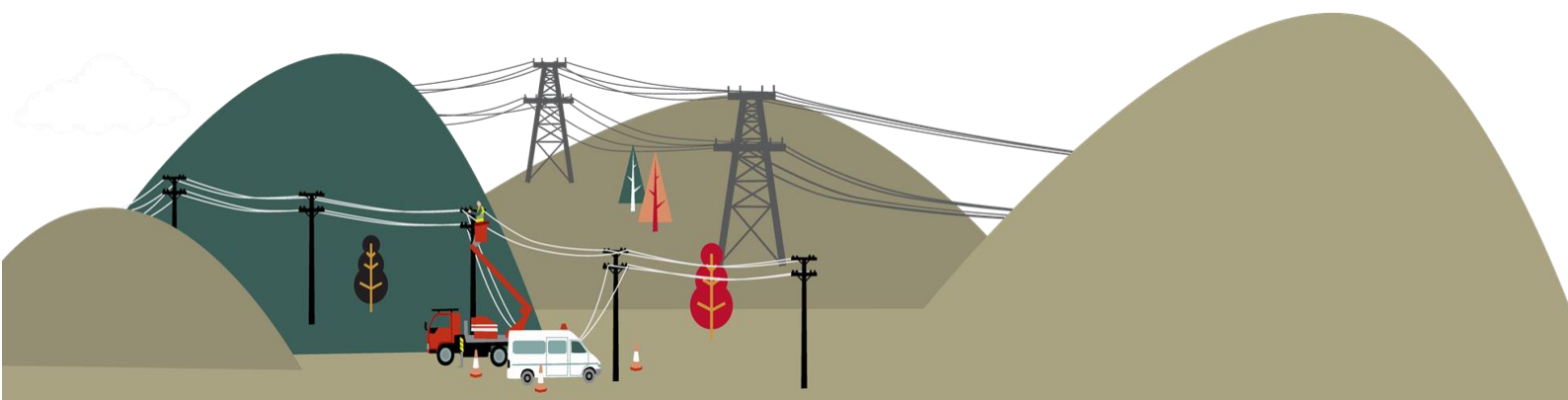


Decision and reasons on Transpower's 26 March 2024 application for normalisation of transmission outage

Date of decision: 4 July 2024



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Chapter 1 Introduction

Purpose of this paper

- 1 This paper sets out our decision to approve Transpower New Zealand Limited’s (Transpower) application of 26 March 2024 (Application)¹ to treat a [REDACTED] outage in November 2023 (2023 outage) as a ‘normalisation event’ under clause 20.4 of the *Transpower Individual Price-Quality Path Determination 2020* [2019] NZCC 19 (IPP).²
- 2 This Application and an earlier approved normalisation event arose from the one malicious damage event and no further normalisation applications are expected relating to this malicious damage.³
- 3 We set out in this paper the reasons for our decision as well as the calculations showing the effect on Transpower’s quality measures because of our decision.

A court suppression order applies to this paper

- 4 The Commission is aware that the circumstances giving rise to this 2023 outage and earlier outages associated with the normalisation application dated 29 July 2022, are subject to a permanent suppression order made by the Rotorua High Court on 1 December 2022.⁴ To comply with this order, we have decided not to publish Transpower’s Application. However, a redacted version of this decision and reasons paper will be published on our website.

What is a normalisation event?

- 5 The IPP sets quality standards for Transpower which comprise grid performance measures and asset performance measures. These measures quantify interruptions to supply and outages (removal from service) of core transmission assets, respectively.

¹ Transpower “Normalisation Application under clause 20.3 of the Transpower Individual Price-Quality Path Determination 2020 (2020 IPP)”, 26 March 2024. This is the second application arising from this event.

² Commerce Commission, “Consolidated Transpower individual price-quality path determination” (IPP), 7 October 2021. Available at <https://comcom.govt.nz/regulated-industries/electricity-lines/electricity-transmission/transpowers-price-quality-path/setting-transpowers-price-quality-path-from-2020>.

³ The first normalisation application dated 29 July 2022 was approved and the outages to Transpower’s grid resulted from same malicious damage event. Normalisation Application under clause 20.3 of the Transpower Individual Price-Quality Path Determination 2020 (2020 IPP), 29 July 2022.

⁴ *R v Philip* [2022] NZHC 3197 at [29].

- 6 Clause 20 of the IPP allows Transpower to apply to us to ‘normalise’ interruptions or outages that meet certain criteria under the IPP. Our policy intent is that the relevant quality standards should not apply to long interruptions or outages that are caused by events beyond Transpower’s reasonable control, in circumstances where Transpower exercised good electricity industry practice (**GEIP**).⁵

Transpower has applied to treat an outage as a ‘normalisation event’

- 7 On 26 March 2024, Transpower applied to us under clause 20.3 of the IPP to treat the outage from 0730 hours on 14 November to 1500 hours on 18 November 2023 (**2023 outage**) as a normalisation event. Transpower’s application was on the basis that the 2023 outage was a direct result of malicious damage by a third party.⁶

Factual background

- 8 Transpower advised that:⁷
- 8.1 [REDACTED] malicious damage [REDACTED] by a third party caused a number of outages (**2021 outages**) to its [REDACTED] assets;
- 8.2 in its normalisation application of 29 July 2022 involving the 2021 outages during 27 November 2021 to 3 December 2021 and 9 December to 12 December 2021, it made good all of the damaged assets as a result of the malicious damage [REDACTED];
- 8.3 since [REDACTED] was damaged beyond repair, Transpower installed a temporary [REDACTED] that enabled it to expediently return [REDACTED] to service; and
- 8.4 the 2023 outage was required to permanently restore the [REDACTED].

The 2023 outage

- 9 In its Application, Transpower advised that:⁸
- 9.1 the 2023 outage and remedial works were specifically to move the [REDACTED];

⁵ Commerce Commission, “Transpower’s individual price-quality path from 1 April 2020 decisions and reasons paper”, (**IPP reasons paper**), 29 May 2019, at Attachment F.5. Available at https://comcom.govt.nz/data/assets/pdf_file/0028/170398/Transpower-IPP-for-RCP3-Decisions-and-reasons-paper-29-August-2019.PDF.

⁶ Application, above n 1, at p. 1.

⁷ Application, above n 1, at p. 3.

⁸ Application, above n 1, at p. 4.

- 9.2 it used a planned outage window for November 2023 to complete the work, and there was no reduction in grid security or to interruption to supply;
- 9.3 the duration of the 2023 outage was 6,210 minutes (103.5 hours), from 0730 hours on 14 November to 1500 hours on 18 November 2023; and
- 9.4 the impact of the 103.5 outage hours on Transpower's performance measure [REDACTED] will result in an adjustment of 0.02%.⁹

We have decided to approve Transpower's normalisation application

- 10 Having evaluated the available information against the requirements for normalisation set out in clauses 20.2.1 to 20.2.4 of the IPP, we have decided to approve Transpower's Application to treat the 2023 outage, caused by the same malicious damage associated with the 2021 outages described in the normalisation application of 29 July 2022, as a normalisation event.
- 11 Our decision allows Transpower to exclude the 2023 outage occurring because of the event from the relevant quality standards under the IPP.¹⁰
- 12 Our decision also affects the outcome of Transpower's performance incentives. The assessed value of [REDACTED] performance measure affected by the normalisation event is approximately 0.017% and the quantum of the incentive directly resulting from the relevant grid output adjustment will be calculated and disclosed by Transpower at the end of disclosure year 2024.

⁹ We have instead assessed the adjustment to [REDACTED] as approximately 0.017%, since disclosure year 2024 is a leap year (ie, $103.5 / (71 * 24 * 366)$).

¹⁰ IPP reasons paper, above n 6, at [F344].

Chapter 2 The IPP framework and criteria for normalisation

- 13 Transpower is a regulated supplier under Part 4 of the Commerce Act 1986 (**Act**). We set Transpower's individual price-quality path in a determination we make under Part 4 of the Act. This includes the quality standards of grid performance and asset performance measures.
- 14 For a given disclosure year, clause 20.1 of the IPP provides that an interruption or outage will be excluded from the calculations of measures of grid performance,¹¹ or asset performance measures,¹² where the Commission decides that the relevant interruption or outage is a normalisation event.¹³
- 15 The relevant quality standard affected by the 2023 outage is [REDACTED]. This quality standard measures the percentage of time selected [REDACTED] are available for service. [REDACTED]
[REDACTED]
[REDACTED]
- 16 The IPP requires that Transpower applies to the Commission, which assesses whether the interruption or outage event meets the criteria for a normalisation event. The application requirements and normalisation event criteria are set out below.

Transpower must apply for normalisation

- 17 Clause 20.3 of the IPP requires Transpower to make a written application to us for each interruption or outage in the disclosure year that Transpower considers is a normalisation event. The application must:
- 17.1 be made no later than 42 working days after the end of the disclosure year (clause 20.3.1);
- 17.2 include the reasons Transpower considers the normalisation event has occurred and why:¹⁵
- (a) the outage was beyond Transpower's reasonable control;
 - (b) the effect of the outage on the grid, including managing to a shorter duration than that which occurred, was beyond Transpower's reasonable control; and
 - (c) it exercised GEIP in relation to the cause and effects of the interruption or outage;

¹¹ IPP, above n 2, cls. 14.6-14.11, 16.6-16.11 and 19.3.1-19.3.2.

¹² IPP, above n 2, cls. 17.2-17.3, 18.2, 19.3.3-19.3.4 and 19.4.

¹³ IPP, above n 2, cl. 20.4.

¹⁴ [REDACTED]

¹⁵ IPP, above n 2, at cl. 20.3.2

- 17.3 include supporting evidence for the reasons provided in accordance with clause 20.3.2, including, without limitation, information on the relevant design standards of any Transpower equipment involved in the interruption or outage (clause 20.3.3);
- 17.4 include proposed reassessed values of any calculations of measures of grid performance or calculations of measures of asset performance measures that are relevant to Transpower's written application, reassessed as if the interruption or outage was excluded from those measures in accordance with clause 20.1 (Clause 20.3.4);^{16 17} and
- 17.5 include any other information that Transpower considers is relevant to its application (clause 20.3.5).

The Commission must assess the application and publish its decision

18 Clause 20.4 of the IPP requires us to decide whether each interruption or outage that is the subject of the written application is a normalisation event, using the criteria in clauses 20.2.1-20.2.4 of the IPP and:

- 18.1 publish our decision, which describes:
 - (a) the interruptions or outages that we have decided is a normalisation event;
 - (b) our reasons for reaching that decision, based on the criteria in clause 20.2.1-20.2.4; and
 - (c) what calculations of measures of grid performance or calculations of asset performance measures we have decided are affected as a result of (a) above (clause 20.4.1); and
- 18.2 give our decision to Transpower (clause 20.4.2).

Criteria for normalisation

19 Clause 20.2 of the IPP defines a 'normalisation event' as an interruption or outage that the Commission has decided:

- 19.1 was beyond the reasonable control of Transpower (clause 20.2.1);
- 19.2 was not caused, or materially contributed to, by any failure by Transpower to exercise good electricity industry practice (**GEIP**) (clause 20.2.2);
- 19.3 had a duration of 24 hours or more, in circumstances where that duration was:
 - (a) beyond the reasonable control of Transpower; and

¹⁶ IPP, above n 2, at cls. 14.6-14.11, 16.6-16.11 and 19.3.1-19.3.2 set out the approach to calculating grid performance measures.

¹⁷ Above n 2, at cls. 17.2-17.3, 18.2, 19.3.3-19.3.4 and 19.4 set out the approach to calculating asset performance measures.

(b) not caused, or materially contributed to, by any failure of Transpower to exercise GEIP (clause 20.2.3); and

19.4 was the result of certain specified events or circumstances, in this case malicious damage.¹⁸

¹⁸ IPP, above n 2, at cl. 20.2.4.

Chapter 3 Our evaluation of the outages against the IPP's criteria for normalisation

- 20 Applying the IPP criteria, we evaluated the Application by considering:
- 20.1 whether it was made within the required timeframe and provided the necessary reasoning, evidence and calculations as set out in clause 20.3 of the IPP;
 - 20.2 whether the 2023 outage was the result of an event specified under clause 20.2.4 of the IPP;
 - 20.3 whether the 2023 outage was:
 - (a) beyond the reasonable control of Transpower (clause 20.2.1); and
 - (b) not caused, or materially contributed to, by any failure of Transpower to exercise GEIP (clause 20.2.2); and
 - 20.4 whether the 2023 outage was at least 24 hours in duration, in circumstances that were:
 - (a) beyond the reasonable control of Transpower (20.2.3(a)); and
 - (b) not caused, or materially contributed to, by any failure of Transpower to exercise GEIP (20.2.3(b));
- 21 Our evaluation is set out below, it starts by assessing the cause of the 2023 outage, because the conclusion of this assessment underpins and overlaps with our analysis of the other criteria set out in the IPP. The sequence of our evaluation otherwise follows the order of the IPP clauses.

The Application meets the timeframe and information requirements

Transpower applied within the specified timeframe

- 22 Transpower submitted the Application on 26 March 2024, which was within the timeframe required by clause 20.3.1 of the IPP. Applications are to be made no later than 42 working days after the end of the disclosure year. The 2023/24 disclosure year ends on 30 June 2024.

Transpower's Application provided reasons, evidence and calculations in support

- 23 Transpower's Application provided reasons, evidence, assessed value of the applicable performance measure resulting from the 2023 outage and calculations in support of application to normalise the effects of the 2023 outage. We are satisfied that it contains the information required by clause 20.3 of the IPP in sufficient detail for the Commission to assess the Application.

- 24 We will not be able to confirm the assessed amount of the outage until after the end of the disclosure year. However, it does not promote the purpose of Part 4 of the Act for us to wait until then since we have the required information now.

The 2023 outage was a result of malicious damage

- 25 As a result of the 2021 malicious damage to [REDACTED], Transpower states that the 2023 outage was incurred.¹⁹
- 26 The 2023 outage referred to in the Application was required to move the [REDACTED].
- 27 The [REDACTED] was installed during the initial 2021 outages when the damage to the [REDACTED] occurred in November 2021. The [REDACTED] to expediently return to service taking into regard GEIP.
- 28 To permanently reinstate the damaged [REDACTED] and return the [REDACTED] to its original configuration was to ensure that the original design and installation specifications of the [REDACTED] are met.
- 29 We are satisfied that the cause of the 2023 outage was the result of intentional damage to [REDACTED], which falls under the category of malicious damage set out in clause 20.2.4(f) of the IPP.

The 2023 outage was beyond the reasonable control of Transpower

- 30 To assess whether the 2023 outage was beyond the reasonable control of Transpower, we considered whether Transpower could have installed the replacement [REDACTED] at the time of the 2021 outages.
- 31 Transpower having taken the prudent step to return the grid into service by limiting the durations of the 2021 outages by installing a [REDACTED], we assessed that the 2023 outage was beyond the reasonable control of Transpower.
- 32 We consider that it would not have been possible to permanently repair [REDACTED] in the limited timeframe of the 2021 outages that occurred from 27 November to 3 December 2021 and 9 December to 12 December 2021. We concluded that the work required to [REDACTED] [REDACTED] was not feasible in those timeframes. Sourcing all of the material would have taken time that would have considerably deferred the return of the [REDACTED] to service at that time.

¹⁹ Application, above n 1, at p. 4.

33 The 0730 hours on 13 November to 1500 hours on 18 November 2023 outage was required to [REDACTED].

34 We conclude that the extent of the outage to [REDACTED] was beyond the control of Transpower.

The effect of the outages on the grid, including managing to a shorter duration than that which occurred, was beyond Transpower's reasonable control

35 Transpower used a planned outage window of November 2023 to [REDACTED].²⁰ Making use of the maintenance window minimised the effect of the outage and there was no reduction in grid security or to interruption to supply.

36 Transpower also constructed the [REDACTED] in advance of the 2023 outage and was then able to efficiently carry out the required work within the five-day planned outage window.

37 We are satisfied that there is no relevant failure by Transpower to manage the effect of the 2023 outage on the grid for the purposes of clause 20.3.2(b) of the IPP and that Transpower carried out the works associated during the 2023 outage prudently and efficiently.

Transpower did not cause, or materially contribute to, the outages by any failure to exercise GEIP

38 In line with our assessment above, we have considered whether any failure by Transpower to meet GEIP caused or contributed to the 2023 outage. We are satisfied that Transpower did not cause, or materially contribute to, the 2023 outage by any failure to exercise GEIP, for the purposes of clause 20.2.2 of the IPP.

Transpower exercised GEIP in relation to the cause and effects of the outage

39 The setting up of the temporary [REDACTED] during the original incident was necessary to return the affected circuit to service in a timely manner.²¹ The outage during the period of 13 to 18 November 2023 to return the [REDACTED] to its original configuration resulted from the necessary setting up of the [REDACTED].

40 Transpower stated that:²²

The outage for [REDACTED] had no impact on supply of system security. All normal outage planning processes were followed, including system security studies. Work to construct the [REDACTED] was completed prior to the outage; the [REDACTED] were removed and the site reinstated following completion of the outage.

²⁰ Application, above n 1, at p. 4.

²¹ Application, above n1, at p. 5.

²² Application, above n 1, at p. 5.

- 41 Since any outage of a [REDACTED] increases the risk of interruptions to supply, the standard required of Transpower under GEIP is to take reasonable measures to reduce the likelihood of consequential supply interruptions.
- 42 We are satisfied that the above measures reflect Transpower exercising GEIP in relation to the cause and effects of the outage, as per IPP clause 20.3.2(c), particularly in terms of managing consequential operational risks to the system.

The duration of the outage was more than 24 hours

- 43 We have assessed the outage in Transpower's Application. The 2023 outage on the [REDACTED] was for 103.5 hours to [REDACTED]. Clause 20.2.3 requires that the duration of an outage must be 24 hours or more to qualify for normalisation.
- 44 Accordingly, we have assessed the Application according to the duration of the 2023 outage resulting from the malicious damage event and exceeds the minimum of 24 hours.

The duration of the 2023 outage was beyond the reasonable control of Transpower

- 45 To assess if the duration of the 2023 outage was beyond the reasonable control of Transpower, we considered whether there was anything further Transpower could reasonably have done to return the [REDACTED] to service earlier.
- 46 We are satisfied that the duration of the outage was beyond Transpower's reasonable control, for the purposes of clause 20.2.3(a) of the IPP. Transpower had constructed the [REDACTED] in advance of [REDACTED] and reinstated the site following the completion of the outage.
- 47 We also considered whether the 103.5 hours outage for this work was reasonable. In a Fact Sheet published by Transgrid in Australia in respect of the [REDACTED], it states that this work can take up to a week. We are therefore satisfied that the duration of the outage is reasonable on this basis. [REDACTED]
- 48 We consider that the time taken to return the [REDACTED] back to service was reasonable, and in accordance with the standard expected under GEIP, due to the nature of the work that needed to be undertaken.
- 49 Transpower acted prudently to minimise the overall 2023 outage time.

The duration of the outages was not caused, or materially contributed to, by any failure of Transpower to exercise GEIP

- 50 When deciding whether the duration of the 2023 outage was caused by any failure of Transpower to exercise GEIP, under clause 20.2.3(b), we assessed if Transpower [REDACTED] and returned the [REDACTED] to service in a timely manner.²⁴
- 51 By constructing the [REDACTED] in advance of commencing the 2023 outage and reinstating the site at the end of the 2023 outage avoided Transpower having to take a prolonged outage than was necessary.
- 52 Transpower managed to complete this work within a week we consider is reasonable for this type of work.
- 53 We are satisfied that the duration is not a result of any failure of Transpower to exercise GEIP, as per clause 20.2.3(b) of the IPP.

We conclude the 2023 outage meets the IPP’s criteria for a normalisation event

- 54 Based on our evaluation above, we are satisfied that the 2023 outage in the Application meets the criteria under clauses 20.2.1-20.2.4, 20.3.1-20.3.4 of the IPP for a normalisation event. A summary of our evaluation is as follows:
- 54.1 Transpower’s Application meets the timeframe and information requirements under clause 20.3;
- 54.2 the 2023 outage was necessary as a result of the malicious damage in 2021, which is one of the specified causes set out in clause 20.2.4;
- 54.3 the malicious damage event was beyond the reasonable control of Transpower, and was not caused by Transpower or its failure to exercise GEIP as set out in clauses 20.2.1, 20.2.2 and 20.3.2(a);
- 54.4 the duration of the 2023 outage exceeds 24 hours, as required by clause 20.2.3;
- 54.5 the effect of the 2023 outage on the grid, including managing to a shorter duration than that which occurred, was beyond Transpower’s reasonable control, as set out in clause 20.3.2(b); and

²⁴ The Electricity Industry Participation Code defines good electricity industry practice in relation to transmission, as the exercise of that degree of skill, diligence, prudence, foresight and economic management, as determined by reference to good international practice, which would reasonably be expected from a skilled and experienced asset owner engaged in the management of a transmission network under conditions comparable to those applicable to the grid consistent with applicable law, safety and environmental protection. The determination is to take into account factors such as the relative size, duty, age and technological status of the relevant transmission network and the applicable law.

54.6 Transpower exercised GEIP in relation to managing the cause and effect of the 2023 outage including its duration, as per clause 20.3.2(c).

The impact of the normalisation event on the [REDACTED] measure

55 Clause 20.4.1(c) of the IPP requires us to include in our decision the calculations of Transpower's [REDACTED] performance measure that are affected by our normalisation decision.

56 Accordingly, we have assessed that the 2023 outage affects the [REDACTED] measure by 0.017%, using the following formula:

56.1 The [REDACTED] performance measure is calculated as:²⁵

$$100 - 100 * \frac{\text{(total duration of all outages of selected [REDACTED] assets)}}{\text{(Number of selected [REDACTED] assets) (total hours in the disclosure year)}}$$

57 Our decision to allow normalisation will offset the negative effect of the outage on Transpower's grid output measure, [REDACTED], and the respective incentive will be disclosed by Transpower at the end of disclosure year 2024.

58 [REDACTED]

|

²⁵ IPP, above n 2, at cl 18.