



# MAJOR ELECTRICITY USERS' GROUP

16 March 2009

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

By email to [electricity@med.govt.nz](mailto:electricity@med.govt.nz)

Dear Lisa

## **Submission on draft Government Policy Statement on Electricity Governance**

1. This is a submission by the Major Electricity Users' Group (MEUG) on the Draft Government Policy Statement on Electricity Governance (the "GPS") published 2<sup>nd</sup> March 2009<sup>1</sup>.
2. MEUG has also made a submission as part of CC93 (the Consumer Coalition on Energy). This submission supports the submission of CC93 and provides more detail on proposals to remove the reference to Advisory Groups and inclusion of a new section titled "investment approval process for minor transmission works". This submission concludes with a request for information.
3. To ensure there is no ambiguity of MEUG's view, note we agree with the proposed removal of:
  - The text in the foreword;
  - The previous section 2 titled "New Zealand Energy Strategy and New Zealand Energy Efficiency and Conservation Strategy";
  - Old paragraph 61 at the start of section 4 (Electricity Efficiency);
  - The section titled "Discount rate" comprising old paragraphs 69 and 70;
  - Old paragraph 75 at the start of section 5 (Renewable energy); and
  - Old paragraph 78 headed "Integration issues" at the end of section 5;
4. We also agree with the relocation of section 6 to become the new section 2 (Security of supply).

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<sup>1</sup> Refer MED website [http://www.med.govt.nz/templates/MultipageDocumentTOC\\_40361.aspx](http://www.med.govt.nz/templates/MultipageDocumentTOC_40361.aspx)

### Advisory Groups

5. MEUG agrees with the removal of the paragraph titled "Advisory groups" subject to the caveat set out in the CC93 submission.
6. We emphasise the point that the Advisory Groups have been a useful and sometimes the only conduit for the views of small and large end consumers to be conveyed to Electricity Commission Board members, staff and consultants to the Commission. The use of Advisory Groups to facilitate consumer participation has been an important improvement compared to the supply side domination of the rule change process between commencement of the New Zealand Electricity Market in October 1996 and transferral of the rulebook to the governance of the Electricity Commission in September 2003. The Minister noted this point in his speech of 24<sup>th</sup> February 2009<sup>2</sup>:

*"I think the wild-west days of 1998 to 2003 demonstrate the perils of complete industry self-governance reliant on voluntary action."*

7. MEUG has had concerns with the way Advisory Groups have interacted with the Electricity Commission Board and that formed part of our comments to the recent consultation round on the Advisory Groups<sup>3</sup>. We want the advice from the Advisory Groups to Commissioners to be more transparent. As the CC93 submissions notes, we hope that ...

*"... removal of paragraph 7 of the GPS does not send the wrong message to the Commission that Advisory Groups and the facilitation of consumer views those generate are considered by Government to be of little value."*

### Approval of Grid Upgrade Plans less than \$20m

8. The economic welfare of all New Zealanders is enhanced when we have an optimal balance between proceeding with needed transmission investments and ensuring such work has been subject to an appropriate level of regulatory scrutiny.
9. The regulatory matrix governing Transpower is complex. That in itself isn't automatically a poor outcome because Transpower is a large complex business and designing a regulatory environment to mimic the incentives that commercial enterprises have to be efficient and responsive to consumer needs is an evolving and complex process. This issue is common for all OECD countries.
10. We welcome the announcement of a proposed Ministerial Working Party on Electricity<sup>4</sup> to review industry governance. A key focus of that work will be to consider the regulatory environment Transpower operates within. MEUG suggest the question of how transmission investments below \$20m that fall within the Part F approval process but above the \$1.5m threshold in the Settlement agreed by the Commerce Commission needs to be considered in the wider context of the overall regulatory matrix. MEUG therefore support the proposal by CC93, that the text of the draft GPS be restated as follows:

#### ***Investment approval process for minor transmission works.***

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

11. We think it unnecessary to pre-empt the work of the Ministerial Working Party on Electricity by issuing a final GPS using the text in the consultation draft.

<sup>2</sup> Refer Keynote speech to National Power Conference, Unlocking New Zealand's Energy and Resources Potential, <http://www.beehive.govt.nz/speech/unlocking+new+zealand039s+energy+and+resources+potential>

<sup>3</sup> Refer <http://www.electricitycommission.govt.nz/consultation/advisorygroups>

<sup>4</sup> Refer <http://www.beehive.govt.nz/release/ministerial+working+party+electricity>

## 12. MEUG also note:

- a) To date there has been no evidence of a systemic problem with approval of Grid Upgrade Plans (GUP) with a value of less than \$20m. In support of this view appendix 1 lists documentation in the public domain and letters discovered over the last two weeks in relation to this matter and appendix 2 lists those GUP with a value of less than \$20m processed to date.
- b) We think there are teething problems that need to be worked through. That is the essence of the CC93 proposed restatement of the GPS also. MEUG note that the Electricity Commission and Transpower have in the past worked constructively to find new solutions to approval processes (refer appendix 3 for examples) and we believe this approach is preferable compared to using the GPS.
- c) Part of the teething problems appear to be different interpretations of how much discretion the parties have to tailor the Part F processes depending on the size of the approval requested. For example:
  - i) Transpower have expressed the view that every GUP, no matter how large or small, must follow the same detailed GUIRP process and have the same amount Grid Investment Test (GIT) analysis. MEUG doesn't think the rules require this<sup>5</sup> or the GUIRP. However if Transpower are correct then this is a relatively minor rule change we think would be acceptable to most parties compared to the draft GPS proposal.
  - ii) Transpower also don't think processing similar or related GUP in batches is easy. Again MEUG thinks the rules allow this but there is some doubt within Transpower. If Transpower are correct then again this is a relatively minor rule change we think would be acceptable to most parties compared to the draft GPS proposal.
- d) Another part of the teething problems relates to the complexity of transmission problems identified by Transpower, complexity on the range of options identified and sometimes uncertainty as to whether parts of work to be approved falls with the Settlement threshold of less than \$1.5m of is a Part F item, or isn't a capital item at all. It is this complexity that requires careful analysis. The proposal in the draft GPS may well have unintended consequences that affect the wider regulatory matrix as follows:
  - i) The proposal in the draft GPS affects the current regulatory matrix including the Settlement proposed by Transpower and accepted by the Commerce Commission that assumed Part F as is. Should the changes to the GPS proceed; then the Commerce Commission is not bound to automatically allow work approved through a modified Part F process pass through into Transpower's regulatory asset base.
  - ii) One of the complexities the original drafters of the current Part F considered was the approval process for reliability GUP versus economic GUP. The approval process in the rules reflects the different risks with each. Reliability GUP can be approved even if the Grid Investment Test has a negative NPV. Economic GUP must have a positive NPV. Reliability GUP are subject to more direct scrutiny by the Electricity Commission because consumers may be asked to pay for assets that do not have a positive NPV. Any changes by the Ministerial Working Party will need to consider this issue. The draft GPS and proposals by Transpower have not addressed this.
  - iii) The proposed change to the GPS assumes end consumers will have the expertise to provide comments to a largely Transpower run approval process. We don't think that is realistic. If Transpower find some "minor" works complex; then how could any end consumers properly assess if in those cases all possible alternatives had been considered?

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<sup>5</sup> For example, Part F, section III, Rule 12.1.3 already allows the Commission to be pragmatic and exercise discretion about the level of analysis for each GUP.

Light-handed regulation reliant on end consumers to collectively work together as a countervailing force to suppliers didn't work prior to the formation of the Electricity Commission. The Electricity Commission provides a valuable role in applying expertise and having an institutional knowledge that end consumers could only replicate collectively at very large expense. The government would have to fund consumers to have the same level of expertise that the Commission currently provides in considering alternatives and the economics and reliability attributes of transmission proposals submitted by Transpower.

- e) The Ministry may find submissions of other parties table information clearly identifying that there is a systemic problem. In that case all solutions need to be considered. Even if there is a systemic problem, it is premature to assume the solution in the draft GPS is optimal.

MEUG's suggested options include amending the GUIRP and or amending the rules to overcome any barrier to Transpower and the Electricity Commission using a pragmatic and scaled approval process for smaller items (refer discussion in paragraph 12. c) above).

- f) If the final GPS directs the Electricity Commission to make rule changes; the Electricity Commission is still required to conduct a full rule change proposal process including clearly identifying the problem and considering all options. We think it would be better to use the GPS to accelerate existing work on trying to identify exactly what the problem is, than tie industry resources down in a formal rule change process when the solution may not be a change to the rules.

**Concluding comments and request for information**

13. MEUG welcome the consultation on the draft GPS. We hope that the Ministry carefully considers the points on why the proposed changes to the GPS for transmission approvals are not supported, that the issues are complex and there are better ways to overcome teething rather than systemic problems.
14. MEUG wishes to closely follow the Government consideration of submissions in this consultation round. Accordingly MEUG requests, in terms of the Official Information Act 1982, copies of all submissions on the draft GPS.
15. This submission is not confidential.

Yours sincerely



Ralph Matthes  
Executive Director

cc Jamie Gray, Office of the Hon Gerry Brownlee

## Appendix 1: List of relevant documentation

Listed below are documents in the public domain and discovered by MEUG over the last two weeks relevant to the approval process through Part F of transmission investment less than \$20m

- In June 2008 the Transpower Board and the Electricity Commission Board agreed an initial Grid Upgrade and Investment Review Policy (GUIRP)<sup>6</sup>. The GUIRP describes a number of processes that are based on Transpower's annual planning cycle to assist both parties manage new GUP. This included managing the approval process for GUP less than \$20m.
- Two months after agreeing the GUIRP Transpower first advised the then Minister at that time, Hon David Parker that the approval process for minor works wasn't working (refer Transpower letter of 1<sup>st</sup> September 2008 circulated to market participants). Transpower at that stage suggested an amendment to the rules very similar to the draft GPS apart from the threshold set at \$50m compared to the \$20m threshold in the draft GPS. No specific cases of failures in the GUIRP or the rules were cited.
- Transpower's submission of 10<sup>th</sup> October 2008 to the Electricity Commission on the start of the 2009/10 appropriation round (the "big picture") listed "Refining the Part F investment Process" as one of four areas Transpower recommended the Commission should focus on. That submission did not provide specific examples of process failure.
- On 22<sup>nd</sup> October 2008 Transpower wrote to the Electricity Commission setting out a number of proposed rule changes for Part F including "Proposal A" that is almost identical to the proposal in the draft GPS. Transpower identified the policy problem as<sup>7</sup>:

*"Experience since the introduction of the grid investment process has shown the regulatory process to be overly time consuming for lower cost investments, with cost and potentially reliability consequences."*

There was no quantitative analysis in the letter of 22<sup>nd</sup> October 2008 to support this view.

- The Electricity Commission advised Transpower on 2<sup>nd</sup> September 2008 that initial work had commenced on the Transpower proposals even though the usual practice is to wait until the scheduled annual or half year reviews when all rule change proposals are prioritised.
- The Electricity Commission on 13<sup>th</sup> February 2009 requested from Transpower "*specific information about these issues so that the problems are clearly understood.*"
- Transpower's letter of 17<sup>th</sup> February 2009 in reply to the above request said the items had been well traversed in the past and didn't provide any further elaboration.

Further relevant information may also become available once advice from officials in relation to the draft GPS has been received<sup>8</sup> and we sight the submissions of other parties in this consultation round.

<sup>6</sup> Refer <http://www.electricitycommission.govt.nz/opdev/transmis/gridupgradepolicy>

<sup>7</sup> Refer Transpower letter to Electricity Commission, Re: Part F Rule Changes, opening sentence in paragraph A.1 of Proposal A Streamlined approval process for investments below \$XX million, 22<sup>nd</sup> October 2008.

<sup>8</sup> Refer MEUG request for information lodged 2<sup>nd</sup> March 2009.

## Appendix 2: GUP approved to date less than \$20m

Listed below are those GUP less than \$20m submitted and approved to date through the Part F rules. This excludes work approved under the Interim Grid Expenditure provisions prior to the first full GUP being tabled:

Proposal (All reliability GUP apart from the Central NI thermal upgrades)	First application date	Final application date	Notice of Intention date	Working days between final application date and NOI	Amount submitted and approved
Central North Island thermal upgrades	31-Oct-05	18-Apr-08	24-Apr-08	4 days	\$18.0m
West Coast GUP	19-Oct-07	12-Jun-08	07-Jul-08	18 days	\$19.0m
Maungatapere Bus Security	19-Dec-08	Same	10-Feb-09	33 days	\$4.1m
Wilton substation transformer	19-Dec-08	Same	13-Mar-09	55 days	\$9.5m
Woodville-Mangamaire-Masterton transmission investment proposal	19-Dec-08	Same	13-Mar-09	55 days	\$17.4m

In our view the time for approving these GUP does not constitute evidence of a systemic problem.

Note that processing the three small GUP lodged just before last Christmas has taken longer than earlier GUP because the Electricity Commission was at the same time considering the complex North Auckland and Northland GUP and the Wairakei ring economic GUP.

The latter comprised a final request for approval of up to \$141m lodged on 17<sup>th</sup> December 2008. The Electricity Commission issued a Notice of Intention to approve this request on 20<sup>th</sup> February 2009.

## Appendix 3: Examples of constructive approaches to approval process to date

Both the Electricity Commission and Transpower have in the past meet the challenge of developing and agreeing pragmatic approval processes consistent with the rules. For example:

- Several minor works were considered and approved rapidly under the transitional provisions<sup>9</sup> as interim grid expenditures prior to the first full GUP. While the transitional provisions were by necessity less rigorous than the current GUP requirements, that experience demonstrated that an effective approval process could be developed at very short notice.
- The GUIRP agreed in June 2008 was a useful and pragmatic approach.

<sup>9</sup> Electricity Governance Rules, Rule 16