



MAJOR ELECTRICITY USERS' GROUP

1 October 2012

John G. McLaren
Chief Advisor
Regulation Branch
Commerce Commission
By email to regulation.branch@comcom.govt.nz

Dear John

Submission on Revised Draft Reset of the 2010-15 Default Price-Quality Paths for EDB

1. This is a submission by the Major Electricity Users' Group (MEUG) on the Commerce Commission paper "Revised Draft Reset of the 2010-15 Default Price-Quality Paths" dated 21 August 2012¹.
2. Paragraph 141 and footnotes 86 and 87 of the paper state:

"We do not agree with submissions that have argued that we should apply claw-back for all under- or over-recovery since 1 April 2010.⁸⁶ 1 April 2012 provides the relevant date, in our opinion, from which suppliers should have the opportunity to earn a normal return. This is because input methodologies would have been reflected in pricing from that date, had our July 2011 Draft Decision been implemented.⁸⁷"

⁸⁶ Unison "Submission on 2010-15 Default Price-Quality Path for Electricity Distribution: Draft Decision Paper" 24 August 2011; Major Electricity Users' Group "Submissions on additional Input Methodologies – starting price adjustments" 20 January 2012

⁸⁷ In addition, the majority of submitters during earlier consultation processes provided support for only one year or less of claw-back. Refer, eg: Powerco "Powerco Submission on Additional Input Methodologies for Default Price-Quality Paths: Process and Issues Paper" 27 January 2012; Horizon "Submission to the Commerce Commission on Additional Input methodologies for Default Price-Quality Paths Process and Issues Paper" 27 January 2012; Vector "Submission to Commerce Commission on Draft Decision on Starting Price Adjustments for Electricity Distribution Businesses" 24 August 2011; Wellington Electricity "Cross-submission on the submissions made on the '2010-15 Default Price-Quality Path for Electricity Distribution – Draft Decision Paper' 5 September 2011."

¹ <http://www.comcom.govt.nz/2010-2015-default-price-quality-path/>

3. MEUG disagrees with the two arguments in the paper favouring claw-back to apply from 1st April 2012 rather than 1st April 2010:

- (a) The first reason in the paper is that the first date at which Input Methodologies (IM's) could have been reflected in prices was 1st April 2012. While 1st April 2012 was the earliest date prices could have changed given IM's were not finalised until December 2011, this doesn't align with the requirements of section 54K(3) that states with emphasis added by MEUG:

"If an input methodology is published after 1 April 2010 and if, had that methodology applied at the time the default price-quality paths were reset as required by subsection (1), it would have resulted in a materially different path being set, then the Commission may reset the default price-quality paths in accordance with section 53P and may apply claw-back, despite section 53ZB(1)."

The factual for considering claw-back is the price reset and price path that would have occurred at 1st April 2010 had final IM's been known. The reasoning in the paper that the earliest date prices could have changed because IM's were not finalised until later and that date is the appropriate date for claw-back is a red herring.

- (a) The second proposed reason in the paper is that a majority of submitters in earlier consultation rounds supported claw-back for one year or less. This isn't a reason; rather a matter of fact of counting submitters' views irrespective of any reasoning. Had any of those submitters had good reasons to support a view then the paper should have mentioned those.

2. MEUG recommend the Commission apply claw-back to 1st April 2010. This is a very material issue for consumers supplied by Vector in particular.

Yours sincerely



Ralph Matthes
Executive Director