

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**:¹
 - 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**;

¹ 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**.²
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

² 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 (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;

- 28.11 **disclosure year** has the same meaning as defined in the **Transpower IM Determination**;³
- 28.12 **expert opinion** means the expert opinion required under clause A5 of Attachment A of this notice;
- 28.13 **high-level scope** means the scoping document (for the **customer engagement plan**) that meets the requirements of clause A1 of Attachment A of this notice;
- 28.14 **independent expert** means a person who-
- 28.14.1 has no relationship with, or interest in, **Transpower** that is likely to involve a conflict of interest between his, her or its duties to **Transpower** and his, her or its duties to the **Commission**; and
- 28.14.2 possesses expertise in the field of **customer** engagement;
- 28.15 **IPP determination** means the *Transpower Individual Price-Quality Path Determination 2020 [2019] NZCC 19*;
- 28.16 **listed project** has the same meaning as defined in the **Capex IM Determination**;
- 28.17 **major capex allowance** has the same meaning as defined in the **Capex IM Determination**;
- 28.18 **major capex project** has the same meaning as defined in the **Capex IM Determination**;
- 28.19 **measure of success** for a **significant capex project** means a measure of project success established by **Transpower**, which may include, but is not limited to:
- 28.19.1 the contribution of the project to achievement of **Transpower's** corporate objectives;
- 28.19.2 the contribution of the project to achievement of **Transpower's** relationship objectives with its **customers** or other stakeholders;
- 28.19.3 in the case of a **major capex project**:
- (a) achievement of the project components specified by **Transpower** in accordance with clause 3.3.5(6) of the **Capex IM Determination**;
- (b) delivery against the **major capex allowance** as determined by the **Commission** in accordance with clause 3.3.5(7)(a) of the **Capex IM Determination**; and
- 28.19.4 in the case of a **listed project**, delivery of the **base capex** in respect of the **listed project** as determined in accordance with clause 3.2.3(4) of the **Capex IM Determination**;

³ **Disclosure years** are identified by the year in which the **disclosure year** ends. For example, **disclosure year** 2022 identifies the **disclosure year** from 1 July 2021 to 30 June 2022.

- 28.20 **post-interruption survey report** means the report required under clause A6 of Attachment A of this notice;
- 28.21 **post-project review** means a review of a **significant capex project** which must include an assessment of the extent to which the **significant capex project** met the relevant **measures of success** established by **Transpower** prior to starting that **significant capex project**;
- 28.22 **RCP2** means the regulatory period prior to **RCP3**, being the period from 1 April 2015 to 31 March 2020, provided that references to the final **disclosure year** in **RCP2** means the disclosure year ending on 30 June 2020;
- 28.23 **RCP3** means the regulatory period from 1 April 2020 to 31 March 2025, provided that references to the final disclosure year in **RCP3** means the **disclosure year** ending on 30 June 2025;
- 28.24 **RCP4** means the regulatory period following **RCP3**;
- 28.25 **review report** means the report required under clause A4 of Attachment A of this notice;
- 28.26 **significant capex project** means a capital expenditure project that requires the approval of **Transpower's** Board to proceed;
- 28.27 **Transpower ID Determination** means the *Transpower Information Disclosure Determination 2014* [2014] NZCC 5;
- 28.28 **Transpower IM Determination** means the *Transpower Input Methodologies Determination* [2012] NZCC 17, as amended;
- 28.29 **transmission alternative** has the same meaning as defined in the **Capex IM Determination**;
- 28.30 **unplanned interruption** has the same meaning as defined in the **IPP determination**; and
- 28.31 **working days** is defined in the **Act**.

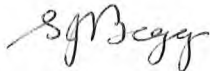
Use of supplied information and confidentiality

29. If **Transpower** considers that, for confidentiality reasons, the **Commission** should not publish or publicly refer to any particular part of **Transpower's** response to this notice, **Transpower** must:
- 29.1 specify the relevant part of the information when providing the response to the **Commission**; and
- 29.2 give clear reasons why **Transpower** considers that part of the response is confidential.
30. If **Transpower** indicates that we should not publish or publicly refer to part of its response, we will discuss with **Transpower** before deciding whether or not to do so.

31. Where information is not publicly disclosed by **Transpower**, it must provide an unredacted version of the report to the **Commission** at the following email address: regulation.branch@comcom.govt.nz (Attention: Manager Price-Quality Regulation) at the same time the redacted version of the report is either supplied to the **Commission** or published on **Transpower's** website, in accordance with clause 25 of this notice.
32. Please note that all responses we receive, including any parts that we decide not to publish, can be requested from the **Commission** under the Official Information Act 1982. This means that, if requested, we would be required to release material (whether published or not) unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult before releasing any material that **Transpower** requests not to be published.

Dated at Wellington: 14 November 2019

Signed by:



Sue Begg
Commissioner

Attachment A: Information required

Transpower to produce high-level scope and customer engagement plan

- A1 Under section 53ZD(1)(d)(i) of the **Act**, **Transpower** must produce a proposed **high-level scope** for a **customer engagement plan** that identifies:
- A1.1 the business objective or objectives that are to be advanced;
 - A1.2 the **customer** communications/engagement objectives that support the business objectives;
 - A1.3 the **measures of success** for each objective; and
 - A1.4 the expected timeframes and processes for the **customer** consultations **Transpower** intends to conduct during **RCP3**.
- A2 Under section 53ZD(1)(d)(i) of the **Act**, **Transpower** must produce a **customer engagement plan** that:
- A2.1 sets out how **Transpower** intends to:
 - A2.1.1 engage with **customers** on their preferences regarding price-quality trade-offs during **RCP3**; and
 - A2.1.2 have regard to **customer** preferences in making asset management, planning and investment decisions during **RCP3**;
 - A2.2 explains the reasons for any material departures from:
 - A2.2.1 the **high-level scope**; and
 - A2.2.2 any feedback the **Commission** provides to **Transpower** on the **high-level scope**.

Consultation information

- A3 Under section 53ZD(1)(e)(i) of the **Act**, **Transpower** must produce **consultation information** that includes:
- A3.1 whether and how **Transpower** consulted with **customers** and interested parties on how **Transpower** intends to spend its **base capex** in **RCP3**;
 - A3.2 what **base capex projects**, or aspects of a **base capex project**, **Transpower** consulted on in **RCP3**;
 - A3.3 the extent of involvement in those consultations from providers of **transmission alternatives**;
 - A3.4 how effective **Transpower** considered the consultation was; and
 - A3.5 how satisfied **customers** and others were with the consultation processes, based on the feedback provided to **Transpower**.

Review report on post-project reviews for significant capex projects

- A4 Under section 53ZD(1)(e)(i) of the **Act**, **Transpower** must produce a **review report** in respect of **post-project reviews** that includes:
- A4.1 the **measures of success** for each **significant capex project** established by **Transpower** prior to starting work on that **significant capex project**; and
 - A4.2 an assessment of the extent to which each **significant capex project** met its **measures of success**.

Transpower to obtain an expert opinion

- A5 Under section 53ZD(1)(f) of the **Act**, **Transpower** must obtain an **expert opinion** that:
- A5.1 assesses **Transpower's** proposed **customer** engagement processes leading up to the preparation and submission of its **RCP4 base capex proposal**; and
 - A5.2 sets out the qualifications, relating to **customer** engagement, of the **independent expert**, and how that **independent expert** meets the requirements in clause 28.14.

Post-interruption survey report

- A6 Under section 53ZD(1)(e)(i) of the **Act**, **Transpower** must produce a **post-interruption survey report** that summarises:
- A6.1 the impact of **unplanned interruptions** on **customers** by reference to surveys undertaken of **customers** following **unplanned interruptions**;
 - A6.2 the information **Transpower** provided on **unplanned interruptions** to affected **customers**; and
 - A6.3 feedback from affected **customers** on the effectiveness of **Transpower's** communication on the **unplanned interruptions**.