

26 November 2010

Regulation Branch
Commerce Commission
Wellington

by email: regulation.branch@comcom.govt.nz

SUBMISSION ON INDIVIDUAL PRICE-QUALITY PATH (TRANSPOWER) UPDATE PAPER

- 1 Orion New Zealand Limited (**Orion**) welcomes the opportunity to make a submission on the individual price-quality path (Transpower) consultation update paper (the **update paper**) released by the Commerce Commission (the **Commission**) in November 2010.
- 2 Orion's comments are limited to the manner in which the Commission proposes to return the outstanding HVAC (**AC**) customer balance of Transpower's Economic Value (**EV**) account to AC customers.

EV adjustments

- 3 Orion did not comment on the initial consultation paper issued by the Commission on the individual price – quality path for Transpower.¹ This was not due to a lack of interest on our part. Rather, it simply reflects the fact that our resources were dedicated at that time to responding to the multitude of consultation papers relating to the proposed regulatory arrangements for electricity distribution businesses.
- 4 An aspect of the update paper with which we were particularly pleased was the Commission's proposal to accelerate the return of the AC customer

¹ Commerce commission Commerce Commission, *Individual Price-Quality Path (Transpower) Draft Reasons paper*, 25 June 2010



credit balance of the EV account. Orion and other industry participants have made a number of unsuccessful attempts over the years to have this credit balance returned to HVAC customers and we consider that further delay is unwarranted.

- 5 Indeed, the Commission raised the possibility of settling the outstanding balances as early as May 2003, when it stated in its Price Path Threshold Discussion Paper that:²

If the Commission were to decide to require Transpower to pay the EV amounts to its customers, the further issue arises as to how it could do this under the threshold regime.

- 6 The Commission went on to propose a number of alternative approaches to facilitating the accelerated return of the HVAC EV balance while balancing the interests of Transpower and customers. In response to this paper Orion commented:³

“We note that in respect to the change in valuation in 1998 Transpower’s chairman Sir Colin Maiden stated:

“The new valuation reflects the increased efficiency arising throughout the sector as a result of industry reforms, increased competition and technological change. For example, new generation is being located closer to demand. Technology is reducing both the cost of replacement transmission assets and the cost of transmission alternatives. The new valuation places Transpower in a strong position. Its current revenue is largely secured through contracts. The Directors are confident the company will now move to full recovery of its cost of capital during the next one to three years.”⁴

Transpower’s EV account indicates that in subsequent years they did indeed achieve an economic gain which Transpower repeatedly stated in their annual reports would be returned to their customers.

Orion considers that the most appropriate approach in view of the above would be for Transpower to return the existing balance in the EV account of \$126 million to customers. Then, set Transpower’s price path based on an updated Handbook. The different treatment of non-standard assets compared to standard assets needs

² Paragraph 8.32 Commerce Commission, *Regulation of Electricity Lines Businesses Targeted Control Regime Resetting the Price Path Threshold Discussion Paper*, 30 May 2003, page 117.

³ Orion New Zealand Ltd, *Regulation of Electricity Lines Businesses Targeted Control Regime Resetting the Price Path Threshold Commerce Commission Discussion Paper Submission By Orion*, 30 June 2003, p45.

⁴ Transpower, *Annual Report*, 1997/98.

to be addressed as the impacts of currency exchange rates will also impact on standard assets for all line businesses. This would then allow for a one-off P_0 reset for Transpower as we have previously indicated and enable them to achieve a reasonable return on their assets going forward.”

- 7 However, nothing was done at that time and Transpower’s Annual Report for 2009/10 continues to indicate an AC customer credit balance in the amount of \$108.8 million, ie:

Economic Gain (Loss) Account

Transpower operates its revenue setting methodology within an Economic Value (EV) framework that analyses economic gains and losses between those attributable to shareholders and those attributable to customers. The balance of the accumulated gain (loss) from monopoly activities attributable to customers (the EV balance) has been passed on to or claimed from customers over time.

The net balance of the EV account at 30 June 2009 was \$6.0 million to the credit of customers.

This balance is comprised of an AC customer credit balance of \$108.8 million and an HVDC customer debit balance of (\$102.8 million).

The 30 June 2010 EV account figures are expected to be finalised by 30 September 2010.⁵

- 8 We believe that the EV account should be returned in full to customers in the current regulatory period 2010/15. We recognise that this will require a significant financial outlay on the part of South Island generators – particularly Meridian Energy – who will need to pay the outstanding debit balance of the HVDC EV account. However, we do not believe this should discourage the Commission from requiring a swift and long overdue settlement.
- 9 Indeed, the prospect of settling the DC customer balances should come as no surprise to South Island generators. Since its Administrative Settlement⁶ in May 2008 Transpower has published annual Compliance Statements⁷ that have set out clearly the DC (and AC) balance, and a persistent deficit has been evident since that time. Contingencies should therefore have been made to cater for the possibility of that balance being collected.

⁵ Transpower Annual Report 2009/10

⁶ See: Commerce Commission, *Decision and Reasons for Not Declaring Control of Transpower New Zealand Limited & Decision to Reset Transpower’s Thresholds*, 13 May 2008.

⁷ See: Transpower, *Commerce Act (Transpower Thresholds) Notice 2008 Compliance Statement Assessment Date (30 June 2009)*, September 28, 2009, pp8-17; and Transpower, *Commerce Act (Transpower Thresholds) Notice 2008 Compliance Statement Assessment Date (30 June 2010)*, September 23, 2009, pp8-17.

- 10 Moreover, any detriment to South Island generators is likely to be offset by the benefits to AC customers of receiving a much needed credit at a time when transmission costs are increasing rapidly in response to the much needed investment in the sector.

Concluding remarks

- 11 Thank you for the opportunity to make this submission. Orion does not consider that any part of this submission is confidential. If you have any questions please contact Dennis Jones (Industry Developments Manager), DDI 03 363 9526, email dennis.jones@oriongroup.co.nz.

Yours sincerely

A handwritten signature in black ink that reads "D. L. Jones". The signature is written in a cursive, slightly slanted style.

Dennis Jones
Industry Developments Manager