COMMERCE COMMISSION

TRANSPOWER WORKSHOP

Wellesley Boutique Hotel, 2-8 Maginnity Street, Wellington

2/3 March 2010

Purpose

The purpose of this paper is to provide the indicative agenda, format and process for the Commerce Commission's (Commission's) workshop on the form of regulation to apply to Transpower under Part 4 of the Commerce Act 1986 (the Act). This workshop will be held at the Wellesley Boutique Hotel, 2-8 Maginnity Street, in Wellington on **2 and 3 March 2010**.

Background

The Commission is working to determine the regulatory regime that will apply to Transpower under the Act by no later than 30 November 2010. This is because Transpower announces its prices for the 2011/12 pricing year in December 2010.

The Commission released its Input Methodologies Discussion Paper and Transpower Process and Recommendation Discussion Paper on 19 June 2009. In these papers, the Commission set out its preliminary views regarding its approach to the regulation of Transpower. Following consultation, it was decided that, rather than discussing these preliminary views at the input methodologies conference that was held in September 2009, it would be preferable to hold a workshop at a later date, dealing specifically with the regulatory approach to Transpower.

In its 10 December 2009 Revised Transpower Process Paper, the Commission notified interested parties that a workshop on the regulatory approach to Transpower would be held in March 2010.

More recently, on 4 February 2010 the Commission published a consultation paper containing its draft recommendation to the Minister of Commerce (Minister) that individual price-quality regulation be applied to Transpower from 1 July 2011 (when the administrative settlement expires). Submissions on this paper are due on 19 February 2010, and the Commission intends to make a final recommendation to the Minister in April 2010.

Workshop Purpose

The purposes of the workshop are for the Commission to:

- seek the views of participants on the Commission's emerging views on the regulation of Transpower, as set out in Appendix B; and
- test the views of participants on a number of other matters.

Role of the Workshop within the Consultation Process

A number of additional rounds of consultation on the form of regulation remain after this workshop. This workshop is a further step in the Commission's process of making its s 52P determination applying price-quality regulation to Transpower.

The workshop will provide an opportunity for views to be discussed and aspects of the Commission's proposed form of regulation to be clarified, to assist the Commission in preparing its draft s 52P determination (expected to be released for consultation in June 2010). However, workshop participation should not be considered a replacement for written submissions, which will be the primary vehicle for providing views on the Commission's draft s 52P determination.

Table 1:Timetable for input methodologies and s 52P determination

Phase	Task	Indicative date
Commission's recommendation and draft input methodologies	Commission's final recommendation to the Minister on the type of regulation to apply to Transpower	April 2010
	Release draft Transpower input methodologies and draft s 52P determination for consultation	June 2010
Minister and Governor-General	Minister's decision on regulation to apply to Transpower.	July/Aug 2010
	Governor-General's Order-in-Council	Aug 2010
Commission's s52P determination and Transpower input methodologies	Commission finalises Transpower input methodology determinations	Oct 2010
	Consultation on s 52P determination technical drafting	Oct 2010
	Summary of Commission's final s 52P determination published in the Gazette	Nov 2010

Note that the proposed dates for the Minister undertaking a review of the Commission's recommendation and making a decision and the Governor-General making an Order in Council are dependent on the process adopted by the Minister and the Governor-General. Any change to these indicative dates could impact on other dates in this table.

Following publication of a summary of the final s 52P determination in the Gazette, the Commission intends to commence ex-ante reviews of Transpower's proposed expenditure for the three years from 1 July 2012.

Workshop Agenda and Topics

The workshop will be chaired by Anthony Merritt (Manager, Regulation Branch). Commissioner Sue Begg and Associate Commissioner David Caygill will attend. Commission staff will also participate, and other Commissioners may attend for parts of the workshop. Bill Heaps and Dave Allen of Strata Energy Consulting Limited will participate in the workshop as Commission advisors.

The Commission's indicative agenda for the workshop is attached in Appendix A. The agenda covers the following topics:

- managing the timing difficulties of the first year of the regulatory period (2011/12);
- approach for operating expenditure;
- approach for quality standards;
- approach for capital expenditure; and
- new investment agreements.

Appendix B provides the Commission's emerging views on the matters on the workshop agenda. The Commission will be seeking feedback on these emerging views.

In addition to the emerging views on the operating expenditure approach contained in Appendix B, Appendix C provides an overview of the draft approach that the Commission would take in reviewing and setting the operating expenditure allowance incorporated in Transpower's maximum allowable revenue (MAR) for each regulatory control period (RCP).

In respect of the operating expenditure and quality standards specifically, the Commission's expectations from participants are provided below. On the other agenda topics the Commission seeks general feedback.

Approach for operating expenditure

The Commission understands that Transpower intends to seek an increase in the level of the operating expenditure allowance, over and above that which would be allowed if the Commission was to adopt the approach set out in its emerging views. Transpower has signalled that the increase is needed in order that Transpower can further increase its maintenance expenditure.

The Commission requests that Transpower attends the workshop prepared to present the key rationale and justification for its proposed increase.

Approach for quality standards

Submissions to date have not provided views on the quality standards that could be applied under Part 4. It would be helpful to the Commission if all participants came prepared to provide their views on what quality standards provide appropriate indicators of quality performance. Note that any proposed standards must meet the requirement set out in s 54M(6) of the Act, to give effect to quality standards set by the Electricity Commission .

It would be helpful if Transpower could be prepared to provide a detailed response to the quality measures the Commission considers may be appropriate as set out in its emerging views below.

Workshop Format and Process

The Commission will use a panel format, similar to that used for the input methodologies conference and the cost of capital workshop.

To achieve the workshop's purpose outlined above, the Commission will invite presentations from, or direct questions for discussion to, the panel participants for each topic, based on who the Commission wishes to hear from on a particular matter. PC projection facilities will be available should participants wish to use them.

While there should be no expectation that all participants will be asked an equal number of questions during the workshop, the Commission will seek to canvass a full range of views on the issues, and will ensure, where there are differences between parties, that each party has the opportunity to state its position. No party will have the right to ask questions of any other party during the proceedings, unless requested to do so by the Commission.

The agenda and list of workshop participants is attached in Appendix A.

Experts

As with previous conferences and workshops, the Commission expects that experts attending the workshop will do so as impartial experts in their fields rather than as an advocate for any particular party. All representatives attending as independent experts have been asked to confirm in writing ahead of the workshop whether they are providing their opinion in accordance with the Code of Conduct for expert witnesses contained in the High Court Rules. A copy of the Code of Conduct is attached as Appendix D.

Confidential Information

The Commission's preference is to not hold any closed sessions for participants providing confidential information during the workshop. If parties wish to discuss confidential information at the workshop, please advise Alex Sim at the Commission on 04 9243 824 by **24 February 2010**.

Transcription

The workshop will be recorded on audiotape. A stenographer will provide a transcript of the workshop. Copies of the transcript will be made available on the Commission's website as soon as possible after the workshop.

Post-Workshop Submissions

Post-workshop submissions are welcomed where these provide additional information on the regulation of Transpower, beyond that provided in previous submissions. These submissions will be due 2 weeks from the date on which the workshop transcript is published on the Commission's website.

Submissions should be emailed to Regulation.Branch@comcom.govt.nz

If it is not possible to provide an electronic copy, post-workshop submissions can be sent to:

Alex Sim
Chief Adviser
Regulation Branch
Commerce Commission
P.O. Box 2351
Wellington

Other Information

For any questions you may have regarding this agenda please contact Alex Sim.

Registering attendance and contact

The Commission requires all persons attending the workshop to register their attendance. All persons attending the workshop were asked to register their attendance by 4 February 2010. Please contact the Commission (details below) as soon as possible if you wish to attend and have not registered. The Commission will allow late registration if space is available at the workshop venue. To register, please contact:

Karen Naik-Araiti
Project Administrator – Regulation Branch
(04) 924 3745
Or email: Regulation.Branch@comcom.govt.nz

Regulation Branch
Commerce Commission
17 February 2010

Appendix A: Transpower Workshop - Agenda and Participants

Table A1: Workshop Agenda for Tuesday, 2 March 2010

Tuesday 2 March 2010 – Electricity Transmission Workshop Wellesley Boutique Hotel, 2-8 Maginnity Street, Wellington			
Start	**Session Topics**	**Indicative Duration**	**Participants**
9.00am	**Opening Remarks** from the Chair	15 minutes	
9.15am	**Key components of proposed framework** ▪ Summary of proposed key components, timeline, implementation and timing issues	15 minutes	Commission presenting
9.30am	**Interim year issues** ▪ Change in view – no roll over of settlement ▪ Transpower's presentation on operating expenditure increase for 2011/12	1 hour 15 minutes	Commission Transpower All participants
10.45am	Morning Tea	15 minutes	
11.00am	**Operating Expenditure (2012/13 – 2014/15)** ▪ Proposed operating expenditure framework ▪ Proposed approach for RCP 2 ▪ Incentive mechanisms & wash-ups ▪ Proposed approach for RCP 1 (Transitional mechanisms) ▪ Scope of operating expenditure review	1 hour 45 minutes	All participants
12.45pm	Lunch	1 hour	
1.45pm	**Approach for Quality Standards** ▪ Proposed key measures ▪ Proposed incentive mechanism ▪ Transpower's presentation on key measures	1 hour 30 minutes	Commission Transpower All participants
3.15pm	Afternoon Tea	15 minutes	
3.30pm	**Regulated services - New Investment Agreements** ▪ Proposed approach for new investment contracts	30 minutes	All participants
4.00pm	Finish		

Table A2: Workshop Agenda for Wednesday, 3 March 2010

Wednesday 3 March 2010 – Electricity Transmission Workshop Wellesley Boutique Hotel, 2-8 Maginnity Street, Wellington			
Start	**Session Topics**	**Indicative Duration**	**Participants**
9.00am	**Opening Remarks** from the Chair	5 minutes	
9.05am	**Capital Expenditure** ▪ Summary of proposed high level approach ▪ Update on transition from Electricity Commission to Commerce Commission ▪ Proposed capital expenditure categories	1 hour 25 minutes	Commission All participants
10:30am	Morning Tea	15 minutes	
10.45	**Capital expenditure, continued** ▪ Proposed approach for Part F capital expenditure in RCP 2 ▪ Contingent projects ▪ Proposed approach for Part F capital expenditure in RCP 1 ▪ Transitional mechanisms	1 hour 45 minutes	Commission All participants
12.30pm	Lunch	1 hour	
1:30pm	**Capital expenditure, continued** ▪ Summary of Non-Part F approach for RCP 2 ▪ Summary of Non-Part F approach for RCP 1 ▪ Non Part F capital expenditure review process	1 hour	Commission All participants
2.30pm	Afternoon Tea	20 minutes	
2:50pm	**Re-opener provisions** ▪ Safety net	30 minutes	Commission All participants
3.20pm	**Closing Remarks** from the Chair	10 minutes	
3.30pm	Finish		

Table A3: List of Participants for Transpower Workshop, 2/3 March 2010

Organisation	Participants	
Transpower	**Richard Fletcher** **Ross Weenink** **Marshall Clark** **Clive Smith** **John Coulter** **Mary Therese Sullivan** **Michael Parker** **Siobhan Procter** Note: Transpower intends changing its representatives for each workshop session.	*(Regulatory Strategy Manager)* *(Chief Regulatory Advisor)* *(Asset Performance Manager)* *(Business Planning Manager)* *(Finance Manager)* *(Performance Improvement Manager)* *(Principal Economic Advisor)* *(Economics and Approvals Manager)*
MEUG	**Ralph Matthes**	*(Executive Director)*
Genesis Energy	**Ross Parry** **Ashley Wall** **Rowan Maxwell**	*(Regulatory Affairs Manager)* *(Trading Services Manager)* *(Senior Transmission Analyst)*
Meridian Energy	**Andrew Pallesen** **Greg Salmon**	

Appendix B: Key Components of Proposed Regulatory Framework for Transpower

Timing issues for the first year of RCP 1 (transition year)			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
Timing issues for the first year of RCP 1 (transition year)	'The Commission is proposing that the s 52P determination includes a transition period following the expiry of the existing administrative settlement on 30 June 2011 and the end of the 2011/12 financial year on 30 June 2012. The price-quality path during this transition period would be based on the existing settlement agreement, with the revenue received during the 2011/12 pricing year deemed to have been received in the 2011/12 financial year. During this period, the Commission would undertake a review of Transpower's expenditure for the purposes of setting provisions relating to the remaining years of the individual price-quality path or for setting a customised price-quality path if default/customised price-quality regulation applies and Transpower has applied for a customised price-quality path.'[1]	Submitters generally agreed with the Commission's proposed approach of basing the price-quality path in the transition year on the settlement agreement. Transpower suggests that further thought should be given to the process and timing for implementing transitional arrangements, including an agreed process for updating the operating expenditure allowance and the target rate of return on capital for the rollover period.[2] Transpower has, in the past 2 years, exceeded the maintenance expenditure component of the operating expenditure allowance by approximately $11m and $16m respectively. Transpower has suggested that further increases in maintenance spend are required. For the 2011/12 year (i.e. the transition year), it estimates the requirement to exceed the maintenance component of the operating expenditure allowance by approximately $13m. This increase will be partially offset by reductions in other aspects of the operating expenditure allowance, and partially by the CPI escalation in the 2010/11 operating expenditure allowance. Transpower has signalled that it is likely to seek a **net** increase of approximately $4.8m.	The Commission has **updated its preliminary view.** It now considers that because it will have completed development of its input methodologies and the Transpower specific determinations required to implement individual price-quality regulation (provided the Order-in-Council imposes this type of regulation), where possible, it should not roll over the settlement, but rather implement the latest decisions based on the latest information. A key reason that the transition year was initially proposed was that the Commission did not have time to undertake a full review of operational and capital expenditure plans. This remains the case, and the Commission needs to approve an amount for both operating expenditure and capital expenditure for the transition year. The approaches for these are set out below. **Operational expenditure** The Commission's emerging view is that it would set an approved allowance by escalating the 2010/11 operating expenditure allowance by CPI-0, and then adjust this consistent with any amendments to the list of pass through costs as established under the appropriate input methodology. Furthermore, the Commission is mindful that Transpower has indicated that an increase, greater than that which would be provided under a CPI-0 escalation, may be necessary. The Commission intends to seek further information from Transpower regarding the rationale for any increase, and may, if considered appropriate, make provision for some or all of this. **Capital expenditure** To set the level of approved capital expenditure for what is currently known as non Part F capital, the Commission's emerging view is to use a similar approach for the transition year as occurs under the settlement agreement. Consistent with the Commission's preliminary view that it should be moving to a regime where capital expenditure is approved on an ex-ante basis, the Commission has necessarily begun its review of Transpower's proposed level of transition-year capital expenditure.

Treatment of Operating Expenditure			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
Overall approach to the treatment of operating expenditure	The Commission's preliminary view was that, under individual price-quality regulation, it would set an operating expenditure allowance with an efficiency allowance for the regulatory period based on an ex-ante assessment of Transpower operating expenditure forecasts. The approved operating expenditure forecasts would be a component of the building blocks analysis used to determine the individual price-quality path.[3]		**The Commission's view on this matter has not changed.** The Commission's view on the efficiency allowance has developed and is explained below under the topic of 'operating expenditure incentive mechanism'.
Ex-post reviews (operating expenditure)	The Commission's preliminary view agreed with Transpower that an ex-post review of Transpower operating expenditure forecasts may be required, for at least the first regulatory period, in order to overcome any forecasting uncertainty.[4]	The Commission misinterpreted the view provided by Transpower[5] in its submission on the Commission's 'Regulatory Provisions Paper'. Transpower was stating support for an ex-post review of operating expenditure in order to establish the appropriate efficiency carry-over amount.[6]	**The Commission has amended its preliminary view** and now considers that it should not provide for a wash-up of operating expenditure at the end of each regulatory period, except insofar as is required to implement an efficiency carry-over mechanism. This is consistent with the approach taken for operating expenditure for Transpower during the period of the administrative settlement. This approach means that Transpower bears the risk of any costs in excess of an approved allowance and retains any benefits in the event costs are lower than the allowance.
Operating expenditure incentive mechanism	The Commission's preliminary view was that a margin allowing Transpower to retain part of any savings or bear some of the forecasting risk with respect to operating expenditure should be included in the regulatory regime. The regime would need to provide Transpower with an incentive to reduce operating expenditure by rewarding it for efficiency gained relative to the forecast operating expenditure set by the Commission during a regulatory period.[7]	Submissions did not disagree that the Commission should implement a mechanism to provide Transpower with incentives to outperform its operating expenditure allowance.	**The Commission's view on this matter has not changed.** The Commission considers that Transpower's forecasting is sufficiently accurate for the Commission to implement a regulatory mechanism that provides symmetrical incentives for Transpower around its operating expenditure. Consistent with this, two options were considered by the Commission as outlined below. The Commission's emerging view is that the 'carry forward' model (option 2) is preferable because, in contrast to the 'within period' model, it provides incentives for Transpower to continuously seek efficiency gains. **Option 1: 'Within period' model** – Gains or losses only retained by Transpower within the regulatory period (in a five-year period, gains made in year 1 are retained for 4 further years; gains made in year 4 are retained for only 1 year); Gains/losses accrue to customers in subsequent regulatory periods (via reset of the operating expenditure allowance). – Variation to this model is to share gains / losses within regulatory period as well as between periods, e.g. share gains/losses within period 50/50. This variation is effected via an ex-post wash-up. – May encourage supplier to only carry out efficiency initiatives in early years of regulatory period, i.e. incentive is not continuous. **Option 2: Carry-forward model** – Allows the sustained incremental gains (or losses) achieved in any year to be retained (carried forward) by the regulated party for a period usually equivalent to the length of the regulatory period, i.e. into the next regulatory period. This provides a continuous incentive to seek efficiency gains. – Beyond the carry-forward period, any ongoing benefits or losses accrue to consumers (by adjustments to future operating expenditure allowances). – The length of the carry-forward period determines the sharing of benefits between the regulated business and consumers. The Australian Energy Regulator (AER) estimated that a five year carry over period equates to a benefit sharing ratio of approximately 30:70 between the regulated supplier and its customers. A longer carry-forward period allocates a greater proportion of benefits to the regulated party. – Gains or losses within the period are allocated to customers via the ex-post wash-up. Allocation of gains or losses carried forward to the next regulatory period is achieved through setting an appropriate operating expenditure allowance to apply in the next regulatory period. – While more conceptually complex, it does not appear to be more administratively complex.

<table>
<tr><th colspan="4">Setting quality standards that comply with s 54M(6)</th></tr>
<tr><th>Topic</th><th>Preliminary View</th><th>Key Issues Raised</th><th>Emerging View</th></tr>
<tr>
<td>Giving effect to the Electricity Commission's quality standards</td>
<td>No preliminary view was provided in the Transpower process and recommendation discussion paper, nor the input methodologies discussion paper. More recently, however, in its consultation on its draft recommendation to the Minister on the form of control to apply to Transpower, the Commission set out the following:

Under s 53M(3), quality standards may be prescribed in any way the Commission considers appropriate, such as targets, bands, or formulae. However, with respect to Transpower quality standards, s 54M(6) provides that the only quality standard requirements that may be included in a s 52P determination are requirements that give effect to quality standards set by the Electricity Commission.[8]

The approach to regulating quality standards under default price-quality regulation would likely be to set a small number of key measures that give effect to Electricity Commission standards, that Transpower would be required to target and achieve. These measures would be selected to provide an overall indication of performance at an aggregate level, and be measures that Transpower can influence through its operations, maintenance and capital expenditure. Similar to that determined for electricity distribution businesses, the Commission would likely set appropriate dead-bands around each of the key performance measures, with performance exceeding the target in two out of three years being considered a breach.

Actual performance to the quality standards set under s 53M(3) may also be directly linked to the pricing mechanism under s 53M(2). The Commission may, in addition, be able to incorporate a quality performance incentive into the price-path mechanism</td>
<td>In its August 2009 submission Transpower makes the following points: [9]
▪ As an interim measure, Transpower believes that the Commission should give effect to the quality standards set by the Electricity Commission simply by acknowledging these standards;
▪ Further work could be undertaken to determine a single set of quality obligations and the regulatory agency to be responsible for them. The current suite of quality performance indicators could be reviewed to better reflect aggregate performance at a network level and allow for ongoing trend monitoring.

PricewaterhouseCoopers observes the following:[10]
▪ As Transpower embarks on its significant expenditure programme, with associated increase in prices, it is reasonable for customers to expect improved quality delivery;
▪ Therefore under price-quality regulation it is not necessarily appropriate to determine the quality standards for Transpower on the basis of the "no material deterioration" standard being considered for EDBs;
▪ As a minimum, the Electricity Commission's connection and interconnection service quality standards must be reflected in the price-quality regulation to apply to Transpower. It would be inappropriate to apply lower quality standards than those required by the Electricity Governance Rules (EGRs).</td>
<td>The revenue cap form of regulation sets Transpower a maximum allowed revenue within a regulatory year based on forecasts of capital and operating expenditure assessed and approved by the Commission. During the regulatory period, Transpower can maximise its profits by reducing its costs below the forecast levels set in the allowable revenue. While cost reductions could occur because of improved efficiency, they could also result from reduced service quality. The Commission aims to address any incentive to lower quality standards in order to maximise profits by linking Transpower's regulated revenues to the quality of the service it provides.

The Act states that the only requirements that may be included in a section 52P determination in respect of the quality standards of Transpower are requirements that give effect to quality standards set by the Electricity Commission. However, it is currently unclear which of the quality dimensions that the Electricity Commission sets can be considered quality 'standards' and, therefore, to what the Commission should give effect. For the purposes of this workshop the Commission has reviewed the Transpower quality dimensions used by the Electricity Commission and listed below what it considers to be the key quality dimensions for Transpower under individual price-quality regulation. The Commission seeks feedback regarding which dimensions would be appropriate for Transpower under individual price-quality regulation and whether the listed quality dimensions are giving effect to the quality standards set by the Electricity Commission.

<table>
<tr><th>Quality Dimension</th><th>Approach by the Electricity Commission</th><th>Measurement Units</th><th>Proposed Commerce Commission Standard to Give Effect to EC 'Standard'</th></tr>
<tr><td>Loss of supply event frequency

This measures the number of outages that result in actual loss of supply. Current measure used (number of unplanned interruptions) does not distinguish between those that do and do not impact customers.</td><td>Connection Assets

Schedule F2 of Section II of Part F of the EGRs requires Transpower to include targets for the annual number of planned and unplanned interruptions (separate measures) at the Customer Point of Service of one minute or longer due to planned or unplanned outages (separate measures) of either Connection Assets (including Connection Assets between the Customer Point of Service and any Point of Connection relating to the Customer Point of Service) or interconnection assets.

The benchmark agreement states that the service measures which relate to availability at a customer point of service are for the purpose of providing the customer with information on those service levels only.

Interconnection Assets

Section VI of Part F of the EGRs require Transpower to propose and report the annual number of planned and unplanned interruptions (separate measures) of one minute or longer caused by planned or unplanned outages of one minute or longer of each interconnection branch, shunt asset and the HVDC link.

The EGRs state that Transpower does not breach the EGRs by reason of any failure to meet the availability index measures under Section VI of Part F of the EGRs.</td><td>Number of unplanned interruptions</td><td>Target level and dead-band</td></tr>
<tr><td>System unavailability

Provides a measure of how much the grid is</td><td>Connection Assets

Schedule F2 of Section II of Part F of the EGRs requires Transpower to set out service levels for annual unavailability of</td><td>Percentage</td><td>Target level and dead-band</td></tr>
</table></td>
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<table>
<tr><th colspan="4">Setting quality standards that comply with s 54M(6)</th></tr>
<tr><th>Topic</th><th>Preliminary View</th><th>Key Issues Raised</th><th>Emerging View</th></tr>
<tr>
<td></td>
<td>if default price-quality regulation is applied to Transpower (as provided for under s 53M(2)).</td>
<td></td>
<td>
<table>
<tr><td>unavailable due to unplanned interruptions (measured as a percentage)</td><td>aggregate connection assets relating to the customer point of service due to planned and unplanned outages (separate measures) of any of those connection assets of one minute or longer. The benchmark agreement states that the service measures which relate to availability at a customer point of service are for the purpose of providing the customer with information on those service levels only. Interconnection Assets

Section VI of Part F of the EGRs requires Transpower to propose and report the unavailability of each interconnection branch, shunt asset and the HVDC link due to planned and unplanned outages (separate measures) of one minute or longer in hours per year, expressed as a percentage.

The EGRs state that Transpower does not breach the EGRs by reason of any failure to meet the availability index measures under Section VI of Part F of the EGRs.</td><td></td><td></td></tr>
<tr><td>Total interruptions
Currently used under the settlement, measured in system minutes.</td><td>The existing administrative settlement includes a measure of total interruptions (including planned and unplanned) in system minutes.</td><td>System minutes</td><td>Target level and dead-band</td></tr>
<tr><td>Average unplanned outage duration
Provides a measure of the average duration of unplanned loss of supply events.</td><td>The EGRs do not require Transpower to record and report average unplanned outage duration directly. However, the EGRs do require Transpower to record and report the two components that make up average unplanned outage duration, being the aggregate minutes duration of all unplanned outages and the number of events.</td><td>System minutes</td><td>Target level and dead-band</td></tr>
</table>

Target value

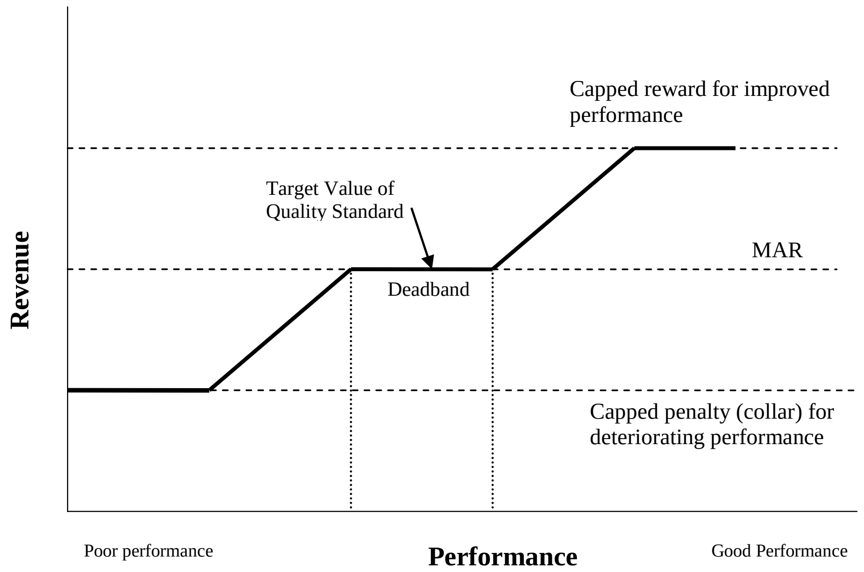
The Commission’s emerging view is that the target values for each measure will be based on historical performance data, adjusted if necessary to reflect the circumstances that the grid would be operated under during the RCP (for example the level of capital work undertaken on the grid requiring outages). The Commission proposes continuation of the current approach of including all events, including events that are outside Transpower’s direct control in the measures. The Commission seeks feedback on the approach for setting target values for the chosen quality standards.

Dead-band

Availability and reliability data is susceptible to variation resulting from extreme events and normal variability. Without measures to account for this inherent variability, quality standards might be breached despite there being no material deterioration in underlying asset performance. Transpower’s and the Commission’s current approach of including all events - including extreme events and events outside Transpower’s direct control - within Transpower’s quality measures increases the potential for year-on-year variability that may not reflect underlying asset performance.

The Commission’s emerging view is that normal variability should be taken into account when setting performance targets through the use of dead-bands. The dead-band establishes a range around the target within which performance has no impact on allowable revenue. It provides for variability in performance around the target that is not directly attributable to the performance of, or improvements by, Transpower. The Commission seeks feedback regarding the possible approaches for setting dead-bands.
</td>
</tr>
</table>

Setting quality standards that comply with s 54M(6)

Topic	Preliminary View	Key Issues Raised	Emerging View
Quality incentive mechanism	No preliminary views were provided.		The Commission's emerging view is that it should apply a performance incentive mechanism, based on the adopted quality standards, that places a portion of Transpower's revenue at risk (in the case of under-performance), but also offers potential reward (in the event of performance at a higher level than the target). The impact of the incentive mechanism on the revenue allowance will be determined by: ▪ the cap and collar applicable to the measure; ▪ the relative weighting of the quality standard compared to other quality standards; and ▪ the revenue percentage at risk under the incentive mechanism. A generic performance profile linking a quality standard to revenue is set out in the diagram below.  *Cap and collar* Cap and collar values are the levels of performance values beyond which higher (in the case of a cap) and lower (in the case of the collar) performance has no further effect on the revenue allowance. The Commission seeks feedback regarding the possible approaches for setting caps and collars. *Weightings* Weighting factors set the relative impact of each quality standard on the total revenue at risk, with the weightings totalling 1. The Commission's emerging view is that it should use weightings for each of the quality standards (if more than one) to calculate an aggregated performance measure. The Commission's emerging view is that: ▪ a higher weighting should be placed upon loss of supply measures because of the value of the immediate impact on consumers; and ▪ a higher weighting to HVAC availability relative to HVDC (in proportion to the value of the asset base). *Revenue at Risk* Revenue at risk is the percentage of the annual maximum allowable revenue that is 'at risk' in the event of under-performance against quality standards (or is to the benefit of Transpower in the event of performance at a higher level than the target). As there are a number of factors that need to be set within the incentive mechanism, and the inter-relationship between these factors determines the impact on allowable revenue, the Commission's emerging view is that there should be a period over which the incentive mechanism is in place but the outcome does not impact allowable revenue. The Commission proposes this is achieved by setting the revenue at risk at 0% for the first regulatory period (transitional provision). Regarding future regulatory periods, the Commission's emerging view is that penalty and rewards should be based on a sliding scale, with revenue risk capped at 1% of MAR in RCP 2, and potentially rising to 2% of MAR for subsequent RCPs. The Commission seeks feedback regarding the level of revenue at risk.

<table>
<tr><th colspan="4">Capital expenditure: Categorisation of projects</th></tr>
<tr><th>Topic</th><th>Preliminary View</th><th>Key Issues Raised</th><th>Emerging View</th></tr>
<tr>
<td>Project categories</td>
<td>The Commission’s Input Methodologies Discussion Paper assumed ‘Part F’ and ‘non-Part F’ categories.</td>
<td>As noted in the input methodologies discussion paper, the distinction between the Part F and non-Part F categories is artificial, as approval can be provided for projects of any size under the EGRs.</td>
<td>As the purpose of the categories is to determine the type and level of regulatory scrutiny to be applied when approving capital expenditure (and given the transition to all capital expenditure being approved by a single regulator), the Commission’s emerging view is that it may be more appropriate to establish categories based on the project size (dollar value). This is primarily because larger projects are typically subject to greater scrutiny by an approving body, such as a board of directors. Low cost projects will often receive less scrutiny.

The Commission’s emerging view is that it would be appropriate to set three bands that determine the level and type of regulatory scrutiny, as set out below:
<table>
<tr><th>Category</th><th>Level</th><th>Type of review</th><th>Constraints</th></tr>
<tr><td>Minor projects</td><td>Less than $1.5 million</td><td>▪ Process and policy review – similar to the approach used under the settlement for approving non-Part F capex.
▪ Not an engineering review, nor focus on individual projects.</td><td>▪ Substitutions are allowed and unconstrained within the minor project category;
▪ Projects under $1.5m which are not part of an aggregated project group;
▪ Must be submitted ex-ante.</td></tr>
<tr><td>Aggregated projects</td><td>Aggregated value for project group, up to $10 million</td><td>▪ Assessed on basis of strategy or policy, taking into consideration relevant factors such as the age profile of assets, known mode failures, etc, and ensuring forecasts are consistent with those approved policies;
▪ Groups of projects that are subject to a common underlying asset management strategy or policy, e.g. tower painting, and various replacement strategies.</td><td>▪ Substitution only allowed within project group;
▪ Must be submitted ex-ante;
▪ Individual project value less than $1.5m.</td></tr>
<tr><td>Large projects</td><td>Individual projects greater than $1.5million</td><td>▪ Grid Investment Test (GIT) or equivalent applied: until the Commission has developed a new input methodology for capital expenditure, processes consistent with existing approval processes under the EGRs will be adopted;
▪ Analysis is to be commensurate with dollar value;
▪ Approval is project specific.</td><td>▪ No substituting approved costs between projects;
▪ Initially, projects can be submitted any time during regulatory period;
▪ In RCP 2 projects will be required to be submitted ex-ante unless they are contingent projects.</td></tr>
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Capital expenditure: Proposed approach			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
Large Projects	No preliminary views.		**Proposed approach – Large Projects subject to individual approval** ▪ All individual projects greater than $1.5m subject to individual approval, with the level of scrutiny commensurate to the size of the project; ▪ Prior to the regulatory period Transpower submits to the Commission a list of projects that have received regulatory approval projects and a list of contingent projects, with triggers; – Approved projects are included in the capital expenditure building block at approved (currently P90) cost and expected timing; – No allowance is included in the MAR for contingent projects. However, return on and return of investment will be washed up at the end of the regulatory period so that Transpower receives full recovery on its investment. ▪ In RCP 2 and subsequent regulatory periods, no wash-up will be provided for any Large Project that is not either approved prior to the revenue determination or on the contingent project list. ▪ All commissioned Large Project investments, including those referred to in the previous bullet point) are rolled into the RAB at (depreciated) historic cost (capped at the level of approved cost). ▪ Transitional provisions for first regulatory period: – allow inclusion of projects on contingent project list even if they do not meet contingent project definition, e.g. not uncertain; and – allow return on/ return of investment on projects that were not pre-approved or included on contingent project list but which were approved during RCP 1, effected via the ex-post wash-up.
Minor Projects	The Commission considers that the Transpower non-Part F capital expenditure forecasts would be subject to an ex-ante review and approval process prior to the regulatory period that set an expenditure allowance for each year of the regulatory period (such as four years). The review process would be consistent with the review currently undertaken under the Transpower settlement agreement. That is, it would focus on whether expenditure forecasts have been prepared in accordance with Transpower's capital works and IT planning processes and policies and whether Transpower's processes have considered and targeted appropriate least-cost, efficient, interventions. It would not consist of a full technical review of individual projects. [11]	Transpower[12] agreed that a similar approach to that currently used by the Commission under the settlement agreement should be used to assess annual non-Part F capex under the Part 4 framework.	**Proposed approach – Minor and Aggregated projects** The focus for the first regulatory period will be on implementing a regime which provides Transpower three years to improve its forecasting performance and investment efficiency before implementing more incentive-based approaches. The overall approach includes: ▪ Minor projects less than $1.5m each, plus Aggregated project groups (with common asset strategy or policy) up to $10m in total. ▪ Transpower having flexibility to reprioritise Minor capital expenditure during the regulatory period; ▪ Separate allowances for Aggregated versus Minor projects; ▪ Transpower would have flexibility to revise capital expenditure plans within the established limits, but cannot substitute between aggregated projects and minor projects allowances; ▪ Transpower will be required to have its Minor and Aggregated capital expenditure plans verified by an independent party prior to submitting the capital expenditure plan to the Commission for review. <u>Proposed approach (Minor and Aggregated projects) for RCP 1 is as follows:</u> ▪ An ex-ante capital expenditure review for year 1 of RCP 1 following similar approval approach as undertaken in the administrative settlement: - 100% of projects must have completed Transpower's approved internal project-approval processes. Any projects that have not undergone this process are 'non-compliant projects'. ▪ A full ex-ante capital expenditure review for the remaining 3 years of RCP 1:

Capital expenditure: Proposed approach			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
			- process review, including considering of matters such as asset strategies, asset management plans, process improvements, forecasts, and level of project rollovers; - 100% of projects must have completed Transpower's approved internal project-approval processes. Any projects that have not undergone this process are 'non-compliant projects'; - projects that have been rolled-over on more than one previous occasion should be excluded from the capital expenditure allowance; ▪ As a transitional mechanism to provide Transpower more time to improve its capital planning and forecasting, the Commission's emerging view is that for RCP 1, provision be made for an ex-post review and wash-up of Minor and Aggregated Projects. This would allow spend in excess of the pre-approved level, subject to Commission approval. It would also protect customers in the event of under-spend; ▪ No incentive mechanism is applied; ▪ A safety net may apply. A safety net provides the Commission with the option to reconsider the price path in the event of significant under-spend relative to the Minor and Aggregated capital expenditure allowance. <u>Proposed approach (Minor and Aggregated projects) for subsequent RCPs</u> Depending upon Transpower demonstrating its ability to provide accurate forecasts, and deliver results accordingly during RCP 1, the Commission proposes that some incentive be provided for Transpower to outperform its approved Minor and Aggregated capital allowance, but also bearing some risk in the event of over-spend: ▪ Full ex-ante review of all forecast Minor and Aggregated capital expenditure for the entire RCP; ▪ For the 5 year forecast of Minor and Aggregated capital expenditure: - all approvals based on compliance with approved policies; - the first 3 years must have completed 100% of Transpower's internal approval processes; - non-compliant projects; - any projects for years 4 & 5 that have not completed 100% of Transpower's internal approval processes (non-compliant projects) will follow a separate process (project values may be adjusted) and are also included in the MAR; - projects that have been rolled over on more two previous occasions (i.e. from RCP 1 to RCP 2 is one rollover) should be excluded from the capital allowance; ▪ The safety net re-opening provision will apply; ▪ No ex-post wash-up of Minor or Aggregated capital under or over the approved level, thereby requiring Transpower to accurately forecast, and manage within that forecast; ▪ Assets will enter the RAB at actual cost. Any under-spend is to Transpower's benefit during that RCP. However, actual capital expenditure will be taken into consideration when setting future capital expenditure allowances.

Capital expenditure: Wash-ups & contingent projects			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
Ex-post wash-ups for Large Projects	With respect to ex-post reviews, the Commission's preliminary view was that an ex-post review is undertaken at the end of the regulatory period on actual capital expenditure currently defined as non-Part F capital expenditure only[13] (i.e. no wash-up would apply to 'Part F' capex).	Transpower, in its submission, agreed with the Commission's preliminary view, stating that 'an ex-post review should apply only to non part F capex'.[14] Part F projects are currently approved by the Electricity Commission at P90 cost so that Transpower will not generally need to request additional funding for a project post approval. The Commerce Commission gives effect to this by allowing the resulting assets to be rolled into the RAB at the lesser of approved and actual cost. In the period between forecast asset commissioning and the RAB roll forward, a return on and of investment is allowed in the revenue requirement. As the administrative settlement operated on a year by year basis, any over-recovery was limited to a single year. However, the Commission recognises that gains relative to the approved capital expenditure could be substantial, calculated over a full regulatory period and this may not be appropriate.	▪ An ex-post wash-up is essentially a mechanism to enable the correction of timing and cost forecast errors, as well as provide recovery for uncertain projects without reopening the MAR during the regulatory period, thereby providing greater price certainty for customers. The Commission's emerging view is that no ex-post wash-up will be undertaken at the end of the regulatory period on actual capital expenditure on Large Projects. However, the Commission intends to undertake further analysis of Transpower's actual performance in delivering against its timing and cost forecasts in respect of projects approved by the Electricity Commission, and may amend its view as a result of this analysis. ▪ The Commission's emerging view with regard to the use of an ex-post wash-up is that it could allow for: – recovery of projects on the contingent projects list that were approved and commissioned during the RCP (at lesser of approved and actual costs); – projects not on the contingent project list, but approved and commissioned during RCP 1 (washed up at lesser of approved and actual cost); – resolving timing differences (timing of asset commissioning); and – returning to customers recovery on any Large project that was forecast to be commissioned during the regulatory period but was not.
Contingent projects	Given the information currently prepared by Transpower for its asset management purposes the Commission considers that Transpower could identify contingent projects and project triggers as part of its existing processes. The requirement for Transpower to provide a list of indicative projects and triggers could be part of the input methodologies and/or through possible consultation and changes to Part F by the Electricity Commission. The Commission will be undertaking further work on the level of information to be provided to the Commission on Part F projects prior to a regulatory period.[15] The proposed approach is similar to the AER approach, including the use of contingent projects to address capital expenditure uncertainty, used in Australia.[16]	In its August 2009 submission Transpower noted that Transpower could, to the extent that it is possible, identify "contingent" projects that have yet to be considered by the Electricity Commission, but are likely to fall within the regulatory period, as well as the specific project triggers that could result in the project being required.[17]	**The Commission's view on this matter has not changed.** The Commission's emerging view is that a contingent project list is useful, irrespective of whether or not the Commission decides to undertake a wash-up of Large Projects at the end of RCP 1. Requiring the contingent project list provides greater levels of certainty for customers regarding the revenue requirement over the entire regulatory period, as well as strengthening incentives for robust forward planning. If the approach was taken to not wash up Large projects approved ex ante, contingent projects could still be included in a wash-up. As a transitional mechanism to provide time for Transpower to prepare its 5-year forecast and seek ex-ante regulatory approval for large projects to be commissioned in RCP2, the following will apply: – in RCP 1, the Commission would allow any unapproved project to be on the contingent project list; but – in RCP 2, the contingent project list would only contain those projects which the Commission determines meet the contingent project definition.

Capital expenditure: Approach for Minor Projects			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
Ex-post wash-ups (Minor and Aggregated Projects allowances)	With respect to ex-post reviews, the Commission's preliminary view was that an ex-post review is undertaken at the end of the regulatory period on actual capital expenditure currently defined as non-Part F capital expenditure only. The review would focus on the reasons for any under spend or the prudence of any overspend that may have resulted from forecasting error. Any ex-post review and adjustment of future revenue would need to be consistent with any incentive scheme implemented for Transpower.[18]	In its August 2009 submission Transpower noted the following:[19] ▪ As Transpower has noted in its previous submissions, an ex-post review (with potential retrospective adjustments applied to Transpower's capital expenditure-derived revenue to "claw-back" material variances against forecasts) should only be considered as a transitional arrangement pending the Commission gaining an increased confidence in Transpower's capital expenditure forecasts. ▪ If the Commission considers that an ex-post review is required, it should focus on reviewing actual performance against forecasts made at the commencement of the period, with a view to understanding the reasons for any material variations. As the Commission notes in Paragraph 12.211, any ex-post review should apply only to non part F capex and focus on under / over spend that may have resulted from forecasting error. Also, any ex-post review and adjustment of future expenditure would need to be consistent with any capital expenditure incentive scheme implemented for Transpower.	**The Commission's preliminary view has not changed.** Its current view remains that an ex-post wash-up will be undertaken at the end of the regulatory period on actual capital expenditure for the categories of Minor and Aggregated projects. This is because, over the term of the settlement, Transpower has not been able to demonstrate it is able to forecast and carry out its capital expenditure.

New Investment Agreements			
Topic	**Preliminary View**	**Key Issues Raised**	**Emerging View**
New investment agreements (NICs)	The Commission's preliminary views regarding new investment agreements were that: ▪ Services provided under new investment agreements should be regulated services under the Act[20]; ▪ The Commission should not interpose itself between Transpower and the third party by requiring the revenue associated with the new investment contract to be subject to any individual price-quality path[21]. ▪ Therefore, revenue associated with these services should be excluded from the individual price-quality path (except in the case of new investment agreements entered into after 5 June 2003, which should only be excluded from the individual price-quality path if the counterparty agrees in writing that the terms and conditions are reasonable or reflect workable or effective competition for the provision of the goods and services)[22];	▪ Submitters did not argue against the preliminary view put forward by the Commission, though one submitter conceded that in some cases negotiation of NICs has been a prolonged process and Transpower should be encouraged to make improvements. ▪ Transpower submitted that new investment agreements are not a regulated service as they are contracts for the construction and financing of assets.[23] It agreed that new investment agreement revenues should be excluded from the individual price-quality path. However, it disputed the Commission's view that new investment agreements are not subject to any third party oversight, noting that Benchmark Agreements and Transmission Agreements are required to meet the Grid Reliability Standards, and the terms of Benchmark Agreements provide adequate protection to consumers, which should preclude the need to provide a written statement that the terms and conditions reflect workable or effective competition. The other party could provide confirmation that contract terms and conditions are reasonable[24]. ▪ The Commission has identified a number of further issues relating to Transpower's new investment agreements. These include what happens when there are cost overruns, lack of liabilities/penalties for late delivery, no provision allowing a customer on a Connection Contract to opt for the provisions set in the Default Transmission Agreement, the appropriate WACC value for use in calculating charges, no clear least cost objective, and lack of contestability in the provision of some new transmission services.	**The Commission seeks further input on this issue.** The Commission remains of the view that services provided under a new investment agreement are regulated services under Part 4 of the Act. The Commission accepts that there is some third party oversight of new investment agreements under the Part F Rules, but notes that this oversight is focused primarily on quality and does not extend to price and other terms and conditions. The Commission is considering whether, subject to feedback received at the workshop, there may be value in the Commission having some regulatory oversight of the negotiation process (as in the AER model for oversight of similar arrangements), for example, establishing a self-regulatory arrangement which imposes requirements on Transpower and oversight of aspects by the Commission. Under such a framework, Transpower could be required to: ▪ provide all commercial information to the customer which would assist the customer in its negotiation; ▪ provide assurance that it has targeted appropriate least cost, efficient objectives when budgeting, procuring and implementing new investment projects, and either comply with its own cost estimation, contracting and tendering policies, etc. or negotiate variations against budget. Feedback on the value or otherwise of Commission oversight is sought from attendees.

Appendix C: Assessment of Transpower’s operating expenditure forecast

(1) An integral part of determining Transpower's revenue requirement for the first regulatory period will be to establish the operating costs for the interim year and each of the remaining three years in the RCP.

(2) It is proposed that the process for determining the operating expenditure (opex) for the last three years of the first RCP will include Transpower providing the Commission with quantitative information in the form of its opex forecast for the three year period in opex categories specified by the Commission. The Commission will also require Transpower to provide qualitative information to support its opex forecast. The qualitative information should enable the Commission and its advisers to gain a sound understanding of the context of Transpower's opex forecast.

(3) The qualitative information the Commission will require from Transpower is likely to include:

- (a) an overall description, including aims and objectives, of its opex forecast for the three years;
- (b) an explanation as to the deliverability of the three year opex forecast;
- (c) an explanation of any material changes in legislation or other requirements that Transpower must meet that has led to a change in opex from previous years;
- (d) identification of relevant documents (including consultant reports), key assumptions, policies and obligations that were taken into account in preparing the opex forecasts;
- (e) a description of the methodology used for forecasting opex including, but not limited to, details of or regarding:
  - (i) cost benchmarking undertaken;
  - (ii) methods to check the reasonableness of the result of cost benchmarking;
  - (iii) historical cost trends for specific asset categories or sources of labour;
  - (iv) contingency factors; and
  - (v) cost-benefit analyses;
- (f) explanation for any departure from any conclusions and recommendations contained in a consultant’s report.

(4) The Commission plans to appoint an adviser to assist it in the assessment of Transpower's proposed opex forecast and setting Transpower's opex allowance for the three year period. The assessment of Transpower's proposed opex forecast is likely to include the following tasks:

- (a) assessing the relevant policies and strategies, procedures and planning standards used in determining the level of forecast opex to determine whether they provide a sufficient basis for good decision-making;
- (b) assessing the implementation of the relevant policies and strategies, procedures and planning standards, including assessing the extent to which the applicant has adopted appropriate policies and strategies, procedures and planning standards at both the aggregate system level and for each of the opex categories;
- (c) assessing the reasonableness of the key assumptions used by the applicant including:

(i) the method and information used to develop the assumption;
(ii) how the assumption has been applied and was taken into account;
(iii) its effect or impact on forecast opex in comparison to its effect or impact on actual opex;

(d) assessing the appropriateness of the methodology used in forecasting opex (cost benchmarking, internal historic cost trends etc), including the relationship between opex and capital expenditure (capex) forecasts;
(e) assessing any opex reduction initiatives undertaken in the current regulatory period, or planned during the next regulatory period;
(f) undertaking a detailed review of a sample of material opex projects or programmes contained in the opex forecast, including, but not limited to, an assessment of:

(i) whether the relevant policies and strategies, procedures and planning standards were applied appropriately;
(ii) the need for the project or programme, including the available evidence to support this (e.g. planning standard, contractual obligation, condition assessment, risk and criticality etc);
(iii) the appropriateness and cost effectiveness of the chosen solution, including whether the applicant targeted least-cost and efficient solutions;
(iv) the approach used to prioritise opex projects over time including the application of the prioritisation approach for the next period;
(v) project operating cost methodology and formulation including the unit rate sources, the method used to test whether the unit rates are efficient and level of contingencies included for projects;
(vi) impact on other cost categories including the relationship with capex;
(vii) links with other projects;
(viii) the cost control and delivery performance; and
(ix) efficiency of the proposed approach to procurement;

(g) assessing whether it is feasible to deliver the amount of opex work proposed during the next regulatory period;
(h) assessing the appropriateness and adequacy of any opex models used to prepare the forecast opex including an assessment of:

(i) the inputs used within the model;
(ii) the adequacy of the model to provide appropriate forecast opex; and
(iii) the methods the applicant used to check the reasonableness of the forecasts and related expenditure.

(5) Following the above assessment the Commission may require additional information and undertake additional assessment to determine whether Transpower's opex forecast is reasonable.

(6) The Commission will consider the results of its analysis and that of its advisers in determining the appropriate opex allowance for Transpower for each year in the final three years of the first control period.

Appendix D: Code of Conduct for Expert Witnesses

r 9.43

Duty to the Court

1 An expert witness has an overriding duty to assist the Court impartially on relevant matters within the expert's area of expertise.

2 An expert witness is not an advocate for the party who engages the witness.

Evidence of expert witness

3 In any evidence given by an expert witness, the expert witness must—

(a) acknowledge that the expert witness has read this Code of Conduct and agrees to comply with it:

(b) state the expert witness' qualifications as an expert:

(c) state the issues the evidence of the expert witness addresses and that the evidence is within the expert's area of expertise:

(d) state the facts and assumptions on which the opinions of the expert witness are based:

(e) state the reasons for the opinions given by the expert witness:

(f) specify any literature or other material used or relied on in support of the opinions expressed by the expert witness:

(g) describe any examinations, tests, or other investigations on which the expert witness has relied and identify, and give details of the qualifications of, any person who carried them out.

4 If an expert witness believes that his or her evidence or any part of it may be incomplete or inaccurate without some qualification, that qualification must be stated in his or her evidence.

5 If an expert witness believes that his or her opinion is not a concluded opinion because of insufficient research or data or for any other reason, this must be stated in his or her evidence.

Duty to confer

6 An expert witness must comply with any direction of the Court to—

(a) confer with another expert witness:

(b) try to reach agreement with the other expert witness on matters within the field of expertise of the expert witnesses:

(c) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement.

7 In conferring with another expert witness, the expert witness must exercise independent and professional judgment and must not act on the instructions or directions of any person to withhold or avoid agreement.

References

[1] Commerce Commission, *Transpower Process and Recommendation Discussion Paper*, 19 June 2009, paragraph X9.

[2] Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.28, question 183.

[3] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.397, paragraph 12.264.

[4] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.397, paragraph 12.266.

[5] Commerce Commission, *Regulatory Provisions of the Commerce Act 1986: Discussion Paper*, 19 December 2008, p.2.

Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.37.

[7] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.397, paragraph 12.267.

[8] Under the Electricity Industry Bill, clause 147, s 54M(6) may be repealed.

[9] Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.37, question 215.

[10] PwC, *Submission to the Commerce Commission on the Input Methodologies Discussion Paper, Made on behalf of 19 Electricity Distribution Businesses*, 14 August 2009, p.52, question 215.

[11] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.388, paragraph 12.204.

Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.30.

[13] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.388, paragraph 12.211.

[14] Transpower, *Submission to the Commerce Commission on: Transpower Process and Recommendation Discussion Paper, Input Methodologies Discussion Paper*, August 2009, p.31, question 192.

[15] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.397, paragraphs 12.208 – 12.209.

[16] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.397, paragraph 12.310.

[17] Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.37, question 215.

[18] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.388, paragraph 12.211

[19] Transpower, *Submission to the Commerce Commission on Transpower process and recommendation discussion paper, Input Methodologies Discussion Paper*, August 2009, p.31, question 192.

[20] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.45, paragraph 3.68.

[21] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.393, paragraph 12.239.

[22] Commerce Commission, *Input Methodologies Discussion Paper*, 19 June 2009, p.393, paragraph 12.240.

[23] Transpower, *Submission on the Information Disclosure Discussion Paper*, September 2009, p.2, paragraphs 10-11.

[24] Transpower, *Submission to the Commerce Commission on Transpower Process and Recommendation Discussion Paper & Input Methodologies Discussion Paper*, August 2009, p. 34.