

Electricity Networks Association

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Dr Mark Berry
Chair
Commerce Commission
P O Box 2351
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Dear Mark

Submission on the Draft Recommendation to the Minister regarding the type of regulation to apply to Transpower

We refer to the recently published draft recommendation to the Minister of Commerce regarding the type of regulation to apply to Transpower New Zealand Limited (Transpower) (the Draft Recommendation). The Electricity Networks Association (ENA) represents New Zealand's 29 electricity distribution businesses (EDBs). Our members constitute a large proportion of Transpower's customer base and will be directly affected by the transmission prices and quality performance which will be regulated under the proposals currently being consulted on.

Individual price-quality regulation

1. The ENA is broadly supportive of the Commission's view that individual price-quality regulation be applied to Transpower, given that the legislation obliges the Commission to recommend one of the two forms of price-quality regulation under Part 4.
2. However, the Commission does not appear to have considered whether information disclosure regulation only would better meet the purpose statement. We raise this possibility as Transpower is 100% owned by the Crown and prior to the previous Part 4A of the Commerce Act it developed and implemented a statement of corporate intent and associated reporting mechanisms that placed similar disciplines on its pricing to that which we expect individual price-quality regulation would aim to achieve. We expect using Transpower's governance mechanisms to self regulate its pricing levels would be much more cost effective than having the Commission do so under Part 4. We note that the Electricity Governance Rules already place regulatory requirements on Transpower in respect of grid investments and pricing methodologies, and these would remain in place in the event that price-quality regulation under Part 4 did not apply.

3. Thus we suggest the Commission, on its initiative, broaden its assessment to include the possibility of no explicit price-quality regulation under Part 4
4. With respect to the individual price-quality option, we support the proposal for individual price-quality regulation to be based on full building blocks analysis underpinned by applicable Input Methodologies (IMs) combined with appropriate efficiency mechanisms. We believe this is necessary in order to ensure the regulatory framework is suitable for Transpower and its unique capital and operating expenditure profiles.
5. The individual price-quality regulation option also provides sufficient flexibility for the Commission to roll over components of the existing administrative settlement in the interim until robust capital and operating expenditure forecasts are available. This appears a pragmatic approach to implementing the new regulatory requirements.
6. We note that applicable IMs must be incorporated into the form of regulation that will apply to Transpower. Appendix A of the Draft Determination includes preliminary views on the IMs that would apply for individual price quality regulation for Transpower. Appendix A also includes for each IM, the Commission's initial view on the approach to be adopted. There is little supporting information included which explains how these initial views have been reached although we note that these are similar to those proposed in the June 2009 IM Discussion Paper and they are consistent with Transpower's Administrative Settlement. We understand that further opportunity for submissions on the IMs to apply to Transpower will be available in the coming months.
7. The ENA notes that the recommended IMs for Transpower in some instances differ to those which the ENA believes are appropriate for EDBs. We acknowledge that different approaches to IMs may be justified for Transpower given its unique position in the industry and the particular circumstances it faces over the forthcoming regulatory term. However, the ENA wishes to seek assurances from the Commission that the development of IMs for Transpower that differ from those that the ENA considers appropriate for EDBs will not compromise the development of the IMs applicable to EDBs.

Quality Standards

8. Section 54M (6) of the Act indicates that any section 52P determinations in respect of the quality standards of Transpower may only give effect to quality standards set by the Electricity Commission (EC). The Draft Recommendation includes recommended quality standards however it is not clear how these relate to those set by the EC and we seek clarifications as to the Commission's interpretation of section 54M in this respect.
9. The ENA wishes to highlight the need for regulatory processes applying to Transpower to provide for meaningful engagement of transmission customers (of which ENA members form a major part) in the setting of Transpower's performance measures. We note that ENA members have actively engaged in consultation on Transpower's quality requirements with the Electricity Commission. Specifically the Benchmark Agreement in Part F of the Electricity Governance Rules and the Common Quality Standards set out in Part C contain specific standards and reporting requirements for grid performance which have been widely consulted upon.

System Operator Services

10. The Draft Recommendation indicates that the Commission believes that system operator services form part of electricity conveyance and therefore are to be included in the scope of services to be regulated. However as set out in paragraph A21, the Electricity Governance Rules (EGRs) govern system operator services and Transpower has a contract with the EC for provision of services in accordance with the EGRs. Accordingly, we support the proposed exclusion of system operator services from the proposed price quality regulations.

Information Disclosure

11. The ENA believes that the information disclosure framework that applies to Transpower remains an important component of the overall regulatory regime to apply to Transpower. These requirements are long overdue for review however this should take place after IMs have been determined.

Energy Efficiency

12. Under section 54Q of the Act the Commission must promote incentives, and must avoid imposing disincentives, for suppliers of electricity lines services to invest in energy efficiency and demand side management, and to reduce energy losses. These incentives are intended to apply to Transpower and EDBs. The Draft Recommendation includes no indication of the Commission's plans for Transpower in respect of section 54Q. This is an important omission and we request that the Commission provides clarification to interested parties in how the proposed regulation for Transpower meets the section 54Q requirements.
13. ENA members also believe it is important for the Commission to align its approach to section 54Q for Transpower and EDBs. For example, there need to be transmission price signals that incentivise EDBs to reduce peak loads on the transmission system, and price regulation of EDBs needs to enable EDBs to benefit financially from reducing such peak loads.

Ministerial Review

14. The ENA also notes that the Minister of Energy and Resources' Ministerial Review of the Electricity Market (the Review) and the resulting Electricity Industry Bill are likely to result in changes in the governance of Transpower's electricity market responsibilities and how its pricing and capital expenditure regulations are managed. Some of these decisions are likely to impact on the Part 4 regulatory requirements for Transpower. Accordingly while we acknowledge the need to keep the process moving, we believe the Commission should retain some flexibility in the short term in order to incorporate the Review's findings and those contemplated under the Bill.
15. We also note that it is possible that Transpower's capital expenditure approval process will move from the EC to the Commission. Notwithstanding the possible future role for the Commission in this respect, EDBs (and generators) are directly affected by Transpower's investment plans and engagement with both groups of stakeholders should form an integral part of Transpower's capital planning and approval process.

Planned Workshop

16. Given the current commitments of our members to the Input Methodology workshops for electricity distributors, we will not be represented at the Transpower regulatory workshop in March. We will however review the transcript and respond in a post workshop submission should any issues arise during the workshop which the ENA wishes to address.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan Jenkins', with a long horizontal flourish extending to the right.

Alan Jenkins
Chief Executive
Electricity Networks Association