considered and why the particular solution and threshold in the draft GPS is the best solution. This is a complex issue requiring on the one hand careful weighing of the need for an expeditious approval process because of the risk that delays might affect transmission services; and on the other the need to ensure works that are approved have been adequately scrutinised through an independent and robust regulatory process where end consumers end up having a statutory requirement to pay for those assets.

There may well be a policy problem; but using a Ministerial directive through the GPS to solve it isn't the preferred solution. Instead CC93 suggests the following restatement of the issue and the process to resolve it:

Investment approval process for minor transmission works.

The Government expects the EC to work with Transpower, the Commerce Commission, end consumers and suppliers to continuously improve the approval process for minor transmission works, dependent on the transmission services required and the parties that pay for those approved works. Transpower has made some suggestions by letter to the Electricity Commission on 22nd October 2008 and those need to be urgently considered to avoid unnecessary delays or excessive regulatory costs.

Some members of CC93 are likely to make separate more detailed submissions.

This submission is not confidential.

Yours sincerely



Suzanne Chetwin
Chief Executive
Consumer NZ



John Pask
Economist
Business New Zealand



Mark Ross
General Manager, Policy and Advocacy
Federated Farmers



Ralph Matthes
Executive Director
Major Electricity Users' Group

¹ Refer LECG report for Business NZ, web reference, <http://www.businessnz.org.nz/file/1636/Regulation%20and%20governance%20of%20electricity%20sector.pdf> . Section 6.3 of the report comparing the governance of the Electricity Commission and Commerce Commission and the role of Government Policy Statements are relevant.