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COMMERCE ACT (INTENTION TO DECLARE CONTROL: VECTOR LIMITED) NOTICE 2006

PURSUANT TO PART 4A
OF THE COMMERCE ACT 1986

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Part 4A of the Commerce Act 1986 (the Act) came into effect on 8 August 2001 and, among other things, requires the Commerce Commission (“Commission”) to implement a targeted control regime for the regulation of large electricity lines businesses (lines businesses)—namely electricity distribution businesses (distribution businesses) and Transpower New Zealand Limited.

The targeted control regime

The purpose of subpart 1 of Part 4A is to promote the efficient operation of markets directly related to electricity distribution and transmission services through targeted control for the long-term benefit of consumers by ensuring that suppliers—

- (a) are limited in their ability to extract excessive profits; and
- (b) face strong incentives to improve efficiency and provide services at a quality that reflects consumer demands; and
- (c) share the benefits of efficiency gains with consumers, including through lower prices.

As part of the targeted control regime, the Commission must set thresholds for the declaration of control in relation to lines businesses, assess those businesses against the thresholds it has set, identify any business that breaches the thresholds, and determine whether or not to make a declaration of control in relation to all or any of the goods or services supplied by a lines business identified as having breached a threshold.

The thresholds are effectively a screening mechanism for the Commission to identify lines businesses whose performance may warrant further examination and, if necessary, control.

On 6 June 2003, after consulting with interested parties as to possible thresholds, the Commission set two thresholds—a CPI-X price path threshold and a quality threshold—applicable until 31 March 2004 for distribution businesses. These initial thresholds were set by the *Commerce Act (Electricity Lines Thresholds) Notice 2003* published as a Supplement to the *New Zealand Gazette*, 6 June 2003, No. 62, page 1685.

The Commission reset the thresholds for all distribution businesses for a five-year regulatory period from 1 April 2004. These reset thresholds were set by the *Commerce Act (Electricity Distribution Thresholds) Notice 2004* published as a Supplement to the *New Zealand Gazette*, 31 March 2004, No. 37, page 927.

Before making a declaration of control, the Commission is required under section 57I to:

- publish its intention to make a declaration and invite interested persons to give their views on the matter; and
- give a reasonable opportunity to interested persons to give those views; and
- have regard to those views.

Intention to declare control

Vector Limited (Vector) owns and operates electricity distribution networks in the Auckland, North Auckland and Wellington regions. Vector is listed on the New Zealand Stock Exchange, and its majority shareholder, with a shareholding of 75.1%, is the Auckland Energy Consumer Trust (AECT).

The Commission has assessed Vector against the initial thresholds set from 6 June 2003, and has identified Vector as having breached the price path threshold and the quality threshold at the second assessment date (31 March 2004).

In addition, the Commission has assessed Vector against the reset thresholds set from 1 April 2004, and has identified Vector as having breached the quality threshold at the second assessment date under the reset thresholds (31 March 2006).

The Commission has now formed an intention to make a declaration of control in respect of electricity distribution services supplied by Vector and is inviting interested persons to give their views on the matter.

Time and manner for interested persons to give their views

The Commission will shortly release a paper setting out the reasons for its intention to declare control, which will be based on the Commission's preliminary conclusions from the inquiry and analysis undertaken to date. There will be a submission period on the paper and a conference following its release, in order to give interested persons a reasonable opportunity to give their views. The due date for written submissions is **5pm, Monday, 4 September 2006**, with a conference planned for the week commencing **Monday, 30 October 2006**. Cross-submissions following the conference will be due by **5pm, Friday, 17 November 2006**.

Any comments and questions on this notice may be sent by email to: electricity@comcom.govt.nz; or by mail to Network Performance Group, Commerce Commission, P.O. Box 2351, Wellington; or by facsimile (04) 924 3700.

Submission requirements are:

- electronic copies of submissions should ideally be sent in PDF format, although Word is equally acceptable. Written or non PC-generated submissions will be scanned by Commission staff and converted to PDF;
- a single hard copy should only be supplied if it is not possible to provide submissions electronically. Submitters need only staple in the top left corner, as spiral or spine bound copies will be unbound for ease of producing additional copies if required;
- all submissions will be published on the Commission's web site. (The Commission recognises that there will be instances where information may genuinely be confidential. The Commission requires parties to provide a "public version" of confidential material, which at least conveys the thrust of the material or argument without disclosing sensitive information. This public version should be given to the Commission when an application for confidentiality of that information is sought); and

- submissions must show the organisation's name and address, date and be duly signed. In the case of personal submissions, a contact address and telephone number is required, and the submission is to be signed with the submitter's name printed beneath the signature. Personal submissions will have their contact address and telephone number removed for the purpose of publishing on the Commission's web site, as only their name will be disclosed.

Electronic copies of submissions should be emailed to:

electricity@comcom.govt.nz

Hard copies of submissions should be mailed to:

Vector Intention to Declare Control
Network Performance Group
Networks Branch
Commerce Commission
P.O. Box 2351
Wellington.