



COMMERCE COMMISSION

INFORMATION DISCLOSURE REGULATION UNDER PART 4 OF THE COMMERCE ACT 1986

Workshop 2: Pricing Disclosures 31 May 2011 Workshop Minutes

Venue

Kauri Room, Commerce Commission offices
Level 6, 44 The Terrace,
Wellington.
Tuesday 31 May 2011, 9am–3:30pm

Participants

Anthony Merritt	Commission (Chair)
John Groot	Commission
Hamish Groves	Commission
Tobias Maugg	Commission
Vanessa Howell	Commission
Laurence Walls	Commission
Lindsay McLennan	Delta
Joel Pearce	Electricity and Gas Complaints Commission (EGCC)
Geoff Evans	GasNet
Todd Campbell	Horizon Energy
Blair Robertson	Maui Development Limited (MDL)
Ralph Mathes	Major Electricity Users Group (MEUG)
Jan de Bruin	Network Waitaki
Bruce Rogers	Orion
Paul Goodeve	Powerco
Lynne Taylor	PricewaterhouseCoopers (PwC)
Stephen Peterson	Simply Energy
Nathan Strong	Unison
Brett Butler	Vector
Ron Smale	WEL Networks (WEL)
Jacqui Major	Wellington Electricity
Karen Smith	Electricity Authority (EA)

Introduction to Workshop

The Chair welcomed participants and noted the attendance of Stephen Peterson (Simply Energy) and Joel Pearce (EGCC, in place of Nanette Moreau). There were no apologies received.

The purpose of the workshop is to assist the Commission in preparing its draft determinations on information disclosure requirements for EDBs and GPBs.

The Commission's current view is that pricing disclosures are an important part of meeting the purpose of information disclosure, which is that interested persons have sufficient information to assess whether the purpose of Part 4 of the Commerce Act is being met. The Commission is keen to avoid creating regulatory compliance requirements that bear no relationship to how suppliers of electricity lines and gas pipeline services (suppliers) run their businesses, and is open to exploring ways to minimise the costs of disclosing this information whilst ensuring that sufficient information is available to interested persons. We hope this workshop will help achieve these objectives.

No formal post workshop submissions are requested, but participants are welcome to provide material after the workshop. Draft determination(s) and a reasons paper (which will include the draft pricing disclosure requirements) are expected to be released in September 2011 for formal consultation.

The workshop draft agenda was circulated to registered attendees on 17 May, and the final agenda on the 30th of May which contained items for discussion proposed by a number of attendees. Appendices A and B contain the final agenda, and proposed discussion topics, respectively.

Opening remarks and presentations by attendees

In his opening remarks the Chair noted:

- the Commission's approach to the term 'interested persons' includes (but is not limited to) consumers, suppliers and owners of the regulated suppliers, regulatory bodies including the Commission and any other stakeholder of a regulated supplier. The Commission is an interested person because it uses disclosed information in meeting its summary and analysis obligations under s 53(b)(2)(b) of the Act;
- that the Commission does not discriminate between groups of interested persons, nor does it presume what interested persons may do with disclosed information; rather it views its role as ensuring that the information is transparently disclosed, in sufficient detail that interested persons can assess whether the purpose of the Act itself is being met;
- that the Commission is nevertheless mindful to strike an appropriate balance between transparency and complexity, to ensure that the requirements are implemented in a cost-effective manner that provides interested persons with sufficient information whilst minimising the compliance burden on regulated suppliers;
- clarified that the Commission in no way intends to prescribe how suppliers set their prices, in the design or implementation of the information disclosure requirements.

The chair then invited attendees from EDBs and GPBs to explain their sources of revenues, and use of non-standard contracts. The speakers were Blair Robertson (MDL), Brett Butler (Vector), Nathan Strong (Unison), Lynne Taylor (PwC); Lindsay McLennan (Delta); Bruce Rogers (Orion); Geoff Evans (GasNet); Todd Campbell (Horizon Energy); Stephen Peterson (Simply Energy), Ron Smale (WEL)

Points and themes that arose from these presentations were as follows:

- Information on MDL's charges is set out in the Maui operating code. It has no special terms contracts;
- 'Other' revenue is limited; it may result, for example, from contracting work, sales of small assets, rents, recoveries for damage to assets such as poles; some demand supply management;
- GasNet noted that the majority of its customers were on posted price tariffs, (with about 13 non-standard consumers with annual consumption of greater than 10TJ). Ideally all would be on fixed tariffs, but that they have a 50/50 variable to fixed split, with the fixed tariffs being capacity-based. A total of eight retailers are signed up under the same use of system agreement dating back to the late 1990s;
- Horizon Energy noted that 50% of its load is from six major customers;
- Non-standard contracts were used to address particular risks, meet significant customer specific investment requirements or to meet a consumer's particular service requirements (e.g. with respect to quality). Such contracts could be contestable;
- Some non-standard contracts are long-standing and it is often difficult to get users to move to standard contracts (e.g. use of system agreements);
- Some parties preferred confidentiality, e.g. for distributed generation connection contracts where competing users use a single GXP; and
- Much of the information the Commission requested is also available from filed disclosures.

Session 1: Pricing Methodologies

This session discussed the disclosure of pricing methodologies for EDBs and GPBs. The Commission noted that its aims in this area of pricing disclosures were:

- incorporating references to pricing principles into the requirements;
- how to make pricing methodologies more transparent, so interested persons can better understand how prices are determined from total revenue requirements. Users should be able to understand and replicate the calculation of line charges from total revenue requirements;
- the view that there is a lack of transparency around how EDBs (in particular, but not exclusively, exempt EDBs) set their total revenue requirements;
- to discover what information would best demonstrate the extent of consistency of GPB and EDB pricing methodologies with either the pricing principles determined in the input methodology (IM) for GPB pricing methodologies or the EA's pricing principles (as applicable);

The following themes and points arose from discussion in this session:

- The link between revenue and delivered prices is not a linear path, or mechanistic exercise. Unison noted that the link between revenue and end prices is not direct, and it is difficult to be prescriptive in this regard. Setting prices is "more of an art than a science";

- Simply Energy sought greater clarity on the criteria for allocating a connection to a tariff group and what the scope of service and supply is for each tariff group. Simply Energy sought disclosure of clear pricing principles that would be applied to non-standard consumers (e.g. site-specific prices) and how costs for additional services are determined. Simply Energy also noted the imbalance in the power relationship – customers have financial imperatives (e.g. risk of liquidated damages), allowing lines companies to stall, forcing consumers to accept these companies' terms;
- Attendees noted the importance of alignment with the pricing principles of the Electricity Authority (EA). Vector noted that the development of pricing principles by the EA, and resulting engagement on these principles, has resulted in positive outcomes for the industry;
- The Commission noted that the EA and Commission's approaches (using principles) are similar, that the Commission engaged with the EA to ensure alignment, and that through consultation processes interested persons could comment on proposed changes to help ensure alignment;
- Attendees questioned whether greater prescription was desirable in relation to pricing methodologies. Powerco noted that extra prescription will necessitate a delay of approximately 18 months in preparation time, if the determinations are released in December 2011 as planned;
- PwC noted the pricing methodologies evolve over time, noted the successful evolution of AMPs over time, and had concerns over the degree of prescription regarding pricing methodologies that may be proposed. PwC asked whether consideration is being given to guidance for pricing methodology disclosures (e.g. through the use of a handbook as per the AMP requirements)) rather than a higher degree of prescription;
- Attendees noted that as some parts of networks are contestable (e.g. embedded networks), suppliers were hesitant to publicly disclose the full costs of supply. Others considered that they would be unable to react in time before bypass occurred and customers were lost. The Commission questioned whether the risk of bypass occurred as a result of disclosure in the pricing methodology or due to the charges and network economics.
- Other comments related to:
 - Timing of disclosures: Powerco noted that disclosures of revised pricing methodologies by 31 March 2012 would be very difficult if the new requirements were only finalised late in 2011;
 - Costs: Powerco asked whether the cost to implement new requirements could be considered a pass-through cost, but was advised it would not.

Session 2: Line charges and capital contributions

The purpose of this session was to discuss the disclosure of prices for regulated services. The Commission noted that, in common with other areas of pricing information disclosure, that it is interested in learning whether the current requirements could be improved upon to enhance the transparency and usefulness of the information disclosed.

The main themes of discussion are summarised below.

Capital contributions

- Simply Energy noted that there is little transparency of how line charges in general, and capital contributions in particular, are determined. Simply Energy proposed that

suppliers should disclose the principles used to determine prices for non-standard connections, perhaps by reference to the EA's pricing principles; that the 'standard' assets, maintenance, services and capacity could be disclosed for each standard line tariff; and sufficient detailed information should be available on request to a supplier so a reasonable person could independently validate the derivation of a non-standard line charge or capital contribution;

- Powerco considered that the costs for 90% of its capital contributions were from its rate card;
- MDL noted that it spreads capital costs across all users as a result MDL operating under common carriage access arrangements;
- The Commission asked about the recovery of revenue from both existing and new consumers, and whether it would be of interest to current consumers to understand how their tariffs are affected as a result of capital contributions. Attendees suggested that capital contributions make up only a minor proportion of revenue. Unison noted that capital contributions are netted off the RAB;
- Some suppliers considered that many customers were well informed, well resourced and had significant countervailing power. Simply Energy did not accept this, noting the user is negotiating with a monopoly supplier, who could refuse to connect them, or delay, and that the user risks facing liquidated damages.

Method of Disclosure

- Attendees stated that the current requirement to disclosure by newspaper were outdated and expensive. This requirement had at times caused confusion as people did not know who their lines company was, or when they sought to compare the new lines charges with their most recent power bill.

Disclosure of potentially confidential information

- Powerco expressed the view that some new infrastructure investments may be commercially sensitive and that it would place Powerco at a competitive disadvantage to disclose these in advance.
- Vector stated that while the disclosure of policies/ methodologies around line charges was acceptable, disclosure of non-standard terms can be commercially sensitive.
- Some EDBs stated that a capital contribution could exceed the incremental cost of a new connection.

Other comments:

- Vector noted the relevance of new tax rules around the capital contributions.
- Vector also noted the required timing of EDB line charge disclosures caused difficulty for them.

Session 3: Pricing statistics

The Commission used this session to discuss the approach to pricing statistics, in particular the best means to enhance the comparability of statistics representing consumer groups between networks and/or suppliers.

Attendees were generally of the view that the current requirements are not useful. In particular, despite choosing a common set of the consumer categories, comparisons between suppliers are not meaningful. PwC noted particular issues in with the current small/medium

consumer categories. Powerco noted that it does not have billing information by ICP for its 0-100KvA consumers, and would have to change its billing system to comply with the current requirements.

Vector suggested that disclosure on the basis of the way prices are set by individual suppliers would be more useful. Vector noted that information giving a breakdown of the revenue against their customer categories was already available on their website. It was noted that the MED's breakdown of statistics by consumer categories, available on the MED website is potentially useful.

Non-contiguous networks

Powerco questioned this level of reporting as, in theory, this could result in Powerco having to disclose separate data for each of its 35 networks that might be considered non-contiguous. Vector noted that it has approximately 50 such networks, for which would be problematic to disclose. GasNet has five discrete networks.

The definition of 'contiguous network' could differ between suppliers. Attendees suggested that if pricing statistics are to be disclosed by contiguous network, the definition used should be consistent with that used in the pricing methodology. The Commission noted that the appropriate definition of non-contiguous networks for GPBs had been raised in the GPB AMP workshop and that the Commission had invited suggestions from participants at that workshop as to how non-contiguous networks should be defined for GPBs.

Session 4: Terms and conditions of contracts

This session discussed the approach to disclosing terms and conditions within contracts, and options available for disclosing terms and conditions of supply. The Commission noted that it considered that disclosure of entire contracts could be impracticable.

- Some attendees questioned the utility of requirements to disclose the terms and conditions of individual contracts, noting that nobody has ever requested this information;
- Unison considered that it was not clear what problem contract information disclosure requirement was attempting to solve. The Commission should clearly identify the issue that would be addressed through such a disclosure requirement;
- Some attendees noted the distinction between non-standard prices and non-standard contracts;
- Some attendees considered that information on non-standard contracts was included in pricing methodologies, but it was not clear how widespread this was;
- Attendees questioned whether a methodology was required for each contract, and expressed the view that the pricing methodology cannot cater for every possibility;
- Powerco noted that customers were increasingly moving away from non-standard contract arrangements towards standard contracts;
- The Commission raised the option of disclosure of particular information as a potential alternative to terms and conditions disclosures, such as the amount a revenue represented by standard and non-standard contracts. Vector noted that information on revenue for standard and non-standard contracts was already available on its website;
- Attendees from the gas sector noted that the provision of gas services is sometimes contestable, via bypass. Contractual information may therefore be commercially sensitive;

- Vector proposed what it described as an OIA-type model, where disclosure of a contract could be requested but where the consumer could request confidentiality.

Session 5: Consumer engagement

This session discussed the inclusion of consumer engagement requirements in the AMP disclosures for EDBs and GPBs. The Commission sought to explore how EDBs and GPBs could best demonstrate engagement with their consumers regarding price-quality trade-offs.

- Vector asked whether consumer engagement information is useful, given that nothing has been done with the information disclosed through the price-quality threshold requirements. Vector sought feedback from the Commission on the adequacy of the current engagement requirements. The Commission responded that it was not able to do so at the meeting, and that it seeks to understand what consumers require, rather than what the Commission considered about the disclosed information.
- PwC noted that consumers were concerned with reliability of supply. The current reliability threshold was “locked in”, giving a strong regulatory incentive to maintain a reliability disclosure requirement. GasNet replied that safety was the most important concern. Vector stated that much of the quality targets used simply reflected engineering best practice.
- The Commission asked how suppliers typically engaged with their consumers. Powerco noted that engagement was not continuous, as there needs to be something specific to effectively engage with consumers. Horizon noted that its engagement with consumers had not been very successful, as there had been little response from end-users. Unison noted that it was difficult to engage with mass-market consumers as no direct relationship exists; GasNet concurred, stating that it did not know who its consumers are. PwC noted that trust-owned EDBs consulted annually with their trust owners over their Statement of Corporate Intent targets, including quality of supply.
- Attendees noted that a variety of consumer engagement initiatives and methods had been attempted and adopted, including consumer surveys and focus group meetings. Some attendees noted that consumer surveys tended to be of limited effectiveness. Focus groups were often more effective.
- In a discussion on the most effective way consumer engagement activity should be disclosed, Vector and PwC stated that the AMP is the best place for these disclosures as there is a clear existing link between consumers quality expectations and investment plans. A starting point could be to clarify the material currently requested under AMPs with regard to consumer engagement.

Other Matters

- Several attendees asked the Commission to provide more feedback to suppliers on their disclosures. This could contribute to a review and feedback process that focussed on continuous improvement in disclosure performance.
- Audit and certification – attendees questioned whether pricing methodologies should be audited given that auditors were typically not skilled in auditing such material. Audit costs could be minimised by having auditors review documentation only once.
- PwC noted that disclosure is hardest in the first year after new requirements take effect, but that it gets progressively better. Powerco noted that it was important, therefore, to set up an enduring regime.

Closing remarks

In his closing remarks the Chair thanked attendees for their participation. He also noted the request of attendees that the Commission provide more feedback to EDBs and GPBs through the information disclosure regime, and to engage more with regulated suppliers in general. The Chair repeated the invitation to attendees to identify areas where they considered compliance costs could be reduced.

The Chair noted that no formal post workshop submissions are requested, but that participants are welcome to provide material after the workshop. The Commission aims to release a draft determination and draft reasons paper by September 2011 for consultation.

The workshop closed at 3.30pm.

Appendix A: Workshop Agenda (circulated 30th May)

Each workshop session will give attendees the opportunity to express their views on each category of pricing information disclosure. This will assist the Commission to specify information disclosure requirements for EDBs and GPBs. Each session will cover:

- current disclosure requirements applicable to EDBs and GPBs, respectively;
- issues or difficulties encountered with the current disclosure requirements;
- the Commission's proposed approach to disclosure, or the options available (as applicable); and
- any other topics raised by attendees.

9am – Introduction: (30 minutes)

The introduction will confirm the purpose of the working session, briefly outline the background to the disclosure of pricing information for the electricity and gas sectors in the context of the overall work program.

Attendees representing EDBs or GPBs will then be asked to briefly outline:

- what line charge income is comprised of;
- the type of charges they impose in respect of electricity line, or gas pipeline, services;
- what other income is earned in addition to line charge income, and what it is comprised of; and
- when they use non-standard contracts.

9.30am – Session 1: Pricing methodologies (1 hour 15 mins)

This session will discuss the disclosure of pricing methodologies. The following topics will be discussed:

- how to make pricing methodologies more transparent, so interested persons can better understand how prices are determined from total revenue requirements;
- what information would demonstrate the extent of consistency of GPB and EDB pricing methodologies with the pricing principles determined in the input methodology (IM) for GPBs pricing methodologies/EA's pricing principles (as applicable);
- whether to require further information on:
 - how suppliers' total revenue requirements were determined. For non-exempt EDBs this could reference the DPP or the CPP;
 - how the pricing methodology determines a supplier's line charges;
 - policies and methodologies for capital contributions.
- any other topics raised by attendees.

10.45am – Morning Tea: (15 minutes)

11am – Session 2: Line charges and capital contributions (1 hour)

This session will discuss the disclosure of prices for regulated services. The following topics will be discussed:

- whether capital contributions, and any other charges in respect of regulated services, should also be disclosed;
- appropriate timing and means of disclosure of charges prices; and
- any other topics raised by attendees.

12pm – Lunch: (45 minutes)

12.45pm – Session 3: Pricing statistics (1 hour)

This session will discuss options for the disclosure of pricing statistics. The following topics will be discussed:

- attendees to set out how consumer categories are determined for the purposes of pricing;
- whether pricing statistics be altered to improve disclosure; if so, should the requirements call for:
 - disclosure of key pricing statistics in the line charge categories determined by individual suppliers;
 - disclosure against Commission-defined representative consumers in each pre-determined consumer group.
- identification of particular pricing statistics that are most relevant for interested persons' assessments of performance in relation to the Part 4 Purpose;
- disclosure for each non-contiguous network; and
- any other topics raised by attendees.

1.45pm – Session 4: Terms and conditions of contracts (1 hour)

This session will discuss the approach to disclosing terms and conditions within contracts. The following topics will be discussed:

- why and when non-standard contracts are used, and what differences exist between each non-standard contract, and between standard and non-standard contracts;
- whether there should be any differences in the contractual disclosures between EDBs and GPBs;
- options available for disclosing terms and conditions of supply;
- what information would be considered confidential, and why? and
- any other topics raised by attendees.

2.45pm – Afternoon tea (15 minutes)

3pm – Session 5: Consumer engagement (45 minutes)

This session will discuss the inclusion of consumer engagement requirements in the AMP disclosures for EDBs and GPBs. The following topics will be discussed:

- how do EDBs and GPBs engage with their consumers regarding price-quality trade-offs?
- how can EDBs and GPBs demonstrate to interested persons that services are provided at a quality that reflects consumer demands?

- the most appropriate ways to measure consumer engagement for the electricity and gas sectors; and
- whether to include the consumer engagement provisions within AMPs for EDBs and GPBs; and
- any other topics raised by attendees.

3.45pm – Conclusions and next steps (5 minutes)

The Commission will summarise the key points covered at the workshop, and outline the next steps in the consultation process.

3.50pm – Workshop ends

Appendix B: Discussion topics proposed by attendees:

We intend to make time available at the end of each working session for attendees to raise additional points. Indicative discussion topics received by the Commission from attendees are set out below.

General topics

- Access to more detailed information for consumers, with more standardisation to improve comparability and comprehensibility;
- What is the purpose of information disclosure under Part 4 within the context of DPPs and CPPs?
- Who is the audience for ID, and what do they do with information disclosed under it?
- If the purpose is some sort of comparison across EDBs, is this meaningful? (noting the prohibition on comparative benchmarking under the Act);
- Minimising the regulatory burden. In the pricing area this means that there should be only one set of disclosures (those under the Electricity Authority principles and guidelines) provided once each year to one party.
- The purpose of information disclosure, and how each of the Commission's requirements is a key part of meeting this purpose;
- Pricing disclosure requirements where a supplier operates under a revenue cap;
- Striking the right balance between transparency and complexity.

Pricing Methodologies

- The level of detail in pricing methodologies required for gas;
- The right for the ELB to not have to implement prices that their allocation model may otherwise infer as being fair;
- Ascertaining the reasonable needs and interests of interested parties in pricing methodology disclosures;
- Ensuring alignment between the EA and Commission;
- Ensuring that there is clarity in what is expected to be disclosed, recognising that there is no one right way that prices should be established.

Line Charges

- Capital contributions: why the Commission requires this information and what it is trying to achieve.

Pricing Statistics

- Pricing groups for gas, and a way to avoid Powerco needing to seek an exemption to the small and medium pricing categories each year;
- Non-contiguous networks: whether pricing statistics should continue to be disclosed at this level of detail.

Terms and conditions of contracts

- This area could require disclosing a substantial amount of information, much of it confidential. Understanding of the Commission's aims and discussion of a practicable way to achieve them;

- Making contracts available to the public will give too much detail to retailers by firstly identifying that this customer exists and when its contracts will expire.

Consumer engagement

- Where to put this requirement (e.g. in AMPs), the level of consumer engagement required for gas and how to measure consumer engagement.