

## **Notification of the Commission's Decision Pursuant to Regulation 91(1)**

Under regulation 91(1) of the Electricity Governance Regulations 2003 (Regulations) the Electricity Commission (Commission) must publicise every decision made under regulation 86(2) or regulation 90(2) or regulation 90(3), together with the reasons for the Commission's decision.

### **Investigation**

On 9 August 2006, the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following self-notified breaches of the Electricity Governance Rules 2003 (Rules) by Transpower Limited in its role as system operator (the System Operator):

- Breaches of rule 20.5 of schedule C4 of part C of the Rules, self reported by the System Operator.

The self-notified breaches arose from the System Operator's failure to apply correct constraints for Islington-Kikiwa circuits to the Scheduling, Pricing, and Dispatch (SPD) model from 19 to 26 April 2006.

### **Matters Considered by the Commission**

On 13 December 2006 the Commission received and considered a report and recommendation from the investigator. The Commission also made its decision taking into account its relevant functions and objectives. The Commission considered:

- its functions (section 172O of the Electricity Act 1992 (Act)) and in particular, the function in section 172O(1)(b) which requires the Commission to administer, monitor compliance with, investigate, enforce, and apply penalties or other remedies for contraventions of the Regulations and Rules; and
- its principal objectives, which are to ensure 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 (section 172N(1) of the Act); and
- its specific outcomes (section 172N(2) of the Act). Of relevance are the Commission's outcomes which require:
  - (i) that energy and other resources are used efficiently (section 172N(2)(a)),
  - (ii) risks (including price risks) relating to security of supply are properly and efficiently managed (section 172N(2)(b)); and

- the Government Policy Statement on Electricity Governance (“GPS”). This provides that 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 (clause 11).

### **The Commission’s Decision**

In respect of these self-notified breaches the Commission decided to:

1. **Dismiss** the notified breaches under investigation against the System Operator (effected by deciding under regulation 90 that no formal complaint should be laid).

### **Reasons for the Commission’s Decision**

The Commission considered, and agreed with, the reasons set out in the investigator’s report why the breach was unsuitable for using the informal settlement process. The report noted that regulation 82, regarding informal settlements, excludes the ability for the investigator to try to effect an informal settlement of a notified breach when no other party joins (or as in some cases a party joins under regulation 75 but then withdraws) the investigation.

The Commission considered that not laying a formal complaint met the fairness and efficiency objectives given:

- there was moderate market impact as a result of the self-notified breaches; and
- affected parties that joined, and then subsequently withdrew from the investigation, have had the opportunity to obtain explanations to their satisfaction; and
- the System Operator has since taken steps to prevent recurrence of the breaches.