

## **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.

### **Decision to lay formal complaint to the Rulings Panel**

On 3 February 2005 the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following notified breach of the Electricity Governance Rules 2003 ("Rules") by Transpower New Zealand Ltd (the system operator):

- admitted breach of rule 4.3 of section III of part G of the Rules on 6 September 2004 in that the system operator failed to implement the dispatch schedule for trading periods 47 and 48 on 6 September 2004.

In respect of this alleged breach, the Commission received and considered a report by the investigator under regulation 88 ("report") and has decided to:

1. **lay a formal complaint** with the Rulings Panel under regulation 90(3); and
2. **direct** the investigator to report to the Rulings Panel under regulation 93.

### **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. The Commission considered:

- its functions (section 172O of the Electricity Act ("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);
- 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).

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

In reaching its decision, the Commission considered the report’s recommendations against its relevant functions and objectives as listed above. The Commission considers that laying a formal complaint meets those functions and objectives given that:

- the optimal management of power system frequency was put at risk as a result of the alleged breach. The Commission further noted that this risk had the potential to be considerably more significant had the alleged breach occurred at peak times;
- the alleged breach had caused increased costs and loss of income to some participants;
- no informal settlement could be reached between the system operator and the party who joined the investigation; and
- the Commission is concerned to ensure that an adequate remedy in the circumstances results from this admitted breach by the system operator. This may not be the case if the matter is not referred to the Rulings Panel given the parties failure to agree to a settlement (because of differing views as to the need for, or level of, compensation payable by the system operator).