Dunedin City Holdings Limited Submission

DCHL submission does not address any issues with regards to benefits to the consumer or the effects of the CPP application in a competitive market IAW Part 4, purpose of part of the Commerce Act 1986. Instead, it makes a case essentially for the financial viability of Aurora, DCTL and itself, this was also a strong position taken by Commerce Commission staff member Nick Russ at the original Cromwell drop in session.

DCHL make the statement "*We acknowledge that the Commerce Commission has addressed historic breaches through the penalty imposed on Aurora in 2020 and associated statement of facts, and that decisions on the CPP are focused on the future.*" They do not address the issue of fixing the historical issues which caused the breaches that led to the imposed penalty on Aurora. It appears that they think since they paid the penalty, they do not have a duty to fix the historical issues caused by its direction it gave to Auroras board, but it is now the consumers responsibility to fund the restoration of the network through this CPP application. This is only back to a minimum safety level as stated in the draft decision with a proposed second CPP application to follow to get the network back to industry minimum standard.

DCHL states with regards to DCTL financial support "*We have extended this support because we share Aurora's focus on restoring the quality and safety of the network, but this extended financial support is not tenable on an open-ended basis. DCHL needs to ensure, on behalf of the city of Dunedin, that it receives an appropriate return on its investment and that our funding is secure*". Concerns were raised in 2011 that by DCC Councillors that if DCHL companies have to borrow to pay dividends that it is not sustainable and if continued DCHL could be insolvent within a few years.[1]

The Auditor Generals "Inquiry into property investments by Delta Utility Services Limited at Luggate and Jacks Point" highlights Dunedin City Council's expectation for dividends and retained earnings for both Delta and Aurora which mean it may need to increase its debt levels to pay dividends (Section 2.21 to 2.25)[2].

According to Dr Geoff Bertum, an economist from Victoria University, in his original submission[3] he calculated Aurora has a historic value of $218 Million dollars and in Aurora Energy's 2019 Annual Report it says Aurora has close to $400 million of liabilities. This would indicate that DCHL and DCTL have overextended themselves in financing Aurora as it is probably technically insolvent but being held up by financing of DCHL/DCTL who can no longer sustain it.

This shows that DCC and DCHL who were warned about the consequences that borrowing to pay dividends was unsustainable and could lead to insolvency, including by the Auditor-General that it was a risk in 2014. They subsequently made informed, continued deliberate decisions that resulted in Aurora network ending up in the position it is currently in. They are more concerned about their own financial viability rather than consumer benefits and the effects of competitive market because they are exercising their monopoly position which should not be the focus of Aurora's CPP application.

Ultimately, they are relying on the Commerce Commission to approve Auroras CPP application to restore financial viability and security back to their business at the expense of the consumers,

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[1] $8m annual DCC shortfall – ODT 20 August 2011

[2] Inquiry into property investments by Delta Utility Services Limited at Luggate and Jacks Point – Auditor-General, March 2014

[3] Response to the Commerce Commission's Invitation to comment on Aurora Energy's proposed new Customised Price-Quanitiy Path – Geoff Bertram, August 2020

especially those of Queenstown lakes and Central Otago. This is a reason why this CPP application should be declined.

If the CPP is approved, the Commissioners in their decision need to justify why based on the above evidence of previous considered, deliberate decision making by DCC, DCHL and Aurora despite concerns and warnings by DCC own councillors, Auditor-General and Commerce Commission (2012 quality standards breach) which has led to the current situation where the consumer is now expected to pay for network restoration given that the network has:

- been allowed to deteriorate significantly below the minimum safety standard.
- failed repeatedly to achieve its quality standards.
- while Aurora has paid out significant dividends at the expense of network maintenance.

DCHL say that line charges are relatively low compared to other networks. If Aurora had been actively managing the network, they would have seen that work was required and invested in the network and that would have been reflected in subsequent DPP. Instead, Aurora deferred maintenance and borrowed money to pay dividends and then had to apply for a CPP to restore the network. A lot of people (selection here from the Commerce Commission own Facebook Post[4]) see this as double dipping by Aurora and should be investigated by the Serious Fraud Office as corruption/fraudulent activity. Even more so when you consider the consumer had to pay for the debt servicing from their "line charges" to cover the loans for the borrowed dividends.

Lines charges are probably relatively low compared to other networks because of a high number of very low user consumers connected to the Aurora network. These would-be like holiday homes which would only be used for a few weeks a year. It would explain why in **Table H25 Consumption profiles by region and size of consumer of the Commerce Commissions draft decision** that large users in Central Otago on average 9,250 kWh which is just over the high user threshold of 9,000 kWh in an aera with Regional Council clean air requirements which mean consumers rely more heavily on electricity for heating and would mean the average should be significantly higher than 9,250 kWh.

Aurora Submission

In Aurora submission it is concerned that in the draft decision that unplanned reliability limits have not been reduced to what they requested. As a consumer I am concerned that reliability limits have been lowered at all considering we will be paying significantly more per unit of power. In Auroras consultation they reported that consumers did not want to pay more for increased reliability so what makes the Commission think that consumers want to pay more for reduced reliability. From my perspective as price per unit increases, reliability standards should also increase at a proportional rate from the current DPP limits. A 10% increase in power prices would result in at least 10% increase in reliability standards.

As highlighted in my complaint to the Commerce Commission Aurora have failed to meet these quality standards repeatedly over the past decade. This is more of a concern as highlighted in my submission on the draft decision now that the Commerce Commission has tied safety to reliability. So, by reducing reliability quality standards the safety standards of the network will also decrease. As already highlighted the purpose of this CPP application is to restore the network back to minimum safety standards. Therefore, how does the Commerce Commission achieve the goal to increase the safety of the network under this CPP by lowering the reliability/safety requirements to that under current DPP levels?

[4] Commerce Commissions Facebook Post on Aurora Draft Decision 12 Nov 2020

Under Part 4 of the act how is this a benefit to the consumer paying significantly more for a more unreliable product and how would this play out in a competitive market instead of a monopoly – consumers would not tolerate it and leave Aurora for a more favourable supplier. Switching of suppliers and finding a better deal is being actively promoted by the Commerce Commission in the competitive telecommunications market. The moving of consumers away for Aurora would result in a reduction in total revenue for Aurora. Therefore, in a CPP competitive market context the Commission has no option but to reduce Auroras revenue cap and therefore unit price to the consumer.

Also, the Commission by reducing reliability/safety requirements would need to review their potential liability given that other Government agencies have been charged post the Whakaari/White Island tragedy by Worksafe.

The reduction of reliability standards would have negative affects on the regional economy where Aurora operates. Consumers would have to deal with more unexpected, frustrating unplanned outages which could impose significant costs on these businesses. Which would not be consumer benefit. A benefit for Aurora as they do not have to commit to maintaining the network at a standard that is acceptable to its 90,000 consumers.

ENA and Other Lines Companies Submissions

The ENA and associated lines companies with similar submissions are effectively lobbying for the maximum return and conditions that Aurora requested in its original application. An association and associated companies with resources who over the years have lobbied the Commerce Commission in their favour in the absence of very little, if any consumer opposition much like a coordinated cartel. Even to the point that Orion submitted "*We submit that a consecutive CPP should be possible following an initial CPP regardless of the application timing in the regulatory period*" knowing it is in direct contravention of the Act, S53.Q.3.

If this CPP is approved without the consequences of Auroras managements and owners past deliberate and considered decision making which led it to its current network state and financial position, it sets the dangerous precedent that lines companies can effectively do what they want without limitation or possible recourse. Decisions that if were carried out in a competitive market would result in an exodus of consumers and therefor revenue for the lines company. If they get into trouble, they can use the CPP process as a safety net or insurance policy to protect their investors financial interests at the consumer expense.

James Dicey Submission

I support James Dicey submission in that Commissioners themselves need to carefully consider all submissions as per Section 53T.1C of the Act from all stages, pre- and post-draft decision. They should not rely on a summary of submissions from Commerce Commission staff. As summaries tend to lack context and could be more representative/bias of the views of the staff doing the summaries. If the Commissioners do not consider submitters views this would lead to questions of natural justice and the integrity of both the process and the Commerce Commission itself.

If any summary of submissions has been prepared by the Commerce Commission, they need to be publicly published so submitters can see how the Commerce Commission interprets their views.

Trevor Tinworth

Cromwell, 18 Jan 2021