

**SUMMARY OF CERTAIN ASPECTS OF THE COMALCO AGREEMENTS AND
PARTS C AND G OF THE ELECTRICITY GOVERNANCE RULES 2003 -
PUBLISHED BY THE ELECTRICITY COMMISSION UNDER REGULATION 201
OF THE ELECTRICITY GOVERNANCE REGULATIONS 2003**

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SECTION 1 - INTRODUCTION AND BASIS OF SUMMARY

Introduction

1. The Comalco Agreements are certain agreements relating to the purchase of electricity for the operation of the aluminium smelter at Tiwai Point (the **Smelter**). The Smelter is owned and operated by New Zealand Aluminium Smelters Limited (**NZAS**), a company owned 79.36% by Comalco New Zealand Limited and 20.64% by Sumitomo Chemical Company Limited. The amount of electricity purchased is currently in excess of 5,000 GWh per annum, approximately 15% of national demand.
2. The Electricity Governance Regulations 2003 contain, in subpart 2 of Part 10, special provisions for the Comalco Agreements in relation to the Electricity Governance Rules 2003.
3. These special provisions include, in regulation 201, a requirement on the Commission to publish a summary of the cumulative effect of Comalco Agreements that, in the Commission's opinion, sufficiently describes how those agreements may affect each Comalco party's ability to comply with Part C and Part G of the rules in certain circumstances, but for the special provisions.
4. This summary is published by the Commission under regulation 201.

Basis of Summary

5. It is important to note that:
 - (a) this summary is limited to the aspects set out and is itself subject to the other notes in this paragraph. It is not a summary of the Comalco Agreements generally, including their commercial terms, or pricing or cost implications, nor does it address any other aspect of these agreements;

- (b) it is prepared and published under, and for the purpose of, regulation 201 only. The Commission accepts no other responsibility for its contents or use;
- (c) the Comalco Agreements are many in number and complex in many ways. Different interpretations of various provisions of the agreements, or their effect, do, and will, exist. This summary is not an interpretation by the Commission of any of the agreements, or of the regulations or the rules (the **EGRs**), that is binding on itself, the Rulings Panel, any Comalco party, or any other person. The descriptions in this summary of various provisions or agreements are also subject to specific definitions, qualifications, limitations, and other provisions in the EGRs, or in the Comalco Agreements themselves;
- (d) the summary is prepared on the basis of the knowledge and views of the Commission at this time, including, and utilising, information provided by the Comalco parties to the Commission. However, it is the Commission's summary and is not to be taken as necessarily the views or position of any Comalco party;
- (e) the Commission is also conscious of the reference in regulation 204 to "...the public interest of enabling the public to understand how the Comalco Agreements or variations may affect each Comalco party's ability to comply with Part C or Part G of the rules in certain circumstances, but for this sub-part". The summary takes that into account;
- (f) the summary is not an analysis of all the situations which could arise involving the Comalco Agreements and Part C and Part G;
- (g) the summary addresses how compliance with Part C and Part G **may** be affected. Whether, in fact or in law, compliance **is** affected by any

of the Comalco Agreements in any particular situation, and whether the special provisions apply to any particular act or omission, are separate matters on which the Commission, in this summary, expresses no view;

- (h) the summary is in relation to the EGRs as they presently stand. These could change;
- (i) the rules have only been in force since March 2004. Understanding of the actual implications of the Comalco Agreements in respect of Part C and Part G and the special provisions will be a developing process. This will also be assisted by notifications to the Commission under the special provisions.

SECTION 2 - THE COMALCO SPECIAL PROVISIONS - SUBPART 2 OF PART 10 OF THE REGULATIONS

- 6. Under regulation 199, each of the Comalco parties must comply with the rules.
- 7. The exception, in regulation 199, is that Part C and Part G of the rules (dealing with quality and trading of electricity) do not apply to a Comalco party "...to the extent that the act or omission is necessary to perform an obligation, or to exercise a right or power, under a disclosed provision of a Comalco agreement that is in force at the time of that act or omission". In relation to what is meant by an act or omission being "necessary" for this purpose, regulation 199(3) states:

- "(3) In these regulations, an act or omission is necessary to perform an obligation, or to exercise a right or power, under a disclosed provision of a Comalco agreement, if either -
 - (a) the Comalco party reasonably believes, at the time of the act or omission, that the act or omission was necessary for that purpose; or
 - (b) the act or omission was, in fact, necessary for that purpose."

8. Other elements of the special provisions provide for:
 - (a) the obligation of each Comalco party to supply to the Commission copies of each Comalco Agreement (apart from certain pricing information) to which it is a party;
 - (b) obligations of the Commission to publish a summary as noted in section 1 above, and in respect of confidentiality;
 - (c) obligations of each Comalco party to notify the Commission of acts or omissions that may be, or have been, a breach of Part C or Part G of the rules, but for the special provisions, and for the Commission to publish the fact of receipt of those notifications; and annual “wash-up” notifications;
 - (d) how the Commission is to deal with acts or omissions that may have been a breach of Part C or Part G;
 - (e) appeals against certain decisions of the Commission or Rulings Panel;
 - (f) relief from liability of NZAS, and imposition of liability on Meridian for certain costs and charges, and provision that the special provisions do not affect the liability of any Comalco party that is a participant for costs or charges in other respects.
9. Similar provisions apply to certain variations of the Comalco Agreements.

SECTION 3 - THE COMALCO AGREEMENTS AND THE COMALCO PARTIES

10. The Comalco Agreements to which the special provisions apply are specified in the schedule to the regulations, and also include certain subsequent variations disclosed to the Commission under the special provisions.

11. Those agreements comprise:

(a) **Power Agreements**, being agreements

- between Meridian, Comalco and, in some cases, NZAS, (the **MCPAs**) under which (now) Meridian is obliged to supply electricity to Comalco at Tiwai Point on the basis set out in these agreements up to Comalco's total contractual entitlement (as described in paragraph 13). The electricity supplied must be of a contractually acceptable quality and reliability;
- between Comalco, NZAS, Meridian and Electricity Corporation of New Zealand Limited (**ECNZ**) relating to the 1995 ECNZ/Contact separation, the 1998 ECNZ split, the creation of Meridian and matters arising from them, including in relation to Meridian's obligations to supply electricity;
- between Contact and Meridian under which Contact is obliged to supply to Meridian electricity produced by the power stations at Clyde and Roxburgh on the basis set out in that agreement (the **Contact-Meridian Agreements**).

(b) **Comalco-NZAS Agreements**, being agreements between Comalco and NZAS under which NZAS purchases the electricity supplied by Meridian to Comalco under the MCPAs;

(c) **Connection Agreements (the TPCC)** being agreements between Transpower and Meridian in relation to the connection of NZAS' Tiwai Point assets to the national grid, the transmission of electricity to the Smelter, and the co-ordination of energy with transmission.

Power Agreements

MCPAs

12. Comalco contracts to purchase electricity from (now) Meridian pursuant to three long-term Power Agreements (which have been varied from time to time). The earliest dates back to 15 August 1963 and was initially between the Crown and Consolidated Zinc Proprietary Limited. The second is dated 30 April 1981 and is between the Crown and Comalco. The third is dated 20 August 1993 and is between ECNZ and Comalco. In 1993, at the time the third contract was negotiated, the 1963 and 1981 contracts were amended by deeds. Since 1993 there have been a number of supplementary agreements. The term of the agreements is until 31 December 2012, extendable in certain circumstances to 31 December 2022.
13. Comalco has the right to take up to 553.75 MW of electricity until the expiry of the MCPAs. Of this, 10 MW is additional supply which may be suspended by Meridian. In addition, Comalco and Meridian have periodically entered into short-term supplementary contracts that allow Comalco to take an additional 66.25 MW of supplementary power. The supplementary power may be suspended by Meridian for operational reasons. The 10 MW of additional supply is not available while the supplementary power is available to Comalco, so Comalco's total contractual entitlement is 610 MW (**total contractual entitlement**). To deal with fluctuation at the Smelter, Comalco is also permitted to increase demand above its contractual entitlement by 27.5 kWh in any ten second period.
14. Meridian must make available and is responsible for the delivery (at the point of supply located at the Smelter) of Comalco's total contractual entitlement.
15. The electricity made available to Comalco under the MCPAs may be on-sold to NZAS for the purpose of aluminium smelting at the Smelter and for

purposes ordinarily auxiliary to that, but may not be otherwise sold or supplied to any other person without the prior written consent of Meridian.

16. The MCPAs include express acknowledgement by Meridian that the operations of the Smelter are sensitive to interruptions in the continuous supply of electricity.
17. Meridian must use its “..... reasonable endeavours”:
 - (a) to make available continuously to Comalco at the point of supply the total contractual entitlement; and
 - (b) to supply such aggregate:
 - (i) at a nominal voltage of 220 kV. The phrase “nominal voltage” in this context means voltage in the range of 213 kV to 228 kV (except for momentary and unintentional fluctuations). Meridian further acknowledges the importance for Comalco and NZAS of the maintenance of reliable and steady voltage and, accordingly, must endeavour to maintain a steady voltage within that range. (Comalco has stated that any loosening of the voltage standard constitutes a significant risk and increased cost for Comalco. It states that capacitors were installed at North Makarewa, at Comalco’s cost, partly to deal with this risk); and
 - (ii) in the form of alternating current at a normal periodicity of a nominal 50 Hertz on the three-phase system, except for momentary fluctuations, within 1.5% of 50 Hertz.
18. Meridian is deemed to have used its reasonable endeavours in respect of certain quality and reliability obligations if the quality and reliability of the supply of electricity to the Smelter under the MCPAs is of an equivalent standard to the quality and reliability of supply of electricity to the Smelter in

the period from commencement of operation of the Smelter to 31 December 1992, subject to the following proviso:

- (a) Meridian is not to be treated as not having used its reasonable endeavours if the quality of supply is adversely affected by the Manapouri Power Station having completely ceased generating electricity on infrequent occasions for sound operational reasons relating to that station; and
 - (b) the reasonable endeavours obligation can be suspended by agreement between the parties for a purpose relating to the prudent maintenance of Transpower's capacitors, which were specifically installed for the maintenance of voltage at the point of supply.
19. In either of the above events, Meridian is required, nevertheless, to take all reasonable steps to maintain quality of supply.
20. Comalco's contractual entitlement to quality of supply under the MCPAs can be affected if it exceeds its demand entitlement. In particular:
- (a) if demand exceeds the total contractual entitlement but such excess demand is no greater than 27.5 kWh in any 10 seconds, then Meridian must use reasonable endeavours to maintain supply and will use reasonable endeavours to maintain the quality of supply (as described in paragraphs 17 and 18 above), but is not under any liability for a failure to maintain such quality of supply;
 - (b) if demand above the total contractual entitlement exceeds 27.5 kWh in any 10 seconds, Meridian must endeavour to maintain supply but if it experiences problems with its generation system or the transmission system, then Meridian is relieved of its obligations to supply electricity to Comalco until it is practical, in Meridian's view, to restore supply.

21. As to transmission, the MCPAs envisage that Meridian may subcontract to Transpower or any other operator of the national grid in the South Island (so long as that operator has the capability to meet the quality and reliability standards prescribed) the transmission of electricity pursuant to the MCPAs from the point or points of generation to the Smelter's point of supply.

22. Notwithstanding the subcontracts permitted as described in the preceding paragraph for the transmission of electricity, under the MCPAs the parties acknowledge that neither Meridian nor Comalco should be in any better or worse position in respect of their rights and obligations in relation to quality and reliability of supply under the MCPAs (including in relation to force majeure) than if Meridian was itself the owner and operator of the national grid in the South Island. To this end:
 - (a) Meridian remains liable to Comalco for the delivery to the point of supply, in accordance with the terms of the MCPAs, of the total contractual entitlement under the MCPAs; and

 - (b) no act or omission of the grid operator under its subcontract with Meridian, and no other event or circumstance affecting the grid operator or the national grid in the South Island, can constitute an event of force majeure under the MCPAs or relieve Meridian from any obligation or liability under the MCPAs unless, if the grid operator (and not Meridian) was supplier of electricity to Comalco under the MCPAs, the grid operator (in its capacity as such supplier) would be entitled to invoke the force majeure provisions in the MCPAs.

23. Comalco and NZAS must use all reasonable endeavours to ensure that the power factor of NZAS is not less than 0.95 lagging. Meridian's obligations in relation to quality are suspended during any half hour when the power factor is less than 0.95 lagging, unless the parties have agreed to suspend Comalco's power factor obligations for a purpose related to the prudent maintenance of the Smelter, in which event Meridian must nevertheless use reasonable endeavours to maintain the contractual voltage.

24. The MCPAs contain force majeure provisions excusing the respective parties from performance in the event of causes beyond their control, as set out in the MCPAs.
25. Each of Meridian's and Comalco's ability to call force majeure is affected by certain provisions.
26. Quite separately from the force majeure provisions, other reduction in consumption provisions also apply.
27. In the event of certain insolvency-related events, or failure to pay or on-going force majeure events or other persistent failure to comply, Meridian can either suspend the supply of electricity to Comalco or terminate the MCPAs. Similarly, Comalco is entitled to suspend the purchase of electricity or terminate the MCPAs in the event of Meridian's insolvency or significant failure.
28. On termination of the MCPAs, unless Transpower has advised Meridian in writing that Meridian will not be liable for future charges in respect of the point of supply and its connection to the national grid, Meridian is entitled to, and must on request from Comalco, disconnect the supply of electricity to Comalco at the point of supply.

Contact-Meridian Agreements

29. Under a deed dated 16 January 1996 and a supplementary agreement, Contact agrees to supply to Meridian, or such other person agreed between those parties in the circumstances set out in those agreements, electricity produced by the power stations at Clyde and Roxburgh for purposes relating to Meridian's obligations under the MCPAs, on the basis set out in that agreement.

Comalco-NZAS Agreements

30. These agreements provide for the on-sale by Comalco to NZAS of electricity made available to Comalco under the MCPAs.

Connection Agreements (TPCC)

31. Under the TPCC Transpower permits NZAS' Plant (i.e. the lines, equipment and plant on NZAS' side of the point of connection necessary to convey electricity) (**NZAS' Plant**) to be connected and continue to be connected to the national grid, and to provide transmission services. The TPCC is for a term expiring on 31 December 2022, although Meridian may give notice to Transpower to terminate the contract on 31 December 2012 (reflecting the possible term of the MCPAs) on the basis set out in the TPCC.

32. To permit NZAS' Plant to be connected to the point of connection (and to remain connected over the term of the TPCC) for the purpose of taking electricity from the national grid, Transpower must, in respect of the point of connection:

- (a) provide any electric lines necessary to enable transmission to the point of connection;
- (b) provide and maintain equipment for connection between the national grid and the plant; and
- (c) complete the connections between the terminals of the national grid and the plant,

all in accordance with the provisions of the TPCC.

33. Electricity transmitted by Transpower is deemed to have been taken by Comalco and NZAS at the time of transmission to the point of connection.

34. Comalco and NZAS give Transpower access to the point of supply/substation, free of charge, for the purposes of the TPCC.

35. Transpower must:

(a) maintain and operate the national grid; and

(b) if undertaking any modifications to the national grid, design and construct the same,

as a reasonable and prudent operator, in each case with the objective of maintaining the capacity of the point of connection at the maximum demand entitlement (being the total contractual entitlement under the MCPAs).

36. The maximum demand entitlement under the TPCC has been increased from 553.75MW to 610MW through a series of supplementary agreements to enable Meridian to supply the supplementary power described in paragraph 13 of this summary.

37. In relation to Transpower, a “reasonable and prudent operator” means an operator whose standard of performance is equal to or better than good electricity transmission operating practice (determined by reference to proper and prudent engineering, economic management and safety practices which are generally recognised internationally as being applicable to an operator of a transmission network), having regard to the steps which such an operator would take to perform the operations contemplated by the TPCC in New Zealand. Further, Transpower is deemed to be a reasonable and prudent operator if the standard of performance at the point of connection provided pursuant to the TPCC is maintained at an equivalent standard to that at the point of connection in the period from the commencement of operation of the Smelter to 31 December 1992.

38. In respect of the supplementary power, Transpower's obligations to maintain capacity are reduced above 553.75 MW in certain circumstances, such as when Meridian has not generated the agreed amount of electricity at Manapouri or during substantial unplanned grid outages.
39. Meridian may in good faith request Transpower to perform its obligations described above so as to maintain capacity greater than the maximum demand entitlement or to perform its above obligations to a standard different from that required of a reasonable and prudent operator, and Transpower must in good faith consider such request. It is envisaged that the parties may enter into a supplementary contract to reflect any agreement reached.
40. If demand at the Smelter is exceeded, Meridian is liable for any damage caused to the national grid, recognising the importance to Transpower of the maximum demand entitlement not being exceeded.
41. In turn, Meridian must procure that NZAS provides, installs, maintains and operates NZAS' Plant as a reasonable and prudent operator. Meridian is also required to provide, install, maintain and operate Meridian's Plant as reasonable and prudent operator.
42. Transpower must use its reasonable endeavours as a reasonable and prudent operator:
 - (a) to maintain voltage at the point of connection at a nominal voltage of 220 kV, being, in particular, a steady voltage within the range of 213 kV to 228 kV; and
 - (b) to provide continuous transmission to the point of connection at the maximum demand entitlement.
43. For the purposes of the above, Transpower is not to be treated as not having used its reasonable endeavours as a reasonable and prudent operator, if

failure to meet the quality standards referred to above arises from certain acts or omissions by Meridian.

44. If the level of demand at the point of supply exceeds the maximum demand entitlement, Transpower's obligations in relation to quality of transmission are reduced from a reasonable endeavours as a reasonable and prudent operator obligation, to an obligation to endeavour to maintain quality of supply.
45. Transpower may interrupt or reduce transmission to the Smelter if:
 - (a) Transpower is using its reasonable endeavours as a reasonable and prudent operator to fulfil its obligations under the TPCC; and
 - (b) it is in the opinion of Transpower necessary to so interrupt or reduce transmission either totally or partially for any period for the purposes of testing, adding to, altering, repairing, replacing or maintaining electrical lines, cables, machinery, equipment or any other apparatus including structures and supports or for any other purpose which in the opinion of Transpower requires interruption or reduction of transmission of electricity.
46. In the event of any interruption to or reduction of transmission, Transpower must:
 - (a) seek Meridian's agreement to the extent practicable so as to minimise disturbance to the business of NZAS;
 - (b) use reasonable endeavours to notify Meridian as early as reasonably practicable of its intention to interrupt or reduce transmission; and
 - (c) use all reasonable endeavours to minimise the period of the interruption or reduction.

47. However, if, in Transpower's opinion (still acting as a reasonable and prudent operator) there is an immediate danger to any persons or electrical lines, cables, machinery, equipment or other plant or property of whatever kind, or the integrity of the national grid, then Transpower may, without notice to Meridian, immediately interrupt or reduce transmission either totally or partially so as to remove the danger.
48. Transpower may ask Meridian to enter into good faith negotiations with Comalco in relation to a facility for automatic under frequency tripping at the Smelter.
49. Meridian must ensure that Comalco and NZAS observe their power factor obligations. Transpower's obligations are suspended during any half-hour when the power factor is less than 0.95 lagging.
50. Transpower (in addition to its ownership and operation of the national grid) is specified to have the function of co-ordinating the dispatch and transmission of electricity injected into the national grid, provided there is a dispatch contract or arrangement with Transpower (as the dispatcher) which remains binding and in full force and effect.
51. If at any time any person other than Transpower is a dispatcher, then Transpower is relieved of its obligations to maintain voltage and its obligations to provide continuous transmission are deemed to be replaced by an obligation on the part of Transpower to use reasonable endeavours as a reasonable and prudent operator to maintain transmission assets in respect of transmission to the point of connection at the maximum demand entitlement.
52. Certain force majeure and liability limitation provisions apply.

The Comalco parties

53. For the purposes of the rules, the Comalco parties are participants as follows:

Comalco Party	Participant under rules	
	Part C	Part G
Comalco	ancillary service agent	ancillary service agent
NZAS	asset owner consumer distributor/ direct consumer	consumer
Meridian	asset owner generator ancillary services agent purchaser	purchaser generator ancillary service agent
Transpower	system operator grid owner HVDC owner	system operator grid owner
Contact	asset owner generator ancillary service agent purchaser	purchaser generator ancillary service agent

SECTION 4 - PARTS C AND G OF THE ELECTRICITY GOVERNANCE RULES

54. Part C of the rules relates to common quality of electricity. In particular, the rules in Part C concern the principal performance obligations of the system operator, the performance obligations of asset owners, arrangements concerning ancillary services and technical codes.
55. Part G of the rules provides for processes by which:
- purchasers and generators submit and revise bids and offers for electricity, grid owners submit and revise information, ancillary service agents submit reserve offers and the system operator collects information;
 - the system operator prepares the pre-dispatch schedules, prepares and implements the dispatch schedules and prepares and publishes forecast prices, forecast reserve prices, dispatch prices and real time prices;
 - the clearing manager holds must-run dispatch auctions;

- the pricing manager collects data and produces provisional prices and final prices;
 - participants provide reconciliation information and the reconciliation manager carries out the reconciliation process.
56. The full provisions of Part C and Part G can be viewed on the Commission's website at www.electricitycommission.govt.nz/govern/regs/index.html.

SECTION 5 - HOW THE COMALCO AGREEMENTS MAY AFFECT EACH COMALCO PARTY'S ABILITY TO COMPLY WITH PARTS C AND G OF THE RULES IN CERTAIN CIRCUMSTANCES

57. The Commission addresses this under the following headings:

- Voltage
- Frequency
- Continuity of Supply
- General

Note that obligations on Comalco parties referred to in this section are qualified in a number of the Comalco Agreements in the ways set out in section 3. The following section should therefore be read in conjunction with the description of the relevant obligations in section 3 as well as section 1.

Voltage

58. The voltage range specified under the MCPAs to be supplied to Comalco by Meridian is 213 kV - 228 kV.
59. Under Part C of the rules a wider voltage range of 198 kV (-10.0%) - 242 kV (+10%) is specified as the range within which:

- (a) Transpower as grid operator is to ensure its relevant assets are capable of being operated;
 - (b) NZAS as a distributor, and Meridian and Contact as asset owners, are to ensure their respective relevant assets are capable of being operated, and do operate.
60. The Commission is informed by Comalco that the Smelter is not capable of operating at the wider voltage range, and that system voltages outside the 213-228 kV range would cause equipment overloads, with the potential to require demand reduction and/or protective equipment trips. The resultant instability in supply is stated by Comalco as affecting the smelting process, resulting in lost production, inefficiency and an increased safety risk to personnel.
61. To provide voltage at the tighter range of 213-228 kV, under the TPCC Transpower, as system operator, may have to act differently from its obligations under Part C, or under any local quality agreement under the rules, in relation to voltage range. This means that the system operator may have less flexibility in the way it operates the voltage range in other parts of the grid in the lower South Island.

Frequency

62. The frequency range specified and included in Meridian's obligations under the MCPAs for electricity to be supplied to Comalco by Meridian is, except for momentary and unintentional fluctuations assessed at the point of supply with reference to the circumstances set out in the MCPAs, between 49.25 to 50.75 Hz (both inclusive).
63. Part C of the rules specifies, in relation to the frequency objective of Transpower's reasonable and prudent system operator obligations, a normal frequency range of between 49.8-50.2 Hz. This is, save for momentary

fluctuations, for which the range in the South Island is 45-55 Hz (both inclusive), assessed on a statistical basis across the whole grid.

64. Save for momentary fluctuations, the obligations in respect of the narrower frequency band specified in Part C ordinarily should not be affected by the MCPAs or TPCC.

Continuity of Supply

65. Under, and subject to, the MCPAs, Meridian is required to use its reasonable endeavours to make the total contractual entitlement available (within the relevant voltage and frequency ranges) continuously to Comalco at the point of supply. This has been categorised by Meridian as, in essence, a direct physical supply obligation.
66. Under, and subject to, the TPCC, Transpower is required to use its reasonable endeavours as a reasonable and prudent operator to provide the continuous transmission of the specified entitlement to the point of connection.
67. Those obligations may affect:
 - (a) the system operator's obligations as a reasonable and prudent operator under Part C in respect of any requirements it may make of Meridian in relation to limiting the magnitude of any instantaneous changes in off-take of electricity, and net rates of change in off-take;
 - (b) Meridian's obligations to comply with any such requirements of the system operator;
 - (c) in the event of the power systems failing, the system operator's obligations as a reasonable and prudent operator under Part C in relation to priority of restoration of supply;

- (d) the exercise by the system operator of its discretion not to dispatch assets (power) of Meridian or Contact where it is not satisfied that the assets comply with the relevant obligations of Meridian or Contact as asset owners under Part C;
- (e) the exercise by the system operator of its discretion to request NZAS, as a distributor, or itself as grid owner, or Meridian or Contact, to reduce demand, or require the disconnection of demand, or take other reasonable action in grid emergencies, or where frequency, or grid voltage, are outside the requisite range;
- (f) the obligations of those persons to comply with any such requirement of the system operator;
- (g) the TPCC may affect the obligations of Transpower, as grid owner, under Part C in respect of South Island automatic underfrequency load shedding. The MCPAs or TPCC may affect the extent to which Transpower, as system operator, can require NZAS or the grid owner to install automatic undervoltage load shedding equipment;
- (h) the obligation of Transpower as grid owner to ensure its assets are capable of being operated between the defined voltage range, support voltage to prevent system collapse, and are designed and configured consistently with Part C;
- (i) the obligations of Transpower as the HVDC owner to meet its obligations to contribute assets to support frequency during an under-frequency event;
- (j) the obligation of the system operator to meet its dispatch obligations under Part G, including in respect of preparation and implementation of dispatch schedules

- (k) the obligation of Meridian and Contact to comply with dispatch instructions received by them under Part G;
- (l) the obligation of Meridian and Contact to comply with provisions of Part G, relating to revisions or departures from the bids and offers provision.

General

- 68. The Commission notes that the operation of the Comalco Agreements at any time may involve acts or omissions, the detail or nature of which will not always be capable of being known in advance, and the circumstances of which may vary widely.
- 69. These include matters which may affect compliance with various provisions of Part C and Part G where they involve:
 - (a) timing and notification of particular acts or omissions;
 - (b) a Comalco party acting in respect of their own assets in order to perform an obligation under a Comalco agreement;
 - (c) what may be different standards, or measurements of performance between a Comalco agreement and Part C or Part G. Whether, and if so the extent to which, the standards imposed on the Comalco parties (e.g. in respect of “reasonable endeavours”, or acting as a “reasonable and prudent operator”) differ as between the agreements or from those under the rules, will itself be a matter for consideration with regard to a particular act or omission.
- 70. The special provisions recognise these matters by providing a general exclusion in respect of Part C and Part G in the circumstances set out in regulation 199(1) where the act or omission “.... is necessary to perform an obligation, or to exercise a right or power ...” under the relevant agreement.

71. Importantly, however, that general exception is accompanied by an obligation on the parties to notify the Commission of acts or omissions that may be, or have been, a breach of Part C or Part G. That notification is to be as soon as practicable after the party became aware, or should reasonably have become aware, that an act or omission may be, or have been, such a breach. If the Commission so consents, where a breach is likely to occur frequently, notification may be given in advance of the breach occurring.

72. From the information available to the Commission at this stage, it appears that in practical terms, compliance with Part C and Part G may more likely be affected as described in section 5 in circumstances where operations of the Smelter, particularly major or sudden increases or reductions in load, necessitate procedures and timing which differ from certain procedures which would otherwise be followed under Part G.

73. In circumstances (which the Commission expects will be relatively rare) involving

- restoration of power to the Smelter when there has been an outage; or
- where reduction or shedding of load is required;

the provisions of the Comalco Agreements may give Comalco/NZAS a priority over that resulting from compliance, but for the special provisions, with Part C by the Comalco parties.

74. Whether any act, omission or priority is available to a Comalco party, what that involves and how different in practice would it be from compliance with Part C and Part G, but for the special provisions, will also depend on the circumstances of that matter.

APPENDIX 1 – DEFINITIONS

In this document, unless the context otherwise requires:

Act means the Electricity Act 1992

Comalco means Comalco Power (N.Z.) Limited

Comalco Agreements means

- (a) the agreements described in the Schedule to the regulations, and
- (b) includes any agreement that varies or has the effect of varying an agreement referred to in (a)

in both cases supplied to the Commission under sub-part 2 of Part 10 of the regulations

Comalco-NZAS Agreements means the agreements referred to in paragraph 11(b) of this document

Comalco party means a party to a Comalco Agreement

Commission means the Electricity Governance Board established under sub-part 1 of Part 15 of the Act

Connection Agreements means the agreements referred to in paragraph 11(c) of this document

Contact means Contact Energy Limited

Contact-Meridian Agreements means the agreements referred to in paragraph 11(a) of this document

ECNZ means Electricity Corporation of New Zealand Limited

EGRs means the regulations and the rules

Meridian means Meridian Energy Limited

Meridian's Plant means the lines, equipment and plant on Meridian's side of a point of connection to the national grid necessary to convey electricity

MCPAs means the agreements referred to in paragraph 11(a) of this document

NZAS means New Zealand Aluminium Smelters Limited

NZAS' Plant means the lines, equipment and plant on NZAS' side of the point of connection necessary to convey electricity

Power Agreements means the agreements referred to in paragraph 11(a) of this document

regulations means the Electricity Governance Regulations 2003

rules means the Electricity Governance Rules 2003

Rulings Panel means the Panel established by regulation 160 of the regulations

Smelter means the aluminium smelter at Tiwai Point referred to in paragraph 1 of this document

total contractual entitlement has the meaning set out in paragraph 13 of this document

TPCC means the Connection Agreements referred to in paragraph 11(c) of this document