

Independence of regulatory decisions in New Zealand

Roy Hemmingway, Chair
New Zealand Electricity Commission
September, 2003 to November, 2006

The Electricity Commission

- Established in September 2003 after failure of industry self-governance
- Full-time chair and 4 to 5 part-time commissioners appointed by Minister of Energy
- 45 staff hired
- Main statutory directive to Commission is broad:
“Give effect to Government Policy Statement on Electricity Industry Governance.”
- GPS is detailed list of actions wanted by government

Powers of the Electricity Commission

- Sets market rules*
- Sets system operation rules*
- Enforces market and system operation rules
- Runs market and system operations through contracts
- Contracts for “dry year” reserves
- Sets grid reliability standards*
- Sets transmission pricing methodology*
- Develops transmission contracts and determines counterparties*
- Approves transmission investments
- Conducts electricity efficiency programs
- * Approval required from Minister of Energy

New Zealand fails to meet standards of regulatory independence

- With reference to Ashley Brown's talk at World Energy Regulation Forum III
- Government can change powers of regulator by changing Government Policy Statement
- Minister holds final authority in many areas
- Commissioners can be removed at any time without cause
- Commissioners have short terms (2 to 3 years)
- Some terms are coincident with government's
- Government's interactions with Commission are not transparent

Controversial Electricity Commission decisions

- Charged costs of HVDC link to So. Island generators
 - HVDC not included with HVAC system at postage stamp prices
- Declined to buy additional dry year reserves
 - Analysis showed sufficient generation in place
- Denied major transmission upgrade
 - Commission analysis found proposal did not meet least-cost standard and was not needed when gridco claimed

Why Electricity Commission lost government support

- Market reforms put in place by previous government
- Commission established by previous Minister of Energy, now Health Minister
- 4 changes of Minister in 1 ½ years
- Heavy lobbying by decision-losers
- New Minister of Energy not a senior minister
- Government inaccurately perceives massive problems in electricity sector, especially lack of transmission

Government response

- Delayed re-appointments
- Pressured Commission to negotiate with gridco
- Changed Government Policy Statement
- Appointed second former gridco board member to Commission
- Sacked chair
- Appointed former associate of deputy prime minister as acting chair
- Could not change rules – statutory prohibition

Methods of political accountability without direct control

- Appointments
- More specific statutory direction
- Reports
 - Statement of Intent
 - Annual report
 - Quarterly reports
 - Annual audit
 - Performance audit
- Budget appropriation
- Hearings
- Consultations required
- Performance standards