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11 March 2014

Paolo Ryan
Regulation Branch
Commerce Commission
WELLINGTON

By email: regulation.branch@comcom.govt.nz

Dear Paulo

Issues paper for setting Transpower's individual price-quality path from 2015-2020

Genesis Energy Limited welcomes the opportunity to provide a cross-submission to the Commerce Commission on the consultation paper "Invitation to have your say on Transpower's individual price-quality path and proposal for the next regulatory control period".

New Section 46A of the Consumer Guarantees Act 1991 ("CGA") will provide an important indemnity for payments made to consumers by retailers under the acceptable quality guarantee, where the breach is caused by an event on a location distribution or transmission network. The indemnity places responsibility and incentives on the party best placed to address such faults.

We endorse the view expressed by the Major Electricity Users Group that:¹

In a workably competitive market environment no business could immunise itself from some risk of exposure to CGA indemnity obligations. This therefore creates an incentive on managers of those businesses to be cognisant of that risk and decide how best to manage it accordingly.

We see no reason why Transpower should be treated any differently.

¹ MEUG submission "Transpower RCP2 submission" dated 3 March 2014

We disagree with Transpower's claim that there is no information available on the extent of CGA claims.² To the contrary, we suggest that there is information available that will enable Transpower to provide an estimate of the likely cost or liability under the indemnity. The issue of liability for quality of service faults for electricity is not new. Genesis Energy has publicly provided evidence of a number of instances where the retailer has been responsible for quality of service to the customer, without a clear recourse to the party most responsible for the CGA breach (namely Transpower or the local distribution company).³

We also disagree that the indemnity will create "a moral hazard effect". Section 46A(5) of the CGA provides a specific dispute resolution service to address the disputes as to the existence or allocation of liability under the indemnity. Given this right to challenge any inappropriate indemnity, we suggest that any increase in indemnity claims will be a reflection of Transpower ability to meet the quality standards required by consumers.

If you would like to discuss any of these matters further, please contact me on 04 495 3340.

Yours sincerely



Jeremy Stevenson-Wright
Regulatory Affairs Manager

² Page 17 Transpower Response to IPP issues paper 3 March 2014

³ <http://www.parliament.nz/resource/0000194087>