



COMMERCE COMMISSION

Authorisation for the Control of Supply of Natural Gas Distribution Services by Vector Ltd and Powerco Ltd

FURTHER OPPORTUNITY FOR SUBMISSIONS ON ASSET VALUATION AND UPDATE ON THE AUTHORISATION

Purpose

The purpose of this memorandum is to:

- notify interested parties of a further opportunity to make submissions to the Commission on matters relating to setting the initial opening regulatory asset base for the Authorisation for the Control of Supply of Natural Gas Distribution Services by Vector Ltd and Powerco Ltd (Authorisation); and
 - provide an update on other matters relating to the Authorisation.
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Further Opportunity for Submissions on Asset Valuation

The Commission held a conference on its draft decisions for the Authorisation (conference) on 18 to 21 February 2008. A key topic for the Commission's conference was the appropriate approach for setting an initial opening regulatory asset base (RAB) for the Authorisation.

During the conference the Commission discussed the options that it has before it in making its decision on the initial opening RAB with conference participants. The Commission specifically sought the views of interested parties on the options during the conference and in cross-submissions.

Cross-submissions have indicated that parties may have more information to put before the Commission on these options, in particular that of rolling forward Vector's 2003 ODV valuation and Powerco's revised 2002 ODV valuation to 2005.¹

¹ Conference Transcript, pages 62-63 and pages 306-307.

As discussed at the conference, the Commission considers that determining the RAB at the start of the initial control period by rolling forward Vector's 2003 ODV valuation and Powerco's revised 2002 ODV valuation to 2005 would:

- be consistent with the Commission's statutory framework;
- safeguard the interests of acquirers by preventing Powerco and Vector from making windfall profits in the future. The Commission considers that such windfall profits would be to the detriment of acquirers while not improving economic efficiency;
- would better promote efficiency in the supply of the controlled services by being closer to the allocatively efficient level over time, and promoting dynamic efficiency by allowing the businesses to recover the efficient costs of their investments;
- be consistent with the regulatory regime for the gas pipelines industry that has been in place for more than a decade;
- be the right approach in principle, as control under Part 5 and the resulting Authorisation process had its origin in the Part 4 Gas Control Inquiry that gave rise to the concerns about behaviour of both of the companies; and
- be equivalent in net present value terms to using the 2005 ODVs and amortising the revaluation gains, but would have the advantage of being a simpler approach and better address the regulatory commitment issue that the Commission cannot guarantee that Powerco and Vector would continue to amortise revaluation gains in years subsequent to the expiry of the Order in Council in 2016.²

The option of determining the RAB at the start of the initial control period by rolling forward Vector's 2003 ODV valuation and Powerco's revised 2002 ODV valuation to 2005 is still under active consideration by the Commission. In doing so, the Commission is fully considering all submissions and cross-submissions that have been received on this issue to date.

The Commission has noted suggestions in some cross-submissions that the three week period allowed for cross-submissions following the conference was insufficient to fully respond on this matter. The Commission would therefore like to provide all interested parties with a further opportunity to submit any new information on this issue that has not been provided to the Commission to date.

This invitation is designed to provide interested parties with a chance to add anything they did not consider that they had the opportunity to raise with the Commission during the last round of consultation, together with anything that may have emerged on reflection in the intervening months. The new responses will supplement the submissions the Commission is already considering, and accordingly the parties' responses should not re-traverse any material they have already presented.

² Conference Transcript, pages 63, 197-198, 307 and 410-411.

Submissions

Written submissions should be received by the Commission by no later than 5pm on Thursday, 24 July 2008.

Submissions should be sent to:

Network Performance Branch
Commerce Commission
P.O. Box 2351
Level 6, 44-52 The Terrace
Wellington
E-mail: gas@comcom.govt.nz

Confidentiality

The Commission recognises there may be cases where parties wish to provide confidential or commercially sensitive information to the Commission. Accordingly, the Commission issued a confidentiality order under s 100 of the Act on 16 November 2006 (Confidentiality Order) to apply to confidential information provided by interested parties making submissions during the gas control authorisation process, and to apply to information that the Commission designates as Restricted Information under the Order. A copy of the Confidentiality Order is available on the Commission's website at:

<http://www.comcom.govt.nz/IndustryRegulation/Gas/confidentiality4.aspx>

Update on the Authorisation

Offers of undertaking

Section 72 of the Commerce Act 1986 provides that the Commission may, instead of making an Authorisation in respect of controlled goods or services, obtain or accept a written undertaking from the supplier of those goods or services.

On 20 June 2008 the Commission advised interested parties that the Commission had received an offer of undertaking from Vector Limited on 21 April 2008 and from Powerco Limited on 23 April 2008 in respect of their controlled gas distribution services (the Offers). The Commission has published the Offers on its website for the information of all interested parties.

The Commission is considering the offers of undertaking while continuing to work towards making its Final Decisions for the Authorisation. The Commission intends to provide a preliminary view on whether to accept one or both of the Offers instead of making an Authorisation in August 2008 for consultation with interested parties.

Timetable for completion

The Commission intends to make its Authorisation or accept an undertaking from either, or both, Powerco and Vector no later than October 2008. The Commission will engage with parties closer to this time.

Contact

If you have any questions regarding this memorandum please contact

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Network Performance Branch

10 July 2008