



**THE ENERGY COMPANIES (OTAGO POWER LIMITED) VESTING
ORDER 1993**

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CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of April 1993

Present:

THE HON. DOUG KIDD PRESIDING IN COUNCIL

PURSUANT to section 47 (1) of the Energy Companies Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister of Energy, hereby makes the following order.

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ORDER

1. Title—This order may be cited as the Energy Companies (Otago Power Limited) Vesting Order 1993.

2. Interpretation—(1) In this order, unless the context otherwise requires,—

“The Act” means the Energy Companies Act 1992:

“The Board” means the Otago Electric Power Board:

“The company” means Otago Power Limited:

“Consumer” means a person who, at the close of the 31st day of March 1993, had an agreement with the Board for the supply, by the Board, of electricity to that person.

(2) Expressions not defined in this order but defined in the Act have, in this order, the meanings so defined.

3. Appointment of date for vesting of undertaking of Board in successor company—The 1st day of May 1993 is hereby appointed as the date on which the undertaking of the Board shall, by virtue of section 47 (1) (a) of the Act, vest in the company.

4. Shares held by Board in company—On the 1st day of May 1993, all of the shares held by the Board in the company at the close of the 30th day of April 1993 shall, by virtue of section 47 (1) (b) of the Act, vest in Robert Adam Burnside and Duncan Leishman Garvan jointly in their capacity as nominees on behalf of all consumers.

5. Equity securities to be issued by company—(1) The equity securities that shall be issued by the company consequent upon the vesting in it of the undertaking of the Board shall be—

(a) 15,346,800 fully paid up ordinary shares of \$1.00 each issued at a premium of 50 cents on the terms specified in the articles of association of the company; and

(b) 7,673,400 fully paid up redeemable preference shares of \$1.00 each on the terms specified in subclause (2) of this clause.

(2) The equity securities referred to in subclause (1) (b) of this clause shall be issued on the following terms:

(a) The equity securities shall be issued at a par value of \$1.00 each:

(b) Dividends on the equity securities shall be payable at a fixed rate of 7.29 percent per annum unless there are insufficient profits available for distribution at the date that dividends become payable (in which case no dividend shall be payable):

(c) Dividends on the equity securities shall be paid each year on the 1st day of April and the 1st day of October:

(d) Dividends on the equity securities shall be fully imputed to the extent that imputation credits are available:

(e) The equity securities shall rank ahead of ordinary shares on a winding up:

(f) The holders of the equity securities shall have the right to vote at meetings of shareholders of the company only when the company is in default in the payment of a dividend on the equity securities:

(g) Subject to paragraph (h) of this subclause, the company may, on giving 7 days' notice to the holders of the equity securities of its intention to do so,—

(i) Redeem some or all of the equity securities; or

(ii) Convert some or all of the equity securities to ordinary shares as follows:

(A) 2 ordinary shares shall be issued for every 3 of the equity securities converted:

(B) The ordinary shares shall confer rights to be paid a dividend in lieu of the right to a rebate provided for in the articles of association of the company:

(h) Where some of the equity securities are redeemed or converted in the manner set out in paragraph (g) of this subclause, the same proportion of each holder's equity securities shall be redeemed or converted:

(i) The equity securities shall be freely transferable:

(j) The equity securities shall not confer on their holders any rights to rebates and shall not be counted as qualifying shares that are to be held by consumers in order to be eligible for rebates:

(k) Except as provided in this subclause, holders of the equity securities shall have the same rights as holders of ordinary shares in the company.

(3) Subject to subclauses (5) (a) and (6) of this clause, the equity securities referred to in subclause (1) (a) of this clause shall be issued to consumers, with the number of equity securities issued to each consumer determined in accordance with the following formula:

$$\frac{X}{Y} \times 15,346,800 = Z$$

where:

X is the number of kilowatt hours of electricity supplied by the Board to the consumer during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and

Y is the total number of kilowatt hours of electricity supplied by the Board to all consumers during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and

Z is the number of equity securities to be issued to the consumer.

(4) Subject to subclause (5) of this clause, the equity securities referred to in subclause (1) (b) of this clause shall be issued to consumers with the number of equity securities issued to each consumer determined in accordance with the following formula:

$$\frac{X}{Y} \times 7,673,400 = Z$$

where:

X is the number of units of electricity supplied by the Board to the consumer during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and

Y is the total number of units of electricity supplied by the Board to all consumers during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and

Z is the number of equity securities to be issued to the consumer.

(5) Notwithstanding anything in subclause (3) or subclause (4) of this clause,—

(a) No consumer shall be entitled to be issued with more than 1,000,000 of the equity securities referred to in subclause (1) (a) of this clause; and

(b) No consumer shall be entitled to be issued with more than 500,000 of the equity securities referred to in subclause (1) (b) of this clause.

(6) Notwithstanding anything in subclause (3) of this clause, a minimum parcel of 100 of the equity securities referred to in subclause (1) (a) of this clause shall be allocated to each consumer who, on the application of the formula referred to in subclause (3) of this clause, would receive fewer than 100 such equity securities.

(7) Where any of the equity securities referred to in subclause (1) (a) of this clause are not initially allocated to consumers in accordance with subclauses (3), (5), and (6) of this clause, those equity securities shall be issued to each consumer (other than a consumer who, except for the restriction set out in subclause (5) (a) of this clause, would have been allocated more than 1,000,000 of those equity securities), with the number of equity securities issued to each consumer determined in accordance with the following formula:

$$\frac{X}{Y} \times A = Z$$

where:

- A is the number of equity securities that, by reason of the restriction set out in subclause (5) (a) of this clause, are unable to be issued to consumers; and
- X is the number of kilowatt hours of electricity supplied by the Board to the consumer during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and
- Y is the total number of kilowatt hours of electricity supplied by the Board to all consumers during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993 to consumers who are to be allocated equity securities in accordance with this subclause; and
- Z is the number of equity securities to be issued to the consumer.

(8) Where any of the equity securities referred to in subclause (1) (b) of this clause are not initially allocated to consumers in accordance with subclauses (4) and (5) of this clause, those equity securities shall be issued to each consumer (other than a consumer who, except for the restriction set out in subclause (5) (b) of this clause, would have been allocated more than 500,000 of those equity securities), with the number of equity securities issued to each consumer determined in accordance with the following formula:

$$\frac{X}{Y} \times A = Z$$

where:

- A is the number of equity securities that, by reason of the restriction set out in subclause (5) (b) of this clause, are unable to be issued to consumers; and
- X is the number of kilowatt hours of electricity supplied by the Board to the consumer during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993; and
- Y is the total number of kilowatt hours of electricity supplied by the Board to all consumers during the period commencing on the 1st day of April 1989 and ending with the close of the 31st day of March 1993 to consumers who are to be allocated equity securities in accordance with this subclause; and
- Z is the number of equity securities to be issued to the consumer.

(9) The equity securities referred to in subclause (1) of this clause shall be issued on the 1st day of June 1993.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order is made pursuant to section 47 (1) of the Energy Companies Act 1992. The order appoints 1 May 1993 as the date on which the energy undertaking of the Otago Electric Power Board shall vest in its successor company, Otago Power Limited. The order—

- (a) Provides for the vesting of the shares held by the Board in the company by virtue of section 47 (1) (b) of the Act; and
- (b) Specifies the equity securities that shall be issued by the company consequent upon the vesting in it of the undertaking of the Board; and
- (c) Specifies the persons to whom those equity securities shall be issued.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 April 1993.
This order is administered in the Ministry of Commerce.