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Network Performance Group
Commerce Commission
PO Box 2351
Wellington

SUBMISSION ON DRAFT DISTRIBUTION THRESHOLDS AMENDMENT NOTICE 2006

- 1 This submission is provided in response to the Commerce Commission's (the *Commission*) invitation titled "*Draft Commerce Act (Electricity Distribution Thresholds) Amendment Notice 2006*" dated 6 March 2006.
- 2 Orion welcomes this opportunity to comment on the technical detail of the proposed amendments to the distribution thresholds notice.

Secondary price path threshold

- 3 In Orion's view, the proposed amended wording provides an adequate correction to achieve the original intended meaning of this secondary price path threshold.
- 4 Orion notes that the Commission has not yet cleared Orion of its technical breach in the year to 31 March 2005 which resulted from the incorrect wording in the current distribution thresholds notice. This amendment will clarify that Orion is not in breach of the intent of this secondary price path threshold.
- 5 Orion notes that "notional revenue" is a defined term, and the definition does not indicate that it relates to base quantities, rather than to current quantities. The alternative and indirect definition of notional revenue (NR_t) provided in clause 5(1)(b) is only valid at the assessment date, and is meaningless at all other times during the year.

- 6 When calculating notional revenue at any other time during an assessment period, we understand the intention is for distributors to use the set of prices that apply at that time, but use the sum of all pass-through costs for the year ending on the assessment date. The alternative approach is to calculate the sum of pass-through costs for the year to the date the prices apply, but this would lead to many different notional revenue calculations even in the absence of intra-period price changes.
- 7 To clarify the meaning, Orion suggests the following alternative wording:
- “(b) *notional revenue during each assessment period*: the notional revenue of a distribution business ~~at any time on each day~~ during an assessment period (calculated in accordance with 5(1)(a), but using the set of prices applying on that day) *is not to exceed* the greater of the allowable notional revenue of the distribution business at the assessment date on which that assessment period ends and the allowable notional revenue of the distribution business at the previous assessment date ~~under this clause~~ (calculated in accordance with 5(1)(a) or, if the previous assessment date is the reference date, under clause 5 of the initial notice).”

Exemption from requirements

- 8 Orion agrees with the proposed amendment which allows the Commission to exempt distributors from threshold reporting requirements following an administrative settlement or for any other reason, and to revoke such an exemption.
- 9 However, Orion envisages that some administrative settlements might conclude with an adjustment to a distributor’s allowable notional revenue, which would allow the ongoing application of the distribution thresholds assessment (and the requirement to continue disclosing information) following the administrative settlement. In Orion’s view, this would provide a superior solution than the blanket exemption suggested by the Commission. For the next 5 year regulatory period, the Commission may wish to consider providing for the flexibility:

- to negotiate variations to allowable notional revenue for administrative settlements, or
 - to impose a variation to allowable notional revenue under a declaration of control (if appropriate).
- 10 Thank you for the opportunity to make this submission. We look forward to receiving the gazetted amendment from the Commission in due course. If you have any questions relating to the submission, please contact Alex Nisbet (Commercial Analyst) on 03 363 9737 or email alex.nisbet@oriongroup.co.nz.

Yours sincerely

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

Rob Jamieson
General Manager-Commercial