

The Treasury

Release of Submissions: Mixed Ownership Model Consultation with Māori

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Extension of the Mixed Ownership Model

11 February 2012

Toa Greening

[1]

New Zealander
Ngati Kahungunu

Summary

- (1) I am opposed to the partial sale of Meridian Energy, Genesis, Mighty River Power and Solid Energy.
- (2) My name is Toa Greening from Manurewa Auckland. I am making this submission as an individual. As an elected member of Auckland Council on the Manurewa Local Board I am fortunate to be able to engage with residents across Manurewa and the wider community on a variety of topics. For your information Manurewa has the highest concentration of Maori in New Zealand as well as the largest Maori population in the Auckland region.
- (3) I have written this submission in an effort to outline the issues associated with the sale of the Electricity and Energy SOE companies and hopefully convince the Government to not proceed. I attended the Auckland Hui at the Novotel Hotel on February 10th. At the question session it became apparent that government is very naïve with regards to how companies operate in an open market. It was also apparent that Government had done no analysis of SOE versus Private company performance, profit, capacity delivered, price competitiveness etc. My conclusion at the end of the Hui was that Government had not considered the long-term impacts of New Zealand's main Electricity suppliers operating with a profit driven mandate and open market culture.
- (4) Open market practices in the electricity generation and supply can lead to incessant industry lobbying for regulatory concessions, market manipulations, asset stripping, running down of assets, running down of companies, implementation of minimal safety standards, market cornering, price gouging, predatory acquisitions, predatory closures, overpricing for government works, blocking of new developments by competitors, blocking of regulatory legislation, lobbying for industry biased national standards and manufactured market instabilities to name a few. You need only follow Contact Energy operations over the past decade for the proof and I have outlined a few classic examples in this submission.
- (5) It is obvious that this behaviour will be disastrous to the New Zealand's electricity generation and supply if these sales are allowed to proceed. Yet Government is demonstrating a concerning lack of any form of analysis, foresight or basic economic common sense to the sales.
- (6) Government's main problem is its account deficit and subsequent ballooning debt (borrowing \$40B in three years is a woeful record and of major concern). Government needs to concentrate on increasing its revenue base, increasing its tax base and decreasing its costs. The sale of vital infrastructure, which is the nations biggest revenue earning assets, should be the last option.
- (7) Selling New Zealand's electricity generation and supply will provide short-term relief to the heavy borrowing, however it will seriously reduce its revenue base, and reduce its future tax base as local companies may close down or not invest in a country with unstable electricity generation and supply.

(8) Surely Government is aware of this HUGE economic risk to New Zealand's future?

Issues

- (9) It was very clear during the election that the majority of New Zealanders do not support these sales. National do not have a mandate for the sales as they only received 49% of the vote and therefore the mandate was only to govern.
- (10) It is of concern that has decided to consult only with Maori on the sale of the SOE assets. This decision once again splits the nation. Government should be consulting with all New Zealanders instead of splitting the nation.
- (11) Electricity generation is a key infrastructure resource for all Nations. New Zealand has large natural resources of water, land, coal and geothermal areas, which are used exclusively to produce electricity. The main SOE electricity providers have monopolies on large parts of New Zealand. They are an essential utility and a basic requirement of society, not a soft drink or consumer product to be traded on the market. Therefore protection of our electricity generation and supply is a fundamental criterion to ensuring New Zealand's economic future.
- (12) All five SOE corporations made a combined total of \$508.3M after tax in 2011. Solid energy is projected to double its profits in five years time and all five SOE companies have the potential to significantly increase profits in the near future. The sale of these assets will be at the expense of significant lost revenue.
- (13) Applying Solid energies revenue growth of 15% per year to all five SOEs then \$5-6B would be lost to the Government over the next 10 years. That is the equivalent of the \$5-6B price government is expecting from the sale of the five SOEs. It then makes no economic sense to be selling such profitable assets and can only lead to the assumption that simplistic market ideology with no evidential analysis is the driving motivation behind the decision.
- (14) The SOE Act ensures that profit, efficiency, good employer and social responsibility remains in the forefront of those companies operations.
- (15) Removing the companies from the SOE Act privatises the company and puts the focus onto profit. The new mixed ownership company culture will overtime change from service, continuity, social responsibility and growth of generation capacity to one of only maximising return. This in turn allows mixed ownership companies to use New Zealand's natural resources with minimal requirements to efficiency, social responsibility or being a good employer.
- (16) Removing the companies from the SOE Act also removes the political aspect in that all decisions made are accountable to the Government. Therefore market manipulations and predatory behaviour, which are not practiced by SOE companies (as this can be politically embarrassing to the Government), will be practiced by the new mixed ownership companies.
- (17) Removing the companies from the SOE Act also removes the scrutiny of Ombudsmen Act 1975 and Official Information Act 1982. These Acts provide the checks and balances against SOE's in performing market manipulations and predatory behaviour.
- (18) How will Government ensure that the companies do not make financially disastrous decisions like the decisions that caused Air New Zealand to be purchased in the first place (eg the purchase of the failing Ansett Airlines)?
- (19) How will Government ensure that the companies are not run into the ground and require a bailout at a later date (eg the Tranzrail sale and bailout)?

- (20) Private electricity companies do not need to be stable or provide additional capacity to be highly profitable. Cornering a market and creating a lack of capacity will drive up prices and profits.
- (21) The emptying of Dams for various reasons, power plants offline for extended maintenance and under investment in capacity can cause major electricity shortages in the future.
- (22) The below comments from Contact Energy is the type of language used for power plants being offline for extended periods and also to avoid investing in new generation capacity.

"However, wholesale prices are currently below both the variable costs of operating thermal plant, and the price required to support investment in new generation," he said. "In addition, current economic conditions are expected to continue to dampen demand growth and, consequently, tariff movements."

- (23) These are corporate weasel words for manipulating the market. How will Government ensure that the mixed ownership companies are managed in a way that ensures ongoing stability, planning and adequate capacity?
- (24) The Electricity Commission and Commerce Commission appear to have little power in price regulation. Past attempts to control prices have been largely futile, with expensive reports being commissioned to place the blame of high prices on the lack of a competitive market.
- (25) The below comments from a report commissioned by Gerry Brownlee in 2009 on rising electricity prices was the first warning sign of their impending sale. What is not said is that the majority of those dividends would be going back to the New Zealand Government.

"Analysis by international expert Professor Frank Wolak of Stanford University of found prices charged in the wholesale electricity market from January 2001 to July 2007 resulted in an extra \$4.3b in earnings to generators over those that they would have earned under competitive conditions."

"Mr Brownlee today said no assets would be sold but "you need to be generous in assessing what governance and ownership means."

- (26) It is clear that Government had intentions to sell the Electricity SOEs early in 2009. Will government implement additional legislation to question the pricing, practices and put in place price controls?
- (27) The California electricity crisis of 2000 and 2001 was a situation in which California had a shortage of electricity caused by market manipulations and illegal shutdowns of pipelines by Texas energy consortiums. The state suffered from multiple large-scale blackouts, one of the state's largest energy companies collapsed, and the economic fall-out of the crisis cost \$40 to \$45 billion.
- (28) Has Government considered the potentially disastrous economic impacts of manipulated, unstable or limited electricity generation and supply?
- (29) How will Government ensure that the companies are managed in a way that ensures continued innovation in alternative energy sources?
- (30) Pike River mine performed the minimal safety requirements (which are under question in the enquiry). Solid Energy goes well above the safety requirements because as an SOE it has a focus on the safety aspects of being a good employer and not merely the profit line.
- (31) How will Government ensure that the mixed ownership company does not revert to minimal safety practices in efforts to reduce costs and increase profits?
- (32) Government is stipulating a 10% maximum ownership per individual shareholder. How will government prevent overseas companies from purchasing controlling shares in multiple NZ

companies so that it has more than a 10% share in any one company? Essentially there is nothing to stop Origin Energy Australia (which has a 51% stake in Contact Energy) from purchasing controlling shares in multiple NZ companies to have a greater than 10% stake in each of New Zealand's Electricity generation and supply companies.

- (33) Has Government considered the potential impacts of one major foreign owned company controlling a significant share of New Zealand's electricity generation and supply?
- (34) Contact Energy Director Fees have increased exponentially over the years. The suspicion is that director's fees have increased so as to influence director's decisions towards the majority shareholder Origin Energy.
- (35) How will Government ensure that the new directors are not unduly influenced by the approval of increased fees?

Contact Energy

- (36) I have put together the following information to provide real examples of the previously mentioned issues of privatising electricity companies.

History

- (37) Contact Energy was sold in 1999 to 227,000 "Mum and Dad Investors" and several major shareholders for \$2.3 billion. Twelve years later only 80,000 "Mum and Dad Investors" still have shares in the company with Australian Origin Energy now owning the controlling shares which is now worth \$3.7 billion. Since 1999 Contact has paid out \$1.5 billion in dividends to its shareholders with the majority going overseas. This proves that within ten years close to the sale price of \$2.3B was lost in dividends of \$1.5B to mostly overseas investors. It made no sense to sell off Contact Energy and now New Zealand has lost those dividends forever.

Mum and Dad Investors

- (38) It is pure fiction to believe that the assets sold will remain with Mum and Dad investors for any period of time or that they will benefit substantially from it. The sale of Contact Energy demonstrates the huge loss of profits and capital value to New Zealand with none of the competitive market theory benefits.

Competitive Market Theory

- (39) Over the past twelve years Contact Energy has purchased customers to expand its market without adding any significant electricity capacity for New Zealand. The majority of Contact Energy's new capacity during 2001/2002 was in Australia via subsidiaries and funded in part by the sale of Contact Energy power plants in Stratford and Whirinaki. Contact Energy has sold and shutdown more capacity than building new so is actually creating a deficit for New Zealand. If the Meridian, Genesis and Mighty River Power were to do the same then New Zealand would be faced with massive electricity increases and instability.
- (40) However SOE Meridian, Genesis and Mighty River Power have built significant capacity in the form of Wind Farms, Gas Turbines and Geothermal Stations over the last ten years. Genesis also invested heavily in project "Aqua" which was to be the last of the major hydro dam project but was scrapped due to opposition. Mighty River Power attempted to start-up Marsden B plant but was eventually stopped in the environment court. This clearly shows that the SOE companies invest in adding capacity where as the privatised Contact Energy only invests in cornering the market share and creating an electricity deficit.
- (41) There is a misguided belief that a competitive market is the best way to keeping prices down and keeping customers satisfied. This may work for the sale of bread and potato chips but it certainly will not work in the generation and supply of electricity. Contact Energy does not need to keep its customers satisfied all it needs to do is corner a large market. Contact Energy proves that competitive

market theory only increases market manipulation and does not provide the forward planning of capacity that will be required for New Zealand to compete internationally.

(42) Can New Zealand afford this major economic risk to its electricity supply?

Market Manipulation

(43) During 2004 and 2005 Contact Energy started to advocate for price increases due to rising gas prices throughout the world. This was a blatant attempt to increase profits. Over 50% of Contact's electricity was from hydro and geothermal stations and therefore was partially isolated from rising fuel costs.

(44) During 2002 and 2003 years New Zealand went through severe power shortages due to low lake levels of its southern hydro dams. The government of the time stepped in to commission additional peak power generation capacity to resolve future power shortages. A preferred site in Auckland was selected, however this was opposed by Contact Energy and instead Whirinaki (Napier) was selected as the best location. Contact Energy was paid \$150M for the plant and also charged lease, operation and maintenance cost to Government.

(45) The running costs, wet years in between and remote location from major population centres meant that the Whirinaki plant has been used less than 4% of the time since it was commissioned. The location at Whirinaki was subsequently a very poor location with government taking the blame for making pressured decisions.

(46) Late last year Contact Energy purchased Whirinaki power station for \$33M or 20% of the \$150M price it was paid to build the power plant. The new power plant was almost identical to the previous Whirinaki plant that was sold for \$20M in 2001, therefore confirming the suspicions that the price was well above the market at the time. The final chapter to the whole Whirinaki debacle is that Contact Energy is now planning to move the new power plant and Auckland is one of the sites being considered.

(47) This debacle is a clear example of the type of manipulation that a privatised company like Contact Energy will employ to produce profit. If Contact Energy was an SOE then the new plant would have been built in Auckland as originally planned for substantially less than the \$150M. Instead \$117M has been wasted, Contact Energy has been gifted the Whirinaki power station and New Zealand still has limited peak power capacity.

(48) The privatisation of all of New Zealand's main SOE electricity generation and supply can only lead to market manipulation and predatory behaviour against each other, the government and ultimately all of New Zealand.

(49) How much will privatisation of the majority of our Electricity generation and supply cost New Zealand in the long term?

Social Responsibility

(50) In 1994 the Otara Lake Accord was signed by the former Electricity Corporation, Manukau City Council, Auckland Regional Council and members of the community to improve water quality, public access and amenities. Seventeen years have now past and there have been very little action to clean up the lake. This is a good example of the minimalist socially responsible commitment to the community.

Solid Energy

(51) Solid Energy is responsible for approximately 85% of New Zealand's coal production. Annual production is around 4 million tonnes, more than half of which is exported. Privatising this monopoly is

a naive proposal from the government and will only lead to increase in the price of Coal sold within New Zealand.

(52) How will the price of Coal be controlled to ensure that consumers are not price gouged by the monopoly?

Air New Zealand and Tranzrail

(53) From experience of Tranzrail and Air New Zealand we know that vital infrastructure can be run into the ground by mixed ownership companies and must be bailed out by the tax payer as it cannot be allowed to fail.

(54) What will be the total cost to New Zealand's future if our Electricity generation and supply is run into the ground?

Conclusion

(55) Do not proceed with the partial sale of Meridian Energy, Genesis, Mighty River Power and Solid Energy.

(56) Energy and Electricity is a vital resource to New Zealand and therefore should remain in 100% ownership.

(57) The retention of the five State Owned Assets will potentially generate \$5-6B in dividends over the next decade, which is equivalent to the expected asset sale price. If they are sold then we lose that revenue stream forever. If they are sold then the impacts of high priced and unreliable electricity will have disastrous consequences to New Zealand's economy.

(58) Government should actually do the opposite and concentrate on increasing its revenue streams.

(59) Government should investigate opportunities for new SOE companies to access more of our natural resources. A good example is Solid Energy's development of the Coal mining industry. Many New Zealanders are critical of foreign companies exploiting our resources, receiving peppercorn rates and sending all the profits to foreign investors. Many New Zealanders would be supportive of new SOE's developing our nation's resources for the 100% benefit of all New Zealanders.

(60) Government should increase its tax revenue to pay for its costs. This can be done by increasing taxes and encouraging more export industries.

(61) Government should not proceed with large spending priorities such as the \$2-3B Northern "*Holiday highway*" (the benefits do not justify the cost), the \$0.5B South Auckland Men Prison (the additional capacity is no longer justified), and scaling back on the Wellington highway projects to name a few. There are many areas where big spending can be cut, rationalised or made more efficient. Selling our vital infrastructure should be the last option.

(62) The current SOE legislation of the Electricity and Energy SOE should be strengthened to include a public referendum of these assets so that no government can sell these economically vital assets without the consent of all New Zealanders.

Appendix

<http://www.stuff.co.nz/business/6096691/Contact-buys-Whirinaki-power-plant>

<http://www.stuff.co.nz/auckland/local-news/manukau-courier/6353202/Cost-stalls-lake-clean-up>

<http://nzier.org.nz/publications/electricity-security-of-supply-policy-review>

<http://www.converge.org.nz/watchdog/08/06.htm>

<http://thestandard.org.nz/contact-energy-a-case-study/>

<http://nzier.org.nz/publications/electricity-security-of-supply-policy-review>

<http://www.guide2.co.nz/politics/news/brownlee-warns-companies-off-power-price-increases/11/8045>

<http://tvnz.co.nz/business-news/solid-energy-may-lift-profit-96-over-five-years-4677308>

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10747530

<http://www.genesisenergy.co.nz/about-us/news/genesis-energy-reports-improved-2011-operating-result.cfm>

http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10746900

<http://www.stuff.co.nz/business/industries/financial-results/5531090/Mighty-River-Power-profit-jumps>

<http://www.stuff.co.nz/business/industries/financial-results/5504690/Air-NZ-profit-plunge>

State-Owned Enterprises Act 1986

4 Principal objective to be successful business

(1) The principal objective of every State enterprise shall be to operate as a successful business and, to this end, to be—

- (a) as profitable and efficient as comparable businesses that are not owned by the Crown; and
- (b) a good employer; and
- (c) an organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so.

(2) For the purposes of this section, a good employer is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) good and safe working conditions; and
- (b) an equal opportunities employment programme; and
- (c) the impartial selection of suitably qualified persons for appointment; and
- (d) opportunities for the enhancement of the abilities of individual employees.

Review of Ombudsmen Act 1975 and Official Information Act 1982 in relation to State enterprises.