

By email

26 June 2014

Jason Franklin  
Chief Executive  
Electricity Invercargill Limited  
251 Racecourse Road  
PO Box 88  
INVERCARGILL 9840  
Email: [REDACTED]

Dear Jason

**Electricity Invercargill 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 Electricity Invercargill Limited's (Electricity Invercargill) 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 Electricity Invercargill's 2012 compliance statement that Electricity Invercargill 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 Electricity Invercargill's non-compliance against our enforcement criteria.

**Our expectations regarding Electricity Invercargill's future performance**

4. It is Electricity Invercargill's responsibility to comply with the quality standards and to decide what actions to take in order to do so.
5. We acknowledge that following Electricity Invercargill'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.
6. Notwithstanding its 2013 and 2014 compliance, if Electricity Invercargill 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.

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7. 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 Electricity Invercargill has taken steps to mitigate the risk of the types of events that led to its 2012 non-compliance may be considered as part of this process.

#### **Our decision to issue a warning letter**

8. We consider that Electricity Invercargill 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.
9. We analysed Electricity Invercargill's non-compliance using our enforcement criteria:
  - 9.1 extent of detriment;
  - 9.2 seriousness of conduct; and
  - 9.3 public interest.
10. 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 Electricity Invercargill.
11. In terms of conduct, having assessed the circumstances of the non-compliance, we considered that there was no serious fault on Electricity Invercargill's part.
12. While any network outage causes inconvenience for consumers, we did not identify any significant specific detriment to consumers on Electricity Invercargill's network as a result of the non-compliance, or any over-riding public interest in seeking a penalty.
13. In responding to the non-compliance, we are seeking to deter Electricity Invercargill from failing to comply with the quality standards again in the future.
14. 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 Electricity Invercargill from failing to comply with the quality standards again.

#### **Our assessment of Electricity Invercargill Limited's quality performance**

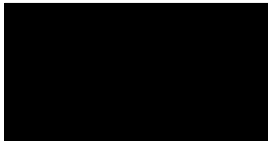
15. Following the non-compliance, Electricity Invercargill provided us with enough information to satisfy us of the reasons for its non-compliance. We therefore elected not to undertake an independent review of Electricity Invercargill's asset management.

16. Electricity Invercargill provided detailed incident reports for the three outages that resulted in its non-compliance. Those outages were due to isolated operational incidents, had any of which not occurred, Electricity Invercargill would have complied with the quality standards.
17. However, it remains Electricity Invercargill's responsibility to comply with the quality standards. We expect Electricity Invercargill to take the necessary steps to mitigate the risk of a repeat of the types of incidents that led to the 2012 non-compliance. We understand that Electricity Invercargill has already begun to take such steps.

**Further information**

18. 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.
19. This warning letter and the enclosure will be published on our website. We may also issue a media release or make public comment about our decision.
20. 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.