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## COMMERCE ACT (TRANSPOWER THRESHOLDS) NOTICE 2004

PURSUANT TO PART 4A  
OF THE COMMERCE ACT 1986

**COMMERCE ACT (TRANSPOWER THRESHOLDS) NOTICE 2004**

Pursuant to Part 4A of the Commerce Act 1986, the Commerce Commission (“the Commission”) gives the following notice.

**NOTICE****1 Title**

This notice may be cited as the Commerce Act (Transpower Thresholds) Notice 2004.

**2 Commencement**

This notice comes into force on 1 July 2004.

**3 Interpretation**

(1) In this notice, unless the context otherwise requires—

**Act** means the Commerce Act 1986

**assessment** means assessment under section 57H(a) of the Act

**assessment date** means the date as at which Transpower is to be assessed against a threshold, being 30 June 2005

**assessment period** means the period of 12 months ending on the assessment date

**auditor**, in relation to Transpower, means a person who—

- (a) is qualified for appointment as auditor of a company under the Companies Act 1993; and
- (b) has no relationship with, or interest in, Transpower, being a relationship or interest that is likely to involve that person in a conflict of interest; and
- (c) has the necessary expertise to properly undertake an audit required by clause 7; but
- (d) need not be the same person as the person who audits the accounts of Transpower for any other purpose

**base quantity** means, for the purpose of calculating the revenue of Transpower, the annual quantity corresponding to a price

**customer** means, in the case of Transpower, any generator, lines business, consumer, or other entity in New Zealand that is connected, or applies to be connected, to the national grid

**distribution business** means means a lines business (other than Transpower)

**Electricity Commission levy**, in relation to Transpower, means an industry levy paid or payable by Transpower in accordance with section 172ZC of the Electricity Act 1992

**EV** means economic value

**excluded services** means, in relation to Transpower, the goods and services referred to in paragraphs (c) to (i) of the definition of **specified services**

**initial notice** means the Commerce Act (Electricity Lines Thresholds) Notice 2003

**interruption**, in relation to the conveyance of electricity to a customer by means of a prescribed voltage electric line, means the cessation of conveyance of electricity to that customer for a period of 1 minute or longer, other than by reason of disconnection of that customer—

- (a) for breach of the contract under which the electricity is conveyed; or
- (b) as a result of a request from the customer; or
- (c) as a result of a request by the customer's electricity retailer; or
- (d) for the purpose of isolating an unsafe installation

**lines business** means a large electricity lines business as defined in section 57D of the Act

**national grid** means the fixed assets used or owned by Transpower for the purpose of conveying electricity

**notional revenue** means, in relation to Transpower, revenue less pass-through costs

**pass-through costs** means—

- (a) the rates and Electricity Commission levies paid or payable by Transpower for the assessment period—

but does not include—

- (b) any amounts described in paragraph (a) if Transpower demonstrates beyond reasonable doubt that those amounts were passed on transparently to its customers

**prescribed voltage electric line** means an electric line that is capable of conveying electricity at a voltage equal to or greater than 3.3 kilovolts

**price** means—

- (a) a posted price in nominal terms (such as a tariff, fee or charge) or a component thereof, that Transpower charges in relation to a specified service—

but does not include—

- (b) any amounts described in paragraph (b) of the definition of **pass-through costs**

**publicly disclose**, in relation to any information required by this notice to be made available, means to make that information available in the following ways:

- (a) by making copies of that information available for inspection, during ordinary office hours, at the principal office of the person making the information available; and
- (b) at the request of any person, by providing the person with a copy of that information (either free of charge or for a charge that is reasonably required to recover the cost of providing that copy, as set out in section 57W of the Act) either—
  - (i) by post; or
  - (ii) for collection, during ordinary office hours, from the principal office of the person making the information available,—

whichever the person requesting the information prefers;

and **public disclosure** has a corresponding meaning

**rates**, in relation to Transpower, means the rates on system fixed assets (as defined in the Requirements) paid or payable by Transpower to a territorial local authority under the Rating Powers Act 1988 or the Local Government (Rating) Act 2002

**reference date** means 30 June 2004

**Requirements** means the Electricity Information Disclosure Requirements 2004 or any successor requirements published by the Commission under section 57T of the Act

**revenue** means, in relation to Transpower, the summation, across all prices, of the product of price and base quantity

**specified services**, means, in relation to Transpower, all goods and services, provided in New Zealand, that are electricity transmission goods or services or are directly related to the provision of electricity transmission, and includes—

- (a) the provision, operation, and maintenance of electricity works such as the high voltage direct current inter-island link and lines, cables, and substations that facilitate the national conveyance of electricity throughout the national grid; and
- (b) the sale of electricity conveyance services to customers—

but does not include—

- (c) any goods and services described in paragraph (a) or (b), if Transpower demonstrates beyond reasonable doubt that there is workable or effective competition for the provision of those goods and services; or

- (d) non-conveyance goods and services, such as consultancy or information goods or services not directly related to the provision of electricity transmission, if Transpower demonstrates beyond reasonable doubt that those goods and services are not directly related to the provision of electricity transmission; or
- (e) the provision of system operator services, if Transpower demonstrates beyond reasonable doubt that there is workable or effective competition for the provision of those services; or
- (f) services for which loss and constraint rentals are paid, if Transpower demonstrates beyond reasonable doubt that amounts received for those services are passed on transparently and in full to its customers; or
- (g) financial services related to transmission (known as “financial transmission rights”), if Transpower demonstrates beyond reasonable doubt that the amounts arising from settlement of those services are passed on transparently and in full to its customers; or
- (h) goods and services provided by Transpower under new investment contracts but, in the case of new investment contracts entered into after 5 June 2003, only if the other party agrees in writing that the terms and conditions are reasonable or reflect contestable provision of the goods and services; or
- (i) goods and services provided by Transpower as a result of new investment, if Transpower demonstrates beyond reasonable doubt that the new investment was approved under a process (whether regulatory or otherwise) that provides for affected customers to make and approve price-quality trade offs and opportunity for competitive provision of new investment by parties other than Transpower

**system minute** means the number calculated in accordance with the formula “a/b” where—

“a” is energy not supplied (in megawatt minutes)

“b” is system maximum demand (in megawatts)

**system operator services** means co-ordination services for the control, dispatch, and security functions necessary to operate the transmission system

**threshold compliance statement** means a statement of a kind described in *clause 7(1)(a)*

**transmission charge**, in the case of Transpower, means any amount in respect of the use by Transpower of Transpower’s transmission system for the purpose of providing specified services to a distribution business, and includes any amounts received from or payable to the distribution business in relation to—

- (a) connection, interconnection, and EV adjustments; and

- (b) new investment (if not excluded from the definition of **specified services** by paragraph (h) or (i) of the definition of that term); and
- (c) the provision of system operator services; and
- (d) loss and constraint rentals; and
- (e) the settlement of financial transmission rights

**Transpower** means Transpower New Zealand Limited

**unplanned interruption** means any interruption in respect of which less than 24 hours' notice, or no notice, was given, either to the public or to all customers affected by the interruption.

- (2) Terms used in this notice have, unless the context otherwise requires, the same meanings as in the Act or in the Requirements.

#### 4 **Thresholds for declaration of control in relation to Transpower**

The Commission hereby sets the following thresholds for the declaration of control in relation to Transpower:

- (a) a price path threshold as specified in clause 5:
- (b) a quality threshold as specified in clause 6.

#### 5 **Price path threshold**

- (1) The price path threshold for Transpower is as follows:

- (a) *notional revenue at the assessment date*: the notional revenue (excluding any EV adjustment charges) of Transpower at the assessment date (calculated in accordance with the numerator of the left-hand side of the following expression) *is not to exceed* the allowable notional revenue (excluding any EV adjustment charges) of Transpower under the CPI-X price path at the assessment date (calculated in accordance with the denominator of the left-hand side of the following expression):

$$\frac{NR_t}{R_t} \leq 1$$

where:

- $t$  denotes the calendar year during which the assessment date occurs;

- $NR_t$  is the notional revenue (excluding any EV adjustment charges) for the assessment period ending in calendar year  $t$ , being equal to  $\sum_i P_{i,t} Q_i - K_t$  excluding any EV adjustment charges;
- $i$  denotes each price pertaining to every specified service;
- $P_{i,t}$  is the  $i^{\text{th}}$  price at the assessment date occurring in calendar year  $t$ ;
- $Q_i$  is the base quantity corresponding to the  $i^{\text{th}}$  price for the year ending 30 June 2003 or, if *clause 5(2)* applies, is the base quantity corresponding to the  $i^{\text{th}}$  price for the most recent year ending 30 June during which Transpower has restructured its prices;
- $K_t$  is the sum of all pass-through costs for the assessment period ending in calendar year  $t$ ;
- $R_t$  is the allowable notional revenue (excluding any EV adjustment charges) under the CPI-X price path at the assessment date occurring in calendar year  $t$ , being equal to  $MR_{2004}(1 + \Delta CPI_t)(1 - X)$ ;
- $X$  is 1%;
- $MR_{2004}$  is the maximum notional revenue (excluding any EV adjustment charges) at the reference date which would not have caused Transpower to breach the price path threshold under the initial notice at that date, subject to *clauses 5(2) and 5(3)*, and in all cases using the same base quantities used to determine  $NR_t$ ;
- $\Delta CPI_t$  is the average change in the consumer price index over the 12 month period that ends on 31 March during the assessment period (calculated in accordance with the following expression):

$$\Delta CPI_t = \frac{CPI_{Q2,t-1} + CPI_{Q3,t-1} + CPI_{Q4,t-1} + CPI_{Q1,t}}{CPI_{Q2,t-2} + CPI_{Q3,t-2} + CPI_{Q4,t-2} + CPI_{Q1,t-1}} - 1$$

where  $CPI_{Qj,y}$  is the consumer price All Groups Index SE9A figure published by Statistics New Zealand for the quarter  $j$  in the calendar year  $y$ ;

- (b) *notional revenue during the assessment period*: the notional revenue (excluding any EV adjustment charges) of Transpower at any time during the assessment period *is not to exceed* the greater of the notional revenue (excluding any EV adjustment charges) of Transpower at the assessment date under this clause and the notional revenue (excluding any EV

adjustment charges) of Transpower at the reference date under clause 5 of the initial notice.

- (2) If, during the assessment period, Transpower restructures its prices and provides the Commission with evidence that the restructuring, of itself, did not create an increase in revenue for Transpower, then *subclause (1)* will apply as if the new price structure applied on and from the reference date.
- (3) If, during the assessment period, fixed assets used for providing specified services (or rights to such assets) are transferred between Transpower and a distribution business, and Transpower provides the Commission with evidence that the transfer, of itself, created a decrease in revenue for Transpower equal to the transmission charge previously applicable to those assets, then *subclause (1)* will apply as if the transfer occurred on the reference date.
- (4) Despite the other provisions of this clause 5, if the Commission is satisfied that, because of lack of information or *subclauses (1) to (3)* being clearly meaningless in relation to Transpower, it is not practicable to determine whether Transpower has complied with those subclauses, Transpower will be regarded as having complied with the price path threshold if it demonstrates beyond reasonable doubt, by use of an alternative approach that has equivalent effect to those subclauses, that the substance of those subclauses has been complied with.

## 6 Quality threshold

- (1) The quality threshold for Transpower is as follows:
  - (a) *number of unplanned interruptions*: the total number of unplanned interruptions of Transpower for the assessment period *is not to exceed* the five-year average total number of unplanned interruptions of Transpower to 30 June 2003 (calculated in accordance with the right-hand side of the following expression):

$$I_{2005} \leq \left( \frac{I_{1999} + I_{2000} + I_{2001} + I_{2002} + I_{2003}}{5} \right)$$

where:

$I_{year}$  is the total number of unplanned interruptions for the period of 12 months ending on 30 June in that calendar year;

- (b) *customer interruptions*: the total customer interruptions, calculated in system minutes, of Transpower for the assessment period *is not to exceed* the five-year average total customer interruptions, calculated in system



minutes, of Transpower to 30 June 2003 (calculated in accordance with the right-hand side of the following expression):

$$SM_{2005} \leq \left( \frac{SM_{1999} + SM_{2000} + SM_{2001} + SM_{2002} + SM_{2003}}{5} \right)$$

where:

$SM_{year}$  is the total customer interruptions, calculated in system minutes, for the period of 12 months ending on 30 June in that calendar year;

- (c) *customer communication*: during the assessment period, Transpower is to—
- (i) properly advise (or ensure that another person properly advises on its behalf) its customers about the price-quality trade offs available to them in relation to the goods and services provided by Transpower; and
  - (ii) consult (or ensure that another person consults on its behalf) with its customers about the quality of goods and services that they require, with reference to the prices of those goods and services; and
  - (iii) properly consider the views expressed by customers during and after that consultation; and
  - (iv) adequately take these views into account when making its asset management decisions.
- (2) If, during the assessment period, fixed assets used for providing specified services (or rights to such assets) are transferred between Transpower and a distribution business, then *subclause (1)(a) and (b)* will apply as if the transfer occurred on 30 June 1998.
- (3) Despite the other provisions of this clause 6, if the Commission is satisfied that, because of lack of information, it is not practicable to determine whether Transpower has complied with *subclauses (1) and (2)*, Transpower will be regarded as having complied with the quality threshold if it demonstrates beyond reasonable doubt, by use of an alternative approach that has equivalent effect to those subclauses, that the substance of those subclauses has been complied with.

## 7 Information Requirements

- (1) The Commission hereby requires Transpower to publicly disclose and publish on the Internet, within 35 working days of the assessment date, the following statement and documents:

- (a) A written statement that—
- (i) confirms Transpower's compliance, or otherwise, with the price path threshold, and includes evidence to this effect in the form of revenues, notional revenues, prices, base quantities, pass-through costs, units of measurement associated with all numeric data, list of excluded services (and the reasons and supporting evidence for excluding these services), and other data, information, and calculations, that fully supports and explains the confirmation; and
  - (ii) confirms Transpower's compliance, or otherwise, with the quality threshold, and includes evidence to this effect in the form of the number of unplanned interruptions and total customer interruptions, relevant information from asset management plans, and other data, information, and calculations, that fully supports and explains the confirmation; and
  - (iii) describes the process by which Transpower has determined the total number of unplanned interruptions and total customer interruptions for the assessment period; and
  - (iv) includes all such other information as is sufficient to enable the Commission to properly determine whether or not the threshold concerned has been breached; and
  - (v) states the date on which it has been prepared:
- (b) A report on the above statement that is signed by an auditor and is in the form set out in Schedule 1:
- (c) A certificate in the form set out in Schedule 2, duly signed by two directors of Transpower.
- (2) If Transpower considers that *clause 5(4) or 6(3)* applies, the threshold compliance statement must include all such information as is sufficient to enable the Commission to properly determine whether that clause applies, and the threshold compliance statement and auditor's report required by *subclause (1)(a) and (b)* must state that, in the view of Transpower or the auditor,—
- (a) it is not practicable to determine whether Transpower has complied with the clauses concerned (*clauses 5(1) to (3)* in the case of the price path threshold and *clauses 6(1) and (2)* in the case of the quality threshold) because of lack of information or (in the case of *clause 5(4)* only) the clauses concerned being clearly meaningless in relation to Transpower; and
  - (b) Transpower has demonstrated beyond reasonable doubt, by use of an alternative approach that has equivalent effect to the clauses concerned, that the substance of those clauses has been complied with—

but the threshold compliance statement and auditor's report need not state whether the Commission is satisfied as to the matters referred to in *paragraph (a)*.

- (3) Under (and without limiting) section 57U of the Act, Transpower is—
- (a) required to supply to the Commission, under subsection (1)(a) of that section, a copy of each statement and document disclosed under *subclause (1)*; and
  - (b) requested to supply to the Commission, under subsection (1)(b) of that section, the auditor's report referred to in *subclause (1)(b)*—
- within 5 working days after the statement is first so disclosed.
- (4) Transpower need not include in a statement under *subclause (1)* any information that it considers is commercially sensitive if—
- (a) it has given the information concerned to the Commission and advised the Commission in writing of the reasons for the exclusion; and
  - (b) that information is covered by the auditor's report required under *subclause (1)(b)* and the certificate required under *subclause (1)(c)*; and
  - (c) the Commission has not objected to the exclusion of the information.
- (5) An auditor's report given for the purposes of *subclause (1)(b)* may be qualified only if—
- (a) the auditor considers that the threshold compliance statement concerned—
    - (i) fails to comply with this clause 7; or
    - (ii) fails to give a true and fair view of the matters to which it relates (having regard to any information or explanations that may have been provided by the directors of Transpower); and
  - (b) the auditor's report explains with full reasons the respects in which the statement so fails.
- (6) Under (and without limiting) section 57U of the Act—
- (a) Transpower must supply to the Commission, within the period specified by the Commission, all further statements, reports, agreements, particulars, or other information requested by the Commission in writing under that section; and

- (b) if any further statements, reports, agreements, particulars, or other information are required to be supplied by Transpower to the Commission under that section, the Commission may require that information to be verified by statutory declaration by a director of Transpower in the form set out in Schedule 3 and may also require Transpower to have that information reported on by an auditor.
- (7) Copies of this notice are available for inspection free of charge at the Commission (during ordinary office hours) and on the Internet, or for purchase at a reasonable price at the Commission.
- (8) When Transpower publishes any information on the Internet as required under *subclause (1)*, it must also publicly disclose the Uniform Resource Locator (URL) of the Internet site where that information can be found.
- (9) The Commission may exempt Transpower from any or all of the provisions of this clause 7 if a control declaration has been made in respect of Transpower.

Dated at Wellington this 30th day of June 2004.

COMMERCE COMMISSION.

## SCHEDULE 1

*Clause 7(1)(b)*

## FORM OF AUDITOR'S REPORT ON THRESHOLD COMPLIANCE STATEMENT

To the readers of the threshold compliance statement of Transpower New Zealand Limited for the assessment period ended on 30 June 2005.

I/We have examined the attached statement, which is a threshold compliance statement in respect of the price path threshold and the quality threshold prepared by Transpower New Zealand Limited for assessment as at 30 June 2005 and dated [*insert date*] for the purposes of information requirements set out in clause 7 of the Commerce Act (Transpower Thresholds) Notice 2004 ("the Notice"). In this report the attached statement is called "the threshold compliance statement".

**Directors' Responsibilities**

Directors of Transpower New Zealand Limited are responsible for the certification of the threshold compliance statement in accordance with the Notice.

**Auditor's Responsibilities**

It is my/our responsibility to express an independent opinion (in the form prescribed in the Notice) on the threshold compliance statement and report my/our opinion to you.

I/We conducted my/our audit in accordance with the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand.

**Basis of Opinion – Price Path Threshold; Quality Threshold: Number of Unplanned Interruptions and Customer Interruptions for the Assessment Period ended 30 June 2005; and Quality Threshold: Customer Communication**

My/Our audit included examination, on a test basis, of evidence relevant to the amounts and disclosures contained on pages [xx] of the threshold compliance statement and which relate to:

- the price path threshold set out in clause 5 of the Notice;
- the number of unplanned interruptions and customer interruptions for the assessment period ended on 30 June 2005 which are relevant to those parts of the quality threshold that are set out in clauses 6(1)(a) and 6(1)(b) of the Notice; and
- the customer communication part of the quality threshold set out in clause 6(1)(c) of the Notice.

It also included assessment of the significant estimates and judgments, if any, made by Transpower New Zealand Limited in the preparation of the threshold compliance statement and assessment of whether the basis of preparation has been adequately disclosed.

I/We planned and performed my/our audit of the threshold compliance statement so as to obtain all the information and explanations which I/we considered necessary, including for the purpose of obtaining sufficient evidence to give reasonable assurance that the threshold compliance statement is free from material misstatements (whether caused by fraud or error). In forming my/our opinion I/we also evaluated the overall adequacy of the presentation of information in the threshold compliance statement.

### **Basis of Opinion – Quality Threshold: Number of Unplanned Interruptions and Customer Interruptions for the Years Ended 30 June 1999, 2000, 2001, 2002 and 2003**

In relation to the number of unplanned interruptions and customer interruptions for the years ended 30 June 1999, 2000, 2001, 2002 and 2003 which are relevant to those parts of the quality threshold that are set out in clauses 6(1)(a) and 6(1)(b) of the Notice, I/we have undertaken procedures to provide reasonable assurance that:

- the amounts and disclosures in the threshold compliance statement relating to those performance measures have been correctly taken from the information disclosed by Transpower New Zealand Limited in accordance with the Electricity (Information Disclosure) Regulations 1999; and
- those performance measures have been calculated based on the source data provided to me/us. I/We have not performed audit procedures on the source data.

### **Relationship and Interests**

I/We have no relationship with or interests in Transpower New Zealand Limited other than [*insert relationship and/or interests including statement verifying that no conflict of interest exists*].

### **Opinions**

I/We have obtained all the information and explanations I/we have required.

### ***Price Path Threshold***

In my/our opinion, having made all reasonable enquiry, to the best of my/our knowledge the amounts or details set out in the threshold compliance statement relating to the price path threshold set out in clause 5 of the Notice and related information have been prepared in accordance with the Notice, and give a true and fair view of the performance of Transpower New Zealand Limited against that threshold for the assessment period ended on 30 June 2005.

***Quality Threshold: Number of Unplanned Interruptions and Customer Interruptions***

In my/our opinion, having made all reasonable enquiry, to the best of my/our knowledge:

- a) the number of unplanned interruptions and customer interruptions for the assessment period ended on 30 June 2005 which are relevant to those parts of the quality threshold that are set out in clauses 6(1)(a) and 6(1)(b) of the Notice and related information have been calculated or prepared in accordance with the Notice and in accordance with Transpower New Zealand Limited's policies and procedures for recording the number of unplanned interruptions and customer interruptions as disclosed in the threshold compliance statement, and fairly represent the performance of Transpower New Zealand Limited for the assessment period ended on 30 June 2005;
- b) the number of unplanned interruptions and customer interruptions for the years ended 30 June 1999, 2000, 2001, 2002 and 2003, which are relevant to those parts of the quality threshold that are set out in clauses 6(1)(a) and 6(1)(b) of the Notice, have been correctly taken from the information disclosed by Transpower New Zealand Limited in accordance with the Electricity (Information Disclosure) Regulations 1999. Those performance measures have been properly calculated based on the unaudited source data provided to us by Transpower New Zealand Limited;
- c) the number of unplanned interruptions and customer interruptions for the assessment period ended on 30 June 2005, together with the number of unplanned interruptions and customer interruptions for the years ended 30 June 1999, 2000, 2001, 2002 and 2003, give a true and fair view of the performance of Transpower New Zealand Limited against those parts of the quality threshold that are set out in clauses 6(1)(a) and 6(1)(b) of the Notice for the assessment period ended on 30 June 2005.

***Quality Threshold: Customer Communication***

In my/our opinion, having made all reasonable enquiry, to the best of my/our knowledge the information set out in the threshold compliance statement relating to that part of the quality threshold that is set out in clause 6(1)(c) of the Notice has been prepared in accordance with the Notice, and gives a true and fair view of the performance of Transpower New Zealand Limited against that part of the quality threshold for the assessment period ended on 30 June 2005.

***\*[Qualification on Opinion]***

*\*[My/Our opinion is qualified as follows:]*

*[Insert the nature of and reason(s) for the qualification together with the impact on the threshold compliance statement].*

My/Our audit was completed on *[insert date]* and my/our opinion is expressed as at that date.

[*Signature of Auditor*]

[*Name of auditing firm*]

[*Address of auditing firm*]

[*Date*]

\*Delete if inapplicable.

Note: Section 103(2) of the Commerce Act 1986 provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) and any person who does so is liable on summary conviction to a fine not exceeding \$10,000 in the case of an individual or \$30,000 in the case of a body corporate.



## SCHEDULE 2

*Clause 7(1)(c)*FORM OF DIRECTORS' CERTIFICATE ON THRESHOLD COMPLIANCE  
STATEMENT

We, *[insert full names]*, being directors of Transpower New Zealand Limited certify that, having made all reasonable enquiry, to the best of our knowledge and belief, the attached threshold compliance statement of Transpower New Zealand Limited, and related information, prepared for the purposes of the Commerce Act (Transpower Thresholds) Notice 2004 complies with the requirements of that notice *\*[except in the following respects]*:

*[insert description of non-compliance]*.

*[Signatures of Directors]*

*[Date]*

\*Delete if inapplicable.

Note: Section 103(2) of the Commerce Act 1986 provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) and any person who does so is liable on summary conviction to a fine not exceeding \$10,000 in the case of an individual or \$30,000 in the case of a body corporate.

## SCHEDULE 3

*Clause 7(6)*FORM OF STATUTORY DECLARATION IN RESPECT OF FURTHER INFORMATION  
REQUESTED BY THE COMMERCE COMMISSION

I *[insert full name]*, of *[insert address]*, being a director of Transpower New Zealand Limited, solemnly and sincerely declare that having made all reasonable enquiry, to the best of my knowledge and belief, the information attached to this declaration—

- a) is the information *[specify]* requested by the Commerce Commission on *[insert date]* under section 57U(1)(b) of the Commerce Act 1986; and
- b) contains all the information *[specify]* in the possession, or under the control, of Transpower New Zealand Limited that relates to that request.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Declared at [       ] this [       ] day of [       ]

Justice of the Peace (or Solicitor or other person authorised to take a statutory declaration).

Note: Section 103(2) of the Commerce Act 1986 provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) and any person who does so is liable on summary conviction to a fine not exceeding \$10,000 in the case of an individual or \$30,000 in the case of a body corporate.

**EXPLANATORY NOTE**

The purpose of this *Gazette* notice is to—

- (a) set thresholds for the declaration of control in relation to Transpower New Zealand Limited for the year beginning 1 July 2004, pursuant to section 57G of the Commerce Act 1986; and
- (b) require Transpower New Zealand Limited, pursuant to sections 57T and 57U of that Act, to publicly disclose and publish on the Internet (and send to the Commission) a threshold compliance statement stating whether or not it has complied with the thresholds set in this notice and providing supporting evidence. The threshold compliance statement is to be accompanied by both an auditor's report and a directors' certificate.

The Commission, having conducted a comprehensive process of consultation, has decided to set two thresholds – a price path threshold and a quality threshold. These two thresholds will underpin the achievement of the purpose of the targeted control regime.

The thresholds for declaration of control in relation to distribution businesses are set by the Commerce Act (Electricity Distribution Thresholds) Notice 2004.

The Commission's thresholds are a screening mechanism. The Commission is required to assess one or more lines businesses and identify those that breach the thresholds and may further investigate their performance. Further investigation may lead to control of one or more lines businesses.

Copies of this notice are available for inspection free of charge at the Commission (during ordinary office hours) and on the Internet, or for purchase at a reasonable price at the Commission.

Further detail regarding the thresholds for the declaration of control in relation to large electricity lines businesses (including in relation to Transpower New Zealand Limited's thresholds) can be found in a Decision Paper, *Regulation of Electricity Lines Businesses, Targeted Control Regime, Threshold Decisions (Regulatory Period Beginning 2004)*, published by the Commission.