

By email

31 August 2016

Greg Skelton  
Chief Executive Officer  
75 The Esplanade  
PETONE  
PO Box 31049  
Email: [REDACTED]

Dear Greg

**Wellington Electricity Lines Limited – warning for non-compliance with the DPP quality standards for the 2013 and 2014 assessment periods**

**Purpose**

1. The purpose of this letter is to advise you of our decision on Wellington Electricity Lines Limited's (WELL) 2013 and 2014 non-compliance with the quality standards under the Electricity Distribution Services Default Price-Quality Path Determination 2010 (2010 Determination) and the Electricity Distribution Services Default Price-Quality Path Determination 2012 (2012 Determination) respectively.

**Warning for failing to comply with the quality standards**

2. You advised us in WELL's 2013 and 2014 compliance statements that WELL was non-compliant with the quality standard for the 2013 and 2014 assessment periods.
3. We agree that WELL was non-compliant with the quality standard for the 2013 and 2014 assessment periods having exceeded either the System Average Interruption Duration Index (SAIDI) or System Average Interruption Frequency Index (SAIFI) limit in both those assessment periods and one of the two immediately preceding assessment periods. Accordingly, we consider that WELL has contravened a price-quality requirement applying to regulated goods or services under s87(1) of the Commerce Act 1987 (Act). WELL's quality performance against the limits is set out in table 1 below.

**AUCKLAND**

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P.O. Box 105-222  
AUCKLAND 1143, NEW ZEALAND

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**WELLINGTON**

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WELLINGTON 6140, NEW ZEALAND  
Tel: (04) 924 3600 Fax: (04) 924 3700  
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**Table 1: WELL's performance against the annual reliability limits for 2012, 2013 and 2014**

	Quality measure	Limit	Assessed	% difference (Assessed over Limit)
<b>2014</b>	SAIDI	40.744	78.876	94%
	SAIFI	0.602	1.107	84%
<b>2013</b>	SAIDI	40.744	43.290	6%
	SAIFI	0.602	0.573	-5%
<b>2012</b>	SAIDI	40.744	45.858	13%
	SAIFI	0.602	0.715	19%

4. We are able to take Court proceedings seeking a financial penalty and compensation under the Act for a contravention of s87(1).<sup>1</sup>
5. However, in this instance, rather than seeking a penalty we have decided to issue this warning letter.

#### **Our decision to issue a warning letter**

6. In deciding on our enforcement response we analysed WELL's non-compliance using our enforcement criteria:
  - 6.1 seriousness of conduct;
  - 6.2 extent of detriment ; and
  - 6.3 public interest.<sup>2</sup>
7. Based on our assessment of the non-compliance against these enforcement criteria, we decided to exercise our enforcement discretion to issue a warning letter and to not seek a penalty from WELL.

<sup>1</sup> Only the courts can decide whether the Act has been breached or not. This warning letter does not represent a ruling of law. Under s87(3) of the Commerce Act the Court may order a person to pay a pecuniary penalty to the Crown which must not, in respect of each act or omission, exceed \$500,000 in the case of an individual, or \$5,000,000 in the case of a body corporate.

<sup>2</sup> While we take all the enforcement criteria into account when deciding on an enforcement response, for quality breach decisions we consider that the seriousness of the conduct, including in particular the circumstances of the non-compliance and extent of fault, is the most important criteria.

8. In terms of conduct, having assessed the circumstances of the non-compliance, we considered that there was no serious fault on WELL's part.
9. While any network outage causes inconvenience for consumers, we did not identify any significant specific detriment to consumers on WELL's network as a result of the non-compliance.
10. We further did not find that it was in the public interest to seek a penalty.

#### **Strata's report about WELL's quality performance**

11. To assist in our assessment of the circumstances of WELL's non-compliance with the quality standards, we engaged Strata Energy Consulting Limited (Strata) to review WELL's quality performance and the circumstances of the 2013 and 2014 non-compliance. We also considered WELL's response to Strata's report, as well as other material provided by WELL, before reaching a decision on our enforcement response.
12. Strata did not identify any material concerns about WELL's asset management practices as they relate to WELL's quality performance and the circumstances of the 2013 and 2014 non-compliance. However, in addition to Strata's findings on the above matters, Strata noted that WELL have an aging network and made certain recommendations, which if applied Strata considers will improve the probability of WELL achieving and sustaining reliability performance within the quality standards in the future.
13. WELL responded to Strata's report by a letter dated 20 May 2016. WELL acknowledged the key conclusions of the report and noted that the Strata report was consistent with WELL's assessment of the circumstances surrounding the non-compliance in a number of instances. WELL also acknowledged the recommendations contained within the Strata report and stated that a number of the recommendations had already been actioned.
14. We acknowledge WELL's positive response to Strata's report, engagement in the review and that WELL has already initiated work streams consistent with Strata's recommendations.

#### **Our expectations regarding WELL's future performance**

15. We expect WELL to take appropriate steps to mitigate the risk of future non-compliance with the quality standards.
16. We also acknowledge that WELL has complied with the quality standards for the 2015 and 2016 assessment periods.
17. Notwithstanding its 2015 and 2016 compliance, if WELL fails to comply with the quality standards again, its 2013 and 2014 non-compliance will be a relevant factor that may lead us towards a stronger enforcement response.



**Further information**

18. This warning letter, Strata's report, and WELL's response to Strata's report will be published on our website. We may also issue a media release or make public comment about our decision.
19. Please contact Simon Wakefield on [REDACTED] or by email at [REDACTED] if you have any questions about this letter.

Yours sincerely,

[REDACTED]

Sue Begg  
Deputy Chair

Encl.

- *Investigation into the quality standards breaches by Wellington Electricity Lines Limited, Strata Energy Consulting, 27 April 2016.*