

25 September 2023

[REDACTED]
[REDACTED]

Aurora Energy Limited
PO Box 5140
Dunedin 9054

By e-mail only: [REDACTED]

[REDACTED]

Request for an exemption from the requirements relating to presenting a summary of the Annual Delivery Report at a public forum each year

1. I refer to your letter dated 25 May 2023¹ in which you requested that the Commerce Commission (the **Commission**) grant Aurora Energy Limited (**Aurora**) exemptions from certain obligations relating to presenting a summary of the Annual Delivery Report (**ADR**) at a public forum each year, as required under clauses 2.5.5(2) and 2.5.7 of the Electricity Distribution Information Disclosure Determination 2012 (the **ID Determination**).²
2. We consider there are sound reasons for retaining the existing arrangements at this point and therefore we **decline** Aurora's request for an exemption from the following requirements, under clauses 2.5.5(2) and 2.5.7 of the ID Determination:
 - 2.1 to present to consumers in each Aurora pricing region;
 - 2.2 to present in a public forum; and
 - 2.3 to hold the presentation in a physical venue that is accessible to Aurora's consumers (except where it is not feasible for reasons outside of Aurora's control):

¹ Aurora Energy Limited, *Aurora Energy Annual Delivery report – Public Forum Presentations*, dated 25 May 2023.

² Electricity Distribution Information Disclosure Determination 2012, as amended on 28 June 2023.

3. However, we **grant** a conditional exemption to Aurora from the requirement, under clause 2.5.5(2), to present to consumers within two months of publicly disclosing the ADR for each of the remaining disclosure years of Aurora's Customised Price-Quality Path³ (**CPP**), which ends on 31 March 2026.⁴ This exemption is granted on the condition that Aurora presents to consumers within **four months** of publicly disclosing an ADR.
4. We are providing clarification of certain requirements under clause 2.5.7 of the ID Determination in relation to:
 - 4.1 the definition and meaning of public forum;
 - 4.2 the inclusion of the development plan, project and programme delivery plan, and safety delivery plan in the presentation required by clause 2.5.5(2):
5. Our full response is below, including an outline of the background surrounding Aurora's exemption request, and the basis for our decision.

Background

6. Aurora is currently on a 5-year Customised Price-Quality Path (**CPP**). Alongside the CPP, Aurora is subject to enhanced disclosure obligations. The ID Determination was amended on 31 August 2021 to give effect to these obligations⁵.
7. Clause 2.5.5(1) of the ID Determination requires Aurora to complete and publicly disclose an ADR which includes the content specified in Attachment C of the ID Determination.
8. Clause 2.5.5(2) of the ID Determination requires Aurora to present to consumers a summary of the key features of the ADR at a public forum in each Aurora pricing region.
9. Clause 2.5.7 states that before presenting a summary of the ADR at a public forum, Aurora must publish reasonable notice on its website and via other suitable means of communication. Aurora must also ensure that, except where it is not feasible for reasons outside Aurora's control, the presentation is held in a physical venue that is accessible to Aurora's consumers.

³ Aurora's CPP period comprises the five disclosure years commencing 1 April 2021 and ending on 31 March 2026

⁴ This includes disclosure year 2023, which means the new due date is 31 October 2023. Remaining disclosure years of the CPP are 2024, 2025 and 2026.

⁵ EDB ID (Aurora Energy) Amendment Determination 2021, 31 August 2021. Published [here](#) on our website.

Exemption Request

10. As referred to in paragraph 1, on 25 May 2023, Aurora wrote to the Commission requesting an exemption from:
 - 10.1 the requirements under clause 2.5.5(2), for Aurora to:
 - 10.1.1 present to consumers within two months of publicly disclosing the ADR;
 - 10.1.2 present to consumers in each Aurora pricing region:
 - 10.2 the requirements under clause 2.5.7, for Aurora to:
 - 10.2.1 to present on the key features of the development plan, project and programme delivery plan, and the safety delivery plan;
 - 10.2.2 present in a public forum;
 - 10.2.3 hold the presentation in a physical venue that is accessible to Aurora's consumers (except where it is not feasible for reasons outside of Aurora's control).
11. With respect to the exemptions outlined in paragraphs 10.2, Aurora has proposed in their exemption request letter¹, the removal of conditions (2) and (3) as well as the inclusion of the following alternative conditions to clause 2.5.7, such that clause 2.5.7 reads as:
 - 2.5.7 When presenting the summary of the key features of each annual delivery report under clause 2.5.5(2), Aurora must ensure it presents that summary —
 - (1) in a format that allows Aurora's consumers to readily understand and engage with Aurora and the information presented; and
 - (2) in a manner that ensures that the summary is reasonably accessible to Aurora's consumers, including by:
 - (a) publishing the summary prominently on Aurora's website;
 - (b) promoting the summary in Aurora's biannual community newsletter, e-newsletters sent to stakeholders, and via social media channels; and
 - (c) making the summary available at in-person consumer-facing events organised or attended by Aurora.
12. Aurora has expressed concern about the cost that it will incur annually to comply with the related requirements of clause 2.5.5(2), as well as the perceived lack of consumer engagement. Aurora believes that presenting a summary of the ADR at a public forum each year is not an effective or cost-efficient way of engaging with customers in relation to the ADR.

13. Aurora states that none of the queries or comments received from attendees at any previous public forum events related to the delivery of the CPP.
14. Aurora would prefer less prescriptive requirements (outlined in paragraph 11) which would still impose upon Aurora to present a summary of the ADR to consumers and stakeholders, but with flexibility within those requirements to engage in the most meaningful and cost-efficient way.

Exemption Decisions

15. Under clause 2.11.1(1) of the ID Determination, the Commission has the power to, by written notice, provide exemptions from any requirement of the ID Determination, for a period and on such terms and conditions as the Commission specifies.
16. By this notice the Commission:
 - 16.1 **declines** Aurora's request for the following exemptions:
 - 16.1.1 to present to consumers in each Aurora pricing region;
 - 16.1.2 to present in a public forum; and
 - 16.1.3 to hold presentations in a physical venue that is accessible to Aurora's consumers (except where it is not feasible for reasons outside of Aurora's control):
 - 16.2 **grants** a conditional exemption to Aurora from the requirement, under clause 2.5.5(2), to present to consumers within two months of publicly disclosing the ADR for each of the remaining disclosure years of Aurora's CPP, which ends on 31 March 2026.⁶ This exemption is granted on the condition that Aurora presents to consumers within **four months** of publicly disclosing an ADR.

Exemptions declined and clarification

17. We have decided not to exempt Aurora from the requirements to present in each of its pricing regions⁷, as consumers in each are affected in different ways. As outlined in paragraph 5.52 of the final reasons paper⁸, some consumers are affected by increased outages and increased prices. Removal of this requirement may result in consumers in each pricing region not having access to a public forum, due to the distance between parts of the network, which contradicts the intent of the obligation to provide access to information in this regard.

⁶ This includes disclosure year 2023, which means the new due date is 31 October 2023. Remaining disclosure years of the CPP are 2024, 2025 and 2026.

⁷ Aurora has three pricing regions, Dunedin, Central Otago, and Queenstown.

⁸ Aurora Energy Limited Additional Information Disclosure Requirements Final reasons paper, 31 August 2021. Published [here](#) on our website.

18. The ID Determination does not define the type of public forum within which presentations shall be undertaken. Aurora can present to consumers in any form of meeting, as long as it is open to the public. Outlined in paragraph 5.65 of the final reasons paper⁸, the intent of clause 2.5.7 of the determination is that all consumers have access and opportunity for two-way engagement with Aurora on its performance.
19. The removal of the text “in a public forum” from Clause 2.5.7 could restrict access for some consumers. In the exemption request letter¹, Aurora stated they could incorporate the presentations into their business-as-usual engagement events such as Business After 5 events⁹. Business After 5 events are arranged by Business South, which is a membership organisation and therefore not “public”. Other events such as agricultural shows where Aurora has a stand are fee paying events. As an alternative, for example, Community Board meetings¹⁰ in each pricing region are open to the public and all Aurora’s consumers, thus allowing two-way engagement.
20. The ID determination states the presentation must be held in a physical venue. Compared with a virtual setting, we consider that it is likely to be easier for local consumers to engage with Aurora on their specific concerns in a physical setting. As mentioned in paragraph [16], consumers in each region are affected in different ways. Our current view is that physical events in each pricing region will better allow consumers to raise issues specific to their region.¹¹
21. We have considered the proposal to remove the text in clause 2.5.7, “the development plan, the project and programme delivery plan, and the safety delivery plan”. However, we have decided there is no need to remove this text. Clause 2.5.7 refers to clause 2.5.4(4) for the requirement to present the summary of the development plan, the project and programme delivery plan, and the safety delivery plan. Clause 2.5.4(4) requires this presentation to be done by 31 May 2022. As mentioned in the exemption request letter, Aurora has already made presentations relating to these documents, and so the text does not need to be removed because this requirement has already been met.
22. We consider that granting this exemption request to Aurora would be contrary to the purpose of information disclosure under section 53A of the Commerce Act 1986.

⁹ Business After 5 events, or BA5s, are networking evenings hosted by Business South member companies.

¹⁰ A community board meeting is a public forum. The purpose of Community Boards is to communicate with community organisations and special interest groups in the community and to undertake any other responsibilities delegated by their council.

¹¹ The Commission may have different views on holding the presentation virtually in later years.

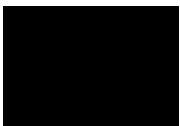
Exemption granted

23. In the exemption request letter, Aurora requested an exemption from the due date requirement, under clause 2.5.5(2), to present a summary of the key features of an ADR within 2 months after publicly disclosing it.
24. As we consider that there is still a need to ensure Aurora presents the relevant information within a reasonable timeframe, the Commission is granting Aurora a conditional exemption to the existing deadline for the remaining disclosure years in its CPP. In effect, the extension provides Aurora with four months (after an ADR is publicly disclosed) to present a summary of its key features.
25. We have considered the impact of the exemption on the purpose of information disclosure under section 53A of the Commerce Act 1986 and have concluded that the purpose will still be met if this conditional exemption is granted. The same amount of information will be in the public domain, as only the due date for the presentations will change (now within four months rather than two). Furthermore, an ADR must be publicly disclosed by 31 August each year, which will give stakeholders a good sense of the material that will be covered by Aurora's presentation.

Further Information

26. Any exemption may be revoked or amended by the Commission at any time in accordance with clause 2.11.1(2) of the ID determination.
27. A copy of this exemption response letter will be published on the Commission's website.
28. If you have any questions regarding this matter, please contact Frankie Toland at infrastructure.regulation@comcom.govt.nz.

Yours sincerely



Vhari McWha
Commissioner

Note: Attached below is Aurora's original letter to the Commission requesting the exemption. Aurora requested this be published alongside the Commission's response letter.

By publishing this letter, the Commission is not endorsing Aurora's exemption request as an example other EDBs should follow when requesting an exemption.

25 May 2023

[REDACTED]
[REDACTED]
Commerce Commission
PO Box 2351
Wellington 6140

By email: [REDACTED]

Dear [REDACTED]

AURORA ENERGY ANNUAL DELIVERY REPORT – PUBLIC FORUM PRESENTATIONS

Further to the Microsoft Teams meeting between representatives of Aurora Energy and the Commerce Commission (Commission) held on 6 December 2022 to discuss our Annual Disclosure Report (ADR), we are now writing to formally request an exemption from the requirements on Aurora Energy to present a summary of its ADR each year in a public forum.

As we outlined at that meeting, our experience to date in complying with those requirements in May 2022 in relation to our three customised price-quality path (CPP) plans, and in October 2022 in relation to our ADR, is that they result in little to no engagement by our consumers in relation to the delivery of our CPP, while incurring a significant cost to us.

Current requirements

Pursuant to clause 2.5.5(2) of the Electricity Distribution Information Disclosure Determination 2012 (the Determination), we are required to:

*“within 2 months after **publicly disclosing an annual delivery report** under subclause (1), and according to the requirements of clause 2.5.7, present to **consumers** in each **Aurora pricing region**, a summary of the key features of that **annual delivery report**.”*

Clause 2.5.7 of the Determination specifies that:

*“When presenting the summary of the key features of each **annual delivery report** under clause 2.5.5(2), **Aurora** must ensure it presents that summary in a public forum –*

- (1) in a format that allows Aurora's **consumers** to readily understand and engage with **Aurora** and the information presented;*
- (2) of which **Aurora** publishes reasonable notice on its website and via other suitable means of communication; and*
- (3) that, except where it is not feasible for reasons outside **Aurora's** control, is held in a physical venue that is accessible to **Aurora's consumers**.”*

The public presentation process has already taken place for the development plan, project and programme delivery plan and safety delivery plan. Clause 2.5.7 only remains relevant to the ADR.

Request for exemption from clauses 2.5.5(2) of the Determination in relation to the ADR

Clause 2.11 of the ID Determination allows the Commission to exempt an EDB from an ID requirement on such terms and conditions as the Commission specifies.¹

We request an exemption to enable us to engage with our consumers more effectively and efficiently on our ADR each year.

We propose an exemption from the requirements of clause 2.5.5(2) of the Determination on conditions that we instead make a disclosure as follows:²

- (2) ~~within 2 months after~~ **publicly disclosing an annual delivery report** under subclause (1), and according to the requirements of clause 2.5.7, present to **consumers** ~~in each Aurora pricing region~~, a summary of the key features of that **annual delivery report**.

When presenting the summary of the key features of ~~the development plan, the project and programme delivery plan, and the safety delivery plan under clause 2.5.4(4), and~~ each **annual delivery report** under clause 2.5.5(2), **Aurora** must ensure it presents that summary ~~in a public forum –~~

- (1) in a format that allows **Aurora's consumers** to readily understand and engage with **Aurora** and the information presented; and
- (2) in a manner that ensures that the summary is reasonably accessible to Aurora's consumers, including by:
- (a) publishing the summary prominently on Aurora's website;
 - (b) promoting the summary in Aurora's biannual community newsletter, e-newsletters sent to stakeholders, and via social media channels; and
 - (c) making the summary available at in-person consumer-facing events organised or attended by Aurora.
- ~~(2) of which Aurora publishes reasonable notice on its website and via other suitable means of communication; and~~
- ~~(3) that, except where it is not feasible for reasons outside Aurora's control, is held in a physical venue that is accessible to Aurora's consumers.~~

Summary of compliance with current requirements

In May 2022 we held a series of events across our network to present summaries of our CPP plans. These were held in Dunedin, Alexandra, Queenstown and Wanaka.

To meet the requirements of:

- clause 2.5.7, we used community facilities at which to host the public forums and members of our staff travelled to those destinations in order to be available to engage with attendees;
- clause 2.5.7(1), we prepared engaging summary material of the key features of the CPP plans in a format that allowed our consumers to readily understand and engage with us and the information presented; and
- clause 2.5.7(2), we advertised these events through:
 - a homepage banner on the Aurora Energy website;
 - a dedicated web page that was promoted in all advertising;
 - in print (ad in our six-monthly community update newsletter that was an insert in the four main weekly community newspapers in Otago, print advertising in these same four community newspapers the following week, and two ads in the regional newspaper, The Otago Daily Times);

¹ The Commission can otherwise proceed by way of an amendment under s 52Q of the Commerce Act, but in other contexts the Commission has tended to use its exemption powers under the ID Determination and we consider that is appropriate in this case also.

² We have drafted the conditions of the exemption in the form of a mark-up of the existing requirements for ease of comparison.

- o on our social media channels;
- o on local apps; and
- o on the radio.

The 16-day promotion for these events came at a cost of \$9,296.00.

In October 2022 we again held a series of events in the same locations, this to time present a summary of our ADR. These were again held in Dunedin, Alexandra, Queenstown and Wanaka, and we met the requirements in the same way as outlined above for the May events, save for we increased the advertising campaign to be s 24-day promotion, which came at a cost of \$10,026.00.

The average cost for the May and October events was \$60,000, not including staff time.

20 people in total attended the May events and there were 625 visits to the dedicated webpage. 21 people in total attended the October events and there were 331 visits to the dedicated webpage.

This is an average per-attendee cost of \$1,463.00.

Our concerns with current prescribed format of engagement

In short, we do not believe that this is an effective or cost-efficient way of engaging with our consumers in relation to our ADR. We are concerned about the significant cost we will incur annually to comply with these requirements, and the lack of engagement that we receive in return.

In addition to this, none of the queries or comments that we received from attendees at any of the events related to the delivery of our CPP. In contrast, attendees used the events as an opportunity to engage with Aurora on other service-related matters. While this was certainly a positive outcome as we were able to receive their feedback and engage with them directly, there are other means by which we can more efficiently undertake consumer engagement of that type.

We would prefer to have less prescriptive requirements that still impose on us a requirement to present a summary of our ADR to our consumers and stakeholders, but with flexibility within those requirements to engage in the most meaningful and cost-efficient way.

Our proposed revised approach for engagement

We pride ourselves in undertaking a comprehensive and well-received consumer engagement programme as a part of our business-as-usual practices. As we communicated in our meeting in December, we believe that we can continue to meet the intention of the requirements if we can incorporate the presentations into our business-as-usual engagement programme.

We would do this by:

- continuing to produce a summary document of the ADR and promoting this at every opportunity throughout the year, including at events that we attend (please find attached a copy of our RY22 ADR summary); and
- incorporating the summary material into our annual engagement schedule where appropriate, which includes:
 - o our community newsletter, Your Network, Your News, which is inserted into community newspapers every six months;
 - o having stalls at a selection of A & P shows across our network over the summer months;
 - o attending Business After 5 events across our network, including hosting on occasion;
 - o sending stakeholder updates via e-newsletter to our stakeholder database;
 - o providing regular updates on our social media channels (our website, Facebook page, LinkedIn and on Instagram);
 - o pushing out media releases as required;
 - o engaging with district and city councils on a six-monthly basis; and
 - o paid advertorials in our community newspapers every six months to promote completed and planned work in each area.

The conditions to the exemption outlined above are intended to ensure that we are obliged to include the summary in our various consumer-facing communications and engagements. Please

find attached to this letter further detail on our current annual engagement schedule, which we continue to evolve in response to feedback from our consumers and key stakeholders.

We believe that there is more benefit to us engaging with our consumers in this way because:

- we can reach a larger audience;
- we do not incur the additional expense of hosting four ADR-specific events in a physical venue;
- it enables us to go to where the people are, rather than asking them to come to us (for example at A & P shows and Business After 5 events across our network); and
- we can use the channels that our customers use, and tailor this for each pricing region.

Purpose of information disclosure regulation

Section 53A of the Commerce Act 1986 (the Act) states that the purpose of information disclosure regulation is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 4 of the Act is being met. In our view, the approach that we have proposed in this letter to clauses 2.5.5(2) and 2.5.7 of the Determination continues to meet this purpose.

We look forward to hearing from you in relation to whether this exemption can be accommodated. We are conscious that we are next required to comply with the requirements above within two months of disclosing our ADR (being by 31 October 2023, at the latest). We would appreciate it if the Commission could please provide us with a response as soon as possible as planning and scheduling is required on our part in the months prior to October for us to meet these requirements.

If you have any queries or would like to discuss any element of this with us further, please do not hesitate to contact me in the first instance at [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

[REDACTED]

AURORA ENERGY ANNUAL ENGAGEMENT SCHEDULE

Channel	Frequency	Purpose	Comments
ADR summary document	Annual	To provide a customer-facing summary of our full ADR report.	Will be promoted across numerous channels and at events/meetings
Your Network, Your News community newsletter	Six-monthly insert (A4, 8 pgs) into community newspapers in Dunedin, Central Otago, Queenstown and Wānaka in May and October	Content includes an update from our CE update, information and photos on our projects to upgrade the network, upcoming projects, sustainability, community support, public safety, and what it's like to work at Aurora Energy. CPP/ADR information included.	Past issues can be viewed here
Print advertising to promote upcoming planned outages (directing people to our website)	Fortnightly	We include messages about our increased work programme to upgrade the network and provide information about how to prepare for outages/staying safe around electricity.	
A&P Shows	We plan to have stalls at the following A&P shows this coming summer (similar to previous years): <ul style="list-style-type: none"> • Brighton Gala Day • Lake Hayes • Roxburgh • Omakau • Wanaka 	Face-to-face engagement with our communities. We will have general information about Aurora Energy, information about projects in each area (past and upcoming) and information about the CPP and ADR, as well as interactive activities.	All shows apart from the Brighton Gala Day in Dunedin were cancelled in early 2022 due to COVID-19 restrictions.
Business After 5 (BA5) events	We hold these in Queenstown, Cromwell and Dunedin, in conjunction with the Chambers of Commerce.	Share general information about Aurora Energy, information about our CPP plans/ADR achievements, and work planned for each area.	Previous BA5 events were in Dunedin and Cromwell, and we have added Queenstown to the schedule in 2022. We will add Wānaka to the list in 2023.
Stakeholder updates (e-newsletter)	At least two sent each year to our stakeholder database	Share milestones and achievements. Usually send stakeholder updates to share 'Your Network, Your News', promote Annual Report, CPP Plans, ADR report and other regulatory documents being published. Also to promote any consultations.	
Community Relations – targeted customer letters to impacted communities	When required for major project work that will impact on specific communities	Provide context for multiple planned outages as a result of network upgrade projects. We always include information about our five-year work programme and this is an ideal format to include other relevant CPP/ADR information.	
Community relations – other (letters and community meetings)	As required	We have started a project to identify reliability hotspots and will proactively share information about the network performance, reasons why and work planned/benefits of this.	We have done this responsively in a couple of communities and see the benefit so want to take a planned and strategic approach for other communities. This is an opportunity to share information about the CPP/ADR

Channel	Frequency	Purpose	Comments
Existing channels: <ul style="list-style-type: none"> Website Facebook page LinkedIn Instagram 	Weekly updates	Relevant and timely messages about Aurora Energy, our work and our achievements. We produce content in multiple formats including visual, text and video production, making it easier for diverse customers to consume it See example project video here	In the last financial year we had 298,928 page views on our corporate website We have 5,892 social media followers across Facebook, LinkedIn and Instagram
Media releases	As relevant	To share specific news. Aurora Energy context about our work programme is usually included (i.e. CPP/ADR)	Media releases can be viewed here
Stakeholder engagement framework	Six-monthly meetings with district/city councils	As a key stakeholder, we aim to meet 2 x a year with council executive teams to share progress and plans.	We met with councils when promoting the CPP plans in May, and again in October to discuss the ADR.
Public safety advertising (PSA)	Monthly advertising across print, online and social. Radio being re-introduced.	To educate how to stay safe around electricity, and inform about Aurora Energy.	We are updating our PSA advertising to introduce narrative around Aurora Energy and our work programme (i.e. CPP/ADR).
Newspapers – ODT and community papers in Dunedin, Central Otago, Queenstown and Wānaka	Six-monthly advertorial to promote completed and planned work in each area. Commencing January 2023.	We know print is a preferred channel for our customers and want to introduce another way to communicate our work and achievements.	This will be timed so it is every three months following 'Your Network, Your News' i.e. January and July.