

24 July 2019

To:

Transpower New Zealand Limited
Waikoukou
22 Boulcott Street
Wellington 6011

Notice to supply information to the Commerce Commission under section 53ZD(1)(e) of the Commerce Act 1986

Background

1. On 6 June 2019, we (the Commerce Commission) published an issues paper on the treatment of operating leases, given changes required by the implementation of a new financial reporting standard – **NZ IFRS 16**.¹ The issues paper sought views on our understanding of the issues that the adoption of **NZ IFRS 16** could create for regulated suppliers.
2. We are now requesting information from **Transpower** to enable the effect of the changes to be properly taken into account in respect of forecast **opex** and **capex** for decisions we are now making on **Transpower's** price quality path.
3. This section 53ZD(1)(e) notice (the Notice) is the request for information referred to at paragraph 2.
4. We note that section 103(2) of the Commerce Act 1986 (the Act) provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) of the **Act** and any person who does so is liable on conviction to a fine not exceeding \$100,000 in the case of an individual or \$300,000 in the case of a body corporate.

Purpose of the Notice

5. Under section 53ZD(1)(e) of the **Act**, we require **Transpower** to provide us with the information specified in Schedule A.
6. We require this information for the purpose of informing our decisions on the treatment of operating leases and setting **Transpower's** price quality path under section 53ZC of the **Act**. Specifically, the information will enable us to properly

¹ Commerce Commission "Treatment of operating leases – Issues paper" (6 June 2019), available at: https://comcom.govt.nz/_data/assets/pdf_file/0017/152108/Treatment-of-operating-leases-Issues-paper-6-June-2019.pdf

consider the effect of the changes resulting from **NZ IFRS 16**, in respect of **Transpower's** forecast **opex** and **capex**.

Date, place and format of responses

7. **Transpower** must provide the information specified in Schedule A as a response to the Notice in an 'unlocked' electronic Excel spreadsheet by email.
8. The response must be provided in the attached "Operating Leases: Information Request Workbook" Excel template.
9. The email must be addressed to Matthew Clark (Acting Manager, Regulatory Development) c/o regulation.branch@comcom.govt.nz, with the subject "Transpower – Response to section 53ZD Notice – Operating leases", by no later than **4:30pm on Friday 9 August 2019**.

Interpretation

10. In the Notice, unless the context requires otherwise:
 - 10.1 a word that denotes the singular also denotes the plural, and vice versa;
 - 10.2 words in **bold** type have the following meanings:
 - 10.2.1 **Act** means the Commerce Act 1986
 - 10.2.2 **asset life** means the **economic life** as determined under **NZ IFRS 16** applied at the commissioning date
 - 10.2.3 **capex** has the same meaning as defined in the **Capex IM**
 - 10.2.4 **Capex IM** means the *Transpower Capital Expenditure Input Methodology Determination 2012* [2012] NZZCC 2, including amendments in effect at the date of the Notice
 - 10.2.5 **commencement date** has the same meaning as defined in **NZ IFRS 16**
 - 10.2.6 **commissioning date** means:
 - (a) for **right of use assets** valued on the **date of initial application**, the **date of initial application** under **NZ IFRS 16**; and
 - (b) in all other cases, the **commencement date**
 - 10.2.7 **commissioning value** means the capitalised value of the **right of use asset** in dollars in accordance with **NZ IFRS 16** on the **commissioning date** or forecast **commissioning date**
 - 10.2.8 **contract** means an **operating lease**

- 10.2.9 **contract group** means a group of **contracts** that were included within the same **opex** expenditure category in **Transpower's RCP3 proposal**, and will be capitalised within the same base **capex** asset category
- 10.2.10 **conversion index** means the index used to convert the nominal numbers disclosed to the real 2017/2018 dollar numbers included in the **RCP3 proposal**
- 10.2.11 **cost allocation requirements** means the cost allocation requirements specified at subpart 1 of part 2 and subpart 2 of part 3 of the **Transpower IM**
- 10.2.12 **date of initial application** means the beginning of the annual reporting period in which **Transpower** first applies the **NZ IFRS 16**
- 10.2.13 **description** means description of **underlying asset**
- 10.2.14 **disclosure year** has the same meaning as defined in the **Transpower IM**
- 10.2.15 **discount rate** means the discount rate applied or forecast to apply in determining the capitalised value of the **right of use asset** under **NZ IFRS 16**
- 10.2.16 **economic life** has the same meaning as defined in the **NZ IFRS 16**
- 10.2.17 **electricity transmission services** has the same meaning as defined in the **Transpower IM**
- 10.2.18 **existing contract** means a **contract** that has already been capitalised
- 10.2.19 **forecast contract** means a **contract** that is forecast to be capitalised on or before 30 June 2025
- 10.2.20 **IPP** means individual price-quality path
- 10.2.21 **lease payments** has the same meaning as defined in **NZ IFRS 16**
- 10.2.22 **NZ IFRS 16** means the New Zealand Equivalent to International Financial Reporting Standard 16 Leases, issued on 11 February 2016 by the New Zealand Accounting Standards Board of the External Reporting Board pursuant to section 12(a) of the Financial Reporting Act 2013 and including amendments to 12 July 2018
- 10.2.23 **operating lease** has the same meaning as defined in **NZ IFRS 16**
- 10.2.24 **opex** has the same meaning as defined in the **Transpower IM**

- 10.2.25 **payments** means the value in dollars of any **lease payments** made or forecast to be made in the relevant **disclosure year**, that are required to be capitalised in accordance with **NZ IFRS 16**
- 10.2.26 **percentage allocated to ETS** means the proportion of the **commissioning value** or **payments** allocated to **electricity transmission services** applying the **cost allocation requirements**
- 10.2.27 **RCP3** means the next regulatory period from 1 April 2020 to 31 March 2025, provided that references to the final **disclosure year** in **RCP3** means the **disclosure year** ending on 30 June 2025
- 10.2.28 **RCP3 proposal** means **Transpower's** proposal on **RCP3** to the Commerce Commission dated November 2018
- 10.2.29 **revaluation assumptions** means any assumptions made in applying changes to the value of forecast **payments**
- 10.2.30 **right of use asset** has the same meaning as defined in **NZ IFRS 16**
- 10.2.31 **termination date** means the date on which the **contract** terminates or is forecast to terminate
- 10.2.32 **Transpower IM** means the *Transpower Input Methodologies Determination 2010* [2012] NZCC 17, including amendments in effect at the date of the Notice
- 10.2.33 **underlying asset** has the same meaning as defined in **NZ IFRS 16**.

Use of supplied information and confidentiality

- 11. As part of our decision-making and modelling on the **IPP** reset, we may use and publicly refer to particular information **Transpower** provides in responding to the Notice.
- 12. If you consider that, for confidentiality reasons, we should not publicly refer to any particular part of your response, please:
 - 12.1 specify the relevant part;
 - 12.2 give clear reasons why you consider that part is confidential; and
 - 12.3 provide a PDF version of your response, redacting the part(s) you consider to be confidential.
- 13. If you indicate that we should not publicly refer to part of your response, we may discuss with you before deciding whether or not to do so.
- 14. However, please note that all responses we receive, including any parts that we decide not to publish, can be requested under the Official Information Act 1982. This

means we would be required to release material (whether published or not) unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult with you before releasing any material that you request not to be published.

Dated at Wellington: 24 July 2019

Signed by:

A handwritten signature in black ink, appearing to read 'S. Gale', with a stylized flourish at the end.

Stephen Gale
Commissioner

Schedule A: Information required

1. **Transpower** must provide a list of its **existing contracts** and **forecast contracts** including, for each **contract**, the following information:

- (a) A description of the **contract**, or where **contracts** are aggregated for the purposes of responding to this Notice, a description of the **contract group** to which the **contract** is applied;
- (b) Whether the **contract** is an **existing contract** or **forecast contract**;
- (c) The **commencement date**;
- (d) The **termination date**;
- (e) The **asset life**;
- (f) Whether the **right of use asset** is included in actual **capex** or forecast **capex** disclosed under Schedule RT01 of **Transpower's RCP3 proposal**, and if so, the category it is included under;
- (g) The **commissioning value**;
- (h) The **commissioning date**;
- (i) The **discount rate**, in respect of a **contract**, or the weighted average **discount rate** applied in respect of a **contract group** and the range of the **discount rates** for **contracts** within that **contract group**;
- (j) Whether **payments** are included in actual **opex** or forecast **opex** disclosed under Schedule RT01 of **Transpower's RCP3 proposal**, and if so, the category it is included under;
- (k) All **payments** used to determine the **commissioning value** of the **contract**, disclosed by **disclosure year**;
- (l) Any **revaluation assumptions**; and
- (m) The **percentage allocated to ETS**.

2. **Transpower** must provide:

- (a) the **date of initial application**;
- (b) the **conversion index**; and
- (c) where, for a **disclosure year** in **RCP3**, the aggregate **payments** for **contracts** differ from those included in the **RCP3 proposal**, the difference, and an explanation for the difference.

3. All financial values contained in the information provided in accordance with paragraph 1 of Schedule A should be included in nominal terms, after having applied the **cost allocation requirements**.