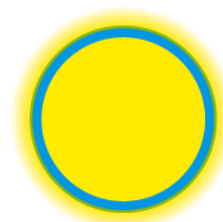


10 July 2015

Keston Ruxton
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POWERCO



Dear Keston

Comments on CPP Fast Track

This letter responds to the Commerce Commission's paper of 3 July 2015, entitled 'Update on fast track amendments'. We address below two related issues:

1. whether or not consideration of the interactions between the DPP and CPP should be fast-tracked; and
2. the Commission's proposed time frame for its review of the Input Methodologies.

Fast-tracking the consideration of interactions between DPP and CPP

We appreciate the Commission's consideration of the proposal to fast track the review of the interaction between the DPP and CPP WACCs. As Powerco has already explained, it is important that this issue is resolved in order to ensure that incentives to apply for a CPP are properly aligned with the regime's purpose, and to give certainty to those suppliers – like Powerco – currently in the planning phase for a CPP. We have already provided a substantive submission outlining our proposal, and why we think it is suitable for fast track consideration, and so we simply reiterate those comments.

We also acknowledge the points regarding timing and certainty raised by WELL, and adopted by the Commission in its 3 July Update paper. To similar effect, ENA in its submission of 23 June 2015 commented that *"the scope of CPP IM amendments is potentially quite large... The ENA considers that the proposed fast tracking timetable is insufficient for a comprehensive review of all of the information and process components of the CPP IM."*

In our view, while we think fast track consideration of the interaction between DPP and CPP WACCs is both appropriate and achievable, the priority for Powerco is that the Commission's review process delivers certainty, and a timely and durable decision.

The key factors in Powerco's planning for its CPP application in 2016 (or any decision to defer until after the comprehensive IM review) will be:

- the inclusion, by the Commission, of the WACC alignment issue in its fast track review process, and then
- our assessment of the likelihood that the Commission will be able to reach a final decision within the timeframe of the fast track review.

The forum will be a useful opportunity to gauge the level of challenge associated with addressing this issue in the fast track process, and will therefore inform Powerco's decision as to when to apply for a CPP.

The Commission's proposed time frame for consultation

Separately, we have several observations on the Commission's proposed time frame for consultation, as set out in its Amended Notice of Intention, dated 3 July 2015.

Under the Commission's current proposal, interested persons will have three weeks from the date of the forum to submit in response to the Commission's invitation paper, and then a further two weeks for cross-submissions. The Commission is then planning to publish a draft decision only in mid-Q2 2016 (with a view to publishing a final decision in December 2016).

Accordingly, interested persons will have only two opportunities to make submissions to the Commission: in August 2015 in response to the invitation paper, and in Q2 2016 in response to the draft decision. As a consequence, the integrity of the consultation process relies heavily on the August 2015 submission process, as the next opportunity that interested persons will have to engage with the Commission (and the first opportunity to comment on concrete proposals) will be the draft decision, which arrives comparatively late in the timetable: 12 months into an 18 months process.

In our view, that approach has several problems.

The submissions process planned for August may be of limited value

There is a significant risk that the August submissions process – as currently conceived – will be of limited value, both to interested persons and the Commission, and for several reasons. First, the invitation paper is a wide-ranging document which addresses a large number of topics and suggests potential solutions, but at a low level of detail. The lack of a more focused set of issues, with more detailed proposals, makes it difficult for interested persons to identify the key questions and choices to which they should direct their efforts. This is a critical issue given that the next opportunity to engage with the Commission's thinking is the draft decision in mid-2016.

Second, even in relation to that subset of topics that will be addressed in more detail at the forum, it will be difficult to determine what we should be responding to: the Commission's evolving thinking, or the issues and solutions raised by other interested persons, which may be only partly developed. In short, it seems likely that many submissions will be at cross-purposes, which cannot be of benefit to the process.

As an alternative, we propose that the Commission produce, in the wake of the forum and prior to the submissions deadline, a follow-up to its invitation paper that would summarise any developing consensus from the forum and narrow the scope of the exercise to those issues, and potential solutions, which remain in serious contemplation. That would then give interested persons something concrete on which to base their submissions, and ensure that the debate is focused on a clearly articulated problem definition and range of proposals.

That approach ensures that interested persons have a proper opportunity to engage with the Commission's thinking as it works towards its draft decision; and that the Commission has a clear sense of stakeholder views on the key issues. As a further benefit, a more precisely defined engagement at this stage will draw out potential areas of disagreement earlier, relieving some of the pressure that would otherwise fall on the later submission period post the release of the draft decision.

Three weeks is not enough time to respond to the invitation paper in the wake of the forum

Currently, the Commission is planning to allow interested persons three weeks from the date of the forum to file their submissions, with a further two weeks for cross-submissions. Whether or not the Commission adopts our suggestion to publish – as an interim step – a refined problem definition paper, three weeks is not enough time to adequately address the range of issues that the Commission has raised, even in relation to that narrower set of topics on the forum agenda. Albeit the Commission released its invitation paper in late June, the practical reality is that interested persons will not be able to make substantial progress developing their submissions until after the forum.

Again, given that the next step will be a draft decision, we think it is important that interested persons are afforded the fullest opportunity to respond to the Commission's paper. There is also no pressing intermediate step that necessitates an early submissions deadline, given the Commission's next deadline is in mid-2016.

The Commission's draft determination will arrive late in the process

Finally, the Commission's proposed timeframes anticipates publication of the draft decision relatively late in the process, and so we suggest that the Commission should aim to publish the draft decision at an earlier date in order to give more time for consultation on the draft. Even if the Commission adopts our proposals above, the draft decision will still be the first opportunity that interested persons have to comment on a concrete proposal. Given the importance of securing a durable decision, the implications of which have been fully explored, we think there is benefit in allowing more time for consultation on the draft.

As an alternative, the Commission could consider publishing discussion papers on discrete topics as it goes. Although we think the Commission should take a holistic view of the issues in the context of its final decision, there would appear to be no barrier to releasing draft position papers, through early 2016, as and when the Commission is ready to do so.

Proposed timetable for consultation

In the attachment to this letter we have set out some proposed amendments to the timetable, taking into account our comments above.

Yours sincerely



Richard Fletcher
General Manager Regulation and Government Affairs

Attachment: Proposed Amended Timeframe for the wider IM Review

	Process	Commission proposed time frame	Powerco's suggested time frame
1.	Paper issued – Input Methodology Review: Invitation to contribute to problem definition (invitation paper)	15 June 2015	15 June 2015
2.	Decision by Commission on whether to conduct fast tracked amendments for specified airports and EDB CPP input methodologies and the process for fast track amendments	3 July 2015	3 July 2015
3.	Forum with interested persons on the invitation paper	29-30 July 2015	29-30 July 2015
4.	Post Forum-Final problem definition paper published by the Commission <i>(Summarises any developing consensus from the forum and narrows the scope of the exercise to those issues, and potential solutions, which remain in serious contemplation)</i>	N/A	21 August 2015
5.	Submissions from interested persons on the final problem definition paper	21 August 2015	<i>21 September 2015</i>
6.	Cross-submissions from interested persons on the final problem definition paper	4 September 2015	<i>9 October 2015</i>
7.	Draft decision(s) on input methodologies review published for comment <i>(Consider also releasing draft position papers on discrete topics as and when the Commission is ready to do so)</i>	Mid Quarter 2 2016	<i>Late Quarter 1 2016</i>
8.	Submissions from interested persons on the draft decision(s)	Late Quarter 2 2016	<i>Mid Quarter 2 2016</i>
9.	Cross-submissions from interested persons on the draft decision(s)	N/A	Late Quarter 2 2016
10.	Technical consultation on input methodology amendments	Quarter 3 2016	Quarter 3 2016
11.	Final decision(s) on input methodologies review	December 2016	December 2016