COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

WELLINGTON
Level 9, 44 The Terrace
PO Box 2351, Wellington 6140
New Zealand
Tel: +64 4 924 3600

AUCKLAND
Level 12, 55 Shortland Street
PO Box 105-222, Auckland 1143
New Zealand
Tel: +64 4 924 3600

www.comcom.govt.nz

28 February 2022

Mr Craig Donaldson
Pricing Manager
The Lines Company Limited
8 King St East
Te Kuiti 3941

By email only: [redacted]

Dear Mr Donaldson

The Lines Company Limited: compliance advice for the contravention of information disclosure requirements in the 2019 disclosure year

1. The Commerce Commission (**Commission**) has investigated The Lines Company Limited (**TLC**) for its contravention of information disclosure (**ID**) requirements in the 2019 disclosure year (**DY**). We have now completed our investigation and are writing to provide you with compliance advice.

2. In summary, TLC self-reported that it had incorrectly stated its regulatory asset base (**RAB**) higher than the correct figure in its 2019 ID submissions. This arose due to an administrative error. Having considered the relevant information, the Commission considers that compliance advice is the appropriate response.

The contravention

3. TLC self-reported on 17 March 2020 that it had incorrectly stated its RAB higher than the correct figure in its 2019 ID submissions, because it incorrectly capitalised a $2.4 million (approx.) transaction that should have been recorded as a recoverable cost per the definitions under the Input Methodologies (**IM**s).

4. The transaction was a new investment contract (**NIC**) and the $2.4m NIC was added to TLC's RAB. However, as the NIC is a type of finance lease, it should have been classified as a recoverable cost in accordance with the IMs.[1]The IMs also require that the value added to the RAB should exclude any amount from a finance lease which is treated as a recoverable cost.[2]

5. TLC provided its restated 2019 disclosures in November 2020.

[1] Provided for by clause 3.1.3(1)(c)(i) of the IMs.
[2] Provided for by clause 2.2.11(1)(j) of the IMs.

The investigation

6. We advised TLC on 7 August 2020 that we had opened an investigation into its contravention of ID requirements.

The error

7. TLC had elected to pay the NIC in two parts; the first being the contracted sum ($2.3m), and the second part being a 'wash-up' upon project close out ($67,000).

8. TLC explained that its staff did not identify the transaction as a recoverable cost because the first invoice on 19 December 2018 was not seen by the relevant pricing and regulatory team. Invoices containing transmission charges are directed to TLC's pricing and regulatory team for approval. TLC told us that the first invoice to TLC from Transpower did not contain any transmission component (i.e. it was provided separately to TLC's monthly transmission charges), so the first invoice was missed by the regulatory team.

9. The transaction was later identified when the second invoice for the wash-up came through, along with the monthly transmission charges, on 29 January 2020. It was at that point that it was identified by the relevant staff.

Impact of the error

10. As these disclosures were used as part of the reset for the DPP3[3] price path, the revenue cap for TLC was set higher than it should have been. The ID error will also affect TLC's opex Incremental Rolling Incentive Scheme (**IRIS**) during DPP4. However, the error did not trigger a DPP reopener as it was below the threshold for an error reopener.[4]

The Commission's view

11. As a result of our investigation, we have formed the view that TLC's contravention appears to be a one-off, arising due to an administrative error. While inadequate processes (including administrative processes) are a matter of concern to the Commission, we have not identified evidence of systemic administrative processing issues that would require an enforcement response higher than a compliance advice letter.

12. We note that TLC has previously contravened its quality standards and wider issues with TLC's practices are being addressed within the separate quality standards investigation. However, TLC has not previously been warned for contravening its ID requirements, and the practices under review in the separate quality standards investigation are not directly related to administrative processing tasks such as the invoice processing for payment at issue in this investigation. Accordingly, we view this as a first-time contravention.

---

3 The price path contained in clause 8 the Electricity Services Default Price-quality Path Determination 2020.

4 An impact of one percent or more on aggregate net allowable revenue.

13. Having considered TLC’s conduct with respect to this error, we have decided that a compliance advice letter is the appropriate enforcement outcome.

14. ID is an important tool and issuing a compliance advice letter reflects the seriousness with which we view ID breaches.

Penalties for contravening information disclosure requirements

15. Where an electricity distribution business (**EDB**) has contravened information disclosure requirements, section 86 of the Commerce Act 1986 allows the court to impose a pecuniary penalty against the EDB of up to $5,000,000 in respect of each act or omission.

Further information

16. We recommend that TLC regularly reviews its compliance procedures and policies. While we will not be taking enforcement action against TLC in respect of this contravention, our decision to issue compliance advice in this instance does not prevent us from taking higher-level enforcement action in respect of any contraventions in the future. This contravention may be taken into account by the Commission when considering any future contraventions by TLC.

17. This letter is public information and will be published on our website.

18. Thank you for your assistance with this investigation. Please contact Robert Cahn, Acting Head of Compliance and Investigations, on [redacted] or by email at [redacted] if you have any questions about this matter.

Yours sincerely

[redacted]

Sue Begg
Deputy Chair