

## **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 15 November 2005 the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following alleged breach of the Electricity Governance Rules 2003 (Rules) by Whareroa Co-generation Joint Venture (Whareroa co-gen) in respect of an event on 7 July 2005:

- Admitted breach of rule 4.11 of section III of part G of the Rules.

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

The Commission received and considered a report and recommendation from the investigator. The Commission also considered its decision against its relevant functions and objectives.

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

In respect of this admitted breach the Commission decided to:

**Dismiss** the notified breach under investigation against Whareroa co-gen (effected by deciding under regulation 86(2) that no formal complaint should be laid)

On 6 April 2006 the Commission considered, and agreed with, the reasons set out in the investigator's report why the breaches were unsuitable for using the informal settlement process. The report noted that all the parties that joined the investigation agreed that there was no need for settlement as all their concerns have been met by Whareroa co-gen having being granted an exemption from the requirement to comply with rule 4.11 of section III of part G subject to certain conditions.

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

- there was a minimal market and operational impact as a result of the admitted breach; and
- Whareroa co-gen has taken steps to prevent recurrence of the breach; and
- Whareroa co-gen has been granted an exemption from the requirement of the rule 4.11 of section III of part G subject to certain conditions; and
- the avoidance of incurring costs involved in the laying and hearing of formal complaints in regard to minor breaches.

However, the Commission notes that it may take a different view should it determine that continued and persistent breaching of these Rules by one or more market participants is occurring.