TOP ENERGY
Te Puna Hihiko
www.topenergy.co.nz

Top Energy Limited
Level 2, John Butler Centre
60 Kerikeri Road
P O Box 43
Kerikeri 0245
New Zealand
PH +64 (0)9 401 5440
FAX +64 (0)9 407 0611

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Ben Woodham
Electricity Distribution Manager
Commerce Commission

By Email: infrastructure.regulation@comcom.govt.nz

Submission on EDB DPP4 Draft Decision – Top Energy Limited

1. Introduction

1.1 This submission has been prepared by Top Energy Limited (TEL) in response to the Commerce Commission's Draft Decision – "Default price-quality paths for electricity distribution business from 1 April 2025" on 29 May 2024.

1.2 This submission supports the ENA submission, except for the operating expenditure being based on base-step-trend rather than the 2024 AMP forecast. This submission focuses on specific feedback from TEL.

1.3 TEL is owned by a consumer Trust that provides electricity distribution services to its 34,000 consumers in the Far North and is non-exempt under the DPP regulatory regime.

2. Revenue allocation, Quality and Regulatory timeframe

2.1 TEL strongly supports maintaining the current 5-year regulatory period.

2.2 TEL agrees it is appropriate to use specified Year 1 price changes and alternative X factors to smooth net allowable revenue and mitigate price shocks. TEL believes this approach should be symmetrically applied in future resets, whether revenue increases or decreases.

2.3 TEL supports the existing approach to quality standards.

3. Voluntary undercharging limit (R1.3)

3.1 Voluntary undercharging allows TEL to manage price volatility within and between regulatory periods. Given the magnitude of the increase for TEL, this is a critical tool in smoothing the transition over DDP4 and into DDP5.

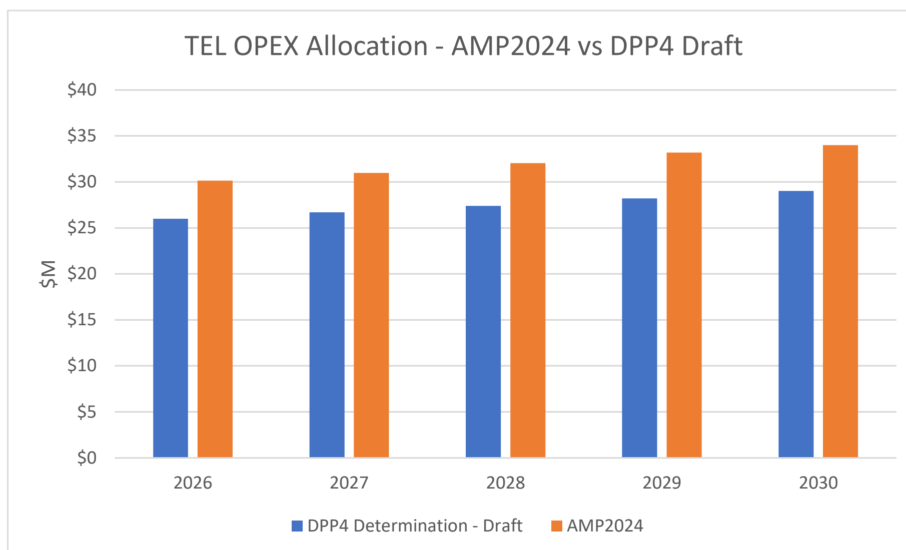
3.2 There is no economic or social justification for the Voluntary Under Charging limit to be capped, especially for an EDB that is consumer owned such as TEL. As a consumer owned business, TEL operates in the best interests of its consumers. This cap will inhibit that ability and could result in suboptimal outcomes for those whom the regulatory regime is designed to protect e.g. consumers face higher prices earlier in the DPP4 and DPP5 regulatory periods.

3.3 Consumers are protected from future price increases through the revenue smoothing limit of 10% real per annum. TEL believes this is an efficient control to protect consumers.

3.4 If the Commerce Commission is determined to have a Voluntary Under Charging limit, then TEL recommends it is set higher e.g., 20% to 30% real. A higher level would align with the draft decision, which considers price movements of up to 29% to be acceptable for TEL.

4. Request for reconsideration of OPEX allocation methodology (O1.1, O1.2)

4.1 TEL's OPEX allowance is $137M, $23M (14%) lower than our 2024 AMP despite a $5M increase from step change adjustments. The graph and table below highlight that this is across all years and all categories and is a result of a higher investment and underlying price pressure.

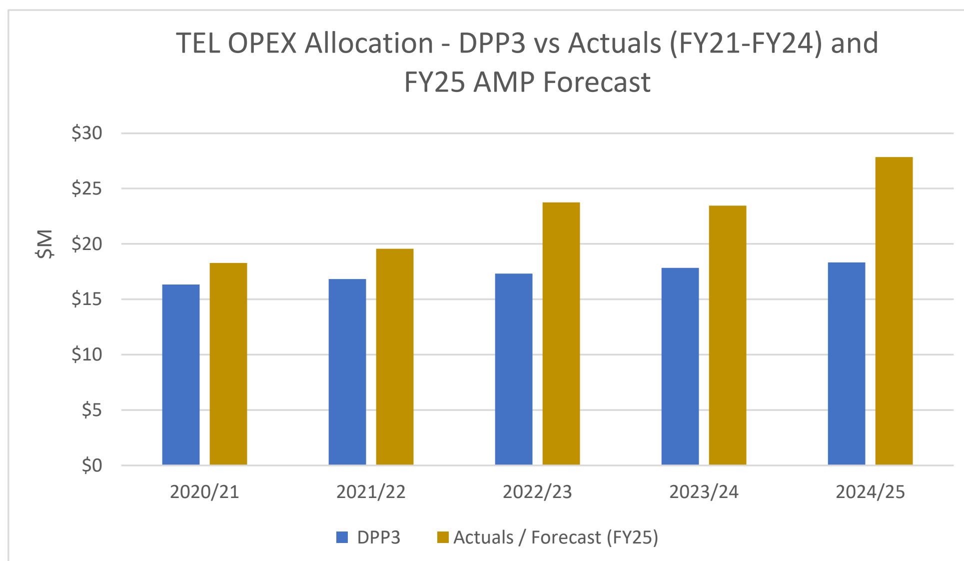


OPEX ($M)	AMP 2024	DPP4	Variance
Network - Service interruptions and emergencies	$11.7	$10.2	-$1.5
Network - Vegetation management	$16.3	$12.9	-$3.4
Network - Routine and corrective maintenance and inspection	$15.3	$12.6	-$2.6
Network - Asset replacement and renewal (opex)	$11.8	$9.5	-$2.3
Non-Network - system operations and network support	$50.2	$45.7	-$4.5
Non-Network - Business support	$55.1	$46.4	-$8.8
Total OPEX	$160.4	$137.3	-$23.1

4.2 This is the same situation that occurred in DDP3 where the opex allocation was set significantly below our forecast spend. In October 2019, TEL notified the Commission of this issue and requested that they reconsider the base year data to derive the opex allowance. This request was declined by the

Commission in a letter on 17 December 2019. This contributed directly to TEL's IRIS penalties of $7.6M for DPP4 regulatory period, as TEL believed that spending the levels set by the Commission would have had adverse outcomes for consumers.

4.3 The graph below shows the OPEX allocation in DPP3 and the actual OPEX spend for FY21-FY24 and FY25 Forecast. This clearly shows that the allocation was too low for each year, and this becomes progressively worse over the period. Although some of this was due to inflation and supply chain pressures, the low starting point exacerbated the situation.



4.4 The graph also shows that TEL has continued to invest and experience cost pressure, with FY25 significantly higher than FY24. With FY24 the base year, the step change going into the next regulatory period has not been accounted for. Therefore, TEL requests that the Commission reconsider the base year data used to derive the opex allowance for Top Energy. TEL proposes that the AMP Forecasts are more appropriate.

4.5 A further implication is that the deficit in OPEX allowance relative to the 2024 AMP will mean that if TEL delivers its OPEX programme as outlined in the AMP, then TEL will be further penalised under the IRIS regime. This was also the case in the last regulatory period. This effectively means that to deliver quality targets will incur significant financial penalties. See IRIS section.

5. OPEX Step change allowances (O3.1-O3.7)

5.1 TEL strongly agrees with the inclusion of the six identified step changes. However, it believes that the aggregate cap should be set higher than 5% of OPEX given that half of the non-exempt EDBs will be capped. If the 5% cap is deemed appropriate for DPP4, TEL suggests further analysis and justification of any cap is included in DPP5.

6. FY24 Capital expenditure for Commissioned assets and correction of existing Depreciation calculation (C1)

6.1 The Financial model uses a CAPEX forecast in the calculation of MAR/BBAR as a proxy for commission assets each year from FY24 to the end of the regulatory period. In the final decision, Commissioned Assets need to apply for FY24 as there can be significant differences. Top Energy FY24 draft actual Commissioned Assets is $23M but within the DPP4 financial model it is significantly different. The estimated impact on MAR is $0.8M.

6.2 The Existing Asset Depreciation in the Financial Model, FY24 depreciation is incorrectly calculated in the first year, where it should be nil, and should be corrected.

6.3 FY24 additions have not been allowed for in the roll forward of the Tax RAB.

7. Clarity on new component of FAR Large Connections (R1.4)

7.1 TEL supports the inclusion of Large Connection contracts (FLCCR) within the FAR Calculation. TEL would like clarification on the treatment of these large connection connections between Regulatory periods e.g. will they remain separate, or will they be incorporated into the RAB. If they remain separate for the life of the asset, this could impact the risk profile, timing, and economics of the projects.

8. IRIS (I1, I2)

8.1 Point 2.74 of the Discussion paper states that “From an efficiency point of view, the opex allowance we set is the baseline against which opex IRIS incentives are measured.” This means that the Commission has classified the OPEX allowance is efficient. TEL does not agree with this as it is $23M lower than our 2024 AMP Forecast. If TEL delivers to its AMP plan, it is estimated that this will result in ~$7M IRIS penalties over the DDP4 regulatory period (applied in DPP5).

8.2 TEL proposes that Customer Connection CAPEX be excluded from the IRIS calculation. Capital Contributions are not within TEL’s control, and therefore, it is not appropriate to apply IRIS to this expenditure. The Electricity Authority has signalled regulation of capital contributions and pricing which means that this could be significant and should be addressed.

9. SAIDI (QS5)

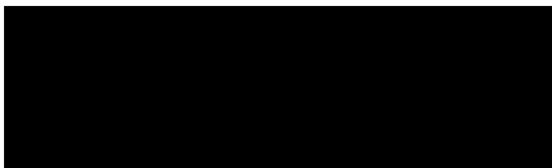
9.1 TEL doesn’t support the reduction of the planned reliability buffer from 200% to 100%. While the +/-10% movement cap allows for phasing in over regulatory periods, TEL does not support reducing the buffer at a time when planned outages are expected to increase due to electrification and resilience. If the Commission does reduce this, then it should be a lower reduction e.g. 150% rather than 100%, and then reviewed through the DPP5 consultation process.

10. Other issues

10.1 There is an inconsistency between the DPP determination and the IM drafting. The results of this are that wash-up balances are unable to be drawn down as expected. TEL agrees with the ENA who

recommends that the Commission amend the IMs to enable the implementation of a wash-up mechanism set out in the DPP4 draft determination.

Yours sincerely



Russell Shaw
Chief Executive
Top Energy Ltd