



Supreme Court of New Zealand

10 September 2007

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Unison Networks Ltd v Commerce Commission
SC 12/2007
[2007] NZSC 74

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court’s judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

The Supreme Court has dismissed an appeal by Unison Networks Ltd which challenged the validity of decisions taken by the Commerce Commission in 2003 and 2004 as regulator of electricity lines businesses.

Legislation passed in 2001 required the Commerce Commission to put in place a regime for regulation of the 29 regional electricity lines businesses in New Zealand which operate as regional monopolies. The regulatory scheme provides a targeted regime for the imposition of price control on those businesses which the Commission decides require control. The scheme provides for the Commission to set “thresholds” as part of a process for identifying any such businesses. If a lines business, in the course of its trading, breaches any threshold, the Commission must inquire into and decide whether price control should be imposed on it.

The Commission’s initial price threshold set in 2003 required that lines businesses make no increases in their price levels for a period of 20 months.

Its second price threshold allowed price movements within a stipulated price path. Unison challenged the lawfulness of both thresholds in judicial review proceedings.

The Court of Appeal decided that the first threshold was unlawful. That part of the decision was challenged by the Commission and has been overruled by the Supreme Court. The Supreme Court upheld the Court of Appeal's decision that the second threshold was lawful. The overall effect of these findings is that Unison's appeal was dismissed. Unison has been ordered to pay \$25,000 costs to the Commerce Commission.

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