

19 February 2010

Regulation Branch
Commerce Commission
Wellington

by email: Regulation.Branch@comcom.govt.nz

RECOMMENDATION TO THE MINISTER REGARDING THE TYPE OF REGULATION TO APPLY TO TRANSPOWER

1. Orion New Zealand Limited (**Orion**) welcomes the opportunity to make a submission on the Commerce Commission's (**Commission's**) Recommendations to the Minister of Commerce regarding the type of regulation to apply to Transpower (the paper).

Type of price path to apply to Transpower

2. Orion agrees with the Commission's view is that a full building block approach is necessary and as a result of this and other considerations that the Commission should recommend individual price-quality regulation for Transpower rather than a default price path or a customised price path.

System operator services

3. Orion does not agree with the Commission's view¹ that the system operator's activities provided by Transpower form part of the conveyance of electricity by line and therefore should be a regulated service under the Act.
4. The system operator services are currently governed by the Electricity Governance Rules (EGRs) and Transpower has a contract with the Electricity Commission (EC) for provision of these services. The system

¹ Paragraph A20 - Commerce Commission *Recommendation to the Minister regarding the type of regulation to apply to Transpower* 4 February 2010

operator services provided under this contract are far wider than just quality and reliability.

5. We consider that the system operator services are appropriately determined via a contract with the EC (or some alternate regulatory body) and the revenue and costs associated with these services should be excluded from the proposed price quality regulations.
6. We believe the Commission preliminary approach to include the system operator activities under the part 4 regulation and then subsequently exclude the revenue and costs of these services from any individual price path (as outlined in paragraphs A20 and A21 of the paper) is unnecessarily complicated.

Quality Standards

7. Transpower in its role as grid owner has quality obligations governed by the common quality obligations of Part C of the EGRs and also quality and reliability obligations as part of the transmission agreements entered into with designated transmission customers². These transmission agreements are based on the Benchmark Agreement (BA) set out in Schedule 2 of Part F section II of the EGRs³ and contain a number of quality and reliability service measures and reporting obligations that Transpower must comply with.
8. The BA is the result of considerable industry consultation and is based on a set of principles contained in the EGRs. The EGRs also prescribe the content of the BA which must include service definitions, service levels and service measures.
9. The EGRs also provide a mechanism to vary transmission agreements to provide either increased or decreased levels of service and reliability compared to the BA.
10. We therefore recommend that the Commission ensure that any quality standards proposed in the draft recommendation are consistent with, and do not conflict with, the quality standards set by the EC⁴.

² Schedule F1 of Part F Section II sets out the categories of designated transmission customers required to enter into transmission agreements

³ The BA forms the default transmission agreement if individual agreements are not reached.

⁴ We note that Section 54M (6) of the Act requires that any section 52P determinations in respect of the quality standards of Transpower may only give effect to quality standards set by the (EC).

Treatment of capital expenditure

11. It is not clear how the Commission's recommendations that all Transpower's capital expenditure would require approval by the Commission or other regulatory body fits alongside Transpower's new investment contracts which are negotiated between Transpower and designated transmission customers.

Allocation of common costs, including between businesses

12. Orion agrees that the Commission should recommend the avoided cost allocation methodology for allocation of the common costs between the System operator and other activities given the materiality of these costs.

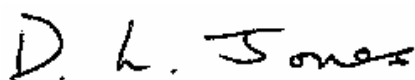
Planned Workshop

13. Given our current commitments to the Input Methodology consultation for electricity distributors, we do not wish to appear at the Transpower regulatory workshop in March. We will however review the transcript and respond in a post workshop submission should any issues arise during the workshop which we wish to address.

Concluding Remarks

14. Thank you for the opportunity to make this submission. Orion does not consider that any part of this submission is confidential. If you have any questions please contact: Dennis Jones (Industry Developments Manager), DDI 03 363 9526, email dennis.jones@oriongroup.co.nz.

Yours sincerely



Dennis Jones
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