



27 January 2021

Andy Burgess

Head of Energy, Airports and Dairy Regulation

Commerce Commission

PO Box 2351

Wellington 6140

By: submission form¹

Dear Andy

Feedback on Levy Consultation 2020 (the Paper)

Introduction

1. Orion welcomes the opportunity to provide feedback on the Commission's preferred funding option for the period 2021/22-2025/26.
2. The Commission is seeking additional funding due to increased workload and expectations for your role, and to fund the next IM review that is currently unfunded and must be completed by the end of 2023.
3. The additional funding sought by the Commission is to deliver on increasing expectations around the summary and analysis function (and targeting areas of concern), consumer engagement, stakeholder and regulated businesses engagement, and monitoring and enforcement of compliance.
4. The preferred funding option, 'bridging the gap', will fund 41 FTEs and an additional 13.5 FTEs for the IM Review, to deliver the energy regime (electricity and gas). The funding requested is \$12m per annum (\$9m electricity, \$3m gas) and \$8m for the IM Review respectively.
5. The Commission's focus is on performance outcomes for our sector in six areas: innovation, investment (asset management), quality (both reliability and resilience), pricing (energy affordability), profitability and efficiency. The Commission also mention decarbonisation as an area of sector scrutiny.

¹ <https://comcom.govt.nz/file-upload-form-folder/file-upload-form>

6. Orion has also provided, at your request, our thoughts on the type of economic regulator we believe will best serve New Zealand into the future.
7. The Commission has posed nine specific questions to ascertain our views about the relative priority to give to different regulatory activities anticipated under the funding proposals.
8. The Commission would appreciate evidence to support views we express such as references to independent research, facts and figures, or relevant examples.

Summary

9. Overall, we support the Commission's indicated direction of travel and the additional funding proposed under the 'bridging the gap' option.
10. We want our regulators to have legislative jurisdiction to accommodate the sustainability related activity of regulated entities.
11. The Commission has indicated a desire for more connection and collaboration with the sector. We encourage this and invite the Commission to visit us so that we can share our aspirations and goals for the future with you.
12. We want the Commission to be more cognisant of the emerging activities that are necessary for EDBs to support decarbonisation.
13. We believe that now is the time to ensure resourcing and capability are optimum to facilitate connectedness and collaboration between parties, to hold each other to account and maintain a focus on the long-term benefit of consumers. Reducing the Commission FTEs would be detrimental in a time of significant societal shift.

The type of economic regulator we believe will best serve New Zealand into the future

14. Orion has reviewed our strategy and aspirations for the future. Our purpose is 'Powering a cleaner and brighter future for our communities' and is underpinned by a focus on selected United Nations sustainability development goals where we believe we can provide positive outcomes- sustainable cities and communities, affordable and clean energy, climate action, decent work and economic growth, responsible consumption and production, partnerships for the goals, and reduced inequalities.
15. To support our purpose, we have set our focus on five strategic programmes of work- transformation of our network for the future, customer, tackling the climate emergency and low carbon objectives to support this, optimising performance, and evolving industry capability. The foundation for our Purpose and our strategic programmes is our aspiration to be "New Zealand's most advanced electricity network".

16. The Commission has indicated a desire for more connection and collaboration with the sector. We encourage this and invite the Commission to visit us so that we can share our aspirations and goals for the future with you. Our future and strategy are shaped around the challenges our community is facing and that we have a part to play in addressing. It's important that regulators and regulation keeps well-informed about this.
17. The Paper discusses the energy trilemma- equity, security and sustainability.
18. Regulators need to influence policy change to ensure that regulation can keep up with broader changes that encourage regulated entities to respond to the climate emergency. We want a regulator who is open to exploring these broader changes with an open mind that doesn't automatically preclude EDBs from participation where we can add value for good community outcomes and customer benefits.
19. We want our regulators to have legislative jurisdiction to accommodate the sustainability, innovation and efficiency related activity of regulated entities to meet community needs.
20. In July 2020, Orion released its first report on the opportunities and risks posed to its operations by climate change². The report is the first of its kind produced by an electricity distributor in New Zealand.
21. In December 2020, Orion announced³ our commitment to achieving carbon neutrality for corporate emissions by June 2022, the first electricity company in New Zealand to commit to this ambitious target.
22. On sustainability we need a regulator that has the jurisdiction and motivation to incentivise EDB activity with clear sustainability outcomes where those outcomes demonstrate climate leadership or are desired by and benefit customers. We are concerned that while our environment has shifted, with clear requirements around management of our business carbon footprint along with enabling our customers to decarbonise, the regulatory framework that governs our economic regulation makes little recognition of these obligations and the related costs.

² <https://www.oriongroup.co.nz/assets/Company/Corporate-publications/2020-Orion-Climate-Change-Report.pdf>

³ <https://www.oriongroup.co.nz/corporate/latest-news/orion-commits-to-carbon-neutrality-by-2022/>

23. The Commission has acknowledged that it does “not have a statutory mandate in our legislation to promote the Government’s climate change objectives, with the exception of an obligation to promote incentives for energy efficiency⁴ when regulating electricity lines businesses”⁵. A tenuous connection to sustainability seems to be made in the paper by reference to innovation with a strong flavour of impending risk from participation by EDBs.

24. For New Zealand to meet its ambitious low carbon economy goals all businesses should be enabled to apply their creativity, intellect, leadership and enterprise to driving forward the urgent change needed to address our most pressing business and life risk- climate change.

Question One: do you have any feedback on the purpose and objectives of this consultation paper?

25. Orion has no feedback on the purpose and objectives of this consultation.

Question Two: please provide feedback on whether you agree with how we have characterised the operating context of our work- in terms of a regulatory regime with increased expectations- in relation to our regulation of electricity and gas networks

26. The Commission is seeking additional funding to address changing and increasing expectations on it. We suggest this principle applies equally to us.

27. We believe that now is the time to ensure resourcing and capability are optimum to facilitate connectedness and collaboration between parties, to hold each other to account and maintain a focus on the long-term benefit of consumers. Reducing the Commission FTEs would be detrimental in a time of significant societal shift.

28. We expect that the Commission will apply an operating model that maximises the value from human resource in the most efficient manner.

⁴ Section 54Q of the Commerce Act 1986- The Commission must promote incentives, and must avoid imposing disincentives, for suppliers of electricity lines services to invest in energy efficiency and demand side management, and to reduce energy losses, when applying this Part in relation to electricity lines services.

⁵ Commerce Commission briefing for the Incoming Minister- Commerce and Consumer Affairs, Digital Economy and Communications November 2020 point 65

Question Three: please provide feedback on whether you agree with how we have characterised the changing energy landscape in relation to electricity and gas networks. Are there other sector factors that you think are important?

29. We agree that there are ongoing trade-offs that need to be made between the three arms of the energy trilemma.

30. We also agree that there are ongoing fundamental duties for EDBs as part of asset and risk management including to maintain reliability, build in resilience that's appropriate for the environment and communities in which our assets reside, and an enduring need to replace and/or renew (through either traditional approaches or non-traditional alternatives) our existing assets.

31. We think there are other sector factors that are important;

- Our role in decarbonisation as a business in our own right (opex and capex impacts),
- Our role in enhancing customer facing functions to support, share knowledge and partner with customers during the decarbonisation transition
- Our role to understand the needs and objectives of our customers
- Our role in addressing energy hardship beyond our pricing methodology e.g. wrap around services to support those in energy hardship such as our sponsorship of Community Energy Action in Canterbury who provides insulation and energy advice services to those with the greatest need.⁶
- The important role of the Information Solutions (IS) platform as integration with the network platform increases. IS infrastructure and tools facilitates risk management through data and information, customer service and asset stewardship through management and control of assets and future networks. Incremental transitions are occurring from owning hardware and/or software to lease/software as a service approaches (capex to opex transition).

⁶ <https://www.cea.co.nz/>

- Recognising the sector need for investment in accelerating capability given an aging workforce and the requirement for new and different skills and knowledge. There are opportunities for new business models and funding arrangements for capability development.⁷ This is fundamental to delivering advanced electricity networks across New Zealand.
- Our need to increase focus and investment to deliver the network transformation roadmap. The investment to realise the transformation needed will deliver enhancement to our low voltage networks, asset data and information, platform control and monitoring. This is especially important as electrification increases through transportation and decarbonisation.

Question Four: please provide feedback on whether you agree with how we have characterised the increased expectations on the Commission.

32. Subject to our additional feedback in the following points, we generally agree with how the Commission has characterised the increased expectations on it.

33. The current definition of innovation for the existing innovation allowance under DPP3 is-

“Innovation project means a project that is focussed on the creation, development or application of a new or improved technology, process, or approach in respect of the provision of electricity lines services in New Zealand”.

34. The current innovation allowance purpose is restricted to;

(a) delivering electricity lines services at a lower cost to consumers; or

(b) delivering electricity lines services at a higher quality of supply to consumers; or

(c) delivering electricity lines services at a lower cost to consumers and at a higher quality of supply to consumers

35. We submit that the purpose for the innovation allowance must broaden to encompass all three limbs of the energy trilemma. For instance, sustainability investment⁸ may facilitate equity and security and/or provide other benefits that consumers value such as increased biodiversity through offsetting activities.

⁷ <https://www.energyacademy.org.nz/challenge>

⁸ For example, following Australia’s example, Orion implemented use of real-time hourly fire risk ratings from NIWA to manage our automated switches and stop automatic re-livening during times of high fire risk.

36. We submit that the Commission consider regional subcommittees of the consumer council to increase efficiency through reducing system costs from engagement. The views of the consumer council could be shared with EDBs relevant to a particular region to inform decision making.
37. An area where engagement could be leveraged is the interplay between costs and pricing across the Commission and Authority, and the alignment with consumer expectations on appropriate pricing structures i.e. simplicity versus economic accuracy.
38. Ensure information disclosure is proportionate, outcome focussed and adds value/benefits for stakeholders, informing regulators and future regulation in line with the changing environment rather than creating an ever-increasing administrative burden that comes with its own costs.

Question Five: please provide feedback on how we have characterised our approach to delivering consumer outcomes in electricity and gas networks and our focus on ‘bridging the gap’. Are there other outcomes you would expect to see with the additional funding we are seeking in the consultation document?

39. A more meaningful articulation of what the Commission mean by efficiency and what the key efficiency measures are would help to guide EDB business operation.
40. We submit that a clearer incorporation of the sustainability role of EDBs in the context of electricity lines services would benefit the sector.
41. We refer you back to our response to your question four above.

Question Six: please provide feedback on the workplan for ‘bridging the gap’ outlined above in relation to electricity and gas networks. Are there other elements of the workplan that should be included?

42. We are particularly encouraged by the Commission’s plans to “develop a deeper understanding of the regulated businesses and how they operate, including a greater capacity to address issues that arise while also working to understand their context.”
43. Having a shared understanding of our context, and strategies to address that context, can only enhance the regulatory regime ensuring measures and outcomes are appropriate, repeatable and beneficial for customers.

44. We endorse the Commissions' intention to strengthen collaborative channels in all aspects.

Question Seven: please provide feedback on the workplan for 'bridging the gap' outlined above in relation to the IM review. Are there other elements of the workplan that should be included? Do you agree that the 'bridging the gap' scenario for the IM review is more appropriate than 'bridging the gap+'?

45. We agree with the reasons provided by the Commission that lead to discounting a 'bridging the gap+' funding level for the IM Review.

Question Eight: please provide feedback on whether you think the additional funding we are seeking for our work in relation to electricity and gas networks is appropriate. If you think a different level of funding is warranted, please explain why.

46. We agree that the level of additional funding sought is warranted.

Question Nine: please provide feedback on whether you think one of the other funding options set out above is more appropriate than our preferred option of 'bridging the gap', and why.

47. We support the preferred option.

Other

48. We submit that for future reviews of Commission funding it would assist EDB budgeting processes if the consultation were issued earlier than December. We begin our budgeting process for these types of costs around October each year.

Concluding remarks

Thank you for the opportunity to provide this feedback and thoughts. We do not consider that any part of this feedback is confidential. If you have any questions please contact Dayle Parris (Regulatory Manager), DDI 03 363 9874, email dayle.parris@oriongroup.co.nz.

Yours sincerely



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