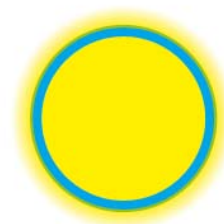


3 November 2009

David Healy
Chief Adviser
Network Performance Branch
Commerce Commission
PO Box 2351
Wellington



Dear David

Submission on Initial Reset of the Default Price-Quality Path for Electricity Distribution Businesses: Initial Reset Determination (Draft)

Introduction

Powerco Limited ("Powerco") welcomes the opportunity to make this submission in response to the *Initial Reset for the Default Price-Quality Path for Electricity Distribution Businesses: Initial Reset Determination (Draft)* ("the Draft Determination"), published by the Commerce Commission ("the Commission") on 16 October 2009. We appreciate the Commission publishing this earlier and extending the deadline for submissions.

This submission, as requested by the Commission, mainly refers to the form of the determination. The Commission however, has also asked submitters to reflect positions in previous submission where relevant. We have summarised key concerns raised in our submission to the DPP Draft Decisions Paper on 12 October 2009 ("12 October submission"), but refer the Commission to the submission for further detail on these issues.

Our submission should also be read alongside the submission of the Electricity Networks Association (ENA).

Yours sincerely

Paul Goodeve
Regulatory and Business Manager

Responses to questions

Q.1) Are there any defined terms which you consider unclear in their description or inappropriate for the purposes of the draft determination? If so, please explain and where appropriate provide suggested wording.

Publicly available

1. The Draft Determination defines “publicly available” as having “the same meaning set out in section 52C of the Act”. Section 52C does not seem to define publicly disclose, but instead includes the scope and remit of section 52P determinations. Powerco recommends the Commission includes a definition that is the same or similar to “publish” in the Electricity Distribution (Information Disclosure) Requirements 2008. This is:

Publish, in relation to any information, means to -

- (a) disclose the information to the public on the Internet at the Distribution business' normal publicly accessible website address; and
- (b) give notice in the *Gazette* of -
 - (i) that disclosure; and
 - (ii) the uniform resource locator of the Internet site where the information disclosed can be found; and
 - (iii) where hard copies of the information disclosed may be inspected or obtained; and
- (c) supply a copy of the information to the Commission

Electricity Distribution Service

2. The term “Electricity Distribution Service” is defined as “all Electricity Lines Services, other than those supplied by Transpower”. Powerco notes that section 54G of the Commerce Act also provides for the distinction between Transpower and EDBs. Powerco recommends the definition of “Electricity Distribution Service” is removed, and sections 3.1 and 3.3 of the Draft Determination modified to reflect Electricity Lines Services.

Q.2) Do you consider the definitions of Transmission Charge and Pass Through Costs to be appropriate? If not, please explain why. Are there other elements (e.g. loss and constraint rentals) which you consider should be included in the definitions? If so, please explain and provide suggested wording.

Electricity Commission Levies

3. The definition of pass-through costs includes “Electricity Commission Levies”. Powerco notes that the Electricity Commission may be replaced during the regulatory period and correspondingly, the definition will also need to change.

Transmission charge

4. The definition of “transmission charge” is narrower than in the Thresholds Gazette Notice. It seems to exclude some Transpower charges faced by EDBs related to the transmission service, and relates to charges from Transpower only. The Gazette Notice has a wider interpretation of both of these. At least one EDB currently provides another with transmission services and this should be reflected in the Determination. Powerco recommends that the definition from the Thresholds Gazette Notice is used, with the amendments detailed in the ENA submission.

Q.3) Do you consider the Allowable Notional Revenue assessment formulae to reflect the Commission's draft decisions? If not, please explain and provide suggested amendments.

5. The Allowable Notional Revenue assessment formula appears to reflect the Commission's draft decisions. We repeat two issues raised in Powerco's 12 October submission.

Quantity

6. Powerco recommends that t-2 quantities are used instead of t-1 quantities. Powerco supports a t-2 approach due to the implementation problems of a t-1 approach. Under a t-1 approach, although two thirds of the year will have passed in December, the quantity information available at that time still contains estimates. Powerco obtains its volume information from retailers and this is continually updated and reconciled using wash-ups. There can be significant movements in the data, particularly at year end. The increased accuracy of using more up to date data may be outweighed by the decreased accuracy of estimated information.

Under and over recovery

7. Powerco recommends that the formula allows for recovery in future years of headroom established in previous years (and prevents future allowances based on previous period over recovery). We note that the ENA submission on the Draft Decision Paper included the formula below to address this. The amendment would apply from the second year of the price path as follows:

$$R_t = (\sum P_{i,t-1} Q_{i,t-1} - K_{t-1} + R_{t-1} - NR_{t-1}) \times (1 + \Delta \text{CPI})(1-X)$$

Q.5) Do you consider the price restructuring notification requirements to be clear and workable? If not, please explain and provide suggested amendments.

8. Section 8.5 requires the following action if an EDB re-structures its prices:

- a) If a Non-exempt EDB restructures its Prices applying during an Assessment Period, it must demonstrate to the Commission, with supporting evidence, the impact of the restructuring on its Allowable Notional Revenue.
- b) To satisfy clause 8.3 the restructuring, of itself, should not increase the Non-exempt EDB's Allowable Notional Revenue. If this is the case clause 8.3 will apply as if the new Price structure applied on and from the beginning of the Assessment Period.

9. We do not think it is necessary for an EDB to demonstrate the impact of a restructure in order to demonstrate compliance with the price path. The test should be that, all other things being equal, the price restructure does not create an increase in allowable notional revenue, above that which would have applied if the restructure had not occurred.

10. Powerco recommends this is demonstrated by a comparison of the notional revenue generated by previous prices using t-2 quantities, and new prices using t-2 quantities. Recognition of the change in pass through costs and the impact of CPI-X on the new prices will also need to be made.

Q.6) Do you consider the quality standards assessment formulae to reflect the Commission's draft decisions? If not, please explain and provide suggested amendments.

11. Yes, the quality standards assessment formulae appear to reflect the Commission's draft decisions. We repeat two issues raised in Powerco's 12 October submission.

Non contiguous network

12. Powerco continues to oppose separate SAIDI and SAIFI datasets for each non-contiguous network. Requiring separate quality paths increases the risk of a quality breach as not all normal variability can be accounted for in the design of the quality component. Separating the quality path does also not align with having one price path for the DPP. The DPP reflects the relationship between price and quality, and it is incoherent to have two quality paths and one price path.
13. Powerco recommend that all references to "EDB Network" are removed from the Draft Determination.

Q.8) Do you consider the compliance statement requirements of Clauses 10 and 11 to be appropriate? If not, please provide details.

Clause 10: Mergers and Acquisitions

14. Clause 10 refers to an "EDB Network", which would require EDBs to demonstrate compliance with the price and quality path for each non-contiguous network following a qualifying merger or acquisition. This is not necessary, as it is the Non-exempt EDB in each instance which must demonstrate compliance. Powerco recommends the term "EDB Networks" in clause 10 is replaced "Non-exempt EDBs".
15. The Draft Determination requires an EDB to demonstrate compliance with its previous quality standard if a transaction exceeds a 10% threshold. This is to continue for an unspecified period, until the EDB affected can demonstrate, to the satisfaction to the Commission, that this can be done in respect of a single EDB.
16. Powerco recommends that the quality standards are reassessed following a transaction, using adjusted Reference Datasets for the entities involved. In the year of the transaction, we recommend that the Non-exempt EDBs involved be required to demonstrate compliance with the quality standards which applied at the beginning of the assessment period, as if the transaction had not occurred.

Clause 11: Annual Compliance Statement

17. Powerco would expect the Commission to include a requirement to make the Annual Compliance Statement publicly available in the Draft Determination. Powerco recommends that section 11.1 is changed to:

Every Non-exempt EDB must ~~provide to the Commission~~ make Publicly Available within 50 working days of each Assessment Date an Annual Compliance Statement [...]

18. We also note that ENA has made a number of improvements to the wording of section 11 and we fully support these.

Q.9) Are there additional matters which you consider should be addressed in the overall Initial Reset Determination? If so, please explain.

Excluded services

19. We recommend that the DPP allows for prices and quality standards for electricity lines services to be set by the suppliers and purchasers of those services where there is a written agreement between them that they agree to remove these services from the terms otherwise set out in a DPP.

20. We do not consider it necessary to complicate this arrangement with a test of workable and effective competition (as was the case in (j) above), as the purchasers of the service are best placed to determine whether or not they wish these services to be carved out in this manner.