



Electricity Line Owners (Commerce Commission Costs) Levy Regulations 2001

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.

Contents

1	Title	8	Minister must notify levy amount
2	Commencement	9	Levy may be recalculated following more recent asset valuations
3	Application		
4	Interpretation	10	Levy must be reconciled on basis of actual Commission costs after end of financial year
5	Levy on large line owners		
6	How and when levy must be paid		
7	Levy must be calculated on basis of estimated Commission costs	11	Transitional provision for first financial year to which levy applies

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:

estimated Commission costs \times proportion of the total asset 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 "Monitoring and Price Control of Electricity Lines Businesses"

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.

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 “Monitoring and Price Control of Electricity Lines Businesses”.

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:

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

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 section 7 and subsection (3) at the time of, or before, invoicing the large line owner for the first instalment.

Marie Shroff,
Clerk of the Executive Council.

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*, impose levies on large line owners. The levy relates to the costs of performing the Commerce Commission's functions, powers, and duties under Part 4A of the Commerce Act 1986 and of collecting the levy money.

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. However, the Minister must collect the levy in quarterly instalments invoiced to each large line owner under *regulation 6*. The due date for each instalment is 15 days after receipt of the invoice (but not before the commencement of the quarter).

The levy must be calculated by the Minister under *regulation 7* on the basis of the estimated Commission costs for the financial year. The **estimated Commission costs** is the appropriation or proposed appropriation within the relevant Vote. Those costs are levied

among large line owners according to their proportion of the total valuations of line business system fixed assets. The Minister must notify each large line owner of its levy amount at the time of, or before, invoicing the first quarterly instalment.

The levy may be recalculated during the financial year under *regulation 9* if more recent asset valuations are publicly disclosed. If the levy is recalculated, the Minister must notify the relevant large owner of its recalculated levy amount and adjust the next quarterly instalment.

The Minister must reconcile the levy under *regulation 10* after the end of the financial year against the levy that would have been payable on the basis of the actual Commission costs rather than the estimated Commission costs. If there has been an over-recovery of the actual Commission costs, the Minister must refund to each large line owner the amount over-recovered from it. If there has been a shortfall in recovering the actual Commission costs, the Minister must include in each large line owner's levy the amount under-recovered from it. The **actual Commission costs** are those identified in the Commerce Commission's audited financial statements that are presented to the House of Representatives. However, they are capped at the total relevant appropriations for the year.

The levy for the first financial year (the year ending with 30 June 2002) includes, in addition to the amount calculated under *regulation 7*, an amount for the period from 13 December 2000 to 30 June 2001. This first levy may be collected in only 2 instalments, since the financial year has already commenced. The first instalment will include the amounts for the first 3 quarters of the financial year and the additional amount. The second instalment will be collected by the usual method for the June quarter.

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

Date of notification in *Gazette*: 13 December 2001.

These regulations are administered in the Ministry of Economic Development.
