



MAJOR ELECTRICITY USERS' GROUP

27 October 2006

Jenny Walton
Electricity Commission
By email to info@electricitycommission.govt.nz

Dear Jenny

Submission on Rolling Outage Regulations and Planning

1. This is a submission by the Major Electricity Users' Group (MEUG) on the Electricity Commission (the "Commission") consultation paper, *Rolling Outage Regulations and Planning*, published 28th September 2006. Attached to the consultation paper were draft regulations and a draft Security of Supply Outage Plan (SOSOP).
2. MEUG, ONTRACK (New Zealand Railways Corporation) and Wallace Corporation commissioned Dr Brent Layton, Director of the New Zealand Institute of Economic Research (NZIER) to undertake an independent report on the Commission consultation paper. Attached to this submission is the report of NZIER titled, *Rolling Outage Regulations and Planning – The Electricity Commission's Proposed Regulations*, dated 27th October 2006. MEUG, ONTRACK (New Zealand Railways Corporation) and Wallace Corporation all agree with the detailed response by NZIER on the consultation paper.
3. NZIER have raised a number of important issues that we believe should lead to the Commission taking a step back from pursuing regulations as proposed. We believe the Commission has not demonstrated that it has sought from the electricity industry, including consumers and suppliers, pan-industry voluntary protocols to achieve savings targets when all other attempts to avoid blackouts have failed. That route needs to be tested before any regulations are proposed. Some key points raised by NZIER and some from our own experience that tip the balance in favour of the Commission facilitating a pan-industry approach include:
 - a) New Zealand has experienced dry-year scares in winter 2001, autumn 2003 and between spring 2005 and autumn 2006. In each of those events New Zealand never came close to supply being unable to meet demand. In other words if we had regulations of the type proposed, they would never have been needed. However, as NZIER point out, had the regulations been in place some of the parties that responded either commercially and or voluntarily (by having back-up generation and strategies to save power) may have reacted differently – the end result may have been fewer savings and the proposed backstop regulations would have been triggered.
 - b) New rules, regulations and legislation should all pass the tests of clearly identifying a problem that is only solvable by government intervention and supported by robust cost-benefit analysis. Legislative changes should be most robustly tested before being introduced and rules less so. The consultation paper notes that the proposed intervention will substantially affect parties and therefore is best treated as a regulation than a rule. NZIER agree the proposal needs to be treated as a

regulation. In this instance MEUG is appalled at the poor definition of the policy problem and the superficial cost-benefit analysis; particularly as what is at stake are regulations with potentially substantial impacts on parties.

NZIER have pointed out the problem definition is really about interventions to achieve savings targets to avoid real time Grid Emergency provisions being used as the default should everything else fail. The latter include market responses and the Commission seeking voluntary savings. The backstop "intervention" shouldn't be just about rolling blackouts either – there are likely to be other mechanisms that would be useful backstop provisions that might also be lower cost. The regulations should reflect this problem definition and be open about alternatives rather than focus on rolling outages.

NZIER also note that the cost-benefit analysis based on percentage changes in GDP is not a valid method of analysis for this type of micro-economic cost-benefit analysis; instead it's the shift in the sum of consumer and supplier surpluses that needs to be measured. Setting aside the methodology problem the consultation paper doesn't count all the benefits and costs of the regulated proposal versus the alternative of voluntary protocols being developed. For example the consultation paper misses the detriment that will occur because those sectors ranked as being key services will have less incentive to install back-up generators; yet some of those key services have ideal sites for back up generation and co-generation.

- c) As noted beforehand the market has in the last six years had three dry-year event scares. The market has also had various very significant unplanned outages that have ranged from less than a day (eg Otahuhu substation "D" shackle failure on 12th June 2006) to several days (eg HVDC failure January 2004). In some short-duration Grid Emergencies localised demand has been shed but there has never been a nation wide need to have rolling blackouts for a national Grid Emergency.

The market has survived and no compulsory nation wide load shedding has been needed. With e3p expected to be on-stream in April 2007, plus various other smaller new generation units (eg Mighty River Power 45 MW OCGT at Southdown will be on-stream end 2006), next winter is likely to be relatively secure. The Commission draft Minzone forecasts for 2007 are also much better, ie less risk of a dry-year event leading to shortages than this year. Even if e3p start-up is delayed three months there is little change to the draft forecast Minzone for next year.

Given the market has been through several crisis in the near past and next winter is likely to be less risky in terms of a dry-year event than this year, there appears to be no urgency to solve an imminent problem. The Commission therefore has time to get this right and not jump straight to a regulatory solution.

- d) The industry has recently been through an intensive pan-industry consultation process to consider the events relating to Trading period 36 on 19th June. The collaborative process of the National Winter Group and various work-streams coordinated by the System Operator on behalf of the Commission is a very good example that the industry, including consumers, can work constructively together. Given focus, support and leadership by the Commission, it's likely the same approach would work to develop voluntary protocols to achieve targeted savings if all else fails.

4. In conclusion we believe the Commission needs to step back from the proposed regulatory route and develop a plan to facilitate a pan-industry voluntary protocol.

Yours sincerely



Ralph Matthes
Executive Director