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SUPPLEMENTARY ORDER PAPER NO. 121 - ELECTRICITY INDUSTRY BILL

SUBMISSION TO THE FINANCE AND EXPENDITURE SELECT COMMITTEE

14 MAY 2010

BACKGROUND

The Institution of Professional Engineers New Zealand (IPENZ) is the lead national professional body representing the engineering profession in New Zealand. It has approximately 11,500 Members; this includes a cross-section including engineering students, practising engineers, and senior Members in positions of responsibility in business. IPENZ is non-aligned and seeks to contribute to the community in matters of national interest giving a learned view on important issues, independent of any commercial interest.

SUBMISSION

In some places this submission draws on our earlier submission in February 2010 on the Electricity Industry Bill.

OPPOSITION TO THE ASSET TRANSFERS

In our submission on the Electricity Industry Bill, IPENZ clearly stated that it does not support the transfer of Tekapo A and B as this may result in reduced operational resilience. Tekapo A and B are part of an integrated system, and IPENZ believes that changing the system could result in losses of efficiency, a conflict of interests between Meridian Energy and Genesis Energy during periods of low demand, reduced security of supply and reduced flood management. We suggested that if there were to be any gain in retail competition, this would be too small to justify the risks.

Recent international events provide further evidence to strengthen the argument for not compromising resilience.

AN UNSATISFACTORY PRECEDENT IS SET

The proposal in this Supplementary Order Paper (SOP) is for the government to change the permit conditions by order of the Minister of Energy and Resources. This sets an unsatisfactory precedent. The permit conditions were originally set by Environment Canterbury, within the national framework of the Resource Management Act 1991 and the regional plan. The regional plan was developed through a comprehensive consultation process. In turn the current resource consents were approved by the

consent authority through a publicly notified process. The consent authority, when deciding on the permit conditions, carefully weighed the benefits of the discharges and the impacts on the environment. This SOP would enable the Minister of Energy and Resources to unilaterally change these conditions – albeit in consultation with the Minister for the Environment (Clause 124 D (1)) and the Consent Authority (Clause 124 D (2) (d)).

It is also noted that Clause 124H provides for no appeal rights. We are unsure if this also precludes any appeal rights on questions of law.

IPENZ believes this precedent undermines the principles and purposes of the Resource Management Act 1991.

MINISTER OF ENERGY AND RESOURCES DECIDING ENVIRONMENTAL MATTERS

IPENZ believes that the powers provided under Clause 124D for the Minister of Energy and Resources to make an order to change one or more of the conditions of a permit are inappropriate and give too much discretion to the Minister. If the Government is to proceed with this SOP, these powers should be vested in the Minister for the Environment as the conditions of such a permit are pursuant to the Resource Management Act 1991. The Minister for the Environment should be required to consult with the Minister of Energy and Resources.

The inappropriateness of this role is highlighted in Clause 124C (5), where the consent authority may make representations to the Minister of Energy and Resources about whether those changes would maintain the current effects on the environment.

VAGUENESS OF MAINTAINING CURRENT EFFECTS

Clause 124A (b) says the purposes of these Sections on the reconfiguration of assets are to maintain current effects on the environment, and Clause 124C(5) says changes to permit conditions are to also maintain the current effects on the environment. This reference is too vague. There is an implication that the current conditions are appropriate, are being complied with and the environmental effects are acceptable – i.e. conditions are not set too low or too high. The existing consents and the suite of conditions need to be referred to, existing environmental effects need to be evaluated, and changed conditions need to be made within the context of the current conditions.

MINISTERIAL ORDER NEEDS TO ACHIEVE THE PURPOSES OF THE RESOURCE MANAGEMENT ACT 1991

Clause 124 D (2) sets out a number of matters which the Minister must be satisfied with before making an order. These matters are all related to enabling the asset reconfiguration. IPENZ believes these matters should also say the Minister (in our view the Minister for the Environment) must be satisfied “that the changes to the conditions achieve the purpose of the Resource Management Act 1991”.

CONCLUSION

IPENZ appreciates the opportunity to make this submission and is able to provide further clarification if required.

We do not wish to appear in person before the Select Committee to speak to our submission.

Tim Davin – Director of Policy