

By email

26 June 2014

Matt Todd
Chief Executive
Eastland Network Limited
37 Gladstone Road
PO Box 1048
GISBORNE 4040
Email: [REDACTED]

Dear Matt

Eastland Network Limited – warning for non-compliance with the DPP quality standards for the 2012 assessment period

Purpose

1. The purpose of this letter is to advise you of our decision on Eastland Network Limited's (Eastland) 2012 non-compliance with the quality standards under the Electricity Distribution Services Default Price-Quality Path Determination 2010 (Determination).

Warning for failing to comply with the quality standards

2. You advised us in Eastland's 2012 compliance statement that Eastland was non-compliant with the quality standards for the 2012 assessment period.
3. Rather than seeking a penalty, we have decided to issue this warning letter. We reached this decision after assessing Eastland's non-compliance against our enforcement criteria.

Our expectations regarding Eastland's future performance

4. It is Eastland's responsibility to comply with the quality standards and to decide what actions to take in order to do so.
5. Our engineering advisors, Strata Energy Consulting (Strata), expressed a number of concerns about Eastland's asset management practices as they relate to Eastland's quality performance. Strata indicated that unless Eastland took steps to address certain asset management issues, Eastland was likely to continue to fail to meet the reliability limits in some years.

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6. We acknowledge that following Eastland's failure to comply with the quality standards for the 2012 assessment period, it has complied with the quality standards for the 2013 and 2014 assessment periods.
7. Notwithstanding its 2013 and 2014 compliance, if Eastland fails to comply with the quality standards again, its 2012 non-compliance will be a relevant factor that may lead us towards a stronger enforcement response. Particularly relevant would be the extent to which the concerns raised following Eastland's 2012 non-compliance contributed to the second non-compliance.
8. We expect that electricity distributors' network performance and asset management will be the subject of increasing summary and analysis in future. The extent to which Eastland has addressed the concerns raised following its 2012 non-compliance may be considered as part of this process.

Our decision to issue a warning letter

9. We consider that Eastland has contravened a price-quality requirement applying to regulated goods or services as described in section 87(1)(a) of the Commerce Act 1986 (Act). We may take Court proceedings seeking a financial penalty and compensation under the Act for this type of contravention.
10. We analysed Eastland's non-compliance using our enforcement criteria:
 - 10.1 extent of detriment;
 - 10.2 seriousness of conduct; and
 - 10.3 public interest.
11. Based on our assessment of the non-compliance against these enforcement criteria, we decided to exercise our enforcement discretion not to seek a penalty from Eastland.
12. In terms of conduct, having assessed the circumstances of the non-compliance, we considered that there was no serious fault on Eastland's part.
13. While any network outage causes inconvenience for consumers, we did not identify any significant specific detriment to consumers on Eastland's network as a result of the non-compliance, or any over-riding public interest in seeking a penalty.
14. In responding to the non-compliance, we are seeking to deter Eastland from failing to comply with the quality standards again in the future.
15. We have decided against seeking a penalty because, having considered the circumstances of the non-compliance, we consider that a warning ought to be sufficient to deter Eastland from failing to comply with the quality standards again.

Strata's report about Eastland's quality performance

16. To assist in our assessment of the circumstances of Eastland's non-compliance with the quality standards, we engaged Strata to review Eastland's quality performance. We also considered Eastland's response to Strata's report, as well as other material provided by Eastland, before reaching a decision on our enforcement response.
17. In addition to Strata's findings on the circumstances of the 2012 non-compliance, Strata expressed a number of concerns and recommendations relating to Eastland's asset management. Strata's concerns and recommendations are set out in detail in its report.
18. Eastland responded to Strata's report by a letter dated 15 August 2013. Strata considered Eastland's response but decided that there was no need to revise its report¹ as, notwithstanding Eastland's response, the findings of the report remained valid. Eastland has indicated that, although it does not agree with all of Strata's findings and recommendations, it will consider them in the course of its own reviews.
19. During its review, Strata found that Eastland had already taken steps to address some of the factors that contributed to the non-compliance. For example, Strata found that Eastland has increased its tree management efforts.
20. We expect Eastland to continue to take appropriate steps to mitigate the risk of future non-compliance with the quality standards.

Other concerns about Eastland's future quality performance

21. In addition to the concerns raised by Strata, we have a number of concerns about Eastland's future quality performance based on its 2013 and 2014 asset management plans, which might contribute to future non-compliance with the quality standards if not addressed by Eastland. These concerns are:
 - 21.1 Eastland considers that further expenditure in the category "reliability, safety and environment" is not generally required. This is despite failing to comply with the quality standards in 2012;
 - 21.2 rather than assessing the appropriate level of renewal capex spending required, Eastland has constrained its renewal capex to depreciation; and
 - 21.3 Eastland's plan to reduce investment in lines it has identified as "uneconomic" might lead to increased interruptions on those lines.

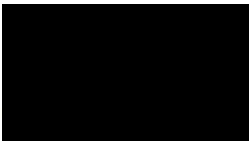
Further information

22. We enclose a summary of our enforcement decisions, which explains the process and reasons behind our enforcement responses to the four electricity distributors that failed to comply with the quality standards for the 2012 assessment period.

¹ With the exception of a correcting an erroneous reference highlighted by Eastland.

23. This warning letter, the summary of our enforcement decisions, Strata's report, and Eastland's response to Strata's report will be published on our website. We may also issue a media release or make public comment about our decision.
24. Please contact Simon Wakefield on [REDACTED] or by email at [REDACTED] if you have any questions about this letter.

Yours sincerely,



Sue Begg
Deputy Chair

Encl.

- Summary of the Commission's enforcement decisions in response to non-compliance with the default price-quality path quality standards for electricity distributors for the 2012 assessment period, Commerce Commission, 26 June 2014.
- Report on the reliability performance of Eastland Network Limited, Strata Energy Consulting Limited, 9 July 2013.