

30 July 2024

**To:**

Each supplier of electricity distribution services that is not exempt from default/customised price-quality regulation under section 54G of the Commerce Act 1986 (excluding Aurora Energy Limited).

**Notice to supply information to the Commerce Commission under section 53ZD(1)(d) & (e) of the Commerce Act 1986**

*Background*

1. We (the Commerce Commission) are requesting information needed to forecast opex and capex, for final decisions we are now making on the fourth DPP (DPP4) for non-exempt EDBs (excluding Aurora Energy Limited). The information covered in this Notice pertains to:
  - 1.1 Operating leases, and
  - 1.2 The calculation of depreciation for existing assets, for DPP4.

Information relating to operating leases

2. On 13 November 2019, we published a decision paper on the treatment of operating leases, given changes required by the implementation of a new financial reporting standard – NZ IFRS 16.<sup>1</sup> The decision paper clarified our understanding of the issues that the adoption of NZ IFRS 16 could create for regulated suppliers, and outlined how we would address them through changes to the Input Methodologies (IMs).
3. We considered the IMs relating to operating leases again in our 2023 Input Methodologies review, and decided to maintain our previous approach.<sup>2</sup> We issued a

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<sup>1</sup> Commerce Commission “Treatment of operating leases – Final decisions paper” (13 November 2019), available at: [https://comcom.govt.nz/data/assets/pdf\\_file/0029/188525/Treatment-of-operating-leases-Final-decision-13-November-2019.pdf](https://comcom.govt.nz/data/assets/pdf_file/0029/188525/Treatment-of-operating-leases-Final-decision-13-November-2019.pdf)

<sup>2</sup> Commerce Commission “Financing and incentivising efficient expenditure during the energy transition topic paper – Part 4 Input Methodologies Review 2023 – Final decision” (13 December 2023). Available at [https://comcom.govt.nz/data/assets/pdf\\_file/0023/337613/Part-4-IM-Review-2023-Final-decision-Risks-and-Incentives-topic-paper-13-December-2023.pdf](https://comcom.govt.nz/data/assets/pdf_file/0023/337613/Part-4-IM-Review-2023-Final-decision-Risks-and-Incentives-topic-paper-13-December-2023.pdf)

s 53ZD notice on 20 March 2024 to inform our draft decision which was published on 29 May 2024.

4. We are now requesting information from non-exempt EDBs to enable the application of the IMs in respect of forecast operating lease payments and capex for our final decisions we will make on DPP4 for non-exempt EDBs.

#### Information relating to depreciation of existing assets

5. As part of the final 2023 IM Review decisions, the Commission decided to amend the IMs to require EDBs to forecast depreciation of existing assets using the weighted average value of the remaining asset life for those assets for each year of the DPP period.
6. The reasons for that decision are set out in the final Report on the IM Review 2023, at paras 4.8 to 4.19.<sup>3</sup> This decision is implemented in clause 4.2.2(3)(a) of the EDBs IM Review 2023 Amendment Determination 2023.
7. Our DPP4 issues paper,<sup>4</sup> released prior to the final IM Review decisions, indicated that we may need to issue a s 53ZD notice in early 2024 to collect information needed in response to final decisions on the Input Methodologies Review. On 20 March 2024 we issued a s 53ZD notice for that information. The information gathered was used to come to our draft decision, which was published on 29 May 2024.
8. Ahead of our final decision, we are now requesting information from non-exempt EDBs for compliance with the change to the IMs referenced above, in forecasting depreciation for DPP4. This will inform final decisions on forecast net allowable revenue for DPP4 for non-exempt EDBs.

#### *Request for information*

9. This Notice, issued under section 53ZD(1)(d) and (e) of the Commerce Act 1986 (the Notice) is the requirement to provide information as specified in Schedule A and the assurance opinion as specified in Schedule B.

#### *Purpose of the Notice*

10. Under section 53ZD(1)(d) and (e) of the Act, we require each EDB that is not exempt from default/customised price-quality regulation under section 54G of the Act (non-

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<sup>3</sup> Commerce Commission “Report on the IM Review 2023 - Part 4 Input Methodologies Review 2023 – Final decision”, 13 December 2023, available at: [https://comcom.govt.nz/data/assets/pdf\\_file/0021/337611/Part-4-IM-Review-2023-Final-decision-Report-on-the-input-methodologies-review-2023-paper-13-December-2023.pdf](https://comcom.govt.nz/data/assets/pdf_file/0021/337611/Part-4-IM-Review-2023-Final-decision-Report-on-the-input-methodologies-review-2023-paper-13-December-2023.pdf)

<sup>4</sup> Commerce Commission “Default price-quality paths for electricity distribution businesses from 1 April 2025 - Issues paper” (2 November 2023), available at: [https://comcom.govt.nz/data/assets/pdf\\_file/0025/332944/Default-price-quality-paths-for-electricity-distribution-businesses-from-1-April-2025-Issues-paper-2-November-2023.pdf](https://comcom.govt.nz/data/assets/pdf_file/0025/332944/Default-price-quality-paths-for-electricity-distribution-businesses-from-1-April-2025-Issues-paper-2-November-2023.pdf)



exempt EDBs (excluding Aurora Energy Limited)) to provide us with the information specified in Schedule A and an accompanying Independent Auditor Report as set out in schedule B.

11. We require this information for the purpose of carrying out our function of resetting the DPP for non-exempt EDBs under section 53P of the Act. In particular:
  - 11.1 the information regarding the treatment of operating leases specified in Schedule A will enable us to properly give effect to the IMs in respect of non-exempt EDBs' forecast operating lease payments and capex; and
  - 11.2 the information regarding the depreciation of existing assets specified in Schedule A is required to ensure that decisions on the default price-quality path for DPP4 for non-exempt EDBs comply with recent amendments to clause 4.2.2(3)(a) of the IM Determination, which give effect to the Commission's decision (as part of the 2023 Input Methodologies Review) to require EDBs to depreciate existing assets using the weighted average value of the remaining asset life for those assets for each year of the DPP period.

*Date, place and format of responses*

12. Each non-exempt EDB must send the information as a response to the Notice by email to [infrastructure.regulation@comcom.govt.nz](mailto:infrastructure.regulation@comcom.govt.nz), with the:
  - 12.1 Information on operating leases as required under Schedule A provided in an 'unlocked' version of the electronic MS Excel file "Operating leases Information Request Workbook", a template copy of which is provided with this Notice. Please follow any instructions included in the template copy;
  - 12.2 Information on depreciation as required under Schedule A provided in an 'unlocked' version of the electronic MS Excel file "Depreciation of Existing Assets: Information Request Workbook", a template copy of which is provided with this Notice. Please follow any instructions included in the template copy.
13. The email must be addressed to Ben Woodham (Electricity Distribution Manager) c/o [infrastructure.regulation@comcom.govt.nz](mailto:infrastructure.regulation@comcom.govt.nz), with the subject "[EDB name] – Response to section 53ZD Notice – 2025 DPP reset: July 2024", by no later than **4:30pm on Friday 13 September 2024**.
14. Please note that information provided in response to this Notice is required to be accompanied by an assurance opinion from an independent auditor as specified in Schedule B. The assurance opinion must be provided via email in the manner specified in paragraph 13 (above) as soon as practicable following the provision of the information in Schedule A and no later than **4:30pm on Thursday 31 October 2024**.

*Variations, extensions and exemptions*

15. The Commission may, on application from a non-exempt EDB, grant that non-exempt EDB a variation to the information requirements set out in this notice to account for any practical limitations on that EDB's ability to provide the specified information.
16. For the purposes of clause 15:
  - 16.1 if a non-exempt EDB applies for a variation, its application must:
    - 16.1.1 be in writing;
    - 16.1.2 explain why that EDB considers that a variation to the information requirements is reasonably justified having regard to the circumstances; and
    - 16.1.3 be made no later than 5 working days before the applicable time limit is due to expire, ie **no later than 4:30pm on Friday 6 September 2024**; and
  - 16.2 if the Commission decides to grant a non-exempt EDB a variation, then:
    - 16.2.1 the approved form of variation shall take effect by the Commission giving or posting written notice of the variation to the non-exempt EDB; and
    - 16.2.2 the notice effecting the approved form of variation must specify the reasons for the variation.
17. The Commission may, on application from a non-exempt EDB, grant that non-exempt EDB an extension to the timeframes set out in clauses 13 and 14.
18. For the purposes of clause 15:
  - 18.1 if a non-exempt EDB applies for an extension, its application must:
    - 18.1.1 explain why the non-exempt EDB considers that an extension to the time limit is reasonably justified having regard to the circumstances; and
    - 18.1.2 be made no later than 5 working days before the applicable time limit is due to expire, ie **no later than 4:30pm on Friday 6 September 2024**; and
  - 18.2 if the Commission decides to grant a non-exempt EDB an extension, then:
    - 18.2.1 the approved form of the extension shall take effect by the Commission giving or posting written notice of the extension to the non-exempt EDB;

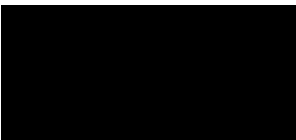
- 18.2.2 the notice effecting the approved form of the extension must specify the period of the extension and the reasons for the extension.

*Use of supplied information and confidentiality*

19. As part of our decision-making and modelling on DPP4, we may use and publicly refer to particular information non-exempt EDBs provide in responding to the Notice.
20. If you consider that, for confidentiality reasons, we should not publicly refer to any particular part of your response, please:
- 20.1 specify the relevant part;
- 20.2 give clear reasons why you consider that part is confidential; and
- 20.3 provide a PDF version of your response, redacting the part(s) you consider to be confidential.
21. If you indicate that we should not publicly refer to part of your response, we may discuss with you before deciding whether or not to do so.
22. However, please note that all responses we receive, including any parts that we decide not to publish, can be requested under the Official Information Act 1982. This means we would be required to release material (whether published or not) unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult with you before releasing any material that you request not to be published.

Dated at Wellington: 30 July 2024

Signed by:



Vhari McWha  
Commissioner



## Schedule A Information required on operating leases and depreciation of existing assets

Under section 53ZD(1)(d) and (e) of the **Act** the **non-exempt EDBs** must provide the information in this Schedule to the **Commission** by no later than Friday 13 September 2024.

### *Interpretation*

A1 In the Notice, unless the context requires otherwise:

A1.1 a word that denotes the singular also denotes the plural, and vice versa;

A1.2 words in **bold** type have the following meanings:

A1.2.1 **Act** means the Commerce Act 1986

A1.2.2 **aggregate closing RAB value for existing assets** means the amount determined in accordance with clause 4.2.1(3) of the **IM determination**

A1.2.3 **aggregate opening RAB value for existing assets** means the amount determined in accordance with clause 4.2.1(2) of the **IM determination**

A1.2.4 **aggregate value of disposed assets** means the value of assets forecast to be **disposed** of by an **EDB** in the **disclosure year** in question, and is equal to the portion of the forecast **aggregate opening RAB value for existing assets** relating to assets forecast to be **disposed** of for the **disclosure year** in question, plus the total **depreciation** on **disposed assets** for the **disclosure year** in question

A1.2.5 **asset life** means the **physical asset life** for right-of-use assets as defined in clause 2.2.8(1)(f) of the **IM determination**.

A1.2.6 **base year** means the **disclosure year** 2024

A1.2.7 **capex** has the same meaning as defined in the **IM determination**

A1.2.8 **capex category** means a category of forecast capital expenditure listed in Expenditure on Assets Forecast in the Report on Forecast Capital Expenditure in Schedule 11a of the **ID determination**

A1.2.9 **Commission** has the same meaning as defined in the **IM determination**

- A1.2.10 **commissioning date** has the same meaning as defined in the **IM determination**
- A1.2.11 **contract** means operating lease contract
- A1.2.12 **cost allocation requirements** means the cost allocation requirements specified at subpart 1 of part 2 and subpart 1 of part 4 of the **IM determination**
- A1.2.13 **depreciation** has the same meaning as defined in clause 4.2.2(2)(a)(ii) of the **IM determination**
- A1.2.14 **description of lease** means description of underlying asset or assets subject to the lease contract
- A1.2.15 **disclosure year** has the same meaning as defined in the **IM determination**
- A1.2.16 **disposed asset** has the same meaning as defined in the **IM determination** for the purposes of Parts 3, 4, and 5.
- A1.2.17 **DPP** means default price-quality path
- A1.2.18 **EDB** has the same meaning as defined in the **IM determination**
- A1.2.19 **electricity distribution services** has the same meaning as defined in the **IM determination**
- A1.2.20 **existing assets** means assets of an **EDB** for which an **aggregate closing RAB value for existing assets** is calculated for the **base year**
- A1.2.21 **existing contract** means a **contract** that has an existing **value of commissioned asset**
- A1.2.22 **forecast contract** means a contract for which the **EDB** has included a **forecast value of commissioned right of use asset**
- A1.2.23 **forecast lease payments** means the value in NZ dollars of **lease payments** forecast to be made in the relevant **disclosure year**.
- A1.2.24 **forecast value of commissioned right of use assets** means the sum of the **commissioning values** of each individual right of use asset recognised or forecast to be recognised in the relevant **disclosure year** after applying the **cost allocation requirements**.

- A1.2.25 **ID determination** means the *Electricity Distribution Services Information Disclosure Determination 2012* [2012] NZCC 22, including amendments in effect at the date of the Notice
- A1.2.26 **IM determination** means the *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26, including amendments in effect at the date of the Notice
- A1.2.27 **independent auditor** has the same meaning as defined in the **ID determination**
- A1.2.28 **lease payments** has the same meaning as defined in the **IM determination**
- A1.2.29 **non-exempt EDB** means an **EDB** that is not exempt from default/customised price-quality regulation under section 54G of the **Act** (but does not include Aurora Energy Limited)
- A1.2.30 **operating lease** has the same meaning as defined in the **IM determination**
- A1.2.31 **opex** has the same meaning as defined in the **IM determination**
- A1.2.32 **revaluation for existing assets** means the value determined in accordance with clause 4.2.3(2)(a) of the **IM determination**
- A1.2.33 **right of use asset** has the same meaning as defined in the **IM determination**
- A1.2.34 **value of commissioned asset** has the same meaning as defined in the **IM determination**

*Information required on operating leases*

- A2 The **non-exempt EDB** must provide a list of its **existing contracts** and **forecast contracts** and, for each **contract** it lists, provide the following information:
- (a) A **description of lease**
  - (b) The **asset life**;
  - (c) The **capex category**
  - (d) The **value of commissioned assets**;
  - (e) The **commissioning date**;
  - (f) The **forecast lease payments**; and



(g) The **forecast value of commissioned right of use assets**

- A3 All financial values provided in response to paragraph A2 of Schedule A should be provided in nominal terms, after having applied the **cost allocation requirements**.
- A4 The information set out at clause A2 must be accompanied by a report by an **independent auditor** as set out in Schedule B. The **independent auditor** report must be provided to the **Commission** no later than Thursday 31 October 2024.

*Information required on depreciation*

A5 The **non-exempt EDB** must provide the following information, in aggregate (ie, not by asset class):

A5.1 For each of the **disclosure years** 2025, 2026, 2027, 2028, 2029, and 2030:

- (a) Forecast **aggregate opening RAB value for existing assets**
- (b) Forecast sum of **depreciation** for **existing assets**
- (c) Forecast **revaluation** for **existing assets**
- (d) Forecast **aggregate value of disposed assets**

A5.2 A description of the methodology used to forecast **aggregate value of disposed assets**, including an explanation of any differences between forecast levels of disposals and:

A5.2.1 historic levels of **disposed assets** in real terms; or

A5.2.2 forecasts levels of **disposed assets** in their asset management plan (if any).

A6 The information set out at clause A5 must be accompanied by a report by an **independent auditor** as set out in Schedule B. The **independent auditor** report must be provided to the **Commission** no later than Thursday 31 October 2024.

## Schedule B            Independent Auditor report

**B1**        For the purposes of clauses A4 and A6 of Schedule A of this Notice, the **non-exempt EDB** must provide by Thursday 31 October 2024, a report by an **independent auditor** that states whether:

B1.1       any historical financial information used for the purposes of the information required in clauses A2, A3 and A5 of Schedule A of this Notice has been:

B1.1.1    compiled, in all material respects, in accordance with the requirements of this Notice;

B1.1.2    properly extracted from the **non-exempt EDB's** financial records sourced from its financial systems; and

B1.1.3    audited in accordance with applicable auditing standards issued by the External Reporting Board in accordance with its functions under the Financial Reporting Act 2013 or any equivalent standards that replace these standards;

B1.2       any historical non-financial information used for the purposes of the information required in clauses A2, A3 and A5 of Schedule A of this Notice has been:

B1.2.1    compiled, in all material respects, in accordance with the requirements of this Notice;

B1.2.2    properly compiled on the basis of the relevant underlying source information; and

B1.2.3    examined in accordance with applicable assurance standards;

B1.3       any forecast financial information used for the purposes of the information required in clauses A2, A3 and A5 of Schedule A of this Notice has been:

B1.3.1    compiled, in all material respects, in accordance with the requirements of this Notice;

B1.3.2    properly compiled on the basis of disclosed assumptions and relevant underlying source information; and

B1.3.3    examined in accordance with applicable assurance standards; and

B1.4 any forecast non-financial information used for the purposes of the information required in clauses A2, A3 and A5 of Schedule A of this Notice has been:

B1.4.1 compiled in all material respects in accordance with the requirements of this Notice;

B1.4.2 properly compiled on the basis of the disclosed assumptions and the relevant underlying source information; and

B1.4.3 examined in accordance with applicable assurance standards.



