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Infrastructure Regulation Branch
Commerce Commission

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Network Tasman submission – EDB Targeted ID Review: Draft Decision

Network Tasman welcomes the opportunity to submit on the Commerce Commission’s draft decisions paper for the EDB targeted ID review.

We support the submission made by the ENA on behalf of its membership and in addition to the points raised in the ENA’s submission, wish to offer additional commentary on the Commission’s proposals to:

- add ID requirements on time taken to set up new connections (Q3); and
- refine ID requirements on interruptions by clarifying definitions to ensure successive interruptions are recorded consistently (Q11).

Q3 – Add ID requirement on the time taken to set up new connections

Network Tasman agrees, in principle with the Commission’s desire for the public availability of data relating to the time taken to set up a new connection, or modify an existing connection. For simplicity any reference in this section to setting up a new ICP also refers to modifying an existing ICP.

However, because in practice the time taken to complete these activities is not solely influenced by EDBs, Network Tasman is unsure that publishing the proposed metrics will offer meaningful insight into EDB performance.

In addition to EDBs not being the only party that influences the speed at which an ICP is created, the degree to which an EDB has direct influence on these timeframes can vary considerably, depending on the model under which new and amended ICPs are processed.

Network Tasman, for example, does not have field staff that routinely undertake electrical work on the network. Accordingly, Network Tasman does not quote for, or install/alter ICPs.

The various aspects of electrical work required on the network are undertaken by independent contractors.

Network fault, maintenance and minor capital works are provided under contract via an independent contractor. Major capital works are procured via competitive tender.

Network Tasman does not consider third party services, such as the installation of a new, or modification of an existing ICP to have the characteristics of a natural monopoly. Accordingly, Network Tasman has structured the provision of these services so that the supply of these services are provided directly to consumers via a competitive market.

This is achieved by allowing any appropriately accredited independent electrical contractors (Accredited Installing Contractor or AIC) to undertake third party work on our network. The scope of the work each AIC is approved to undertake depends on the scope of their accredited competencies. Network Tasman currently has nine AICs approved to conduct third party work on our network.

Consumers seeking to connect a new ICP or modify an existing ICP are able to select from any of the appropriately accredited AICs to undertake that work on their behalf. The time taken to quote for and undertake the work required is entirely at the discretion of the provider contracted by the consumer to undertake the work. As with all competitive markets, these providers compete on price and quality. Allowing these services to be provided via a competitive market best allows consumers to make the price/quality trade-off that best meets their needs (timing being a characteristic of quality).

Introducing a metric that captures only the quality side of that trade-off, without also reflecting the price component, risks misrepresenting the service being provided to consumers and the benefits consumers enjoy from being able to access a competitive market for these services.

Although Network Tasman does not undertake any role in the physical installation/modification of third party work, we can influence the time taken to install/modify an ICP. Each party seeking to install a new connection or modify an existing connection must apply to Network Tasman to do so. Network Tasman reviews these applications to ensure a number of criteria are met, including assessments of whether:

- the network is capable of hosting the capacity of the connection;
- the proposed installation complies with AS/NZS 3000;
- the proposed installation complies the current electricity regulations; and
- the proposed installation complies the Network Tasman Distribution Code.

Network Tasman has a formal policy of responding to written network connection applications within five business days of receipt (soon to be reduced to three business days). Where Network Tasman doesn't meet this service standard, the network connection application fee is waived.

Network Tasman's response to a written network connection application takes one of the following forms:

- approval to connect the new/amended load;
- a request for additional information about the new/amended load;
- a notification that the application has been received and that Network Tasman will have to undertake a detailed analysis of both the technical feasibility of servicing the new/amended load and the cost any network augmentation caused by the new/amended load; or
- a referral to a line contractor to complete reticulation alterations/upgrades to provide capacity.

When a detailed analysis is required, Network Tasman commits to providing a response to the application within 30 working days.

Generally, where the approval of a network connection application has been delayed it is because:

- Insufficient information has provided;
- Easements or other consents are required before work can begin;
- Required fees, levy, and or capital contribution have not been paid; or
- Reticulation alterations/upgrade are required to provide capacity.

Approved applications are forwarded to the applicant's retailer, their electrical contractor and the AIC nominated by the applicant in their application.

When the connection is ready for livening or alteration, the applicant (or their agent) will arrange a time for the AIC to complete the work.

If the proposed disclosure requirement is implemented as currently drafted Network Tasman anticipates complying with the requirements as follows:

- *Time taken to quote new connections and alternations to existing connections:* Network Tasman's view is that it would populate this disclosure requirement with an "N/A". Network Tasman does not provide quotes for the physical works for a new connection or an alteration to an existing connection and would therefore be unable to provide any data for this metric.
- *Time taken to install new connections and alterations to existing connections:* Network Tasman's view is that it would populate this disclosure requirement with an "N/A". This is because the definition of this parameter is "the time taken for an **EDB** to install a new ICP or alter an existing ICP ..." (**emphasis added**). As noted above, Network Tasman does not install or alter any aspect of an ICP. Accordingly, our interpretation is that the metric as currently drafted is not applicable to Network Tasman.

The Commission proposes to backdate the application of these metrics so they effectively apply from 1 April this year. Network Tasman disagrees with the Commission's proposal to introduce this reporting requirement retrospectively.

Should the Commission amend the metrics to focus on the time taken for the two activities to be completed, irrespective of the party undertaking the activity, we encourage the Commission to engage further with Network Tasman before issuing a final decision.

Recording these metrics is not a requirement of AICs currently operating on our network. We do not know whether they are capable of providing data of this nature in any form, let alone in a manner that is sufficiently robust to satisfy Network Tasman directors to certify the accuracy of information.

This concern is especially acute for information about activities that have already been completed, but also applies to the ongoing collection of this data. Particularly, if the burden of complying with regulatory reporting requirements resulted in fewer AIC's providing third party work on our network as a result. This outcome would reduce competition for these services and result in worse outcomes for consumers.

Q11 - Refine ID requirements on interruptions by clarifying definitions to ensure successive interruptions are recorded consistently (new definition and changes to existing definitions)

Network Tasman endorses the introduction of a new definition for *Successive Interruption* and the amendments to the definitions of *SAIFI values* and *SAIDI values*, but disagrees with the Commission's apparent proposal to effectively backdate the application of these definitions to 1 April 2022.

The Commission's position on applying retrospective regulation on this matter is unclear. The Commission concludes the section discussing this by stating it is proposing that "there is no requirement for EDBs to restate interruption information by applying the amended definition to historic information"¹. However, the Commission appears to recommend backdating the application of the new and amended definitions to 1 April 2022, the beginning of the current regulatory period.

For the purposes of this submission, Network Tasman interprets the Commission's statements to mean the new/amended definitions will not be backdated to apply to previous regulatory periods, but it will be backdated to the beginning of the current regulatory period. If current project timeframes are achieved and the Commission's draft decisions are implemented as proposed, the Final Decision will be delivered in November 2022, eight months after they are proposed to come into effect. Network Tasman seeks clarification on this interpretation.

The Commission appears to accept that retrospective regulation is not an appropriate outcome, but offers no explanation for why it is ultimately recommending retrospective regulation.

There is little discussion or analysis justifying retrospective regulation in the draft decisions paper. The Commission appears to rely on a note published by the ENA in 2019 discussing EDBs' ability to begin collecting SAIFI information on a multi-count basis and Aurora's view that it does not see any reason why successive interruptions cannot be reported.

The ENA's note states that ENA members could begin collecting SAIFI information on a multi-count basis from 1 April 2020. The purpose of the note was to assist the Commission to determine how to address the newly identified issue by providing clarity about EDBs' ability to record successive interruptions, both on a backward looking and an ongoing basis. This statement was made on 30 August 2019, seven months prior 1 April 2020. The ENA made this statement because this seven-month window provided affected EDBs with sufficient lead time to amend their outage recording processes to record successive interruptions. It was not a statement that EDBs would begin recording successive interruptions from 1 April 2020 or some later date.

Had the Commission, in late 2019, required that all EDBs to record successive interruptions from 1 April 2020, this matter would no longer be an issue.

Instead of clarifying the issue, the Commission explicitly asked EDBs to continue recording outages using their existing methodologies.

¹ Commerce Commission, *Targeted Information Disclosure Review – Electricity Distribution Businesses: Draft decisions paper – Tranche 1*, 3 August 2022, page 75, para 4.92

Accordingly, Network Tasman does not share Aurora's view that the issue of how successive interruptions are to be recorded was clarified in 2019.

In late 2019, the Commission ultimately decided to set DPP3 quality standards on the basis of EDBs existing recording methodologies, but stated that it intended to address the issue via a review of the ID regime. The Commission has subsequently issued exemptions to aspects of the disclosure contained in Schedule 10 of the ID Determination to facilitate completion and submission of each subsequent year-end disclosure.

The Commission has since maintained the consistent narrative that this issue would be addressed via a review of the ID regime.

In the consultation paper outlining the Commission's proposed approach to resolving the issue for the upcoming reset of the default price-quality path, the Commission stated:

"We note that while we do not favour implementing a time-bound multi-count approach for successive interruptions for DPP3, we may consider it further when considering changes to the information disclosure requirements that apply to EDBs." ²

In the Reasons Paper for the DPP3 Final decision:

"We plan to consult with stakeholders after the DPP3 reset to ensure that in the future the definition of an interruption is applied consistently by distributors, firstly as part of ID." ³

The Commission has also issued three industry-wide exemptions, spanning four regulatory years, from the disclosure and auditing of reliability information with Schedule 10 of the ID determination. In the most recent ID exemption the Commission stated:

"We understand the treatment of successive interruptions is inconsistent between EDBs, which can affect the recording of the System Average Interruption Frequency Index (SAIFI)...We expect to address this inconsistency through a targeted review of the ID Determination." ⁴

If the issue had been clarified in 2019, the Commission would have had no need to issue exemption notices for the past four years of disclosures or continue the narrative over a number of years that the issue would be addressed through the ID review.

That the Commission has taken three years to consider the issue suggests the Commission does not consider it a matter of urgency. Yet, it is now proposing to apply the new/amended definitions retrospectively, indicating an urgency that belies its approach to the issue over the past three years. It is not clear to Network Tasman why the Commission did not address the issue earlier if it wanted all EDBs to record SAIDI and SAIFI in a consistent manner from 1 April 2022.

Notwithstanding the Commission's narrative about addressing this issue as part of this ID review, Network Tasman considered pre-empting the Commission's review by amending its

² Commerce Commission, *Default price-quality paths for electricity distribution businesses from 1 April 2020 – Recording successive interruptions for SAIFI: Consultation paper*, 7 October 2019, page 12, para 49.

³ Commerce Commission, *Default price-quality paths for electricity distribution businesses from 1 April 2020 – Final decision: Reasons Paper*, Page 359, para 156.

⁴ Commerce Commission, *Information Disclosure exemption: Disclosure and auditing of reliability information within Schedule 10*, 17 May 2021, page 1, para 3.

outage recording processes to account for successive interruptions. As part of this process, Network Tasman discussed the idea with Commission staff to understand whether the Commission was able to offer any certainty about the decisions it was likely to make with respect to this issue.

Commission staff were, naturally, unable to offer any assurance, or guidance, on how the Commission would address this issue. As part of this discussion, Commission staff observed that potential solutions to this issue may not be limited to continuing the status quo or requiring all EDBs to record SAIDI and SAIFI in a manner that accounted for successive interruptions. It was noted that as part of the review, the Commission may identify an alternative measure or modification of the existing measures that better reflects the outcomes the Commission is seeking.

Rather than attempt to pre-empt the Commission's decisions on this issue and risk investing resources in changes to our outage recording processes that could ultimately be rendered redundant, Network Tasman decided to await the outcome of the ID review before considering any changes to its outage recording processes.

The Commission has been very clear and consistent over the past three years that this issue required clarification and that it would clarify the issue as part of this ID review. It is natural to expect affected EDBs to await the outcome of this review before considering any changes to their recording processes. Backdating the application of this requirement punishes EDBs for following the Commission's guidance and potentially risks these EDBs being unable to comply with the ID Determination if they are unable to recalculate SAIDI and SAIFI for past outages that complies with the new/amended definitions.

A decision to backdate the application of this, and the other ID requirements proposed in the Draft decisions paper, would set a concerning precedent for the Commission. It would erode regulatory certainty by reducing the weight that EDBs can place on Commission statements, endorsing the idea that the Commission can (and will) regulate by implication, and encouraging EDBs to react pre-emptively to actions they believe the Commission will undertake. These outcomes are unlikely to result in more efficient operations from EDBs and/or better outcomes for consumers.

Network Tasman submits that the Commission should introduce the new/amended definitions from 1 April 2023.