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Ben Woodham
Electricity Distribution Manager
Commerce Commission
44 The Terrace
WELLINGTON

Dear Ben

Submission to Open Letter

1. INTRODUCTION

1. Orion welcomes this opportunity to provide feedback on the Commerce Commission's (Commission) open letter, *'Ensuring our approach to price paths is delivering for consumers'*.
2. No part of this submission is confidential.
3. Orion owns and operates the electricity distribution infrastructure in Central Canterbury, including Ōtautahi Christchurch city and Selwyn district. Our network is both rural and urban and extends over 8,000 square kilometres from the Waimakariri River in the north, to the Rakaia River in the south; from the Canterbury coast to Arthur's Pass. We deliver electricity to more than 228,000 homes and businesses and are New Zealand's third largest Electricity Distribution Business (EDB).

2. APPROACH TO THIS CONSULTATION

4. We note that the open letter seeks feedback on both the recent reset of the fourth default price-quality path (DPP[4]) and matters relevant to the DPP5 reset in 2030. Orion remains firmly focussed on the future and we have not revisited the DPP4 process in any detail. We have attempted to focus most of our attention on improvements we think are likely to incentivise an uplift in asset management planning performance and genuinely 'shift the dial' for consumers.
5. We consider that it is challenging to focus on DPP processes without considering the broader Part 4 regulatory framework, as it currently applies to non-exempt EDBs. In our view, there is, or ought to be, an interconnection between the input methodologies (IMs) that set the upfront rules for regulation, and the information disclosure (ID) regulation designed to demonstrate the effectiveness of the Part 4 regulatory framework and provide accountability. This approach is shown in Figure 1, below.

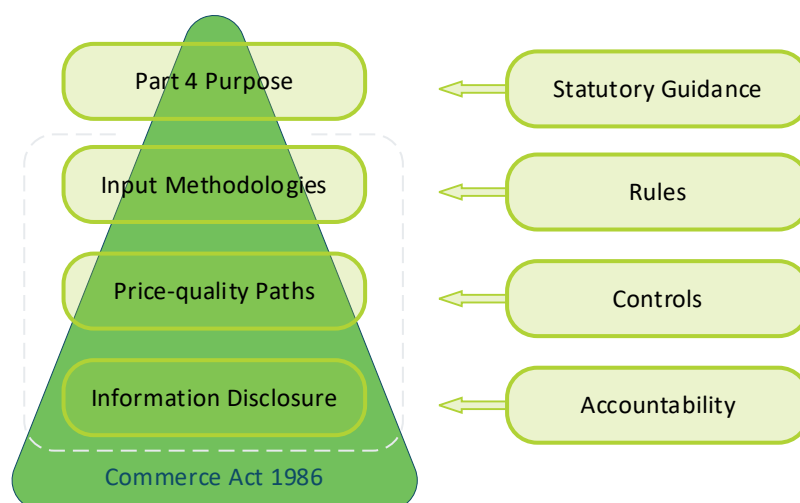


Figure 1: Part 4 Regulatory Framework

6. In this submission, we consider the issues that may be impacting the effectiveness of the current DPP approach and offer recommendations for improvement. The interconnected nature of the regulatory framework means that those recommended improvements may not be associated with the DPP-setting mechanism directly, but with the IMs or the ID determination.
7. With that view in mind, we think that the Commission should integrate its processes for reviewing the IMs and ID with the DPP reset. This would entail:
 - 7.1. Contextual scanning – identifying what issues will be most important during the next regulatory period, what investment is likely to be needed, what outcomes need to be incentivised, and what policy decisions need to be made;
 - 7.2. Deciding what IMs need to be changed, or developed, to give effect to policy decisions;
 - 7.3. Deciding what information needs to be disclosed to better inform DPP reset decisions; and
 - 7.4. Deciding what information needs to be disclosed to validate that policy decisions and EDBs' investments are effective.
8. In Orion's view, this means aligning the IM and ID review processes with the DPP reset and treating them as one package. There is no barrier to aligning the periodic review of IMs with the DPP, as the Commerce Act 1986 (Act) states only that the review period must not exceed 7 years.¹ We think that such an approach may reduce the need for ad-hoc, out-of-cycle IM changes.
9. Because we have taken a wider view of the Part 4 framework, we have also considered whether wider changes would be useful, beyond application to just non-exempt EDBs. While this is somewhat beyond the scope of the Commission's open letter, we think that not doing so would be a missed opportunity.

¹ Section 52Y

3. CONTEXT

10. New Zealand's national declaration of a climate emergency, on 2 December 2020, has stimulated increased electrification of the nation's energy needs. Consequently, EDBs are sailing uncharted waters as they respond to increasing demands for electricity, develop systems and operational practices for managing two-way power flows, increase reliance on non-network solutions, and balance investment needs against affordability.
11. We consider that the electricity supply sector and its consumers are in the midst of a transformative shift in energy use, which brings significant risks, opportunities and benefits. EDBs will play a significant role in that shift, and it is critical that the regulatory environment continues to provide:
 - 11.1. the right incentives for EDBs to invest and operate with the long-term benefit of its consumers in mind; and
 - 11.2. appropriate protections for consumers if EDBs 'miss the mark'.
12. There is a challenge to making specific predictions about the context in which the DPP5 reset will be placed. Significant uncertainty exists as to the pace of electrification and, as of 1 October 2025, the New Zealand Government's response to the Electricity Market Performance Review has introduced a degree of regulatory uncertainty that, while lower than it might otherwise have been, EDBs have not seen for fifteen years, or so.
13. Despite this, we think the following context is likely:
 - 13.1. **Continued investment pressure on EDBs.** Ongoing electrification will see continued demand for consumer connection and related system growth capital expenditure. Continued integration of Distributed and Consumer Energy Resources (D/CER) is likely to be pressuring non-network capex and system operations and network support (SONS) expenditure. Enabling climate resilience is likely to require EDBs to build asset health, undertake targeted asset hardening and generally build for resilience.
 - 13.2. **Ongoing high energy costs.** Insufficient firming, dispatch prioritisation that is not focussed on conservation of firming resources (i.e., water), and energy intensive new electricity connections (AI datacentres, and similar) is likely to see high energy costs sustained, increasing energy hardship, and evaporating consumer tolerance for bill impact.
 - 13.3. **External threats.** While AI brings opportunities for efficient network management, more sinister applications are likely to see more frequent and sophisticated cybersecurity threats, requiring EDBs to adopt proportionate and increasingly complex preventative measures.
 - 13.4. **Operationalising DSO.** The distribution sector will have moved beyond thinking about the roles of Distribution System Operators (DSO) and will have commenced implementation, including establishing DSO regions, operational interfaces and standardised commercial agreements for provision of DSO services.
 - 13.5. **Reliability and Resilience.** Increased reliance on electricity will be elevating the criticality of reliable and resilient networks.
14. Sectoral change generally results in a need to depart from past practices, which may mean that sector regulation also needs to change, bringing new or amended incentives and protections. For this reason, we think it is necessary to look wider than just the DPP, which we have attempted to do in this submission.

4. PART 4 REGULATION

15. Orion considers that the regulatory framework, given under Part 4 of the Act, remains broadly fit-for-purpose. While climate objectives, including the declared climate emergency, do not form part of the Part 4 framework, they are permissive considerations under section 5ZN of the Climate Change Response Act 2002 and may be contemplated by the Commission in its regulatory decisions
16. Under the Act:
 - 16.1. All EDBs are subject to information disclosure regulation (s54F); and
 - 16.2. 16 of 29 EDBs are subject to default/customised price-quality regulation (s54G), by virtue of not meeting the definition of consumer-owned (s54D).
17. We consider that better outcomes for consumers could be achieved if s54G of the Act was amended so that the regulation applying to non-exempt EDBs was broadened to 'price-quality regulation', consistent with s52B(2)(c) of the Act, instead of the narrower imposition of 'default/customised price-quality regulation'. This would increase the regulatory tools available to the Commission to include individual price-quality path (IPP) regulation. While such a change would not compel the Commission to implement IPP regulation for any EDBs, we consider that it is poor legislative/regulatory practice to prevent the Commission from having access to the full range of regulatory control mechanisms specified in the Act.
18. While we acknowledge that a change to the Act would not be a trivial exercise, we consider such a relatively isolated amendment could be added to the package of changes to the Act announced by the Minister of Commerce and Consumer Affairs (the Minister) on 16 September 2025.² Additionally, the Government's response³ to the Electricity Market Performance Review conducted by Frontier Economics⁴ signals the possibility of a further, targeted review of the Act.
19. Orion recommends that the Commission engage with the Ministry of Business, Innovation and Employment and the Minister to explore appropriate avenues to amend s54G of the Act to read,
 - 54G** *Certain electricity lines services are also subject to default/customised price-quality regulation*
 - (1) All electricity lines services ~~(other than those supplied by Transpower)~~ are subject to ~~default/customised~~ price-quality regulation under this Part unless they are exempt.
 - (2) All electricity lines services that are supplied by a supplier that is consumer-owned are exempt (unless an Order in Council has been made in respect of the service under section 54H).

5. FORM OF REGULATION SETTINGS - OVERVIEW

20. In Orion's view, ongoing consumer concerns about electricity affordability provide sufficient cause to reflect whether the current 'form of regulation' settings are appropriate and fully delivering outcomes consistent with the Part 4 purpose.

² New Zealand Government. (2025). [Going For Growth: Competition Reform](#). 16 September 2025.

³ Ministry of Business, Innovation & Employment. (2025). [Key Frontier recommendations and the Government's response](#). 1 October 2025.

⁴ Frontier Economics. (2025). [Review of Electricity Market Performance](#). 23 May 2025 (published 1 October 2025).

5.1. Customised Price-quality Path (CPP) Regulation

21. We observe the following characteristics of the current CPP settings:
- 21.1. Applies at the discretion of the applicant EDB.
 - 21.2. Limited use to-date, with three 'standard' CPPs determined (one attributable to a catastrophic event) and one 'single issue/limited' CPP determined.
 - 21.3. Detailed ('bottom up') expenditure forecasting, with the majority scrutinised by an Independent Verifier (IV). Residual expenditure not assessed by the IV is scrutinised by the Commission.
 - 21.4. Highly detailed application requirements and strong, explicit links to the Expenditure Objective.
 - 21.5. Applicant EDB may optionally propose a Quality Standard Variation (QSV), that may result in different values of targets, limits, boundaries and incentive parameters.
 - 21.6. Requires effective consumer consultation on the CPP proposal.
 - 21.7. Contains incentive mechanisms to control expenditure, innovate and improve aspects of reliability. The CPP process offers some flexibility in how incentives are designed through IM variations agreed with the Commission.
 - 21.8. Contains a range of mechanisms to address unforeseen external events and other uncertainties. The CPP process offers some flexibility in how uncertainty mechanisms are designed through IM variations.
 - 21.9. Developed and determined at a relatively high cost when compared to the DPP. Preparation, verification, audit, and Commission assessment costs are significant, and carry varying impacts on consumers depending on the size of the applicant EDB (consumers of small EDBs face higher impacts).

5.2. Default Price-quality Path (DPP) Regulation

22. We observe the following characteristics of the current DPP settings.
- 22.1. Applies to 16 of 29 EDBs (55%), covering 81 percent of all customer connections, and accounting for approximately 78 percent of total forecast expenditure over the DPP4 period.⁵
 - 22.2. Involves limited, or proxy, scrutiny of forecast capital expenditure (capex) that only constrains expenditure growth.⁶ Under historic approaches to expenditure scrutiny, it is not obvious how the Commission would identify and adjust individual inflated forecasts, or how general declining investment needs would be accommodated. While the latter is unlikely to be a material concern for the next few regulatory periods, with electrification driving investment for most EDBs, the limited scrutiny afforded by the DPP does not effectively address prudence or efficiency.

⁵ As disclosed in EDBs 2025 Asset Management Plans & updates.

⁶ With aggregate caps on EDBs' forecasts of capital expenditure of 120% applied in DPP2 & DPP3 (in addition to DPP3 category caps), and 125% in DPP4, there has been a general upward trajectory that may not be sustainable in the longer term. Most EDBs have had their capex capped at past resets, with 7 of 16 uncapped in DPP2, 5 of 16 uncapped in DPP3, and 6 of 15 uncapped in DPP4 (excludes Aurora). Only one EDB's capex forecasts have been uncapped in all three resets.

- 22.3. Involves limited, or proxy, scrutiny of operational expenditure (opex) by forecasting using a base-step-trend (BST) approach that is largely independent of EDBs' opex forecasts. The 'base' is set as the opex reported for a recently completed disclosure year. Identified permanent expenditure changes can be recognised through 'steps' (both positive and negative), and the trend has historically been determined by network scalars (ICP numbers, circuit length and, from DPP4, capital expenditure). Prudence and efficiency are not specifically considered, especially in regard to the 'base'.
- 22.4. Contains weak links to the Expenditure Objective, other than within the IM definition and two input methodology (IM) clauses associated with price path reconsideration.⁷
- 22.5. Imposes a minimum quality standard approach that emphasises performance consistency (no material degradation of service) and which, over time, can lead to a gradual deterioration of performance, despite continued compliance.⁸
- 22.6. Contains limited explicit consumer engagement requirements.⁹
- 22.7. Contains incentive mechanisms to control expenditure, innovate and improve aspects of reliability.
- 22.8. Contains a range of mechanisms to address unforeseen external events and other uncertainties.
- 22.9. Genuinely delivered at a lower cost relative to Customised Price-quality Path (CPP) regulation.
- 23. In its Electricity Market Performance Review, Frontier Economics declared that the *"two-tier DPP/CPP regime is no longer fit for purpose"*¹⁰ This assertion was not directly challenged by either Daglish & Associates¹¹ or NERA in their peer review, although NERA commented that *"Frontier's analysis would benefit from an exploration of how reforms of the price-quality regulation framework could incentivise necessary investments under the status quo ..."*.¹² Frontier's principal reasons for its assertion were that:
 - 23.1. The DPP framework cannot set future expenditure allowances commensurate with potential step changes in consumer demand, due to its foundation on historical trends;
 - 23.2. DPP/CPP regulation was set when electricity demand was in a steady state;
 - 23.3. The scale and pace of the energy transition, coupled with inadequate DPP allowances, may risk triggering more CPP applications than the Commission can reasonably cope with;
 - 23.4. The cost and regulatory burden of the CPP process may deter applications, especially from smaller EDBs;
 - 23.5. Industry-wide, EDBs' assets are aging, and replacements are not keeping pace; and
 - 23.6. Unplanned System Average Interruption Duration Index (SAIDI) attributable to defective equipment is trending upward.

⁷ Currently, in the context of the DPP, the Expenditure Objective is only explicitly considered in IM clauses 4.5.11 (Risk Event) and 4.5.14 (amending DPP after reconsideration).

⁸ This is due to the $\pm 5\%$ cap on inter regulatory period movements of the target that applied in the DPP3 and DPP4 resets (the cap also applied to movements in the limit for DPP4).

⁹ Limited to consultation associated with depreciation adjustment factors and quality standard variations, specified in IM clauses 4.2.2(5)(a)(iii) and 4.5.12(2)(e), respectively.

¹⁰ [Ibid.](#) Section 8.4.1, p116.

¹¹ Daglish & Associates. (2025). [Review of the NZ Electricity Market Performance: Peer Review Evaluation](#). 8 June 2025 (published 1 October 2025).

¹² NERA. (2025). [NERA Peer Review of Frontier Economics Final Report on New Zealand Market Performance](#). Table 2.1, p22.

24. While we agree with some of Frontier’s observations, we do not agree that the CPP/DPP regime is broken. We consider that CPP regulation is fit for its intended purpose. DPP regulation has its deficiencies, but changes in the way DPP regulations are applied, along with targeted improvements to the framework can overcome those deficiencies. We discuss this and resulting recommendations in section 6.2, below.

5.3. Information Disclosure Regulation

25. We observe the following characteristics of the current ID settings:
- 25.1. Applies to all EDBs.
 - 25.2. Represents the only constraining regulation for 13 of 29 (45%) EDBs (‘exempt’ EDBs), covering 19 percent of all customer connections, and accounting for approximately 22 percent of total forecast expenditure over the DPP4 period.⁴ The rationale for exempting certain EDBs from DPP/ CPP regulation is linked to consumer-ownership on the basis that those relevant consumers *“are best placed to ensure the business acts in their interests”*.¹³
 - 25.3. Requires wide ranging information to be public disclosed (with some sensitive information disclosed to the Commission only) - forecast financial and technical information, historic performance information, commercial arrangements, pricing and other policy information.
 - 25.4. No explicit link to the Expenditure Objective.
 - 25.5. Limited explicit consumer engagement requirements, except for bespoke ID requirements applying to Aurora Energy.
26. Frontier also commented on ID regulation in its Review of Electricity Market Performance, not as a critique of the regulation, but in the context of being the only constraining regulation on exempt EDBs. Frontier asserted that:
- 26.1. The ‘real’ reason consumer-owned EDBs are exempted from price-quality regulation is related to size, rather than any ability for consumers to exert control over EDB performance;
 - 26.2. The exempt distinction is nonsensical, as many large price-quality regulated EDBs have significant proportions of consumer ownership;
 - 26.3. There is evidence that a lack of regulatory control has led to potentially poorer governance and decision making;
 - 26.4. Exempt status denies *“the consumers served by those EDBs the long-term benefits offered by effective regulation ...”*; and
- recommended that exempt status should be revoked and all EDBs subject to price-quality regulation.¹⁴
27. While, in our view, some of these concerns appear to have validity,¹⁵ revocation of exempt status is a significant step requiring careful consideration and legislative change. We consider that some of these issues can be overcome through targeted changes to ID regulation. We discuss this and resulting recommendations in section 6.3, below.

¹³ Commerce Amendment Bill 201-2. [Commentary – Reported from the Commerce Committee](#). 24 July 2008. P11.

¹⁴ [Ibid.](#) Section 8.4.2, pp118-120 & section 8.5.1, pp133-140.

¹⁵ For example, debate during the second reading (2 September 2008) of the Commerce Amendment Bill 201-2 strayed beyond ownership as a rationale for exempt status, to introduce business size, avoidance of complex regulation, and resulting reduction in compliance and costs – refer https://www3.parliament.nz/mi/pb/hansard-debates/rhr/document/48HansD_20080903_00001494/commerce-amendment-bill-second-reading

6. FORM OF REGULATION SETTINGS – IMPROVEMENT OPPORTUNITIES

6.1. CPP Regulation

28. As stated above, Orion considers that CPP regulation is, overall, fit for purpose and achieves its intended purpose of providing an EDB the opportunity to seek a price-quality path more tailored to its individual circumstances.
29. One area where we think the CPP could be improved is prospective reopener mechanisms. There are two ‘default’ prospective reopener mechanisms under the DPP – the unforeseen project reopener and the contingent project reopener. The use of both reopeners is constrained by a significant financial threshold.
30. In our view, while a CPP proposal requires detailed and robust forecasting approaches, this does not mean that uncertainty is ameliorated. In general, uncertainty under a CPP remains as it would under the DPP and, arguably, there is less scope for reprioritisation of expenditure under a CPP when it has been verified as prudent and efficient. There is, as we noted at paragraph 21.8, above, more flexibility for a CPP applicant to agree tailored reopener mechanisms by way of IM variations as part of the CPP determination; however, we think there is value in ensuring that the standard CPP reopeners, as specified in the IMs, are fit-for-purpose in the first place.
31. To properly assess the effectiveness of CPP regulation, the process must be experienced end-to-end. While we offer no specific recommendations for improvement in this submission, there are doubtless process improvements that can be identified, and we will likely provide feedback to the Commission on such once the CPP proposal we are working on is assessed and determined.

6.2. DPP Regulation

6.2.1. Application of DPP regulation

32. As noted above, concerns with DPP revenue setting approach include:
 - 32.1. Expenditure forecasting approaches have an historic ‘anchor’, and may not adequately recognise and allow for step changes in investment necessitated by electrification; and
 - 32.2. Limited, or proxy, scrutiny of EDB’s expenditure forecasts is unlikely to adequately assess prudence and efficiency of proposed investment.
33. This suggests that non-exempt EDBs’ proposed expenditure should be exposed to ‘CPP level’ scrutiny; however, the resources required to apply that level of scrutiny to 16 non-exempt EDBs is likely to be prohibitive. Frontier recommended that all EDBs be subject to IPP regulation;¹⁶ however, that was linked to another of its recommendations – that EDBs be forced to amalgamate into five ‘super-EDBs’.¹⁷ The government has agreed that “*further oversight could improve efficiency*” but has stated that this can be achieved by other (unspecified) means.¹⁸

¹⁶ [Ibid.](#) Section 8.5.2, p141

¹⁷ [Ibid.](#) Section 8.5.1, p133.

¹⁸ [Ibid.](#)

34. Orion does not think that IPP regulation should be lightly dismissed. We consider that implementing IPP regulation for selected EDBs would benefit a substantial proportion of New Zealand electricity consumers by:
- 34.1. Providing a stimulus to advance maturity in asset management practices and innovation;
 - 34.2. Providing deeper and targeted scrutiny of proposed expenditure;
 - 34.3. Facilitating deeper and more meaningful consumer engagement; and
 - 34.4. Providing greater emphasis on readiness for, and adoption of, non-network solutions and flexibility.
35. Implementing IPP regulation would mean that fewer EDBs would be subject to a 'relatively low cost' regulatory regime. However, while the costs of preparing, verifying and auditing proposals are significant, those costs would occur only five-yearly and should be considered against the potential benefits brought by deeper scrutiny of a significant proportion of sector expenditure.
36. It is also accepted that there would be an initial, non-recurring cost in developing IPP IMs for EDBs (which could be tailored from the CPP IMs), and ongoing costs for the Commission's assessment of proposals, for which the Commission will need to be appropriately resourced.¹⁹
37. The extent of consumers that could benefit from the additional scrutiny afforded by application of IPP regulation to their EDB is illustrated in the following examples:²⁰
- 37.1. IPP regulation applying to the 5 largest non-exempt EDBs would cover 65% of all ICPs (or 81% of non-exempt EDBs' ICPs) and 60% of all EDBs' forecast expenditure over the DPP4 period (or 77% of non-exempt EDBs' expenditure over the DPP4 period).
 - 37.2. IPP regulation applying to the 'Big 6' group of non-exempt EDBs would cover 69% of all EDBs' ICPs (or 86% of non-exempt EDBs' ICPs) and 66% of all EDBs' forecast expenditure over the DPP4 period (or 84% of non-exempt EDBs' expenditure over the DPP4 period).
38. The preceding paragraph demonstrates that limited application of IPP regulation could provide benefits to a large proportion of consumers. The examples provided are illustrative, and we have not attempted any cost-benefit evaluation of the optimum number of EDBs that should be subject to IPP regulation.
39. Orion recommends, subject to the legislative change recommended at paragraph 19, that the Commission applies IPP regulation to larger non-exempt EDBs, with the exact number of subject EDBs determined by the Commission.

6.2.2. Expenditure Objective

40. As noted at paragraph 22.4, DPP regulation is only weakly linked to the Expenditure Objective, being explicitly stated within two DPP IM clauses associated with reconsideration mechanisms. The DPP4 determination does not mention the Expenditure Objective and neither does the ID determination. The ID determination does not mention prudence or any derivative thereof, but does mention efficiency nine times:

¹⁹ Section 53Z of the Commerce Act 1986 contemplates that the Commission should be able to determine up to 4 CPPs in a single year, so we assume that there would be no structural or legislative impediment to the Commission increasing resources to accommodate the introduction of IPP regulation to EDBs.

²⁰ Expenditure data obtained from EDBs' 2025 AMP forecasts and ICP data obtained from EDBs' 2024 information disclosures.

- 40.1. Twice in relation to cost efficiency;
 - 40.2. Twice in relation to energy efficiency;
 - 40.3. Three times in guidance notes (twice relating to cost efficiency, and once relating to energy efficiency); and
 - 40.4. Twice in bespoke ID requirements applying to Aurora Energy.
41. The definition (below) makes it clear that all non-exempt EDBs are subject to the Expenditure Objective. However, in Orion's view, this is a somewhat passive approach analogous to a 'statement of expectation'. We also question why the Expenditure Objective applies to non-exempt EDBs only, as we discuss further in section 6.3.2, below.

expenditure objective means the objective that **capex** and **opex** reflect the efficient costs that a prudent **non-exempt EDB** would require to-

- (a) meet or manage the expected demand for **electricity distribution services**, at appropriate service standards, during the **DPP regulatory period** or **CPP regulatory period** and over the longer term; and
- (b) comply with applicable regulatory obligations associated with those **electricity distribution services**;

42. We consider that the DPP determination process may be improved if EDBs were required to actively demonstrate how the Expenditure Objective is applied to their expenditure forecasts.
43. Orion recommends that Attachment A of the ID determination is amended to require EDBs to:
- 43.1. describe how their expenditure forecasts comply with the Expenditure Objective;
 - 43.2. provide details of the management and governance challenges to assure compliance with the Expenditure Objective; and
 - 43.3. summarise the results of any external reviews the EDB has undertaken to test compliance with the Expenditure Objective.

6.2.3. Independent Verification

44. The purpose of our recommendation in the preceding paragraph is two-fold. Firstly, in relation to DPP regulation outcomes, to give the Commission additional comfort in its ability to rely on non-exempt EDBs' forecasts and, secondly, to increase the effectiveness of ID regulation by demonstrating to interested persons that EDBs are investing in a manner consistent with the Part 4 purpose.
45. Despite this, the Commission may still be reticent, in the absence of deeper scrutiny, to rely on non-exempt EDBs' forecast when setting the DPP. It has been suggested in informal forums that voluntary, independent verification may be a useful tool that, if applied by a non-exempt EDB, would be effective in increasing the Commission's confidence that it could rely on that non-exempt EDB's expenditure forecast.
46. If the Commission was minded to implement our recommendation, at paragraph 43 regarding the Expenditure Objective, independent verification would of course be an effective means of testing a non-exempt EDB's compliance with the Expenditure Objective.

47. We support voluntary, independent verification but note that some threshold should be specified, under which independent verification should not be sought (for example, if the non-exempt EDB's forecast for the forthcoming DPP period was below 100% of expenditure in an historic reference period). We also consider that the IMs will need to be amended to allow recovery of independent verification under DPP regulation.
48. Orion recommends that the Commission modifies the IMs to allow a non-exempt EDB to provide an independent verifier's report in support of forecast expenditure for the forthcoming DPP period, including specifying:
- 48.1. the terms of reference for the independent verifier under the DPP context (if different to IM Schedule G);
 - 48.2. the process for engaging the independent verifier under the DPP context (if different to IM Schedule F)
 - 48.3. a threshold (including an appropriate historic reference period against which the threshold would be measured) under which, for the purpose of efficiency, independent verification should not be sought;
 - 48.4. the deadline for submission of an independent verifier's report, if not provided with the 'base-year' AMP; and
 - 48.5. that the costs of independent verification are recoverable under the DPP.
49. Independent verification can provide many of the benefits of CPP/IPP regulation by stress testing an EDBs' asset management planning approaches and lifting asset management maturity as a consequence. However, as any EDB that has been through a CPP process knows, preparing for and undergoing verification is a significant undertaking. For this reason, non-exempt EDBs may be reluctant to pursue voluntary, independent verification with the result that the benefits accruing from verification would be lost.
50. Orion recommends that, in addition to our recommendation at paragraph 48, the Commission amends the IMs to require that up to 4 non-exempt EDBs are randomly selected²¹ in each regulatory period (year 4) to provide an independent verifier's report in support of forecast expenditure for the forthcoming DPP period.
51. The purpose of this recommendation is to set an environment where the possibility of being selected to provide a verifier's report provides an incentive for EDBs to move toward best practice asset management planning and expenditure forecasting.

6.2.4. Consumer Consultation

52. As noted at paragraph 22.6, the requirements for consumer consultation, within the DPP and associated determinations, appear to be weakly specified. As examples:
- 52.1. The Expenditure Objective states "... *expected demand for electricity distribution services, at appropriate service standards ...*" which implies that consumers' views should be sought on service standards, if not demand for services.

²¹ The random selection would not be changed if a non-exempt EDB was already pursuing voluntary, independent verification.

52.2. In relation to the DPP IMs, the only areas that set an explicit expectation of consumer consultation are limited to depreciation adjustment factors and quality standard variations.

52.3. In relation to ID, the only areas that set an explicit expectation of consumer consultation are limited to:

- pricing methodologies, regarding expectations for price and quality (ID clause 2.4.2(4));
- Asset Management Plans, in terms of how stakeholders' interests are identified, accommodated and conflicting interests are managed (ID Attachment A, clause 3.6); and
- bespoke reporting requirements specific to Aurora Energy.

53. We note that the Commission has consistently emphasised the importance of consumer consultation in informal meetings and forums; however, we consider that more explicit consumer consultation requirements should be specified.

54. We consider that the DPP would be enhanced if EDBs were required to formally consult with consumers on their expenditure plans for the forthcoming regulatory period. Consultation should also be used to gauge/confirm consumers' views on the quality of service, including reliability performance forecast to be delivered over the forthcoming regulatory period. As with targeted improvements to the operation of the Expenditure Objective, recommended above, we consider that more specific consumer consultation requirements have the potential to increase the Commission's confidence that non-exempt EDBs' AMPs can be substantially relied upon.

55. Orion recommends that the ID determination (including Attachment A, as necessary), be amended to require:

55.1. All EDBs to consult with consumers, in year 4 of each DPP period, on their proposed expenditure and forecast quality of service (including reliability) for the next regulatory period;

55.2. All EDBs to present a consultation summary in their AMP for the final year of the DPP period, and that non-exempt EDB publish a more comprehensive consultation report alongside that AMP; and

55.3. Consumer consultation to be undertaken against the IAP2 Spectrum²² to a minimum of 'involve' level, with explicit funding provided for establishment and maintenance of customer reference panels.

6.3. ID Regulation

56. The purpose of ID regulation, given in s53 of the Act, is to "*ensure that sufficient information is readily available to interested persons to assess whether the purpose of this Part[4] is being met*".

57. We have made several recommendations for enhancements to ID in preceding sections. For the avoidance of doubt, where we have referred to 'EDBs' rather than 'non-exempt EDBs', we consider that the change should have unrestricted application.

²² International Association for Public Participation. (2024). [IAP2 Spectrum of Public Participation](#).

6.3.1. Scale and Breadth of Disclosures

58. EDBs are currently required to publish a wide range of disclosures under ID regulation, and the Electricity Authority is ramping up its own disclosure requirements, potentially risking overlap.
59. We consider that information disclosures should be:
- 59.1. Readily usable;
 - 59.2. Used;
 - 59.3. Clear and unambiguous.
60. There are areas where we question whether the information we are required to disclose is useable, or used. For example, ‘*Schedule 8: Report on billed quantities and line charge revenues*’ elicits a large volume of information in most EDBs disclosures, and we struggle to identify any evidence of this information being used. While the information does highlight the range of EDBs’ tariff structures, that information is readily obtained from pricing methodology and pricing disclosures.
61. Another area where we identify questionable use is in the related party disclosures (additional to the information disclosed in Schedule 5b). While we acknowledge that there are potential risks to consumers from related party transactions, and that it is important to periodically ‘shine a light’ on the nature and character of related party relationships, we find EDBs’ disclosures to be highly repetitive year-on-year, and question whether annual disclosure is appropriate, and whether the information is actually used at this frequency of disclosure.
62. In relation to clarity and ambiguity, a recent report by the Office of the Auditor General notes that:
- “Electricity distribution businesses have, in the past, expressed concern about the substantial, complex, and multiple disclosure requirements. We have seen the effects of this complexity through our work (see Part 2). Our auditors also continue to raise these concerns.”*²³
- We think this is a valid concern. Disclosure requirements should be clear and unambiguous. If they are not, it compromises the integrity and comparability of the disclosed information by requiring EDBs, auditors, and information users to apply their own interpretations. Any disconnect between the interpretations applied to compile and to use the disclosure renders the disclosed information ineffective.
63. While there have been periodic, targeted reviews of ID, a more substantive review might soon be needed to ensure that the overall regime remains fit-for-purpose, and to rationalise low value disclosures.
64. Orion recommends that the Commission schedule a substantive review of the current ID Determination before the DPP5 reset to ensure that information disclosure requirements are clear, and unambiguous, that the information to be disclosed is readily usable, and has a high probability of being used. The office of the auditor general should be a key stakeholder in this review to ensure auditability of ID requirements.

²³ Office of the Auditor General. (2025). [Electricity distribution businesses: Observations from the 2023/24 audits. June 2025](#). Paragraph 1.32, p13.

6.3.2. Expenditure Objective

65. In developing our recommendation at paragraph 43, we identified that the expenditure object does not apply to exempt EDBs, which are subject to ID regulation only. We believe that the Expenditure Objective should have universal application and find it inconceivable that any consumer of an exempt EDB, acting reasonably, would not want their EDB to meet the objective and demonstrate compliance within their disclosures.
66. Orion recommends that the definition of Expenditure Objective in clause 1.1.4(2) of the IMs be amended so that it applies to all EDBs, as below:
- expenditure objective** means the objective that **capex** and **opex** reflect the efficient costs that a prudent ~~non-exempt~~ EDB would require to-*
- (a) meet or manage the expected demand for **electricity distribution services**, at appropriate service standards, ~~during the DPP regulatory period or CPP regulatory period and~~ over the longer term; and*
- (b) comply with applicable regulatory obligations associated with those **electricity distribution services**;*
67. Related to the Expenditure Objective, and in the interest of improving confidence in EDBs' asset management planning practices and facilitating greater reliance on AMPs, we consider that greater transparency of EDB's major capex business cases would be useful.
68. Publishing major capex business cases would provide greater transparency on an EDB's practical:
- 68.1. assessment and management of risk;
 - 68.2. depth of options analysis, including the use of flexibility;
 - 68.3. consideration of customer impact; and
 - 68.4. application of economic analysis.
69. It is possible that business cases might be subject to confidentiality concerns when large capex projects are associated with, or a consequence of, customer development. Confidentiality could be managed through limited redaction (to the minimum extent necessary to preserve confidentiality).
70. Orion recommends that the ID Determination be amended to require EDBs to publicly disclose approved business cases for major capex projects having a value of \$5 million or greater. Business cases may be redacted to the minimum extent required to preserve confidentiality. Disclosure should apply from approval of the business case until 12 months after the date of commissioning.

6.3.3. Monitoring Economic Efficiency

71. The Frontier report recommended that the prohibition on the Commission using comparative benchmarking to set prices, as set out in section 53P(10) of the Act, be removed.²⁴ Frontier cited, as justification, the productivity improvements of Australian EDBs since 2014, when comparative benchmarking was factored into setting EDBs' opex allowances.²⁵ The Government's response has been to agree in principle and to indicate that this could be accommodated by a targeted review of the Act.²⁶
72. We have concerns about setting prices based on comparative benchmarking without robust testing of the methodology and outcomes. There is limited homogeneity across New Zealand's 29 EDBs (or even 16 non-exempt EDBs) and care must be taken to avoid making an efficiency determination that could otherwise be explained by incomparable operating circumstances. A robust benchmarking framework is required to identify appropriate comparative cohorts and to normalise for differences within that cohort.
73. Comparative benchmarking is easy to get wrong. A representative example of this is given by Strata's comparative benchmarking of Aurora's Energy's CPP SONS and Business Support expenditure²⁷, and associated critique by WSP²⁸ and PwC²⁹. This issue has recently been 'reopened' in the draft decision for Aurora Energy's transition to DPP4.
74. While we agree that benchmarking can be useful in incentivising improvements in efficiency, we would oppose any decision to introduce benchmarking into the DPP revenue setting process without adequate trial and testing/validation.
75. Orion recommends, if the Commission is minded to consider introduction of comparative benchmarking, subject to removal of constraints in the Act, that it does so by testing its models and approaches in ID for at least one regulatory period.

6.3.4. Monitoring Technical Efficiency

76. We have seen recent public commentary that suggests that EDBs' technical efficiency needs to be reported, with capacity utilisation often suggested as an example.
77. We note that some technical efficiency measures are already reported in ID (loss ratio and load factor) and there is sufficient information reported to calculate other measures. For example, capacity utilisation can be derived from information reported in ID '*Schedule 12b: Report on Forecast Capacity*' using the 'current peak load' and 'installed operating capacity' reported for each zone substation on the network.

²⁴ [Ibid.](#) Section 8.5.4, pp142-143

²⁵ [Ibid.](#) Section 8.4.4, pp124-125.

²⁶ [Ibid.](#)

²⁷ Strata Energy Consulting. (2020). [Consolidated Draft Briefing Reports: Assessment and opinions on specific topics related to Aurora Energy's June 2020 Customised Price Path application](#). November 2020.

²⁸ WSP. (2020). [Aurora CPP Draft Decision: Benchmarking review](#). December 2020.

²⁹ PricewaterhouseCoopers. (2020). [Aurora Energy - CPP Draft Decision SONS and People Cost Allowances: An Assessment of Strata Energy Consulting's Opex Briefing Report 6](#). 17 December 2020.

78. While these can be useful indicators of efficiency, there are practical and economic limitations to improving technical efficiency and opportunities to do so can be infrequent. For example, when increased demand requires a new zone substation to be built, it is possible to relocate underutilised power transformers to the new substation and purchase smaller units to replace them (provided that the cost of relocation doesn't exceed the marginal cost of the different power transformer size). The same opportunity would present itself during renewals. However, in the absence of such drivers, it would generally not be economic to intervene.
79. In some circumstances, reduced technical efficiency can be a function of demand growth out-turn being different from forecasts (sometimes set decades before), as well as relatively sudden external events like deindustrialisation. We note a recent IEEFA report that has highlighted a reduction of distribution network utilisation in Australia from 2006 to 2015 and asserts that the utilisation reduction has coincided with over-investment.³⁰ The Australian example is complex, but it is clear that extensive deployment of D/CER has impacted the utilisation of legacy assets. It is less clear that the alleged over-investment is in network capacity and in excess of the prudent investment needed to support connection growth.
80. We think that it is unlikely that New Zealand networks' utilisation will be impacted to a similar extent due some significant differences – most Australian networks are summer peaking due to cooling demand, which coincides with peak solar generation output, and Australia has had significant subsidies for installation of solar D/CER through regulated feed-in tariffs, which drove accelerated deployment. In contrast, New Zealand networks are mostly winter peaking, which coincides with reduced solar generation, and D/CER has not been subsidised until recently,³¹ and then relatively weakly.
81. The recommended solution to the reduced utilisation of Australian networks proposed by the author of the IEEFA report was for the regulated asset base to be optimised and written down. We would be concerned if such treatment was proposed in New Zealand (unless perhaps the write-down was accompanied by a commensurate accelerated depreciation recovery). Such an approach would not be an incentive for appropriate investment. We note that Australian regulators have, to-date, rejected IEEFA's optimisation recommendation.

6.3.5. Asset Management Maturity Assessment

82. The Commission introduced the Asset Management Assessment Tool (AMMAT) into ID in 2012 (as '*Schedule 13: Report on Asset Management Maturity*'), based on the British Standards Institution's PAS 55:2008 '*Specification for the Optimised Management of Physical Assets*', initiated by the Institute of Asset Management (IAM) in the United Kingdom.
83. Most EDBs now focus their attention on the ISO 55000 Standard series, with Unison Networks, Horizon Networks and Powerco having already achieved certification and others signalling to either seek certification or align their asset management approach to the standard. Although ISO 55000 had its genesis in PAS 55, there are differences, with ISO 55000 not restricted to physical assets and aligned to the broader ISO framework for standards.

³⁰ Institute for Energy Economics and Financial Analysis. (2024). [Reforming the economic regulation of Australian electricity distribution networks](#). May 2024.

³¹ The Electricity Authority's recent requirement that EDBs pay 'peak period' injection tariffs, irrespective of whether a constraint exists, amounts to a subsidy or windfall payment to C/DER owners that are not contributing to constraint relief.

84. Orion recommends that AMMAT is reviewed for alignment to ISO 55000 as a practical advancement toward greater uptake of ISO 55000 concepts.

7. INCENTIVES

7.1.1. Expenditure Efficiency

85. Incentives to control expenditure have been in place for some time now, through the Incremental Rolling Incentive Scheme (IRIS). In DPP3, the capex and opex incentives were equalised, which was intended to achieve a level of neutrality in terms of substituting opex for capex (or vice versa).
86. Despite considerable work by the Commission to demonstrate neutrality, including developing and publishing an equivalence model³² as part of the 2023 IM review, there appears to be a persisting view in some quarters that the IRIS is not neutral and that a capex 'bias' exists.
87. Regrettably, we are unable to provide a recommendation for resolving this issue but suggest that further work is required here. Our observation is that the IRIS is complex and difficult to follow,³³ and considerable effort is required to simplify the incentive, or if unable to simplify, to boost understanding.
88. We are concerned that if this issue is not resolved, the efficient use of non-network solutions could be limited or disincentivised, especially if flexibility is not directly allowed for (say, through a use-it-or-lose-it allocation), and capex/opex substitution is relied upon instead.

7.1.2. Innovation

89. DPP3 established a modest innovation project allowance (IPA), and DPP4 has developed this further, with greater available funding under the innovation and non-traditional solutions allowance (INTSA). A significant aspect of both incentive schemes is the requirement to publish a close-out report to disseminate the project learnings.
90. Orion supports innovation funding; however, the wider benefits of that funding are likely to be eroded if other EDBs do not consider the project learnings and how they can be applied to their own network. We consider that there should be a positive obligation on all EDBs (including exempts) to consider how innovation learnings can be adapted (if necessary) and adopted within their networks.
91. Orion recommends that Attachment A of the ID Determination is amended to require EDBs to describe how they have considered the learnings of IPA/INTSA close-out reports, and the action they intend to take to adopt or build on those learnings. Where no action is intended, EDBs should be required to state why.

7.1.3. Reliability

92. We noted at paragraph 13.5, above, that electrification is likely to increase reliance on electricity distribution networks, and require that they are reliable and resilient.

³² Commerce Commission. (2022). [Electricity Distribution Business IRIS Equivalence Model: Final version](#). 21 November 2022.

³³ This is exacerbated if moving to/from a CPP.

93. Using non-normalised reliability data obtained from the ID datasets published by the Commission, we note that:
- 93.1. Average unplanned (class C) reliability over the period 2013 to 2024 has remained somewhat static in terms of SAIFI, and declined marginally in terms of SAIDI,³⁴ and
 - 93.2. There is a wide variation in unplanned interruption frequency across New Zealand, where best-served customers on the most reliable network might expect an outage every four years, compared to every 3 months for worst-served customers on the least reliable network;
94. While we don't have any specific recommendation to make regarding reliability performance in the DPP context, we do question whether the significant differences in reliability performance across all EDBs will be sustainable into the future.
95. As we have pointed out elsewhere, EDBs are not homogenous and some EDBs face greater reliability challenges than others due to network topology, geography and exposure to natural hazards. However, we are not sure that these differences fully account for the wide variability in reliability performance.
96. Ideally, a normalisation framework would be developed that accounts for network differences and creates an operating range of 'expected' reliability performance. If this was able to be done, then incentives could be developed to shift outlying 'worst' performers into the expected range of performance. Once performance was normalised, consideration could then be given to improving broader, industry-wide performance to the extent expected by consumers and in line with their willingness to pay.
97. We do not think that the current quality incentive is effective in promoting improved reliability performance for non-exempt EDBs. The asymmetric nature of the quality incentive provides a stronger incentive to maintain reliability performance (i.e., not let performance decline) and avoid penalties, than to improve quality. We question whether a true incentive exists, or whether the scheme merely rewards or penalises variability in performance (with a bias toward penalties due to asymmetry).
98. The difficulty with improving reliability performance is that it requires significant investment and it takes time for that investment to be recognised in reliability metrics. There is limited empirical research on investment-reliability linkages; however, a study by the Lawrence Berkley National Laboratory³⁵ reported that single year investment is correlated with poorer reliability but sustained investment over three consecutive years was correlated with a reliability improvement. This reinforces that reliability focussed investments need to be sustained and likely well above the levels provided by the quality incentive for better than historic average performance.

8. SUMMARY

99. Orion appreciates the Commission's commitment to ensuring that price-quality regulation continues to deliver for consumers in a rapidly evolving energy landscape. We consider that the current framework remains broadly fit-for-purpose but believe targeted improvements are essential to address emerging challenges and opportunities.

³⁴ Statistics are influenced by Cyclone Gabrielle in 2023; however, we chose to use non-normalised data as this represents the actual customer experience.

³⁵ Lawrence Berkley National Laboratory. (2020). [Severe Weather, Utility Spending, and the Long-term Reliability of the U.S. Power System](#). May 2020.

100. Our recommendations focus on aligning regulatory processes, strengthening links to the Expenditure Objective, and enhancing consumer engagement and stakeholder information. We propose integrating IM and ID reviews with DPP resets, introducing IPP regulation for larger non-exempt EDBs, and improving transparency through limited independent verification and disclosure of major capex business cases. These changes will incentivise prudent investment, lift asset management maturity, and provide greater confidence in expenditure forecasts.
101. We have also recommended a substantive review of information disclosure requirements in advance of the DPP5 reset to ensure clarity, usability, and relevance, alongside measures to incentivise EDBs to operationalise innovation learnings. Collectively, these enhancements will support a regulatory environment that promotes efficiency, resilience, and consumer trust.
102. Orion looks forward to and encourages working collaboratively with the Commission and sector stakeholders to develop these recommendations further and ensure that regulation continues to deliver long-term benefits for consumers.
103. If you have any questions about this submission, please contact the undersigned.

Yours sincerely



Alec Findlater
Regulatory Lead – Commerce Commission