

**INQUIRY INTO THE CONTINUED PUBLIC OWNERSHIP
OF SNOWY HYDRO LIMITED**

Organisation:

Name: Ms Acacia Rose

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Theme:

Summary

Marie Burton - Fwd: Response to Snowy Hydro Submission

From: Rebecca Main
To: Marie Burton
Date: 13/07/2006 9:03 AM
Subject: Fwd: Response to Snowy Hydro Submission

>>> Acacia Rose _____; 12/07/2006 2:33 pm >>>
12 July 2006

Hello Gordon

There are of course, ongoing areas for Inquiry.

I have carefully read the Snowy Hydro Limited submission and wonder if you could kindly read my response.

It appears more patently apparent that the shareholder governments intended to corporatise at the time of the establishment of the NEM and almost certainly had the intent to eventually privatise the asset.

I think that the incumbent Board and Executive therefore, at the time of corporatisation, fully believed that their brief was to ready the asset for privatisation and they have delivered what they feel is a workable market approach to position the asset. This is an erroneous belief and approach in that the community was not aware and remains focussed on water as the primary issue, with energy as the income generator to look after the Scheme in perpetuity.

The strenuous opposition by the people involved in privatisation is understandable as their good energies have perhaps been used in the wrong sphere, with the wrong utility, at the wrong time and against public opinion.

Their hopes and dreams may have been realised in a private company, but not necessarily so considering international trends and problems with both NEM, vertical integration and the move towards re-nationalising utilities.

The argument for 'change, growth, moving forwards' is possibly very out of date and may not be applied to the direction for the Snowy Scheme. The new models are much more sensible and sustainable.

With regards

Acacia Rose

**NSW Legislative Council Inquiry Into
The Continued Public Ownership of Snowy Hydro Limited**

**Response to
PRELIMINARY SUBMISSION FROM SNOWY HYDRO LIMITED**

7 July 2006

Acacia Rose

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1. INTRODUCTION

- 1.1 By invitation, this submission is a response to the first public submission by Snowy Hydro.
1.2 The Structure of this submission respectfully mirrors the major points of interest arising from the Snowy Hydro Submission as it addresses the Terms of Reference

PART ONE

SNOWY HYDRO CORPORATE FORM AND STRUCTURE

As stated in the Snowy Hydro submission, the three 'shareholders' of Snowy Hydro are the Sovereign governments.

May I submit that the apportioning of 'shares' reflect all Australian people and their representative governments rather than the original apportioning according to population statistics mostly for NSW and Victoria.

Secondly, the term within the legislation that the 'Finance Minister' may 'hold and dispose' of shares must be discussed and amended to better reflect national ownership of the asset and also, that the Australian population has already expressed its wish that the governments do not sell Snowy.

3. CORPORATE GOVERNANCE

The Involvement of Shareholders in the Management of the Company

Rules 17 & 18 firmly implicate permission / complicity by the shareholders prior to (a) acquiring debt, asset or investment and (d) entering significant partnership or joint venture, (e) undertaking any material financial or capital restructuring (f) change the nature or scale of the company's activities (h) appointment of external administrator (k) any other thing in relation to shares and (3) appoint a nominee director. Additionally, (3.3) the directors must act for proper corporate purpose and the best interests of the company as a whole (primarily financial duties and trading arrangements).

Upon close examination of the financial approach and performance of Snowy Hydro Trading P/L, it is clear that its direction is significantly successful in terms of its positioning in the NEM and capacity to accrue good earnings for the corporation. In this, the directors and executive of Snowy Hydro have demonstrated their capacity and professionalism.

However, serious questions must be asked about the corporate model in terms of government decision making particularly, transparency and consultation with the broader community prior to changing the nature and course of Snowy Hydro, including acquiring additional assets including Red Energy, the open cycle gas-fired plant and other ventures.

The change in strategic direction of the Snowy Scheme under the corporatised model was not subject to public scrutiny nor raised during the public conversation on corporatisation at the time when the community was deeply concerned about the primary need of environmental flows to the rivers. This lack of transparency and representation must be addressed by establishing a Community Consultative Committee comprised of the broad stakeholder groups. This Committee may also give direction to government in terms of the appointment of directors and to broaden the term 'best interest of the company' to better reflect social and environmental indicators.

4. REGULATORY ARRANGEMENTS

NEM Considerations.

An independent study of the risk management proposal for NSW electricity businesses challenges the assertion that the private sector is better able to manage and deal with risks to consumers more efficiently and presumably lower prices.

'In California, nearly all the retail companies were forced in chapter 11 bankruptcy protection as a result of wholesale price rises they could not pass on to consumers. In New South Wales, there are two classes of consumer. Large consumers and small consumers that have opted to switch (an option for small consumers since January 2001) are known as negotiated customers, while those that remain with their local company on regulated terms are known as regulated small retail consumers. The proposal assumes that this risk only arises with negotiated customers because for regulated consumers, the retailers are protected from unexpected rises in the wholesale market by the Electricity Tariff Equalisation Fund (ETEF). If the trader could buy more cheaply from the wholesale market than it sold to contracted consumers, the trader would make a profit, if it paid more, then it would make a loss.

The traders would sign contracts with retailers at predictable prices that the retailer could be sure to recover from its consumers. If the trader also signed matching deals with retailers, this would reduce the incentive to force up the price, but this would effectively be 'integration', which the paper, rightly, says would be undesirable if the objective was to create a competitive electricity market.¹ If wholesale traders buy directly from publicly-owned generators under their 5 year contracts and sell to final consumers, the wholesale market would effectively be by-passed and the whole point of the reforms would be lost.

This raises the issue, what sort of company would enter as a trader? Following the demise of Enron, it is far from clear that there would be many companies willing to take such risks. Many large utility companies, such as TXU, Southern Company were inspired by Enron, in the 1990s to open 'trading floors' that would buy and sell power and arbitrage between markets, for example, between the gas and electricity markets. The demise of Enron led to a disillusionment with trading both from the companies who realised the scale of risk they were running and from public authorities who realised the scope for market manipulation trading led to and, almost without exception, these company trading floors have been closed.

It seems highly unlikely given the scale of risks involved that large companies would expose themselves to such risks. The only companies likely to be interested would be small companies with minimal assets or subsidiaries of large companies who would not expose their core assets to risk.

To illustrate the scale of the risks for companies trading wholesale power, let us assume the wholesale price is about A\$50/MWh: the value of a year's output of, say, Delta Electric's 4200MW of plant would then be about A\$1900m. Let us assume the wholesale price fell by 40 per cent, as happened in Britain in the period 1998-2002: then the income of the trading company would fall by A\$750m per year. What sort of company could sustain such losses without going bankrupt?

It should be remembered that TXU, which had an apparently strong position in the British market, owning about 6000MW of plant and supplying about 5 million consumers very quickly had to exit the market in 2002 because it had over-contracted for power from a generator and at prices that turned out to be above the market. This in turn put the company it had contracted power from out of business in the UK (the UK division of AES) and also put the company supplying the coal to the contracted plant in serious difficulties. So three companies, all with substantial assets, were essentially bankrupted very quickly once the wholesale price began to fall and an error in contracting was exposed. Many of the losses ultimately still fell on consumers/tax-payers.

The paper specifies that the five-year contracts would not be subject to renegotiation, but of course if the trader went bankrupt, a new trader would have to be bought in. Clearly potential candidates would have seen the experience of the previous incumbent, and the fees would be much less advantageous to the generator, so the contract would effectively be renegotiated.' (New South Wales Government Energy Directions Green Paper: Comments by Public Service International Research Unit, University of Greenwich, London: Steve Thomaa February 2005)

¹ The Treasury paper states: 'The Government will also not allow the risk management proposal to be used to re-integrate the NSW generators to reduce competition.' page iv.

Perhaps it is wise, that further research and analysis of the NEM be conducted to better consider the risks of the market and that, the private sector is by definition, better placed and equipped to manage risk on behalf of the small end consumers in particular, under the NEM model.

4.2 (3) Refinancing Government Debt.

The Commonwealth Governments must explain the assertion that Snowy Hydro owes \$800 million. Until corporatisation, the Australian people continued to pay for the Scheme and it does not appear genuine or seemly that the Commonwealth assume to shift this debt to the States by 'apportioning' shares in the asset, which they then undoubtedly hoped, would be shifted to the private sector after corporatisation. If the Commonwealth has a surplus, then it is right and seemly that they indeed absorb the alleged 'debt' that the Snowy Scheme owes, thereby, bypassing complicated regimes to shift costs and risks to the private sector.

4.2 (4) NSW Government Regulatory Regime

The assertion of the NSW Government that an objective under corporatisation was to bring the Snowy Scheme under its planning regime requires close examination. The Snowy Scheme was subject to limitation by the NSW Soil Conservation Service and later, National Parks and Wildlife Service and its legislation. After the 1997 Thredbo Landslide, the NSW Government brought planning in the alpine areas under their now defunct and discredited planning department (DIPNR). It would be wise that, the Snowy Scheme continue to be subject to the National Parks and Wildlife Act (1974) and also, properly observe the UNESCO Biosphere Reserve requirements and that the NSW Government consider that 'planning' may only be conducted with due respect for the natural resources of the Snowy Mountains including the inherent environmental limitations of the region.

4.2 (5) Environmental Flows for Snowy River

The assertion of the Victorian Government that it was not possible to implement environmental flows to the Snowy River prior to corporatisation equally, deserves the close scrutiny of the Committee. Alternative models within existing legislation may have proven more efficacious for the river, now suffering under the terms of the Snowy Water Licence that appear to be interpreted differently by the NSW Government and Snowy Hydro, then the commonly and widely held belief by the people of NSW and Victoria who fought for the restoration of environmental flows as a result of the Webster Inquiry and Expert Panel.

5. Legal Regimes

Properly, all governments and Snowy Hydro must observe environmental regulations and land use and planning laws including the EMP for the operation of the Snowy Scheme within KNP. However, all parties concerned are obliged to consider the 'spirit' as well as the 'letter' of the law and moreover, use common sense in the interpretation of planning and legislation particularly in terms of the drought conditions of the last years. It is not appropriate to attempt to influence either the representatives for the environment or farming communities that energy generation income may take precedence over the integrity of agriculture and environment. Indeed, if the core intent and behaviour of the corporatised Snowy Scheme, whether implicit or explicit, is to maximize profits within the NEM, then the Committee must address the need to revisit the intent of corporatisation and broaden the base to better reflect Australian life and the communities affected by the Snowy Mountains water catchment. No longer is it appropriate or acceptable to allow the elegance and professionalism of financial arguments to hold sway over the life and health of the biological universe that underscores

life. Unless of course, government wishes to live in outer space once they have completely wrecked the planet. May I strongly persuade the Committee to apply common sense and see 'privatisation' as a concept and ideology in its proper place as a facet only of human life and not the be all and end all, the goal of life. Already, the rivers have suffered enough as has life supported by those rivers. Money will not return health to the environment, rivers and agriculture. Common sense will.

PART FOUR Snowy Hydro – The Business

The assertion that Snowy Hydro is now a 'business' is concerning and indeed, is a direct challenge – not to the 'traditional' role of the scheme as a supplier of water for irrigation – to sobriety and caution. May I state more clearly, that I am deeply and gravely concerned that the 'business class' has appropriated a core utility. Whether one considers the environmental, agricultural or patent security needs of the nation, one must clearly understand that to protect such a key water and energy asset and infrastructure is in the national interest. To become subservient to 'business' or 'capital growth' or 'market position' or any other model that is essentially designed to generate 'profit' on a balance sheet is a complete abrogation of common sense, intelligent observation of the world around us, and responsibility to generations in the future. One may come from a spiritual, environmental, scientific, agricultural, business or any other perspective. However, to fail to understand the obvious need to maintain a public utility such as Snowy Hydro in public ownership in its entirety, including the management rights and ownership, means that there are other motivations at work that are inconsistent with both the national and public interest. If government cannot work within its budget and must attempt to privatize all or any part thereof, of a major public asset, then than government must come under close scrutiny.

May I express sympathy, for those whom the three shareholder governments recruited to Snowy Hydro Executive and Board, with the understanding that this public infrastructure would be privatized. Your anger must be directed to those governments and not to the public, the community of the Snowy Mountains and Monaro who understand this utility as it is. The Snowy Scheme must not be subject to purely 'business principles' and would be bettered administered attracting the best of business, water, environmental, agricultural, community and other professionals for the public interest. The suggestion that the community would like to see the Snowy Scheme become a 'museum' is naive and perhaps, more more to the intelligence of those who made the comment than to those for whom it was intended. The assumption that 'business' and the 'financial sector' is somehow superior to the rest of the community, including consumers, is erroneous and based on a very narrow base rather than broader experience and commitment to social, environmental and industry outcomes. Most of the world understands the need for sustainable activities and enterprises and this must be built into the education of business people rather than they attempt to impose a very limited view of the world onto 'ordinary' and 'uneducated' people. Wealth looks wonderful whilst you have it but will not necessarily guarantee social acceptance, a key to personal and emotional health. The damage felt as a result of the artificial and forced division in communication and understanding between recently recruited Snowy Hydro professionals and some members of the community is most regrettable and arises ostensibly from secretive governments attempting to fool the public about their intentions. The reparation of individuals and community health must be attributed in part, to this behaviour and the governments concerned must apologise to the individuals within Snowy Hydro and the community whom they have hurt and make appropriate reparation.

9.2 Scale

The 'open cycle' gas-fired plant Snowy has acquired will contribute, not just to 'generate significant quantities of electricity' but also, to greenhouse emissions. That Australia has

under the present Commonwealth Government, not ratified the Kyoto Protocol may change and thus, undermine the core growth strategy for Snowy to gain a stronghold in the NEM. The Committee may commission further studies into 'open-cycle' gas-fired plants globally, and consider the economic and environmental wisdom of this course of action.

<http://www.communitypower.com.au/35.0.html>

<http://wwf.org.au/ourwork/climatechange/cleanenergyfuture/>

http://bgg.mek.dtu.dk/publications/pdf/ecos01_open-cycle_indirectly.pdf

http://www.energy.qld.gov.au/power_stations.cfm

May I suggest that the Committee seek an independent expert opinion to examine the available research and literature, particularly in that, the commonly held belief is that open-cycle gas fired power stations are only slightly less polluting than coal-fired power stations. The first hyperlink report in particular, is pertinent to solving NSW Energy demands using a range of decentralized, renewable energy sources.

10. Red Energy and other Assets.

At face value, vertical integration through purchasing an electricity retailer will accrue income for Snowy Hydro. However, the Snowy Scheme has the capacity to generate sufficient income to retain a secure position in the market. Additionally, it is questionable whether the core strategy and purpose of the Scheme should be identified as a 'competitor' in the NEM. Security and other considerations must take precedence over profit. It would be wise and advisable for the governments of Australia to retain this utility for defence / security purposes alone. That the Snowy Scheme does generate funds for its maintenance is a great bonus and reflects well upon the original designers and planners. That the Scheme can provide electricity is in the public interest, particularly during times of international tension. This may prove to be an invaluable asset whereas Australia has subject itself to the sale of so many other key utilities arguably undermining sovereignty in practice as well as principle. May I suggest that the business professionals be used to keep this asset operable in the market, but that 'profit' be redefined and not understood to be the core reason for the asset to operate.

11. Snowy Hydro's Source of Revenue

The diversification of income for Snowy Hydro may be a positive move, however, the increasing emphasis on 'stock market' style trading off a key asset is somewhat obscene. Most Australians are more concerned about continuity and reliability of public services, including energy, water, transport and communications for example. Few people are genuinely obsessed or primarily occupied with the trading market only in that, there are risks inherent in the model that will ultimately be passed onto consumers rather than those who indulge in the market and its risks.

PART FIVE: SNOWY HYDRO'S STRATEGY

In this, there is ample room for discussion. In the first instance, it is imperative, that the future strategic direction of Snowy Hydro be determined by a much broader group of stakeholders and better reflect community attitudes, rather than the government's volition to privatise public property for their own balance sheet, and recruit professionals to achieve this goal. Whilst there have been positive outcomes already from the strategy to modernize the Scheme and bring in professional expertise, this must be moderated by a greater goal of satisfying diverse stakeholder needs and interests. The Committee may commission a working group to reconsider Snowy Hydro's Strategy. In the interim, it would be judicious for the public company to pause before entering any new ventures even if it thinks it can gain a stronger market position. Strategic vision and convergence may be achieved through the engagement of neutral and professional facilitators.

Elaboration

Many communities worldwide have actively achieved stronger engagement with management of public utilities and also, determining sustainable community development that will be desirable also for the Snowy Mountains and Monaro region and surrounding districts. The monies arising from Snowy Hydro arguably, would be better spent for example, on energy and water wise housing developments and infrastructure to absorb seasonal workers that underpin tourism in the winter months in particular. These developments will add to affordable housing and transport and enable Councils to achieve better regional planning in reasonable time frames. May I suggest that the monies arising from Snowy Hydro will be better spent in the public domain via the Snowy Water Fund rather than be divested into private interest.

<http://www.priorities.org/ecocitycharacteristics.htm>

<http://www.urbanecology.org.au/ecocities/#towardsecocities>

<http://www.context.org/ICLIB/IC08/Register.htm>

PART SIX: FINANCING SNOWY HYDRO'S STRATEGY

None of the 'Cash Cow', 'Risk Manager' or 'Major Player' models appear appropriate for a core infrastructure asset. May I suggest that alternative models be presented with the fundamental goal of upgrading and maintaining this asset in perpetuity. That it can regularly supply electricity and reticulate water for agriculture and the environment is sufficient reason to look after the Snowy Scheme without imagining other finance raising adventures that are neither necessary or warranted. It is difficult to convey to the financial community that people do not want to always make money and that, security and sustainability of assets and utilities are often far more important than income, particularly in terms of water.

PART SEVEN: WATER

Yes, the Snowy Scheme is still about water and will always be about water, no matter what the financial community attempts to say. Even the large players, the leader of Enron, ultimately was influenced through natural systems, through the health of the body, as was one of Australia's richest men, Kerry Packer. In the same way, the living earth influences all life and the key component of all living systems, all biological health, environmental integrity and ecological functionality, is water. We do not need to look far, we do not need to make much reference to the abundant global evidence of the breakdown in the biological integrity of the planet due to fossil fuel emissions, through pollution and human impact to realize that our environment is imperiled. Indeed, one may look at the alpine region itself and the 12 rivers that rise in the mountains and understand that our impact has been great. Our water is so scarce and critical to life in Australia that to consider 'financial models' and 'business options' above the need to conserve and carefully manage water, particularly the waters of the Snowy Mountains is sheer lunacy. That we allow ourselves to be seduced by the allurements of 'wealth' means that we have abrogated ourselves from human life, that we consider the 'budget' to define what it means to be a human being, community and civilization. Indeed, such a tragic reflection on the course, experience and education of our young people in Australia means that we must redress this problem through allowing young people to enjoy the natural features of the Snowy Mountains as they do, without polluting their minds. Allow them to understand nature where we ourselves have failed, often preferring an expensive car to the natural beauty of the world around us, and that, it is the basis of our lives.

After the Cooma Hearing, I admit that I felt most sad that the new corporate professionals were recruited under allegedly false pretences, believing that the Snowy Scheme would be privatized and the community equally, believed that it would not. Moreover, I think that is a

very sad course for humanity if we consider that 'profit' and 'wealth' alone are the basis for life. Health, happiness and wealth are complementary and we have much to share amongst us, but not one at the cost of the other. The health of the environment and people, the whole community comes first. If not, then of what value is wealth and from where, comes the happiness?

Yes, we can learn and benefit from the 'business' of Snowy Hydro, but so too, can the corporate people learn from the mountains as have so many generations, Indigenous and non-Indigenous. To the original inhabitants, residents and rightful 'owners' of the land have observed, the very seasonal nature of the Australian environment and dependence on water, determined their every step on this continent and so it must ours. If the stock market disappeared overnight, it would not concern many people. However, if our water supplies dried up and disappeared, it would affect every individual on this continent. Therefore, we must reappraise our understanding, approach and strategy. The Snowy Scheme is and will continue to be about water. It is not about the 'spot' energy market or about 'derivatives' or 'hedging'. My bet is on keeping our water catchments safe and generating sufficient energy for need not for greed. To ensure our catchments and rivers is in the interest of the safety and security of all Australians. To decentralize energy production as far as possible is far more sensible than to make people dependent on the 'grid'. The NEM and 'grid' and their allied market models are counter human security. To enable citizens to collect and store their own water is far wiser than large storage systems alone. To subject people in this or any other country to national 'markets' where large players have enormous power and influence is not just an abrogation of public responsibility, but highly irresponsible and potentially damaging. I for one have always aimed for complete self-sufficiency in terms of water, energy and waste management as well as food production. This of course, insures one against the big players who can increase prices, including some Councils who may increase rates when under pressure from their political masters, the State Governments, who in turn, are under political pressure from the Commonwealth and any of the above who may have vested interests in private sector profits.

PART EIGHT: LAND ISSUES

This land is public property. Snowy Hydro leases land from the public of NSW via the Department of Natural Resources and KNP. It is important that the fee structure for leasing the land is properly structured and examined during the course of the Inquiry. It is also conscionable that the fee structure for leasing water is addressed and that the 'transfer' of property to Snowy Hydro be considered inappropriate. These structures must remain in the property of all Australians and only be leased to Snowy Hydro under terms and conditions acceptable to broad stakeholder groups. Snowy Hydro must not consider the infrastructure or land to be its property. Snowy Hydro has gradually restricted access and it would be appropriate that all land and assets be considered public property, respected and protected accordingly. All recreation rights must be preserved.

PART NINE: HERITAGE

Until the Commonwealth has properly considered the nomination of Snowy Hydro for the National Heritage it would be wise and reasonable that no part, no asset or management function be considered for privatisation. Indigenous Heritage is also yet to be fully considered and the Indigenous stakeholders properly engaged and consulted in the future direction of the Snowy Scheme, including, through appointment to the Board.

PART TEN: OTHER

The community wishes for clarification that the Snowy Hydro Executive stood to gain from share options / other monetary gain from the proposed sale. The community would appreciate direct questions asked about pecuniary gain and that former and current Board members and

Executive appear under oath before the Inquiry in the fullness of their individual and collective memories, to offer up information / documents / beliefs / understandings about personal gain from the proposed privatisation of a patently, public asset.

The NEM appears to have been established around the time that proposals to corporatise the Snowy Scheme were in the pipeline. Would the Inquiry establish whether any of the three shareholder governments were involved in any capacity with industry in planning to corporatise / privatize Snowy in conjunction with the establishment of the NEM.