

Terms of Reference for the Transmission Pricing Advisory Group

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Terms of reference for the Transmission Pricing Advisory Group

1 Introduction

- 1.1 The Transmission Pricing Advisory Group (TPAG) is appointed, in accordance with the Electricity Industry Act 2010 (Act), to provide independent advice to the Electricity Authority (Authority) on the development of a preferred transmission pricing methodology (TPM).
- 1.2 This document is the primary reference for the TPAG regarding its governance and operations. However, if a provision in this document is ambiguous or inconsistent with another provision in this document or any other Authority document, the Authority will resolve the matter with reference to the provisions of its charter about advisory groups .

2 Scope of role

- 2.1 The TPAG is expected to investigate, analyse, and make recommendations to the Authority Board (Board) on the matters assigned to it in its work plan. The independent advice provided by the TPAG to the Board is to be well thought-out, with robust analysis, and of a sufficient quality to enable the Board to make well-informed decisions.
- 2.2 A key role of the TPAG is to bring its collective knowledge and experience to bear on the transmission pricing matters brought before it.
- 2.3 An expected contribution of the TPAG, however, is to reconcile divergent views and interests in ways consistent with the Authority's statutory objective and in a manner that achieves wider stakeholder "buy in".

3 Scope of advice

- 3.1 The TPAG has been established to:
 - (a) recommend to the Authority Board, with supporting analysis, a preferred transmission pricing methodology (TPM) option, and associated guidelines, for each of the following areas:
 - i. the allocation of all transmission costs including those that are currently categorised as connection, interconnection and HVDC costs;
 - ii. providing incentives for participants to take action to defer or avoid transmission investments where there are benefits in doing so; and
 - iii. static reactive compensation;
 - (b) provide analysis and justification to support the rejection of options, including at a minimum the options considered by the Electricity Commission in its 'Transmission Pricing Review: Stage 2 Options' consultation paper and alternatives provided by submitters;¹ and
 - (c) review and comment on submissions received on:

¹ <http://www.ea.govt.nz/document/9992/download/our-work/consultations/transmission/tpr-stage2options/>

- a. the Electricity Commission's 'Transmission Pricing Review: Stage 2 Options' consultation paper; and
- b. the TPAG's discussion paper containing its preferred TPM option.

3.2 Certain matters considered by the TPAG may interrelate with matters considered by the Transmission Pricing Technical Group and/or by other of the Authority's Advisory Groups. The Authority will coordinate any advice from technical groups and/or other Advisory Group(s) on any such matters, and interaction between the TPAG and technical groups or Advisory Groups in regard to these matters. This interaction may include joint meetings or workshops or the like. The Authority will also facilitate the TPAG receiving timely updates of other technical groups' or Advisory Groups' activities, with an emphasis on matters that impact on the TPAG's activities.

4 Agreed work plan

- 4.1 The Authority will prepare a draft work plan for the TPAG and discuss it with the TPAG's chairperson before presenting it to the TPAG for its consideration.
- 4.2 In considering the proposed work plan the TPAG must be mindful the Authority has a limited budget and must prioritise its work. The TPAG also needs to be mindful its work plan must be consistent with the Authority's overall work plan.
- 4.3 If the TPAG and the Authority are unable to reach agreement on aspects of the TPAG's work plan, including in regard to the timing for progressing items of the work plan, the Authority may assign the items to other parties, including Authority staff and/or independent experts.
- 4.4 Despite clauses 4.1 and 4.3, the Board has the right to provide specific guidance to the TPAG on any matter at any stage of the TPAG's work.

5 Undertaking the TPAG's work plan

- 5.1 Subject to its work plan and any specific guidance from the Board, the TPAG will decide:
 - (a) the extent and type of analysis it undertakes and feedback it seeks, so as to enable it to make recommendations to the Board;
 - (b) the content of discussion papers on matters identified in either these terms of reference or the TPAG's work plan;
 - (c) how it will interact with interested parties to seek feedback on discussion papers, such as via workshops; and
 - (d) how to incorporate feedback into its analysis and recommendations.
- 5.2 Discussion papers prepared for the TPAG will be published in the name of the TPAG.
- 5.3 The Board has the right at any stage to request reports from the TPAG on its progress against the work plan.

6 Provision of advice and recommendations to the Board

- 6.1 The Board strongly encourages the TPAG to provide consensus recommendations on the issues assigned to it, within the timelines agreed with the Board.

- 6.2 If the TPAG is unable to provide consensus recommendations, the Board expects the TPAG to provide a report that explains the alternative views held by members in a manner consistent with clauses 6.3 and 6.4.
- 6.3 Any TPM options recommended by the TPAG must be consistent with the Act and therefore the Authority's statutory objective, and have regard to any Government Policy Statement (GPS) or Statement of Government Expectations in force at the time. The options must also be consistent with subpart 4 of Part 12 of the Code. Section 32(1) of the Act requires that Code amendment proposals must also be necessary or desirable to promote any or all of the following:
- (a) competition in the electricity industry;
 - (b) the reliable supply of electricity to consumers;
 - (c) the efficient operation of the electricity industry;
 - (d) the performance by the Authority of its functions;
 - (e) any other matter specifically referred to in the Act as a matter for inclusion in the Code.
- 6.4 In making recommendations to the Board, the TPAG must explain how the recommendations promote the Authority's statutory objective, are consistent with subpart 4 of Part 12 of the Code, and how the TPAG has applied the Authority's Code amendment principles (as published in Part 1 of the Authority's consultation charter) to arrive at its recommendations.
- 6.5 The TPAG will decide who will represent it, in addition to the chairperson, at Board meetings when its reports are considered by the Board.
- 6.6 Where the Authority decides further work is required on a matter being considered by the TPAG, the Authority may request the TPAG to undertake further work on the matter, or it may refer the matter to other parties to undertake work on the matter and/or make recommendations to the Board.
- 6.7 The Board will decide whether or not to consult on, or adopt, the TPAG's recommendations.

7 Membership

- 7.1 The TPAG will comprise a maximum of 8 members appointed by the Board after considering nominations against published membership criteria.
- 7.2 The TPAG will comprise members selected for their strategic, commercial, and regulatory experience and expertise in regard to the matters described in section 3, their knowledge and experience in regard to transmission pricing, and their knowledge and experience across the transmission component of the electricity supply chain, and for their balanced representation of alternative views.
- 7.3 The Board will appoint by written notice an independent chairperson as a member of the TPAG after considering nominations. To qualify as an independent chairperson a candidate must, in the opinion of the Authority, be demonstrably free of conflicts of interest such as could arise from current involvement at a senior level in a market participant organisation or with parties that act as advisors to such organisations.
- 7.4 All members of the TPAG must be able to ensure the TPAG provides independent advice to the Authority regardless of whether or not they are independent persons.
- 7.5 Representatives of the Authority are entitled to attend TPAG meetings and participate in discussions, but are not members of the TPAG.

8 Term of appointment

- 8.1 Members are appointed for a period of 12 months, with a review after the first six months.
- 8.2 The Authority may, at its discretion, reappoint any member for a further six-month term.
- 8.3 Members may resign by written notice to the Authority. The notice of resignation must state the date on which the resignation takes effect.
- 8.4 The Authority may, after consultation with the person concerned, end a person's membership of the TPAG by written notice to the person (with a copy to the TPAG), stating the date on which the membership ends.

9 Functions of the chairperson

- 9.1 The key functions of the chairperson include:
 - (a) managing the TPAG's activities so as to facilitate delivery of the TPAG's work plan on time and on budget;
 - (b) facilitating discussions between TPAG members in a manner that will stimulate robust debate on issues and encourage effective contribution from members;
 - (c) guiding discussions so that they are relevant and effective while at the same time ensuring that genuine disagreements and conflicts are aired and, if possible, resolved;
 - (d) ensuring that the minutes of each TPAG meeting are correct;
 - (e) ensuring that the views of the TPAG are accurately represented in papers to the Board;
 - (f) attending Board meetings, as required, to present the TPAG's advice;
 - (g) approving reports to the Board regarding the TPAG's progress against its work plan, as requested by the Authority's Chief Executive;
 - (h) regularly reporting to the Authority's Chief Executive on the TPAG's progress against its work plan, including highlighting any concerns about progress; and
 - (i) approving and signing on behalf of the TPAG any other communications the TPAG wishes to have with the Board or other parties.
- 9.2 The chairperson has no media relations role and may not speak on behalf of the Authority in regard to matters on which the TPAG has advised, or is advising, the Authority. These responsibilities lie with the Authority.
- 9.3 When making representations to the Board on any aspect of the TPAG's work and recommendations, the chairperson must take care to provide a balanced representation of the views held by the members of the TPAG.
- 9.4 If the chairperson has any significant concerns, including for example the operation of the TPAG, these are to be raised with the Authority's representative to the TPAG (refer clause 10.1) in the first instance, and if necessary, with the Authority's Chief Executive.
- 9.5 The TPAG may appoint a member of the TPAG to be a temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if:
 - (a) the chairperson is unavailable; or
 - (b) the chairperson has a conflict of interest relating to the matter.

10 Functions of Authority staff

- 10.1 The Chief Executive will appoint Bruce Smith to assist the TPAG and to act as the Authority's representative (Authority Representative) to the TPAG. The Authority Representative is not a member of the TPAG.
- 10.2 The Authority Representative will be responsible for:
- (a) developing an agreed work plan with the TPAG;
 - (b) in consultation with the chairperson, giving notice of TPAG meetings and setting the meeting agenda;
 - (c) arranging and overseeing the secretariat for the TPAG, including the provision of internal and external advisory resources. Note the availability of resources will depend on the Authority's overall budget and other work priorities, and procurement of external advice by the Authority Representative for the TPAG must be consistent with relevant Authority policies; and
 - (d) conveying relevant views, policies and decisions of the Authority to the TPAG.
- 10.3 The Authority Representative is responsible for ensuring the TPAG receives a high standard of secretariat support, whether provided by Authority staff or by external advisors. In the normal course of events, members are not expected to carry out original research and analysis themselves. The Authority has appointed consultants to assist the TPAG.
- 10.4 Where the Authority Representative's view differs significantly from the views of the TPAG then the Authority Representative should brief the Board on this difference of opinion and the reasons for this.

11 Responsibility of members

- 11.1 The members of the TPAG must:
- (a) comply with the requirements set out in the Authority's charter about advisory groups;
 - (b) comply with the requirements set out in these terms of reference;
 - (c) be available for all TPAG meetings unless granted leave by the chairperson, read all papers circulated to the TPAG, and actively contribute to the discussions of the TPAG;
 - (d) inform the chairperson and the Authority Representative of any actual or potential conflicts of interest that may affect their ability to perform their functions as a member of the TPAG; and
 - (e) carry out the tasks of the TPAG arising from the agenda for each meeting.
- 11.2 Members must remain mindful that:
- (a) they have been appointed for their knowledge and experience as well as their ability to participate constructively in TPAG meetings;
 - (b) they have been appointed to act in their personal capacity and not as representatives of organisations and that the Act requires them to provide independent advice as a group, even though they may not be independent persons; and
 - (c) an expected contribution of the TPAG is to reconcile divergent views and interests in the TPAG, and among wider stakeholders, in ways consistent with the Authority's statutory

objective. This requires serious intent by all members to understand alternative views and find workable solutions.

- 11.3 The requirements in clause 11.2 mean that a member's role is to act in the best interests of all stakeholders irrespective of the organisation that he or she may be associated with.
- 11.4 Members must also be mindful that Authority staff and external advisors are free to form their own views on the matters discussed by the TPAG. The Board expects members to respect the different roles that Authority staff and external advisors play in regard to assisting the TPAG and advising the Board.
- 11.5 As non-confidential meeting papers will be published on the Authority's website as soon as practicable after being circulated to members, members may obtain input from within the organisation they are associated with or any other party, where they consider this appropriate and useful.

12 Process for handling members' non-performance

- 12.1 The Authority expects members to be active participants and contribute constructively to TPAG meetings. The Authority also expects members to show respect for other members and for Authority staff and advisors.
- 12.2 Any person concerned about the performance of a member will, as appropriate, discuss his or her concerns with the chairperson and/or the Authority Representative, and preferably with both parties.
- 12.3 If the chairperson and Authority Representative believe further action is warranted, they must adopt the following escalation process:
 - (a) discuss the matter with the alleged under-performing member and provide the person with an opportunity to state his or her view on the matter;
 - (b) if the discussion does not resolve the matter to the satisfaction of the chairperson and the Authority Representative, a written notice must be provided to the member stating their concerns and the desired corrective action. If the member is affiliated to an organisation, the chairperson and the Authority Representative must, where appropriate, discuss the matter with appropriate people at the affiliated organisation prior to sending the notice;
 - (c) if the member continues to perform to the dissatisfaction of the chairperson and the Authority Representative, both parties must discuss the matter with the member and where appropriate with the affiliated organisation. The member must be given an opportunity to explain his or her view of the matter;
 - (d) if after due consideration the chairperson and the Authority Representative are not satisfied by the member's explanation, the chairperson and the Authority Representative must inform the member and where appropriate the affiliated organisation that they intend recommending to the Authority's Chief Executive that the member's appointment as a member of the TPAG be rescinded; and
 - (e) any discussions with a member's affiliated organisation in 12.3(b) – (d) must not compromise the ability of the member to act in his or her personal capacity in regard to the advice the member contributes to the TPAG. The sole purpose of these discussions is to inform the affiliated organisation of the situation and to gather information about extenuating circumstances the chairperson and Authority Representative may need to take into account in their handling of the situation.

- 12.4 Upon receiving a recommendation in accordance with clause 12.3(d), the Authority's Chief Executive will assure him or herself that the processes in clause 12.3 have been reasonably complied with and, if appropriate, discuss the matter with the Chief Executive of the member's affiliated organisation. The Authority's Chief Executive may recommend to the Board that the member's appointment as a member of the TPAG be rescinded.
- 12.5 Any person concerned about the performance of the chairperson will, as appropriate, discuss his or her concerns with the Authority's Chief Executive.
- 12.6 If the Authority's Chief Executive believes further action is warranted, the Chief Executive must discuss the matter with the Authority's chairperson. If the Authority's chairperson agrees further action is warranted, the Chief Executive must adopt the following escalation process:
- (a) discuss the matter with the chairperson and provide the chairperson with an opportunity to state his or her view on the matter;
 - (b) if the discussion does not resolve the matter to the satisfaction of the Chief Executive, a written notice must be provided to the chairperson stating the Chief Executive's concerns and the desired corrective action. If the chairperson is affiliated to an organisation, the Chief Executive must, where appropriate, discuss the matter with appropriate people at the affiliated organisation prior to sending the notice;
 - (c) if the chairperson continues to perform to the dissatisfaction of the Chief Executive, the Chief Executive must discuss the matter with the chairperson and where appropriate with the affiliated organisation. The chairperson must be given an opportunity to explain his or her view of the matter;
 - (d) if after due consideration the Chief Executive is not satisfied by the chairperson's explanation, the Chief Executive must inform the chairperson and where appropriate the affiliated organisation that the Chief Executive intends recommending to the Board that the chairperson's appointment be rescinded.
- 12.7 Any person concerned about the performance of an Authority staff member or contractor or external consultant must discuss his or her concerns with the Authority Representative or, in the case of staff, with the Authority's Chief Executive. The Authority will determine at its own discretion the appropriate actions in regard to these matters.

13 Establishing and interacting with Working Groups

- 13.1 The primary role of Working Groups is to provide technical and specialist input to the TPAG's work. The Authority may also establish Working Group(s) to assist with the TPAG's workload.
- 13.2 The TPAG and the Authority Representative will decide jointly whether to form a Working Group, and if so, decide jointly its terms of reference and membership criteria.
- 13.3 The Authority requires a Working Group's terms of reference to be based on the terms of reference of the TPAG.
- 13.4 The Authority's budget constraints and other work priorities may limit the number of Working Groups it can establish or the scope of work assigned to those groups.
- 13.5 The TPAG's chairperson and the Authority Representative will decide jointly the Working Group's chairperson and membership, having due regard to input received from TPAG members.

- 13.6 Any Working Group established under clause 13.2 will report its analysis and recommendations to the TPAG.
- 13.7 The Working Group will decide who, in addition to the Working Group chairperson, will represent it at TPAG meetings when its reports are considered by the TPAG.
- 13.8 The TPAG has sole discretion to support or not support any recommendation from a Working Group reporting to it:
- (a) if a Working Group's task is a standalone one, the TPAG is expected to forward the analysis and recommendations on to the Board if it agrees with them;
 - (b) if a Working Group's task is a component of a broader scope of work being undertaken by the TPAG, the TPAG is expected to integrate the Working Group's analysis and recommendations into its broader report to the Board;
 - (c) in both the above instances, if the TPAG disagrees with the analysis and recommendations of a Working Group it can ask the Working Group to undertake further work or it can develop its own recommendations on the matter and present these to the Board alongside the Working Group's recommendations.

14 Administration and communication procedures

- 14.1 Except as provided for in the Act, these terms of reference and any relevant charter about advisory groups in force under the Act, the TPAG may determine its own procedures.
- 14.2 The business and activities of the TPAG must be as transparent as practicable.
- 14.3 Day-to-day interaction between the TPAG and the Authority must be through the Authority Representative.
- 14.4 Email interaction between members regarding substantive or policy-related aspects of the TPAG's business should be copied to all members of the TPAG, the Authority Representative, and any other members of the Authority secretariat involved in the TPAG.
- 14.5 Reporting between the TPAG and the Board will be through the TPAG's chairperson unless otherwise agreed by the TPAG's chairperson and the Chief Executive of the Authority. Despite this requirement, the TPAG will decide who, in addition to the chairperson, will represent it at Board meetings when its reports are considered by the Board.

15 Frequency of meetings

- 15.1 The TPAG will meet as required having regard to the TPAG's work plan.

16 Agenda for each meeting

- 16.1 The Authority Representative will set the agenda for each meeting in consultation with the chairperson. Members may seek to add further items to a meeting agenda, but inclusion will be at the discretion of the chairperson.
- 16.2 Meeting agendas should include a standing item for updates on the work plans of other Advisory Groups. This is intended to ensure that cross-over issues are identified at an early stage. It is not expected that every other Advisory Group's work plan will be discussed at every meeting.

17 Notice of meetings and meeting papers

- 17.1 The Authority Representative is responsible for calling meetings of the TPAG in consultation with the chairperson.
- 17.2 Reasonable notice of meetings must be given by the Authority Representative to each member, including details of the time and venue. The Authority Representative will endeavour to give notice of at least four weeks.
- 17.3 Meeting papers should be circulated at least five business days in advance of a meeting to enable their proper consideration by TPAG members, though it should be recognised that there will be instances where this is not possible.
- 17.4 Non-confidential meeting papers must be published on the Authority's website as soon as practicable after they have been circulated to members.

18 Method of holding meetings

- 18.1 A meeting of the TPAG may be held by a number of its members who constitute a quorum, being assembled together at the time and place appointed for the meeting.
- 18.2 As a general rule, meetings must be held in person. If for valid reason(s) this is not possible then meetings may be held by means of audio, audio and visual, or electronic communication provided that all of the members who wish to participate in the meeting have access to the technology needed to participate and a quorum of members can simultaneously communicate with each other throughout the meeting.

19 Quorum for meetings

- 19.1 A quorum for a meeting of the TPAG is:
 - (a) half of the TPAG's members if the TPAG has an even number of members; or
 - (b) a majority of the members if the TPAG has an odd number of members.
- 19.2 No business (which includes approving minutes) may be transacted at a TPAG meeting if the quorum is not met.

20 Attendance

- 20.1 Members are not entitled to send an alternate in their place if they cannot attend a TPAG meeting.
- 20.2 Any member of the TPAG who, without leave from the chairperson, or in the case of the chairperson, without leave from the Authority's Chief Executive, misses two consecutive meetings is deemed to have resigned from the TPAG except where there are identified extenuating circumstances such as illness.
- 20.3 Where a member is absent for more than two consecutive meetings due to extenuating circumstances, the TPAG chairperson and the Authority Representative may at their discretion replace the member as if they had resigned, as per the requirements of clause 8.3.
- 20.4 The chairperson may invite non-members (in addition to Authority staff) to attend a TPAG meeting. In those circumstances, invited parties may participate in discussions at the discretion of the chairperson, but they are not a member of the TPAG or part of the quorum.

21 Minutes

- 21.1 The chairperson must ensure that proper minutes are kept of all proceedings at TPAG meetings.
- 21.2 Minutes of all meetings must be published on the Authority's website as soon as practicable after their confirmation.

22 Confidentiality of reports and papers

- 22.1 All reports submitted to the TPAG (including reports or presentations submitted by members) are subject to the Official Information Act 1982 (OIA), and, in the normal course of events, will not be treated as confidential. However, the Authority may withhold information if the Authority considers that there are grounds for doing so under the OIA.
- 22.2 In the circumstance where documents considered by the TPAG contain confidential information, the chairperson and the Authority Representative will ensure that all confidential information is adequately protected before it is published.

23 Conflicts of interest

- 23.1 As provided in the Act, the conflict of interest disclosure rules in sections 62 to 72 of the Crown Entities Act 2004 apply to each member of the TPAG, as if the disclosure required by those sections must be made to both the TPAG and the Authority.