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# Input Methodologies Review: Emerging Views Papers

Submission to the Commerce Commission

From the Electricity Networks Association

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# 1. Introduction

The Electricity Networks Association (**ENA**) appreciates the opportunity to make a submission to the Commerce Commission (**Commission**) on the following consultation papers and expert reports:

- *Input methodologies review: Process update paper*, 29 February 2016 (**Process paper**);
- *Input methodologies review: Emerging views on form of control*, 29 February 2016 (**Form of control paper**);
- *Input methodologies review: Emerging views on opportunities to improve the way default and customised price-quality paths work together*, 29 February 2016 (**DPP and CPP paper**); and
- *Review of WACC Issues*, Dr Martin Lally, 25 February 2016 (**Lally Report**).

The ENA is providing a single submission in response to all of these papers, for simplicity and because of the relationships between them.

## 2. Summary of Recommendations

### 2.1. Process paper

The ENA recommends that:

- Dr Lally's advice on the cost of debt, asset base indexation and inflation risk is published early enough for stakeholders to provide submissions on this in advance of the draft decision;
- the related party rules are reviewed in the same timeframe as all other Input Methodologies (**IMs**) for electricity network businesses (**ENBs**); and
- the Commission provide updated and consistent guidance on the related party rules.

### 2.2. Form of control and Lally report

The ENA recommends that:

- no change to the asset beta is made as a result of changing the form of control (if the form of control is changed);
- no attempt is made to implement Black's Simple Discount Rule in Part 4 regulation;
- the Commission notes the views of ENA members in relation to the form of control;
- in the draft decision the Commission provide clarity about how it would intend to implement a pure revenue cap (if that is the proposal in the draft decision);
- the Commission does not prevent revenue under-recoveries from being carried forward into the next regulatory period;
- the Commission seek further evidence of the scale of the problem before deciding to regulate to smooth price changes at each price reset;
- the Commission develop mechanisms to ensure ENBs can recover the costs of significant new connections under a pure revenue cap; and
- incentives for ENBs to plan for catastrophic events are not considered further (noting that ENBs are already required to disclose their risk management plans for high impact low probability events within the Asset Management Plan (**AMP**)).

## 2.3. DPP and CPP paper

The ENA recommends that:

- the proportionate scrutiny principle is adopted, although it is currently unclear how this could be practically applied;
- the quality-only customised price-quality path (**CPP**) is replaced by a default price-quality path (**DPP**) reopener;
- the Commission takes a more supplier-specific approach when setting the DPP, where this can be done in a relatively low-cost manner;
- the Commission ensures that it is able to apply supplier-specific tailoring of the DPP for ENBs at the 2020 reset. This may mean the Commission needs to give priority to the necessary summary and analysis in advance of that date;
- the list of DPP reopeners is expanded to include constant price revenue growth (if a weighted average price cap (**WAPC**) is retained) and quality standards. To promote certainty there should be clearly specified triggers for when the reopeners would take effect;
- DPP reopeners are not limited to single issues that are fully independent of all other DPP inputs;
- DPP reopeners are not limited to circumstances where they would have a relatively low price-quality impact;
- the Commission considers all relevant issues when setting a DPP and does not rely on reopeners to address outstanding matters;
- the Commission does not have the power to initiate reopeners;
- DPP reopeners are able to be applied for at any time;
- new pass-through costs are able to be added at the time a DPP is set, not just when a DPP is amended;
- if single-issue CPPs are not progressed, the DPP reopener is sufficiently comprehensive to avoid unnecessary CPP applications;
- a contingent events reopener for ENBs is applied under both the DPP and CPP;
- additional net costs are able to be recovered during a CPP regulatory period where they are incurred between the date of the event that triggered a CPP application and the start of the CPP regulatory period. IRIS should not apply to these costs; and
- the CPP applicant's own costs of preparing a CPP application are able to be recovered through the CPP.

## 3. Comments on process paper

### 3.1. Overview

The Process paper:

- summarises the Commission's intended timeframes and process steps for the IM review up to the draft decision, which is due for publication in mid-June 2016;
- provides an update on the emerging technology topic, noting that the Commission does not consider that it needs any further information to reach a draft decision although it may test the practical implications of some solutions with selected stakeholders;
- advises that the Commission intends to review related party rules in the IMs separately from (and later than) the wider IM review, except for the CPP related party rules. Instead the Commission intends to include a problem definition for the related party rules in the draft IM decision; and
- provides updates on some gas sector issues.

### 3.2. Process up to draft decision

The ENA notes the Commission's timetable for producing the draft decision. We have appreciated the opportunity to comment on the Commission's current thinking through the emerging views papers.

Table 2 on page 3 of the Process paper indicates that Dr Lally's expert advice on the cost of debt, asset base indexation and inflation risk is due to be published in May 2016, not long before the draft decision. This means there will be no time to comment on this advice of Dr Lally before the draft decision is published.

We have found it useful to review and comment on Dr Lally's advice on Black's Simple Discount Rule and asset beta adjustments (see below). The ENA requests that Dr Lally's advice on the cost of debt, RAB indexation and inflation risk is published early enough for stakeholders to provide submissions on this in advance of the draft decision.

### 3.3. Related party rules

The ENA does not support the proposal to defer consideration of the IM related party requirements, to be resolved after the other IM amendments. We support the principle that the IMs should be reviewed in full, every seven years. Making a series of IM amendments outside of the statutory reviews does not promote certainty and hence is likely to have negative effects on incentives to innovate and invest and to achieve efficiency gains.

The ENA does agree with the Commission's proposals to:

- consider the information disclosure (**ID**) related party rules alongside the IM related party rules, to ensure consistency between the two; and
- make improvements to the CPP related party rules as part of the current IM review.

### 3.4. Recommendations

The ENA recommends that:

- Dr Lally's advice on the cost of debt, RAB indexation and inflation risk is published early enough for stakeholders to provide submissions on this in advance of the draft decision;
- the related party rules are reviewed in the same timeframe as all other IMs for ENBs; and
- the Commission provide updated and consistent guidance on the related party rules.

## 4. Comments on form of control and Lally report

### 4.1. Overview

The Form of control paper states the Commission's emerging views on the form of control for ENBs and gas pipeline businesses (**GPBs**). With regard to ENBs, the emerging view is that a 'pure' revenue cap (i.e. a revenue cap with wash-ups to ensure the actual revenue requirement is recovered in prices) should be applied to non-exempt ENBs. The Commission has reached this view because:

- a pure revenue cap removes the need to forecast demand for electricity distribution services and thus removes the risk that non-exempt ENBs will earn more or less than they need to make a normal return due to demand forecasting error;
- a pure revenue cap removes potential disincentives for non-exempt ENBs to restructure tariffs; and
- a pure revenue cap removes disincentives for non-exempt ENBs to invest in energy efficiency and demand-side management.

The Commission has also considered potential disadvantages with a pure revenue cap and is considering the following mechanisms to address perceived problems:

- a smoothing mechanism to minimise price volatility between regulatory periods;
- a mechanism to limit the ability to flow under-recovery into future investment periods;
- an incentive mechanism for new connections; and
- an incentive for suppliers to plan for catastrophic events.

The Lally Report:

- considers the relationship between the form of control and the asset beta;
- assesses the merits of Black's Simple Discount Rule to price and revenue-capping and information disclosure regulation; and
- considers asset beta adjustments within the current IMs that relate to gas pipeline businesses and Airports.

### 4.2. Form of control and the asset beta

The ENA considers that Dr Lally has identified real difficulties in adjusting the asset beta on the grounds of changes to the form of control. In particular, Dr Lally has identified a number of statistical difficulties in establishing a robust empirical basis for determining an appropriate adjustment to the asset beta to reflect a change in the form of control.<sup>1</sup>

Dr Lally states that "there is no empirical study that provides a clear conclusion on the effect of regulation on beta" and that "until better evidence becomes available, I consider that one should keep an open mind".<sup>2</sup> The ENA supports this conclusion.

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<sup>1</sup> These include exogenous events and changes to regulatory frameworks during the estimation period, unreasonable statistical independence assumptions, difficulties adequately categorising regulatory regimes into 'price cap' and 'revenue cap', sample size limitations, and the length of time elapsed since the estimation period.

<sup>2</sup> Lally Report, page 3.

As we stated in our previous submission, the available literature does not provide clear evidence that the form of control affects the asset beta, nor is there any evidence as to what adjustment to beta would be justified by variations in the form of control. Given the difficulties controlling for the other regulatory and market factors affecting the firms in the comparator sample, it would be extremely difficult to determine whether the form of control led to a different underlying beta value.

Therefore, we do not support making any change to the asset beta if the form of control changes.

It is important to note that where ENBs have supported a particular type of form of control, they have done so in the context of the Commission's emerging view that there is insufficient evidence to alter the asset beta method if the form of control is changed. If the Commission changes its emerging view, or identifies contrary evidence on the interaction between the form of control and the WACC, then it must consider the context in which the ENBs have provided their views.

We also note that there is a risk of bias, toward a low beta, inherent in the SBL-CAPM, when the entity has an equity beta below one.<sup>3</sup> The AER adjusts the beta estimate upward to account for this.

### 4.3. Black's Simple Discount Rule

Dr Lally has noted the key practical difficulties with implementing Black's Rule in a regulatory context:

- estimating the probability distribution of regulatory cash flows will be very difficult in practice, particularly if potential bias means the ENBs cannot be involved;
- the relationship between regulatory cash flows and that of the market is unclear, and the linear relationship required does not necessarily hold; and
- a robust method for estimating the expected cash flows, conditional on the market return equalling the risk-free rate, has not been demonstrated.

The ENA agrees these are substantial challenges. As we stated in our previous submission, it would be difficult to implement Black's Rule in this context. We do not consider that Black's Rule would be a credible addition to the IMs.

### 4.4. Commentary on the form of control

The ENA's previous submission discussed the advantages and disadvantages of a WAPC and a revenue cap.<sup>4</sup> At this time, we understand the majority of non-exempt ENBs support a revenue cap while a few support a WAPC (although, as discussed below, the details of how a revenue cap would be implemented may change the preferences of some interested parties). Individual ENA members may make their own submissions on this topic.

### 4.5. Implementing a revenue cap

The choice of a form of control is not a simple assessment of the theoretical merits of a pure revenue cap versus a WAPC. The implementation details of each will affect how the form of control works and what outcomes it provides. At this stage it is unclear how a pure revenue cap would be applied and the support of some ENA members for a revenue cap may change depending on how it is implemented.

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<sup>3</sup> This was recently confirmed by the Australian Competition Tribunal.

Australian Competition Tribunal, *Applications by Public Interest Advocacy Centre Ltd and Ausgrid [2016] ACompT 1*, 26 February 2016.

<sup>4</sup> Electricity Networks Association, *Response to the Commerce Commission's Input Methodologies review paper: Invitation to contribute to the problem definition*, 21 August 2015, pages 14-18.



If the draft decision on the IM review is to implement a pure revenue cap, the ENA requests the Commission clearly sets out the detail of how the revenue cap would apply (even if some of that detail would not be determined until the DPP is set). This will help all stakeholders fully understand the proposal and reach an informed view.

In this section the ENA considers each of the proposed mechanisms the Commission has suggested could apply alongside a pure revenue cap. We consider that these mechanisms cover the most important implementation details associated with a revenue cap.

#### 4.5.1. Smoothing intra-period price volatility

Price shocks at each DPP price reset are already a potential feature of the regulatory regime. It is not clear that this would be materially worse under a revenue cap. ENA members already smooth price changes to avoid price shocks when implementing price changes, so it is not clear the Commission needs to take any action here. Also, if any over and under-recoveries are incorporated into the wash-up mechanism, then there would already be flexibility for ENBs to smooth prices within a pure revenue cap. We suggest that more evidence is sought to determine whether a regulatory solution is required.

#### 4.5.2. Taking under-recovery into future investment periods

It is not clear what the Commission means by “investment period”. If the Commission is proposing that any under-recovery in this regulatory period should not be taken forward into the next regulatory period then that would mean the Commission is not proposing to implement a pure revenue cap; instead ENBs would still face the risk that they would not be able to fully recover their revenue requirements. It may also create an incentive for ENBs to over-recover in the later years of the regulatory period.

#### 4.5.3. Incentive for new connections

The ENA agrees that it is sensible to consider how new connections are treated if a pure revenue cap is introduced. We see two scenarios in this respect.

Scenario 1: Where connection growth and the costs of those new connections are included within the capex and opex forecasts used to set the price-quality paths. If this is the case the costs of and return on the new connections should be recovered by the ENB through the price path. There may need to be price rebalancing as new consumers connect to the network, but this is something the ENB should be able to manage.

Scenario 2: Where a new connection is not expected at the time the price path is set and therefore the costs of and return on and of the connection are not included within the price path. In this type of scenario a pure revenue cap can be problematic, especially when the new connection is large, as the ENB will incur substantial costs in connecting and supplying the new consumer but will receive no additional revenues. This would not be in the long-term interest of consumers as it may ultimately lead to ENBs not connecting consumers in the most efficient manner.

The ENA supports a mechanism to address the issues created under scenario 2. A DPP reopener or a new recoverable cost are options for ensuring the additional costs of the new connection can be recouped. The reopener or recoverable cost mechanism may need to contain certain triggers before it applies – e.g. a connection growth rate that is x% higher than expected, or an un-forecast new connection is greater than a specified size. It would be helpful to review international precedent to identify workable solutions.

It should be recognised that ENBs have reputational and customer relationship incentives that promote efficient connection processes and it is also in their long-term interest to connect new consumers as this broadens their revenue base.

#### 4.5.4. Incentive to plan for catastrophic events

The ENA does not agree any such incentive is necessary. In fact, it is likely to be counter-productive. ENBs take their role as suppliers of essential services very seriously and planning for catastrophic events is part of the normal activities of a prudent and efficient operator. Also, risk management for catastrophic events is already included in the ID Determination, where ENBs' Asset Management Plans are required to include detail of:<sup>5</sup>

*“Strategies used to identify areas of the network that are vulnerable to high impact low probability events and a description of the resilience of the network and asset management systems to such events”.*

The introduction of this incentive may be interpreted as a sign that ENBs are not properly planning for catastrophic events, which is not the case and may create unnecessary concern among the public.

We note that the biggest impact of a catastrophic event is on an ENB's costs, not revenues. ENBs are already able to recover costs of expenditure incurred when planning for catastrophic events in the same way as any other expenditure. Where the additional net costs of a catastrophic event are material, the ENB is able to apply for a DPP reopener. In that context, it is not clear what an additional incentive linked to the revenue cap would achieve.

At a practical level it is also unclear how such an incentive could be applied. Planning for catastrophic events includes asset location decisions, seismic strengthening, risk management activities, business continuity planning, etc. We are not sure what an incentive regime for such discrete activities would look like.

## 4.6. Recommendations

The ENA recommends that:

- no change to the asset beta is made as a result of changing the form of control (if the form of control is changed);
- no attempt is made to implement Black's Simple Discount Rule in Part 4 regulation;
- the Commission notes the views of ENA members in relation to the form of control;
- in the draft decision the Commission provide clarity about how it would intend to implement a pure revenue cap (if that is the proposal in the draft decision);
- the Commission does not prevent revenue under-recoveries from being carried forward into the next regulatory period;
- the Commission seek further evidence of the scale of the problem before deciding to regulate to smooth price changes at each price reset;
- the Commission develop mechanisms to ensure ENBs can recover the costs of significant new connections under a pure revenue cap; and
- incentives for ENBs to plan for catastrophic events are not considered further (noting that ENBs are already required to disclose their risk management plans for high impact low probability events within the AMP).

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<sup>5</sup> Electricity Distribution Information Disclosure Determination 2012, Attachment A, Clause 14.2.

## 5. Comments on DPP and CPP paper

### 5.1. Overview

The DPP and CPP paper sets out the Commission’s emerging views on improvements to the way DPPs and CPPs work together under Part 4. The Commission has reached eight emerging views in this area:

- a ‘proportionate scrutiny principle’ should be applied when assessing CPP proposals
- the quality-only CPP option should be replaced with a DPP reopener;
- the Commission would consider taking a more tailored approach to setting the DPP where this does not significantly increase costs (the Commission considers that this is more likely to be achievable for GPBs than for ENBs in the short-term as there are fewer GPBs);
- the role of DPP reopeners could be expanded to include circumstances where:
  - an appropriate level of scrutiny can be applied in a low-cost way;
  - the reopener applies to a DPP input that can be isolated from other inputs;
  - the reopener would have a relatively low price or quality impact;
  - the Commission was unable to take relevant information into account when setting the DPP (e.g. due to lack of resources); and
  - where the reopener would apply to multiple suppliers;
- the Commission would consider expanding the range of pass-through costs that can be added when setting the DPP;
- ‘single-issue’ CPPs are not appropriate;
- the Commission would consider a CPP reopener for contingent events; and
- the Commission would consider approving net additional costs incurred between a CPP application and the CPP start date.

### 5.2. DPP and CPP initiatives

This section considers the emerging views above that relate to both DPPs and CPPs.

#### 5.2.1. Proportionate scrutiny principle

The proposed proportionate scrutiny principle is:

*“the level of scrutiny applied should be commensurate with the price and quality impact on consumers of the tailoring that is being sought”<sup>6</sup>*

The ENA agrees with this principle and acknowledges the Commission is attempting to better target its analysis of DPP reopener proposals and CPP applications. It is difficult to be certain how this principle would be applied in practice but it is still a useful incremental improvement to the Part 4 regulatory regime. In fact, this may be a useful principle to apply across all of the Commission’s activities and decisions.

#### 5.2.2. Quality-only CPP replaced by DPP reopener

The ENA agrees that the quality-only CPP should be replaced by a DPP reopener. We agree it is likely to meet the Commission’s criteria for reopening the DPP (see below). Also, where a quality-only CPP is applied for the supplier is prevented under the Act from applying for another CPP within the same regulatory period, which could be problematic if, for example, a catastrophic event occurs.

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<sup>6</sup> DPP and CPP paper, paragraph 35.

## 5.3. DPP initiatives

This section considers the emerging views above that relate to the DPP.

### 5.3.1. More tailored approach to setting the DPP

The ENA is very supportive of the Commission taking a more ENB-specific approach when setting the DPP, where this can be done in a relatively low-cost manner. Utilising ENBs' own opex and capex forecasts should make it more likely the DPP will be suitable for most, if not all, non-exempt ENBs. This will mean the DPP will be more likely to deliver the right balance between costs and quality. It is also likely to mean the IRIS will be more effective, as any variance from the DPP capex and opex forecasts and actual expenditure is more likely to reflect actual efficiencies rather than be due to forecast error. This all makes the DPP better able to meet the purpose of Part 4.

We note the Commission's comment that in the short-term this is more likely to be achievable for GPBs than for ENBs as there are fewer GPBs to scrutinise. However, the Commission considers that its summary and analysis workstream may enable more tailoring of DPPs for ENBs, where it gains confidence in supplier forecasts. The ENA encourages the Commission to give priority to this summary and analysis work in order that some degree of tailoring can be in place for the 2020 reset. The next DPP reset decision is not due until November 2019, which provides time for some substantive summary and analysis to be undertaken.

In principle, the ENA does not accept that increased tailoring should not be available for ENBs because there are 17 businesses affected. Where there are 17 businesses then the impact of any error in DPP forecasts will affect more companies and ultimately more consumers. If increased tailoring is not available for ENBs, then single-issue CPPs or a broad suite of DPP reopeners will be required.

### 5.3.2. Expanded role of DPP reopeners

The ENA supports expanding the list of DPP reopeners. We agree that it would be helpful to have DPP reopeners for constant price revenue growth forecasts (if the form of control does not change) and quality standards that are set within the DPP. These will promote consumers' interests by ensuring the DPP is suitable for more suppliers. This would then avoid costs related to CPP applications and could avoid costs an ENB might incur trying to meet an overly-challenging quality standard.

The Commission has proposed that it have the power to initiate the new reopeners that are being proposed. The ENA does not support this proposal. We recognise the Commission already has this power under the IMs relating to the current list of available reopeners.<sup>7</sup> However, the additional reopeners being proposed relate to particular components of the DPP being unworkable and the prices or quality standards being adjusted as a result. If the Commission had power to reopen in these circumstances it would create material regulatory uncertainty for suppliers as their price path could be reopened at any time with uncertain outcomes. This is likely to have a negative impact on investment incentives and may not promote the long-term interest of consumers.

#### Circumstances in which a DPP reopener would apply

As noted above, the DPP and CPP paper sets out the Commission's current views on the additional circumstances in which a DPP reopener would be appropriate (paragraph 48). It was not clear what the status of the circumstances in paragraph 48 is. The ENA recommends they are not treated as a collective list of requirements that must *all* be met before a reopener can be granted, but rather a more general, non-exhaustive, set of factors the Commission will consider when assessing a reopener proposal.

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<sup>7</sup> EDB IM Determination, clause 4.5.4(1).

The ENA is not convinced that all of the circumstances listed in paragraph 48 are relevant.

We do not agree that reopeners should be limited to circumstances where they would have a relatively low price-quality impact. This would make reopeners unavailable when they are needed most. In addition, the scale of the price or quality impact will not necessarily be directly related to the cost of scrutiny that is applied – so some reopeners may be able to be scrutinised quite cheaply but still have a big impact.

We note the suggestion for reopeners to adjust a DPP for factors that the Commission was unable to consider when setting the DPP, e.g. due to lack of resources. We expect the Commission to consider all evidence available when it makes a draft decision and would be concerned if the Commission chose not to consider relevant material on the grounds that it could fix any problems later through a reopener. However, we recognise this may be useful in exceptional circumstances where important new evidence is placed on the table too late to be incorporated into the DPP, but which would lead to a better outcome in the long-term interest of consumers had it been considered.

Also, it may be too restrictive to limit DPP reopeners to circumstances where the reopener is sought for just one input of the price-quality path and where that input is able to be isolated and reopened independently of other inputs. All aspects of the price-quality path will have at least some relationship with others. It may be that another, related, input is also suitable for a reopener under the DPP. Or that the input being reopened only has a small impact on other inputs. Ruling out reopeners in such circumstances may mean that reopeners do not proceed even when they would be in the long-term interest of consumers.

#### Implementation detail for reopeners

The Commission questions whether there should be an application window for seeking DPP reopeners and, if so, what that window should be. We consider that DPP reopeners should be able to be applied for at any time – it is feasible that a reopener could be necessary and beneficial even quite late in a regulatory period (e.g. for a catastrophic event).

#### 5.3.3. Adding pass-through costs when setting a DPP

The IMs currently permit new pass-through costs to be created by way of amendment to a DPP Determination where certain criteria are met (clause 3.1.2). The ENA agrees that it would be sensible to permit new pass-through costs to be added at the time a DPP is set, not just when a DPP is amended.

### 5.4. CPP initiatives

This section considers the Commission's emerging views listed above that relate to the CPP.

#### 5.4.1. Single-issue CPPs

The ENA acknowledges the potential downsides associated with a single-issue CPP, as identified by the Commission. The ENA could agree that this option is not pursued provided the DPP reopener mechanism is sufficiently comprehensive to avoid unnecessary CPP applications.

#### 5.4.2. CPP reopener for contingent events

The ENA agrees a contingent events reopener would be useful under the CPP. However, we also consider that a reopener for contingent events should be available under the DPP. The costs of scrutinising what should be a short list of contingent events should be feasible within the DPP. A contingent event reopener in the DPP would better promote the long-term interest of consumers because it would avoid the costs of a CPP application being incurred to fund a single discrete project (or the risk that projects may not go ahead because they cannot be funded through a DPP and the CPP is not affordable for the ENB).

### 5.4.3. Approval of net costs incurred between CPP application and CPP start

This proposal is for the Commission to allow, through the CPP determination, the ENB to recover any prudent and urgent additional costs incurred prior to the CPP period starting, where they relate to the reason the CPP was applied for.

The ENA supports recovery of additional costs that are prudently incurred before the start of a CPP. It would also be appropriate for IRIS to not apply to these costs. The timeframe suggested in the DPP and CPP paper is that this should only apply to costs incurred between the CPP application and the start of the CPP regulatory period.<sup>8</sup> We understand that the catastrophic event and change event reconsideration provisions in the IMs allow for recovery of additional net costs incurred from the date of the event to the time the CPP application is made. Therefore this proposal appears intended to fill a gap relating to costs between the date of the CPP application and the start of the CPP.

The ENA agrees with the proposal but considers that it should be extended. Where a CPP is being sought for something that is not a catastrophic event or a change event it may be that urgent costs will be incurred prior to the CPP application being made (not just between the application date and the start of the CPP). For example, where a CPP application is being undertaken for a step change in expenditure it may be more achievable for the “step” to be gradually applied over a few years rather than a single jump when the CPP begins. It would be appropriate to permit the prudent costs of any gradually increasing expenditure incurred up to the CPP application to be recovered under the CPP.

Where there is no clear ‘trigger event’ the Commission should be open to approving additional net costs incurred between the date the ENB started developing their CPP application and the start of the CPP regulatory period. We accept the ENB would need to provide evidence of when they started to develop the CPP application.

In addition, the CPP applicant’s own costs of preparing a CPP application should be able to be recovered through the CPP. This would remove a major barrier, especially for smaller non-exempt ENBs, to applying for a CPP.

## 5.5. Recommendations

The ENA recommends that:

- the proportionate scrutiny principle is adopted, although it is currently unclear how this could be practically applied;
- the quality-only CPP is replaced by a DPP reopener;
- the Commission takes a more supplier-specific approach when setting the DPP, where this can be done in a relatively low-cost manner;
- the Commission ensures that it is able to apply supplier-specific tailoring of the DPP for ENBs at the 2020 reset. This may mean the Commission needs to give priority to the necessary summary and analysis in advance of that date;
- the list of DPP reopeners is expanded to include constant price revenue growth (if a WAPC is retained) and quality standards. To promote certainty there should be clearly specified triggers for when the reopeners would take effect;
- DPP reopeners are not limited to single issues that are fully independent of all other DPP inputs;

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<sup>8</sup> DPP and CPP paper, paragraph 66.

- DPP reopeners are not limited to circumstances where they would have a relatively low price-quality impact;
- the Commission considers all relevant issues when setting a DPP and does not rely on reopeners to address outstanding matters;
- the Commission does not have the power to initiate reopeners;
- DPP reopeners are able to be applied for at any time;
- new pass-through costs are able to be added at the time a DPP is set, not just when a DPP is amended;
- if single-issue CPPs are not progressed, the DPP reopener is sufficiently comprehensive to avoid unnecessary CPP applications;
- a contingent events reopener for ENBs is applied under both the DPP and CPP;
- additional net costs are able to be recovered during a CPP regulatory period where they are incurred between the date of the event that triggered a CPP application and the start of the CPP regulatory period. IRIS should not apply to these costs; and
- the CPP applicant's own costs of preparing a CPP application are able to be recovered through the CPP.

## 6. Conclusion

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## 7. Appendix

The Electricity Networks Association makes this submission along with the explicit support of its members, listed below.

Alpine Energy  
Aurora Energy  
Buller Electricity  
Counties Power  
Eastland Network  
Electra  
EA Networks  
Horizon Energy Distribution  
Mainpower NZ  
Marlborough Lines  
Nelson Electricity  
Network Tasman  
Network Waitaki  
Northpower  
Orion New Zealand  
Powerco  
PowerNet  
Scanpower  
The Lines Company  
Top Energy  
Unison Networks  
Vector  
Waipa Networks  
WEL Networks  
Wellington Electricity Lines  
Westpower