

14 November 2019

To: Transpower New Zealand Limited  
Waikoukou  
22 Boulcott Street  
PO Box 1021  
Wellington

Attention: Alison Andrew  
Chief Executive

## **Notice to supply information to the Commerce Commission under section 53ZD(1)(d)(i), (e)(i) and (f) of the Commerce Act 1986 – Customer consultation information**

### *Background*

1. In our 29 August 2019 decisions and reasons paper for the individual price-quality path that will apply to Transpower New Zealand Limited (**Transpower**) from 1 April 2020, we (the Commerce Commission – the **Commission**) identified that we would issue an information request to **Transpower** under section 53ZD of Commerce Act 1986 (the **Act**) to provide us with information regarding **customer** consultation.
2. We require this information from **Transpower** under section 53ZD(1)(d)(i), (e)(i) and (f) of the **Act**. Specifically, we require **Transpower**:<sup>1</sup>
  - 2.1 under section 53ZD(1)(d)(i) of the **Act**:
    - 2.1.1 to provide to the **Commission** a proposed **high-level scope** for **Transpower's customer engagement plan** for **RCP3** in accordance with the timeframe in clause 10; and
    - 2.1.2 to prepare and provide the **customer engagement plan** in accordance with the timeframe in clause 11;
  - 2.2 under section 53ZD(1)(e)(i) of the **Act**, to supply **consultation information** in accordance with the timeframes in clauses 12 and 16, on the extent and effectiveness of **Transpower's** consultation with **customers** in relation to how it intends to spend its **base capex** in **RCP3**;

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<sup>1</sup> Commerce Commission "Transpower's individual price-quality path from 1 April 2020 – Decisions and reason paper" (29 August 2019), at [K7] to [K8].

- 2.3 under section 53ZD(1)(e)(i) of the **Act**, to provide a **review report** in accordance with the timeframe in clauses 13 and 17, in respect of **post-project reviews** for **significant capex projects**;
  - 2.4 under section 53ZD(1)(f) of the **Act**, in accordance with the timeframe in clause 15, obtain and provide an **expert opinion** from an **independent expert** on its proposed process for **customer** engagement leading up to its proposal for its individual price-quality path for **RCP4**; and
  - 2.5 under section 53ZD(1)(e)(i) of the **Act**, to provide a **post-interruption survey report** in accordance with the timeframes in clauses 14 and 18, summarising the post-interruption survey results of affected **customers** to assist our investigation into the timeliness of **Transpower's** information provision to **customers** following an **unplanned interruption**.<sup>2</sup>
3. The detailed requirements for the **high-level scope, customer engagement plan, consultation information, review reports, expert opinion, and post-interruption survey reports** are specified at Attachment A of this notice.

*Offences under section 103 of the Act*

4. We note that section 103 of the **Act** provides that no person shall:
- 4.1 without reasonable excuse, refuse or fail to comply with a notice under section 53ZD of the **Act**;
  - 4.2 in purported compliance with such a notice, furnish information, or produce a document, or give evidence, knowing it to be false or misleading; or
  - 4.3 attempt to deceive or knowingly mislead the **Commission** in relation to any matter before it.
5. It is an offence to contravene section 103 of the **Act** and any person who does so is liable on summary conviction to a fine not exceeding \$100,000 in the case of an individual or \$300,000 in the case of a body corporate.

*Purpose of the Notice*

6. Under section 53ZD(1)(d)(i), (e)(i) and (f) of the **Act**, we require that **Transpower** provide us with the information specified in Attachment A.
7. We require this information to assist our function under section 53ZC of the **Act** of resetting of **Transpower's** individual price-quality path for **RCP4**. Specifically, the **high-level scope, customer engagement plan, consultation information, review reports, expert opinion, and post-interruption survey reports** will:
- 7.1 improve our understanding of **Transpower's customer** engagement during **RCP3**; and

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<sup>2</sup> Above n 1, at Table F2.

- 7.2 help us to set an individual price-quality path for **RCP4** that better incentivises **Transpower** to provide services at a quality that reflects consumer demands.
8. For the purpose of section 53ZD(1)(e)(i) of the **Act**, the **consultation information**, **review reports**, and **post-interruption survey reports** are all relevant to our investigation under section 53ZD(1)(b)(i) into the effectiveness of **Transpower's customer** engagement in **RCP3**.
9. For the purpose of section 53ZD(1)(f) of the **Act**, the **expert opinion** is relevant to our resetting of **Transpower's** individual price-quality path for **RCP4**.

*Timeframes for responding to this notice*

10. **Transpower** must supply to the **Commission** **Transpower's** proposed **high-level scope** for the **customer engagement plan** by 15 May 2020.
11. **Transpower** must supply to the **Commission** the **customer engagement plan**, which addresses any comments on the **high-level scope** received from the **Commission** by 1 July 2020, no later than 105 **working days** from the end of the final **disclosure year** of **RCP2**.
12. For **disclosure years** 2021 and 2022 of **RCP3**, **Transpower** must provide the **Commission** with the **consultation information** relating to those **disclosure years** no later than 105 **working days** from the end of **disclosure year** 2022.
13. For **disclosure years** 2021 and 2022 of **RCP3**, **Transpower** must provide the **Commission** with a **review report** in respect of all **post-project reviews** completed in those **disclosure years** no later than 105 **working days** from the end of **disclosure year** 2022.
14. For **disclosure years** 2021 and 2022 of **RCP3**, **Transpower** must provide the **Commission** with the **post-interruption survey report** relating to those **disclosure years** no later than 105 **working days** from the end of the **disclosure year** 2022.
15. **Transpower** must supply to the **Commission** the **expert opinion** no later than 105 **working days** from the end of **disclosure year** 2022.
16. For **disclosure year** 2023 of **RCP3**, **Transpower** must provide the **Commission** with the **consultation information** relating to that **disclosure year** no later than 105 **working days** from the end of **disclosure year** 2023.
17. For **disclosure year** 2023 of **RCP3**, **Transpower** must provide the **Commission** with a **review report** in respect of all **post-project reviews** relating to the **disclosure year** no later than 105 **working days** from the end of **disclosure year** 2023.
18. For **disclosure year** 2023 of **RCP3**, **Transpower** must provide the **Commission** with the **post-interruption survey report** relating to the **disclosure year** no later than 105 **working days** from the end of the **disclosure year** 2023.
19. Where information must be supplied, or where notice must be given to the **Commission**, this must be done by no later than 4:30pm on the date specified.

*Variations, extensions and exemptions*

20. The **Commission** may, on **Transpower's** application, grant **Transpower** a variation to the information requirements set out in this notice to account for any practical limitations on **Transpower's** ability to provide the specified information at the specified time.
21. For the purposes of clause 20:
  - 21.1 if **Transpower** applies for a variation, its application must:
    - 21.1.1 be in writing;
    - 21.1.2 explain why **Transpower** considers that a variation to the information requirements is reasonably justified having regard to the circumstances; and
    - 21.1.3 be made no later than 15 **working days** before the applicable time limit is due to expire; and
  - 21.2 if the **Commission** decides to grant **Transpower** a variation, then:
    - 21.2.1 the approved form of the variation shall take effect by the **Commission** giving or posting written notice of the variation to **Transpower**; and
    - 21.2.2 the notice effecting the approved form of the variation must specify the reasons for the variation.
22. The **Commission** may, on **Transpower's** application, grant **Transpower** an extension to the time limits set out in clauses 10 to 18 of this notice.
23. For the purposes of clause 22:
  - 23.1 if **Transpower** applies for an extension, its application must:
    - 23.1.1 explain why **Transpower** considers that an extension to the time limit is reasonably justified having regard to the circumstances; and
    - 23.1.2 be made no later than 15 **working days** before the applicable time limit is due to expire; and
  - 23.2 if the **Commission** decides to grant **Transpower** an extension, then:
    - 23.2.1 the approved form of the extension shall take effect by the **Commission** giving or posting written notice of the extension to **Transpower**; and
    - 23.2.2 the notice effecting the approved form of the extension must specify the period of the extension and the reasons for the extension.
24. The **Commission** may at any time, by way of written notice to **Transpower**:
  - 24.1 exempt **Transpower** from any obligation in this notice, for a period of time and on such terms and conditions as the **Commission** specifies in the notice; and
  - 24.2 amend or revoke any such exemption.

*Means of responding to this notice*

25. In accordance with the timeframes under clauses 10 to 18 of the notice, **Transpower** must produce and provide the **Commission** with the information required under this notice by either:
- 25.1 supplying the information directly to the **Commission**; or
  - 25.2 making the information publicly available on **Transpower's** website and notifying the **Commission** that it has done so.
26. Where **Transpower** is required to provide information to, or notify, the **Commission**, it must do so by email to [regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz) (Attention: Manager Price-Quality Regulation), with the subject line "Transpower – Response to section 53ZD Notice – Customer consultation: Issued November 2019".
27. Narrative information is to be provided or published in Adobe PDF format. Numerical information is to be provided or published in electronic form in MS Excel file format.

*Interpretation*

28. Unless the context otherwise requires—
- 28.1 terms used in this notice that are defined in the **Transpower IM Determination**, the **Capex IM Determination**, or the **IPP determination**, but not in this notice have the meaning given in the **IM Determination**, **Capex IM Determination** or **IPP determination** as applicable;
  - 28.2 a word which denotes the singular also denotes the plural and vice versa;
  - 28.3 **annual compliance statement** has the meaning specified in the **IPP determination**;
  - 28.4 **base capex** has the same meaning as defined in the **Capex IM Determination**;
  - 28.5 **base capex project** has the same meaning as defined in the **Capex IM Determination**;
  - 28.6 **base capex proposal** has the same meaning as defined in the **Capex IM Determination**;
  - 28.7 **Capex IM Determination** means the *Transpower Capital Expenditure Input Methodology Determination [2012] NZCC 2*, as amended;
  - 28.8 **consultation information** means the information required under clause A3 of Attachment A of this notice;
  - 28.9 **customer** has the same meaning as defined in the **Transpower IM Determination**;
  - 28.10 **customer engagement plan** means the plan required under clause A2 of Attachment A of this notice;