

20 March 2024

To:

Each supplier of electricity distribution services that is not exempt from default/customised price-quality regulation under section 54G of the Commerce Act 1986.

Notice to supply information to the Commerce Commission under section 53ZD(1)(d) & (e) of the Commerce Act 1986

Background

1. We (the Commerce Commission) are requesting information needed to forecast **opex** and **capex**, for draft decisions we are now making on the fourth **DPP (DPP4)** for **non-exempt EDBs**. The information covered in this request pertains to:
 - 1.1 Operating leases, and
 - 1.2 The calculation of depreciation for existing assets, for DPP4.

Information relating to operating leases

2. On 13 November 2019, we published a decision paper on the treatment of operating leases, given changes required by the implementation of a new financial reporting standard – NZ IFRS 16.¹ The decision paper clarified our understanding of the issues that the adoption of NZ IFRS 16 could create for regulated suppliers, and outlined how we would address them through changes to the IMs.
3. We considered the IMs relating to operating leases again in our 2023 Input Methodologies review, and decided to maintain our previous approach.²
4. We are now requesting information from non-exempt EDBs to enable the application of the IMs in respect of forecast operating lease payments and capex for decisions we are now making on DPP4 for non-exempt EDBs (Schedule A of this Notice).

¹ Commerce Commission “Treatment of operating leases – Final decisions paper” (13 November 2019), available at: https://comcom.govt.nz/_data/assets/pdf_file/0029/188525/Treatment-of-operating-leases-Final-decision-13-November-2019.pdf

² Commerce Commission “Financing and incentivising efficient expenditure during the energy transition topic paper – Part 4 Input Methodologies Review 2023 – Final decision” (13 December 2023). Available at https://comcom.govt.nz/_data/assets/pdf_file/0023/337613/Part-4-IM-Review-2023-Final-decision-Risks-and-Incentives-topic-paper-13-December-2023.pdf

Information relating to depreciation of existing assets

5. As part of the final 2023 IM Review decisions, the Commission decided to amend the IMs to require EDBs to forecast depreciation of existing assets using the weighted average value of the remaining asset life for those assets for each year of the DPP period.
6. The reasons for that decision are set out in the final Report on the IM Review 2023, at paras 4.8 to 4.19.³ This decision is implemented in clause 4.2.2(3)(a) of the EDBs IM Review 2023 Amendment Determination 2023.
7. Our DPP4 issues paper,⁴ released prior to the final IM Review decisions, indicated that we may need to issue a s 53ZD notice in early 2024 to collect information needed in response to final decisions on the Input Methodologies Review.
8. We are now requesting information from non-exempt EDBs for compliance with the change to the IMs referenced above, in forecasting depreciation for DPP4. This will inform draft decisions on forecast net allowable revenue for DPP4 for non-exempt EDBs (Schedule B of this Notice).

Request for information

9. This notice, issued under section 53ZD(1)(d) and (e) of the Commerce Act 1986 (the Notice) is the request for information referred to at clauses 4 and 8 and as specified in Schedules A and B.

Purpose of the Notice

10. Under section 53ZD(1)(d) and (e) of the Act, we require each EDB that is not exempt from default/customised price-quality regulation under section 54G of the Act (non-exempt EDB) to provide us with the information specified in Schedules A and B.
11. We require this information for the purpose of carrying out our function of resetting the DPP for non-exempt EDBs under section 53P of the Act. In particular:
 - 11.1 the information specified in Schedule A will enable us to properly give effect to the IMs regarding the treatment of operating leases, in respect of non-exempt EDBs' forecast operating lease payments and capex; and

³ Commerce Commission "Report on the IM Review 2023 - Part 4 Input Methodologies Review 2023 – Final decision", 13 December 2023, available at:

https://comcom.govt.nz/_data/assets/pdf_file/0021/337611/Part-4-IM-Review-2023-Final-decision-Report-on-the-input-methodologies-review-2023-paper-13-December-2023.pdf

⁴ Commerce Commission "Default price-quality paths for electricity distribution businesses from 1 April 2025 - Issues paper" (2 November 2023), available at:

https://comcom.govt.nz/_data/assets/pdf_file/0025/332944/Default-price-quality-paths-for-electricity-distribution-businesses-from-1-April-2025-Issues-paper-2-November-2023.pdf

- 11.2 the information specified in Schedule B is required to ensure that decisions on the default price-quality path for DPP4 for non-exempt EDBs comply with recent amendments to clause 4.2.2(3)(a) of the IM Determination, which give effect to the Commission's decision (as part of the 2023 Input Methodologies Review) to require EDBs to depreciate existing assets using the weighted average value of the remaining asset life for those assets for each year of the DPP period.

Date, place and format of responses

12. Each non-exempt EDB must send the information as a response to the Notice by email to infrastructure.regulation@comcom.govt.nz, with the:
- 12.1 Information as required under Schedule A provided in an 'unlocked' version of the electronic MS Excel file "Operating leases Information Request Workbook", a template copy of which is provided with this Notice. Please follow any instructions included in the template copy;
- 12.2 Information as required under Schedule B provided in an 'unlocked' version of the electronic MS Excel file "Depreciation of Existing Assets: Information Request Workbook", a template copy of which is provided with this Notice. Please follow any instructions included in the template copy.
13. The email must be addressed to Ben Woodham (Electricity Distribution Manager) c/o infrastructure.regulation@comcom.govt.nz, with the subject "[EDB name] – Response to section 53ZD Notice – 2025 DPP reset: March 2024", by no later than **4:30pm on Friday 5 April 2024**.
14. Please note that information provided in response to this Notice is not required to be accompanied by an assurance opinion from an independent auditor, or a director certification. We intend to issue a further section 53ZD notice later in 2024, requiring the information to be provided with an assurance opinion from an independent auditor.

Extensions

15. The Commission may, on application from a non-exempt EDB, grant that non-exempt EDB an extension to the timeframe set out in clause 13.
16. For the purposes of clause 15:
- 16.1 if a non-exempt EDB applies for an extension, its application must:
- 16.1.1 explain why the non-exempt EDB considers that an extension to the time limit is reasonably justified having regard to the circumstances; and
- 16.1.2 be made no later than 3 working days before the applicable time limit is due to expire, ie **no later than 4:30pm on Tuesday 2 April 2024**; and

16.2 if the Commission decides to grant a non-exempt EDB an extension, then:

16.2.1 the approved form of the extension shall take effect by the Commission giving or posting written notice of the extension to the non-exempt EDB;

16.2.2 the notice effecting the approved form of the extension must specify the period of the extension and the reasons for the extension.

Use of supplied information and confidentiality

17. As part of our decision-making and modelling on DPP4, we may use and publicly refer to particular information non-exempt EDBs provide in responding to the Notice.

18. If you consider that, for confidentiality reasons, we should not publicly refer to any particular part of your response, please:

18.1 specify the relevant part;

18.2 give clear reasons why you consider that part is confidential; and

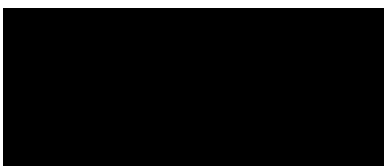
18.3 provide a PDF version of your response, redacting the part(s) you consider to be confidential.

19. If you indicate that we should not publicly refer to part of your response, we may discuss with you before deciding whether or not to do so.

20. However, please note that all responses we receive, including any parts that we decide not to publish, can be requested under the Official Information Act 1982. This means we would be required to release material (whether published or not) unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult with you before releasing any material that you request not to be published.

Dated at Wellington: 20th March 2024

Signed by:



Derek Johnston
Commissioner

Schedule A: Operating Leases

Interpretation

A1. In the Notice, unless the context requires otherwise:

A1.1 a word that denotes the singular also denotes the plural, and vice versa;

A1.2 words in **bold** type have the following meanings:

A1.2.1 **Act** means the Commerce Act 1986

A1.2.2 **asset life** means the **physical asset life** for right-of-use assets as defined in clause 2.2.8(1)(f) of the IM determination.

A1.2.3 **capex** has the same meaning as defined in the **IM determination**

A1.2.4 **capex category** means a category of forecast capital expenditure listed in Expenditure on Assets Forecast in the Report on Forecast Capital Expenditure in Schedule 11a of the **ID determination**

A1.2.5 **commissioning date** has the same meaning as defined in the **IM determination**

A1.2.6 **contract** means operating lease contract

A1.2.7 **cost allocation requirements** means the cost allocation requirements specified at subpart 1 of part 2 and subpart 1 of part 4 of the **IM determination**

A1.2.8 **description of lease** means description of underlying asset or assets subject to the lease contract

A1.2.9 **disclosure year** has the same meaning as defined in the **IM determination**

A1.2.10 **DPP** means default price-quality path

A1.2.11 **EDB** has the same meaning as defined in the **IM determination**

A1.2.12 **electricity distribution services** has the same meaning as defined in the **IM determination**

A1.2.13 **existing contract** means a **contract** that has an existing **value of commissioned asset**

A1.2.14 **forecast contract** means a contract for which the **EDB** has included a **forecast value of commissioned right of use asset**

- A1.2.15 **forecast lease payments** means the value in NZ dollars of **lease payments** forecast to be made in the relevant **disclosure year**.
- A1.2.16 **forecast value of commissioned right of use assets** means the sum of the **commissioning values** of each individual right of use asset recognised or forecast to be recognised in the relevant **disclosure year** after applying the **cost allocation requirements**.
- A1.2.17 **ID determination** means the *Electricity Distribution Services Information Disclosure Determination 2012* [2012] NZCC 22, including amendments in effect at the date of the Notice
- A1.2.18 **IM determination** means the *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26, including amendments in effect at the date of the Notice
- A1.2.19 **lease payments** has the same meaning as defined in the **IM determination**
- A1.2.20 **non-exempt EDB** means an **EDB** that is not exempt from default/customised price-quality regulation under section 54G of the **Act**
- A1.2.21 **operating lease** has the same meaning as defined in the **IM determination**
- A1.2.22 **opex** has the same meaning as defined in the **IM determination**
- A1.2.23 **right of use asset** has the same meaning as defined in the **IM determination**
- A1.2.24 **value of commissioned asset** has the same meaning as defined in the **IM determination**

Information requested

- A2. The **non-exempt EDB** must provide a list of its **existing contracts** and **forecast contracts** and, for each **contract** it lists, provide the following information:
- (a) A **description of lease**
 - (b) The **asset life**;
 - (c) The **capex category**
 - (d) The **value of commissioned assets**;

- (e) The **commissioning date**;
- (f) The **forecast lease payments**; and
- (g) The **forecast value of commissioned right of use assets**

A3. All financial values provided in response to paragraph A2 of Schedule A should be provided in nominal terms, after having applied the **cost allocation requirements**.

Schedule B: Depreciation Information

Interpretation

B1. In the Notice, unless the context requires otherwise:

B2.1 a word that denotes the singular also denotes the plural, and vice versa;

B2.2 words in bold type have the following meanings:

B1.2.1 **Act** means the Commerce Act 1986

B1.2.2 **aggregate closing RAB value for existing assets** means the amount determined in accordance with clause 4.2.1(3) of the **IM determination**

B1.2.3 **aggregate opening RAB value for existing assets** means the amount determined in accordance with clause 4.2.1(2) of the **IM determination**

B1.2.4 **aggregate value of disposed assets** means the value of assets forecast to be **disposed** of by an **EDB** in the **disclosure year** in question, and is equal to the portion of the forecast **aggregate opening RAB value for existing assets** relating to assets forecast to be **disposed** of for the **disclosure year** in question, plus the total depreciation on disposed assets for the disclosure year in question

B1.2.5 **base year** means the **disclosure year** 2024

B1.2.6 **depreciation** has the same meaning as defined in clause 4.2.2(2)(a)(ii) of the **IM determination**

B1.2.7 **disclosure year** has the same meaning as defined in the **ID determination**

B1.2.8 **disposed asset** means an asset that, in relation to a **disclosure year**, is forecast to be sold or transferred.

B1.2.9 **DPP** means default price-quality path

B1.2.10 **EDB** has the same meaning as defined in the IM determination

B1.2.11 **electricity distribution services** has the same meaning as defined in the **IM determination**

B1.2.12 **existing assets** means assets of an **EDB** for which an **aggregate closing RAB value for existing assets** is calculated for the **base year**

B1.2.13 **ID determination** means the *Electricity Distribution Services Information Disclosure Determination 2012* [2012] NZCC 22, including amendments in effect at the date of the Notice

B1.2.14 **IM determination** means the *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26, including amendments in effect at the date of the Notice

B1.2.15 **non-exempt EDB** means an **EDB** that is not exempt from default/customised price-quality regulation under section 54G of the **Act**

B1.2.16 **revaluation for existing assets** means the value determined in accordance with clause 4.2.3(2)(a) of the **IM determination**

Information required

B2. The **non-exempt EDB** must provide the following information, in aggregate (ie not by asset class):

B2.3 For each of the **disclosure years** 2024, 2025, 2026, 2027, 2028, 2029, and 2030:

- (a) Forecast **aggregate opening RAB value for existing assets**
- (b) Forecast sum of **depreciation for existing assets**
- (c) Forecast **revaluation for existing assets**
- (d) Forecast **aggregate value of disposed assets**