

Sue Begg,
Deputy Chair
Commerce Commission,
PO Box 2351,
Wellington 6140.

By email to sue.begg@comcom.govt.nz

Re: Impact of a reduction of live line work on Non-Exempt EDBs under the Default and Customised Price Quality Path.

Dear Sue,

Following the passage of the Health and Safety at Work Act 2015 ('the Act'), Worksafe raised with the electricity industry the need to reconsider the risks of live-line work. Following extensive discussion and research into approaches taken in other jurisdictions, the electricity supply industry has developed a guideline¹ for the circumstances when it is and is not appropriate for network companies to work on high voltage equipment in a 'live' state (as opposed to de-energised).

It outlines an industry management framework to further enhance safe working practices and is to be applied to reflect the regulatory and legislative requirements which can assist companies to undertake a hazard identification and assessment processes to determine whether it is appropriate to eliminate or minimise high voltage live line electricity supply risks.

The guideline starts with the presumption that all work should be undertaken de-energised (unless there is good reason for it to be carried out live and safely), limiting circumstances when live work can be undertaken. For the majority of network businesses, this will have impacts on the system average interruption indices for duration and frequency (SAIDI and SAIFI). As a consequence, this safety-driven change will alter the ability of non-exempt EDBs to achieve their quality targets and increase the likelihood of incurring penalties under and breaching the Default Price Path (DPP) quality incentive scheme. Or, in the case of Orion, increased likelihood of breaching under its CPP.

¹ The guideline is currently with Worksafe for feedback. A draft is available on request from gpeters@electricity.org.nz

The Input Methodology review draft decision includes a proposed quality standard re-opener for the DPP. If this re-opener were made available within the current regulatory period, it would be a useful mechanism to address the change in circumstances brought about by the Act.

The current drafting of the quality standard re-opener requires individual non-exempt EDBs to apply for the reopener, providing the Commission with supporting analysis, evidence and engineering reports to justify the application. However multiple applications for re-openers for the same circumstance may be cumbersome for the Commission, and may result in some delay before re-opener decisions are able to be made for each EDB.

We suggest that the draft quality standard re-opener provisions are able to be improved by allowing the DPP to be re-opened more broadly by the Commission in response to this change. This re-opener could draw from the drafting already proposed for change events, major transactions and other reopener triggers (for example in Clause 4.5.6 of the IM Review Draft Determination).

We request that the Commission considers modifying how the quality standard reopener is triggered when preparing its technical consultation draft of the IM Determination due to be released shortly. We note that we also intend to carefully consider the drafting of the DPP (and CPP) reopener provisions in this respect, when responding to the technical drafting consultation.

We also note that DPP and CPP re-openers are currently available for 'change events'. Change events include new legislative or regulatory requirements. We consider the implications of the Act are consistent with the intent of the change event definition (refer IM Clause 4.5.2 and IM 5.6.2). In particular we note that the Act has come into effect during the regulatory period, and it was not explicitly or implicitly provided for in the DPP or Orion's CPP.

A third requirement of a change event is that it must have an impact on the price path of at least 1% of forecast allowable revenue. While there are financial penalties for EDBs (and financial rewards for customers) for increased outage duration and frequency via the quality incentive scheme, these are capped at 1% of the price path. EDBs are still expected to comply with the quality requirements of the DPP Determination and therefore would have to incur additional expenses to counter-act the SAIDI/SAIFI impacts of carrying out more work de-energised. Accordingly, the change event criteria will be met for many EDBs, although it will likely take detailed engineering studies to establish the costs of achieving the current quality targets given a restriction on live-line work.

However the immediate and primary impact of the Act and the resulting new work practices is that the duration and frequency of outages will increase. This places non-exempt EDBs at significant risk of breaching their quality limits, because the quality limits do not reflect the new health and safety requirements imposed by the Act. This will need to be resolved during the current regulatory period.

Accordingly, the ENA suggests that the Commission:

1. Revises the draft IMs to allow for quality standard re-openers to be triggered by the Commission, and removes the 1% of allowable revenue criteria from a change event which requires a DPP or CPP quality standard to be reopened
2. The Commission indicates in principle agreement that a change event has occurred, or specifies what further evidence is required for EDBs to satisfy the Commission that a change event has occurred or the quality paths are reopened;

3. A methodology be determined for:
 - a. Assessing the impact on quality performance of additional de-energised work; and
 - b. Assessing any cost impact on businesses of reduced energised work.
4. Businesses submit data prepared according to the methodologies determined in step 2 to the Commission; and
5. Commission releases a revised DPP and Orion CPP determination with adjusted quality standards.

I look forward to your response, and am available to meet to discuss my request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Graeme Peters', with a long, sweeping flourish extending upwards and to the right.

Graeme Peters

Chief Executive

Cc: Nick Russ, General Manager, Regulation, Commerce Commission

Keston Ruxton, Manager, Market Assessment and Dairy.