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COMMERCE ACT (ELECTRICITY DISTRIBUTION THRESHOLDS) NOTICE 2004

PURSUANT TO PART 4A
OF THE COMMERCE ACT 1986

COMMERCE ACT (ELECTRICITY DISTRIBUTION 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 (Electricity Distribution Thresholds) Notice 2004.

2 Commencement

This notice comes into force on 1 April 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 a date as at which distribution businesses are to be assessed against a threshold, being 31 March of each of the years 2005 to 2009 inclusive

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

auditor, in relation to a distribution business, 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, the distribution business, 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 the distribution business for any other purpose

avoided transmission charge means, in relation to a distribution business, any expense (including the cost of capital) of the distribution business that arises from any generation or other activity which substitutes for use of the transmission system

base quantity means, for the purpose of calculating the revenue of a distribution business, the annual quantity (for example, customer numbers, kWh, kVA, etc) corresponding to a price

consumer means—

- (a) any person in New Zealand who is supplied, or who applies to be supplied, with electricity—

but does not include—

- (b) any lines business or electricity retailer, except where the lines business or the electricity retailer is supplied, or applies to be supplied, with electricity for its own consumption and not for the purposes of resupply to any other person

customer—

- (a) in the case of Transpower, means any generator, lines business, consumer, or other entity in New Zealand that is connected, or applies to be connected, to the national grid;
- (b) in the case of a distribution business, means—
 - (i) a consumer; or
 - (ii) where the distribution business charges another distribution business for specified services, that other distribution business

director means, in the case of a distribution business that is not a company, a person occupying a position in or in relation to the business that is comparable with that of a director of a company

distribution business means—

- (a) in clauses 4 to 6 and in definitions of terms and schedules that are used in or relate to those clauses, a lines business (other than Transpower); and
- (b) in clause 7 and in definitions of terms and schedules that are used in or relate to that clause, a large line owner or large electricity distributor (as defined in section 57D(1) of the Act) that is a lines business (other than Transpower)

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

EV means economic value

excluded services means, in relation to a distribution business, the goods and services referred to in paragraphs (d) to (j) 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

interruption duration factor, in relation to an interruption, means the sum obtained by calculating, for each customer that is affected by that interruption, the duration (in minutes) of that interruption, and adding together the results of those calculations

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

network connection point, in relation to a distribution business, means a point where a supply of electricity may flow between the electric lines of that distribution business and the electrical installation of a customer, but excluding points where there is no meter at that point or downstream from that point

notional revenue means, in relation to a distribution business, revenue less pass-through costs

pass-through costs, for any assessment period, means—

- (a) the transmission charges, rates and Electricity Commission levies paid or payable by the distribution business for that assessment period—

but does not include—

- (b) any amounts described in paragraph (a) if the distribution business demonstrates beyond reasonable doubt that those amounts were passed on transparently to its customers and/or electricity retailers

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 a distribution business charges in relation to a specified service (and which may include discounts, provided those discounts are disclosed in accordance with Part 6 of the Requirements)—

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

reference date means 31 March 2004

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

revenue, in relation to a distribution business, means the summation, across all prices, of the product of price and base quantity

SAIDI class B means the system average interruption duration index for planned interruptions by the distribution business

SAIDI class C means the system average interruption duration index for unplanned interruptions originating within the works of the distribution business, where those works are used for carrying out distribution business activities

SAIFI class B means the system average interruption frequency index for planned interruptions by the distribution business

SAIFI class C means the system average interruption frequency index for unplanned interruptions originating within the works of the distribution business, where those works are used for carrying out distribution business activities

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

- (a) the provision, operation, and maintenance of electricity works such as lines, cables and substations that facilitate the local or regional conveyance of electricity from embedded generators or the national grid to customers; and
- (b) 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
- (c) the sale of electricity conveyance services to electricity retailers or customers—

but does not include—

- (d) any goods and services described in paragraph (a), (b) or (c) if the lines business demonstrates beyond reasonable doubt that there is workable or effective competition for the provision of those goods and services; or
- (e) non-conveyance goods and services, such as energy use monitoring services, consulting services, or the provision of information not directly related to the provision of electricity distribution or transmission, if the lines business demonstrates beyond reasonable doubt that those goods and services are not directly related to the provision of electricity distribution or transmission; or
- (f) the provision of system operator services, if the lines business demonstrates beyond reasonable doubt that there is workable or effective competition for the provision of those services; or
- (g) services for which loss and constraint rentals are paid, if the lines business demonstrates beyond reasonable doubt that amounts received for those services are passed on transparently and in full to its customers; or
- (h) financial services related to transmission (known as “financial transmission rights”), if the lines business demonstrates beyond reasonable doubt that the amounts arising from settlement of those services are passed on transparently and in full to its customers; or
- (i) in relation to a distribution business, connection, disconnection, or reconnection services, if the distribution business demonstrates beyond

reasonable doubt that there is workable or effective competition for the provision of those services; or

- (j) in relation to a distribution business, services provided in response to a contestable tender, if the relevant customers agree in writing that, and the distribution business demonstrates beyond reasonable doubt that, there is workable or effective competition for the provision of those services; or
- (k) in relation to Transpower, goods and services provided under new investment contracts, if the other party agrees in writing that the terms and conditions are reasonable or reflect contestable provision of the goods and services; or
- (l) in relation to Transpower, goods and services provided 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 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 a distribution business, means any amount in respect of—

- (a) the use by a lines business (not being the distribution business) of that lines business' transmission system for the purpose of providing specified services to the distribution business, and includes any amounts received from or payable to that lines business in relation to—
 - (i) connection, interconnection, and EV adjustments; and
 - (ii) new investment (whether or not excluded from the definition of **specified services** by paragraph (k) or (l) of the definition of that term); and
 - (iii) the provision of system operator services; and
 - (iv) loss and constraint rentals; and
 - (v) the settlement of financial transmission rights;
- (b) avoided transmission charges

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 distribution businesses

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

- (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 distribution businesses is as follows:

- (a) *notional revenue at each assessment date*: the notional revenue of a distribution business at each 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 of the distribution business under the CPI-X price path at that 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 for the assessment period ending in calendar year t , being equal to $\sum_i P_{i,t} Q_i - K_t$;

i denotes each price pertaining to every specified service;

$P_{i,t}$ is the i^{th} price at the assessment date occurring in calendar year t ;

- Q_i is the base quantity corresponding to the i^{th} price for the year ending 31 March 2003 or, if *clause 5(2)* applies, is the base quantity corresponding to the i^{th} price for the most recent year ending 31 March during which the distribution business 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 under the CPI-X price path at the assessment date occurring in calendar year t , being equal to $R_{t-1}(1 + \Delta CPI_t)(1 - X)$, where the initial value for the price path, at the reference date, is R_{2004} ;
- X is the “X factor” value specified in Schedule 1 for the distribution business, subject to *clause 5(3)*;
- R_{2004} is the maximum notional revenue at the reference date which would not have caused the distribution business to breach the price path threshold under the initial notice at that date, subject to *clauses 5(2), 5(3) and 5(4)* and in all cases using the same base quantities used to determine NR_t ;
- ΔCPI_t is the average change in the consumer price index over the calendar year that ends during the assessment period (calculated in accordance with the following expression):

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

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 each assessment period:* the notional revenue of a distribution business at any time during an assessment period *is not to exceed* the greater of the notional revenue of the distribution business at the assessment date on which that assessment period ends and the notional revenue of the distribution business at the previous assessment date under this clause (or, if the previous assessment date is the reference date, under clause 5 of the initial notice).

- (2) If, during an assessment period, a distribution business restructures its prices and provides the Commission with evidence that the restructuring, of itself, did not

create an increase in revenue for the distribution business, then *subclause (1)* will apply as if the new price structure applied on and from the reference date.

- (3) If, during the period from the reference date to an assessment date, a distribution business is involved in a purchase, merger, takeover, disposal, or other similar transaction with another distribution business, which results in a change in its total customers or system length of 10% or more—
 - (a) for the purposes of *subclause (1)*, the X factor for that distribution business will be the weighted average of the X factors specified in Schedule 1 for each of the distribution businesses involved in the transaction, where those X factors are weighted by the number of consumers connected to the part of each distribution business that is involved in the transaction; and
 - (b) *subclause (1)* will apply as if the transaction occurred on the reference date.
- (4) If, during the period from the reference date to an assessment date, fixed assets used for providing specified services (or rights to such assets) are transferred between Transpower and a distribution business, and the distribution business provides the Commission with evidence that the transfer, of itself, did not create an increase in revenue for the distribution business above that which would have applied if the transfer had not occurred, *subclause (1)* will apply as if the transfer occurred on the reference date.
- (5) Despite the other provisions of this clause 5, if the Commission is satisfied that, because of lack of information or *subclauses (1) to (4)* being clearly meaningless in relation to a distribution business, it is not practicable to determine whether the distribution business has complied with those subclauses, the distribution business 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 distribution businesses is as follows:
 - (a) *interruption duration*: the SAIDI of a distribution business for each assessment period *is not to exceed* the five-year average SAIDI of the distribution business to 31 March 2003 (calculated in accordance with the right-hand side of the following expression):

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

where:

j denotes the calendar year in which the assessment date occurs;

$SAIDI_{\text{year}}$ is the sum of SAIDI class B and SAIDI class C, for that year, where SAIDI for a particular class is calculated by dividing the sum obtained by adding together the interruption duration factors for all interruptions within that particular interruption class for the period of 12 months ending on 31 March in that year by the average of the total number of network connection points at the beginning of that year and the total number of network connection points at the end of that year;

- (b) *interruption frequency*: the SAIFI of the distribution business for each assessment period *is not to exceed* the five-year average SAIFI of the distribution business to 31 March 2003 (calculated in accordance with the right-hand side of the following expression):

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

where:

j denotes the calendar year in which the assessment date occurs;

$SAIFI_{\text{year}}$ is the sum of SAIFI class B and SAIFI class C, for that year, where SAIFI for a particular class is calculated by dividing the sum obtained by adding together the number of network connection points affected by each interruption within that particular interruption class for the period of 12 months ending on 31 March in that year by the average of the total number of network connection points at the beginning of that year and the total number of network connection points at the end of that year;

- (c) *customer communication*: at least once during the period of 2 years ending 31 March 2006, and at least once during the period of 2 years ending 31 March 2008, a distribution business is to—
- (i) properly advise (or ensure that another person properly advises on its behalf) its customers (or another person that accurately reflects the interests of those customers) about the price-quality trade offs available to them in relation to the goods and services provided by the distribution business; and
 - (ii) consult (or ensure that another person consults on its behalf) with its customers (or another person that accurately reflects the interests of those 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 period from the reference date to an assessment date, a distribution business is involved in a purchase, merger, takeover, disposal, or other transaction, which results in a change in its total customers or system length of 10% or more, *subclause (1)(a) and (b)* will apply as if the transaction occurred on 31 March 1998.
- (3) If, during the period from the reference date to an assessment date, fixed assets used for providing specified services (or rights to such assets) are transferred between Transpower and a distribution business and the distribution business provides the Commission with evidence that the transfer, of itself, did not create an increase in SAIDI or SAIFI of the distribution business, *subclause (1)(a) and (b)* will apply as if the transfer occurred on 31 March 1998.
- (4) 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 a distribution business has complied with *subclauses (1), (2) and (3)*, the distribution business 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 every distribution business to publicly disclose and publish on the Internet, within 35 working days of each assessment date, the following statement and documents:

- (a) A written statement that—
 - (i) confirms the distribution business' 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 the distribution business' compliance, or otherwise, with the quality threshold, and includes evidence to this effect in the form of SAIDI and SAIFI statistics, relevant information from asset management plans, and other data, information, and calculations, that fully supports and explains the confirmation; and
 - (iii) describes policies and procedures which the distribution business has used for recording the SAIDI and SAIFI statistics of that distribution business for the assessment period ending on the assessment date; 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 2:
 - (c) A certificate in the form set out in Schedule 3, duly signed by two directors of the distribution business.
- (2) If a distribution business considers that *clause 5(5) or 6(4)* 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 the distribution business or auditor,—
- (a) it is not practicable to determine whether the distribution business has complied with the clauses concerned (*clauses 5(1) to (4)* in the case of the price path threshold and *clauses 6(1) to (3)* in the case of the quality threshold) because of lack of information or (in the case of *clause 5(5)* only) the clauses concerned being clearly meaningless in relation to the distribution business; and

- (b) the distribution business 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, every distribution business 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) A distribution business 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 the distribution business); 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) every distribution business must supply to the Commission, within the period specified by the Commission, all further statements, reports, agreements, particulars, or other information requested in writing by the Commission under that section; and
 - (b) if any further statements, reports, agreements, particulars, or other information are required to be supplied by any distribution business to the Commission under that section, the Commission may require that information to be verified by statutory declaration by a director of that distribution business in the form set out in Schedule 4, and may also require that distribution business 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 a distribution business 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 any distribution business in respect of which a control declaration has been made from any or all of the provisions of this clause.

Dated at Wellington this 31st day of March 2004.

COMMERCE COMMISSION.

SCHEDULE 1

Clause 5(1)

X FACTOR VALUES FOR DISTRIBUTION BUSINESSES

| | |
|-------------------------------------|-----|
| Alpine Energy Limited | 1% |
| Aurora Energy Limited | 1% |
| Buller Electricity Limited | 1% |
| Centralines Limited | 2% |
| Counties Power Limited | 2% |
| Eastland Network Limited | 2% |
| Electra Limited | 2% |
| Electricity Ashburton Limited | 1% |
| Electricity Invercargill Limited | 0% |
| Horizon Energy Distribution Limited | 1% |
| MainPower New Zealand Limited | 2% |
| Marlborough Lines Limited | 2% |
| Nelson Electricity Limited | 1% |
| Network Tasman Limited | 1% |
| Network Waitaki Limited | 0% |
| Northpower Limited | -1% |
| Orion New Zealand Limited | 1% |
| OtagoNet Joint Venture | -1% |
| Powerco Limited | 2% |
| Scanpower Limited | 0% |
| The Lines Company Limited | 2% |
| The Power Company Limited | 0% |
| Top Energy Limited | 0% |
| Unison Networks Limited | 0% |
| Vector Limited | 0% |
| Waipa Networks Limited | -1% |
| WEL Networks Limited | 2% |
| Westpower Limited | 1% |

SCHEDULE 2

Clause 7(1)(b)

FORM OF AUDITOR'S REPORT ON THRESHOLD COMPLIANCE STATEMENT

To the readers of the threshold compliance statement of [*insert name of distribution business*] for the assessment period ended on [*insert assessment date*].

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 [*insert name of distribution business*] for assessment as at [*insert assessment date*] and dated [*insert date*] for the purposes of information requirements set out in clause 7 of the Commerce Act (Electricity Distribution Thresholds) Notice 2004 ("the Notice"). In this report the attached statement is called "the threshold compliance statement".

Directors' Responsibilities

Directors of [*insert name of distribution business*] 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: SAIDI and SAIFI Statistics for the Assessment Period ended [*insert assessment date*]; 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 SAIDI and SAIFI statistics for the assessment period ended on [*insert assessment date*] 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 [*insert name of distribution business*] 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: SAIDI and SAIFI Statistics for the Years Ended 31 March 1999, 2000, 2001, 2002 and 2003

In relation to the SAIDI and SAIFI statistics for the years ended 31 March 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 statistics have been correctly taken from the information disclosed by [*insert name of distribution business*] in accordance with the Electricity (Information Disclosure) Regulations 1999; and
- those statistics 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 [*insert name of distribution business*] 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 [*insert name of distribution business*] against that threshold for the assessment period ended on [*insert assessment date*].

Quality Threshold: SAIDI and SAIFI Statistics

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

- a) the SAIDI and SAIFI statistics for the assessment period ended on [*insert assessment date*] 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 [*insert name of*

distribution business]'s policies and procedures for recording SAIDI and SAIFI statistics as disclosed in the threshold compliance statement, and fairly represent the performance of [*insert name of distribution business*] for the assessment period ended on [*insert assessment date*];

- b) the SAIDI and SAIFI statistics for the years ended 31 March 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 [*insert name of distribution business*] in accordance with the Electricity (Information Disclosure) Regulations 1999. Those statistics have been properly calculated based on the unaudited source data provided to us by [*insert name of distribution business*];
- c) the SAIDI and SAIFI statistics for the assessment period ended on [*insert assessment date*], together with the SAIDI and SAIFI statistics for the years ended 31 March 1999, 2000, 2001, 2002 and 2003, give a true and fair view of the performance of [*insert name of distribution business*] 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 [*insert assessment date*].

***[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 [*insert name of distribution business*] against that part of the quality threshold for the assessment period ended on [*insert assessment date*].]

***[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 3

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

We, *[insert full names]*, being directors of *[insert name of distribution business]* certify that, having made all reasonable enquiry, to the best of our knowledge and belief, the attached threshold compliance statement of *[name of distribution business]*, and related information, prepared for the purposes of the Commerce Act (Electricity Distribution 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 4

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 [*insert name of distribution business*], 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 [*insert name of distribution business*] 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 lines businesses (other than Transpower New Zealand Limited) for the 5 years beginning 1 April 2004, pursuant to section 57G of the Commerce Act 1986; and
- (b) require those businesses, pursuant to sections 57T and 57U of that Act, to each publicly disclose and publish on the Internet (and send to the Commission) a threshold compliance statement stating whether or not they have 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 Transpower New Zealand Limited for the regulatory period beginning 1 July 2004 are to be set by a separate notice.

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 the X factors for distribution businesses) 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.