

## **Initial default price-quality paths for gas pipeline services – deferral of commencement date**

Date: 29 February 2012

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## **Our decision to defer the initial default price-quality paths**

1. We have decided to defer the commencement of the initial default price-quality paths (initial DPPs) for gas distribution businesses and gas transmission businesses beyond 1 July 2012. As a result we will not be publishing a determination by 29 February 2012 as we have previously indicated. We have taken account of responses from interested parties in making our decision.
2. The initial DPPs will commence as soon as practicable, taking effect on a relevant quarter but no later than 1 October 2013. We will consult on a revised process later this year, including a new proposed commencement date.

## **Support for the deferral and issues arising from submissions**

3. A deferral is supported by all interested parties that made submissions to our draft decision.<sup>1</sup> We do note the Major Gas Users Group's submission, however, that we should look to minimise the period of deferral and ensure that risks of further delay are minimised.
4. Submissions also raise a few matters that we will need to address when setting the initial DPPs. We will take account of the submissions that we have received, and we will provide interested parties with further opportunities to give their views, in the process of making decisions on matters such as:
  - 4.1 when the initial DPPs should commence
  - 4.2 how long the regulatory period should be
  - 4.3 whether claw-back under s 55F(2) should be applied<sup>2</sup>
  - 4.4 what starting prices should apply to each supplier.
5. We note Vector's view that the deferral should not predetermine whether starting prices should be either those prices that applied at the end of the previous regulatory period, or prices based on the current and projected profitability of each supplier (ie, set under s 53P(3)(a) or (b)).
6. A decision to set starting prices for the initial DPPs under s 53P(3)(a) or (b) will be made following consultation with interested parties.

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<sup>1</sup> Our draft decision set out various implications of deferring the initial DPPs, refer to: Commerce Commission, *Initial default price-quality path for gas pipeline services – deferral of commencement date, Draft decision*, 3 February 2012. We received submissions on this draft decision from GasNet, the Major Gas Users Group, MDL, Powerco and Vector. The draft decision and submissions are available at <http://www.comcom.govt.nz/2012-default-price-quality-path/>.

<sup>2</sup> Note that statutory references in this document refer to the Commerce Act 1986.

## What a deferral means for services subject to the gas authorisations

7. Deferring the initial DPPs means that those suppliers subject to the gas authorisations will not be subject to a default price-quality path when the Order expires.<sup>3</sup> As discussed in our draft decision to defer the initial DPPs,<sup>4</sup> while the lack of continuity in regulation for those suppliers is a concern, s 55F(2) applies to those suppliers and is a constraint in these circumstances in a similar way that it has been for those services not subject to the gas authorisations since 1 July 2010.<sup>5</sup>
8. We note that s 55H(2) provides that the gas authorisations will be treated as if they were customised price-quality paths when they expire and s 53X applies. Section 53X contemplates that the gas pipeline services subject to the authorisations will then move on to the applicable default price-quality path, and includes a provision on how the starting prices for a default price-quality path will be set (s 53X(2)). We have been asked by one supplier to confirm our view on the applicability of these provisions.
9. Given that there will be no default price-quality path in place when the authorisations expire, in our view s 53X cannot in practice apply. As there will not be a default price-quality path in place, there is no requirement for the Commission to give notice regarding starting prices under s 53X(2). When the initial DPPs are set, the Commission will set starting prices under either s 53P(3)(a) or (b). That decision will be consulted on, and at least four months notice of the final decision will be given.

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<sup>3</sup> The gas authorisations refer to: Commerce Commission, *Decision 656: Authorisation – Powerco – Control of Supply of Natural Gas Distribution Services*, 30 October 2008; and Commerce Commission, *Decision 657: Authorisation – Vector – Control of Supply of Natural Gas Distribution Services*, 30 October 2008. ‘The Order’ refers to the *Commerce (Control of Natural Gas Services) Order 2005*.

<sup>4</sup> Commerce Commission, *Initial default price-quality path for gas pipeline services – deferral of commencement date, Draft decision*, 3 February 2012, p. 6.

<sup>5</sup> Section 55F(2) provides that “...if a supplier has increased its weighted average prices by more than the movement, or forecast movement, in the all groups index number of the New Zealand Consumer Price Index in the period beginning 1 January 2008 and ending with the date that the determination is made, the Commission may apply claw-back to the extent of requiring the supplier to lower its prices in order to compensate consumers for some or all of any over-recovery of revenues that occurred during that period”.