

Reprint
as at 28 June 2002



**Electricity Line Owners (Commerce Commission Costs)
Levy Regulations 2001**
(SR 2001/386)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 10th day of December 2001

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 57ZK of the Commerce Act 1986, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Energy, makes the following regulations.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Economic Development.

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Regulations

1 Title

These regulations are the Electricity Line Owners (Commerce Commission Costs) Levy Regulations 2001.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Application

These regulations apply to the financial year ending with 30 June 2002 and subsequent financial years.

4 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Commerce Act 1986

Estimates has the meaning set out in section 2(1) of the Public Finance Act 1989; and includes the Supplementary Estimates (within the meaning of that section)

financial year means a year ending with 30 June

information disclosure regulations means regulations under section 170 of the Electricity Act 1992 in force at the time when section 57Y of the Commerce Act 1986 came into force

Minister means the Minister of Energy

quarter means a period of 3 consecutive months that ends with the last day of September, December, March, or June

system fixed assets has the same meaning as in the information disclosure regulations.

- (2) For the purpose of these regulations, a valuation of system fixed assets is **publicly disclosed** if—

- (a) it is publicly disclosed under regulation 16A of the information disclosure regulations or under the information disclosure requirements issued by the Commerce Commission under section 57T of the Act; and
- (b) the deadline under those regulations or requirements for all large line owners to publicly disclose those valuations has expired.

5 Levy on large line owners

- (1) Each person who is a large line owner at the commencement of a financial year is liable to pay a levy for that financial year to the Minister.
- (2) That levy—
 - (a) must be initially calculated under regulation 7 on the basis of the estimated Commission costs; and
 - (b) may be recalculated under regulation 9 if more recent asset valuations are publicly disclosed; and
 - (c) must be reconciled against the levy that would have been payable on the basis of the actual Commission costs after the end of the financial year under regulation 10.

6 How and when levy must be paid

- (1) Each large line owner is liable, as at the commencement of the financial year, to pay in advance the full annual amount of its levy for that year.
- (2) However, the Minister must collect the levy in quarterly instalments.
- (3) The due date for payment of each instalment is—
 - (a) the 15th day after the large line owner receives an invoice for that quarterly instalment; or
 - (b) if the large line owner receives that invoice more than 15 days before the commencement of a quarter, the first day of the quarter.
- (4) In addition, any shortfall included in the levy under regulation 10 may be collected by a further invoice; the due date for payment of that amount is the 15th day after the large line owner receives that invoice.

7 Levy must be calculated on basis of estimated Commission costs

The levy payable for a financial year by a large line owner must be calculated by the Minister as follows:

$$\text{estimated Commission costs} \times \frac{\text{proportion of the total asset valuation}}{\text{valuation}}$$

where—

estimated Commission costs is the appropriation, or proposed appropriation in the Estimates, at the time of the Minister's calculation, for the financial year within Vote Energy for the Non-departmental output class

that relates to the performance of the Commission's functions, powers, and duties under Part 4A of the Act

proportion of the total asset valuation in relation to a large line owner, is the proportion that the most recent valuation of its system fixed assets bears to the total amount of those valuations for all large line owners, as publicly disclosed at the time of the Minister's calculation.

Regulation 7: amended, on 28 June 2002, by regulation 3 of the Electricity Line Owners (Commerce Commission Costs) Levy Amendment Regulations 2002 (SR 2002/200).

8 Minister must notify levy amount

The Minister must notify each large line owner of the amount of its levy calculated under regulation 7 at the time of, or before, invoicing the large line owner for the first quarterly instalment.

9 Levy may be recalculated following more recent asset valuations

- (1) The levy for a financial year may, at the Minister's discretion, be recalculated under regulation 7 if more recent valuations of system fixed assets are publicly disclosed.
- (2) If the levy is recalculated, the Minister must—
 - (a) notify the relevant large line owner of its recalculated levy amount at the time of, or before, invoicing the large line owner for the next quarterly instalment; and
 - (b) adjust its next quarterly instalment to provide for the recalculated levy amount and for any over-recovery or shortfall in previous quarterly instalments.

10 Levy must be reconciled on basis of actual Commission costs after end of financial year

- (1) The Minister must, within 1 month after the Commission's audited financial statements for a financial year are presented to the House of Representatives,—
 - (a) reconcile the levy for the financial year against the levy that would have been payable if the calculation or, if it has been recalculated, the recalculation under regulation 7 had used the actual Commission costs for the year rather than the estimated Commission costs (but used the same proportion of the total asset valuation); and
 - (b) notify the relevant large line owner of the final annual amount of its levy on that basis; and
 - (c) if there has been an over-recovery of those actual Commission costs, refund to the large line owner the amount over-recovered from it; and
 - (d) if there has been a shortfall in recovering those actual Commission costs, invoice the large line owner for the amount under-recovered from it, as part of the levy for that year.

- (2) For the purposes of subclause (1), **actual Commission costs** for a financial year is the amount—
- (a) identified in the Commission's audited financial statements for that year as the costs of performing the Commission's functions, powers, and duties under Part 4A of the Act and of collecting the levy money; but
 - (b) that does not exceed the total amount appropriated for that year within Vote Energy for the Non-departmental output class that relates to the performance of the Commission's functions, powers, and duties under Part 4A of the Act.

Regulation 10(2)(b): amended, on 28 June 2002, by regulation 4 of the Electricity Line Owners (Commerce Commission Costs) Levy Amendment Regulations 2002 (SR 2002/200).

11 Transitional provision for first financial year to which levy applies

- (1) This regulation modifies the levy amount and the collection method for the levy payable for the financial year ending with 30 June 2002.
- (2) That levy comprises—
- (a) the amount calculated under regulation 7 for that financial year; and
 - (b) the additional amount calculated under subclause (3) for the period from 13 December 2000 to 30 June 2001.
- (3) The additional amount payable for the period from 13 December 2000 to 30 June 2001 by a large line owner must be calculated by the Minister as follows:
- $$\text{actual Commission costs} \times \text{proportion of the total asset valuation}$$
- where—
- actual Commission costs is \$519,195
- proportion of the total asset valuation in relation to a large line owner, is the proportion that the most recent valuation of its system fixed assets bears to the total amount of those valuations for all large line owners, as publicly disclosed at the time of the Minister's calculation.
- (4) The levy for the financial year ending with 30 June 2002 must be collected in—
- (a) 1 instalment for the September, December, and March quarters and the additional amount under subclause (3); and
 - (b) 1 instalment for the June quarter.
- (5) The due date for payment—
- (a) of the first instalment is the 15th day after the large line owner receives an invoice for that instalment; and
 - (b) of the second instalment is the due date under regulation 6.

- (6) The Minister must notify each large line owner of the total amount of its levy calculated under regulation 7 and subclause (3) at the time of, or before, invoicing the large line owner for the first instalment.

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 13 December 2001.

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Notes

1 General

This is a reprint of the Electricity Line Owners (Commerce Commission Costs) Levy Regulations 2001. The reprint incorporates all the amendments to the regulations as at 28 June 2002, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Electricity Line Owners (Commerce Commission Costs) Levy Amendment Regulations 2002
(SR 2002/200)