



# Todd Energy

27 February 2006

Transpower Post-Breach Inquiry  
Network Performance Group  
Networks Branch  
Commerce Commission  
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## **SUBMISSION RE COMMERCE COMMISSION'S "INTENTION TO DECLARE CONTROL RE TRANSPOWER NEW ZEALAND LTD" (31 JANUARY 2006)**

### **Introduction**

1. The largest dairy factory in the world is located in Whareroa, in the countryside south of Hawera. The factory's energy requirements (heat and electricity) are provided by an onsite gas-burning cogeneration plant. The plant is a joint venture between Todd and Kiwi Cogeneration (a Fonterra subsidiary).
2. The capacity of the cogeneration plant exceeds the requirements of the dairy factory. To take advantage of the surplus electricity, the plant is connected to Transpower's Hawera substation. This allows electricity to be sold to consumers in south Taranaki and nationally. Electricity is distributed to south Taranaki consumers across Powerco's local distribution network, which is also connected to the Hawera substation. Most of the surplus electricity from the cogeneration plant is used in south Taranaki.
3. Local generation, such as the cogeneration plant, has a comparative advantage over remote generation as electricity transmitted over long distances requires expensive infrastructure and is subject to energy losses through the dissipation of heat energy. Some people (including Todd) believe that local generation is a better solution for New Zealand than building new pylons to join geographically mismatched load and generation.
4. So, why aren't there more examples of local generation? Enter Transpower's pricing methodology.
5. As a matter of both physics and economics, electricity produced and consumed in south Taranaki does not stray from the Hawera substation onto the national grid. Indeed, the comparative advantage of local generation is that it avoids the need for national transmission. In economic terms, local generation substitutes for national transmission and reduces the need for large-scale transmission infrastructure. However, Transpower's pricing methodology undoes this advantage and prevents this substitution by charging for the transmission of electricity which enters one side of the Hawera substation (from the cogeneration plant) and exits from the other (to Powerco's local network) as if that electricity was being transmitted across the country.

6. Why does Todd continue to pay such charges? Why do we pay for a national transmission service that we do not use and do not want? This is where Transpower's pricing methodology gets more subtle.
7. Transpower refuses to deal with generators or retailers in relation to its national transmission (or "interconnection") service. Rather, Transpower will only deal with distribution companies such as Powerco. If Transpower would deal with us directly, we would challenge this practice as an unlawful tie. That is, a tie between services we use and are willing to pay for (such as, connection, voltage conversion and security of supply) and an unwanted, unused service (national transmission). On the other hand, distribution companies are not adversely affected by such charges; their natural monopoly means that they can clip the ticket, bundle Transpower's charges with their own and pass them on to retailers
8. In Todd's view, the clear effect of these practices is to:
  - (a) protect Transpower's revenue and insulate itself from competition at the edges of the grid by making it impossible for Todd or its customers to avoid national transmission charges;
  - (b) lessen competition in the retail delivered electricity market by neutralising the comparative advantage of local generators such as ourselves; and
  - (c) create distortions between distribution companies, who automatically avoid national transmission charges if they build local generation, and all other potential investors.

#### **Todd's litigation against Transpower**

9. Todd has protested against such charges since the Whareroa cogeneration plant was commissioned in 1996. Indeed, we commenced litigation against Transpower over such practices in 1999. Since then Transpower has applied to have the proceedings struck out on the basis of a misnamed party. Transpower lost. It then applied again on the basis that none of our causes of action were valid. Transpower lost on ten out of the eleven causes of action. Transpower has appealed this decision to the Court of Appeal, with a hearing scheduled for May this year. We have found the process of seeking change through the Court system to be slow and expensive.

#### **Todd's key submission**

10. This brings us to our key point in this inquiry.
11. We appreciate that the current inquiry concerns whether price control should be imposed on Transpower, rather than the form of any such control. However, in our view the Commerce Commission should, at this stage in the process, firstly, acknowledge that it has the power to modify Transpower's pricing practices (including the choice of counterparties and the existence of unlawful ties) directly through a section 70 authorisation, or indirectly as any future transmission pricing methodology approved under Part F of the Electricity Rules must be consistent with any decision of the Commerce Commission under either Part 4A or sections 70 to 74 of the Commerce Act (Rule 7.2.1.1, Section IV, Part F).

12. Second, in our submission, the Commission should take its ability to remove competition-reducing inefficiencies in Transpower's pricing methodology into account (at least in a qualitative sense) as a potential benefit of price control.
13. We would be happy to discuss these issues further.

Yours sincerely

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

Babu Bahirathan  
**Group Manager - Electricity**