



## COMMERCE COMMISSION

# INFORMATION DISCLOSURE REGULATION UNDER PART 4 OF THE COMMERCE ACT 1986

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## Workshop 2: Pricing Disclosures

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### Introduction

1. The Commerce Commission is holding a workshop on pricing information disclosure for suppliers of electricity lines and gas pipeline services (“suppliers”) on 31 May 2011. This workshop is part of a series of workshops with interested persons that was signalled in the 15 April 2011 Update on Process paper (Update Paper),<sup>1</sup> to discuss the options for, and implications of, certain areas of the information disclosure requirements. Their purpose is to assist the Commission to prepare its draft decision and draft determinations on information disclosure requirements for EDBs and GPBs.
2. This note sets out the purpose and scope of the pricing disclosures workshop. Included in this pack are the following materials:
  - *Workshop Draft Agenda: Electricity and Gas Information Disclosure: Pricing Disclosures Workshop* (31 May 2010); and
  - *Overview of the Commission’s proposed approach to pricing information disclosure for electricity lines and gas pipeline businesses.*
3. This workshop will start at 9am, and is expected to close no later than 3.50pm. Morning tea, lunch and afternoon tea will be provided.

### Purpose of the Workshop

4. The workshop is intended to be an informal working session between Commission staff and interested persons. It will assist the Commission in developing the approach to setting pricing-related information disclosure requirements for providers of electricity lines and gas pipeline services. The Commission is interested in the views of attendees on certain issues in the following information disclosure categories:
  - pricing methodologies;
  - terms and conditions of contracts;
  - pricing statistics;
  - line charges and capital contributions; and
  - consumer engagement.
5. Participants should note that issues out of scope for the workshop are:
  - other categories of information disclosure; and
  - pricing information disclosures for Transpower.
6. The next step in the consultation process is the release of the Commission’s Information Disclosure Draft Determination for Electricity Lines and Gas Pipeline Services. This is planned for release in September 2011, and will include draft requirements specifying how information disclosure regulation is to apply to suppliers.

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<sup>1</sup> Commerce Commission, *Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services Update on Process*, 15 April 2011, paragraphs 13–22.

## Workshop preparation by attendees

7. Consistent with the process update Paper of 15 April 2011 attendees are asked to identify key issues they wish to discuss at the workshop by **Monday 23 May**. These should be emailed to the Commission at:

[regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz)

Attn: John Groot

8. In addition attendees from EDBs and GPBs are asked to prepare a very short (approximately five minute) presentation on the following topics:
  - standard and non-standard contracts - the differences between them, how and when they are used;
  - the approach taken to standard vs. non-standard contracts within pricing methodologies; and
  - consumer categories for the purposes of pricing – how these are determined.
9. A final agenda will be circulated on Friday 27 May.



COMMERCE COMMISSION

## **Electricity and Gas Information Disclosure Pricing Disclosures Workshop 31 May 2011**

**9am – 3.50pm**

### **Workshop Draft Agenda**

Each workshop session will give attendees the opportunity to express their views on each category of pricing information disclosure. This will assist the Commission to specify information disclosure requirements for EDBs and GPBs. Each session will cover:

- current disclosure requirements applicable to EDBs and GPBs, respectively;
- issues or difficulties encountered with the current disclosure requirements;
- the Commission's proposed approach to disclosure, or the options available (as applicable); and
- any additional relevant issues that have been identified by participants.

#### **9am – Introduction: (15 minutes)**

The introduction will confirm the purpose of the working session, and briefly outline the background to the disclosure of pricing information for the electricity and gas sectors.

#### **9.15am – Session 1: Pricing methodologies (1.5 hours)**

This session will discuss the Commission's proposed approach to pricing methodology disclosures as outlined in the attached overview paper. The following topics will be discussed:

- what information would demonstrate the extent of consistency of a GPB's pricing methodology with the pricing principles determined in the input methodology (IM) for GPB's pricing methodologies;
- whether EDBs should be required to disclose information on the extent to which their pricing methodologies are consistent with the pricing principles as determined by the Electricity Authority (EA). If so, should the information disclosed be the same as for GPBs? How best to align the disclosure requirements with that required by the EA?
- how to make pricing methodologies more transparent, so interested persons can better understand how prices are determined from total revenue requirements;
- whether to require further information on:
  - how suppliers' total revenue requirements were determined. For non-exempt EDBs this could reference the DPP or the CPP;
  - how the pricing methodology determines a supplier's line charges;
  - disclosure of the above for each non-contiguous network;
  - policies and methodologies for capital contributions, and
- audit and certification requirements for pricing methodology disclosures.

#### **10.45am – Morning Tea: (15 minutes)**

### **11am – Session 2: Terms and conditions of contracts (1.5 hours)**

This session will discuss the Commission's proposed approach to disclosures of terms and conditions within contracts. The following topics will be discussed:

- identification of reasons for apparent poor compliance with the EDB requirements;
- whether there should be any differences in the contractual disclosures between EDBs and GPBs;
- why and when non-standard contracts are used, and what differences exist between each non-standard contract, and between standard and non-standard contracts;
- potential additional information requirements including:
  - terms affecting the balance of risk between suppliers and contracting parties;
  - summaries of revenue, volume and/or costs by contract type (i.e. standard vs. non-standard contracts);
  - whether the scope of disclosure could be expanded to include other contract types; and
  - whether whole contracts should be required to be disclosed.

### **12.30pm – Lunch: (45 mins)**

### **1.15pm – Session 3: Pricing statistics (1 hour)**

This session will discuss options for the disclosure of pricing statistics as outlined in the overview paper. The following topics will be discussed:

- whether pricing statistics be altered to improve disclosure; if so, should the requirements require:
  - disclosure of key pricing statistics in the line charge categories determined by individual suppliers;
  - disclosures against Commission-defined representative consumers in each pre-determined consumer group.
- identification of particular pricing statistics that are most relevant for interested persons' assessments of performance in relation to the Part 4 Purpose; and
- disclosure for each non-contiguous network.

### **2.15pm – Session 4: Line charges and capital contribution (45 mins)**

This session will discuss the disclosure of prices for regulated services. The following topics will be discussed:

- appropriate timing and method for disclosure of prices; and
- whether capital contributions and any other relevant charges should also be disclosed.

### **3pm – Afternoon Tea (15 mins)**

### **3.15pm – Session 5: Consumer engagement (30 minutes)**

This session will discuss the inclusion of consumer engagement requirements in the AMP disclosures for EDBs and GPBs. The following topics will be discussed:

- whether to include the consumer engagement provisions within AMPs for EDBs and GPBs; and
- the most appropriate ways to measure consumer engagement for the electricity and gas sectors.

**3.45pm – Conclusions and next steps (5 minutes)**

The Commission will summarise the key points covered at the workshop, and outline the next steps in the consultation process.

**3.50pm – Workshop ends**



## COMMERCE COMMISSION

# OVERVIEW OF THE COMMISSION'S PROPOSED APPROACH TO PRICING RELATED INFORMATION DISCLOSURE FOR ELECTRICITY LINES AND GAS PIPELINE BUSINESSES

## Introduction

1. Part 4 of the Commerce Act ("the Act") includes provisions for information disclosure requirements to include (but not be limited to) prices, terms and conditions relating to prices, pricing methodologies and contracts.<sup>2</sup> These requirements will be set in the Determination of information disclosure requirements for electricity lines and gas pipeline businesses under Part 4.
2. Pricing disclosures are intended to assist interested persons to assess the performance of suppliers particularly in relation to objectives (b) and (c) of the Part 4 Purpose statement.

## Purpose of this paper

3. This paper provides the basis for the workshop on pricing information disclosure to be held on 31 May 2011. It summarises:
  - current disclosure requirements in each pricing-related disclosure category for electricity lines and gas pipeline services regulated under Part 4 of the Act;
  - issues or difficulties encountered with current disclosure requirements;
  - the proposed approach or options for disclosures (as applicable) in each disclosure category; and
  - specific topics for discussion at the workshop.

## Pricing methodologies

4. Pricing methodologies describe the way firms set prices for their services. Disclosure of pricing methodologies can assist interested persons to understand whether and how a supplier's pricing relates to the costs of providing the services to consumers.

## *Current disclosure requirements*

5. Currently suppliers are required to disclose pricing methodologies.<sup>3</sup> These requirements are quite different across electricity and gas. EDBs and Transpower are currently required to publicly disclose pricing methodologies at the beginning of each financial year, and within one month of any change taking effect. Disclosure includes a description of the methodology, and other details including the components of total revenue, consumer group statistics, revenue allocation to those consumers groups and rationale, and the method used for determining the fixed and variable proportions of charges.

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<sup>2</sup> Commerce Act 1986, Subpart 4, s 53C(2)(c), (d) and (g).

<sup>3</sup> Commerce Commission, *Electricity Distribution (Information Disclosure) Requirements issued 31 March 2004*, clauses 22 – 24; and *Gas Information Disclosure Regulations 1997*, clause 20.

6. Current requirements for GPBs are less prescriptive. The Gas Information Disclosure Regulations 1997 (GIDRs) require public disclosure within five months after the beginning of the financial year of the methodology used to determine prices charged or that will be charged for the supply of line function services at the commencement of the financial year. The GIDRs also separately require disclosure of the methodology for the allocation of costs, revenues, assets, liabilities for gas transmission and distribution, and retailing (as appropriate).<sup>4</sup>

### ***Input methodologies***

7. No input methodology (IM) for pricing methodologies was set by the Commission for EDBs or Transpower, as the Electricity Authority (EA) has the power to set pricing methodologies for electricity lines services.<sup>5</sup>
8. The Commission determined an IM for GPBs' pricing methodologies in December 2010. The IM is a principles-based approach. This IM is applicable for all GPBs under information disclosure.<sup>6</sup> The Commission proposes that GPBs disclose the extent to which their pricing methodology is consistent with the pricing principles, and provide reasons for any inconsistency. The information to be disclosed should therefore be sufficient so that interested persons can determine whether the pricing methodology is consistent with the pricing principles.
9. For EDBs, the EA has developed pricing principles. These are almost identical to those that have been determined under IMs for GPBs.<sup>7</sup> The pricing principles are based on principles of efficient pricing. The Commission therefore considers that it is important for interested persons to have sufficient information to assess the extent to which an EDB's pricing methodology is consistent with the pricing principles.

### ***Issues with current requirements***

10. The Commission considers that current requirements:
- do not make transparent the process of setting their quantified line charges in relation to a supplier's costs. One argument is that interested persons need a proper understanding of the process by which a supplier sets its prices in order to assess if prices are efficient, together with sufficient supporting information to understand the disclosure;
  - are not clear in showing how suppliers determine their revenue requirements; and
  - do not disclose the extent to which they are consistent with the pricing principles.

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<sup>4</sup> See *Gas Information Disclosure Regulations 1997*, clauses 20 and 21.

<sup>5</sup> Under s 52T(1)(b) the Commission is required to set a pricing methodologies IM except where another industry regulator (such as the Electricity Authority) has the power to set pricing methodologies in relation to particular goods or services.

<sup>6</sup> For a description of the pricing principles, see clause 2.5.2 of the *Commerce Act (Gas Distribution Services Input Methodologies) Determination 2010*.

<sup>7</sup> For a discussion of the pricing principles applicable to EDBs, see Electricity Commission, *Distribution Pricing Principles and Information Disclosure Guidelines*, December 2009, Page D, paragraph 6. This is available on the EA's website at

<http://www.ea.govt.nz/our-work/consultations/transmission/distpricing-infodisclosure>

### ***Proposed approach***

11. Pricing methodology disclosure is particularly relevant to objectives (b) and (c) of the Part 4 Purpose statement.<sup>8</sup> The Commission proposes to require disclosure of pricing methodologies by suppliers under Part 4, potentially supported by some form of audit and certification requirement. Amendments to the existing requirements are considered necessary to:
  - require information to be disclosed on the extent to which EDBs' and GPBs' pricing methodologies are consistent with relevant pricing principles;<sup>9</sup> and
  - provide further transparency of how delivered prices are determined by the pricing methodology from total revenue requirements (where applicable).
12. The Commission will continue to liaise with the EA to ensure that information disclosure requirements for EDBs' pricing methodologies are aligned with the EA's Information Disclosure Guidelines, to the extent practicable.
13. The EA has recently undertaken a targeted review of nine EDBs' pricing methodologies. The review assesses alignment with the Guidelines, based on each EDB's pricing methodology disclosure and other relevant information made available by them. The EDBs involved will have an opportunity to comment on the review over the next two weeks. The Commission considers that the findings of this review could inform the disclosure requirements for both EDBs and GPBs. We propose to discuss the review at the workshop.
14. The Commission also notes that there is currently no requirement for EDBs or GPBs to disclose their capital contributions policies or methodologies. The Commission is interested in exploring whether further transparency is needed.

### ***Topics for workshop discussion***

- What information would demonstrate the extent of consistency of a GPB's pricing methodology with the pricing principles determined in the IM for GPB's pricing methodologies?
- Should EDBs be required to disclose information on the extent to which their pricing methodologies are consistent with the pricing principles as determined by the EA? If so, should the information to be disclosed be the same as for GPBs? How best to align the disclosure requirements with that required by the EA?
- How to make pricing methodologies more transparent, so interested persons can better understand how line charges are determined from total revenue requirements;
- whether to require further information on:
  - how suppliers' total revenue requirements were determined (for non-exempt EDBs this could reference the DPP or the CPP);
  - how the pricing methodology determines a supplier's line charges;
  - disclosure of the above for each non-contiguous network;

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<sup>8</sup> Commerce Act 1986, Subpart 1, s 52A(1).

<sup>9</sup> See s 2.5.2 of the *Commerce Act (Gas Distribution Input Methodologies) Determination 2010*; and EA (formerly the Electricity Commission) pricing principles in Electricity Commission, *Distribution Pricing Principles and Information Disclosure Guidelines*, pages D, and 9.



- policies and methodologies for capital contributions; and
- audit and certification requirements for pricing methodology disclosures.

### **Terms and conditions of contracts**

15. The assessment of efficient pricing requires an understanding of the terms and conditions associated with prices and quality. Suppliers in monopolistic positions have the ability to set the terms and conditions of supply (such as payment terms) as well as prices. Disclosure of these terms and conditions provides consumers with further information to assess the efficiency of prices they receive, and how the terms and conditions of their contract(s) compare with those of other consumers.

#### ***Current requirements***

16. Current information disclosure requirements for EDBs include disclosure of prescribed terms and conditions of standard and non-standard contracts for lines (and/or related) services. The prescribed terms and conditions for EDBs are:
- description of goods/services;
  - quantity/amount of good/service;
  - price;
  - timing of payment; and
  - security for payment.
17. Disclosure of ‘prescribed agreements’ is currently required of GPBs under the GIDRs, for which the disclosure requirements are similar.

#### ***Issues with current requirements***

18. The Commission notes that submitters’ views on the July 2009 Discussion Paper differed whether the disclosures of contract terms and conditions were useful or effective.<sup>10</sup> In the Commission’s experience compliance with the requirements has been poor since setting the disclosure requirements in 2004.

#### ***Proposed approach***

19. The Commission considers it is important to ensure transparency of contractual terms and conditions. In principle, interested persons should have a similar level of information available to that which would be expected in workably competitive markets. Accordingly the Commission proposes to continue to require disclosure of specified terms and conditions of contracts by suppliers.

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<sup>10</sup> For example, MEUG considered that full transparency of EDB contracts is recommended, and that disclosure of contract terms and conditions needs to be timely and transparent (subject to confidentiality). See MEUG, *Submission on information Disclosure Discussion Paper*, 11 September 2009, paragraph 38g. Other submitters had compliance cost and commercial sensitivity concerns. PwC considered (in its submission on the Commission’s Process and Issues Paper of 23 February 2010) that a review of current requirements is timely as the disclosure of non-standard contract terms and conditions is onerous and cumbersome to comply with, especially for larger EDBs. See PwC, *Submission to the Commerce Commission on Information Disclosure Regulation Electricity Lines Services and Gas Pipelines Services – Process and Issues Paper*, 9 March 2011, page 4.

20. The scope of disclosure is proposed to include downstream contracts under which a supplier receives payment for regulated services provided. This could include contracts with other regulated suppliers, and (where applicable) distributed generation providers.
21. The value of contract disclosures could be enhanced by the disclosure of:
- terms that affect the balance of risk between the regulated supplier and consumers (which may include force majeure clauses, prudential requirements and dispute resolution terms);<sup>11</sup> and
  - summary statistical information (e.g. revenue and/or volumes) by standard vs. non-standard contract type. This may indicate the proportion of revenue represented by each contract type.

***Topics for workshop discussion***

- identification of reasons for poor compliance with the EDB requirements;
- whether there should be any differences in the contractual disclosures between EDBs and GPBs;
- understanding why and when non-standard contracts are used, and what differences exist between each non-standard contract, and between standard and non-standard contracts;
- identify where additional information could usefully be disclosed including:
  - terms affecting the balance of risk between suppliers and contracting parties;
  - a potential requirement to disclose summaries of revenue, volume and/or costs by contract type (i.e. standard vs. non-standard contracts);
  - whether scope of disclosure should be expanded; and
  - whether whole contracts should be required to be disclosed.

**Pricing statistics**

22. Information on revenues and average prices shows how a supplier's charges are allocated between groups of consumers. Pricing statistics are designed to assist with assessments (when taken together with other disclosed information) of the price-quality trade-offs between regulated suppliers and across consumer groups. They are also useful in tracking price movements over time.

***Current requirements***

23. Current requirements for EDBs include the disclosure of pricing statistics by four connection point classes. The pricing statistics are the unit price and the relative unit price index. Suppliers also need to separately disclose the components used to calculate these statistics (e.g. income, volume, number of connection points). There is no current pricing statistics disclosure requirement for GPBs.

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<sup>11</sup> The Commission notes that s 53C(4) of the Act precludes the public disclosure of any provision of an existing contract that, immediately before the goods or services became subject to information disclosure regulation, was not required by or under Part 4A...or any other enactment. See Commerce Act 1986, Subpart 4, s 53C(4).

24. The current pricing statistics requirements for EDBs are shown in Figure 1, below:

**Figure 1: Pricing Statistics Requirements Electricity Distribution (Information Disclosure) Requirements 2008**

<b>PRICES</b>					
<b>Price information by Connection Point Class</b>					
	<b>Connection Point Class</b>				<b>Total</b>
	<b>Small Connection Points</b>	<b>Medium Connection Points</b>	<b>Large Connection Points</b>	<b>Largest 5 Connection Points</b>	
<b>Gross line charge income (\$000)</b>					
<b>Electricity Supplied to Customers' Connection Points (MWh)</b>					
<b>Number of Connection Points (ICPs) at year end</b>					
<b>Unit Price (cents/kWh)</b>					
<b>Relative Unit Price Index</b>					

Source: Commerce Commission, *Electricity Distribution (Information Disclosure) Requirements 2008, Schedule MP3*

### ***Issues with current requirements***

25. Some submitters on the July 2009 Discussion Paper disagreed whether pricing statistics are useful as currently prescribed.<sup>12</sup> In addition disclosures are inconsistent between suppliers-several EDBs have difficulty complying with this requirement.<sup>13</sup> This limits somewhat the comparability of pricing statistics across suppliers and between networks.

### ***Proposed approach***

26. The disclosures of pricing statistics by EDBs and GPBs is important for interested persons to be able to make effective comparisons of price between consumer groups, networks and suppliers in terms of prices and revenues.
27. Given the limitations mentioned above, the Commission wishes to explore ways to make this information more useful for interested persons. Suggested (non-exclusive) approaches to replace the above disclosures could be:
- rather than defining categories for pricing statistics, instead allow suppliers to disclose their revenue by each consumer group, alongside the corresponding consumption and number of connections;
  - for the Commission to define a representative consumer in each category, against which a supplier would identify the line rental charge, rather than calculating the average price for all consumers in each category. This approach is similar to the method used by the MED for identifying retail prices for typical consumers.<sup>14</sup>

<sup>12</sup> According to GasNet, pricing statistics cannot be specified in a meaningful way without considerable compliance costs, and other pricing disclosures are sufficient. See GasNet, *Submission on the information Disclosure Discussion Paper*, 10 September 2009, p.9; and PWC, *Submission on the information Disclosure Discussion Paper*, 11 September 2009, paragraph 58.

<sup>13</sup> Orion and Powerco do not hold information on the pricing breakdown required as they use GXP-based pricing used for certain networks, making conversion to the Commission's consumer groupings difficult.

<sup>14</sup> MED annual price surveys can be found at:

[http://www.med.govt.nz/templates/MultipageDocumentTOC\\_40256.aspx](http://www.med.govt.nz/templates/MultipageDocumentTOC_40256.aspx)

### ***Topics for workshop discussion***

- Whether pricing statistics be altered to improve disclosure; if so, should the requirements require:
  - disclosures of key pricing statistics to match the line charge disclosure categories determined by individual suppliers;
  - disclosures against Commission-defined representative consumers in each category.
- identification of key pricing statistics that are most relevant for interested persons assessing whether the Part 4 Purpose statement has been met; and
- disclosure for each non-contiguous network.

### **Line charges and capital contributions**

28. Disclosure of line charges involves the transparent disclosure of actual prices for the services provided.

### ***Current requirements and proposed approach***

29. EDBs and GPBs are currently required to disclose of line charges (including the components of charges and the number of consumers each charge applies to) for the provision of lines and pipeline services on an annual basis, and whenever new charges are levied.<sup>15</sup>
30. Gas and electricity requirements differ in respect of disclosure timing.<sup>16</sup> Issues raised by submitters on the July 2009 Discussion Paper included the timing of disclosure in relation to the setting of line charges, the expense of public disclosures of new line charges via newspapers,<sup>17</sup> and whether disclosures should include non-standard consumers.<sup>18</sup>
31. The Commission proposes to continue the current requirements to require disclosure of prices for regulated services for both EDBs and GPBs, for both standard and non-standard consumers.
32. The Commission also notes that there is currently a requirement for EDBs to disclose revenue from capital contributions in aggregate.<sup>19</sup> In addition to the discussion noted in paragraph 14 above, the Commission also wishes to discuss the disclosure of charges for capital contributions at the workshop.

### ***Topics for workshop discussion***

- Appropriate timing and method for disclosure of lines charges; and

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<sup>15</sup> Commerce Commission, *Electricity Distribution (Information Disclosure) Requirements* issued 31 March 2004, clauses 25-28; and *Gas Information Disclosure Regulations 1997*, clauses 24-27.

<sup>16</sup> Gas suppliers must notify consumers of current charges within 3 months after the beginning of the financial year, and “within 2 months of the first invoice being sent to consumers”. EDBs must publicly disclose and publish on the internet the specified information at least 20 working days prior to introducing a new line charge. See Commerce Commission, *Electricity Distribution (Information Disclosure) Requirements* issued 31 March 2004, clauses 25-28 and *Gas Information Disclosure Regulations 1997*, clauses 24-27.

<sup>17</sup> See Powerco, *Submission on Information Disclosure Discussion paper*, 11 September 2009, paragraphs 42-43.

<sup>18</sup> See Vector, *Submission on Information Disclosure Discussion paper*, 11 September 2009, page 27, paragraph 91.

<sup>19</sup> See Commerce Commission, *Electricity Distribution (Information Disclosure) Requirements 2008*, 31 October 2008, Schedule FS1: Regulatory Profit Statement.

- whether to expand the requirements to include capital contributions at a disaggregated level, and any other relevant charges.

## **Consumer engagement**

33. Disclosure of consumer engagement activities provides information on the process undertaken by suppliers to assess their consumers' needs, and how these needs have been considered and incorporated into investment plans. It may also reveal whether consumers have sufficient information available to assess price-quality trade-offs available to them for the services provided. Consumer engagement relates in particular to s 52A(1)(b) of the Part 4 Purpose statement, and also to objectives (a) and (c).<sup>20</sup>

### ***Current requirements***

34. Information disclosure requirements regarding customer communication for EDBs are contained within AMP disclosure requirements. They include:
- a description of stakeholder interests, including how these interests were identified and accommodated in asset management practices; and
  - justification for target levels of service, including demonstration in the AMP of how stakeholder needs were ascertained and, where appropriate, translated into service level targets.<sup>21</sup>
35. There are no current requirements for GPBs to disclose the identification or accommodation of consumer/stakeholder needs.

### ***Issues with current requirements***

36. The Commission considers that current requirements for EDBs to disclose consumer engagement are not specific enough to appropriately assist interested persons in fully understanding how any consumer engagement undertaken by suppliers (and the related identification of consumers' quality expectations) links with suppliers' investment plans.
37. In the July 2009 Discussion Paper the Commission noted that the identification of consumer demands was complicated by diverse consumer groups having a variety of service requirements.<sup>22</sup> The Commission considered that provisions similar to the consumer engagement criterion for EDBs should be included in AMP disclosures for all regulated services.<sup>23</sup>
38. Submitters' views varied on the disclosures of consumer engagement and the determination/measurement of requisite quality. Some electricity and gas submitters

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<sup>20</sup> Section 52A(1)(b) requires that suppliers of regulated services have incentives to provide services at a quality that reflects consumer demands. Sections 52A(1)(a) and (c) relate to investment incentives, and the sharing with consumers of the benefits of efficiency gains, respectively. See *Commerce Act 1986, Part 4 Subpart 1, s 52A(1)*.

<sup>21</sup> See Commerce Commission, *Information Disclosures Regime Electricity Information Disclosure Handbook 31 March 2004 (as amended 31 October 2008) pages 21, 25*.

<sup>22</sup> Commerce Commission, *Information Disclosure Discussion Paper*, 29 July 2009, paragraph 368.

<sup>23</sup> Commerce Commission, *Information Disclosure Discussion Paper*, 29 July 2009, paragraph 379.

considered that they should not have to disclose customer service aspects of quality as no direct relationship with end consumers exists.<sup>24</sup>

***Proposed approach***

39. The Commission proposes that the principles of the old Part 4A Electricity Distribution Thresholds should apply to suppliers' consumer engagement disclosure requirements. Under this approach suppliers would be required to demonstrate the extent to which they have applied the following principles in their determinations of requisite quality (and by extension, quality targets):
- proper advice to their consumers about the price-quality trade-offs available to them in relation to the goods and services provided;
  - consultation with consumers about the quality of goods and services that they require, with reference to the prices of those goods and services;
  - proper consideration of the views expressed by consumers during and after that consultation; and
  - taking of these views into account when making their asset management decisions.<sup>25</sup>
40. The Commission expects this approach will enhance transparency and comparability in relation to consumer engagement, while being consistent with the DPP for non-exempt EDBs and maintaining the flexibility required by regulated suppliers.

***Topics for workshop discussion***

- Whether to include the consumer engagement provisions of the Electricity Distribution Threshold requirements within the AMPs of EDBs and GPBs; and
- the most appropriate ways to measure consumer engagement for the electricity and gas sectors.

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<sup>24</sup> See Eastland Network, *Submission on the 'Information Disclosure' Discussion Paper*, 11 September 2009, pp.18-19. See also GasNet, *Submission on the Information Disclosure Discussion Paper*, 10 September 2009, p.26.

<sup>25</sup> *Commerce Act (Electricity Distribution Thresholds) Notice 2004*, Clause 6(1)(c)(i-iv).