



**Draft Optimised  
Deprivation Valuation  
Handbook and  
Information  
Disclosure  
Requirements**

**Powerco's response to the  
23 December 2003 papers**

**11 February 2004**



## Introduction

1. This submission is in response to the Commerce Commission's publication of draft papers on the Optimised Deprivation Valuation (ODV) Handbook and Information Disclosure Requirements, dated 23 December 2003.
2. With regard to the ODV Handbook, Powerco previously responded in detail to the questions raised by the Commission in its issues paper, dated 11 September 2003. In its submission, Powerco expressed concern that the Commission was focusing exclusively on the detail of the ODV valuation process, without considering the context of the overall regulatory framework.
3. In Powerco's view, the concerns raised in our earlier submission have not yet been addressed by the Commission. To put the issue plainly, in Powerco's view the asset valuation and information disclosure requirements should be tailored to meet the needs of the new regulatory arrangements.
4. Powerco is most concerned that the Commission is expanding its information requirements without due regard to the costs on the lines businesses or indeed the purpose to which the information will be put. This growing regulatory burden must ultimately be borne by customers through higher prices and/or lower levels of investment. To avoid this outcome, the Commission should be working to streamline and integrate the regime to minimise the regulatory burden on the lines businesses.
5. Powerco notes, for example, that the Commission has expanded the scope of the ODV valuation report, and its auditing. This increased scope of work contrasts with the relatively limited role of ODV in the new regulatory framework. In particular, ODV will only be relevant if a company breaches its price threshold or when thresholds are reset. It seems, therefore, that the increased ODV valuation requirements are out-of-step with the regulatory regime.
6. In summary, Powerco's view is that the Commission's primarily focused on ensuring that its ODV Handbook and information disclosure requirements are fit for purpose. With this objective in mind, Powerco's submission identifies a number of areas where the Commission's proposals could be further improved.



7. This submission is presented in two parts – the first part identifies a number of concerns with the ODV Handbook; whilst the second part addresses issues arising from the draft information disclosure requirements.
8. There are two matters which require more detailed consideration, and are examined in attachments 1 and 2. Attachment 1 addresses the issue of valuing easements from a legal perspective. It explains why easements cannot be considered to be intangible assets, and therefore easements must be included in the ODV assessment. In attachment 2, Powerco explains its concerns with regard to sub-divisions, where it appears that the existing information disclosure requirements are not being rigorously followed.

### **Part 1: Powerco's concerns with the draft ODV Handbook**

#### *General comments*

9. It should be noted that Powerco's previous submission expressed concern about the inadequate time available for the Commerce Commission's consultants to consider and respond adequately to the submissions received. We reiterate our concerns and reserve the right to make further submissions as needed. Indeed, as noted below, it is apparent that issues raised in Powerco's earlier submission have not yet been addressed.
10. Powerco welcomes a number of improvements in the draft ODV Handbook. In particular, Powerco supports the following aspects of the draft ODV Handbook:
  - the recognition that in some circumstances it may be more appropriate to follow the *philosophy* of ODV methodology rather than the *rules*;
  - the proposed treatment of fully depreciated assets, which is an improvement to the previous treatment; and
  - the requirement to consider the company's present design and construction practices in assessing any optimisation.
11. As detailed in the paragraphs below, however, in a number of areas the draft ODV Handbook is still not fit for purpose. Powerco is also very concerned that issues raised in its earlier submission do not appear to have been considered by the Commission or its consultants. The Commission is aware that effective consultation depends on a genuine



commitment to consider the views expressed by interested parties. Powerco urges the Commission to revisit our earlier submission and address the points raised.

### *Replacement costs*

12. Replacement costs are a critical element of an accurate ODV valuation. As noted below, it is disappointing that the Commission has not investigated the reasons for differences between the company's estimated replacements costs and those of the Commission's consultants. Powerco's view is that a constructive dialogue would result in appropriate replacement costs being established. Powerco would welcome such a dialogue in the coming weeks.
13. Specifically, the Commission's *revised maximum replacement costs* appear mostly lower than the submissions of the other large lines companies. For example, the new Table A1 asset categories of 33kV indoor and outdoor circuit breakers now have maximum replacement costs that are unrealistically low. Powerco accepts that it may be possible to purchase some types of 33kV switchgear at these prices, but this would exclude the costs associated with ancillary items such as current transformers, installation, design and overhead costs. In addition, the ODV Handbook does not provide sufficient flexibility to accommodate the costs of different ratings and types of switchgear that may be needed to satisfy particular design requirements.
14. Powerco therefore invites the Commerce Commission's consultants to advise where the prices for supplying and installing this 33kV switchgear came from. We would be interested in contacting the supplier/ contractor in order to receive the same deal. Powerco normally budgets on approximately \$80 thousand per 33kV circuit breaker installed indoor or outdoor excluding protection. We suggest that the replacement costs proposed are rather more applicable to 11kV switchgear.
15. The replacement costs and lives listed in Table A1 represent a cap on asset values and lives. To comply with the ODV Handbook, valuers are allowed to apply values less than those listed in Table A1 but not more, unless it can be demonstrated that an asset falls outside the category of a standard asset.
16. Powerco's previous submission noted that the values set out in the Handbook are actually average values suitable for use in valuations, and are not intended to be maximum allowable values. In theory, if several similar projects were compared,



the project cost profile would be expected to follow something like a normal distribution spread about the mean. Since the ODV Handbook sets out maximum replacement costs and lives, Powerco's view is that the Commission should explain how this maximum value has been derived with reference to the mean and standard deviation.

17. With regard to asset lives for buildings, Powerco is pleased to see that the Commerce Commission recognises that lives in the present Handbook applicable should be extended. We note that authorities require 50 years as a minimum design requirement. However, ELBs generally construct zone substation buildings with a design life of 70 years rather than the minimum required by the Building Code. A life of 70 years should be able to be ascribed.
18. Powerco would like to reiterate that its preferred position is that departures from standard replacement costs and asset lives should be permissible with the approval of a line business' valuer. This would provide a reasonable degree of flexibility in determining the ODV valuation, without unduly compromising the need for consistency across the lines businesses. Powerco urges the Commission to reconsider this issue.
19. Powerco welcomes the inclusion of traffic management costs in the draft ODV Handbook, as this is a legitimate cost to the business. However we are concerned that the allowances are too low. The Commission's consultants have not disclosed how their allowances were calculated. Powerco's earlier submission provided details of the composition of traffic management costs and concluded that the level of allowance should be 33% of urban light line, 22% of urban medium line and 19% of urban heavy line. Powerco is disappointed that the Commission does not appear to have considered these estimates in redrafting the ODV Handbook.
20. A similar concern arises in relation to cable multipliers. Powerco's earlier submission set out reasons why the proposed multiplier for business districts does not adequately allow for reinstating footpath and road surfaces. This showed that the multiplier should be in the order of 1.3 to 2.2 times the base Handbook cost. This does not appear to have been considered by the Commission in the draft Handbook or the ODV report.
21. With regard to the proposed values for LV cables in subdivisions (note k of Table A1), Powerco notes that these continue to be based on suburban subdivisions, even though



most subdivisions actually occur in a brownfields situation. Reticulation in suburban subdivisions usually involves laying cable in a trench with few difficulties associated with co-ordination with other services. In contrast, typical replacement tasks for the majority of LV cable involves care in digging around other services and higher associated cost. The differences in cost were plain to see in Powerco's earlier submission. Powerco submits that the replacement costs for LV cable in the draft ODV Handbook are too low and should be increased in line with our submission.

22. Powerco is similarly concerned that the Commission's proposed replacement costs for 33kV overhead line and cable; medium and heavy 11 kV overhead lines; 11kV underground cable; LV overhead service connections; and LV medium conductors are all below the levels in our submission.
23. Powerco's strongly held view is that the Commission should explain and justify the proposed replacements costs, especially as the company's costing are based on actual project experience. Powerco would like to remind the Commission that imposing unrealistically low replacement costs on the lines businesses will have a chilling effect on investment. It is therefore essential that the Commission enters into a detailed discussion with Powerco before finalising its replacement costs.

#### *Stranded asset risk*

24. It is important for the Commission to realise that exposing lines businesses to stranded asset risk will severely dilute incentives to invest. In Powerco's view, the regulatory regime does not provide sufficient return to remunerate lines businesses for any stranded asset risk. It is therefore imperative that the ODV Handbook does not seek to strand assets.
25. One possible source of asset stranding risk in the draft ODV Handbook is the economic value test. Whilst Powerco welcomes the removal of the requirement to conduct an economic value test on rural distribution spurs, the test remains in place for some assets. Powerco's view is that the cost of implementing the economic value test exceeds any possible benefit, and the test should therefore be removed from the Handbook.
26. Another source of asset stranding is the proposed approach with respect to the planning period. Powerco welcomes the increase in the planning period to accommodate future



growth, but the Handbook is still too restrictive. It will effectively lead to inappropriate asset stranding.

27. For example, a new sub-transmission cable would usually be designed with a rating greater than the capacity required at the standard planning period horizon. This is because the cable will remain in service for a much longer period than the planning horizon and when capacity is exceeded, a second cable would be required. The least cost asset in total life cycle terms is generally one larger cable laid at the outset.
28. Similarly, the draft Handbook does not provide any spare capacity for distribution transformers to account for future load growth. However, it is normal engineering practice to size the distribution transformer to minimise the total life cycle costs of the project. In particular, the distribution substation, the low voltage network and network loss costs, must all be considered. In Powerco's view, if the criterion for optimising distribution transformers outlined in the draft Handbook were used for design purposes, the resulting design would typically be sub-optimal.
29. In Powerco's view, the planning periods adopted for valuation purposes should be set by the Lines Companies, and the "used or useful" concept should apply to valuing the relevant assets.

#### *Exclusion of assets from the valuation*

30. As noted earlier, it is imperative that the ODV Handbook is consistent with the new regulatory regime. In particular, Powerco has repeatedly argued that the asset valuation for ODV is not fit for purpose when considering price control or threshold arrangements. Nevertheless, the Commission has continued to rely on out-of-date valuations for the purposes of setting the threshold regime. Powerco is not aware of any other regulatory regime which employs inappropriate asset values to set prices. In our view, the Commission has embarked upon a costly regulatory experiment.
31. It is essential that the Commission corrects the shortcomings with the ODV valuations in the very near future. Specifically, in addition to using the right replacement costs (as noted above) the Commission must include all assets required to operate the regulated business. Lines businesses cannot run sustainable businesses if some assets are excluded from the rate base.
32. Powerco's main concern in this regard arises in relation to easements and intangible assets. In our view, the exclusion



of these assets from the ODV assessment is anomalous from both a legal and economic perspective. Powerco requests that the Commission carefully considers and responds to the views presented in attachment 1. Under separate cover, Powerco intends to provide the Commission with further evidence on asset valuation from an internationally respected regulatory specialist.

33. Powerco also notes that the Commission proposes to exclude streetlighting and load control relays from the asset base. In Powerco's view, assets that are integral to the provision of regulated services should be included in the ODV valuation. Unless the asset valuation and regulated services are matched in this way, the ODV valuation cannot be relied upon to set regulated prices (or thresholds). On this basis, load control and streetlighting should be included in the rate base if they are used in the provision of regulated services.
34. A complication arises where services transition from regulated to contestable status. If a service is contestable, then the assets used in providing that service should be excluded from the ODV valuation. This will ensure that the Commission can use the asset valuation in setting thresholds or price control. Therefore, ODV Handbook should specify that the ODV valuation should capture only those assets that are integral to the provision of regulated services. This would provide lines businesses with flexibility to include or exclude assets according to that principle.

#### *Network Losses*

35. In electricity network design there is a trade off between the capital cost of networks and the minimisation of network losses.
36. Larger sizes of conductors will reduce the quantity of electricity losses but the capital cost and asset value is increased.
37. Engineering/economic theory dictates the point at which this trade-off is optimum.
38. The rules for optimisation in the ODV Handbook however do not specifically allow for this situation and may require asset values chosen for the optimisation of losses to be written down.

39. This is not an efficient outcome and in our view the ODV Handbook should specifically and proactively provide for the engineering efficient line size resulting in optimised losses.

### **Powerco's concerns with the draft information disclosure regulations**

40. Powerco welcomes the opportunity to provide comments on the Commerce Commission's Draft Electricity Information Disclosure Requirements.
41. Powerco recognises that the current Electricity (Information Disclosure) Regulations 1999 serve a valuable purpose, namely to keep end-users of electricity informed of the charges made by lines companies, and what constitutes those charges, including background information in the form of pricing methodologies and asset management plans. Powerco appreciates that this information is helpful to end-users and ensures transparency in the pricing and charging mechanisms of lines companies.
42. However, for end-users to benefit from the disclosure regime the Regulations must be both comprehensive and effective, otherwise the information disclosed could be misleading. Powerco is concerned that a lack of clarity within the Regulations may be enabling certain lines companies not to disclose information regarding charges within sub-networks, to the detriment of consumers within those sub-networks. This issue is considered in detail in attachment 2.
43. Powerco notes that the Commission has embarked upon a two stage process with regard to the information disclosure requirements. In this first phase the Commission is largely replicating the current regulations, and aligning them with the definitions and processes set out in the Commerce Act. Powerco particularly welcomes the second phase of the process, where the Commission intends to refine and develop the requirements. As noted earlier, Powerco is very concerned that the information disclosure requirements are integrated effectively with the new regulatory regime. It is crucial that the Commission resists the temptation to seek additional information for its own sake, without due regard to the associated costs.



44. In this regard, Powerco notes that seeking to extend the information provisions can also have unintended and undesirable consequences. A case in point is the requirement to disclose transfer payments (clause 8, part 2 of the requirements) beyond the requirements of GAAP.
45. Where contestable services are provided by a related entity, publicly disclosing the transfer price will compromise the commercial position of the service provider. In effect, the proposed disclosure requirements place related entities at a commercial disadvantage with respect to competitors. The Commission must realise that such public disclosure of confidential information would have a deleterious effect on customers, whilst serving no regulatory purpose.
46. Powerco has no difficulty in providing transfer price information to the Commission on a confidential basis. However, the concern raised here illustrate that the Commission must take care in simply expanding the regulatory requirements without due regard for the consequences. To avoid such issues arising, phase 2 of the Commission's work should specifically address the issue of confidentiality.



## ATTACHMENT 1:

### Treatment of easements from a legal perspective

#### *Introduction*

1. Powerco considers that all easements should be classed as system fixed assets. Easements are an interest in land, and grant Powerco a bundle of rights, including the right to enter onto private land to install and maintain electricity works, and convey electricity through those works. Without easements, other system fixed assets such as lines and feeders would be useless. An easement is therefore used and useful until such time as an electricity line is decommissioned.
2. Currently the effect of the ODV Handbook is that easements acquired after 1 January 1993 are treated as system fixed assets, whereas earlier statutory rights granting the same benefits and privileges are not. This distinction in the treatment of what amount to the same rights is meaningless and should be removed.
3. In this submission, Powerco uses the term “easement” to mean rights of access over land for installing and maintaining electricity works, regardless of when those rights were acquired.

#### *Current provisions*

4. “System fixed assets” are currently defined in the Electricity (Information Disclosure) Regulations 1999 (“**Regulations**”) as:

... **all fixed assets** of a line owner that are **used or intended to be used for the conveyance or supply of electricity**; but does not include—

- (a) Stores and spares over and above any levels prescribed in the ODV Handbook; or
- (b) Works that are under construction:

“**Fixed assets**”, in relation to the business of a line owner,—

- (a) Means—
  - (i) Those line business **assets** of the business **that are tangible in nature** and have a relatively long useful life; and



- (ii) The capitalised value of any line business assets of the business that are subject to a finance lease; and
    - (iii) Any works that are under construction and will be used for the purposes of any line business activity of that line owner; but
  - (b) **Does not include—**
    - (i) **Any intangible assets**; or
    - (ii) Any security:  
(emphasis added)
5. "Intangible assets" are defined in clause 2 of the Regulations using the circular definition "total intangible assets (including goodwill) as shown in the statement of financial position for the financial year".
6. Under the present ODV Handbook, easements are dealt with in the following way. Appendix A para (q) provides that easements that qualify for assessment should be recorded on any asset register for ODV purposes. Appendix B para B.29 states that "[o]nly easement rights obtained and registered against a land title after 1 January 1993 ... and paid for, can be valued provided that the sum has not already been expensed."

#### *Draft Handbook*

7. In Appendix A to the Draft ODV Handbook, para A.29 repeats para B.29, except that it adds that easement rights obtained and registered against a land title after 1 January 1993 may be valued **at the purchase cost**, provided that the sum has not already been expensed (emphasis added).
8. The draft Handbook perpetuates the current approach that intangible assets are not to be included in the asset base for ODV purposes. The only material change is the requirement that those easements that can be valued must be valued at purchase cost.
9. There is an inherent inconsistency in both the current and draft Handbooks in that both deem intangibles not to be system fixed assets, yet both require certain easements (i.e. those registered after 1 January 1993 that have not been expensed) to be included in the asset base, thereby acknowledging that *some* easements are tangible assets.
10. Either all easements are intangible and not eligible for inclusion in the regulated asset base, or they are all tangible



and may therefore be classified as system fixed assets. The current approach of differentiating between types of easements depending on when and how they were acquired is both artificial and inaccurate. If an easement was acquired prior 1993 then this may be relevant to how that easement is valued, but it is not relevant to whether or not it is intangible, and therefore within the definition of system fixed assets.

### *Tangible and Intangible Assets*

11. The Regulations do not specify what is meant by “intangible”, although some guidance can be found in para 2.6 of the Draft ODV Handbook, which provides that “[s]ystem fixed assets are tangible in nature, have relatively long useful lives, and are used, or intended to be used, for the conveyancing or supply of electricity.”

12. The New Shorter Oxford English Dictionary (1993) defines “intangible” at page 1386 as:

*adj* 1. ... unable to be touched; impalpable. 2. Unable to be mentally grasped. *n* ... an asset which cannot be precisely measured.

13. Similarly, “tangible” is variously defined at page 3216 as

*adj* 1. able to be touched; discernable or perceptible by touch; having material form. 2. That can be grasped by the mind or dealt with as fact; definite, objective; substantial. 3. Able to be affected emotionally. ... **tangible assets**: physical and material assets which can be precisely valued or measured. (emphasis original)

14. Although an easement is not a physical object that can be touched, Powerco submits that easements are a real and substantial asset, clearly definable and able to be valued with some precision. In this sense, an easement is “tangible”. An easement can be distinguished from the notion of goodwill, for example, which is generally accepted as being an intangible asset. Unlike easements, goodwill is an ethereal concept, meaning different things to different people, and difficult if not impossible to value.

15. The word “intangible” has been used in several cases to describe something that is unable to be mentally grasped or precisely measured, rather than a physical object. For example, in *Commerce Commission v Port Nelson Ltd* (1995) 6 TCLR 406, McGechan J found at 450 that the proprietors of Tasman Bay Marine Pilots Ltd were not



obtaining returns, directly by salary or otherwise through company profits or advantages, which equated with the returns to be expected from operating a ship piloting service. McGechan J qualified this finding with the observation “[t]here may be, of course, intangible factors of a lifestyle character involved.” This shows that indirect benefits such as profits or other advantages were considered by the judge to be tangible (in the sense that they were discernable and capable of being measured), whereas benefits of a lifestyle character were considered intangible, because they were incapable of being precisely measured.

16. In *Rugby Union Players Association v Commerce Commission* (1997) 7 TCLR 671, “intangible” was also interpreted as meaning unquantifiable or incapable of being valued, rather than unable to be touched. At 692 Smellie J noted “[w]hile acknowledging that some of the benefits are intangible in nature the NZRFU puts a high monetary value on others.” Similarly at 697:

There were a number of other benefits of an intangible nature which the commission also took into account. These included greater spectator enjoyment, potentially improved sponsorship, increased tourism especially during rugby tours, and the overall greater exposure of New Zealand internationally which helps New Zealand's trade and standing in the world. A number of these additional benefits are properly described as intangibles and therefore not susceptible of quantification.

17. Powerco submits that, as assets that have inherent value capable of being quantified, easements have the necessary quality of tangibility to be classified as system fixed assets, even if they cannot physically be touched.
18. An analogy can be drawn with a fishing quota, which was considered to be a tangible asset in *Glaister v Amalgamated Dairies Ltd* [2003] 1 NZLR 829. The case concerned the interpretation of a clause in the Defendant's constitution that prohibited a valuer from taking into account “goodwill and other assets of an intangible nature” when calculating the value of the company's assets. Heath J said at 854 that:

The words “any other asset of an intangible nature” must take their colour from goodwill which, quite clearly, is an intangible asset and which can be difficult to value. Clause 4.7(a)(iii) [of the constitution] focuses on exclusion of assets which are difficult to value; it does not focus on how assets should be treated for financial reporting (disclosure) purposes.



19. Similarly, it is submitted that the reason for excluding intangibles from the definition of “fixed assets” in the Regulations is because such assets may be difficult, if not impossible, to value in any meaningful way. Since easements can be valued, they ought not properly be classified as “intangible assets”. Even if statutory rights of access are classified as intangible, it is illogical to distinguish them from post-1993 acquired easements in their valuation treatment.

*Conclusion*

20. Easements are tangible assets and should be treated as such for the purposes of the ODV Handbook. The current approach of differentiating between types of easements is artificial and distorts the valuation of system fixed assets. Powerco submits that all easements should be treated as system fixed assets, regardless of how they were acquired.



## **ATTACHMENT 2:**

### **Disclose information requirements for sub-networks**

#### **The problem**

1. Powerco's concerns arise in relation to new subdivisions and industrial parks, where lines companies compete in a tender process to reticulate electricity within the new residential or commercial area. The process usually involves lines companies offering to contribute to the cost of the reticulation, the incentive being the ongoing ability to supply the homes or businesses in question, thereby securing a revenue stream.
2. The new networks can be described as embedded, as they are generally not connected directly to a grid exit point, but to another distributor's network (described as the incumbent network).
3. The initial contribution to the reticulation is in theory off-set by the future income generated from the transport charges. A distributor might win a tender by offering to install an embedded network at the lowest cost to the developer, and then recoup any shortfall by charging the electricity retailer more to transport the electricity. These charges are eventually passed through to the end-user, and are invariably higher than those charged by the incumbent network operator.
4. There would, of course, be nothing improper about this arrangement, provided that the lines company disclosed all charges and other prescribed information in accordance with the Regulations. As noted above, this information is helpful to the consumers within the subdivision or industrial park, so they can appreciate the component of their total electricity bill that is made up of transport charges. Consumers can then assess whether they are being charged a fair price for their delivered electricity compared with consumers in other areas. If disclosure reveals that charges are excessive, consumers can use their countervailing power to put pressure on a lines company to bring charges into line with those paid by other consumers.
5. Powerco believes that the Regulations do require lines companies supplying new subdivisions or industrial parks to disclose prescribed information, including line charges and asset management plans. Despite these obligations, however, it appears that not all lines companies are doing so,



and Powerco suggests an amendment to the regulations that would clarify the situation, in the interests of transparency. Fairness requires that the disclosure requirements apply to and be enforced in respect of all lines companies equally. A lines company should not be permitted to gain an advantage by not disclosing potentially adverse information.

6. It is important to address this problem, as currently it is consumers who are bearing the cost of new reticulations rather than developers, who are double dipping by charging a customer for a fully wired property, and paying a lower fee for the reticulation, which is in effect subsidised by the consumer. Lines companies are also ensuring a future revenue stream for themselves by undercutting other tenderers and passing the costs on to consumers through higher distribution charges. As noted above, while there is nothing inherently untoward in this practice, it should nevertheless be disclosed, to enable end-users to exercise their countervailing power in an informed way.

### Current provisions

7. The Regulations require line owners to publish certain information, including financial statements (Part 2), standard terms (Part 3), performance measures and statistics (Part 4), pricing methodologies and asset management plans (Part 5), and line charges (Part 6). According to the *Electricity Information Disclosure Handbook* (Ministry of Economic Development, 30 June 2000), one of the purposes of the regulations is to discourage monopoly pricing (described as the recovery of excessive profits and/or costs) by requiring this information to be disclosed (para 1.2.2).
8. Under reg 27(1), every line owner must publicly disclose the “prescribed information” in respect of existing line charges. “Prescribed information” is defined in reg 26 as:
  - (a) Each current line charge expressed in a manner that enables individual electricity consumers to determine the total charge for line business activities for each consumer group which is applicable to them;
  - (aa) the component or components of each current line charge that is attributable to transmission charges **or the line charge of any other line owner**; (emphasis added)
  - ...
9. According to reg 2, “Line charge” means **any** charge imposed in respect of the carrying out of any line business activity by any person or persons, and “Line business activity” means any of the following:



- (a) The provision and operation of works for the conveyance of electricity, including the control of voltage; or
  - (b) The conveyance of electricity; or
  - (c) The ownership of works used for the conveyance of electricity, including the control of voltage:
10. The wording of the Regulations is clear: the owner of an embedded network conveying electricity to a subdivision or industrial park is required to publish details of its line charges, including any component that is attributable to the line charge of another line owner. Not only does reg 26(a) support the separate disclosure of a charge made to convey electricity within the reticulated network (if this charge differed to a standard charge already disclosed), but reg 26(aa) specifically contemplates that charges attributable to other line owners should be disclosed. For example, if an embedded network is connected to Powerco's network, the owner of the embedded network should disclose not only the amount it charges for conveying electricity along its own lines, but also the amount that it pays to Powerco to convey electricity to the embedded network from the grid exit point. The charge paid by the embedded network owner to Powerco is a component of the total line charge passed through to the retailer and ultimately the consumer, and should be disclosed as such, in accordance with regs 27(1) and 26(aa).
11. This interpretation is also consistent with the stated purpose of the Regulations, which is to discourage the recovery of excessive profits and/or costs. Residents and businesses located within embedded networks have a right to know if they are paying excessive amounts in order for the embedded network owner to subsidise the cost of the reticulation.
12. While these obligations seem quite clear, Powerco has reviewed the disclosures made by a certain lines company that owns networks embedded within Powerco's own network, and it is at best unclear whether it is complying with its disclosure obligations. While a "standard" charge is disclosed, it is not possible to tell whether this is the charge applied to embedded networks and, as stated above, Powerco understands that consumers within the embedded networks are being charged more to cover the cost of the line owner's contribution to the reticulation. While the disclosure does state the component of the charges made up by Transpower's transmission charges, there is no mention of the charges that the embedded network owner pays to



Powerco to convey electricity from the grid exit points to the embedded networks.

13. There cannot be any justification for a lines company failing to disclose charges from a particular subdivision that differ from the standard charges disclosed. In particular, the defaulting lines companies are not exempt from making disclosure under the Regulations.
14. Reg 30(4) provides that line owners are exempt from Parts 2 – 6 of the Regulations where the total circuit length of the prescribed voltage electric lines that form part of the line owner's system is less than 25 kilometres, where "system" means **all** works of a line owner that are used or intended to be used to convey electricity (reg 2). Powerco accepts that where a line owner's **total** system length is less than 25 kilometres then it is exempt under 30(4).
15. Similarly, reg 30(5) provides that line owners conveying less than 20 gigawatt hours per annum are exempt from Parts 2 – 6 of the Regulations, including the obligation to disclose details of lines charges. Powerco accepts that where a line owner conveys a **total** of less than 20 gigawatt hours per annum across each and every one of its networks, including embedded networks, then it is exempt under reg 30(5).
16. However, there is no provision in the regulations that indicates that distributors might be entitled to break down their networks, so that if **one part** of the network was less than 25 kilometres in length or transporting less than 20 gigawatt hours per annum, charges relating to that part of the network would not have to be disclosed. The exemptions contained in regs 30(4) and (5) only apply to the **totality** of a line owner's network.
17. In conclusion, if a lines company is charging retailers who supply consumers within a particular subdivision or industrial park a higher line charge than other retailers (and consumers), this ought to be disclosed. The regulations support the interpretation that exemptions based on the length of the network and the volume of electricity transported should be assessed on a global basis across all networks owned by a particular lines company.

### **Suggested amendments**

18. While Powerco believes that the obligations of an embedded network owner are obvious, the lack of compliance by some line owners indicates that some clarification may be required. Powerco suggests that, for the avoidance of doubt, it could



be specified in reg 26(2) that “prescribed information” includes charges made by incumbent line owners that are passed on by embedded network owners.

19. Alternatively, an additional standard form could be inserted into Schedule 3 that sets out all the information required under regs 26 and 27, including a space for indicating charges paid to incumbent line owners.