

Chorus submission on amendments to the fibre input methodologies

13 August 2024

C H ● R U S

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Executive summary

Issue	Chorus response
Definition of outage	<p>Chorus understands the Commission is attempting to clarify the definition. However, the proposal has substantial implementation issues and would disrupt the availability quality standards that apply to Chorus. We recommend:</p> <ul style="list-style-type: none"> • The amendment is put on hold while the Commission and industry works through implementation details. • A process is put in place to develop a workable and consistent definition of outage that can apply across all regulated providers. The aim would be to develop two separate outage measures that will be reported through information disclosure; one for reported outages (which would continue to be used for quality standard purposes in the near term at least) and the other for combined outages including self-identified outages. This would deliver a data set that could potentially support a changed quality standard metric in future.
Crown financing	Chorus supports the Commission’s proposed changes to the calculation of crown financing benefits.
Individual capex design proposal	Chorus does not agree with the proposal to extend the time for the assessment of an individual capex design proposal. The focus should be on streamlining the process so Individual Capex Proposals can be approved in a timely manner, while still providing for a robust review by the Commission, not slowing the process down.

Introduction

1. This is Chorus' submission on the Proposed expenditure, revenue and quality-related amendments to the Fibre Input Methodologies (IMs) for Chorus' second regulatory period (PQP2). This submission is not confidential.

Definition of outage

2. The Commission proposes to change the definition of outage to:

a cessation in the supply of-

(a) ID FFLAS (for the purpose of Part 2); or

(b) PQ FFLAS (for the purpose of Part 3),

that is identified by the regulated provider or in respect of which the regulated provider has received an outage notification (see also clause 1.1.4(3))

3. We do not support the Commission's proposed amendment to the definition of outage. While we understand that the Commission considers its amendment to be a clarification, it has a material effect on the calculation of outages on the Chorus network. The proposed definition is vague, with no precise meaning of "identified". If the proposed amendment were implemented as currently drafted, Chorus would be held to a new standard of performance through the availability quality standard. This may result in false positives, putting Chorus at risk of breaching compliance and quality standards in PQP2 without changing the underlying quality of our service. It would also prevent the Commission from understanding how quality performance is changing over time.
4. We recommend:
 - 4.1. The amendment is put on hold while the Commission and industry work through implementation details.
 - 4.2. A process is put in place to develop a workable and consistent definition of outage that can apply across all regulated providers. The aim would be to develop two separate outage measures that will be reported through information disclosure; one for reported outages (which would continue to be used for quality standard purposes in the near term at least) and the other for combined outages including self-identified outages. This would deliver a data set that could potentially support a changed quality standard metric in future.
5. A deferral will be manageable because the amended definition could not be implemented for Chorus' PQP2 price-quality path, and LFCs have a current exemption from the ID definition.

Issues with proposed change to definition

6. The problems with the proposed IM change are:
 - 6.1. The definition is vague: "identified by the regulated provider" implies the Commission is assuming that all LFCs have systems that identify and record

outages, and that these systems operate in the same way. This is not the case. In reality:

- 6.1.1. "Identified" has no precise, verifiable meaning;
 - 6.1.2. Internal approaches for identifying network issues including outages will differ between regulated providers depending on their technology and systems;
 - 6.1.3. Regulated providers' approach will differ over time (including potentially within period) if they change or upgrade their systems or processes; and
 - 6.1.4. A quality standard applied to provider identified faults will punish regulated providers for investing in better/more accurate fault monitoring as that will shift the numerator for compliance purposes. This may deter such investment.
- 6.2. The definition would require Chorus to change the approach it has taken to measuring outages under both the UFB agreements with CIP, and in assessing performance against the availability quality standards for PQP1. Because reporting using the existing definition of outage has been used to set the draft availability quality standards for PQP2, there is a very high chance the change would result in breaches of the availability quality standards even if there is no change in underlying service availability.
7. Accordingly, we do not agree that the amended definition of outage better promotes the purpose of the Fibre IMs under section 174 to promote certainty for regulated fibre service providers, access seekers and end-users in relation to the rules, requirements and processes applying to the regulation of FFLAS. On the contrary, we think that the proposed change introduces considerable uncertainty about what regulated providers are required to do relative the status quo. It would be materially better to not make the amendment and instead retain the current definition of outage, pending further review with the industry.
8. We agree with the Commission that, if fibre providers have a more workable definition to comply with reporting requirements on quality services, then the information provided under the amended definition would ensure that interested persons are able to assess if fibre providers are supplying FFLAS of a quality that reflects end user demands consistent with section 162(b) of the Act. However, the proposed amendment does not achieve that because:
- 8.1. the proposed definition is likely to involve regulated providers measuring outages in different ways as noted above; and
 - 8.2. a change in the way outages are measured will break the time series of previous measures making it difficult to assess changes in performance over time.
9. We recommend the Commission carry out further engagement with industry, possibly including a workshop, to work through the practical issues of implementing this change and establish an agreed and consistent definition for outages and a uniform way of measuring downtime. A written submission process through an IM amendment is not an optimal process to consider this change.

10. If the Commission chooses to make this IM amendment now despite our feedback, it will need to make an amendment to the draft price-quality determination to ensure that compliance with availability quality standards in PQP2 continues to be assessed based on outages for which Chorus has received an outage notification from a customer. For information disclosure purposes, the Commission would also need to apply a transition period as it is not feasible for Chorus to implement a robust system to identify and report outages by 1 January 2025.

Approach to outages and downtime reporting

11. To date, Chorus' downtime reporting has been based on customer-reported faults. This is because the standards were set using historical downtime figures reported to CIP under the UFB contract which included reported downtime only. The historical downtime data provided with Chorus' PQP1 proposal and in response to subsequent RFIs was based on customer-reported outages and this was made explicit in the notes provided to the Commission accompanying this data and in Chorus' expenditure proposal. This data was subsequently used by the Commission to set the PQP1 availability quality standards and the Commission expressed no intention to change the measurement of downtime from that used for historic measurements. During the PQP2 proposal process Chorus provided updated downtime to the Commission which used only reported faults.¹
12. Including both self-identified and customer-reported outages may well provide a more accurate indication of actual downtime, but it is a material change to the definition of an outage, would require significant changes to systems and processes, and may result in significantly higher downtime measures. Changing the definition of outage without adequate consultation risks Chorus breaching our quality standards even though there would be no decline in the quality of our service.
13. This is because Chorus has interpreted the current definition of outage to support a methodology consistent with that used when reporting downtime data to CIP and to provide downtime data in response to Commission RFIs. The proposed amendment explicitly includes provider-identified cessations of supply, which would require a significant change in the information required to detect and report on outages, including:
 - 13.1. Identification of service outages based on a combination of customer-reported and network generated information (e.g. network alarms). This includes validating that the source information represents an outage of the Chorus service, as opposed to, for example, an outage within the customer premises or RSP network, or an equipment fault that does not result in loss of service.
 - 13.2. Identification of the number of connections impacted. This requires identification of the root cause (e.g. the specific network asset that has failed or been damaged) and associating that root cause with all service instances representing connections that would have consequently lost service. This implies linking of the information identifying an outage with information about the actions taken, and on what assets, to restore service.
 - 13.3. Validation of source information, to address any potential for double counting where there are potentially multiple triggers identifying an outage. For

¹ See RFI 37

example, addressing the risk that customer-reported faults and alarm-derived faults both relating to the same event. Work will be required to determine the actual duration of individual connection downtime, as restoration time can be recorded as the time the last connection in a group of connections that experienced an outage is restored.

14. Chorus does not currently capture all the above information to the level of accuracy required for proposed regulatory reporting. The information we do capture is used to generate network event notifications. However, this information comprises automatic and manual interpretation of events and was not developed for the purpose of regulatory reporting. The systems used to generate this information are operated by third parties, updating them to provide accurate data for regulatory reporting will come with costs that are not reflected in our regulatory proposal or PQP2 allowances and is not something that can be implemented before the start of PQP2.
15. We acknowledge that provider identified downtime is important and it makes sense to capture and incorporate this information into measures of downtime. However, the change is significant, the existing proposal is uncertain, and this IMs amendment process is too truncated to yield a practical and enduring outcome. As a result, we recommend the amendment is put on hold until we have identified and confirmed a workable cross-industry approach and appropriate definitions to reflect that.

Crown financing

16. The Commission proposes to calculate the benefit of Crown financing as the sum of the benefit for each day of the regulatory year or disclosure year, rather than the current practice of calculating the benefit as at the first day of the regulatory or disclosure year.
17. Chorus welcomes the proposed changes to the IMs relating to crown financing. As noted in our previous submission,² the changes will better reflect Chorus' financing costs.

Individual capex design proposal

18. The Commission proposes to change the timeframe in which an individual capex design proposal must be approved by the Commission from one month to three months.
19. We acknowledge that the one-month timeframe was challenging for the Commission during the 2023 incentives individual capex proposal (ICP), particularly as it included the Easter holiday period. However, IM changes should not be made simply to ease an administrative burden for the Commission.
20. For end-users, the proposed changes are likely to impede, rather than promote, efficient outcomes. Adding further time to the ICP process would not promote incentives to innovate or invest, but (as explained below) would create a further disincentive to apply for ICPs - thus investment opportunities will be disincentivised for regulatory process reasons. Nor would a longer ICP process limit better limit any

² Chorus submission on PQP2 Process and Approach, 28 September 2023, page 43.

theoretical ability to extract excessive profits as the Commission continues to have an unlimited amount of time to review an ICP, and is able to reject the proposal if it does not meet the relevant criteria.

21. For Chorus, the time taken for an ICP to be approved is already a significant barrier to making individual capex proposals. The incentives capex ICP design proposal (our only experience of the process) was lodged in March 2022 and approved in April 2022, with the full ICP sent to the Commission in June 2022, and a final decision made in December 2022. It took almost a year from when Chorus started working on the ICP to reach a final decision, even though the Commission had previously reviewed Chorus' incentives capex plans and the process excluded verification.
22. If Chorus were to progress plans for more 'fibre frontier' rural fibre rollout during PQP2, this would require an ICP. This means that Chorus would need to plan the investment, confirm and approve the business case and secure field service resource to do the work, and then potentially pause for a year (or more if verification is required) waiting for regulatory approval. During the public consultation our plans would be revealed to potential competitors. By the time the investment is approved we may find that competing networks have already been built in our proposed areas. Taking more time to review an ICP strengthens this disincentive further.
23. The Commission states that taking more time to consider the information requirements may reduce the amount of time the Commission takes to assess the proposal later in the evaluation phase.³ It is not clear why the Commission thinks this is the case, and as no evidence or analysis is provided to demonstrate the evaluation phase would be accelerated, we are not convinced the proposed change would speed up decisions. Chorus' experience from the customer incentives ICP was that delays to that process stemmed from confusion regarding modelling details, which would not have been clarified during the design proposal process.
24. We would like to work with the Commission on ways to accelerate the process for approving ICPs while still ensuring the Commission can make robust decisions. Simply extending the timeframe for the design proposal stage is not an adequate solution. We helped the Commission to manage timeframe challenges through the 2023 customer incentives design proposal process by providing a draft view of the design proposal early. We are happy to repeat that practice as needed.
25. If the Commission is firmly of the view that it needs three months to review a design proposal properly, it may be better to remove the design proposal requirement from the IMs altogether. Chorus could make ICPs based on requirements in the IMs and the Commission can use the RFI process, which has operated effectively for the PQP2 proposal, to request any additional information that is needed. Alternatively, the 3-month design proposal timeframe could be matched to a maximum timeframe (we suggest five months) for making decisions on an ICP – this would give confidence to Chorus about when decisions would be made.
26. The other issue we identified during the 2023 incentives ICP process, and raised with the Commission at the time, was conditions being applied to the ICP at the end of the design process. As we discussed with Commission staff, there is no consultation on the conditions meaning the Commission could (inadvertently) impose conditions that are not achievable. Under the current IMs, the only option in that scenario is for Chorus to

³ Draft reasons paper paragraph 3.14

withdraw the ICP altogether and start a new design proposal process, greatly extending the relevant timeframe. An ability to amend conditions after they are created would be extremely useful, would help to speed up some ICP processes, and should also be progressed by the Commission. We recommend this amendment is also progressed. We believe the Commission should make amendments to the ICP IMs that improve the process for all parties, not just the Commission.