



SUBMISSION BY

GENESIS POWER LIMITED

trading as Genesis Energy

ON

**Draft Government Policy Statement for
Electricity Governance**

4 April 2008

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Draft Government Policy Statement on Electricity Governance

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Introduction

1. Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide comments to the Ministry of Economic Development on the March 2008 Draft Government Policy Statement on Electricity Governance (the '**Draft GPS**').
2. Genesis Energy operates across the electricity market, with interests including electricity generation and retail. Genesis Energy has around 700,000 electricity and gas customers.

3. Genesis Energy is committed to providing a reliable supply of energy to New Zealand at least cost into the future. The efficient and effective governance of the electricity sector is of central importance to achieving this objective. As such, Genesis Energy takes a keen interest in the success of the regulatory regime for the electricity sector.

Executive Summary

4. Genesis Energy is delighted that stakeholders have been given an opportunity to comment on the Draft GPS as it is undoubtedly an important agenda-setting document for the electricity sector. However, the extremely short timeframe within which responses were required on this crucial industry agenda-setting document was not helpful.
5. In this submission, Genesis Energy focuses on examining the theory behind the Government Policy Statement on Electricity Governance (the '**GPS**') and comparing this against the draft and its likely practical effect.
6. Overall, Genesis Energy believes that the Draft GPS demonstrates a progressive maturing of the approach to electricity sector governance. Its content has evolved to reflect the progress made by the Electricity Commission since the current GPS of October 2006 (the '**Current GPS**') was made, while its tone now slightly better reflects the roles of the Electricity Act 1992 (the '**Act**')¹, the Minister, the Electricity Commission, and the GPS itself in governance of the electricity sector.
7. However, in moving from the Draft GPS to a new GPS, there is further opportunity to make further improvements in this direction. In Genesis Energy's view, there remains a sizeable gap between the way the Draft GPS is written and what its effect will be at law. This has in turn translated into a gap between the statutory effect of the GPS and its practical effect. As written, the Current GPS essentially describes a set of deliverables for the Electricity Commission. The Draft GPS softens this approach compared to the Current GPS, but Genesis Energy believes the GPS could go further and has suggested ideas to improve the outcome.
8. To mirror its legal effect, the substantive content of the GPS should be only objectives, and outcomes. There is no place for outputs, tasks, and specific directions in the GPS. Under section 172ZK, the Minister may only set objectives and outcomes and not more. If this prescription were followed, Genesis Energy believes the Electricity Commission would more readily be able to lift its sights from the day-to-day delivery of pre-specified outputs (or leaving them to one side since their legal status is unclear) to ensuring the attainment of long-term strategic outcomes and the flexibility of

¹ References in this submission to sections are to sections in the Act.

determining the best mix of outputs to achieve those long-term strategic outcomes.

9. Genesis Energy has prepared a marked-up version of the Draft GPS to illustrate how specifically it considers this goal could be achieved.

How this Submission is Structured

10. In this submission, Genesis Energy first comments on its view of the role of the GPS. The submission then comments on how well the Draft GPS reflects its role and covers suggestions for further improvement. A copy of the Draft GPS which includes these suggestions is attached.
11. This is followed by discussion on two further sets of suggested improvements – these being:
 - a. A set of changes to improve the overall coherence and readability of the Draft GPS (these are also included in the marked-up version attached); and
 - b. A range of comments on specific issues which Genesis Energy wishes to bring to the attention of the Ministry of Economic Development, but has not included in its amendments contained in the marked-up version of the Draft GPS.

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The Role of the GPS

12. The role of GPSs has clearly evolved since the establishment of the Electricity Commission in 2003. Since then, the industry, the regulator and the government have continued to develop their understanding of the GPS as a policy mechanism.
13. In Genesis Energy's view, a critical element in the progressive maturing of the GPS has been the increased realisation that it can not be used to simply dictate what the Electricity Commission must do. The corollary to this realisation is increased understanding of the gap between the wording of the Current GPS and its actual effect at law.
14. As people are wont to take the GPS at face value, this gap has resulted in the practical effect of the GPS extending beyond its legal standing. The Draft GPS goes a long way towards ameliorating this problem, but Genesis Energy suggests that further improvements could be made.
15. In this section Genesis Energy first discusses the legal standing of the GPS. Genesis Energy then reviews how the Draft GPS measures up against what its legal effect will be.

The legal standing of the GPS

16. Overall, it is clear that the Act and the Crown Entities Act 2004 do give considerable power to the Minister to significantly influence the Electricity Commission. Of this there is (at least from Genesis Energy) no debate. However, like many things, this becomes a matter of degree, and the key question is how far the Minister can go in influencing the Electricity Commission on operational matters.
17. It is widely assumed that the Act simply provides the machinery to implement the GPS. Words in the Act therefore tend to be interpreted by some in a manner that is consistent with the Draft GPS. But this approach is not correct at law.
18. The GPS does not determine the full nature or scope of the Electricity Commission's legal obligations. At law (as the Ministry of Economic Development will know), the Electricity Commission is governed principally by the Act and any regulations or rules made under it. One of the Electricity Commission's functions under the Act is to give effect to GPS objectives and outcomes² and, similarly, in formulating recommendations for electricity governance regulations and rules, the Commission must give effect to its principal objectives and specific outcomes and its GPS

² Section 172O(1)(j).

objectives and outcomes.³ GPS provisions relating to processes, *or to how an objective is to be achieved*, are not “GPS objectives and outcomes” and are therefore not binding on the Commission. Indeed the Act explicitly states that:

“GPS objectives and outcomes must be consistent with the purpose of this Part and the functions, principal objectives, and specific outcomes of the Commission.”⁴

19. In the event of any inconsistency, the Act’s provisions therefore prevail over the GPS.
20. In addition, the Electricity Commission must report against the GPS objectives and outcomes.⁵
21. In terms of the Act, the legal effect of the GPS doesn’t directly extend beyond the two items described above. Much could be said about the framework provided by the Act, but Genesis Energy considers the following two observations to be particularly relevant to the content and tone of the Draft GPS:
 - a. only objectives and outcomes create an obligation; and
 - b. the GPS is not at the top of the hierarchy of governance instruments for the Electricity Commission.
22. Each of these points is covered in turn below.

It is only GPS objectives and outcomes that create an obligation

23. As noted above, the Act is clear that it is only the objective and outcome statements contained in the GPS which the Electricity Commission must give effect to. Similarly, it is only objectives and outcomes against which the Electricity Commission must report to the Minister.
24. In the language of public sector management, a distinction is maintained between outcomes and outputs. The Public Finance Act 1989 defines these terms as follows:

“outcome–

- (a) means a state or condition of society, the economy, or the environment; and

³ Section 172X.

⁴ Section 172ZK(4).

⁵ Section 172ZK(1): “...and against which the Commission must report and be examined in accordance with this subpart.”

(b) includes a change in that state or condition”

“outputs–

(a) means goods or services that are supplied by a department, Crown entity, Office of Parliament, or other person or body;...”

25. For comparative purposes, the common dictionary meaning of “direction” is “control or instruction”.
26. Put another way, an output is a specific thing produced by an entity and an outcome is the result that the entity is aiming for. A government entity produces specific outputs (such as a report, monitoring, some advice, or a regulation) in pursuit of some desirable outcome (such as customers being readily able to switch between retailers).
27. Outcomes in turn should be consistent with, and contribute to, broader objectives (meaning an aim or goal). The Act already sets a principal objective and a number of other objectives applying to the bulk of the Electricity Commission’s powers to recommend regulations⁶. Finally, a direction (or to use pre-public sector reform language, “input control”) specifies the manner in which something should be achieved and effectively places an active obligation on the person being directed to deliver something in that manner.
28. Where the GPS provides directions, or instructions about how to achieve a particular outcome, or where objectives and outcomes run counter to the objectives in the Act, this runs contrary to the legislative intent and the GPS is likely to be unlawful and judicially reviewable. If the Electricity Commission follows such instructions or objectives this would also be likely to be unlawful and potentially judicially reviewable.
29. Genesis Energy suggests that the content of the Draft GPS could usefully be broken down as shown in the following table.

⁶ Section 172O.

Table 1 - Effect on the Electricity Commission of items in the GPS

Item in GPS	Type	Effect on recommendations for regulations or rules⁷
Objective or outcome	Consistent with the objectives in the Act	Will be given effect to in Electricity Commission's recommendation
Objective or outcome	Additional to the objectives in the Act	Will only be given effect to the extent that they are at the same level of generality without diminishing or changing the principle objectives and outcomes
Objective or outcome	Contrary to the objectives in the Act	Unlawful ⁸ - no effect
Output	Of any type or description	No effect ⁹
Input ¹⁰	Of any type or description	No effect

The GPS is not top of the hierarchy

30. The GPS is undoubtedly a crucial document for governing the activities of the Electricity Commission. However, the strict legal effect of the GPS generally places it at a lower level of importance than the Act. At best, the GPS is of no higher level of importance. This is illustrated by Table 1 above.
31. Defining the Electricity Commission obligations at law is, in essence, at a matter of statutory interpretation. At law the Electricity Commission is governed by the Act and any regulations or rules made under it. As discussed at paragraph 18 above, this includes a requirement to "give effect to" the GPS. The Electricity Commission must exercise its own judgement on how best to satisfy its statutory obligations. This is

⁷ Refer section 1720(1)(a).

⁸ Contrary to section 1722K(4).

⁹ Unlawful to the extent they require the Commission, in respect of a particular person, to make a particular decision, or to do or refrain from doing a particular act, or to bring about a particular result (other than in relation to Transpower): Section 1722K(5).

¹⁰ As defined in paragraph 27 above.

consistent with the constitutional principle that Ministers may not make law by decree, or policy direction.

32. Were the Ministry of Economic Development (or the Electricity Commission for that matter) to perceive that the GPS provisions are able to provide a high degree of *prescription* about how the Electricity Commission *must* go about implementing its objectives such a misunderstanding would need to be remedied.

Comparing theory with practice

33. In Genesis Energy's view the Current GPS is far from consistent with its status under the Act, but the Draft GPS is an improvement. In this section, Genesis Energy compares the content and tone of the Draft GPS with the theory as discussed above. The following topics are covered in turn:
 - a. Describing the context and effect of the GPS including its status under the Act;
 - b. Outcomes versus outputs and instructions; and
 - c. Clarifying its audience – industry and other stakeholders or the Electricity Commission.
34. Where appropriate, Genesis Energy has directly set out the link between its feedback on these matters and the changes it considers are desirable in the Draft GPS.

Describing the context and effect of the GPS, including its status under the Act

35. Genesis Energy suggests that there is a natural propensity for people to take official documents such as the Draft GPS at face value. As such, it is particularly important that the GPS is written in a way such that its status is clearly set out.
36. The Draft GPS has several sections that could be taken to describe its context and effect. These are the sections are included in such diverse places as the foreword, the section outlining the Electricity Commission's powers and approach, section 13 – accountability requirements, and the appendix.
37. Genesis Energy recommends that these similar, but scattered elements relating to the GPS, its effect and status under the Act be brought together into a section at the front of the Draft GPS. Genesis Energy has created a new section 2: Accountability Requirements to achieve this.

Outcomes versus outputs and instructions

38. In applying the statutory requirements to the Draft GPS, Genesis Energy observes that it:
- a. Clearly contains certain objectives (as demonstrated by the frequent use of the phrase “the Commission should...”);
 - b. Also contains outcomes (as demonstrated by the frequent use of the phrase “the Commission should ensure...”); but
 - c. Also contains directions (these are sometimes signalled by the use of the phrase “the Government expects the Commission to...”, or by the inclusion of excessive detail as to how the Electricity Commission is to ensure that an outcome is achieved), contrary to legislative intent.
39. More specifically, Genesis Energy considers that the Draft GPS contains several new directions/instructions to the Electricity Commission (that are not contained in the Current GPS) to achieve outcomes in a certain way. For example:
- a. There is effectively a new requirement (phrased as an expectation) in paragraphs 42 and 43 for the Electricity Commission to adopt a discount rate of 5 percent real per annum for cost-benefit analyses of energy efficiency and other measures under the New Zealand Energy Strategy (the ‘NZES’) and New Zealand Energy Efficiency and Conservation Strategy (the ‘NZECS’). This goes beyond sections 172N(2)(c) and (g), and 172(1)(e) and (f), of the Act;
 - b. There is also a new expectation in paragraph 44 that the Electricity Commission will participate in the delivery of the EnergyWise Homes package which is a suite of household energy efficiency initiatives set out in the NZECS. This goes beyond section 172N(2)(c) and (g) of the Act; and
 - c. In paragraph 129, rather than simply requiring the Electricity Commission to ensure that contracts include reasonable terms and conditions, the Electricity Commission is to investigate and make recommendations on whether contracts should specify pricing principles, and on how contracts should require itemised billing by 2009. This goes beyond section 172O(1)(i) of the Act.
40. There are numerous other examples in the Draft GPS that stray into output (or worse, instruction) language rather than outcomes language. To the best of Genesis Energy’s ability in the short timeframe provided for

feedback, these are identified in the marked-up copy of the Draft GPS attached as Appendix A.

41. In providing its suggestions, Genesis Energy has endeavoured to mirror the following example in the Draft GPS of an outcome-type statement:

“The Commission should ensure that the terms and conditions of contracts between domestic consumers and electricity retailers (and where applicable, contracts between domestic consumers and electricity distributors) reflect the reasonable expectations of consumers.”¹¹

General communication tool or governance tool?

42. While the legislative purpose of the GPS is relatively clear (a governance tool for the Electricity Commission), in practice, the Draft GPS reads more like an extended press release whose audience is more broadly intended as industry participants and other interested stakeholders.
43. While the GPS initially may have served (albeit indirectly) a dual purpose of communicating the Government’s broader strategic direction as much to industry participants as to the Electricity Commission, Genesis Energy considers that in light of:
- a. the progressive ‘maturing’ of the governance arrangement; and
 - b. the high degree of industry and other stakeholder awareness of the Government’s strategic policy settings (as no better reflected than in the New Zealand Energy Strategy (NZES), the New Zealand Energy Efficiency and Conservation Strategy (NZECS) and the emissions trading design documents)

the GPS simply no longer needs to serve such a dual purpose. Indeed, in light of the actual purpose of the GPS, if there was a need for the inclusion of, for example, the new section 2 of the Draft GPS (NZES and NZECS) Genesis Energy would be most concerned.

44. In Genesis Energy’s view, the continued desire for the GPS to serve a dual purpose has in no small part contributed towards the task-orientated language used in the Draft GPS. Consistent with Genesis Energy’s desire that the GPS focus more clearly on its legislative purpose, Genesis Energy considers that its audience be similarly (and solely) refocused to the Electricity Commission. Its use as a general communication tool is simply no longer appropriate and if still necessary for the wider industry, some other more appropriate mechanism should be used to more broadly communicate the Government’s new strategic policy direction.

¹¹ Draft GPS, paragraph 16.

45. In general the 'test' that the Ministry of Economic Development should apply when considering the inclusion of generic, contextual material is the extent to which it is necessary to aid in the Electricity Commission's interpretation of the subsequent objectives and outcomes sought from it.
46. Having applied this test, Genesis Energy proposes that Section 2 of the Draft GPS, as well as other sections containing generic contextual information that will be well known to the Electricity Commission – such as currently contained in the Section 3: Consumer Protection, Section 4: Electricity Efficiency, and Section 6: Security of Supply - be deleted.

Other Items

47. In this section Genesis Energy comments on a range of other individual items contained in the GPS. While the comments above are expected to capture by far the largest proportion of the changes suggested to the GPS, Genesis Energy has some additional reasons why further changes to the GPS should be made. These are set out here.
48. In terms of the structure of this section, Genesis Energy frames it as additional changes incorporated into the Draft GPS attached, and other changes suggested for Ministry of Economic Development's further consideration (but not included in the Draft GPS attached). More specifically:
 - a. A set of changes to improve the overall coherence and readability of the Draft GPS (these are included in the marked-up version attached); and
 - b. A range of some comments on some specific issues which Genesis Energy wishes to bring to the attention of the Ministry of Economic Development, but has not included in its amendments contained in the marked-up version of the Draft GPS.

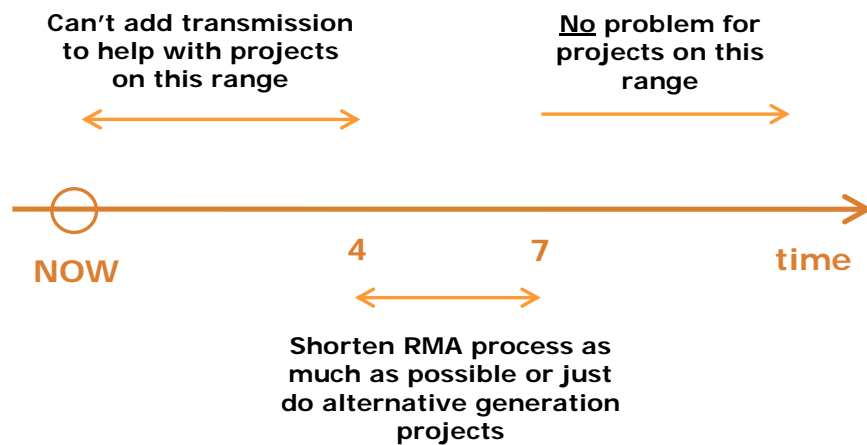
Changes to improve overall coherence and readability

49. Genesis Energy considers that in addition to the changes outlined above, further changes are warranted to the Draft GPS in an effort to enhance its overall coherence and readability. In brief, these proposed changes – which have been made to the Draft GPS attached - are:
 - a. Acknowledging up-front the right of the Electricity Commission to regulate the industry if adequate progress is not made under lighter-handed mechanisms, such as guidelines. In a number of sections the Draft GPS states that regulations can be made, or will be forthcoming, if satisfactory progress is not made under other, 'lighter-handed' mechanisms. While Genesis Energy

acknowledges the absolute right of the Electricity Commission to do so when empowered by the Act, Genesis Energy considers that the constant repetition of this threat is unnecessary. The industry is aware that it operates under the constant threat of regulation and considers it appropriate to amend paragraph 3 of the Draft GPS to include a generic statement regarding the role of regulation in the absence of satisfactory progress otherwise;

- b. The need to avoid perpetrating perceptions of problems that may not actually exist – for example, paragraph 52, last bullet-point. It has become generally accepted that there *is* a mis-match between transmission and generation lead-times and that this problem *is enduring*. But this isn't necessarily the case. In Genesis Energy's view, the problem appears to relate solely in the near term, with the appropriate use of the Electricity Commission's Statement of Opportunities ensuring that Transpower should have sufficient information on which to plan its expansion in the medium to longer term. This characterisation of the issue is shown below (as taken from a Genesis Energy presentation to the Electricity Commission conference on 'transmission to facilitate renewables').

...for renewables projects requiring a grid upgrade or connection or both



Genesis Energy suggests that the Ministry of Economic Development delete the last part of final bullet-point or add "where this has been demonstrated to be a tangible, enduring problem";

- c. The deletion of paragraph 96, as it is now superfluous;

- d. The avoidance of the interchangeable use of the terms the “Commission” and the “Electricity Commission” (the former should be used throughout the document to refer to the Electricity Commission) – we have proposed that the term “Commission” is defined in the foreword;
- e. The need to use a common and well-understood term for projects that are to be considered as alternatives to transmission projects – paragraph 100 uses the term “non-transmission alternatives” (meaning presumably, alternatives that are not transmission projects) but the heading above paragraph 111 is “Transmission Alternatives”. If these descriptions are different, their differences should be explained. Genesis Energy considers that, if these descriptions are not different, the term “transmission alternatives” should be used as this is the term defined and used in the Electricity Governance Rules 2003;
- f. The deletion of paragraph 112. Genesis Energy considers that it is now generally accepted that:
 - i. the Electricity Commission will not be undertaking any further policy work on the funding (centralised or otherwise) of transmission alternatives; and
 - ii. if any funding were to be forthcoming for a proponent of a transmission alternative, it will do so via Transpower and the application of the transmission pricing methodology;
- g. Amendment of paragraphs 113 – 115 to reflect that matters have moved on in this area;
- h. Use of the term “market failures” in preference to “barriers” in paragraph 116. Barriers as a term is unclear as to meaning and in regulatory economics terms is generally recognised as a lower (and deficient) threshold for justifying regulatory interventions; and
- i. Finally, and by way more of a general principle as opposed to a specific suggested amendment, Genesis Energy – as a participant in both the gas and electricity market like many others – considers that to the extent possible, there should be consistency with the Government Policy Statement on Gas Governance. This is highly desirable given common participants in the two markets.

Issues that warrant the Ministry of Economic Development's on-going consideration

50. Finally, Genesis Energy has a range of comments which it believes the Ministry of Economic Development should consider further before it finalises the Draft GPS. The nature of these comments range from support through to general commentary on the detail of the GPS. For this reason Genesis Energy considers it best not to provide suggested alterations to the Draft GPS, but to provide the Ministry of Economic Development with its views in order for the Ministry of Economic Development to consider the nature of any specific changes, if any to be made to the Draft GPS. These comments are (in no particular order):
- a. The section under the heading of "Consumer complaints resolution system". The revised content of the Draft GPS seems to be justifiable for a number of reasons:
 - i. the sector has already self-regulated through the Electricity and Gas Complaints Commission, which covers both electricity and gas complaints; and
 - ii. there are a number of parties (Genesis Energy included) who consider that a single complaints scheme would likely be the most cost-effective way forward.

However, there is an argument that to require a single complaints resolution scheme for electricity and gas is inconsistent with the Act. Section 158G, which is the provision that requires an approved complaints resolution scheme relating to electricity distributors and electricity retailers, does not refer to any other parties or areas. On the other hand, section 158G on its face does not rule out a dual scheme. The key point to make, though, is that the Act, and the Commission's functions, relate to electricity, not gas or any other energy sources. The Commission's ability to recommend regulations and rules is limited to the matters set out in sections 172D (in this case, specifically subsection (1)(27)) of the Act). These do not extend to gas, and Genesis Energy considers that the Electricity Commission would need to be assured of its powers before recommending regulations that included a complaints resolution scheme for gas as well as electricity;

- b. The section on transmission is strong on the respective roles of the Electricity Commission and Transpower. This section should be revisited and made appropriate to a GPS whose audience is the Electricity Commission once the work that the Electricity Commission is currently undertaking with regard to the grid

upgrade investment review policy is developed to the satisfaction of the Ministry of Economic Development;

- c. There is no indication of the need for the Electricity Commission to do any work on the effect of the introduction of the proposed emissions trading scheme on thermal plant, its on-going availability and effect on security of supply and the greater need for peaking plant. Inclusion of such a work programme item would seem, given the impending circumstances, to be judicious; and
- d. Genesis Energy supports the arrangements for the benefit of low income and vulnerable domestic consumers (paragraph 23). However, some difficulties have been experienced with regard to the provision to retailers of patients' medical certificates where they are sent home and will be reliant on electrical machinery for critical medical support. We would urge the Ministry of Economic Development to consider an addition to paragraph 23 that reflects this operational difficulty and seeks (just as retailers are required to consult with the Ministry of Social Development) the Electricity Commission to resolve this outstanding barrier to the effective implementation of the arrangement with the Ministry of Health.

Conclusion

- 51. In the past, there has been a wide gap between the legal status of the GPS and the way that the GPS is written. Genesis Energy considers that this has had a detrimental effect on the operation of the model for electricity governance. The Draft GPS is an improvement on the current version, but still leaves room for improvement.
- 52. Genesis Energy believes that it is important for the GPS to be written in a way that does not obfuscate its status or effect. To achieve this, the GPS needs to more clearly focus on objectives and outcomes and every effort should be made to ensure that these objectives and outcomes do not diminish or change the principle objectives and outcomes set out in the Act. There is no place in the Draft GPS for outputs, tasks, instructions or directions to the Electricity Commission.

DRAFT

**GOVERNMENT POLICY
STATEMENT ON ELECTRICITY
GOVERNANCE**

March 2008

Foreword

The Government established the Electricity Commission ([the 'Commission'](#)) in 2003 with the principal objectives of ensuring that electricity is produced and delivered to all classes of consumers in an efficient, fair, reliable and environmentally sustainable manner and promoting and facilitating the efficient use of electricity.

More recently the Government has developed the New Zealand Energy Strategy (NZES) and the New Zealand Energy Efficiency and Conservation Strategy (NZECS).

The NZES is an important part of a package of initiatives that the Government is introducing to advance sustainability and economic transformation, and to help New Zealand respond to climate change. It sets out the Government's vision for a reliable and resilient energy system delivering New Zealand sustainable, low emissions energy services.

The Commission has a critical role to play in taking the strategy from vision to action. It is therefore timely to review the Government Policy Statement on Electricity Governance to reflect developments over the past four years and in particular, the NZES.

A range of other factors, for which the Commission does not have accountability, will impact on the electricity sector through time. These include:

- The Economic Transformation Agenda¹
- Climate change policy²
- Framework for an Emissions Trading Scheme³
- National Policy Statements and National Environmental Standards under the Resource Management Act 1991;
- Sustainable Development for New Zealand Programme of Action⁴ and
- Policy and regulatory settings for the gas sector, including the Government Policy Statement on Gas Governance⁵ and measures to encourage petroleum exploration.

The Government expects the Commission to take these into account and contribute as appropriate to the Government's wider policy objectives.

~~The Electricity Act 1992 (s172N) sets the principal objectives for the Electricity Commission and the specific outcomes that the Commission must seek to achieve. An extract of s172N is attached as an appendix to the GPS. **[Note: Moved to proposed section 2.]**~~

This Government Policy Statement sets out the objectives and outcomes the Government wants the Commission to give effect to. It is made pursuant to s172ZK of the Electricity Act 1992 and replaces all previous Government Policy Statements on Electricity Governance. For the avoidance of doubt, the Government Policy Statement does not include the Foreword.

¹ http://www.med.govt.nz/templates/StandardSummary_22996.aspx

² <http://www.climatechange.govt.nz/sp/consultation/confirmed-policy.htm>

³ <http://www.climatechange.govt.nz/nz-solutions/trading-scheme-reports.shtml>

⁴ <http://www.mfe.govt.nz/publications/sus-dev/sus-dev-programme-of-action-jan03.html>

⁵ <http://www.med.govt.nz/ers/gas>

Hon David Parker
Minister of Energy

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1. Commission's powers and approach

1. The Commission should work with stakeholders including consumers, market participants and Government agencies to achieve its objectives.
 2. In particular, whenever possible, the Commission should use its powers of persuasion and promotion, and provision of information, guidelines and model arrangements, to achieve its objectives rather than recommending regulations and rules.
 3. However, the Government recognises that clear and effective regulations and rules are required in many key parts of the market. Accordingly, the Commission has powers under the Electricity Act 1992 to make recommendations to the Minister of Energy concerning new or amended regulations and rules. The Commission should be prepared to use these powers fully where required to achieve the Government's policy objectives, particularly where voluntary arrangements have failed to achieve such objectives.
- 3 A A voluntary approach can usefully reflect that there is not necessarily one 'correct' way of dealing with any particular policy matters. In many circumstances, electricity companies may be able to take approaches that differ from that advocated by the Commission which may just as equally, or better, meet the Commission's objectives and the interests of end-users. This is particularly appropriate in the competitive (retailing and generation) parts of the electricity market where the ability to differentiate from other electricity companies is an important part of the competitive market process.

Consultation

4. Where the Commission proposes new regulations or rules, or substantial changes to existing regulations or rules, the Act requires it to follow good processes. These include identification of the main options, assessment of costs and benefits, and consultation with and exposure of its analyses to affected parties. It is also required to satisfy itself that other options (such as information, education and voluntary arrangements) are unlikely to satisfactorily achieve the Government's objectives.
5. The ~~Government expects the Commission to~~ should maintain a protocol on its consultation processes.

Advisory groups

6. The Commission should make extensive use of advisory groups wherever possible to develop industry arrangements and make recommendations concerning regulations and rules. These advisory groups should have the necessary expertise and be appropriately representative of affected parties, including consumers. The Commission should consider providing limited funding assistance for consumer representatives where it considers that this may improve the quality of decision-making.

Innovation

7. The Commission should keep in mind the importance of encouraging innovation. It should therefore consider, when deciding how best to deliver on its objectives, any

trade-offs between certainty and clarity on the one hand and encouraging and allowing scope for innovation on the other.

Information

8. High quality information is essential for efficient markets. The Commission should give high priority to ensuring that relevant information is made available to market participants and to the public at large on matters relating to the electricity sector.

Administration of regulations and rules

9. ~~The Government expects the Commission to take responsibility for monitoring compliance, investigating alleged breaches and if necessary, taking enforcement action in relation to regulations and rules, particularly:~~

- ~~• Electricity Governance Regulations 2003~~
- ~~• Electricity Governance Rules 2003~~
- ~~• Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004~~
- ~~• Electricity Governance (Connection of Distributed Generation) Regulations 2007~~

~~and for any subsequent amendments to these regulations and rules.~~

[Note: Moved to proposed section 2.]

[2] Accountability requirements *[Note: Moved from end of document]*

- 9A The Electricity Act 1992 (s172N) sets the principal objectives for the Electricity Commission and the specific outcomes that the Commission must seek to achieve. The principal objectives of the Commission in relation to electricity are -
- a. to ensure that electricity is produced and delivered to all classes of consumers in an efficient, fair, reliable, and environmentally sustainable manner; and
 - b. to promote and facilitate the efficient use of electricity.
- 9B Consistent with those principal objectives, the Commission must seek to achieve, in relation to electricity, the following specific outcomes:
- a. energy and other resources are used efficiently;
 - b. risks (including price risks) relating to security of supply are properly and efficiently managed;
 - c. barriers to competition in electricity are minimised for the long-term benefit of end-users;
 - d. incentives for investment in generation, transmission, lines, energy efficiency, and demand-side management are maintained or enhanced and do not discriminate between public and private investment;
 - e. the full costs of producing and transporting each additional unit of electricity are signalled;
 - f. delivered electricity costs and prices are subject to sustained downward pressure;
 - g. the electricity sector contributes to achieving the Government's climate change objectives by minimising hydro spill, efficiently managing transmission and distribution losses and constraints, promoting demand-side management and energy efficiency, and removing barriers to investment in new generation technologies, renewables and distributed generation.
- 9C This Government Policy Statement sets out the objectives and outcomes the Government wants the Commission to give effect to. It is made pursuant to s172ZK of the Electricity Act 1992. **[Note: Genesis Energy suggests deleting the passage, "and replaces all previous Government Policy Statements on Electricity Governance" to avoid duplication of paragraph 16.]**
- 9D The Commission should **[Note: Genesis Energy prefers this to the previous wording "The Government expects the Commission to", given that the GPS should be about objectives and outcomes.]** prioritise work on the objectives and outcomes set out in this Government Policy Statement.
- 9E In addition to the reporting requirements set out in legislation, the Commission should report at least quarterly to the Minister of Energy on progress against the Government's expectations in this Government Policy Statement.

Administration of regulations and rules

9F The Commission should ***[Note: Genesis Energy prefers this to the previous wording “The Government expects the Commission to”, given that the GPS should be about objectives and outcomes.]*** take responsibility for monitoring compliance, investigating alleged breaches and if necessary, taking enforcement action in relation to regulations and rules, particularly:

- [Electricity Governance Regulations 2003](#)
- [Electricity Governance Rules 2003](#)
- [Electricity \(Low Fixed Charge Tariff Option for Domestic Consumers\) Regulations 2004](#)
- [Electricity Governance \(Connection of Distributed Generation\) Regulations 2007](#)

and for any subsequent amendments to these regulations and rules.

Status of existing Government Policy and Section 26 Statements

9G For the avoidance of doubt, all other previous Government Policy Statements on Electricity Governance are supplanted by this Policy Statement.

9H A new section 26 Statement will be issued advising the Commerce Commission that this Government Policy Statement is a statement of the Government's economic policies within the meaning of that section.

~~2. New Zealand Energy Strategy and New Zealand Energy Efficiency and Conservation Strategy~~

- ~~10. The New Zealand Energy Strategy (NZES) sets out the Government's vision of a sustainable, low-emissions energy system and describes the actions that will be taken to make this vision a reality.~~
- ~~11. The energy efficiency and renewable energy sections in the NZES are supported by the New Zealand Energy Efficiency and Conservation Strategy (NZE ECS). The NZE ECS is an action plan to help New Zealanders increase their uptake of energy efficiency and conservation measures and renewable energy.~~
- ~~12. Responsibility for delivering the NZES and NZE ECS actions is shared across a number of departments and Crown entities including the Commission. The Government expects the Commission to contribute to programme design, delivery and monitoring. So that it can be held accountable for delivering the actions assigned to it, the Commission will need to make provision for delivering these actions in its planning processes and accountability documents, such as the Output Agreements and Statement of Intent.~~
- ~~13. A Senior Energy Officials Group has been established to oversee the implementation of the NZES and the NZE ECS, and to coordinate the development of priority energy efficiency programmes. This group is led by the Ministry of Economic Development (MED), and includes the Commission as well as other relevant agencies such as the Ministry for the Environment (MfE), the Ministry of Transport (MoT), the Energy Efficiency and Conservation Authority (EECA) and the Department of Building and Housing (DBH).~~
- ~~14. This group has responsibility for ensuring a coordinated and cohesive programme, and for providing a forum in which to address matters relating to consistency of programmes with energy policy and the government's broader climate change and sustainability objectives, and for coordinating stakeholder engagement. Each agency will continue to identify potential actions for consideration by the group.~~
- ~~15. MED will coordinate an annual monitoring report on a financial year basis. This report, which will be made public, will help inform any necessary reprioritisation of proposed actions.~~

3 Consumer protection

Domestic consumer contracts

16. The Commission should ensure that the terms and conditions of contracts between domestic consumers and electricity retailers (and where applicable, contracts between domestic consumers and electricity distributors) reflect the reasonable expectations of consumers.
17. The Commission should ensure that a range of the following matters including transparency, billing, dispute resolution, planned outages and low-income consumers are appropriately addressed included in the contracts:
 - ~~transparency of charge components~~
 - ~~frequency of billing~~
 - ~~company-specific arrangements for dispute resolution~~
 - ~~arrangements for informing consumers about planned outages~~
 - ~~arrangements for the benefit of low income domestic consumers as described below.~~
18. The Commission should have regard to any provision by the Commerce Commission requiring distribution businesses to engage with local communities on the trade-offs they wish to make concerning price, quality and reliability of supply.
19. ~~The Commission should monitor and review the terms and conditions in domestic consumer contracts from time to time and recommend regulations if the objectives outlined in paragraphs 16 and 17 above are not comprehensively implemented.~~
20. The Commission should, in consultation with the Ministry of Consumer Affairs and other relevant interested parties, review assure itself from time to time that the model contracts ~~from time to time to ensure that they remain effective and up-to-date with current market issues.~~

Low fixed charges

21. ~~The Low Fixed Charge regulations were introduced in 2004 with the purpose of assisting low use domestic consumers and encouraging energy efficiency. Prior to their introduction, low use consumers in many areas faced unreasonably high fixed daily charges for their electricity usage. The introduction of the regulations provided these low use consumers with a tariff option that was more equitable for low energy usage and compatible with the Government's energy efficiency objectives.~~
22. The Commission is charged with facilitating and promoting the objectives of monitoring compliance and enforcing the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 and any subsequent amendments as well as ensuring that such objectives are complied with.

Arrangements for the benefit of low income and vulnerable domestic consumers

23. The Commission should ~~ensure~~^{monitor} compliance with the Guideline on arrangements to assist low income and vulnerable consumers⁶ issued in July 2007,⁷ and recommend regulations, if necessary, to ensure that:
- consumers who may have difficulty paying their bills on time are advised by retailers of the budgeting and other advice and assistance available from Government agencies and community service organisations
 - retailers are required to consult with the Ministry of Social Development about possible assistance for vulnerable consumers where, in spite of the retailer's assistance, the consumer is unable to pay, and that there is no disconnection while that consultation is occurring
 - any consumer who is dependent on electricity for critical medical support will not be disconnected for reasons of non-payment
 - clear guidelines or standards exist for disconnections following non-payment in order to avoid the costs of frequent disconnections and reconnections
 - there is regular communication with all consumers on their payment options
 - debt recovery is arranged in a time-frame that avoids an adverse credit situation for the retailer and minimises hardship for the consumer
 - consumers enter into the most appropriate contracts for their needs
 - consumers are given the opportunity to identify themselves as potentially vulnerable
 - where the consumer has not responded to any of the notices sent by the retailer, and the retailer has been unable to contact the consumer, there is a visit to a consumer's home before disconnection for non-payment takes place.
24. The Commission should consider options such as pre-payment meters, alternative payment options (such as advance payments, more frequent payments or smoothed payments) and bonds. The Government considers that, in principle, bonds should not exceed the value of one month's electricity consumption by an average household.

Arrangements in the event of retailer insolvency

25. The Commission should ~~establish arrangements to ensure~~ that consumers can orderly transition between retailers in an orderly way ~~for consumers~~ in the event that a retail company becomes insolvent.

⁶ <http://www.electricitycommission.govt.nz/pdfs/opdev/retail/lowincome/guidelines-low-income-2Jul07.pdf>

Consumer complaints resolution system

26. Section 158G(1) of the Electricity Act requires that every electricity distributor and every electricity retailer must participate in a complaints resolution system, provided that the Commission has approved one or more complaints resolution systems under that section.
27. The Government expects everyone (including potential consumers and owners and occupiers of land), in their capacity as producers or consumers of electricity, to have access to an independent and cost-effective system for resolving complaints about electricity distributors (including Transpower) and electricity retailers without charge to the user/applicant, whether or not they have a consumer contract with the retailer or distribution company.
28. ~~The Government expects the Commission~~ **should**, in consultation with the Ministry of Consumer Affairs, ~~to ensure that any approved system adequately addresses consumers' interests.~~
29. The Government believes that consumers' best interests are more likely to be served by a single independent complaints resolution scheme that includes both electricity and gas. The reason for this is that a single dual-fuel scheme provides benefits such as ease of access, consistency of outcomes and efficiencies of scale. The size of the gas market does not justify a separate scheme and many of the same companies are involved in both sectors. Many customers buy electricity and gas from the same retailer.
30. ~~The Government expects the Commission to~~ **should** work closely with the Gas Industry Company and coordinate approaches to approval and governance of an electricity and gas consumer complaints scheme.
31. If the industry is unable to provide an acceptable scheme supported by membership from all retailers and all distributors (including Transpower) within a reasonable time, the Commission should recommend regulations to introduce a statutory scheme. Again, ~~the Government expects the Commission to~~ **should** work closely with the Gas Industry Company in this regard.
32. The Government expects any approved complaints resolution system to include the following features:
 - an independent complaints resolution scheme that is consistent with international best practice in the field of consumer complaints resolution systems (for example the Australian Benchmarks for Industry based Consumer Dispute Resolution Schemes⁷ which were developed in consultation with the New Zealand Ministry of Consumer Affairs)
 - a decision-making process and administration of the scheme that is independent of scheme members
 - membership by all distributors (including Transpower) and retailers
 - robust internal complaints-handling processes within all member companies

⁷ The Australian benchmarks are: accessibility, independence, fairness, accountability, efficiency and effectiveness.

- a document that sets out the minimum standards of conduct for scheme members
- self-funding by the industry
- compensation for consumers where appropriate
- is practical and resolves disputes quickly and cheaply without unduly protracted or costly processes.

4. Electricity efficiency

33. ~~Maximising the contribution of cost-effective energy efficiency, conservation and renewable energy resources is a key means to achieving the vision set out in the NZES for a reliable, resilient system delivering New Zealand sustainable, low emissions energy services. A principle of the NZES is that investment in energy efficiency measures should occur where this is cheaper than the long-term costs of building extra generation and network capacity, including environmental costs. Energy efficiency measures are described in more detail in the NZEECS which identifies the main measures, policy instruments and responsibility for implementation.~~
34. Electricity efficiency and demand side management help reduce demand for electricity, thereby reducing pressure on prices, scarce resources and the environment. The Commission should ensure that it gives full consideration to the contribution of the demand side as well as the supply side in meeting the Government's electricity objectives.
35. ~~A number of Government agencies have responsibilities that support improved energy efficiency in the stationary energy demand sector. These include EECA, the Commission, MED, MfE, DBH and Housing New Zealand Corporation.~~
36. EECA and the Commission have a common objective: to promote the use of electricity in an efficient and environmentally sustainable manner. In undertaking its electricity efficiency activities, the Commission should work closely with EECA. It is important that the Commission's activities complement the work of EECA and that duplication of effort is avoided. ~~Through its membership of the Senior Energy Officials Group, the Commission will work with the group to develop priority energy efficiency programmes and will reflect this in its work programme to promote the efficient use of electricity.~~
37. EECA has expertise in the management of energy efficiency programmes and the Government ~~expects the Commission to~~ should draw on this expertise in designing, administering and delivering its programmes.
38. ~~The Government expects the Commission to~~ should use EECA to help deliver its electricity efficiency work programme unless there is good reason to contract another party - for example, if the relevant expertise is held elsewhere or a lower cost provider is available. The Government considers that this will promote concentration of expertise and coordination of effort. As EECA builds its capability in a wider range of areas, EECA will work as the delivery agent for more actions developed and funded by the Commission.
39. The Government notes that the two agencies have developed a Memorandum of Understanding outlining how they will work together. The Government requests that this memorandum be reviewed to clarify the respective roles of each agency and to reflect the arrangements above.
40. All purchases by the Commission of services from EECA should be formalised in contracts which should be made available on the Commission's website.
41. As part of its research and information activities, the Commission, in conjunction with EECA, has undertaken a comprehensive review of the potential of electricity efficiency to contribute cost-effectively to achievement of the Government's electricity

objectives, including estimating the level of investment required to realise this potential. This report should continue to underpin development of proposed electricity efficiency activities.

Discount rate

42. ~~The Government has adopted a discount rate of 5 percent real per annum for cost-benefit analyses of energy efficiency and other measures under the NZES and NZEECS. This lower discount rate reflects the long term nature of benefits, including those designed to address climate change and other environmental externalities.~~
43. ~~The Government expects the Commission to include an assessment using a 5 percent real per annum discount rate, and to advise how this has been taken into account, when assessing the cost-effectiveness of electricity efficiency programmes or arrangements.~~

Other arrangements and programmes

44. ~~The Government expects the Commission to participate in the delivery of the EnergyWise Homes package which is a suite of household energy efficiency initiatives set out in the NZEECS.~~
45. The Commission should also put in place arrangements and programmes to promote efficiency in the following components of the electricity sector:

Generation

46. Hydro, thermal and other fuels resources should be used efficiently in the generation of electricity. Disclosure of information, such as the amount of and reason for hydro spill, is expected to help avoid unnecessary waste of resources.

Wholesale market

47. The Commission should facilitate and promote stronger demand-side participation in the wholesale market in support of the Government's overall objectives.

Conveyance

48. Electricity should be conveyed efficiently on the national grid and distribution lines. Transmission and distribution companies should have better incentives to manage transmission and distribution losses and constraints. The Commission should promote pricing structures that provide appropriate signals to manage those losses and constraints.

End-use

49. The Commission should promote and facilitate the efficient use of electricity by end users. ~~It should pursue this objective in multiple and mutually reinforcing ways, including:~~
 - ~~by providing financial incentives for investment in electricity efficiency where it is cost-effective to do so and in response to market failures and barriers~~

- ~~by promoting cost-reflective pricing~~
- ~~by seeking innovative ways to enable residential and other consumers to respond to pricing incentives to use electricity more efficiently~~
- ~~by making recommendations to the Government as appropriate on the development of guidelines and/or potential rule changes to facilitate the progressive introduction of advanced/smarter meters for consumers~~
- ~~by encouraging and facilitating demand-side participation in the wholesale, distribution and retail markets~~
- ~~by promoting the efficient use of load management.~~

5. Renewable energy

50. Encouraging the development of renewable energy resources is a key part of the Government's NZES for managing climate change and long-term energy security. A principle of the NZES is that for the foreseeable future it is preferable that all new electricity generation be renewable, except to the extent necessary to maintain security of supply. The Government has set a target for 90 per cent of electricity to be generated from renewable sources by 2025.
51. Investment co-ordination can be particularly problematic for renewable generation because such generation is often remote from existing load centres and major transmission lines, and individual renewable generation plant is typically small relative to the size of the regional demand.
52. The Government's objectives in relation to renewable electrical energy, are that:
- undue barriers to investment in renewables should be reduced or removed
 - the efficient uptake of renewable generation should be promoted
 - the national transmission grid should be planned and made available so as to facilitate the potential contribution of renewables to the electricity system
 - the specification of the grid planning processes and approval criteria should allow grid upgrade plans to facilitate the efficient and timely development of renewable generation resources, ~~taking into account the substantial difference in lead times for transmission and some generation investment.~~

Integration issues

53. ~~The Government expects the~~ Commission to [should](#) investigate the extent to which hydro and other generation sources can be integrated fully with intermittent wind generation in order to ensure that the maximum economic potential of wind generation can be achieved. This work should also include consideration of the changing role of older thermal generation plant. The Commission should recommend any Electricity Governance Rule changes that are necessary to achieve this.

6. Security of supply

Background

54. A key priority of the Government is to maintain security of electricity supply. Shortage risks and periods of high spot prices need to be well managed to ensure that businesses and the wider community have confidence in ongoing security of supply. In the Government's view, security of supply is vital to achieving its objective of sustainable economic development.

Key requirements of security of supply

55. Key requirements for security of supply, and confidence in security of supply, are that:
- Sufficient generation capacity is built or energy efficiency improvements made to meet ongoing demand growth
 - Hydro and thermal generating capacity and fuels are appropriately managed, to deal with the risk of shortages, including extended dry hydro periods
 - The system has sufficient capacity (plant and fuel and/or demand response) to cope with extreme dry sequences, periods of low wind speed and other unexpected supply disruptions
 - Quality information and forecasts of thermal fuel availability, the hydro system (including lake levels and spill), wind flows and generation capacity are available
 - The national grid and distribution lines meet specified reliability objectives. (Transmission and distribution issues are covered in separate sections)
 - Opportunity exists for electricity consumers to manage exposure to high spot prices. (Hedge market transparency and liquidity are covered in separate sections.)

Security of supply objective for the Electricity Commission

56. ~~A function of the Commission under the Electricity Act 1992 (s172O) is to use reasonable endeavours to ensure security of supply, without assuming any demand reduction from emergency conservation campaigns, while minimising distortions to the normal operation of the electricity market.~~
57. ~~To provide a measure of security of supply, to date government policy has been to assess security of energy supply against a "1 in 60 dry year" standard. Following a substantive review of the reserve energy policy in 2007, the "1 in 60 dry year" is replaced by a standard expressed in terms of "winter energy margin" (the margin between forecast capacity to supply in a mean hydro year and forecast demand).~~
58. Accordingly, ~~†~~To meet the **Commission's** security of supply objective, the Government wants the Commission to use reasonable endeavours to ensure that the generation and transmission system is capable of maintaining a mean winter energy margin of 17 percent for New Zealand overall, and 30 percent for the South Island. ~~This new standard will provide a level of security similar to the 1 in 60 standard, but provides a measure that is clearer, and easier to calculate and understand.~~

59. The Commission should also ~~develop and set~~ seek to ensure that security standards for adequacy of capacity ~~are appropriate~~ to meet peak demand.
60. The Commission should work with stakeholders to identify industry contingencies, and develop strategies consistent with the operation of the electricity market to manage supply and demand during such contingencies.

Security of supply policy

61. The Commission should develop, consult on and publish a security of supply policy. The security of supply policy should include:
 - the information and forecasts to be made available
 - details of how the Commission will monitor energy margins during the year and whether the market will deliver adequate new capacity
 - the procurement and utilisation policies for reserve energy
 - the steps that the Commission will take at various stages during a contingent event such as an extended dry sequence, and the emergence of risks relating to peak capacity.
62. The objective of publishing the policy is to provide a high degree of certainty to market participants about how the Commission intends to meet its security of supply objectives.
63. The Commission should put in place and publish protocols to manage potential conflicts between its roles as a contractor for reserve energy and as a regulator.

Information, forecasting and monitoring

64. The Commission should undertake and publish detailed supply and demand modelling and forecasting at least annually. The objective is to provide well-researched information on both short-term and long-term security of supply, including the likely availabilities of fuels and new generation options under various scenarios.
65. To establish the need for additional reserve energy (see below), the Commission should look out 3 to 5 years (given consent and construction timelines for new capacity), collect information, develop a baseline that makes assumptions about which known projects are likely to proceed, and identify any "shortfalls" year by year.
66. The Commission is expected to be active in monitoring resource availability to meet demand and, in particular, determining whether the market will, over a sustained period, deliver sufficient ~~is consistently failing to deliver~~ new capacity ~~sufficient~~ for an adequate energy margin and to meet peak demand.
67. If the Commission determines that the market is consistently failing to deliver sufficient capacity, it should use the powers available to it to make recommendations to the Minister on any arrangements or policies that it considers necessary to provide better outcomes.

Hydro storage guidelines

68. To help ensure security of supply, the Commission should develop and publish a set of hydro storage guidelines providing its estimate of the hydro storage levels that reflect different levels of shortage risk. These guidelines should take into account the expected availability and use of thermal generation, transmission constraints and other factors that may impact upon security of supply.
69. The Commission should consult with interested parties in developing the hydro storage guidelines.
70. As part of the hydro storage guidelines, the Commission should have an emergency storage guideline that would trigger a range of emergency response measures, including a conservation campaign. The emergency storage guideline should be set on the basis that there is a significant probability that emergency blackouts may be required if other emergency response measures are not put in place.

Reserve energy

71. If the New Zealand or South Island mean year energy margin is unlikely to be met by market participants, the Government wants the Commission to contract for, but not own, reserve energy (generation and contracted demand response) to maintain the desired energy margin. This is to be the Commission's primary means of meeting its security of supply objective.
72. Any reserve energy procured to ensure security of supply should also be available to help cope with other unexpected supply contingencies, such as serious grid, plant or fuel supply disruptions.
73. In contracting for reserve energy the Commission should seek to:
 - minimise the risk that reserve energy affects the incentives for market participants to:
 - respond to higher prices
 - construct new capacity
 - enter into hedge and other contracts
 - invest in demand-side management
 - maximise static and dynamic efficiency.
74. Contracted demand response should form part of the Commission's portfolio of reserve energy, provided this is practicable and the Commission is confident that the reduction in demand is additional to normal demand-side responses to higher prices.
75. Reserve energy should be offered to the system operator for dispatch at 20c/kWh or the contracted variable payment rate, whichever is the higher.
76. The Commission should determine, for each contracted form of reserve energy, a storage guideline level at which it would expect reserve energy to be operating. If storage falls below a particular storage guideline level, and the relevant reserve energy is not being dispatched, the Commission may choose to offer that reserve

energy for dispatch at a lower price in order to preserve hydro storage and to reduce shortage risks.

77. If the hydro storage guidelines are consistently breached and thermal generation is not being used appropriately to preserve hydro storage, the Commission should investigate the reasons and consider what action, if any, would be desirable.

Emergency management

78. Although the Government wants the Commission to manage the electricity sector to minimise the risk of supply shortages, it recognises that there will be infrequent circumstances where there is a material risk of shortage. To manage such circumstances, the Commission should establish an emergency response plan that identifies and includes a range of measures to cover contingencies more severe than those allowed for within the mean winter energy margin. Such measures are to include conservation campaigns.
79. The Commission is also expected to put in place contingency arrangements to provide for the scheduling of outages, including rolling outages in the extreme event that blackouts are required to ensure a balance between supply and demand. The Commission should recommend regulations and rules if required.

Levy

80. The Commission should receive any spot price revenue arising from the dispatch of reserve energy. Net costs should be recovered by way of a levy which is administratively simple and applies to all consumers based on wholesale purchases on an equal basis.
81. Over time, the levy should aim to recover the net costs that the Commission incurs for reserve energy (that is, operating and capital payments less any revenue received from the sale of reserve energy).

Review

82. The Commission should undertake a review, in consultation with interested parties, of the security standards and policies set out in this section, and make recommendations to the Minister of Energy on the outcome of that review by the end of 2012.

7. System operation and wholesale and related markets

83. The Commission should take primary responsibility for achieving the Government's policy objectives for electricity in relation to:
- common quality and real-time security
 - dispatch and pool rules
 - reconciliation and settlement
 - information disclosure to improve market efficiency, including:
 - aggregate hedge and contract prices and volumes
 - offers by generators
 - minimum prudential standards.

Hedge market transparency and liquidity

84. A transparent and liquid hedge market is a critical component of an efficient wholesale market. It enables market participants to manage their risks and facilitates retail competition. [The Electricity Act 1992 provides regulation-making powers to establish and promote hedge markets.](#)
85. ~~The Electricity Act 1992 provides regulation-making powers to establish and promote hedge markets. As with other regulation-making powers, the Commission may only recommend regulations if it has first established that there are significant problems that are not resolvable through voluntary arrangements and co-operation. The regulation-making powers (outlined in s172D) cover:~~
- ~~• disclosure of information on hedge and contract volumes and prices~~
 - ~~• requiring electricity generators to offer by tender a minimum volume of contracts that enable the price risks associated with the spot market to be managed, including the terms and conditions of those contracts (excluding prices and reserve prices)~~
 - ~~• requiring electricity generators to post buy and sell prices for hedge (including futures) contracts~~
 - ~~• requiring buyers of electricity from the wholesale market to maintain minimum levels of hedge and contract cover with electricity generators.~~

Transmission risk management

86. The Commission should oversee the development of arrangements that will enable market participants to manage financial risk in respect of transmission losses and constraints.

87. The product developed should include the following broad principles:

- Realistic long-term risk management mechanisms should be made available to all parties that face financial risks arising from spot price effects caused by transmission losses and constraints;
- Economic efficiency, including the integrity of price signals, should be maintained or improved; and
- Solutions should be pragmatic and not overly complex.

8. Transmission

Background

88. The way in which transmission services are provided and priced impacts both directly and indirectly on all parts of the electricity industry, the economy and the environment. Transmission has strong natural monopoly characteristics, which make it important that the Government sets out its policy expectations as to how transmission services should be provided and priced and how Transpower should operate. Poorly designed policies may, for example, encourage inefficient investment in generation or transmission, which would waste scarce capital resources and cause unnecessary environmental effects.

Objectives for the provision of transmission services

89. The Government's objectives for the provision of transmission services are that:

- the services are provided in a manner consistent with the Government's policy objectives for electricity, and in particular, that grid reliability should be maintained at a level required by residential, commercial and industrial users and by the Government's economic development objectives
- the transmission grid should be adequately resilient against the effects of low probability but high impact events having regard to the load which could be disrupted and the duration of any disruption
- where practicable, the transmission grid should provide adequate supply diversity to larger load centres, having regard to the load which could otherwise be disrupted and the duration of any disruption
- efficient competition in generation and retail is facilitated and transmission constraints are minimised
- the national transmission grid should be planned and made available so as to facilitate the potential contribution of cost-effective renewables to the electricity system, and in a manner that is consistent with the Government's climate change and renewables policies
- the efficiency of transmission services should be continuously reviewed and improved so as to produce the services that grid users and consumers want at least cost
- the services are priced in a manner that:
 - is transparent
 - fully reflects their costs including risk
 - facilitates nationally efficient supply, delivery and use of electricity
 - promotes efficient investment in transmission or transmission alternatives

- promotes nationally efficient use of transmission services by grid users and consumers
- stakeholders and the public are kept well informed about how agreed minimum levels of grid reliability are to be maintained throughout the development and consideration of any grid upgrade plans.

Connection to and use of the national grid

90. The national grid is essential to all connected parties, and should be maintained and operated to a common set of grid reliability standards. These common standards should be embodied in grid rules that recognise the interconnected nature of the network.
91. Grid reliability standards should apply to agreements between Transpower and its customers dealing with connection to and use of the grid, investment planning (including replacement), transmission system design and construction, and transmission system maintenance.
92. The common standards for the grid should be determined by the Commission, following consultation with Transpower and affected parties. The Commission should, from time to time, review the standards to ensure that they promote a secure and reliable grid and that the interests of end-customers are properly taken into account.
93. Transpower's customers should be permitted some flexibility over standards (which could be higher or lower than the norm), so long as the integrity of the core grid is not compromised. The Commission should ensure that arrangements are in place to protect the interests of third parties when Transpower and one of its customers agree to a local variation from common standards.
94. All transmission customers should be required to have a transmission agreement with Transpower, and the Commission-developed benchmark agreement is the default agreement if the parties are unable to agree.

Investment in and maintenance of the transmission network

95. As part of its modeling and forecasting work, the Commission should provide for the development of statements of opportunities relating to transmission. These should:
 - incorporate electricity demand and supply forecasts
 - enable identification of potential opportunities for:
 - efficient management of Transpower's transmission network including investment in system expansions, replacements and upgrades
 - transmission alternatives (notably investment in local generation, demand-side management and distribution network augmentation)
 - facilitate long-term planning for timely securing of easements and resource consents, including to facilitate the connection of renewables.
 - be prepared at least every two years.

96. ~~Transpower should develop and submit grid upgrade plans to the Commission for approval.~~
97. Any grid upgrade plan submitted by Transpower should be as comprehensive as possible, ideally covering and identifying the relationships between short, medium and longer term proposals, except where urgency is required for individual projects. The rigour of analysis supporting projects should be reasonable given the size of the project. This will better enable consideration of the interrelationships between projects and the wider synergies of the grid, including facilitating renewables, least-cost provision of new generation and increased competition between generators. It will also enable consideration of investment proposals for the grid as a whole within a longer term framework (for example, over five years).
98. Unless otherwise agreed by the Commission, grid upgrade plans should also be consistent with the statement of opportunity forecasts and wider Government energy policy, including applicable policies on renewable generation and climate change.
99. Grid upgrade plans should demonstrate the rationale for all expenditure (operational, maintenance and capital), taking into account the prescribed reliability standards and good industry practice for power system operation. The plans should demonstrate that the proposed expenditure is required to meet reliability standards and/or deliver the greatest net benefit after taking into account transmission alternatives and Government energy policy requirements to the extent achievable.
100. In the development of grid upgrade plans; the Government's objective is that:
- Transpower should undertake the detailed planning role (including the assessment of both transmission and ~~non~~-transmission alternatives); and
 - the Commission should, without undue delay, review and approve grid upgrade plans that meet the criteria set out in the Electricity Governance Rules, and reject applications that fail them.
101. The Commission should make available to Transpower and other stakeholders clear and specific policies and processes relating to how grid upgrade plans in general, and any particular plan specifically, will be developed, and then reviewed and approved or rejected. These criteria should be clearly explained so that the review process and linkages to other processes such as the statement of opportunities are transparent and can clearly be understood by stakeholders.
102. The Commission should ensure that affected parties are fully consulted on grid upgrade plans.
103. Transpower should be able to seek a determination from the Commission on updated grid upgrade plans in response to events that significantly affect any capital investment already approved under a grid upgrade plan.
104. Where the Commission approves a grid upgrade plan, the full costs associated with implementing the grid upgrade plan should be recoverable by Transpower in accordance with the pricing methodology determined by the Commission.

Planning ahead

105. The current pressing need for a number of major upgrades of the transmission system reflects, in part, insufficient planning and securing of consents (or designations) and land access rights in the past. Government is concerned to ensure that this situation is not repeated in the future.
106. ~~The Government expects~~ Transpower and the Commission [should work together](#) to ensure that Transpower identifies and secures appropriate interests in land, designations and resource consents required for transmission corridors and, to the extent possible, obtains resource consents (or designations) well in advance of urgent needs. Transpower should be able to recover the reasonable net costs of doing so.
107. The risks to maintaining grid reliability resulting from uncertainties in demand forecasting and easements should be conservatively managed.
108. This should help the essential process of maintaining stakeholder confidence in ongoing security of electricity supply even if, at times, there is some loss of flexibility around investment choices and some additional cost for electricity consumers.

Environmental effects

109. ~~Final environmental requirements are determined by consenting authorities under the Resource Management Act 1991 which provides the statutory framework for dealing with environmental effects.~~
110. To the extent that the Commission considers the environmental effects of new lines proposed by Transpower in a grid upgrade plan, it should also take into account any longer term benefits that larger capacity lines may provide by avoiding multiple smaller lines.

Transmission alternatives

111. As part of the consideration of transmission investments, the Commission should ensure that transmission alternatives are considered to the extent practicable subject to the following conditions:
 - only alternatives which have a high probability of proceeding, and where grid reliability can be maintained by contingency measures if the alternative is delayed or does not proceed, should be considered;
 - alternatives which are only likely to proceed if they are assisted financially by the Government or relevant body should not be considered unless the Government or relevant body has agreed to provide such assistance.
112. ~~As part of its consideration of transmission pricing, the Commission should consider whether there would be net benefits in providing for a mechanism whereby investments in transmission alternatives receive payments reflecting some or all of the value of avoided transmission investment. This is a complex subject, and the Commission will need to take into account, amongst other things, practicalities, effects on incentives to invest in alternatives, and the extent of assurance that grid reliability standards will be met.~~

~~Pricing for connection to and use of the national grid~~

~~113. Transpower should determine its total revenue requirement (covering both sunk and new investments) subject to the constraints of the Commerce Act 1986. A transmission pricing methodology should determine how this total revenue is recovered from parties under the agreements for connection to and use of the grid.~~

Cost recovery and pricing principles

114. The Government expects transmission services to be priced as efficiently as possible and, subject to the Commerce Act 1986, Transpower's charges to recover the full economic costs of its services.

115. ~~The principles to be applied by Transpower~~ [Commission should apply the following principles in any review of](#) ~~developing the transmission pricing methodology, and the Commission in approving it are:~~

- the costs of connection should as far as possible be allocated on a user-pays basis
- the pricing of new and replacement investments in the grid should provide beneficiaries with strong incentives to identify least-cost investment options, including energy efficiency and demand management options
- pricing for new generation and load should provide clear locational signals
- sunk costs should be allocated in a way that minimises distortions to production/consumption and investment decisions by grid users and consumers
- the overall pricing structure should include a variable element that reflects the marginal costs of supply in order to provide an incentive to minimise grid constraints.

9. Distribution

Pricing methodologies

116. The Commission should develop, in consultation with interested parties, principles or model approaches to distribution pricing based on identified market failures and monitor their uptake. ~~The Commission should recommend regulations if required to ensure compliance. As part of this work the Commission should investigate barriers to demand-side participation.~~
117. The diversity and complexity of the terms and conditions offered by different lines companies for use of their lines is often cited as a significant barrier to expansion of retail competition. The Government considers that greater standardisation and simplification of tariff schedules and contractual arrangements will facilitate market entry by retailers.
118. ~~The Government expects d~~Distribution companies ~~to~~ should keep any changes to rural line charges in line with changes to urban line charges. The Commission should monitor developments in rural charges.

Use of system agreements

119. The Commission should ensure reasonable terms and conditions for model use of system agreements for use of distribution lines. The Commission should monitor uptake of model use of system agreements, and review these model agreements from time to time to ensure that they remain effective and up-to-date with current market issues. If the Commission thinks it necessary and beneficial, it may also recommend regulations. Arrangements should take into account the interests of consumers, retailers and distributors and should be consistent with:
- arrangements for connecting distributed generation to distribution networks (described later)
 - obligations imposed on retailers as a result of arrangements relating to contracts between retailers and consumers
 - arrangements covering distribution pricing methodologies
 - arrangements for the use of ripple control for load management
 - any other regulations promulgated under the Electricity Act 1992.

10. Interrelationship with the Commerce Commission

120. This section sets out the Government's expectations and intentions regarding the interrelationship between the Commerce Commission and the Commission with regard to the regulation of Transpower and electricity lines businesses by the Commerce Commission under the Commerce Act 1986 and the ~~Electricity Commission~~ under the Electricity Act 1992.
121. The ~~Government expects the~~ Commerce Commission and the ~~Electricity~~-Commission ~~to~~ should work together closely to ensure that their respective roles are well coordinated, and to minimise any scope for uncertainties regarding jurisdictional issues.
122. The Government notes that the two Commissions have developed and published a Memorandum of Understanding on their respective roles.
123. The Government's economic policy is that investment and other costs in relation to approved grid upgrade plans should be recoverable by Transpower. The Government also wishes to ensure that interested parties have certainty and clarity on how the two Commissions will operationalise the coordination of their respective roles.
124. Accordingly the Government requests that the Memorandum of Understanding between the Commerce Commission and the ~~Electricity~~-Commission continues to address the following matters in relation to transmission:
- the methodology for determining how each relevant expenditure component in relation to approved grid upgrade plans will be treated over time under the Part 4A thresholds
 - how price setting under a threshold as regulated by the Commerce Commission interacts operationally with the pricing methodology approved by the ~~Electricity~~ Commission
 - how issues relating to valuation methodologies, pricing and pricing methodologies, quality and information disclosure will be coordinated and harmonised where possible between the two Commissions.
125. In addition, the Government requests that the Commerce Commission and the ~~Electricity~~ Commission ensure that review their Memorandum of Understanding by 30 June 2008 their Memorandum of Understanding continues to appropriately address the need for lines companies to face on-going incentives to reduce costs and enhance service quality to specifically address the following matters in relation to improving incentives for electricity lines businesses in respect of:
- ~~managing distribution losses~~
 - ~~facilitating uptake of advanced metering infrastructure and more efficient distribution pricing~~
 - ~~ensuring target security levels for distribution networks are met at least cost~~

- ~~• ensuring distributors have incentives to invest in, or facilitate investment in energy efficiency (including consumer end-use efficiency), demand side management and distributed generation.~~

11. Distributed generation

126. Distributed generation is generation which is connected to local distribution lines rather than the transmission grid. It is expected to play an increasingly important role in meeting electricity demand as the cost of smaller-scale and new renewable technologies continues to decline. Distributed generation can improve security of supply by creating diversity of fuel types, locations and technologies, and, where appropriately sited, helps reduce the need for transmission and distribution upgrades. Accordingly, it is important that there are no unnecessary barriers to its development.

Access to lines

127. The Commission is responsible for administering the Electricity Governance (Connection of Distributed Generation) Regulations 2007 and for proposing amendments as required enable connection of distributed generation where this is consistent with network connection and operation standards. The regulations provide a process for applications for approval to connect and regulated terms of connection. The Commission is responsible for administering these regulations and for proposing amendments as required.

128. The Commission should ensure that, where possible, regulatory compliance costs associated with the Regulations are minimised and the safety of connections to local networks are improved. The Commission should also seek to ensure that access to lines by retailers are not compromised by any changes made to the Electricity Industry Reform Act to facilitate the increased involvement of lines companies in retail and generation. investigate the provision of guidelines or standards for domestic scale distributed generation to reduce regulatory compliance costs and improve the safety of connections to local networks.

Purchase of surplus generation by retailers

129. The Commission should ensure reasonable terms and conditions in model contracts for purchase of small electricity surpluses by local retailers from generators with generation units capable of generating up to 40,000kWh over a year. ~~The Commission should investigate and make recommendations:~~

- ~~• on whether model contracts should specify pricing principles; and~~
- ~~• on how the model contracts should require itemised billing (showing imports and exports) by 2009.~~

130. The Commission should review the model contracts from time to time to ensure that they remain effective and up-to-date with current market issues.

131. ~~The Commission should recommend regulations or rules if voluntary arrangements are unsuccessful in achieving the policy outcomes the Government seeks.~~

12. Retail

132. The Government considers that competition between electricity retailers should, over time, help ensure that retailing costs are minimised, service quality is improved and downward pressure is placed on generation costs. Most consumers, especially in larger centres, have a choice of retailers, and the processes for consumers to change suppliers have steadily improved. The Government considers, however, that retail competition is not as vigorous as it could be, and looks to the Commission to promote and facilitate retail competition, and to make recommendations to the Minister of Energy on any steps the Government should take, including regulating, to facilitate such competition.
133. ~~The Electricity Act 1992 provides a number of regulation-making powers relating to retail competition.~~

The reconciliation of, and payment for, distribution line losses

134. Current methods for calculating, reconciling and arranging payment for distribution line losses by competing retailers are often raised as a concern by retailers. The Commission should develop model approaches to improve distribution loss factor calculation and should investigate and make recommendations for the management, minimisation and allocation of distribution losses. ~~The Commission should recommend regulations if it considers that this is a material issue and that rules and regulations would facilitate more efficient outcomes and remove impediments to the effective functioning of the market.~~

Terms and conditions for access to electricity meters by retailers

135. Retailers must have ready and efficiently-priced access to end-use electricity meters in order to provide retail services. This is especially the case when retailers enter new market areas and/or customers wish to change retailers. ~~By and large, access to meters does not appear to constitute a pervasive barrier to retail competition. Where access has proven difficult and contentious however, the Commission is invited to consider whether regulations should be made to facilitate retail competition.~~

Arrangements to enable consumers to switch retail suppliers

136. ~~The Electricity Governance Rules 2003 include detailed processes and procedures to ensure that consumers are able to switch retailers with a minimum of inconvenience and cost. These rules are currently in operation, but~~ The Commission should keep detailed processes and procedures to ensure that consumers are able to switch retailers with a minimum of inconvenience and cost. ~~them under review and make recommendations for improvement if required.~~

Availability of hedges

137. Independent retailers cite difficulties in obtaining hedges at reasonable prices from vertically integrated generator/retailers, who are their competitors, as a barrier to retail competition. The Electricity Act 1992 provides the Commission with a range of

powers relating to hedge markets as described above. The Commission should exercise these powers if necessary to facilitate retail competition.

13. Accountability requirements

138. ~~The Government expects the Commission to prioritise work on the objectives and outcomes set out in this Government Policy Statement.~~
139. ~~In addition to the reporting requirements set out in legislation, the Commission should report at least quarterly to the Minister of Energy on progress against the Government's expectations in this Government Policy Statement.~~

Status of existing Government Policy and Section 26 Statements

140. ~~For the avoidance of doubt, all other previous Government Policy Statements on Electricity Governance are supplanted by this Policy Statement.~~
141. ~~A new section 26 Statement will be issued advising the Commerce Commission that this Government Policy Statement is a statement of the Government's economic policies within the meaning of that section.~~

Hon David Parker
Minister of Energy

Date: _____

~~Appendix 1: s172N Electricity Act 1992~~

~~Principal objectives and specific outcomes~~

~~The principal objectives of the Commission in relation to electricity are~~

~~to ensure that electricity is produced and delivered to all classes of consumers in an efficient, fair, reliable, and environmentally sustainable manner; and~~

~~to promote and facilitate the efficient use of electricity.~~

~~Consistent with those principal objectives, the Commission must seek to achieve, in relation to electricity, the following specific outcomes:~~

~~energy and other resources are used efficiently:~~

~~risks (including price risks) relating to security of supply are properly and efficiently managed:~~

~~barriers to competition in electricity are minimised for the long-term benefit of end-users:~~

~~incentives for investment in generation, transmission, lines, energy efficiency, and demand-side management are maintained or enhanced and do not discriminate between public and private investment:~~

~~the full costs of producing and transporting each additional unit of electricity are signalled:~~

~~delivered electricity costs and prices are subject to sustained downward pressure:~~

~~the electricity sector contributes to achieving the Government's climate change objectives by minimising hydro spill, efficiently managing transmission and distribution losses and constraints, promoting demand-side management and energy efficiency, and removing barriers to investment in new generation technologies, renewables and distributed generation.~~

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