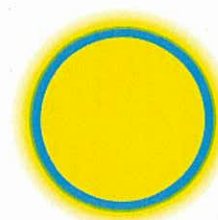


10 August 2009

Louise Allsopp
Network Performance Branch
Commerce Commission
PO Box 2351
Wellington

[By email]

POWERCO



Dear Louise,

Powerco submission on *Default/ Customised Price-Quality Regulation: Setting of the Default Price-Quality Path for Suppliers of Gas Pipeline Services: Process Paper*

1. Powerco welcomes the opportunity to comment on the Commission's process paper for determining the gas default price-quality path.

Start date of the default price-quality path

2. The Commission has proposed that the initial gas DPP comes into effect on 1 July 2011. Powerco agrees with the Commission's proposed start date and notes it offers a number of practical benefits. The Commission already has a challenging work programme and correspondingly regulated firms will have a number of consultation documents to consider and respond to. Providing the determination by 1 March 2011 is a more practical timeframe and will allow additional time for the Commission and the industry to work constructively together. There is also much less information available on the gas distribution sector than the electricity distribution sector. It will take time to resolve data issues on productivity, quality and profitability.

Timeline

3. Powerco supports the Commission's indicative timeline provided in Table One. The Commission asked for views on the use of workshops and/or conferences during the consultation process. Powerco believes face to face debate is a vital part of consultation. We recommend that the Commission holds a conference in September 2010, after the draft decisions paper is published.
4. As mentioned before, the lack of robust data will create a number of issues with developing the gas DPP. It is unlikely that the Commission will be able to replicate the electricity DPP reset approach as it must carefully take into account the availability and accuracy of data, as well as the different characteristics of gas distribution. It will be vital to have a robust debate between technical experts on

the best way forward to ensure regulation is appropriate. We recommend the Commission holds a technical workshop on determining productivity measures and quality indicators in August 2010. Powerco appreciates the Commission's recent signal that it will permit its own experts to be open to questioning at technical workshops or conferences in the future, rather than just the experts advanced by suppliers.

Recommendations for process

5. Powerco also uses this consultation stage to re-iterate some key messages Powerco provided in its submission on the *Regulatory Provisions of the Commerce Act 1986* discussion paper.
6. In other discussion documents, the Commission has referred several times of the need to balance the "regulatory objectives" in section 52A(1)(a)-(d) of the Commerce Act. We would like to restate that the Commission should not let considerations of how to balance the outcomes set out section 52(1)(a)-(d) distract it from its central task. When resetting the gas DPP, the Commission's primary question should be whether its decisions are consistent with outcomes produced in workably competitive markets. If the Commission achieves this objective, the outcomes in (a)-(d) will have been met.
7. In addition, the plea for businesses throughout the reform process, and in response to the Commission's consultation to date, has been for upfront certainty as to the rules that will be applied. What Powerco is seeking by way of upfront certainty is a set of specific and simple rules that provide us with a reasonable degree of confidence as to the outcomes those rules will produce for our business. The certainty that businesses are asking for, and that the new regime requires, does not necessarily have to translate to the development of detailed and complex rules. Upfront certainty can instead be delivered through specificity and simplicity. The major change to the regulatory model intended by the reforms will be achieved if the regime delivers specific, simple rules.
8. Powerco also stresses the need to produce proposals of substance as soon as practical. The recent discussion document on the reset of the electricity default price-quality path includes much theoretical discussion, but contained no figures for businesses to estimate the materiality of proposals. Both regulated firms and the Commission would benefit from the Commission providing rules as early as possible to allow firms to see which of these issues are going to affect their business plans and revenues.
9. Businesses would then be able to signal the areas where they materially disagree with the Commission's proposal. In Powerco's view, this would make for efficient, meaningful and effective consultation by the Commission. We look forward to receiving tangible proposals on the gas DPP determination.

Information issues

10. Powerco notes that the quality of data available on gas distribution businesses is limited. It will be some time before gas distribution businesses disclose information under the new gas information disclosure determination – Powerco believes 22 months is a reasonable timeframe. This is because the information disclosure

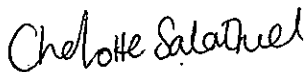
determination should not be retrospective and give businesses adequate time to put into place auditable systems and processes to collect information.¹ For example, a 22 month timeframe is based on:

- Information disclosure determination published. Businesses implement auditable systems and processes
 - + 5 months: Start of data collection at beginning of year
 - + 12 months: End of data collection period
 - + 5 months: Information compiled and audited and submitted to the Commission.

11. Using this timeline, information disclosure data will not be available for the gas DPP determination. The Commission will have to rely on other sources of information, such as the current information disclosure under Ministry of Economic Development regulations. This and other available data must be applied and interpreted with caution. The New Zealand gas market is also quite different to many overseas markets, for example it has a lower density customer base. This will affect how practical it will be to use overseas data to measure productivity.

Thank you for considering the points raised in this submission.

Yours sincerely



Paul Goodeve
Regulatory and Business Manager

¹ Powerco will provide more detail on this in its submission to the Commerce Commission's Information Disclosure Discussion Paper.