



COMMERCE COMMISSION

## REGULATION UNDER PART 4 OF THE COMMERCE ACT 1986

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### Update on Process to Determine Input Methodologies and Airports Information Disclosure Requirements

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#### Purpose

1. The purpose of this memorandum is to update interested parties on the Commerce Commission's (Commission's) process under Part 4 of the Commerce Act 1986 (the Act) to determine:
  - input methodologies under subpart 3 for electricity lines, gas pipelines and specified airports services; and
  - information disclosure requirements for specified airports services under subpart 4.
2. The Commission's process has been updated in light of the extension granted by the Minister of Commerce under s 52U(2).

#### Extension

3. On 10 December 2009, the Minister of Commerce (Minister) announced his decision to grant the Commission with an extension under s 52U(2) of 6 months, to 31 December 2010. The deadline for the Commission to make its information disclosure determination for specified airports services was automatically extended under s 56E to 1 January 2011.
4. The Commission sought this extension in response to interested parties' concerns about timeframes for consultation, and the need for engagement on the detailed implementation of input methodologies. In particular, a number of parties sought to engage with the Commission through workshops on detailed proposals for input methodologies specific to each type of regulated service.

### *Workshops suggested by interested parties*

5. Workshops suggested by interested parties include:

#### **Electricity Distribution Businesses**

- Asset valuation, including economic depreciation.
- Cost allocation.
- Regulatory tax.
- Matters related to a customised price-quality proposal.
- Re-openers and pass-through costs under DPPs and CPPs.
- Efficiency carryover mechanism.

#### **Gas Pipelines**

- Asset valuation, including economic depreciation.
- Regulatory tax.
- Matters related to a customised price-quality proposal.
- Re-openers and pass-through costs under DPPs and CPPs.
- Efficiency carryover mechanism.
- Financial capital maintenance.

#### **Airports**

- Service quality and performance measures.
- Cost allocation.
- Asset valuation.
- The information disclosure proposal put forward by the NZAA.

### **Revised Process**

6. The Commission has redesigned the process and timeframes for input methodologies (and correspondingly for airports information disclosure) to ensure that there is sufficient time for additional workshops with interested parties, sufficient time for full consultation on draft determinations, and for phasing of the final input methodology determinations.
7. The remainder of this memorandum sets out the Commission's revised process for determining input methodologies for all services regulated under subparts 9 – 11 of the Act and information disclosure requirements for airports. In deciding on the appropriate process, the Commission has fully considered all submissions it has received from interested parties on the process for input methodologies and information disclosure for airports.
8. The Commission notes that the Minister is consulting on the funding for the 2010/11 financial year. The Commission may need to revisit the work programme once funding levels for 2010/11 are confirmed.

## Overview

9. Table 1 below provides an overview of the process the Commission expects to follow in developing the input methodologies for all types of regulated services. A key feature of the revised process is that Phase II (Draft Determinations) is now longer, to accommodate additional workshops with interested parties in all sectors, prior to the release of the Draft Determinations.
10. An overview of Phases II and III is provided below the table. Further details on the Commission's revised work programme for each type of service are set out in Appendices A to D below.

**Table 1: Overview of Commission's Process to Determine Input Methodologies**

Phase	Key Step	Indicative Date
<b>Phase I (Discussion)</b>	Release Input Methodologies Discussion Paper	19 June 2009
	Submissions due on Input Methodologies Discussion Paper	31 July 2009 – 14 August 2009
	Cross-submissions due on Input Methodologies Discussion Paper	28 August 2009
	Input Methodologies Conference	Week of 14 September 2009
	Cross-submissions due on Input Methodologies Conference	15 October 2009
<b>Phase II (Draft Determinations)</b>	Cost of Capital Workshop	12-13 November 2009
	Submissions on Cost of Capital Workshop	2 December 2009
	Release Emerging Views Papers	December 2009
	Workshops	February / March 2010
	Release Draft Determinations Papers for all sectors	Q2 2010
	Workshops on Draft Determinations (as required)	Q2-Q3 2010
	Submissions due on Draft Determinations Papers	Q3 2010
	Cross-submissions due on Draft Determinations Papers	Q3 2010
<b>Phase III (Determinations)</b>	Consultation on technical drafting of Determinations	Q3 2010
	Finalise Input Methodology Determinations	Q3 → Q4 2010

## ***Phase II - Draft Determinations***

11. In Phase II, the Commission will fully consider all material submitted to it by interested parties during the Phase I consultation process, update interested parties on its preliminary views through the release of Emerging Views Papers,<sup>1</sup> hold a series of workshops with interested parties, and consult on its Draft Determinations for Input Methodologies (Draft Determinations) for each type of regulated service (i.e., airports, electricity distribution, electricity transmission, gas distribution, and gas transmission). The Commission has increased the consultation period for submissions on the Draft Determinations to 8 weeks.
12. The Commission is releasing the Emerging Views Papers in December 2009 in preparation for the workshops in February and March 2010. The purpose of the Emerging Views Papers is to update all interested parties on the Commission's emerging preliminary views on key matters relating to input methodologies, with the exception of the cost of capital.<sup>2</sup>
13. The Commission considers it is useful to provide interested parties with this update to establish a framework for consultation on more detailed proposals in workshops prior to the Commission consulting on its draft input methodology determinations in Q2 of 2010. The purpose of the workshops in Phase II will be to discuss detailed proposals for input methodologies that are based on the emerging views.
14. The Emerging Views Papers will contain material relating to the detailed proposals for workshops. The Commission will seek submissions on these proposals for input methodologies as well as comments on the proposed process for the workshops from interested parties in mid- to late-January and February 2010. Precise dates for providing submissions and/or comments will be set out in the Emerging Views Papers.
15. Whether or not they participate in the workshops, all interested parties will be provided with an opportunity to make written submissions after the workshop on material released by the Commission.
16. Given the purpose of the Emerging Views Papers, submissions will not be sought on the emerging views themselves prior to the workshops. All parties will have an opportunity to make detailed submissions on all aspects of input methodologies when the Commission releases its draft input methodology determinations with reasons, which are now scheduled to be published in Q2 of 2010.

## ***Phase III - Determinations***

17. In Phase III, the Commission will revise its Draft Determinations to take account of its further deliberations and issues raised in consultation, consult on the technical drafting of the Determinations for Input Methodologies ('Determinations'), finalise

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<sup>1</sup> There will be one Emerging Views Paper for each of airports, electricity distribution and gas pipeline services. The Commission is not providing an update on Transpower, as Transpower was not discussed at the September 2009 input methodologies conference. A workshop on matters relating to the regulation of Transpower will be held in March 2010.

<sup>2</sup> This is because the Commission has not had sufficient time to consider all consultation material put to it on the cost of capital, as post-workshop submissions were only due on 2 December 2009.

the Determinations, publish a brief description of its Determinations in the *Gazette* (pursuant to s 52W(2)(a)), and release its reasons for those Determinations.

18. Consultation with interested parties will be undertaken through the release of the final draft of the Determinations for comment on the technical drafting.

### **Next Steps**

19. The Commission will release its Emerging Views Papers prior to Christmas this year.
20. If you have any questions or comments on the contents of this memorandum please contact [npb@comcom.govt.nz](mailto:npb@comcom.govt.nz) – Subject: “Input Methodologies – Process Paper”.

## APPENDIX A: AIRPORTS

### Process to Determine Input Methodologies

21. The table below sets out the Commission's process to determine input methodologies for suppliers of specified airport services.

**Table 2: Commission's Process for Input Methodologies – Airports**

Key Step	Indicative Date
Emerging Views Update Paper	December 2009
Workshop on: <ul style="list-style-type: none"><li>▪ Initial Regulatory Asset Base</li><li>▪ Regulatory Asset Base Roll Forward</li><li>▪ Cost Allocation</li></ul>	16-17 February 2010
Commission Releases Draft Determination Papers	April/ May 2010
Workshop on Draft Determination	May/ June 2010
Submissions due on Draft Determination Papers	June/ July 2010
Cross-submissions due on Draft Determination Papers	June/ July 2010
Consultation on technical drafting of Determination	August/ September 2010
Finalise Input Methodology Determination	September/ October 2010

## Process to Determine Information Disclosure Requirements

22. The table below sets out the Commission's process to determine information disclosure requirements for suppliers of specified airport services.

**Table 3: Commission's Process for Information Disclosure – Airports**

Key Step	Indicative Date
Quality Workshop	16 December 2009 (confirmed)
Asset Planning and Forecast Information Workshop	17 February 2010
Commission Releases Draft Determination Papers	April/ May 2010
Submissions due on Draft Determination Papers	June/ July 2010
Cross-submissions due on Draft Determination Papers	June/ July 2010
Workshop on Draft Determination	August/ September 2010
Consultation on technical drafting of Determination	October/ November 2010
Finalise Information Disclosure Determination	November/December 2010

## APPENDIX B: ELECTRICITY DISTRIBUTION

### Process to Determine Input Methodologies

23. The table below sets out the Commission's process to determine input methodologies for suppliers of electricity distribution services. To the extent common issues exist, the Commission will consider proposals for electricity distribution services in the same workshop(s) as gas pipeline services.

**Table 4: Commission's Process for Input Methodologies – Electricity Distribution Services**

Key Step	Indicative Date
Emerging Views Update Papers	Late-December 2009
Regulatory Tax Workshop	8 February 2010
Workshop: <ul style="list-style-type: none"> <li>▪ Initial Regulatory Asset Base</li> <li>▪ Regulatory Asset Base Roll Forward</li> <li>▪ Cost Allocation</li> <li>▪ Rules and Processes</li> </ul>	24-26 February 2010
Customised Price-Quality Path Proposals Workshop	Early March 2010
Commission Releases Draft Determination Papers	May/ June 2010
Workshop on Draft Determination	June/ July 2010
Submissions due on Draft Determination Papers	July/ August 2010
Cross-submissions due on Draft Determination Papers	July/ August 2010
Consultation on technical drafting of Determination	September/ October 2010
Finalise Input Methodology Determination	October/ November 2010

## APPENDIX C: ELECTRICITY TRANSMISSION

### Process to Determine Input Methodologies

24. The table below sets out the Commission's process to determine input methodologies for Transpower. In conjunction with this memorandum, the Commission has released a revised Process Paper for making its recommendation to the Minister of Commerce on the type of price-quality regulation to apply to Transpower following the expiry of the existing settlement agreement.<sup>3</sup>

**Table 5: Commission's Process for Input Methodologies – Transpower**

Key Step	Indicative Date
Transpower Workshop	2-3 March 2010
Commission Releases Draft Determination Papers	May/ June 2010
Workshop on Draft Determination	June/ July 2010
Submissions due on Draft Determination Papers	July/ August 2010
Cross-submissions due on Draft Determination Papers	July/ August 2010
Consultation on technical drafting of Determination	September 2010
Finalise Input Methodology Determination	October 2010

<sup>3</sup> Commerce Commission, *Revised Transpower Process Paper*, 10 December 2009.

## APPENDIX D: GAS PIPELINES

### Process to Determine Input Methodologies

25. The table below sets out the Commission's process to determine input methodologies for suppliers of gas pipeline services. The Commission's preliminary view is that it will set separate input methodology determinations for gas distribution and gas transmission services. The process that will be followed to make the determinations is, however, currently expected to be the same.
26. To the extent common issues exist, the Commission will consider proposals for gas pipeline services in the same workshop(s) as electricity distribution services.

**Table 6: Commission's Process for Input Methodologies – Gas Pipeline Services**

Key Step	Indicative Date
Emerging Views Update Papers	Late-December 2009
Regulatory Tax Workshop	8 February 2010
Workshop: <ul style="list-style-type: none"> <li>▪ Initial Regulatory Asset Base</li> <li>▪ Regulatory Asset Base Roll Forward</li> <li>▪ Cost Allocation</li> <li>▪ Rules and Processes</li> </ul>	24-26 February 2010
Customised Price-Quality Path Proposals Workshop	Early March 2010
Commission Releases Draft Determinations Papers (separate papers for gas distribution and gas transmission)	May/ June 2010
Workshop on Draft Determinations	June/ July 2010
Submissions due on Draft Determinations Papers	July/ August 2010
Cross-submissions due on Draft Determinations Papers	July/ August 2010
Consultation on technical drafting of Determinations	September/ October 2010
Finalise Input Methodology Determinations	October/ November 2010