



24 February 2004

EXEMPTION NOTICE – Application #2

This Exemption Notice is issued by the Electricity Commission, formally constituted as the Electricity Governance Board (“the Commission”), pursuant to Regulation 194 of the Electricity Governance Regulations and Rules 2003 (“the EGRs”) in favour of Energy Clearing House Ltd (“ECHL”).

Subject to the terms and conditions imposed upon ECHL as noted below, the Commission hereby grants ECHL an exemption from the requirement to comply with the following Electricity Governance Rules:

1. All rules in Part D (metering arrangements).

Exemption Notice to appear in the *Gazette*

Regulation 194(2) requires that an exemption, and the Commission’s reasons for granting it, must be notified in the *Gazette* as soon as practicable after being granted. Accordingly, the exemptions the subject of this Exemption Notice and the Commission’s reasons for granting them, shall be notified in the *Gazette* on 26 February 2004.

Terms and Conditions of Grant of Exemption

Pursuant to Regulation 194(1), the Commission may, in its discretion and upon the terms and conditions (if any) that it thinks fit, grant an exemption. In respect of the exemptions contained within this Exemption Notice the Commission imposes the following terms and conditions:

1. The exemption only applies to the extent that ECHL has retailer obligations as a result of ECHL discharging its obligations in ECHL’s role as clearing manager under the EGRs.

Board’s Reasons for Granting the Exemptions Contained in this Notice

Pursuant to the requirements upon the Commission contained within regulation 194(3), the Commission has, before granting the exemptions contained within this Exemption Notice:

- (a) had regard to section 172N of the Electricity Act 1992 (“the Act”),
 - (b) subject to Regulation 194(4), publicised its intention to grant the exemptions;
- and

- (c) had regard to any views that have been made known to the Commission within the time specified by the Commission.

The reasons for granting the exemption are as follows:

- (a) The definition of "Electricity Retailer" in the Act includes ECHL in its capacity as clearing manager as the definition includes parties who sell electricity to another party other than for the purposes of resupply.
- (b) ECHL is concerned that it is possible to construe the definition as placing unintended obligations on them. A specific obligation would be for ECHL to provide metering equipment for some direct connect consumers. It is possible that other amendments to Part D would add further unintended obligations on ECHL as a result of the definition of "retailer".
- (c) The Commission considers that ECHL should not have any obligations as a retailer in respect of Part D by virtue of its role as clearing manager.
- (d) The Commission is unable to identify any participants who would be unduly affected by the grant of the exemption.
- (e) The Commission has decided it is appropriate to exempt ECHL from this obligation while ECHL continues in its role as clearing manager.

Date upon which the Exemption becomes Effective

Pursuant to Regulation 195, the date upon which the exemption contained in this Exemption Notice takes effect, being a date which is not earlier than the date of the *Gazette* notice in respect of the exemption, is 1 March 2004.

For and on behalf of the
ELECTRICITY GOVERNANCE BOARD

Roy Hemmingway
Chairman