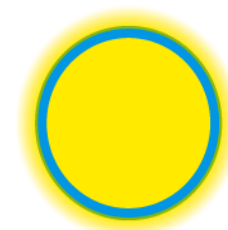


24 May 2013

John McLaren
Chief Adviser
Regulation Branch
Commerce Commission
PO Box 2351
WELLINGTON 6140

Dear John

Re: Feedback on the process for setting default price-quality paths

This is Powerco Limited's response to the Commerce Commission's open letter of 23 April 2013, which sought feedback on the process used to reset the default price-quality paths for electricity distributors and set the default price-quality paths for gas pipeline businesses. Firstly, thank you for the opportunity to make these comments.

Powerco's feedback should be considered in light of the circumstances in which the Commission was required to operate over the DPP setting period. For example, decisions were required to be made against a tight legislative timeline; concurrent litigation was being progressed which may have impacted on the level of possible communication between the Commission and industry participants and some key aspects of the Part 4 framework were either still evolving or had not had time to bed in. Given this environment, we found that many elements of the process followed to set the default price-quality paths were satisfactory. Deadlines were generally met and communications with Commission staff were cordial and effective.

General Comments and Issues Register

The issues registers were helpful, as were the revenue templates that were developed with the assistance of the Electricity Networks Association. We recommend that this collaborative approach between the Commission and ENA is used again in the future, where relevant. We did, however, find that on occasion, the time allowed to respond to information requests could be unreasonably short, particularly if directors' certification was required. A few other general observations include the following: a) reasons papers were well written and easy to follow especially with the use of summary appendices and b) It was sometimes difficult to prepare some of the information required without fully understanding its purposes or the context with which the information would be applied by the Commission.

Signalling Major Changes of Approach

Our major concern about the process (which should be less of a concern going forward now that the key components of Part 4 are substantially in place and subsequent changes should be limited to refinements only) relates to the significant swings and changes of approach that occurred as the Commission's consultation progressed. Such changes to the Commission's thinking (i.e. change to ROI band, opex forecasting, econometrics, cash-flow timing etc), which weren't signalled in advance of updated draft decisions being published, resulted in material changes of outcomes and very different

revenue profiles for Powerco. These changes of outcome were impossible to predict with any certainty.

For a privately owned business, such as Powerco, major variations of this sort can be commercially quite disruptive. Consequently, we found it disappointing that these changes of approach were not signalled in advance and that the Commission did not consult on, or appear to give serious consideration to, alternatives. However, as noted, now that the electricity price-quality path and the input methodologies are in place, this may not be an issue in the future.

Modelling

The Commission's development and release of its models was a positive aspect of the DPP process. Our comments relate to the complexity of the financial model. While we acknowledge that a degree of complexity was unavoidable, the model could have been made much more readily comprehensible by breaking the complex calculation cells down into their building blocks or sections, providing a narrative to support the logic of the formulae and formatting the worksheets to make it easier to follow the logic of the model (e.g. by using borders and standard formats for the section headers). The workshops were very useful and the earlier that these can be programmed into the process the better. From a company perspective, the p0 model was perhaps the most fundamental piece of information that allowed us to model the Commission's decisions and how these decisions fitted together. Early release and discussion around the populated p0 model with accompanying explanations of any changes to the model rules, assumptions and inputs, should be built into the DPP reset process.

Draft and Final Determinations

Another issue of concern to us that, strictly speaking, applies to the input methodologies rather than the default price-quality paths per se, relates to the comparatively short time that was made available to comment on both draft and final determinations, when compared against the time made available to comment on the policy and methodological proposals as set out in the various "Reasons Papers". In our view this runs the risk of there being inconsistencies between clear statements of policy in the Reasons Papers and how the corresponding provisions of the Determinations themselves actually work in practice. One such inconsistency that has come to light recently is that, in relation to new easement rights, the Reasons Paper states unequivocally that new easement rights are to be included in the regulated asset base ("RAB") in the year in which they are acquired, but the wording of the IMs means that such rights can only be included in the RAB when other assets are constructed and used to convey electricity by line. This can potentially lead to unwitting non compliance if the Reasons Paper is referred to in the belief that it is an accurate guide to the Commission's policy. We appreciate that in the early stages of consultation the process needs to be focused on method and approach rather than technical drafting. However, to the extent possible it would be useful to allow earlier feedback on the drafting of determinations.

I would be happy to discuss any of these points with Commission staff.

Yours sincerely



Richard Fletcher
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