

Cross-submission

Commerce Commission Targeted
Information Disclosure Review – Electricity
Distribution Businesses

Draft Decisions Paper – Tranche 1

16 September 2022

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1. INTRODUCTION

1. Aurora Energy Limited (Aurora) welcomes the opportunity to provide this cross-submission on the Commerce Commission's (the Commission's):
 - 1.1. Targeted Information Disclosure Review – Electricity Distribution Businesses: Draft decisions paper – Tranche 1 – (the Draft Decision); and
 - 1.2. [Draft] Electricity Distribution Information Disclosure (Targeted Review Tranche 1) Amendment Determination 2022 (the Draft Determination).
2. No part of our cross-submission is confidential.

2. GENERAL OBSERVATIONS

3. In reviewing submissions on the Commission’s Draft Decision, we have observed a number of common themes. In this section, we summarise and comment on those themes. Additionally, we have noted a couple of unique comments made by one or more submitters which we consider are also worth commenting on.

2.1. ENGAGEMENT

4. In the opening remarks of its submission, Vector¹ raised the issue of the Commission’s engagement approach during consultations. We, and other stakeholders, raised this as a concern in submissions to the Commissions input methodologies (IM) review process and issues paper.^{2,3}
5. Aurora considers that a workshop on some of the more complex changes proposed in this review would be useful, particularly where definitional precision is required. Workshops provide an opportunity for participants to:
- gain a more fulsome appreciation of the underlying drivers for the new and amended disclosures;
 - convey the practical impediments that arise in preparing certain proposed disclosures and the role that definitional ambiguity may play in driving poor disclosure outcomes; and
 - work collaboratively with the Commission to develop workable and effective outcomes.
6. We agree with Vector that there is still time to hold a workshop prior to the final decision, in order to address the substantive, reasoned issues raised by submitters.

2.2. TIMING OF IMPLEMENTATION

7. In our submission on the Draft Decision, we outlined our concerns with the proposed timetable for implementing the proposed amendments.⁴ Our submission expressed concern that:
- 7.1. publication of the final decision in November 2022 will leave little time for electricity distribution businesses (EDBs) to develop data collection processes and systems for proposed amendments commencing from 1 April 2023. This is exacerbated by the intervening Christmas/New Year periods and the fact that it overlaps with a time of year when EDBs are already busy preparing existing year-beginning disclosures;
- 7.2. implementation of some proposed amendments will require retrospective creation of disclosure data from 1 April 2022; and

¹ Vector Limited. (2022). Submission: EDB Targeted ID Review – Tranche 1 Draft Decision. Section 1.1, p1)

² Commerce Commission. (2022). Part 4 Input Methodologies Review 2023: Process and Issues Paper.

³ Submissions and cross submissions on the IM review process and issues paper may be found at <https://comcom.govt.nz/regulated-industries/input-methodologies/input-methodologies-for-electricity-gas-and-airports/input-methodologies-projects/2023-input-methodologies-review>

⁴ Aurora Energy Limited. (2022). Submission: Commerce Commission Targeted Information Disclosure Review – Electricity Distribution Businesses: Draft Decisions Paper – Tranche 1 Section 2.1, p5.

- 7.3. some proposed amendments, specified as asset management plan disclosures (Scheduled A within the Draft Determination), have a proposed out-of-cycle implementation date that will impose unreasonable governance costs on EDBs by requiring additional assurance processes that are prerequisites to director certification.
8. Timing of implementation is a matter that has concerned many submitters⁵ (to varying degrees), including the retrospectivity required by some proposed amendments.
9. We recommend that the Commission carefully reconsiders its proposed implementation timeframes for each proposed amendment.

2.3. CLARITY OF DEFINITIONS

10. A significant number of submitters have also expressed concern regarding the precision of definitions⁶. In Aurora's view, this is a critical area that, for some proposed disclosures, will determine whether they are effective and meet their intended purpose. Submitters have raised concerns about definitional precision within:
- draft decision Q1 – notice of planned interruptions;
 - draft decision Q3 – new connections;
 - draft decision Q4 – customer service;
 - draft decision Q11 – successive interruptions;
 - draft decision Q13 – third-party interference;
 - draft decision AM6 – definition of 'overhead circuit requiring vegetation management'; and
 - draft decision AM10 – disconnection data.
11. It is important that the Commission and EDBs have a shared understanding of definitional issues in the context of the outcome that each relevant proposed amendment is trying to achieve, and to work collaboratively to make the proposed ID requirement workable, with ambiguity reduced to as low as reasonably practicable. In this regard, Aurora recommends that the Commission schedule a workshop to resolve definitional issues prior to making its final decision.

2.4. REGULATORY CONSISTENCY

12. In our submission on the Draft Decision, we set out a list of considerations that should be weighed in deciding whether each ID proposal should be adopted⁷, including whether the proposed disclosure cuts across the work of other regulators or whether the information is available elsewhere.

⁵ Electra, Electricity Networks' Association, Genesis Energy, Horizon Energy, Network Tasman, Network Waitaki, Northpower, Orion, Powerco, PowerNet, The Lines Company, Unison & Centralines, Vector and WEL Networks. Submissions on the Commission's draft targeted ID decision may be found at: <https://comcom.govt.nz/regulated-industries/electricity-lines/projects/targeted-information-disclosure-review-for-electricity-distribution-businesses>

⁶ EA Networks, Electricity Networks' Association, Network Waitaki, Northpower, Orion, PowerNet, The Lines Company, Unison & Centralines, Vector and Wellington Electricity Lines.

⁷ Ibid. Paragraph 7, p5.

13. External regulatory consistency is important, as noted by Orion in its submission, where it observed that “[a] number of the proposed changes are already reported to other organisations such as the Utilities Disputes and the Electricity Authority.”⁸
14. Our submission also pointed out the importance of internal consistency, and provided the example of:
- 14.1. discrepancies in the proposed planned interruption notification rules, relative to the DPP3 determination, regarding the use of notified alternative days;⁹ and
- 14.2. a difference in the definition of the term ‘interruption’, relative to the DPP3 determination.¹⁰
15. We had also identified, in our earlier submission on the process and issues paper,¹¹ a significant issue relating to a material difference in the methods for normalising SAIDI and SAIFI between the ID determination (which still reflected DPP1) and the DPP3 determination.
16. Electra’s concerns about regulatory alignment were in opposition, however, asserting that information disclosure (ID) should be independent, and noting that:
- “ID Regulation and Price-quality Regulation serve very different purposes. It would be easy for these regulations to inadvertently crossover as inherent efficiencies can be had in aligning reporting requirements and managing regulatory overlap. The risk of the Commission’s focus on reporting efficiencies is that the lines between the different forms of regulation become blurred and even eroded to the extent that regulation operates outside its intended purpose.”¹²*
17. We disagree with Electra. Exempt EDBs are in privileged position, in that their consumer ownership structure means that they avoid price-quality regulation, on the basis that their consumers are more readily able to influence the operation/focus of the business in response to price, quality or similar concerns. However, under such a light-touch approach, consumers must have access to adequate and appropriate information upon which to base their judgements. In this regard, comparability is important, and is aided by taking a consistent approach to a measure across both price-quality regulation and ID regulation.
18. Further, we do not see Electra’s concerns as a material threat. The exemption from price-quality regulation is tightly defined within the Commerce Act 1986 and it requires ministerial intervention to change an exempt EDB’s status. Accordingly, there is no prospect that the reach of price-quality regulation can be casually extended.

⁸ Orion New Zealand Limited. (2022). Submission: Targeted Information Disclosure Review - Tranche 1 amendments Draft Decision. Paragraph 6, p2.

⁹ Ibid. Paragraphs 20 to 24, p8-9.

¹⁰ Ibid. Paragraphs 54 & 55, p14.

¹¹ Aurora Energy Limited. (2022). Submission: Commerce Commission Targeted Information Disclosure Review – Electricity Distribution Businesses - Process and Issues Paper Paragraphs 17 & 18, p6.

¹² Electra Limited. (2012). Targeted Information Disclosure Review — Electricity Distribution Businesses, Draft Decisions Paper — Tranche 1. P2.

3. TRANCHE 1 DRAFT DECISIONS

19. In this section, we address issues relevant to specific proposed amendments. We have not addressed every proposed amendment – only those where we, and other submitters, consider that material deficiencies exist.

3.1. QUALITY OF SERVICE

3.1.1. Amendment Q1 – Notice of planned interruptions

20. In our submission on the Draft Decision, we noted that the proposed amendment was inconsistent with market regulation promulgated by the Electricity Authority, via the mandated Electricity Information Exchange Protocol 5A, which allows notification of an alternative day for a planned interruption, in anticipation of possible adverse environmental conditions that might prevent the interruption being performed on the primary day.¹³ Additionally, we noted that there was an inconsistency between the proposed amendment and the current DPP determination regarding the explicit use of alternative days.

21. We recommended changes to relevant definitions to legitimise the use of alternative days under this proposed amendment. We note that the issue of using alternative days was similarly identified by Counties Energy, Northpower and Unison & Centralines.

22. Counties Energy identified that the definition of ‘Planned interruption proceeding on time’ was somewhat imprecise and could be improved. In particular, Counties Energy noted that the definition should be amended to align with the approach taken in the DPP determination, and provided suggested wording.¹⁴ Alignment to DPP requirements was also recommended by Vector.¹⁵ As we note above, Aurora supports internal consistency across the Commission’s various regulatory instruments, and suggests that the recommendations of Counties Energy and Vector are given appropriate consideration and adopted.

3.1.2. Amendment Q3 – New connections

23. In our submission on the Draft Decision, we supported the requirement for EDBs to describe their customer connection practices; however, we opposed the quantitative reporting of new and modified connection timeframes within schedule 9(e)(i).¹⁶

24. We outlined the reasons for our opposition, which included that:

- ease of data capture is dependent on the contracting model employed by the EDB;
- the quantitative disclosure will not permit comparability;
- the quantitative disclosure will be made without reference to a baseline that might guide interested persons to determine whether the average timeframes disclosed are reasonable or not; and

¹³ Ibid. Section 3.1.1., p8.

¹⁴ Counties Energy Limited. (2022). Submission on Targeted Informations Disclosure Review on Electricity Distribution Businesses. P2.

¹⁵ Vector Limited. (2022). EDB Targeted ID Review – Tranche 1 Draft Decision. Paragraph 28, p5.

¹⁶ Ibid. Section 3.1.2., p10.

- the language used in the definitions is imprecise and reflects a lack of understanding of electricity distribution network practice.

25. We note the large number of submitters that have expressed significant concerns, similar to those of Aurora, regarding this proposed amendment. Many of these submitters have provided quite detailed explanations as to why the proposed amendment is problematic, and we recommend that the Commission give these detailed submissions appropriate consideration.
26. Our observation is that most submitters opposing this proposed amendment recognise that some form of quantitative measure may be useful to interested persons, but harbour real concerns about the feasibility and practicality of implementation. Horizon Networks is further concerned that the proposed amendment, as drafted, could influence some EDBs to modify their operational behaviour to facilitate reporting, to the detriment of outcomes for connecting customers.¹⁷
27. Given the degree of concern expressed, Aurora recommends that this proposed amendment be referred to a sector workshop, prior to the Commission’s final decision, to try and overcome the practical impediments to implementation.

3.1.3. Amendment Q4 – Customer service

28. While Aurora supported this proposed amendment in its submission on the Draft Decision, it expressed ongoing concerns over the definition of complaint.¹⁸ We noted that, while narrow, the Commission’s proposed definition of complaint differed to that of Utilities Disputes Limited¹⁹ (UDL) and, consequently, is likely to lead to some inefficiencies in EDBs’ reporting and is not reflective of good regulatory practice (regulatory overlap).
29. The Lines Company also expressed concern about the definition of complaint and recommended that a complaints process similar to the Broadcasting Standards Authority framework should be adopted.²⁰ Aurora disagrees. The industry does not need additional complaint frameworks beyond the approved disputes resolution scheme administered by EDL, including the Commission’s separate interpretation of how complaints should be defined.
30. Aurora recommends that the Commission adopts the definition of complaint, by reference, from the UDL scheme rules²¹, as shown in Box 1, below.

¹⁷ Horizon Energy Distribution Limited. (2022). Horizon Energy Distribution Limited (Horizon Networks) submission on Targeted Information Disclosure Review – Electricity Distribution Businesses Draft decisions paper – Tranche 1. Paragraphs 36 to 39, p4.

¹⁸ Ibid. Section 3.1.4., p12.

¹⁹ UDL operates the approved dispute resolution scheme specified in Schedule 4 of the Electricity Industry Act 2010 and, as such, is the industry regulator for complaint management and dispute resolution.

²⁰ The Lines Company Limited. (2022). Draft decisions paper – Tranche 1: Targeted Information Disclosure (ID) Review – Electricity Distribution Businesses. P5.

²¹ Utilities Disputes Limited. (2019). The General and Scheme rules for the Energy Complaints Scheme operated by Utilities Disputes Limited. Available from https://www.utilitiesdisputes.co.nz/UD/Resources/Scheme_rules.aspx?scheme=1&WebsiteKey=97962c21-3e07-4a15-9197-9d073aff8919

Box 1: UDL definition of complaint

Complaint means an expression of dissatisfaction made to or about a Provider where a response or a resolution is explicitly or implicitly expected. For example, a Complaint may be made by letter, email, phone call, text message or a post on a social media page maintained by the Provider, but not on a social media page maintained by the Complainant or a third party.

3.2. ASSET MANAGEMENT

3.2.1. Amendment AM6 – Definition of ‘overhead circuit requiring vegetation management’

32. In our submission on the Draft Decision, we expressed concern that the proposed amendment was likely to:
- promote a short-term focus by considering vegetation in need of immediate attention;
 - introduce volatility of reporting as vegetation moved in and out of the notice zone; and
 - require more resource to be allocated to data capture for regulatory reporting purposes than is required for prudent and efficient vegetation management.²²
33. Other submitters have expressed concerns about the proposed amendment. Vector echoed our concerns about the resource commitment that will be required to provide accurate reporting.²³
34. Both Northpower and Vector highlighted that EDBs have to manage (to the extent possible under prevailing regulations) vegetation outside of the notice zone, particularly fall-length trees.^{24,25} On reflection, we think that management of fall-length trees is an important consideration. It’s not clear how this disclosure is used by the Commission; however, if used for productivity/efficiency analysis of EDBs’ vegetation management practices, there may be problems. The cost of dealing with landowners regarding fall-length trees and other vegetation that remains outside the notice zone but poses a risk to lines (for example, overhangs) would be reported in vegetation management expenditure (as an input), but there would be no corresponding output under the proposed definition because the vegetation remains outside the notice zone.
35. We recommend that the Commission considers whether the proposed definition sufficiently captures all of the vegetation management activity undertaken by EDBs.

3.2.2. Amendment AM10 – Disconnection data

36. In our submission on the Draft Decision, we noted that disconnections are usually a short-term occurrence that do not provide a useful measure against the Commission’s concerns that network defection could become a risk as the cost of off-grid technologies lowers.²⁶ We recommended the use of the ‘decommissioned’ status of installation control points (ICPs), as defined in the Electricity Industry Participation Code, as the appropriate measure against this risk.

²² Ibid. Section 3.3.6., p16.

²³ Ibid. Paragraph 56, p11.

²⁴ Northpower Limited. (2022). Submission on Commerce Commission’s Tranche 1 Draft Decision Information Disclosure. P5.

²⁵ Ibid. Paragraph 57, p11.

²⁶ Ibid. Section 3.3.7, p19.

37. We note that several other submitters (Horizon Energy, Northpower, Orion and PowerNet) have picked up on this issue.
38. It is important that proposed amendments properly reflect the reasons for their existence. In this case there is a material misalignment, and we recommend that the Commission adopts decommissioned ICPs as the appropriate measure.