[DRAFT] Transpower Input Methodologies Amendments Determination (No. 2) 2019

[2019] NZCC xx

The Commission: Sue Begg
               Dr Stephen Gale
               Elisabeth Welson
               John Crawford

Date of decision: XXXX 2019
[Drafting notes:

- This amendments determination amends the Commerce Act (Transpower Input Methodologies) Determination 2010 [2012] NZCC 17 (‘principal determination’).
- The included amendments are made under s 52X of the Commerce Act 1986.]

Commerce Commission

Wellington, New Zealand
Pursuant to Part 4 of the Commerce Act 1986 (the Act) the Commerce Commission makes the following determination:

1. **DETERMINATION AMENDED**

This determination amends the Commerce Act (Transpower Input Methodologies) Determination 2010 [2012] NZCC 17, as previously amended (the principal determination).

2. **COMMENCEMENT**

2.1 Subject to clause 2.2 of this determination, this determination comes into force on the date on which notice of the determination is given in the New Zealand Gazette in accordance with section 52W of the Act.

2.2 Amendments in this determination affecting Part 3 of the principal determination, including any amended definitions in clause 4.1.4.32 of this determination affecting Part 3 of the principal determination, apply for any IPP determination in force from 1 April 2020 onwards.

2.3 For the avoidance of doubt, if the Commission determines that any forecast values are required to be calculated consistent with Part 3 of the principal determination for the determination of an IPP that is to come into force from 1 April 2020, Part 3 of the principal determination and any applicable definitions in clause 1.1.4(2) of the principal determination will apply as amended by this determination to the setting of those forecast values.

3. **INTERPRETATION**

3.1 Terms in bold type have the meaning given to those terms in the principal determination. Terms in bold type used in this determination that are defined in the Act, but not this determination, have the same meaning as in the Act.

4. **TRANSPOWER INPUT METHODOLOGIES DETERMINATION AMENDMENTS**

4.1 In the principal determination insert the following definitions to clause 1.1.4(2):

4.1.1 *lease expense* means, in relation to a disclosure year, the allowance for that disclosure year to account for the allocation of a right-of-use asset cost over the remaining asset life of that right-of-use asset, and is determined in accordance with the following formula:

\[
\frac{1}{\text{remaining asset life}} \times \text{lease payment}
\]

**Commented [A1]:** The formula in this definition has problems:
- As the remaining life of the asset gets shorter, the annual lease expense will increase, which does not appear to be the intent.
- It is unclear what “additional” lease payments are or why they should be added to the capitalised cost of the asset. The lease payments (additional or otherwise) will determine the capitalised cost under GAAP.
- The definition captures finance leases as well as operating leases.

In our view this definition should be deleted and the determination should just rely on the GAAP definition of “lease payment” (applying to operating leases only).
4.1.2 "lease payment" means a lease payment under an operating lease, as 'lease payment' is defined, has the same meaning as under GAAP, excluding any lease payment that is a pass-through cost or recoverable cost;.

4.1.3 "right-of-use asset" has the same meaning as under GAAP, but excludes an asset whose cost (wholly or partly) includes pass-through costs or recoverable costs;.

4.2 In the principal determination amend the definition of 'identifiable non-monetary asset' in clause 1.1.4(2) to now read:

"has the same meaning as under GAAP save that goodwill is excluded, and includes a right-of-use asset".

4.2.3 In the principal determination amend the definition of 'operating expenditure' in clause 1.1.4(2) to now read:

“(a) except for the purpose of Subpart 6 of Part 3, means operating costs after applying clause 3.2.1(1); and

(b) for the purpose of Subpart 6 of Part 3, means operating costs after applying clause 3.2.1(1) plus any lease payments expense;”.

4.3.4 In the principal determination amend clause 2.6(1)(h) to now read:

“(h) a non-network asset or network right-of-use asset, its asset life determined under GAAP;”.

4.4 In the principal determination amend clause 2.2.7(1)(a) to now read:

“(a) an intangible asset is nil, unless it is:

(i) a finance lease; or

(ii) an identifiable non-monetary asset whose costs do not include (wholly or partly) pass-through costs or recoverable costs;”.

4.5 In the principal determination amend clause 3.6.3(8) to now read:
“(8) ‘Actual opex’ is the amount of operating expenditure allocated to electricity transmission services for the relevant disclosure year calculated in accordance with Part 2, plus any lease expense.”

4.6 In the principal determination amend clause 3.6.5(2) to now read:

“(2) Where an alteration to Part 2 or an ID determination requirement affecting the quantification of operating expenditure occurs in a disclosure year and—

[Signature]

Commissioner

Dated at Wellington this xx day of xx 2019.

COMMERCE COMMISSION

Commented [A7]: This clause (which is in Subpart 6 or Part 3) can be simplified by using the amended definition of “operating expenditure”. We note that this clause is drafted incorrectly at the moment because “electricity transmission services” includes system operator services, the costs allocated to which should be ignored. This is also the reason for the proposed change to clause 3.6.5(2) below.