

Rio Tinto Alcan New Zealand
Level 16, 2 Hunter Street
Wellington 6011
New Zealand
Postal Address:
GPO Box 1665
Wellington 6140
New Zealand
T +64 (0) 4 471 1527
F +64 (0) 4 472 8041

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Lisa Du Fall
Submissions
Electricity Authority
PO Box 10041
Wellington

By email to submissions@ea.govt.nz

Dear Lisa

**SUBMISSION ON THE PROPOSED CODE AMENDMENT:
REGULATORY FRAMEWORK FOR THE TRANSMISSION PRICING
METHODOLOGY**

Introduction

1. This submission is made by Rio Tinto Alcan (New Zealand) Limited (RTANZ), on behalf of RTA Power (N.Z.) Limited and New Zealand Aluminium Smelters Limited (NZAS). It is made in response to the Authority's paper on the 'Proposed Code Amendment: Regulatory Framework for the Transmission Pricing Methodology' (the paper) of 16 February 2010. Nothing in this submission is confidential.
2. This submission briefly discusses the issue and then addresses the Authority's specific questions posed in the paper.

Discussion

3. The pricing principles currently enshrined in the Code are a hangover from the previous regulatory regime administered by the Electricity Commission and where the regulation-making power resided with the Minister of Energy. Given that the regulation-making powers are now fully devolved to the Authority (rather than being retained by the Minister), it is proper that the Authority consults as to the desirability

or not of separate pricing principles and what, if any, form they might take. As such, RTANZ completely agrees with the reasoning that the Authority has used in Section 2.5 of the paper to justify this review of the regulatory framework.

4. It is RTANZ' view that the existing pricing principles should neither be retained (Option 2), nor amended (Option 3), but should be deleted (Option 1).

No Retention

5. The existing principles have proved in practice to be difficult to implement due to apparent conflicts amongst them – i.e. it is not possible to simultaneously satisfy all of the conditions that adherence to each principle required.
6. This resulted in some sacrifice and forced the earlier Electricity Commission into a form of ranking where some principles were regarded as more important. This ranking is reproduced in Appendix D of the paper and is clearly a cumbersome and unwieldy way to deal with the conflicts between the principles. Further, as the Authority points out on page 25 of the paper, the other objectives that the Commission also had to have regard to were problematic as these influenced the application of the pricing principles. Such cumbersome arrangements are constantly subject to challenge and potentially arbitrary change. These are not desirable aspects for a regulatory regime.
7. This provides ample evidence that retention of the existing principles is clearly not desirable and therefore Option 2 can be discarded immediately.

No Modification - Delete

8. The previous Electricity Commission laboured under the requirement to simultaneously achieve multiple, conflicting, objectives. The regularly amended Government Policy Statement on Electricity Governance was a restrictive and internally conflicted operating blueprint for the sector.
9. With the streamlined legislative objective for the Authority and the welcome deletion of the Government Policy Statement, the policy environment is much changed for the better. The environment that the present Electricity Authority finds itself in is much freer and with an absence of apparent internal conflict in objectives or outcomes. This is welcomed.
10. In fact, the Authority has a very simple and clearly articulated single objective:

To promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.

11. The Authority has recently gone to some length to explain how it interprets this objective and regards this as a key strategic statement. It is difficult to see how anything else is required in order to develop a TPM.

Q1. Do you agree that there is sufficient reason to review the regulatory framework?

12. Yes – Section 2.5 of the paper summarises the justification well.

Q2. Do you agree with the objectives?

13. Yes. When compared with the alternatives, the proposal will clearly simplify the decision framework, simplify the Code and better reflect the Authority's narrower statutory objective. It is also likely to reduce transaction costs.

Q3. Do you agree with the assessment of Option 1?

14. Yes, with the arguments presented under the heading of 'Code Amendment Principle 2' being particularly important.

Q4. Do you agree with the assessment of Option 2?

15. Yes – the assessment is comprehensive.

Q5. Do you agree with the assessment of Option 3?

16. Yes. The approach in developing this 'strawman' option is clearly grounded in the consideration of how achieving the Authority's statutory objective should influence a TPM – as it should be. This contrasts strongly with the existing codified pricing principles which are a mixture of economic efficiency objectives (the simultaneous maximisation of each being demonstrably impossible) coupled with a policy desire for FTRs (and other things).

Q6. Do you agree that Option 1 has a net benefit exceeding the two alternatives?

17. Yes – it almost certainly has the highest net benefit.

Concluding Comments

18. Looking at the pricing principles as they exist in the Code, it is difficult to see how any individual principle conflicts with the Authority's Statutory Objective. That said, as written, the principles do conflict with each other, which forced the earlier Electricity Commission to develop a ranking scheme in order to help manage these conflicts. However, such an approach is inherently undesirable in a regulatory regime as it promotes challenge and raises the potential for arbitrary change.
19. RTANZ agrees that the Authority's strawman proposal for amended pricing principles is appropriate, but really is just a logical derivation from the statutory objective and is therefore superfluous.
20. It is far tidier to delete these principles, so conflicts are expressly avoided, and instead refer the objective of the development of the TPM to the Authority's Statutory Objective. This would make the process of developing the TPM consistent with all of the Authority's other work whilst not introducing another layer of considerations requiring endless interpretation, analysis, comparison, debate and challenge.
21. RTANZ therefore agrees with the Authority's proposal – the pricing principles and related interpretation clauses should be removed from the Code.

General

22. We would be happy to discuss any questions or comments you may have in relation to the points made above. If you would like to discuss our comments further, please contact me.

Yours sincerely



Ray Deacon
Manager Regulatory and Government Affairs