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COMMERCE ACT
(DECISION NOT TO DECLARE CONTROL –
1 APRIL 2007 TO 31 MARCH 2008:
ALPINE ENERGY LIMITED, AURORA ENERGY
LIMITED, CENTRALINES LIMITED, COUNTIES
POWER LIMITED, EASTLAND NETWORK LIMITED,
ELECTRICITY ASHBURTON LIMITED, ELECTRICITY
INVERCARGILL LIMITED, NETWORK TASMAN
LIMITED, NORTHPOWER LIMITED,
POWERCO LIMITED, TOP ENERGY LIMITED,
VECTOR NETWORKS LIMITED, NETWORK WAITAKI
LIMITED, SCANPOWER LIMITED)
NOTICE 2009

PURSUANT TO PART 4A
OF THE COMMERCE ACT 1986

COMMERCE ACT
(DECISION NOT TO DECLARE CONTROL – 1 APRIL 2007 TO 31 MARCH
2008: ALPINE ENERGY LIMITED, AURORA ENERGY LIMITED,
CENTRALINES LIMITED, COUNTIES POWER LIMITED, EASTLAND
NETWORK LIMITED, ELECTRICITY ASHBURTON LIMITED,
ELECTRICITY INVERCARGILL LIMITED, NETWORK TASMAN
LIMITED, NORTHPOWER LIMITED, POWERCO LIMITED, TOP
ENERGY LIMITED, VECTOR NETWORKS LIMITED, NETWORK
WAITAKI LIMITED, SCANPOWER LIMITED)
NOTICE 2008

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

Under section 57G(1)(b) of the Act, the Commission must set thresholds for the declaration of control in relation to lines businesses.

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.

The process for making decisions on declarations of control is set out in section 57H, which provides that the Commission must:

- (a) assess large electricity lines businesses against the thresholds set under this subpart; and
- (b) identify any large electricity lines business that breaches the thresholds; and
- (c) determine whether or not to declare all or any of the goods or services supplied by all or any of the identified large electricity lines businesses to be controlled, taking into account the purpose of this subpart; and
- (d) in respect of each identified large electricity lines business,—
 - (i) make a control declaration; or
 - (ii) publish the reasons for not making a control declaration in the *New Zealand Gazette*, on the Internet, and in any other manner (if any) that the Commission considers appropriate.

Before making a declaration of control, the Commission is required under section 57I(1) to:

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

Identification of threshold breaches

The Commission has identified the 14 distribution businesses shown in the Table as having breached one or more thresholds at the 2007/08 assessment.

Table: Breaches Identified

Distribution Business	2007/08	
	Price	Quality
Alpine Energy		Breach
Aurora Energy		Breach
Centralines	Breach	
Counties Power		Breach
Eastland	Breach	
Electricity Ashburton		Breach
Electricity Invercargill		Breach
Network Tasman		Breach
Network Waitaki		Breach
Northpower		Breach
Powerco		Breach
Scanpower		Breach
Top Energy		Breach
Vector		Breach

Decisions Not to Declare Control

The Commission has determined not to make a declaration of control under Part 4A in respect of electricity distribution services supplied by those electricity distribution businesses contained in Table 1. These distribution businesses will be providing a compliance statement for the 2008/09 year in May 2009. The Commission will monitor the performance of distribution businesses against the 2008/09 price path and quality thresholds, and is able to address any underlying performance issues that cause breaches at that stage.

Any comments and questions on this notice may be sent by email to:

electricity@comcom.govt.nz; or by mail to Network Performance Branch,
Commerce Commission, P.O. Box 2351, Wellington; or by facsimile
(04) 924 3700.