



COMMERCE COMMISSION

Re Commerce Act (Transpower Individual Price-Quality Path) Determination
Amendment No.2 [2012] NZCC 3

Amendment made under s52Q of the Commerce Act 1986 (the Act) to the individual
price-quality path determination applicable to Transpower pursuant to Part 4 of the Act.

The Commission:

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Date of Decision: 31 January 2012

Regulation Branch, Commerce Commission

Wellington, NEW ZEALAND

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COMMERCE ACT (TRANSPOWER INDIVIDUAL PRICE-QUALITY PATH) DETERMINATION AMENDMENT NO.2

Pursuant to Part 4 of the Commerce Act 1986 the Commerce Commission makes the following determination:

1. Title
This determination is the Commerce Act (Transpower Individual Price-Quality Path) Determination Amendment No.2.
2. Commencement
This determination comes into force on the day after the date on which notice of it is given in the New Zealand Gazette under section 52Q of the Commerce Act 1986.
3. Amendments consequential on the Capex IM determination
 - (1) This determination amends the Commerce Act (Transpower Individual Price-Quality Path) Determination 2010.
 - (2) Clause 1.6 is amended by omitting “set out” and substituting “specified”.
 - (3) Part 2 (Defined Terms) is amended:
 - (a) by inserting after the definition of **business support**, the definition:
“**Capex IM determination** means the Transpower Capital Expenditure Input Methodology Determination;”.
 - (b) by omitting the definition of **capital expenditure**, and substituting:
“**capital expenditure** means costs that have been or will be included in a **value of commissioned asset**, but only to the extent that the costs have been or will be included in a **closing RAB value**;”.
 - (c) in the definition of **catastrophic event**, by omitting “set out” and substituting “specified”.
 - (d) in the definition of **closing RAB value**, by omitting “set out” and substituting “specified”.
 - (e) in the definition of **Commission**, by omitting “set out” and substituting “defined”.
 - (f) in the definition of **commissioned**, by omitting “set out” and substituting “specified”.
 - (g) in the definition of **corporate tax rate**, by omitting “set out” and substituting “specified”.
 - (h) in the definition of **depreciation**, by omitting “set out” and substituting “specified”.
 - (i) by omitting the definitions of **easement** and **easement land**.

- (j) by inserting after the definition of **disclosure year**, the definition:
“**Electricity Information Disclosure Requirements** means the Electricity (Information Disclosure) Requirements 2008, including all consolidated amendments, as issued by the **Commission**;”.
- (k) in the definition of **EV account entry**, paragraph (d) by omitting “clause 5.3(4)(d)” and substituting:
“clauses 5.3(4)(d) and 5.3(4)(e);”.
- (l) in the definition of **forecast MAR**, by omitting paragraph (b) and substituting:
“(b) for **pricing years** in the **remainder period**, the amount for each **disclosure year** that is specified in clause 3.3;”.
- (m) in the definition of **forecast MAR calculation model**, by omitting “required under” and substituting “specified in”.
- (n) in the definition of **HVDC bi-pole unavailability (unplanned)**, paragraph (a) by omitting “)” from the numerator in the formula.
- (o) by inserting after the definition of **loss of supply event**, the definitions:
“**major capex** has the meaning specified in the **Capex IM determination**;
“**major capex adjustments** means the adjustments calculated in respect of **major capex**, determined by the processes specified in the **Capex IM determination** and comprising the following:
“(a) the major capex efficiency adjustment, calculated in accordance with Schedule B, clause B7 of the **Capex IM determination**;
“(b) the major capex project output adjustment, calculated in accordance with Schedule B, clause B5 of the **Capex IM determination**;
“(c) the major capex overspend adjustment, calculated in accordance with Schedule B, clause B4 of the **Capex IM determination**; and
“(d) the major capex sunk costs adjustment, calculated in accordance with Schedule B, clause B6 of the **Capex IM determination**;
“**major capex incentive rate** has the meaning specified in the **Capex IM determination** and its value for the **regulatory period** is set in accordance with clause 5.2(9) of this determination;
”**major capex proposal** has the meaning specified in the **Capex IM determination**;”.

- (p) by omitting the definition of **MAR**, and substituting:
“**MAR** means, in relation to a **disclosure year**, **Transpower's** maximum allowable revenue from the supply of **electricity transmission services**, calculated following the **disclosure year** by **Transpower** in accordance with the building blocks calculation in Schedule E:
“(a) using **applicable input methodologies**;
“(b) using the **operating expenditure allowance**, as determined by the **Commission**;
“(c) using **minor capital expenditure** that has been **commissioned**;
“(d) using **major capital expenditure** that has been **commissioned**;
“(e) excluding **pass-through costs** and **recoverable costs**; and
“(f) using, for all other building blocks, actual costs for the **disclosure year**.”
- (q) in the definition of **new investment contract**, by omitting “set out” and substituting “specified”.
- (r) in the definition of **opening RAB value**, by omitting “set out” and substituting “specified”.
- (s) in the definition of **outage**, by inserting after “as amended from time to time”:
“, other than specified in sub clauses 12.130(2)(c) and 12.130(2)(d) of the **Code**”.
- (t) in the definition of **pass-through costs**, by omitting “set out” and substituting “specified”.
- (u) by omitting the definition of **physical asset life**.
- (v) by omitting the definition of **planned interruption** and substituting:
“**planned interruption** has the meaning specified in Schedule 1 of the **Electricity Information Disclosure Requirements**.”
- (w) by omitting the definition of **planned outage** and substituting:
“**planned outage** means an **outage**, other than an **unplanned outage**.”
- (x) by omitting the definition of **price**.
- (y) in the definition of **recoverable costs**, by omitting “set out” and substituting “specified”.
- (z) in the definition of **remaining asset life**, by omitting “set out” and substituting “specified”.
- (aa) in the definition of **system operator**, by omitting “set out” and substituting “defined”.
- (bb) in the definition of **term credit spread differential**, by omitting “set out” and substituting “specified”.
- (cc) in the definition of **TPM**, by omitting “set out” and substituting “specified”.

- (dd) in the definition of **Transpower**, by omitting “set out” and substituting “defined”.
 - (ee) by omitting the definition of **unplanned interruption** and substituting:
“**unplanned interruption** has the meaning specified in Schedule 1 of the **Electricity Information Disclosure Requirements**.”
 - (ff) by omitting the definition of **unplanned outage** and substituting:
“**unplanned outage** for the purposes of this determination has the meaning specified in clause 10.2.1 of the Outage Protocol incorporated by reference under clause 12.150 of the **Code**.”
 - (gg) in the definition of **value of commissioned asset**, by omitting “set out” and substituting “specified”.
 - (hh) in the definition of **working days**, by omitting “set out” and substituting “defined”.
- (4) Clause 3.4, subclause (2) is amended by omitting “set out” and substituting “specified”.
 - (5) Clause 3.4, subclause (3) is amended by omitting “set out” and substituting “specified”.
 - (6) Clause 4.2, subclause (1) is amended by omitting “ending” and substituting “from 1 July 2011 to”.
 - (7) Clause 5.1, subclause (1) is amended by omitting “set out” and substituting “specified”.
 - (8) Clause 5.2, subclause (1) is amended by omitting “set out” and substituting “specified”.
 - (9) Clause 5.2, subclause (3), paragraph (a) is amended by omitting “set out” and substituting “specified”.
 - (10) Clause 5.2 is amended by omitting subclause (4) and substituting:
“(4) **Capital expenditure**:
“(a) for each **disclosure year**, a list of **minor capital expenditure** (broken down by each expenditure category in the definition of that term in part 2) including:
“(i) **minor capital expenditure** that was **commissioned** during the **disclosure year**; and
“(ii) an explanation of any material variation between **minor capital expenditure** that was forecast to be **commissioned** during the **disclosure year** and **minor capital expenditure** that was **commissioned** during the **disclosure year**.”

“(b) for each **disclosure year**, a list of **minor capital expenditure asset enhancement projects** that ceased during the **disclosure year** to continue to meet the definition of **minor capital expenditure** due to the total level of **capital expenditure** incurred on the **project**.

“(c) for each **disclosure year**, a list of the **minor capital expenditure asset enhancement projects** included in the approved **minor capital expenditure** for which **Transpower** has submitted a **major capex proposal** to the **Commission**, and the result of reducing the approved **minor capital expenditure** for the **regulatory period** for the amount of **major capex**.

“(d) a forecast for each of the remaining **disclosure years** in the period from 1 July 2011 to 30 June 2015, calculated by providing **minor capital expenditure** and **major capital expenditure** separately, including **major capital expenditure** approved by the **Commission** during the current **disclosure year** that will be **commissioned** during a subsequent **disclosure year**.

“(e) in the last **annual compliance monitoring statement** for the period from 1 July 2011 to 30 June 2015, all relevant material necessary to assess any application within the **annual compliance monitoring statement** for ex-post approval of **base capex** in excess of the aggregate level of approved **base capex**, including a description in each instance, of why each relevant **project** or **programme**:

“(i) was unable to be reasonably foreseen by **Transpower**; and

“(ii) is required to maintain the security of supply of the **grid**; and

“(iii) could not be reasonably deferred.

“(f) for each **disclosure year**, a list of assets determined by the **Commission** to be **stranded assets**.”.

(11) Clause 5.2 is amended by omitting sub clause (7) and substituting:

“(7) **MAR** for the purposes of the calculation of the **ex-post economic gain or loss**:

“(a) using **applicable input methodologies**; and

“(b) using as the **operating expenditure allowance**:

“(i) for the **disclosure year** from 1 July 2011 to 30 June 2012, \$248.5 million; and

“(ii) for the **disclosure year** from 1 July 2012 to 30 June 2013, \$279.8 million, adjusted for any disparity between the forecast CPI and the actual CPI; and

“(iii) for the **disclosure year** from 1 July 2013 to 30 June 2014, \$281.2 million, adjusted for any disparity between the forecast CPI and the actual CPI; and

“(iv) for the **disclosure year** from 1 July 2014 to 30 June 2015, \$287.9 million, adjusted for any disparity between the forecast CPI and the actual CPI; and

“(c) excluding **pass-through costs** and **recoverable costs**;

“(d) using actual **minor capital expenditure** that was **commissioned** in the **disclosure year**;

“(e) using actual **major capital expenditure** that was **commissioned** in the **disclosure year**; and

“(f) using, for all other building blocks, actual costs for the **disclosure year**.”

- (12) Clause 5.2 is amended by inserting after sub clause (8):

“(9) **Major capex adjustments** for each **disclosure year**, calculated using the **major capex incentive rate** of 33%.”

- (13) Clause 5.3, subclause (1) is amended by omitting “set out” and substituting “specified”.

- (14) Clause 5.3, subclause (4) is amended by omitting paragraph (d) and substituting:

“(d) for **minor capital expenditure** in excess of aggregate approved **minor capital expenditure** for the **regulatory period** and any **minor capital expenditure** that has not been fully subject to **Transpower’s** internal approval processes, make each **EV account entry** sufficient to fully offset the revenue impact of such **capital expenditure** over the life of the applicable assets, in the **disclosure year** that ends on 30 June 2015; and

“(e) make an **EV account entry** for the **major capex adjustments**, as applicable to the **disclosure year**, on an annual basis.”

- (15) Clause 5.3, subclause (5) is amended by omitting “over the life of the applicable assets”.

- (16) Clause 5.3 is amended by omitting subclause (6) and substituting:

“(6) The approved **minor capital expenditure** for the purposes of clause 5.3(4)(d) is the aggregate of:

“(a) for the **disclosure year** from 1 July 2011 to 30 June 2012, \$208.6 million; and

“(b) for the **disclosure year** from 1 July 2012 to 30 June 2013, \$301.9 million, adjusted for any disparity between the forecast CPI and the actual CPI; and

“(c) for the **disclosure year** from 1 July 2013 to 30 June 2014, \$244.9 million, adjusted for any disparity between the forecast CPI and the actual CPI; and

“(d) for the **disclosure year** from 1 July 2014 to 30 June 2015, \$278.4 million, adjusted for any disparity between the forecast CPI and the actual CPI.”

- (17) Clause 5.4, subclause (1) is amended by omitting “set out” and substituting “specified”.

- (18) Clause 5.5, subclause (1) is amended by omitting “set out” and substituting “specified”.

- (19) Clause 5.5, subclause (2) is amended by omitting “ending” and substituting “from 1 July 2011 to”.

- (20) Clause 5.5, subclause (3), paragraph (b) is amended by omitting “set out in” and substituting “specified in clause”.
- (21) Clause 5.6, subclause (1) is amended by omitting “set out” and substituting “specified”.
- (22) Clause 5.6, subclause (2) is amended by omitting “ending” and substituting “from 1 July 2011 to”.
- (23) Clause 5.6, subclause (2), paragraph (b) is amended by omitting “set out” and substituting “specified”.
- (24) Clause 5.7, subclause (1) is amended by omitting “set out” and substituting “specified”.
- (25) Clause 5.7, subclause (2) is amended by omitting “set out” and substituting “specified”.
- (26) Clause 5.7, subclause (3) is amended by omitting “set out” and substituting “specified”.
- (27) Clause 5.7, subclause (4), paragraph (c) is amended by omitting “5.2(4)(b)” and substituting “5.2(4)(d)”:
- (28) Clause 5.8, paragraph (a) is amended by omitting “set out” and substituting “specified”.
- (29) Clause 5.8, paragraph (b) is amended by omitting “set out” and substituting “specified”.
- (30) Schedule C, fourth paragraph is amended after “information” by inserting “with respect to the individual price-quality path”.
- (31) Schedule C, seventh paragraph is amended after “misstatement” by inserting “with respect to the individual price-quality path”.
- (32) Schedule C, eighteenth paragraph is amended after “preparation” by inserting “with respect to the individual price-quality path”.
- (33) Schedule C, Opinion, paragraph (4) is amended after “prepared” by inserting “with respect to the individual price-quality path”.
- (34) Schedule C, Qualification on Opinion is amended after “(and associated information)” by inserting “with respect to the individual price-quality path”.
- (35) Schedule D, line 1 (Average RAB), column 3 of the table is amended by omitting the description and substituting:

“Forecast **opening RAB value**, plus half of the forecast **commissioned** aggregate value of **major capital expenditure** approved in accordance with the **Capex IM determination** and approved **minor capital expenditure**”.



Dr Mark Berry, *Chair*



Sue Begg, *Deputy Chair*



Pat Duignan, *Commissioner*



Dr Stephen Gale, *Associate
Commissioner*

Dated at Wellington this 31st day of January 2012.

COMMERCE COMMISSION

Explanatory Note

This determination makes allowable consequential amendments to the Transpower price-quality path determination to reflect the Commission's decisions in the Transpower Capital Expenditure Input Methodology Determination ('Capex IM Determination'). Under the amendment provisions in the Commerce Act (Transpower Input Methodologies) Determination 2010, the approval procedures applying to major capital expenditure proposals by Transpower New Zealand Limited ('Transpower') apply from the date of commencement of the Capex IM Determination. However, under the Commerce Act 1986 the individual price-quality path may not otherwise be amended during this regulatory period. For example, procedures applying to minor capital expenditure may only apply from the regulatory period commencing on 1 April 2015.