

28 August 2009

Dr Mark Berry
Chair
Commerce Commission
PO Box 2351
WELLINGTON 6140

Dear Dr Berry

Marlborough Lines Cross-Submission – Cost of Capital

Marlborough Lines commissioned a report on the Commerce Commission's approach to estimating the cost of capital from e-dec Limited, a Wellington based economic consultancy.

Unfortunately owing to matters beyond our control this report was not forwarded to the Commission as part of a submission on this matter.

Marlborough Lines was party to the submission on this subject from PricewaterhouseCoopers.

We now enclose the e-dec report as a cross-submission on this subject. We urge the Commission to take into account the views expressed in that report, which we fully support. We believe it is essential that the Commission's regime does not lead to barriers to investment. As outlined in the August 2006 Government Policy Statement, there is a need for regulated rates of return to be commercially realistic.

Both LECG and Telecom argue against the Commission's reliance on tax adjusted CAPM for estimating the cost of equity. In particular, Telecom suggest a "back to basics" approach under which the appropriate model is determined on a case by case basis, rather than simply assumed to be the tax adjusted CAPM.

The Major Electricity Users Group (MEUG) suggest the Commission should use zero leverage when estimating WACC. However, as outlined in the ENA cross-submission, the conclusion that leverage is an inefficient form of financing for infrastructure firms is contrary to the capital structures these businesses employ in practice.

The e-dec report takes issue with the Commission's Draft Guidelines and with the submissions of other parties by urging a broad view to Regulation, starting with the purpose of regulation, and then designing regulatory instruments to pursue this purpose. This differs from the Commission, LECG, Telecom and MEUG positions, which are concerned with the details of CAPM and WACC, and which do not address the suitability of these tools for the Commission's purposes.

We would be pleased to discuss any aspect of this cross-submission with you should you so require.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DW', is positioned above the typed name.

David Waters
Deputy Chief Executive