

29 February 2024

The Lines Company Limited  
Attention: Mike Fox  
Chief Executive Officer  
8 King Street East  
Te Kūiti

By email only: [REDACTED]  
[REDACTED].

Tēnā koe Mike

**The Lines Company Limited: Warning for contravention of the minimum quality standards for years ended 2018, 2019 and 2020**

**Purpose**

1. The purpose of this letter is to advise you of our enforcement decision for The Lines Company Limited's (TLC) conduct in relation to the quality standards set in the Electricity Distribution Services Default Price-Quality Path Determination 2015 [2014] NZCC 33 (**DPP Determination 2015**) for the assessment periods ended 31 March 2018, 2019 and 2020.
2. The Commission considers, and TLC has acknowledged, that it contravened the quality standards imposed by the DPP Determination 2015 for the 2018, 2019 and 2020 Assessment Periods (**Contraventions**). In summary, this is because TLC exceeded either the system average interruption duration index (**SAIDI**) or system average interruption frequency index (**SAIFI**) during the relevant Assessment Periods. In other words, the duration or frequency of outages on TLC's network was too great during these assessment periods.
3. The Commission has accepted enforceable undertakings offered by TLC and decided to issue a warning letter to TLC for its conduct. The Commission considers that enforceable undertakings will help tackle the root causes of the contraventions and help deliver the minimum level of service consumers are paying for.

**Quality standards for DPP2**

4. TLC's electricity lines services are subject to default price-quality regulation under Part 4 of the Commerce Act 1986. For the five-year regulatory period from 1 April

2015 to 31 March 2020 (**DPP2**), TLC was subject to DPP Determination 2015, which specified the minimum quality standards with which it had to comply.

5. Under DPP Determination 2015, an Electricity Distribution Business (**EDB**) contravenes the quality standards where it exceeds either its SAIDI or SAIFI reliability limit in two out of three years.

#### Penalties for contravening the quality standards

6. A contravention of a price-quality requirement may attract a penalty of \$5,000,000 under section 87(1) of the Commerce Act. Section 87(2) provides that an EDB contravenes a price-quality requirement where it fails to comply with any quality standards required under the price-quality regulation.

#### TLC's reported values

7. For DPP2, TLC's SAIDI limit was 234.182 and its SAIFI limit was 3.467.
8. TLC reported the following assessed SAIDI and SAIFI values,<sup>1</sup> in excess of the reliability limits:

Year	Measure	Limit	Value (normalised)	% over Limit (normalised)	Outcome
2017	SAIDI	234.18	251.94	8%	Exceeded
2018	SAIDI	234.18	243.34	4%	Exceeded
	SAIFI	3.47	3.75	8%	Exceeded
2019	SAIDI	234.18	285.55	22%	Exceeded
	SAIFI	3.47	4.41	27%	Exceeded
2020	SAIDI	234.18	271.42	16%	Exceeded

#### The investigation

9. In 2019, the Commission opened an investigation into TLC's reported values. Subsequently, the Commission expanded the scope of the investigation to include the 2020 SAIDI reported value.
10. The Commission obtained additional information from TLC and engaged independent experts, Strata Energy Consulting Limited (**Strata**), to assist with the investigation. Strata conducted a site visit with TLC to inform its assessment.
11. This investigation focused on the period to 31 March 2020. More recent performance has not been addressed. However, the action being taken under the enforceable undertakings, if delivered, should help TLC meet the standards on a sustained basis.

<sup>1</sup> Rounded to two decimal points.

## **Circumstances of the contraventions**

### *The Lines Company*

12. The Lines Company supplies approximately 18,000 customers and 24,000 connection points over an area of 13,700 km across the Central Plateau and King Country.
13. Since 2014, TLC has been wholly owned by the Waitomo Energy Services Customer Trust on behalf of beneficiaries, who are eligible TLC customers located in the northern part of TLC's network. Any profits generated by TLC are distributed annually to beneficiaries as dividends, or a credit against their lines charge. Not all consumers are part of the Trust, but many consumers located in the northern part of the network are beneficiaries.

### *Circumstances of the conduct*

14. The SAIDI and SAIFI values reported by TLC demonstrate a pattern of poor reliability across its distribution network throughout the majority of DPP2. There are many factors contributing to the duration and frequency of outages on TLC's network. In reliance upon the information supplied by TLC and Strata, we consider that TLC did not meet Good Industry Practice in many aspects of its network management and this contributed to the reliability issues.
15. Our investigation found that the following factors contributed to TLC's failure to meet the required SAIDI and SAIFI minimum reliability standards:
  - 15.1 significant adverse weather events;<sup>2</sup>
  - 15.2 changes in live line working practices;
  - 15.3 inadequate vegetation management practices and expenditure;
  - 15.4 asset management practices falling below Good Industry Practice; and
  - 15.5 the failure to identify and address an increased number of connections affected by sub-transmission interruptions.
16. In reaching our findings we took account of TLC's view that the following circumstances are relevant to the contraventions:
  - 16.1 many of the factors contributing to the contraventions were not within TLC's control, could not reasonably have been anticipated by TLC or were not contemplated at the time the relevant good industry practice standards were set;

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<sup>2</sup> A normalisation mechanism within our quality standards limits the extent to which weather events (or other events that cause a spike in outages) impact on the quality standards. It does this by specifying an upper limit on the quality standard impact of outages within any 24-hour period.

- 16.2 some of TLC's shortcomings in meeting Good Industry Practice are not relevant to the contraventions;
- 16.3 despite historical shortcomings in managing vegetation, TLC was taking steps to address vegetation related outages, although those steps were not sufficient to prevent the contraventions; and
- 16.4 the sub-transmission outages reflect inherent features in the topography of TLC's network e.g. challenging alpine, coastal and rural landscapes.

**Enforcement decision: Enforceable undertakings and warning**

- 17. The Commission has decided to accept the enforceable undertakings offered by TLC and issue a warning letter to TLC, in response to the contraventions.

*Enforceable Undertakings*

- 18. Under section 74A of the Commerce Act, the Commission may accept enforceable undertakings from an EDB in connection with an enforcement matter under the Act. These are written commitments to take specific steps aimed at addressing the Commission's concerns with the EDB's conduct. If the Commission considers that the EDB has breached an undertaking, we can apply to the High Court for orders to enforce the terms of the undertaking.
- 19. TLC offered, and the Commission has accepted, enforceable undertakings containing the following commitments:

**Independent Engineering Review**

- 19.1 TLC is to engage an independent engineering expert to conduct a review addressing the issues associated with the contraventions. In summary, this is to include TLC's:
  - 19.1.1 asset data collection and maintenance systems;
  - 19.1.2 asset management strategies; and
  - 19.1.3 asset management practices (including vegetation management).

**Development and Delivery Plan**

- 19.2 Having regard to the findings of the final report of the Independent Expert Review, TLC is to prepare a Development and Delivery Plan to address the issues associated with the contraventions. TLC is to undertake consultation with key stakeholder groups before finalising and publishing the Plan.

### **Annual Delivery Report**

- 19.3 For each year in which there are associated actions required under the Development and Delivery Plan, TLC is to publish a report and a consumer-friendly summary of TLC's overall progress in:
- 19.3.1 achieving the standards set in the Independent Engineering Review;
  - 19.3.2 the projects and programmes set out in the Development and Delivery Plan; and
  - 19.3.3 explanations and actions for projects or programmes that are behind schedule.
20. The enforceable undertakings took effect in January 2024 and will continue to have effect until TLC publishes the Annual Delivery Report for the last year in which there are actions required under the Development and Delivery Plan.

### *Warning for contravening quality standards*

21. Informed by Strata's expert opinion, the Commission warns TLC for its failure to meet Good Industry Practice and for its failure to address the factors contributing to the contraventions.
22. The Commission has exercised its enforcement discretion in deciding to issue this warning letter to TLC, rather than taking legal proceedings, on the basis of the enforceable undertakings offered by TLC. Principally, this is because the enforceable undertakings include commitments to address the network issues contributing to the outages, in the long-term benefit of consumers.
23. In accordance with the purpose of Part 4 of the Commerce Act, the undertakings are directed towards one of the Commission's aims of enforcement, which is to ensure that TLC addresses the issues with its network so that it can provide services at the minimum quality that reflects consumer demands.
24. We note that if, despite the measures included in enforceable undertakings, TLC contravenes a quality standard again in the future, this warning will be a relevant factor that may lead us towards a stronger enforcement response. This will be particularly relevant where the circumstances and contributors to these contraventions remain relevant to future contraventions.

### *Enforcement criteria*

25. In reaching our enforcement decision we considered the relevant circumstances, and information, and assessed TLC's conduct against our enforcement criteria:<sup>3</sup>
- 25.1 extent of detriment;
  - 25.2 seriousness of conduct; and
  - 25.3 public interest.
26. We regard the extent of the detriment suffered by consumers from TLC failing to meet the quality standards as significant. As noted at paragraph 8, TLC exceeded its reliability limits four years in a row, in some years exceeding both the SAIDI and the SAIFI standard, and with the excesses ranging up to 27%.
27. Although some of the circumstances were outside of TLC's control, such as significant adverse weather events,<sup>4</sup> TLC could have implemented more robust practices earlier in order to avoid or reduce its non-compliance. Accordingly, we assess that TLC's conduct is serious. Most of the factors contributing to the exceedances reflect processes and management decision-making over several years that failed to adequately safeguard the network from known risks, such as adverse weather, vegetation, and low levels of redundancy for network assets.
28. The contraventions represent significant disruption to consumers over the relevant period, as a result of sub-optimal asset management practices and decision-making. We consider that there is sufficient public interest in TLC's conduct and how it manages the electricity distribution network now and in the future. This is particularly relevant for the consumers within TLC's network.

### **Prior compliance history**

29. This is the Commission's first investigation into TLC's conduct for failing to meet its minimum quality standards. On 28 February 2022, the Commission issued a compliance advice letter to TLC in relation to an information disclosure requirement.

### **Further information**

30. This letter is public information and will be published in the case register on our website. Any personal information will be redacted before publication. We may also make public comment about our investigations and conclusions or rely upon previous warnings when considering future conduct.

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<sup>3</sup> <https://comcom.govt.nz/about-us/our-policies-and-guidelines/investigations-and-enforcement/enforcement-criteria>.

<sup>4</sup> We note again that the DPP Determination 2015 includes provision for normalisation to address the impact of adverse weather events upon the quality standards assessment for EDBs.

31. Thank you for your assistance with our investigation. Please contact Robert Cahn, Chief Legal Counsel, Infrastructure Regulation, at [REDACTED] if you would like to discuss this letter.

Nāku iti noa, nā



Andy Burgess  
General Manager, Infrastructure Regulation