

1 February 2005

Jenny Walton
Electricity Commission
PO Box 10041
Wellington

Dear Jenny

Re: Developing Emergency Security of Supply Provisions

Thank you for the opportunity to comment on the consultation paper entitled "Developing Emergency Security of Supply Provisions". Our responses to your specific questions are set out below:

1. *The Concept report suggests that the Commission should delay the use of emergency measures in a dry year until the risk of shortages has become very material, through the use of an emergency zone set below the minzone according to the implied cost of emergency measures.*
 - *Do you agree that emergency measures could be delayed until late in the piece and remain effective?*
 - *Do you agree that it is appropriate for the Commission to signal that it intends to do this, so as to encourage participants to manage their own price and supply risks?*

We believe that it is important not to overcomplicate this process, and that the Government Policy Statement (GPS) should be applied and interpreted in the most streamlined manner possible if its objectives are to be achieved from a security of supply standpoint. On the face of it, therefore, bearing the content of the GPS in mind, we would suggest that the simplest test of whether or not measures need to be put in place, is whether or not the 1:60 minzone level has been breached. We have no difficulty with a *second zone*, provided the points we raise in our response to question 3 are acknowledged.

In reply to the second bullet point, we first need to clarify the fact that power companies cannot look at physical security of supply alone, and must also consider financial implications. Further, even though Mighty River Power actively manages both its price and supply side risk, we are still limited in our ability to ensure we can physically deliver energy to our customers given that security is a market-wide issue (i.e. if another major generator were to run out of water, this would impact on the overall national security of supply).

2. *How practical do you consider the principle that, emergency measures should not penalise participants (in this case potentially including end users) that have developed commercial arrangements and / or physical supply arrangements to cover risks during dry periods, and should not reward participants that fail to develop such arrangements?*

Although we concur with this notion at a conceptual level, we do not believe it is possible to implement it in practice. In other words, by definition, if we are in an emergency situation, the market has already failed to meet 1:60 security levels – quite simply, in cases of market failure, incentives become redundant.

3. *The Concept report proposes that the Commission facilitate a range of pre-emergency measures that would be available between the minzone and the emergency zone, followed by a series of emergency measures that would be applied when hydro storage falls below the emergency zone.*

- *Do you support this approach to a dry year situation?*
- *In particular, do you support the Commission acting to facilitate a range of pre-emergency measures?*

In general terms we support this approach, given it is prudent to initiate a series of responses according to an inverse hierarchy of sorts, whereby the least obtrusive measures are adopted first, followed by those of an increasingly significant scale.

The second zone itself, needs to be more specifically defined in numerical terms. Paragraph 45 of the GPS states:

Within this minimum zone, the Electricity Commission should have a second zone that would trigger a conservation campaign, on the basis that there is a significant probability that we are in a worse than 1 in 60 year dry year event.

In our opinion, this should be approximately 1:10. More analysis is required from the Commission in consultation with market participants on this matter.

4. *Do the emergency options outlined in table 4 of the paper cover the full range of options that should be considered?*

The range of options that has been set out in the consultation paper appears to be fairly comprehensive. However, one issue we believe may face legal stumbling blocks, is the suggestion of instigating some form of “temporary override of resource consents”. In the case of hydro limits, we cannot see anything in either the Resource Management Act 1991 or the Electricity and Gas Industries Act 2004, that would allow consents to be put aside at the Commission’s discretion, albeit on a temporary basis.

We also note that an effective package for intervention would also probably require constraining use by other abstractors (particularly upstream) other than power generators. The RMA would allow the relevant regional council to step in and control other users during a water shortage (section 329 water shortage direction), but the associated power to take without consent, or in breach of

consent conditions, is not available under the Act. The RMA's Emergency Powers under section 330 do not appear to apply in situations such as this, to either the Commission or to power generators.

We also note that the majority of these measures do not relate directly to the energy market, as they predominantly target those involved in the transport of energy.

5. Do any of the options considered in the report have implementation and effectiveness issues that are not highlighted in the report?

Reconciliation of embedded generation is, by definition, a problematic undertaking. If a retailer cannot benefit as a result, it has no incentive to take steps to implement such a policy. Embedded generators can be physically connected in a multitude of ways and the reconciliation issues to correctly invoice embedded generators are significant. In short, if the Commission was serious about pursuing such a policy, it would need to become directly involved at an operational level to achieve this outcome, raising a host of practical and legal issues which may be difficult to overcome.

6. For the extreme option where the Commission looks to suspend or direct the market, how should the powers of the Commission be designed, including any limits and obligations associated with these powers?

There are only two means of rationing electricity – either through price, or quantity. The current market design, dispatches stations based on an offer merit order. For example, in the event that the Commission decided to impose a price cap to limit the effect of high prices, hydro generators may be forced to limit offered quantity to protect resource consent limits or to preserve scant storage for higher price periods in the future. To avoid curtailment of demand, the Commission would have no choice but to take what would effectively amount to control of generation assets, instructing companies how much to generate and when, which would represent a serious infringement of private property rights. The suspension of the market raises a myriad of complexities and not insignificant operational, contractual and technical challenges for the Commission to overcome, if it were to achieve such an objective.

7. Do you consider it appropriate for the Commission to broaden the approach to include emergencies other than those brought on by dry periods appropriate? If so what thresholds would be appropriate to trigger the use of non-dry period emergency measures?

It would only be appropriate for the Commission to broaden its approach in limited circumstances that result in an emergency which lasts for more than one day (other mechanisms already exist under Part C for instance, which enable the System Operator to ration demand to avoid cascade failure in specific situations). However, where an event lasts more than 24 hours, and all available generation is running but normal supply is insufficient to meet demand, some of the proposed emergency measures may be sensible (e.g. hot water cuts).

8. *Do stakeholders consider that the recommendations set out in the executive summary of the Concept report are an appropriate way to proceed with the next steps to implement emergency measures?*

Subject to our responses to questions 1-7 above, in general we have few concerns regarding the policy summarised on pages 14-15 of the consultation document.

Yours sincerely

Neil Williams
General Manager – External Affairs