



# Commerce (Levy for Control of Natural Gas Services) Regulations 2005

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 12th day of September 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to section 74 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 made after consultation in accordance with section 74(5) of that Act, makes the following regulations.

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## Regulations

### 1 Title

These regulations are the Commerce (Levy for Control of Natural Gas Services) Regulations 2005.

### 2 Commencement

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

### 3 Expiry

These regulations expire on the close of 1 September 2016.

### 4 Application

These regulations apply to the financial year ending with 30 June 2006 and subsequent financial years.

### 5 Interpretation

In these regulations, unless the context otherwise requires,—

**Act** means the Commerce Act 1986

**actual Commission costs**, in respect of a financial year, means the amount—

- (a) identified in the Commission's audited financial statements for that year as the costs to the Commission of administering Part 4 and sections 70 to 74 of the Act in respect of the controlled services; but
- (b) that does not exceed the total amount appropriated for that year within Vote Energy for the non-departmental output expense that relates to the costs to the Commission of administering Part 4 and sections 70 to 74 of the Act in respect of the controlled services

**controlled services** means the services that are controlled under the Commerce (Control of Natural Gas Services) Order 2005

**estimated Commission costs**, in respect of a financial year, means the appropriation, or proposed appropriation in the Estimates, at the time of the Minister's calculation under regulation 7, for the financial year within Vote Energy for the non-departmental output expense that relates to the costs to

the Commission of administering Part 4 and sections 70 to 74 of the Act in respect of the controlled services

**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, as the case requires,—

- (a) the period beginning on 12 September 2005 and ending with 30 June 2006;
- (b) each subsequent year beginning on 1 July and ending with 30 June, until 30 June 2016;
- (c) the period beginning on 1 July 2016 and ending with 1 September 2016.

## **6 Levy payable**

- (1) Each person that is a supplier of controlled services on the first day of a financial year must pay a levy for that financial year to the Minister.
- (2) That levy—
  - (a) must be calculated initially under regulation 7 on the basis of the estimated Commission costs; and
  - (b) must be reconciled after the end of the financial year under regulation 10 against the levy that would have been payable on the basis of the actual Commission costs.

## **7 Levy must be calculated on basis that each supplier of controlled services pays equal amount of estimated Commission costs**

The Minister must calculate the levy payable for a financial year so that each supplier of controlled services pays an equal amount of the estimated Commission costs.

## **8 Minister must notify annual levy amount**

The Minister must notify each supplier of controlled services of the full annual amount of its levy (as calculated under regulation 7) at the time of, or before, invoicing the supplier for the first instalment.

## **9 How and when levy must be paid**

- (1) The levy is payable in equal monthly instalments in advance.

- (2) However, the invoice for the first instalment after these regulations come into force must cover—
  - (a) the instalment amount for the following month; and
  - (b) the amount payable in respect of the period from 12 September 2005 to the start of the month referred to in paragraph (a).
- (3) The due date for payment of each instalment is—
  - (a) the 15th day after the supplier receives an invoice for that instalment; or
  - (b) if the supplier receives that invoice more than 15 days before the commencement of the month to which it relates, the first day of the month.
- (4) In addition, any shortfall included in the levy under regulation 10 may be collected by a further invoice, and the due date for payment of that amount is the 15th day after the supplier receives that invoice.

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

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 had used the actual Commission costs for the year rather than the estimated Commission costs; and
- (b) notify each supplier of controlled services 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 supplier the amount over-recovered from it; and
- (d) if there has been a shortfall in recovering those actual Commission costs, invoice the supplier for the amount under-recovered from it, as part of the levy for that year.

Diane Morcom,  
Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette* and expire on 1 September 2016, impose levies to recover the costs to the Commerce Commission of administering control under Part 4 and sections 70 to 74 of the Commerce Act 1986 for certain natural gas line function services and metering services provided in respect of distribution and gas measurement systems related to Vector Limited and Powerco Limited.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 15 September 2005.

These regulations are administered in the Ministry of Economic Development.

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