

From the Electricity Networks Association

**Submission on the detailed drafting of the
Draft DPP Determination and IM
amendments**

Final

15 September 2014

The Electricity Networks Association makes this submission along with the explicit support of its members subject to Default Price-Quality Path regulation, listed below.

Alpine Energy Ltd
Aurora Energy Ltd
Centralines Ltd
Eastland Network Ltd
EA Networks Ltd
Electricity Invercargill Ltd
Horizon Energy Distribution Ltd
Nelson Electricity Ltd
Network Tasman Ltd
Orion New Zealand Ltd
OtagoNet Joint Venture
Powerco Ltd
The Lines Company Ltd
Top Energy Ltd
Unison Networks Ltd
Vector Ltd
Wellington Electricity Lines Ltd

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1. Introduction

1. This submission addresses the technical drafting of the Draft Determination for the 2015-20 DPP (the Draft DPP Determination),¹ and related proposed amendments to the input methodologies (IMs) (the Draft IM Determination and IM Consultation Paper).²
2. The Electricity Networks Association (ENA) appreciates the opportunity to submit to the Commerce Commission (the Commission) on these papers. The ENA represents the 29 electricity network businesses (ENBs) in New Zealand.
3. We understand that the Commission intends to consult further on the detailed drafting at a later date, and we welcome the opportunity to contribute to further consultation in this respect, prior to finalising the determinations.
4. The current consultations on the forthcoming 2015-20 Default Price-Quality Path (DPP) propose a number of refinements to the DPP to apply to non-exempt ENBs from 1 April 2015. These are outlined in a suite of consultation papers published by the Commission on 4 July 2014 and 18 July 2014, in particular:
 - a) Proposed Default Price-Quality Paths for Electricity Distributors From 1 April 2015 (the Main Policy Paper)
 - b) Low Cost Forecasting Approaches For Default Price-Quality Paths (the Forecasting Paper)
 - c) Proposed Quality Targets and Incentives for Default Price-Quality Paths from 1 April 2015 (the Quality Incentive Paper)
 - d) Proposed Compliance Requirements for the 2015-202 Default Price-Quality Paths for Electricity Distributors (the Compliance Paper).
5. The ENA has previously submitted on these papers (on 15 August and 29 August) and the comments included in this submission are consistent with the views expressed in these earlier submissions.
6. The structure of this submission largely follows the structure of the Draft DPP Determination, and includes references to the Draft IM Determination and IM Consultation Paper where relevant.

¹ Commerce Commission, Electricity Distribution Services Default Price-Quality Path Draft Determination 2015, 18 July 2014.

² Commerce Commission, Proposed Electricity Distribution Input Methodology Amendments 2014, 18 July 2014, and Proposed Amendments to Input Methodologies for Electricity Distribution Services, Consultation Paper, 18 July 2014.

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2. Draft Determination

2.1 Redrafting

8. A number of clauses and definitions in the Draft DPP Determination have been redrafted, relative to the 2012 DPP Determination. This is partly in response to proposed changes to the price paths, quality standards, compliance obligations and reporting requirements.
9. In addition, there are a number of proposed refinements to existing terms or requirements which we assume are intended to improve the Draft DPP Determination itself, and/or provide additional clarity. The ENA supports such refinements.
10. In this submission we have focussed on:
 - a) Errors, omissions, inconsistencies or ambiguities in the drafting which are contrary to the policy intent outlined in the DPP consultation papers referred to in section 1
 - b) Additional/alternative drafting consistent with the ENA's responses to the DPP consultation papers, as outlined in the ENA's submissions of 15 August and 29 August.

2.2 Interpretation

11. Clause 4 'Interpretation' sets out definitions of key terms within the Draft DPP Determination, and a number of those terms are defined with reference to the IMs or Part 4 of the Commerce Act (the Act). The ENA supports this approach as it assists to achieve clarity and consistency across the applicable regulations and legislation.

2.2.1 New and omitted terms

12. A number of new terms are proposed for Clause 4, which are necessary to give effect to the proposed price paths and quality standards. We comment on these in the subsequent sections of this submission.
13. In addition we highlight the following issues with new and omitted terms in the Draft DPP Determination:

Term	Issue/Comment	Suggested Resolution
Annual Compliance Statement and Compliance Statement	Duplicate terms with similar definitions create confusion. Reference to 'annual' is useful as it promotes understanding	Delete all references to Compliance Statement and replace with Annual Compliance Statement

Assessment Date	The proposed definition refers to the date that compliance must be demonstrated, however this is misleading as it could be interpreted as the date that the Compliance Statement must be completed	Suggest deleting, as the term is not used in the Draft Determination
Assessment Period	Definition includes reference to CPP Regulatory Period which we consider is unnecessary (refer below)	Remove reference to CPP Regulatory Period. Redraft Clause 5 (refer below)
Auditor	Differs to IDD ³ which uses the term Independent Auditor and omits the phrase <i>'where the non-exempt EDB is a public entity (as defined in the (Public Audit Act 2001), is the Auditor General'</i>	Discrepancy with IDD unhelpful. Suggest amend the IDD or the Draft DPP Determination to align the terms and the definitions
First Assessment Period	Currently not defined, but this is a key term necessary for compliance with the proposed price path. The 2012 DPP Determination defines each Assessment Period, which we consider is a useful inclusion in the Determination	Suggest add definition: '... means the Assessment Period commencing on 1 April 2015'
IM Determination	Is defined with reference to the [2012] NZCC 26 Determination, however there are a number of proposed amendments to the IMs required to implement the 2015-20 DPP	Update reference

³ Electricity Distribution Information Disclosure Determination 2012

Regulatory Period and CPP Regulatory Period	New terms defined with reference to Schedule 1, however Schedule 1 contains Starting Prices	Suggest define Regulatory Period in Clause 2.1 (ie: as 1 April 2015 to 31 March 2020) and remove references to CPP Regulatory Period (refer below)
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2.3 Default/customised price-quality path

14. Clause 5 sets out the DPP requirements for price paths and quality standards, by reference to subsequent clauses in the Draft DPP Determination. While this is consistent with the 2012 DPP Determination, new clauses have also been added which refer to CPP Determinations. We find this additional drafting cumbersome. We understand that the reason for the additional references is to signal that non-exempt ENBs may step out of, and back into, DPP price paths or quality standards when transitioning to/from CPPs.
15. New clauses 5.2 and 5.3 effectively state that non-exempt ENBs are subject to the DPP, unless they are subject to a CPP. This is defined with reference to the terms **Regulatory Period** and **CPP Regulatory Period**. As stated above, these terms are intended to be defined in Schedule 1, but currently Schedule 1 sets out DPP starting prices for each non-exempt ENB subject to the DPP.
16. It is not clear why this approach has been taken, as it is not possible to define in advance the CPP Regulatory Periods which may apply to non-exempt ENBs during the DPP regulatory period. In addition, a CPP may apply to quality standards and not price-paths.
17. Accordingly we suggest amending Clause 5 as follows:

5. Default / customised price-quality path

5.1 ~~During a Regulatory Period or CPP Regulatory Period, e~~Every Non-exempt EDB must comply with the price-quality path, which consists of:

- (a) the price path specified in clause 8; and
- (b) the quality standards specified in clause 9; unless

the non-exempt EDB is subject to a price path or quality standards specified in a customised price-quality path determination.

~~5.2 A Non-exempt EDB is subject to default price-quality regulation during any Regulatory Period, except during any CPP Regulatory Period applicable to the Non-exempt EDB.~~

~~5.3 A Non-exempt EDB is subject to customised price-quality regulation during any CPP Regulatory Period applicable to the Non-exempt EDB.~~

2.4 Dates for proposing a CPP

18. The proposed dates for submitting a CPP application include February and May windows for non-catastrophic CPP proposals. We refer the Commission to our submission on the DPP Compliance Paper which refers to our previous submissions which have stated that the February windows are too tight, given the pre-application processes which must be undertaken.

3. Price path

3.1 Specifying the price path

3.1.1 Components of the price path

19. Clause 8 of the Draft DPP Determination specifies the components of the price path including starting prices, rates of change, notional revenue (NR), allowable notional revenue (ANR), recovery of transmission charges and how compliance is assessed when prices are restructured. Much of the detailed requirements are included in supporting schedules. The ENA supports this approach to specifying the price path.
20. One of the key changes proposed for the price path is the separation of distribution from transmission prices, each to be assessed using a different compliance tests. Other changes include minor refinements to terms and expressions which improve clarity.
21. As stated previously, we submit that the references to the CPP Regulatory Period, including those in Clause 8 are removed, as a CPP Determination is the appropriate place to specify the price path that will apply to an ENB subject to a CPP.

3.1.2 Starting prices and rates of change

22. Clauses 8.1 and 8.2 specify the starting prices and rates of change that apply in the price path for the regulatory period. They do this by referring to information contained in Schedules 1 and 2 respectively.
23. We note that Clause 8.2 includes in error, information about the price path compliance test. Thus Clause 8.2 requires correcting, and a new Clause 8.3 created as follows:

Rates of change

8.2 The annual rates of change in Distribution Prices allowed during the Regulatory Period ~~or CPP Regulatory period~~ are as set out in Schedule 2.

Compliance with the price path

8.3 The notional revenue of a Non-exempt EDB in an Assessment Period must not exceed the allowable notional revenue for the Assessment Period, such that:

....

24. By creating the new Clause 8.3, the following clauses are re-numbered, and the references within the NR and ANR definitions in Clause 8.3 of the Draft DPP Determination become valid (whereas currently they are not).
25. Schedules 1 and 2, referred to in Clauses 8.1 and 8.2, define the Regulatory Period (ie: as 1 April 2015 – 31 March 2020). However we consider that this definition in Schedules 1 and 2 is unnecessary and therefore potentially confusing. Where specific dates are required (ie: subsets of the Regulatory Period, we consider that Assessment Period

references can be included. In addition, the Regulatory Period can be defined at the beginning of the Determination, for example in clause 2.1.

26. We therefore recommend that clause 2.1, and Schedules 1 and 2, are amended as follows:

Clause 2.1:

2. Commencement and Regulatory Period

- 2.1 This determination comes into force on 1 April 2015. The Regulatory Period to which this determination applies commences on 1 April 2015 and ends on 31 March 2020.

Schedule 1: Starting Prices

1. The starting Distribution Prices for each Non-exempt EDB ~~not subject to a customised price-quality path, specified as maximum allowable revenue and the Regulatory Period to which they apply,~~ are as set out in Table 1.1.

**Table 1.1: Starting Prices for the First Assessment Period
Regulatory Period 1 April 2015 – 31 March 2020**

...

Schedule 2: Annual rates of change

1. The annual rate of change for all Non-exempt EDBs ~~not subject to a customised price-quality path~~ is the rate of change generally applicable to all Non-exempt EDBs, unless an alternative rate of change is specified for the Non-exempt EDB ~~for that Regulatory Period~~ in Table 2.2.
2. The annual rate of change generally applicable to all Non-exempt EDBs ~~is [applicable industry-wide X-factor], and the Regulatory Period to which it applies, is set out in Table 2.1.~~

~~Table 2.1: Rate of change generally applicable to all Non-exempt EDBs~~

Regulatory period to which these starting Prices apply:	Rate of change
1 April 2015 – 31 March 2020	0%

3. The Non-exempt EDBs subject to an alternative rate of change, ~~and the alternative rate of change, and the Regulatory Period to which the alternative rate of change applies,~~ are set out in Table ~~2.1~~2.2.

Table ~~2.12-2~~: Alternative rates of change applicable to a Non-exempt EDB

Non-exempt EDB:	Alternative rate of change for the Regulatory Period 1 April 2015 – 31 March 2020
...	

3.1.3 Allowable notional revenue and notional revenue

The annual compliance test

27. Clauses 8.3 and 8.4 in the Draft DPP Determination specify the compliance test for the DPP price path. As stated above a new clause 8.3 is required (with text from Clause 8.2 in the Draft DPP Determination), thus the price path compliance explanations will be included in clauses to be re-numbered 8.4 and 8.5.
28. Clause ~~8.34~~ describes how allowable notional revenue is to be calculated with reference to Schedule 4A (for the first Assessment Period) and Schedule 4B (for other Assessment Periods). Clause ~~8.45~~ describes how notional revenue is to be calculated.
29. We consider that the proposed specification of the annual compliance test is reasonable, as is the method specified for calculating ANR and NR in Clause 8.
30. However, Clause 8.4 defines $Q_{i,t-2}$ with reference to an Assessment Period. This is unworkable, since Assessment Period is only defined as a year within the Regulatory Period and $t-2$ extends back beyond the beginning of the Regulatory Period. The same issue exists in Schedule 4B which defines ANR for the Assessment Periods other than the First Assessment Period. We therefore suggest that the Q definitions in Clause 8.4 and Schedule 4B are amended as follows:

$Q_{i,t-2}$ is the Quantity corresponding to the i th Distribution Price for the 12 month period ~~Assessment Period~~ ending on 31 March, two years prior to year t ;
31. We note the introduction of the term **Distribution Price**, which is defined in Clause 4.2, with reference to the IMs. The Draft IM Determination includes proposed new definitions for distribution prices and transmission prices, which we support.
32. We support the introduction of the ANR acronym for allowable notional revenue (replacing the previous 'R' acronym), as we consider it is more intuitive.
33. We note that the method specified for calculating ANR for the first Assessment Period in Schedule 4A, includes an incorrect description of the term ΔD . Schedule 4A incorrectly refers to the change in constant price revenue for the whole Regulatory Period; however the reference should be to the two years ending at the end of the first Assessment Period. Accordingly, the relevant text in Schedule 4A should be amended as follows:

Schedule 4A: Calculation of allowable notional revenue for the first Assessment Period

ΔD is the change in constant price revenue for the period 1 April 2014 to 31 March 2016, as specified for the Regulatory Period in Table 1.1;

34. In addition we make the following suggestions for minor improvements to the presentation of the price path compliance requirements:
- a) The presentation of the definitions of the K and V terms differs between Schedule 4A (where they are separate) and Schedule 4B (where they are combined). We suggest it would be more transparent if they were presented consistently, and separately, as they are in Schedule 4A (which is also consistent with the presentation in Clause 8.45).
 - b) In the revised description of ΔCPI_t in Schedule 4B, the reference to “the quarter year ending q ” is confusing. We consider that the current description of “the quarter q ” is more straightforward.
 - c) When referring to the ANR formulae, Schedule 4A refers to a “formula”, whereas Schedule 4B refers to an “equation”. If the formulae are not to be given specific equation numbers, then we suggest that the term “formula” is more appropriate.
35. We therefore recommend that Schedule 4B is amended as follows:

Schedule 4B: Calculation of allowable notional revenue for the remaining Assessment Periods

1. The allowable notional revenue for all Assessment Periods other than the First Assessment Period must be calculated in accordance with the formula equation –

...

$P_{i,t-1}$ is the i^{th} Distribution Price during for any part of the Assessment Period ending the year prior to year t ;

$Q_{i,t-2}$ is the Quantity corresponding to the i^{th} Distribution Price for the 12 month period Assessment Period ending on 31 March, two years prior to year t ;

$K_{t-1} + V_{t-1}$ is the sum of all Pass-through Costs and Non Transmission Recoverable Costs for the Assessment Period ending the year prior to year t ;

V_{t-1} is the sum of all Non Transmission Recoverable Costs for the Assessment Period prior to year t

Diff is the difference between allowable notional revenue and notional revenue for the Assessment Period ending the year prior to year t ;

...

ΔCPI_t ...

where:

$CPI_{q,t-n}$ is the CPI for the quarter year ending q in the 12 month period n years prior to year t .

3.2 Recovery of transmission charges

3.2.1 Transmission balance approach

36. The proposed transmission balance approach to assessing the recovery of transmission charges is set out in Clauses 8.5 and 8.6 in the Draft DPP Determination. This approach has been proposed to address concerns raised about forecasting and volume risk in complying with the current DPP price path. As we stated in our submission on the Compliance Paper, the ENA's preferred approach to addressing these compliance issues is to introduce a compliance wash-up mechanism. We discuss this alternative approach in Section 3.4 below.
37. In principle, we consider that the proposed separation of the recovery of transmission charges from the DPP price path, as set out in clauses 8.5 and 8.6 of the Draft DPP Determination, usefully addresses aspects of the compliance issues noted above. However, if the proposed method is to be introduced, we consider that some improvements/corrections are required.
38. We do not support the proposed restriction for the transmission balance for the final Assessment Period to be less than or equal to zero, for the reasons set out in our submission on the Compliance Paper. Accordingly, we submit that clause 8.5 of the Draft DPP Determination is deleted. Accordingly the transmission balance in all Assessment Periods should be calculated using the proposed formula in clause 8.6(b) of the Draft DPP Determination.
39. We note that the balance carried forward from the previous Assessment Period should be added rather than subtracted, to correct an error in the draft formula in clause 8.6. We therefore recommend that the formula specified in clause 8.6(b) of the Draft DPP Determination is amended as follows:

$$TB_t = \sum_i TP_{i,t} Q_{i,t} - T_t \pm TB_{t-1}(1 - r)$$

3.2.2 Approval process

40. It is proposed that some of the elements of transmission recoverable costs will require pre-approval by the Commission before they can be recovered through prices – namely, new investment charges payable to Transpower, avoided transmission charges due to distributed generation, payments for AUFLS activities and avoided transmission charges associated with the acquisition of assets from Transpower.
41. As stated in our submission on the Compliance Paper, we do not consider that pre-approvals for transmission recoverable costs are consistent with the transmission balance approach. Forecast values for these items will be used to set prices, with actual amounts subsequently included in the transmission balance for compliance purposes, with a wash-up for the difference between actual and forecast via the transmission

balance in the subsequent year. The proposed specifications of each of the transmission recoverable costs (to be defined in the IMs and/or the DPP Determination), are sufficient, and we consider are able to be defined with sufficient precision to remove the need for any judgement to be exercised.

42. Accordingly we consider that pre-approval for these items is unnecessary, introduces regulatory uncertainty, will be a potential cause of pricing instability and is inconsistent with rules-based regulation. We comment on each of the recoverable cost components in the following section of this submission.

3.3 Recovery of pass-through and non-transmission recoverable costs

3.3.1 The proposed approach

43. The Draft DPP Determination also proposes that forecasting risk is addressed for pass-through costs and non-transmission recoverable costs, by only permitting costs which are certain to be included in prices. Costs which are not certain (ie: only those which are ‘ascertainable’) at the time prices are set, are not included in prices, and their recovery is deferred to a later Assessment Period, with a time value of money adjustment. This proposed approach is set out in Schedule 5 of the Draft DPP Determination.
44. As stated above, we continue to support the use of a compliance wash-up mechanism as a means to address these issues. We discuss this approach in Section 3.4 below.
45. If the proposed approach is to work in practice, we consider that it will be necessary to develop a practical definition of ‘ascertainable’. Neither the Draft DPP Determination nor the Draft IM Determination includes a definition for this term.
46. We therefore recommend that a new term **Ascertainable** is added to Clause 4.2 as follows:

Ascertainable means, in relation to a pass-through cost or non-transmission recoverable cost, the amount that is certain to be payable by the non-exempt EDB during the Assessment Period

47. We also consider that the specifications for determining pass-through and recoverable costs in Schedule 5 (paragraphs 1-4) could be improved, as follows:
- a) Paragraph 1(a) of that schedule incorrectly states that Non Transmission recoverable costs do not need to be ascertainable – this should refer to Transmission recoverable costs.
 - b) We consider that paragraph 1(c) introduces limitations that may be difficult to apply in practice. In principle, pass-through and recoverable costs could potentially be recovered through different mechanisms, but the critical point is whether they have been.

- c) We do not support the proposal to limit the recovery of pass-through and recoverable costs to those incurred in the previous two Assessment Periods. This restriction is unreasonable, since ENBs may not be able to influence when costs become certain or are approved (for those which are to be approved by the Commission). We therefore recommend that paragraph 1(d) of Schedule 5 of the Draft DPP Determination is deleted. We also note that the two year restriction compromises the ANR formula, which uses prior period V and K values (ie: these would be at least three years prior, if the two year restriction were applied).
- d) We consider that paragraphs 2 and 4 of Schedule 5 should be more specific as to how time value of money adjustments are to be applied. Accordingly paragraph 4 should include the required formula, in the same way that the 2013 Gas Distribution DPP Determination does, and paragraph 3 can be deleted as a result.

48. Accordingly we recommend that paragraphs 1-4 of Schedule 5 are amended as follows:

Schedule 5: Process for determining the amount of Pass-through Costs and Recoverable Costs for an Assessment Period

1. The amount of each Pass-through Cost or Non Transmission Recoverable Cost that is used to calculate allowable notional revenue or notional revenue for an Assessment Period, and Transmission Recoverable Cost or Indirect Transmission Charges passed through to Prices during an Assessment Period, must:
 - (a) ~~except for~~ with the exception of a Non Transmission Recoverable Cost or Indirect Transmission Charge, be **Ascertainable** at the time the Non-exempt EDB sets its Prices for that Assessment Period;
 - (b) not have already been passed through to, or recovered from, Consumers or other parties by the Non-exempt EDB in a previous Assessment Period;
 - ~~(c) not be able to be~~ have been otherwise recovered from Consumers or other parties, ~~other than through Prices; and~~
 - ~~(d) have been accrued or incurred in, or apply to, the two most recent Assessment Periods.~~
2. A Non-exempt EDB must adjust the amount of any Pass-through Cost or Non Transmission Recoverable Cost for the time value of money in accordance with paragraph ~~3~~4 where it is used to calculate allowable notional revenue or notional revenue for any Assessment Period other than that to which the amount relates.
- ~~3. If a Non-exempt EDB adjusts the amount of any Pass-through Cost or Non Transmission Recoverable Cost for the time value of money, the Non-exempt EDB must use the same approach for calculating all Pass-through Costs or Non Transmission Recoverable Costs for each Pass-through Cost and Non~~

~~Transmission Recoverable Cost in each Assessment Period of the Regulatory Period.~~

34. For the purposes of calculating time value of money adjustments under paragraph 2, the EDB must calculate the amounts in accordance with the formula – apply the cost of debt of 6.30% per annum.

$$K_t + V_t = \sum_n (K_n + V_n) (1 + r)^{t-n}$$

where:

t is the year in which the Pricing Period ends;

K_t is the sum of all Pass-through Costs claimed for the Assessment Period t;

V_t is the sum of all Non Transmission Recoverable Costs claimed for the Assessment Period t;

n is the Disclosure Year in which actual Pass-through Costs and Non Transmission Recoverable Costs were paid or will be paid;

K_n is the sum of all Pass-through Costs that have been paid or will be paid in year n;

V_n is the sum of all Non Transmission Recoverable Costs that have been paid or will be paid in year n;

r is the cost of debt of 6.30%

3.3.2 Pass-through and recoverable costs included in ANR and NR

49. We consider that the descriptions of pass-through and recoverable costs in the compliance formulae, as stated in clause 8.4 and Schedules 4A and 4B of the Draft DPP Determination, leaves open the possibility that the values may not be consistent when applied in NR in a given year and ANR in the following year. Such an outcome would be inconsistent with the policy intent.
50. We suggest that in order to address this, the wording could be modified to specifically exclude this possibility. Accordingly the following amendments to paragraph 1 of Schedule 5 of the Draft DPP Determination could be included:
1. The amount of each Pass-through Cost or Non Transmission Recoverable Cost that is used to calculate ~~allowable notional revenue or~~ notional revenue for an Assessment Period, and Transmission Recoverable Cost or Indirect Transmission Charges passed through to Prices during an Assessment Period, must:

...
 2. The amount of each Pass-through Cost or Non Transmission Recoverable Cost that is used to calculate allowable notional revenue for an Assessment

Period must be equal to the corresponding amounts used in the calculation of Notional Revenue in the previous Assessment Period as disclosed in the Compliance Statement for that previous Assessment Period.

3.3.3 Expanding the transmission balance mechanism

51. As we stated in our submission on the Compliance Paper, an alternative approach to ensure ENBs are able to recover their non-transmission recoverable costs and pass through costs in full, in a timely way, is to expand the proposed transmission balance mechanism to capture these additional costs.
52. This would require the following amendments to definitions:
- a) T_t , as used in the clause 8.6 of Draft DPP Determination, to include all pass-through and recoverable costs.
 - b) K_t and V_t , as used in clause 8.4 and Schedules 4A and 4B of the Draft DPP Determination, to be removed
 - c) The transmission component of posted prices, as specified in the IDD, to be extended to include the recovery of all pass-through and recoverable costs
 - d) The definitions of transmission and non-transmission recoverable costs to be removed from the draft IMs
 - e) The IM definition of transmission prices to be expanded to include other charges recovered via recoverable costs and pass-through costs, and with reference to the IDD (as per c) above)
 - f) The definitions of allowable notional revenue and notional revenue in the specification of price IM (clauses 3.1.1 and 3.1.3 respectively) to be amended to remove references to 'net of pass-through costs and non-transmission recoverable costs'
 - g) The references to pass-through costs and Non Transmission recoverable costs in Schedule 4B of the Draft DPP Determination to be revised to include all pass-through and recoverable costs
 - h) The requirements for information about Transmission and Non Transmission recoverable costs for annual compliance statements (in paragraph 11.4 of the Draft DPP Determination) to be combined.

3.4 Price path compliance wash-up

53. In our submission on the Process and Issues Paper,⁴ we proposed an alternative approach to address the risks of not being able to comply with the price path, and fully recover allowable revenue. We proposed a wash-up mechanism for differences

⁴ Commerce Commission, Default price-quality paths from 1 April 2015 for 17 electricity distributors: Process and issues paper, 21 March 2014.

between ANR and NR which we believe would provide more certainty, simplify the ex-post price path compliance process, remove the potential for inadvertently breaching the price path, and ultimately avoid the need for headroom when setting prices.

54. A compliance wash-up would remove the need for the proposed separation of transmission recoverable costs from the DPP price path and to limit the recovery of pass-through and non-transmission recoverable costs to those which are ascertainable.

3.4.1 Simple wash-up mechanism

55. The purpose of the wash-up mechanism would be to adjust for over or under recovery against in the price path in one year, in a subsequent year, after adjusting for the time value of money. The adjustment would apply in the second assessment period following the over or under recovery to allow for the adjustment to be calculated and factored into prices. We consider that the most straight forward mechanism to achieve this is via a recoverable cost.

56. Accordingly the IMs would be amended as follows:

IM clause 1.1.4(2):

Compliance wash-up adjustment means an amount equal to allowable notional revenue from the disclosure year two years prior less notional revenue from the disclosure year two years prior, adjusted for the time value of money

IM clause 3.1.3(1):

- (1) A recoverable cost is a cost that is:

...

(w) **a compliance wash-up adjustment.**

57. In addition:

- a) the ANR and NR terms included in Clause 8 and Schedules 4A and 4B would include all pass-through and recoverable costs
- b) the proposed new distribution and transmission price references would be removed and the current 'price' term would be retained – in the IMs and the DPP Determination
- c) the proposed new non-transmission and transmission recoverable cost terms would be removed and the current recoverable cost term would be retained – in the IMs and the DPP Determination.
- d) Clauses 8.5 and 8.6 of the Draft DPP Determination would be removed
- e) Paragraphs 1(b) and 2-4 of Schedule 5 would be removed
- f) The requirements for information about Transmission and Non Transmission recoverable costs for annual compliance statements (in paragraph 11.4 of the Draft DPP Determination) would be combined.

3.4.2 Additional elements

58. Our submission on the Process and Issues Paper also stated that it might be appropriate to consider penalties where NR exceeds ANR by specified amounts, and also potentially capping the size of the wash-up which adjusts for previous under-recoveries.

Over-recovery penalties

59. We stated that one possible way to penalise ENBs for larger over-recoveries is to introduce financial penalties (ie: reduce ANR in subsequent periods) by increasing the time value of money adjustment, if NR exceeded ANR by more than a specified amount.
60. This could be implemented by amending the recoverable cost definition suggested above such that the time value of money was increased (e.g. multiplied by a factor) if NR exceeded ANR by more than x% as follows.

Compliance wash-up adjustment means,

- (a) an amount equal to **allowable notional revenue** from the disclosure year two years prior less **notional revenue** from the disclosure year two years prior, adjusted for the time value of money,

providing that **notional revenue** from the disclosure year two years prior less **allowable notional revenue** from the disclosure year two years prior is less than or equal to **allowable notional revenue** from the disclosure year two years prior multiplied by x%, otherwise

- (b) an amount equal to **allowable notional revenue** from the disclosure year two years prior less than **notional revenue** from the disclosure year two years prior, adjusted for the time value of money x [X]

61. We also stated that larger variances of ANR could trigger an investigation by the Commission. This could be stated in the Final Decision Paper, and Enforcement Guidelines.

Capped wash-up

62. Our submission on the Process and Issues Paper also suggested that wash-up for previous under-recoveries could be capped. The aim of applying a cap to the wash-up would be to avoid the potential for large one-off price changes to ‘catch up’ past under-recoveries, for example where ENBs have systematically prices below their price paths.
63. A cap could be implemented by limiting the amount of the recoverable cost to x% of ANR from the year of the under-recovery, by amending the definition suggested in paragraph 56 above as follows:

Compliance wash-up adjustment means,

- (a) an amount equal to **allowable notional revenue** from the disclosure year two years prior less **notional revenue** from the disclosure year two years prior, adjusted for the time value of money

providing that this amount is less than or equal to allowable notional revenue from the disclosure year two years prior multiplied by x%, otherwise

(b) allowable notional revenue from the disclosure year two years prior multiplied by x%.

3.5 Price restructuring

64. Clauses 8.7 to 8.10 of the Draft DPP Determination address how price restructures are to be treated for price path compliance purposes. The ENA supports the proposed additional clarity in this respect, and the proposal to remove the alternative compliance option (which is in the 2012 DPP Determination), which is redundant given the new guidance.
65. The definition of **Restructure for Prices** in Clause 4.2 is helpful, however we consider that subclause (c) should be extended to allow for movements of connections between pricing groups which may be requested by retailers (as the customer representative) as well as customers. This is consistent with the expectation that retailers may initiate changes between pricing groups, as drafted in Clause 8.8(c) in the Draft DPP Determination.
66. In addition we consider that the proposed new term 'load group' is confusing, and inconsistent with terminology used elsewhere, for example in IDD. The IDD uses the term 'Consumer Group' which is defined as 'the category of consumer used by the EDB for the purpose of setting prices'. We consider this is a reasonable term for the DPP Determination, and if adopted this will ensure that the pricing related disclosures are aligned between DPPs and IDD (for example Schedule 8, tariff schedules and pricing methodology disclosures). The definition can be included in Clause 4.2 for clarity.
67. We also note Vector's alternative suggestion for the term 'price category' to replace the proposed 'load group term'. We note that Schedule 8 of the IDD also uses the term 'price category', and therefore we consider that this alternative would also be an improvement to the current proposals.
68. We have also previously submitted that the proposed limits on how quantities may be estimated following a price restructure, while useful, are too restrictive as they exclude consideration of 'other relevant information'.
69. Finally, as stated in our submission on the Compliance Paper we do not support the proposal that price restructure information is provided outside the Compliance Statement, and prior to the prices coming into effect, as this adds undue compliance complexity, and is unnecessary at this time as there are no pre-approvals required. The information can be provided in Compliance Statements, and thus the requirements of paragraph 8.10 should be moved to Clause 11.
70. Accordingly, we submit the following amendments are made to the proposed price restructuring provisions in the Draft DPP Determination.

Clause 4.2

Consumer Group means the category of Consumer used by a non-exempt EDB for the purpose of setting Prices

Restructure of Prices means any change in the allocation of connections to ~~load groups~~ Consumer Groups by a Non-exempt EDB or any change in its Prices other than:

- (a) a change to the value of a Price applicable to any existing ~~load group~~ Consumer Group; or
- (b) any standard changes to the numbers of connections within any existing ~~load group~~ Consumer Group; or
- (c) the movement of connections between existing ~~load groups~~ Consumer Groups at the request of the customer or retailer.

Clause 8 - *Restructure of prices*

8.7 For the avoidance of doubt, a Restructure of Prices by a Non-exempt EDB during an Assessment Period does not change the allowable notional revenue for that Assessment Period.

8.8 For the purposes of calculating notional revenue for an Assessment Period in which a Non-exempt EDB undertakes a Restructure of Prices, if:

- (a) two or more ~~load groups~~ Consumer Groups are combined into one ~~load group~~ Consumer Group, the Quantity corresponding to the ~~load group~~ Consumer Group must be the sum of the Quantities corresponding to each of the previous ~~load groups~~ Consumer Groups;
- (b) the connections in a ~~load group~~ Consumer Group are separated into two or more new ~~load groups~~ Consumer Groups, the Quantity corresponding to each new ~~load group~~ Consumer Group must be based on the connections of the original ~~load group~~ Consumer Group assigned to each new ~~load group~~ Consumer Group, and the sum of the Quantities corresponding to each new ~~load group~~ Consumer Group must equal the sum of the Quantities corresponding to the original ~~load group~~ Consumer Group;
- (c) where a new ~~load group~~ Consumer Group is to be populated only by consumers or retailers opting to join that ~~load group~~ Consumer Group, then the Quantities corresponding to the new ~~load group~~ Consumer Group is nil; and
- (d) the Quantities corresponding to each Price are the same as the Quantities corresponding to the ~~load groups~~ Consumer Group to which the Prices apply.

8.9 If a Non-exempt EDB undertakes a Restructure of Prices during or for an Assessment Period, and there is no Quantity for the 12 month period ending on 31 March two years prior that corresponds to a restructured Price, the Non-exempt EDB:

- (a) must estimate a Quantity for the 12 month period ending on 31 March two years prior to the Assessment Period, that reflects the quantity that would have arisen had the restructured price been in place at that time, and that corresponds to each restructured Price; and
- (b) may estimate the Quantity using any reasonable methodology, including methodologies used for forecasting quantities, provided the Non-exempt EDB:
 - (i) does not use ~~ing a~~ forecast Quantity ~~ies~~ as the estimate of a Quantity ~~using forecast Quantities~~;
 - (ii) uses any available relevant Quantity information in the 12 month period ending on 31 March two years prior to the Assessment Period; and
 - (iii) ~~uses~~ considers any other relevant information reasonably available.

8.10 For the avoidance of doubt similar principles are to be applied when estimating quantities for ANR and NR in subsequent Assessment Periods, in the event of a Restructure of Prices, where actual quantities are not known.

~~8.10—At least 30 Working Days prior to any Restructure of Prices for which Quantities must be determined in accordance with clause 8.9, a Non-Exempt EDB must provide to the Commission:~~

- ~~(a)—a schedule of each restructured Price and the corresponding Quantity for the 12 month period ending on 31 March two years prior or, if there is no such corresponding Quantity, the Quantity derived in accordance with clause 8.10;~~
- ~~(b)—the methodology used to determine the Quantity that corresponds to each restructured Price; and~~
- ~~(c)—its forecast of the Quantities associated with each Price for the Assessment Period in which the restructure of Prices will occur.~~

4. Recoverable costs

71. Schedule 5 of the Draft DPP Determination includes a number of requirements and explanations pertaining to specific recoverable cost allowances. We consider each in turn below.
72. In addition, the Draft IM Determination includes proposed refinements to the specification of a number of recoverable costs. We comment on the proposed IM amendments where relevant throughout this section of the submission.

4.1 Approval of transmission recoverable costs

73. Paragraphs 5 – 7 of Schedule 5 set out requirements for Commission approvals of transmission related recoverable costs. These approval requirements differ to the current 2012 DPP Determination, as a number of new pre-approvals are now proposed. As stated in our previous submissions we do not consider pre-approvals are necessary, and they introduce unnecessary compliance costs, uncertainty and potential delays in cost recovery. We also consider they are inconsistent with the proposed transmission balance approach referred to in the previous section.
74. It is proposed that pre-approvals will be required for the following transmission recoverable costs:
 - a) New investment contract charges paid to Transpower (IM 3.1.3(1)(c))
 - b) Avoided transmission charges arising from the acquisition of Transpower assets (IM 3.1.3(1)(e))
 - c) Avoided transmission charges payable to distributed generators (IM 3.1.3(1)(f))
 - d) Payments or rebates associated with automatic under frequency load shedding (AUFLS) activities (IM 3.1.3(1)(o)).
75. Indirect transmission charges, which are currently not included in Clause IM 3.1.3(1), are no longer to be subject to pre-approvals. We support this proposal, and subject to potential pre-approvals in respect of (c) above in limited circumstances, we do not support pre-approvals for the transmission related recoverable costs.
76. We note that some of the information which is proposed to be provided to the Commission as part of a pre-approval process may be supplied ex post, with Compliance Statements (and it will be evidence that auditors will rely on when assessing the compliance position of the relevant non-exempt ENB).
77. Consistent with our submission, we therefore submit that:
 - a) paragraphs 5-7 of Schedule 5 should be deleted, and replaced with a more limited requirement in respect of recoverable costs for avoided transmission charges payable to distributed generators if new rules come into place, which require some judgement to be applied (refer 4.4 below)

- b)* Clause 11 (which contains a list of the information which must be included in Compliance Statements) should be amended to incorporate additional explanatory information about the recoverable cost amounts where necessary – which is similar to the current 2012 DPP Determination. Our detailed comments on Clause 11 are included in Section 7 of this submission
 - c)* a new paragraph is included which outlines the principles to be followed when deriving the recoverable cost applicable under IM 3.1.3(1)(e) – refer to our suggested drafting in section 4.3 below.
78. Finally we note that the Compliance Paper provides no information about how pre-approvals will be granted for recoverable costs which are to be recovered in the first year of the DPP. As the DPP Determination is to be published in November, there will be insufficient time for applications to be made and approvals granted to enable these costs to be reflected in prices. We submit that it is unacceptable for ENBs to be unable to recover their legitimate recoverable costs in year one of the DPP, due to the proposed introduction of new pre-approval processes.

4.2 New investment agreement charges

79. New investment agreement (NIA) charges are currently subject to approval by the Commission, as per the IMs, and the Commission’s approval process is specified in the 2012 DPP Determination, as an ex-post approval process. It is proposed that the ex-post approval process is replaced by a pre-approval process.
80. As stated in our submission on the Compliance Paper, we do not consider that pre-approval is necessary for NIA charges. There is uncontroversial evidence available to Directors and auditors of ENBs as to the recoverable cost amounts which are consistent with the IMs. As stated above we therefore submit that paragraphs 5 and 6(a) of Schedule 5 of the Draft DPP Determination are deleted. Additional supporting information for NIAs is therefore to be provided within the Compliance Statement, in accordance with an amended Clause 11 (refer to Section 7).
81. We consider that this information should only be required in the first year of a new NIA, as it is unnecessary to repeat the exercise for each of the remaining years of the term of the agreement.

4.3 Avoided transmission costs as a result of spur asset purchases

82. In addition to introducing pre-approval of the avoided cost of transmission (ACOT) associated with purchases of assets from Transpower, the Draft DPP Determination includes a proposed method for calculating the recoverable cost.
83. Our submission on the DPP Main Policy Paper did not support the proposed changes which we consider will inadvertently exclude legitimate avoided transmission costs, and

introduce practical implementation challenges.⁵ We consider that the current approach achieves reasonable outcomes, and there is no need for the DPP Determination to prescribe a method for calculating the recoverable cost amount, and for the amounts to be approved in advance.

84. Instead we recommend that the principles to be followed when deriving the recoverable cost amount are included in the DPP Determination. Accordingly, we suggest the following is included in place of paragraphs 5-7 of Schedule 5:

How to calculate recoverable costs for avoided transmission charges as a result of a purchase of transmission assets from Transpower

5. For the purpose of calculating the recoverable cost specified in clause 3.1.3(1)(e) of the IM Determination the amount:

(a) must be equal to the difference between the costs of transmission payable to Transpower following the transfer of the assets and the costs of transmission that would have been payable to Transpower for the Assessment Period in question had the transfer of the assets not occurred

(b) must be derived consistent with the Transmission Pricing Methodology

(c) may include:

(i) charges referred to in clause 3.1.3(1)(b) of the IM Determination; and

(ii) charges referred to in clause 3.1.3(1)(c) of the IM Determination.

4.4 Avoided transmission costs as a result of distributed generation

4.4.1 Amended definition

85. The Draft IM Determination replaces the existing recoverable cost item for ACOT charges to distributed generators (DG) with a new ‘distributed generation allowance’. This new allowance is defined in the IMs.
86. In general, we support the proposed new definition. It usefully allows for potential changes under the Electricity Industry Act or the Electricity Industry Participation Code (the Code) and recognises that DG may include notionally embedded generation.
87. We suggest that the specific reference to “the regulation” of avoided transmission charges is unnecessary, since the definition also refers to the Code and the Act. We therefore submit that the proposed definition of ‘distributed generation allowance’ in the Draft IM Determination be amended as follows:

⁵ Refer to paragraph 142 of our 15 August 2014 submission on the DPP Main Policy Paper

Distributed generation allowance means any positive allowance for costs incurred and amounts payable or negative allowance for amounts receivable in relation to ~~the~~ ~~regulation of~~ avoided transmission charges arising from distributed generation, including embedded or notionally embedded generation, made in accordance with ~~under~~.

- (a) Schedule 6.4 of Part 6 of the Electricity Industry Participation Code, or
- (b) the Electricity Industry Act 2010.

4.4.2 Pre-approval process

88. The Draft IM Determination proposes that the new ‘distributed generation allowance’ recoverable cost will require pre-approval by the Commission. ACOT payments for DG, included as recoverable costs, do not currently require pre-approval.
89. As stated in our submission on the Compliance Paper, we do not consider that a pre-approval process is necessary for ACOT for DG. Arms-length contractual arrangements exist which reflect commercial arrangements between the parties, and in order for them to be included as a recoverable cost, they must be consistent with the guidelines and default arrangements specified in Part 6 of the Code – or as proposed, other regulation imposed under the EIA. Accordingly, we consider that sufficient evidence is available to support the values to be included as recoverable costs and an additional approval step is unnecessary.
90. The only instance that may possibly justify pre-approval is if changes to the Code or EIA are introduced which affect the way in which ACOT for DG are to be determined and where the changes require some judgement over and above the contractual arrangements between ENBs and owners of DG, which cannot be imposed by the relevant regulation. In this respect we consider that the policy intent in the IMs is clearly for ACOT associated with DG to be recovered from consumers by way of prices.
91. This could be resolved by removing the requirement for pre-approval from the proposed IM definition. However, this would preclude an assessment in the event that changes were introduced to the Code or via the EIA. We consider that a superior approach would be to state in the DPP Determination that approval is only required under such circumstances. This would avoid the unnecessary pre-approvals which are currently proposed.
92. We therefore recommend a new paragraph in Schedule 5 as follows:

Approval of avoided transmission charges associated with distributed generation

6 A non-exempt EDB must only submit an application for approval of a Transmission Recoverable Cost under subclause 3.1.3(2) of the IM Determination where:

- (a) in respect of a Transmission Recoverable Cost under subclause 3.1.3(1)(f) of the IM Determination, the amount of the recoverable cost does not reflect contractual arrangements determined on an arms-length basis and which are consistent with regulations specified in the Electricity Industry Participation

Code, or regulation made by the Electricity Authority under the Electricity Industry Act 2010

- 7 The application for approval must include any documentation, calculations, or other information reasonably necessary to show how the amount was calculated in accordance with any regulation made by the Electricity Authority under the Electricity Industry Act 2010.

4.5 Electricity Authority AUFLS programme

93. The Draft IM Determination proposes adding to the list of recoverable cost items an allowance for costs, or revenues, associated with potential AUFLS regulation which may be introduced by the EA. We support the inclusion of this item as a recoverable cost, and consider that the proposed amendment to clause 3.1.3(1) of the IMs is suitable.
94. However, as we stated in our submission on the Compliance Paper, we do not consider that pre-approval by the Commission of the amount of the recoverable cost is necessary. Evidence of invoices and rebates relating to AUFLS activities will provide auditors and Directors with unambiguous evidence of charges or compensation payments. We do not consider that the Commission needs to exercise any judgement in this respect.
95. We therefore recommend that the proposed new IM clause 3.1.3(1)(o) be amended as follows:
- (o) a positive allowance for costs incurred and amounts payable or negative allowance for amounts receivable under any automatic under-frequency load shedding regulation made under the Electricity Industry Act 2010, ~~subject to the requirement specified in subclause (2);~~

4.6 Indirect transmission costs

96. The 2012 DPP Determination provided for indirect transmission costs to be recovered through prices, after pre-approval by the Commission, for the purposes of determining NR and ANR. The Draft DPP Determination includes this item, but pre-approval has been removed.
97. As stated in our submission on the Compliance Paper, we consider that a new recoverable cost category should be included in the IMs for indirect transmission charges. This provides more certainty for those ENBs which incur their transmission charges indirectly (i.e. from a party other than Transpower) and ensures consistency with other transmission-related charges. The practical effect of this suggestion is to move the definition of indirect transmission costs from the DPP Determination to the IMs.
98. We therefore recommend that the following new subclause be added to IM 3.1.3(1):
- (x) indirect transmission charges

and accordingly the following new definition is added to clause 1.1.4(2) of the IMs:

Indirect Transmission Charges means a charge payable to **Transpower** for **Electricity Lines Services provided to an EDB in respect of the Transmission System in accordance with the **Transmission Pricing Methodology**, where the charge is on-charged at cost by an EDB that is directly connected to the Transmission System to a Non-exempt EDB that does not have a transmission agreement with Transpower for the indirect connection to the **Transmission System**.**

99. In order to implement the above new IM definition, Transmission Pricing Methodology and Transmission System also need to be defined. We suggest the following definitions, consistent with the 2012 DPP Determination:

Transmission Pricing Methodology means the methodology determined by the Electricity Authority to determine how Transpower's charges for its services are allocated and who is to be charged

Transmission System means New Zealand's national electricity grid

100. As stated in our submission on the Compliance Paper, we do not consider that this recoverable cost item needs to be approved by the Commission.

4.7 Energy efficiency and demand side management initiative incentive

101. The Draft IM Determination includes a new recoverable cost item for an "energy efficiency and demand management allowance". We support the introduction of a mechanism to provide financial compensation to suppliers for revenue foregone as a result of initiatives which are consistent with the objectives of s 54Q of the Act.
102. However as we stated in our submission on the Compliance Paper, we submit that it would be simpler, less costly, more certain, and allow for the sharing of benefits with consumers, to instead address this incentive with a volume wash-up. Notwithstanding this, we have a number of comments about the proposed recoverable cost.
103. The proposed definition of this item in paragraph 4.1 of the Draft IM Determination states that the amount will be approved by the Commission in accordance with a process specified in the DPP Determination (or CPP Determination). We support this approach to defining the recoverable cost amount but note that the Draft DPP Determination includes insufficient information about the process, there is no recognition of the principles that are to apply, and we consider that the information to be provided must be of material relevance to the application (in order to manage compliance costs).
104. As stated in our submissions on the Main Policy Paper and the Compliance Paper, we support a broader scope for this recoverable cost than that proposed, specifically including other activities which meet the objectives of section 54Q of the Act, including tariff initiatives.
105. We support the use of a two-year lag between the foregone revenue and the recoverable cost being reflected in prices. However, we submit that the amount of foregone revenue must be adjusted for the time value of money. In addition the Commission's

approval process will need to be completed in a timely way for this proposed timing for the recoverable cost to be able to be implemented in practice.

106. As stated in our submission on the Compliance Paper, we support the proposal for submitting applications at the same time as publishing Compliance Statements, but submit that an approval timeline should be provided in the Draft DPP Determination.
107. We envisage that the Commission will issue a draft response to the application for comment by the relevant ENB, before the final approval is provided. It will be necessary for this final approval to be provided within four months of the end of the Assessment Period following the period to which the foregone revenue applies, to enable the recoverable cost to be passed through into prices.
108. The method described in the Draft DPP Determination for approving the recoverable cost allows the Commission considerable discretion. Given this is a new initiative, this could lead to significant uncertainty for ENBs about the process and the outcome. The Commission needs to be transparent and consistent in assessing and approving applications.
109. Lastly, we note that a number of proposed principles were included in the Main Policy Paper to provide guidance to ENBs for their applications. We support the use of principles in this way. However, their status is unclear – they are not included in either the Draft IM Determination or the Draft DPP Determination. We submit that if they are to have any practical effect, they must be published. We suggest that the DPP Determination is an appropriate place. In our submission on the Compliance Paper, we also provided a number of suggested refinements to the proposed principles.
110. We therefore submit that paragraphs 8-11 of Schedule 5 of the Draft DPP Determination are amended, and a new supporting Schedule introduced, as follows:

Approval of energy efficiency and demand incentive allowances

8. All Non-exempt EDBs may, no later than 50 Working Days following the end of the Assessment Period, submit an application for approval of an Energy Efficiency and Demand Incentive Allowance, consistent with the principles set out in Schedule 5B.
9. The application for approval must include:
 - (a) a detailed description of the energy efficiency initiative or demand-side management initiative ~~excluding any initiative that is primarily tariff based,~~ for which the EDB seeks an Energy Efficiency and Demand Incentive Allowance;
 - (b) reasonable estimates of the actual foregone quantities arising in the Assessment Period from each energy efficiency initiative or demand-side management initiative, as well as the data, calculations, and assumptions used to derive the estimate;
 - (c) a statement identifying other material factors that may have contributed to the foregone quantities and reasonable estimates ~~on~~ of their impact;

- (d) the Price(s) that applied to the foregone quantities during the Assessment Period; and
 - (e) an estimate of foregone revenue directly attributable to the energy efficiency initiative or a demand-side management initiative.
10. The Commission may approve, by notice in writing to the Non-exempt EDB, no later than 4 months prior to the end of the following Assessment Period, an amount equal to the foregone revenue in the Assessment Period, as determined by the Commission in accordance with the principles set out in Schedule 5B, adjusted for the time value of money, directly attributable to an energy efficiency initiative or a demand-side management initiative commenced during the Regulatory Period in which the Assessment Period occurred, ~~but excluding any initiative that is primarily tariff-based, such as time-of-use pricing.~~
11. The amount approved by the Commission is an ‘energy efficiency and demand incentive allowance’ Recoverable Cost under subclause 3.1.3(1)(m) of the IM Determination and must be recovered in the Assessment Period following its approval.
12. Before finalising its approval the Commission:
- (a) will provide its draft approval in writing to the non-exempt EDB at least six months prior to the end of the following Assessment Period, and will consider additional information that may be provided by the non-exempt EDB in response to this draft approval.
 - (b) may request further information, independent evidence, director certificates or audit statements relating to the activities, sample or calculations used to establish the link between the initiative and foregone revenue. Such requests shall take into account the likely cost of providing the information relative to the extent of the benefits identified.

Schedule 5B: Principles for estimating foregone revenue attributable to energy efficiency and demand side management initiatives

Principle 1	Forgone revenue occurs as a result of a change in quantities to which a value is attributed; the calculation should separately identify the forgone quantity estimate and the price estimate
Principle 2	The forgone quantities may include energy consumption, energy demand and/or capacity. In addition, the quantities may relate to a specific time-period such as peak, off peak, or shoulder. Estimates of forgone quantities provided should be consistent with the relevant tariff structure
Principle 3	The energy efficiency initiative should be aimed at a clearly identified target quantity reduction (such as energy demand). This may be different to the actual quantity reduction calculated after the initiative has been implemented. The target quantity reduction for the efficiency initiative should be identified as part of the EDBs’ design of the measure

Principle 4	When estimating forgone revenue (ex-post), the actual quantities forgone should be compared with the targeted change in quantities. The estimation process should consider whether other factors (such as weather or economic conditions) may explain part or all of the reduction in demand claimed. The application, or reporting, should state why the energy efficiency initiative provides a credible explanation for forgone revenue
Principle 5	Estimates of forgone quantities may be derived with reference to a representative sample, accompanied with an explanation of how it provides a reasonable estimate of actual aggregate effects of the initiative. If the efficiency measure is implemented and managed through an energy performance contract or similar arrangement, the measurement process under the contract may meet this requirement
Principle 6	Estimates of prices to be applied to forgone quantities should be based on the appropriate tariff applying at the time the quantity was forgone. In other words, if an EDB implements an efficiency initiative in year t-1 which results in lower quantities in year t-1, then the relevant price is that tariff that would have applied to the forgone quantity in year t-1
Principle 7	If the efficiency initiative is targeted at a specific consumer or project, the actual tariff applying to that consumer or project should be used to estimate the forgone revenue
Principle 8	If the efficiency initiative affects quantities associated with more than one tariff, the price can be estimated based on actual quantities or appropriate weightings. The basis for any weighting needs to be shown to be appropriate for an estimate of forgone revenue
Principle 9	The approaches used to estimate changes in quantities should be consistent with the prices used to determine forgone revenues. For example, the same approach and assumptions should be used for weighting quantities and prices
Principle 10	The price estimate shall be those components that relate to the use of the distribution network (i.e. price components from generation, transmission and retail should be excluded)

4.8 Quality incentive

111. It is proposed that the financial rewards and penalties associated with the Quality Incentive Scheme are included in the price path as a recoverable cost. Schedule 5 of the Draft DPP Determination sets out how the recoverable cost amounts are to be calculated, and when they are able to be recovered or must be passed on. Our comments on the proposed specification of the Quality Standards are included in Section 5 of this submission. In the following paragraphs we comment on the proposed recoverable cost mechanism.

4.8.1 Defined Terms

112. The proposed IM definition for ‘Quality incentive adjustment’ refers to the amount being “specified for the non-exempt ENB in a DPP Determination or CPP Determination”. However since this value will be calculated each year, DPP or CPP Determinations will not be able to specify the actual value, only the method for determining it. Therefore, we recommend that the proposed IM definition be amended as follows:

Quality incentive adjustment means an amount that provides incentives for a non-exempt EDB to maintain or improve its quality of supply in accordance with s 53M(2) of the Act, and is a function of –

- a) a non-exempt EDB’s performance above or below the quality targets, up to the caps or collars specified in relation to the quality targets,
- (b) revenue at risk, and
- (c) incentive rate,

calculated in accordance with the method specified as specified for the non-exempt EDB in a DPP determination or CPP determination

113. We note that an additional definition of **Quality Incentive Adjustment** is included in the Draft DPP Determination, which refers to the IM definition and the method set out in Schedule 5 of the Draft DPP Determination.

114. We note that the proposed IM definition includes the terms ‘revenue at risk’ and ‘incentive rate’ but neither of these terms are defined in the Draft DPP Determination or the Draft IM Determination. We consider that it would be useful if the DPP Determination included defined terms as follows:

Revenue at risk means the maximum financial reward or penalty attributable to a non-exempt EDB’s SAIDI and SAIFI performance for each Assessment Period determined in accordance with the term REV_{RISK} as defined in Schedule 5

Incentive rate means the financial reward or penalty attributable to a non-exempt EDB’s incremental SAIDI or SAIFI assessed values relative to the Target for each Assessment Period, determined in accordance with the term $SAIDI_{IR}$ and $SAIFI_{IR}$ as defined in Schedule 5

4.8.2 Determining the recoverable cost

115. The proposed method for calculating the annual quality incentive adjustment recoverable cost is specified in Schedule 5. We have highlighted errors and included suggested improvements below.

116. We support the proposed timing of the recovery of the quality incentive adjustment recoverable cost, which allows for the value to be determined, after the end of an Assessment Period, and included in prices at the next opportunity. However, the description of this timing in the Draft DPP Determination is complicated by the fact that ‘Assessment Period’ is only defined as being within the current Regulatory Period.

117. In addition, the revenue at risk definition must be modified to align with the Quality Incentive Paper which specifies it as the starting price maximum allowable revenue (MAR) for the First Assessment Period.

118. We therefore recommend that paragraphs 12 to 20 of Schedule 5 of the Draft DPP Determination are amended as follows:

How to calculate the Quality Incentive Adjustment

12. The Quality Incentive Adjustment attributable to an Assessment Period must be calculated in accordance with paragraph 13 within 50 Working Days following the expiration of the Assessment Period, and must be recovered in the 12 month period ending 31 March Assessment Period following that in which it was calculated.

13. The Quality Incentive Adjustment for all Non-Exempt EDBs during the Regulatory Period 2015-2020 is calculated in accordance with the following formula–

$$S_{TOTAL} = S_{SAIDI} + S_{SAIFI}$$

where:

S_{TOTAL} is the Quality Incentive Adjustment applicable as a Recoverable Cost;

S_{SAIDI} is the amount calculated in accordance with paragraph 14; and

S_{SAIFI} is the amount ~~determined~~ calculated in accordance with paragraph 16.

14. For the purposes of paragraph 13–

(a) S_{SAIDI} is the amount, subject to subparagraph (b) and (c), calculated in accordance with the following formula –

$$S_{SAIDI} = SAIDI_{IR} \times (SAIDI_{target} - SAIDI_{assess})$$

where:

$SAIDI_{IR}$ is the amount calculated in accordance with paragraph 15;

$SAIDI_{target}$ is the SAIDI Target specified for the Non-exempt EDB for the Regulatory Period in Table 3.1 of Schedule 3, subject to paragraph 5 of Schedule 3; and

$SAIDI_{assess}$ is the SAIDI Assessed Value for the Assessment Period, calculated in accordance with Schedule 3, subject to subclause (b).

(b) Where $SAIDI_{assess}$ is –

(i) greater than the $SAIDI_{cap}$, $SAIDI_{assess}$ equals the $SAIDI_{cap}$;

- (ii) less than the $SAIDI_{collar}$, $SAIDI_{assess}$ equals the $SAIDI_{collar}$.

15. For the purposes of paragraph 14, ‘ $SAIDI_{IR}$ ’ is the amount calculated in accordance with the following formula –

$$SAIDI_{IR} = \frac{0.5 \times REV_{RISK}}{SAIDI_{cap} - SAIDI_{target}}$$

where:

$SAIDI_{cap}$ is the SAIDI Cap specified for the Non-exempt EDB for the Regulatory Period in Table 3.1 of Schedule 3, subject to paragraph 5 of Schedule 3;

$SAIDI_{target}$ is the SAIDI Target specified for the Non-exempt EDB for the Regulatory Period in Table 3.1 of Schedule 3, subject to paragraph 5 of Schedule 3; and

REV_{RISK} is –

- (a) for all Non-exempt EDBs other than Orion, 1% of the ~~maximum allowable revenue~~ allowable notional revenue for the Non-exempt EDB ~~as specified in Table 1.1 of Schedule 1 for the Assessment Period in question~~; and
- (b) for Orion, ~~nil~~ 0% of the ~~allowable notional revenue for the Assessment Period in question~~.

16. For the purposes of paragraph 13–

- (a) $SSAIFI$ is the amount, subject to subparagraph (b) and (c), calculated in accordance with the following formula –

$$SSAIFI = SAIFI_{IR} \times (SAIFI_{target} - SAIFI_{assess})$$

where:

$SAIFI_{IR}$ is the amount calculated in accordance with paragraph 17;

$SAIFI_{target}$ is the SAIFI Target specified for the Non-exempt EDB for the Regulatory Period in Table 3.2 of Schedule 3, subject to paragraph 5 of Schedule 3; and

$SAIFI_{assess}$ is the SAIFI Assessed Value for the Assessment Period, calculated in accordance with Schedule 3, sum of SAIFI Assessed Value of Unplanned Interruptions plus SAIDI Assessed Value of Planned Interruptions for the Assessment Period, subject to subclause (b).

- (b) Where $SAIFI_{\text{assess}}$ is –
- (iii) greater than the $SAIFI_{\text{cap}}$, $SAIFI_{\text{assess}}$ equals the $SAIFI_{\text{cap}}$;
 - (iv) less than the $SAIFI_{\text{collar}}$, $SAIFI_{\text{assess}}$ equals the $SAIFI_{\text{collar}}$.

17. For the purposes of paragraph 16, ‘ $SAIFI_{\text{IR}}$ ’ is the amount calculated in accordance with the following formula –

$$SAIFI_{\text{IR}} = \frac{0.5 \times REV_{\text{RISK}}}{SAIFI_{\text{cap}} - SAIFI_{\text{target}}}$$

where:

$SAIFI_{\text{cap}}$ is the SAIFI Cap specified for the Non-exempt EDB for the Regulatory Period in Table 3.2 of Schedule 3, subject to paragraph 5 of Schedule 3;

$SAIFI_{\text{target}}$ is the SAIFI Target specified for the Non-exempt EDB for the Regulatory Period in Table 3.2 of Schedule 3, subject to paragraph 5 of Schedule 3; and

REV_{RISK} is –

- (a) for all Non-exempt EDBs other than Orion, 1% of the maximum allowable revenue ~~allowable notional revenue~~ for the Non-exempt EDB as specified in Table 1.1 of Schedule 1 ~~for the Assessment Period in question~~; and
- (b) for Orion, nil ~~0% of the allowable notional revenue for the Assessment Period in question~~.

~~18.47.~~ For the purposes of this Schedule, ‘ $SAIDI_{\text{cap}}$ ’ is the SAIDI Cap specified for the Non-exempt EDB for the Regulatory Period in Table 3.1 of Schedule 3, subject to paragraph 5 of Schedule 3.

~~19.48.~~ For the purposes of this Schedule, ‘ $SAIDI_{\text{collar}}$ ’ is the SAIDI Collar specified for the Non-exempt EDB for the Assessment Period in Table 3.1 of Schedule 3, subject to paragraph 5 of Schedule 3.

~~20.49.~~ For the purposes of this Schedule, ‘ $SAIFI_{\text{cap}}$ ’ is the SAIFI Cap specified for the Non-exempt EDB for the Regulatory Period in Table 3.2 of Schedule 3, subject to paragraph 5 of Schedule 3.

~~21.20.~~ For the purposes of this Schedule, ‘ $SAIFI_{\text{collar}}$ ’ is the SAIFI Collar specified for the Non-exempt EDB for the Assessment Period in Table 3.2 of Schedule 3, subject to paragraph 5 of Schedule 3.

4.8.3 Determining incentive rates

119. We have noticed a discrepancy between the incentive rates published in the Quality Incentives Paper (and applied in Model 18) and those which are consistent with the formula specified in the Draft DPP Determination. This arises from different interpretations as to how the revenue at risk term is applied in practice. In particular, the denominator in the formulae for the incentive rates differs as follows:

- a) The Draft DPP Determination formulae apply the difference between the cap and the target as the denominator
- b) Model 18 and the Quality Incentives Paper apply the difference between the cap and the collar as the denominator.

120. We consider that the former is correct, because this is consistent with the stated policy intent to set the maximum revenue at risk equal to 1% of MAR, shared equally between SAIDI and SAIFI. This is also consistent with the explanations of ‘revenue at risk’ and ‘incentive rates’ provided in Transpower’s recent IPP Determination.⁶

4.8.4 Dead-band

121. In our submission on the DPP Quality Paper, we suggested that a dead-band equivalent to +/- 0.2 standard deviation be included around the target, within which no financial reward or penalty would apply. In order to implement this, the incentive rate formulae would change as follows:

$$SAIDI_{IR} = \frac{0.5 \times REV_{RISK}}{SAIDI_{cap} - (SAIDI_{target} + SAIDI_{DB})}$$

$$SAIFI_{IR} = \frac{0.5 \times REV_{RISK}}{SAIFI_{cap} - (SAIFI_{target} + SAIFI_{DB})}$$

Where:

SAIDI_{DB} is the SAIDI dead-band specified for each Non-exempt EDB in Table 3.1 of Schedule 3

SAIFI_{DB} is the SAIFI dead-band specified for each Non-exempt EDB in Table 3.2 of Schedule 3

122. In addition:

⁶ Commerce Commission (29 August 2014), Setting Transpower's individual price-quality path for 2015-2020, [2014] NZCC 23. (page 50):

4.42 For each year of the RCP2, \$10m of revenue will be at risk for the performance based measures.⁶⁷

⁶⁷ This means that Transpower may be penalised by up to \$10m a year if it fails to meet all collars that are set, or receive up to an additional \$10m in revenue if it performs up to all the caps. \$10m is approximately 1% of Transpower’s estimated average annual revenue in RCP2.

- a) The values of the SAIDI and SAIFI dead-bands for each non-exempt EDB would be specified in Tables 3.1 and 3.2 of Schedule 3 (as presented in Attachment E of our submission on the DPP Quality Paper).
- b) The dead-bands would be subject to the same adjustment process as the Caps and Collars following a transaction (as per paragraphs 7 and 8 of Schedule 3).

4.9 Claw-back

123. The Draft DPP Determination specifies the values of claw-back for four ENBs. These values are consistent with those stated in the Main Policy Paper.
124. As we stated in our submission on the Compliance Paper, we consider that the relevant ENBs should have input into the rate of recovery for these deferred claw-back amounts, including into the following regulatory period if required, to minimise price shocks and align with longer-term pricing strategies.
125. We note that the Draft IM Determination does not include any proposed amendments for claw-back, since provisions for claw-back of this nature are already included as a recoverable cost under IM 3.1.3(1)(g).

4.10 2013-15 NPV wash-up allowance

126. The Draft IM Determination includes a new recoverable cost item to enable the recovery of allowable revenues from the 2013-15 period that some ENBs were not permitted to recover during those years as a result of their prices being capped under the DPP. It is proposed that these ENBs are allowed to recover the financial effect of the price caps during the 2015-20 DPP period.
127. Adding this item to the list of recoverable costs in IM 3.1.3(1) is necessary since it is not covered by any of the currently specified recoverable costs. The proposed additional clause to IM 3.1.3(1) and the proposed new definition for '2013-15 NPV wash-up allowance', as specified in the Draft IM Determination, appear suitable for this purpose.
128. The proposed definition of the wash-up allowance states that the amounts are to be specified in a DPP Determination. As stated in our submission on the Compliance Paper, we support this approach. The amounts are specified in the Draft DPP Determination, and are consistent with those stated in the Main Policy Paper.

4.11 Capex wash-up

4.11.1 Definition of capex wash-up

129. The Draft IM Determination includes a proposed new definition for 'Capex wash-up adjustment' and a new subclause within clause 3.1.3(1) adding this item to the list of recoverable costs.
130. The proposed new IM clause 3.1.3(7) refers to the capex wash-up only applying in the "disclosure year immediately following the base year". This is overly restrictive because

the IMs do not specify which year of the current regulatory period will be the base year. For example if the base year is three years prior to the first year of the regulatory period, it will be appropriate for the capex wash-up to apply to two years of commissioned assets.

131. We also note that Table 5.3 of the Draft DPP Determination refers to the “forecast return” for a non-exempt EDB in the context of the capex wash-up amount. It is not appropriate for the capex wash-up to be limited to just the return on capital element – it should reflect all of the BBAR items which are influenced by the commissioned asset value in question. This is consistent with the intent of the IM Consultation Paper.

4.11.2 Method for calculating the capex wash-up

132. Neither the Draft DPP Determination nor the Draft IM Determination includes a detailed method for calculating the capex wash-up adjustment amount. The Draft IM Determination proposes an additional IM clause (IM 3.1.3(7)), which specifies at a high-level the capex wash-up adjustment approach. While this provides additional detail to the proposed definition of the term, we consider it is not sufficiently detailed to enable ENBs to calculate the amount.

133. We consider that the appropriate method for calculating the amount of the capex wash-up is to re-run the Commission’s final DPP price path model with the actual disclosed commissioned asset value(s) for the year(s) prior to the start of the regulatory period where estimates were used, and determine the difference in BBAR values generated by the model.

134. We consider that the IMs should specify this method, and that the DPP Determination should specify the name of the model, which will be published as part of the DPP Final Decision, the specific cell references for commissioned assets and BBAR, and the annual BBAR values for each non-exempt EDB which were used when setting the price paths, based on the forecasts of the values for commissioned assets for the years in question.

135. We note that the Draft DPP Decision includes forecasts for commissioned assets for one year, FY15.

4.11.3 Determining the recoverable cost

136. Consistent with our discussion above we recommend that the proposed IM clauses are amended as follows:

Clause 1.1.4(2)

Capex wash-up adjustment means the amount equal to the difference between the allowed return for a regulatory period on and of assets forecast to be commissioned in the preceding disclosure years and the allowed return for a ~~the~~ regulatory period on and of assets commissioned in the disclosure years in question, and is calculated in accordance with clause 3.1.3(7)

IM clause 3.1.3(1)

- (q) a capex wash-up adjustment, recovered in equal proportions in each ~~remaining~~ disclosure year of the regulatory period ~~other than the first disclosure year~~, adjusted for the time value of money using the cost of debt;

IM clause 3.1.3(7)

- (7) For the purpose of subclause 3.1.3(1)(q), the ‘capex wash-up adjustment’ is an amount calculated for a **non-exempt EDB** that has starting prices reset pursuant to s 53P(3)(b) of the **Act**, equal to the present value of the difference in the series of allowed revenues for the **regulatory period** arising from the adoption of the sum of **value of commissioned assets** for the **disclosure years immediately** following the **base year and prior to the start of the regulatory period**, instead of the forecast ~~aggregate~~ value of commissioned assets determined by the Commission in respect of ~~those that~~ **disclosure years, calculated in accordance with a DPP determination.**

137. In addition, paragraphs 23 and 24 of Schedule 5 the Draft DPP Determination are replaced as follows:

Capex Wash-up Adjustment

23. For the purposes of calculating the Capex Wash-up Adjustment for each Non-exempt EDB not subject to a customised price-quality path, the allowed revenues, using the forecast values of commissioned assets determined by the Commission for each Assessment Period of the Regulatory Period and their present value, are set out in Table 5.3, below.

Table 5.3: Capex Wash-up Adjustment – allowed revenues using forecast values of commissioned assets

Non-exempt EDB	Allowed revenues – present value, as at start of Regulatory Period
[TBA]	[TBA]

24. For the purposes of calculating the Capex Wash-up Adjustment each Non-exempt EDB not subject to a customised price-quality path, must calculate the return for the Regulatory Period 2015-2020 as follows:

- (a) In the spreadsheet model “[name of final DPP financial/price path spreadsheet model]” published alongside this DPP Determination, replace the values for ‘value of commissioned assets’ for [the 2014/15 year], in [cell references], with values determined in accordance with Part 2 of the IM Determination and published by the EDB in accordance with an ID Determination.
- (b) In the spreadsheet model amended as above, determine the values for building blocks allowable revenue before tax in year-end terms, for each year of the

Regulatory Period, as derived in row [cell reference for BBAR row] of the [sheet name] sheet.

(c) Calculate the present value of the series determined in (b) above, as at the start of the Regulatory Period, using [XX] as the time value of money.

(d) Subtract the present value from Table 5.3 from the present value calculated in (c) above.

25. This amount is to be recovered in equal proportions in each disclosure year of the regulatory period other than the first disclosure year, adjusted for the time value of money using the cost of debt.

4.12 Transmission asset wash-up

4.12.1 Definition

138. The Draft DPP Determination includes a proposed new definition for ‘Transmission asset wash-up adjustment’ and a new subclause within clause 3.1.3(1) to include this item in the list of recoverable costs.

139. These proposed definitions are reasonable, although we suggest a few small amendments to clause 3.1.3(1)(r) could make the meaning clearer, as follows:.

(r) a negative amount equal to the **transmission asset wash-up adjustment**, if the acquisition of the transmission asset is not completed prior to the commencement of the **regulatory period** in accordance with the terms of any contract setting out the terms and condition of sale, recovered in equal proportions in each ~~remaining~~ disclosure year of the **regulatory period other than the first disclosure year**, adjusted for the time value of money using the cost of debt;

4.12.2 Specification of allowance

140. The proposed IM definition of this item states that the amount of the allowance will be specified in a DPP or CPP determination. We support this approach, as it helps provide certainty over the recoverable cost effect of the assets not being acquired prior to the regulatory period.

141. The Draft DPP Determination specifies the allowance as five values representing the underlying BBAR effect of the assumed acquisitions in each year of the regulatory period, due to the additional RAB, capital and operating expenditure associated with the assets purchased. These are included in Tables 5.4, 5.5 and 5.6 of Schedule 5 of the Draft DPP Determination. However, a method is not included for how these values should be manipulated to determine the annual recoverable cost amounts.

142. If the acquisition does not occur, the present value of the stated amounts will need to be calculated, and then recoverable cost amounts determined for the second to fifth Assessment Periods (the annual amounts are proposed to be equal, except for an adjustment for the time value of money).

143. We consider that a better approach is to specify in Tables 5.4, 5.5 and 5.6 the actual recoverable cost amounts for each non-exempt ENB affected, for each of the second to fifth Assessment Periods, should the acquisition not proceed. The information required to calculate the values is available as it is required to set the price paths of the ENBs concerned. This proposal will avoid the need for the ENBs concerned to manipulate the values which are proposed to be included in the Draft DPP Determination.
144. Lastly, we question whether the units specified in Tables 5.4, 5.5 to 5.6 of the Draft DPP Determination are correct. They are stated as \$000, but the values appear to be \$m.

4.13 Incremental Rolling Incentive Scheme

145. It is proposed that the incremental rolling incentive scheme (IRIS) mechanism is extended to the DPP, and that it applies to both opex and capex. The IRIS Consultation Papers⁷ specify proposed amendments to the IMs in this regard. The Draft DPP Determination includes new requirements which are relevant to the calculation of the recoverable cost amounts. These are included in paragraphs 28 to 31 of Schedule 5, with additional terms included in Clause 4.2 of the Draft DPP Determination.
146. For the opex element of the proposed IRIS, the recoverable cost amount is to be calculated based on forecast and actual values for opex. Schedule 5 of the Draft DPP Determination includes a table (Table 5.7) which is intended to state the forecast opex amounts for each non-exempt ENB for each year of the regulatory period, which were used when setting price paths. The inclusion of these values in the Draft DPP Determination is appropriate.
147. For the capex element of the proposed IRIS, the recoverable cost amount is to be calculated based on the effect on “revenues” of the difference between forecast and actual values of commissioned assets. Schedule 5 of the Draft DPP Determination includes a table (Table 5.8) which is intended to specify the “forecast depreciation and forecast return” building blocks which underpin the price paths for each non-exempt ENB. This is consistent with the calculations in the supporting IRIS models provided by the Commission, but we note that this is not the same as the total effect on revenues of the difference between forecast and actual commissioned asset values.
148. We also submit that paragraph 31 of Schedule 5 of the Draft DPP Determination should specify a method which calculates the proposed effects on revenues where forecast commissioned asset values are replaced with actual values, which can be sourced from disclosures made under an ID Determination.

⁷ Commerce Commission, Proposed amendments to input methodologies: Incremental Rolling Incentive Scheme, 18 July 2014, and Draft Incremental Rolling Incentive Scheme Input Methodology Amendments 2014, 18 July 2014

4.14 Catastrophic event allowance

149. We support the inclusion of a new recoverable cost for the incremental financial impact of a catastrophic event, for the period between the date of the event or events and the date that a reset price path comes into effect. However, as stated in our submissions on the Main Policy Paper and Compliance Paper, we submit that the proposed recoverable cost should be broader in scope.
150. We submit that this item should include the financial effects of all reopener events, not just catastrophic events.
151. We submit that the allowance should not be limited to additional costs (including pass-through and recoverable costs). The IM definition should include all financial effects, including the inability to recover prudently incurred costs due to demand reductions, and the financial impact of other incentive mechanisms, such as the quality incentive and energy efficiency / demand side management incentives.
152. We therefore submit that the proposed definition of ‘catastrophic event allowance’ in the IMs be amended as follows:

Reopener Catastrophic event allowance means the amount determined by the Commission for –

- (a) the additional net costs (over and above those provided for in a DPP determination or CPP determination) prudently incurred as a result of ~~in~~ responding to an a catastrophic event which results in the price path being reopened, other than costs that are foregone revenue, and
- (b) any claw-back amounts, recoverable costs and pass-through costs the EDB was permitted to recover under the applicable DPP determination or CPP determination through prices, but did not recover due to the ~~catastrophic~~ event;

incurred in or relating to the period between ~~the a catastrophic~~ event and the effective date of an amendment to the DPP following reconsideration of the price-quality path under clause [reference to be confirmed]

153. We also consider that the IRIS incentive and quality incentive recoverable costs should be suspended from the date of a catastrophic event until the price path is reset. This will require additional drafting in the IMs.

4.15 Consumer service lines

154. As we stated in our submission on the Compliance Paper, an additional recoverable cost item should be included for the costs of new services which may be provided by ENBs in the forthcoming regulatory period in relation to consumer service lines. This is necessary to ensure that ENBs are not dis-incentivised against addressing a growing public safety concern.
155. In order to do this, the following sub-clause should be added to IM clause 3.1.3(1):

- (x) an amount equal to the additional net costs (over and above those provided for in a **DPP Determination** or a **CPP Determination**) incurred where the **EDB** has assumed responsibility for **consumer service lines**, where such services may include costs related to inspection, notifications, consumer interaction, maintenance and replacement, subject to the requirement specified in subclause (2);

In addition, in clause 1.1.4(2) of the IMs, a new term is added:

Consumer service lines means the portion of electricity lines extending from the point of supply to a consumer's premises.

156. ENBs are not well-placed to forecast the costs of providing these services, as most do not have a history of provision and have only limited information about the status of the assets in question. This recoverable cost could be a transitional measure to allow ENBs and the Commission to collect information, to enable allowances to be included directly in future price paths. Accordingly we consider that a pre-approval process is reasonable for these recoverable costs. Thus additional drafting in Schedule 5 is required., as follows:

Approval of consumer service lines recoverable cost

X A non-exempt EDB must submit an application for approval in respect of a Recoverable Cost under subclauses 3.1.3(1)(x) and 3.1.3(2) of the IM Determination

X The application for approval must include any documentation, calculations, or other information reasonably necessary to show how the amount was calculated including evidence that the amount was not provided for in the price path which applies to the non-exempt EDB, as specified in Clause 8.

5. Quality standards

5.1 Specifying the quality standard

157. Our submissions on the draft quality standards opposed the proposal to set the quality standards as the SAIDI and SAIFI targets (derived from historical averages for each non-exempt ENB). The ENA considers that compliance with the quality standards should be assessed on the basis of maintaining annual SAIDI and SAIFI performance within the cap, two out of three years in a row.

158. We also note that in the Draft DPP Determination the quality standard definition refers to quality standards which apply within a CPP Regulatory Period. We consider this is unnecessary as a non-exempt ENB which is subject to a CPP, will have quality standards specified in the CPP Determination, and our proposed drafting for Clause 5 appropriately signals this.

159. Accordingly Clause 9 would be amended as follows:

9. Quality standards

Compliance with quality standards

9.1 A Non-exempt EDB must, in respect of each Assessment Period, either:

- (a) comply with the annual reliability assessment specified in clause 9.2 for that Assessment Period; or
- (b) have complied with those annual reliability assessments for the two immediately preceding extant Assessment Periods.

Annual reliability assessment

~~9.29.1~~ The SAIDI Assessed Value for each Assessment Period of a Regulatory Period or CPP Regulatory Period must not exceed the SAIDI Target Cap specified for that Assessment Period in Schedule 3.

~~9.39.2~~ The SAIFI Assessed Value for each Assessment Period of a Regulatory Period or CPP Regulatory Period must not exceed the SAIFI Target Cap specified for that Assessment Period in Schedule 3.

5.2 Schedule 3: Quality Standards

160. Schedule 3 in the Draft DPP Determination prescribes the Quality Standards for each non-exempt ENB, how annual SAIDI and SAIFI Assessed Values are to be calculated, and how the Quality Standards and the Assessed Values are adjusted following a major transaction or purchase of system fixed assets.

5.2.1 Specifying quality standards

161. It is proposed that the SAIDI and SAIFI values which represent the quality standards will be specified for each non-exempt ENB. This is a change from the 2012 DPP Determination, which prescribed the method for deriving quality standards, rather than the values. We support the intention to include the values for the next regulatory period, which we consider provides additional certainty.

162. In order to specify the quality standards, consistent with the proposed quality incentive scheme, it is necessary to set out values for Targets, Caps, Collars and Boundaries for SAIDI and SAIFI, for each non-exempt EDB. Schedule 3 in the Draft DPP Determination includes these in Table 3.1 (for SAIDI) and Table 3.2 (for SAIFI).

163. We also submit that the term Target is replaced with the term Quality Standard (as shown below), as the Target is only one of the values which need to be prescribed in order to implement the Quality Standards. Consistent with our submissions on how quality standards should be assessed, we propose the following amendments to paragraphs 1 and 3 of Schedule 3.

1. The SAIDI ~~Targets~~ Quality Standard for each Non-exempt EDB ~~not subject to a customised price-quality path~~, subject to paragraph 5, and the Regulatory Period to which they apply, are as set out in Table 3.1.

**Table 3.1: SAIDI ~~Targets~~ Quality Standard for the Regulatory Period
1 April 2015 – 31 March 2020**

...

3. The SAIFI ~~Targets~~ Quality Standard for each Non-exempt EDB ~~not subject to a customised price-quality path~~, subject to paragraph 5, and the Regulatory Period to which they apply, are as set out in Table 3.2.

**Table 3.2: SAIFI ~~Targets~~ Quality Standard for the Regulatory Period
1 April 2015 – 31 March 2020**

...

164. We note that the values in Tables 3.1 and 3.2 will need to be updated once the final quality standards are determined for the 2015-20 DPP.

5.2.2 Specifying assessed values

165. Paragraphs 2 (for SAIDI) and 4 (for SAIFI) of Schedule 3 of the Draft DPP Determination specify how annual assessed values are to be derived. Our previous submissions on the proposed quality standards set out our proposed alternative approaches to normalisation for extreme events. In particular we have submitted that:

- a) SAIDI MEDs are normalised with reference to the SAIDI boundary, and SAIFI MEDs are normalised with reference to the SAIFI boundary
- b) A MED is not replaced with the boundary and instead:
 - i. The historical daily average of non-MED event days is used; or

- ii. The boundary is used for the first two MEDs in an Assessment Period, followed by the historical daily average of non-MED event days.

166. The revised drafting below, for Schedule 3 of the Draft DPP Determination, is consistent with our submissions.

Calculation of the SAIDI Assessed Values

- 2. The SAIDI Assessed Value ($SAIDI_{\text{assess}}$) for an Assessment Period is calculated in accordance with the formula, for—

- (a) all Non-exempt EDBs other than Orion –

$$SAIDI_{\text{assess}} = (0.5 \times SAIDI_B) + SAIDI_C$$

where:

$SAIDI_B$ is the sum of the daily SAIDI Values for Planned Interruptions commencing within the Assessment Period; and

$SAIDI_C$ is the sum of the daily SAIDI Values for Unplanned Interruptions commencing within the Assessment Period, where any daily SAIDI Value greater than the Boundary SAIDI Value equals the Historical Daily Average Unplanned SAIDI ~~Boundary SAIDI Value provided the SAIFI Value for that day exceeded the Boundary SAIFI Value.~~

Or

$SAIDI_C$ is the sum of the daily SAIDI Values for Unplanned Interruptions commencing within the Assessment Period, where any daily SAIDI Value greater than the Boundary SAIDI Value equals the Historical Daily Average Unplanned SAIDI, other than the first two daily SAIDI Values greater than the Boundary SAIDI Value, which equal the Boundary SAIDI Value ~~Boundary SAIDI Value provided the SAIFI Value for that day exceeded the Boundary SAIFI Value.~~

- (b) Orion is the sum of the daily SAIDI Values for Class B Interruptions and Class C Interruptions commencing within the Assessment Period, where any daily SAIDI Value greater than 4.4 equals 4.4.

Calculation of the SAIFI Assessed Values

- 4. The SAIFI Assessed Value ($SAIFI_{\text{assess}}$) for an Assessment Period is calculated in accordance with the formula, for

- (a) all Non-exempt EDBs other than Orion –

$$SAIFI_{\text{assess}} = (0.5 \times SAIFI_B) + SAIFI_C$$

where:

$SAIFI_B$ is the sum of the daily SAIFI Values for Planned Interruptions commencing within the Assessment Period; and

$SAIFI_C$ is the sum of the daily SAIFI Values for Unplanned Interruptions commencing within the Assessment Period, where any daily SAIFI Value greater than the Boundary SAIFI Value equals the Historical Daily Average Unplanned SAIFI Boundary SAIFI Value.

Or

$SAIFI_C$ is the sum of the daily SAIFI Values for Unplanned Interruptions commencing within the Assessment Period, where any daily SAIFI Value greater than the Boundary SAIFI Value equals the Historical Daily Average Unplanned SAIFI, other than the first two daily SAIFI Values greater than the Boundary SAIFI Value, which equal the Boundary SAIFI Value

(b) Orion is the sum of the daily SAIFI Values for Class B Interruptions and Class C Interruptions commencing within the Assessment Period, where any daily SAIFI Value greater than 0.06 equals 0.06.

167. In addition, Tables 3.1 and 3.2 are extended to include values for Historical Daily Average Unplanned SAIDI and Historical Daily Average Unplanned SAIFI for each non-exempt ENB, except Orion. Using the reference datasets provided to us on 10 June 2014, we have calculated the Historical Daily Average SAIDI and SAIFI (after removing zero event days and MEDs⁸) for each non-exempt ENB (except Orion), which are shown in the following table.

Historical Daily Average		
	Unplanned SAIDI	Unplanned SAIFI
Alpine Energy	1.103	0.013
Aurora Energy	0.330	0.006
Centralines	0.854	0.040
EA Networks	0.540	0.008
Eastland Network	1.334	0.018
Electricity Invercargill	0.880	0.025
Horizon Energy	1.784	0.024
Nelson Electricity	0.426	0.012
Network Tasman	0.977	0.012
OtagoNet Joint Venture	0.939	0.014
Powerco	0.424	0.006
The Lines Company	0.565	0.011

⁸ Consistent with our proposed approach to normalisation, SAIDI MEDs are normalised independent of SAIFI MEDs

Top Energy	2.048	0.030
Unison Networks	0.415	0.010
Vector	0.276	0.004
Wellington Electricity	0.271	0.004

5.2.3 Adjustments following transactions

168. Paragraphs 5 to 9 of Schedule 3 of the Draft DPP Determination specify how the quality standards are to be adjusted during the Regulatory Period, for a non-exempt which has undertaken a major transaction or purchased system fixed assets from Transpower.

169. Clause 10.4 (b) suggests this is only applied if the transaction is not a amalgamation or merger, and is a transaction which exceeds the size thresholds in clause 10.1. We disagree with these constraints. It is appropriate that quality standards are adjusted for all transactions. Accordingly Clauses 10.3 and 10.4 should be redrafted as follows:

Transactions resulting in an Amalgamation or Merger

10.3 Where a Non-exempt EDB completes an Amalgamation or Merger with one or more EDBs, clause 3.2.1 of the IM Determination applies.

10.4 Re-calculate the Quality Targets in accordance with Schedule 3 for the Assessment Period and each subsequent Assessment Period.

Major Transactions

10.45 Where a Non-exempt EDB enters into a Major Transaction, the Non-Exempt EDB must:

- (a) for the Assessment Period in which the transaction is completed, adjust the allowable notional revenue for that Assessment Period in accordance with Schedule 4C; and
- (b) ~~if the transaction is required to be notified to the Commission under clause 10.4,~~ re-calculate the Quality Targets in accordance with Schedule 3 for the Assessment Period and each subsequent Assessment Period.

170. In our earlier submission we supported the intent to adjust quality standards following transactions, including purchasing assets from Transpower. We also submitted that the quality standards should be set using historical data which reflects transactions and assets which may have been purchased prior to the commencement of the next DPP regulatory period. We note that the data included in the Draft DPP Determination (and in this submission) has not been adjusted for such transactions.

171. The proposed adjustment method (as per Schedule 3) comprises:

- a) Adding to or subtracting from the targets, the average daily SAIDI and SAIFI values of the assets purchased or disposed of
- b) Adjusting the Caps and Collars proportionately.

172. We consider the proposed method requires two adjustments to better reflect the way in which the targets, caps and collars are set, namely:

- a) De weighting planned outages by 50%, to maintain consistency with the datasets used to generate the quality standards
- b) Normalising any daily value associated with acquired assets where the daily value exceeds the non-exempt ENB's boundary value, to ensure significant historical outages associated with acquired assets do not unduly influence the adjustments.

173. Consistent with our proposed normalisation approach, the Historical Daily Average Unplanned SAIDI and SAIFI values will also require adjustment.

174. We have also considered whether additional adjustments are required (for example by re-establishing β coefficients, boundary values and the normalisation of the historical datasets). While this would improve the internal consistency, we consider the additional complexity required to achieve this is not warranted, assuming the suggestions in paragraph 172 above are implemented. These changes address the most significant sources of inconsistency in the proposals.

175. Accordingly, we submit that paragraphs 5 to 9 of Schedule 3 of the Draft DPP Determination, are amended as follows:

Adjustments following a Major Transaction or a purchase of System Fixed Assets

5. A Non-exempt EDB must, in any Assessment Period in which the Non-exempt EDB completes all terms and conditions for a transfer of assets under a Major Transaction, or receives a transfer of transmission assets from Transpower that become System Fixed Assets of the Non-exempt EDB (including a purchase completed in the year immediately preceding the current Regulatory Period for which an allowance has been specified by the Commission in Tables 5.4 to Table 5.6 of Schedule 5), and in each remaining Assessment Period of the Regulatory Period, adjust:
 - (a) the SAIDI Targets applicable to the Non-exempt EDB in accordance with paragraph 6;
 - (b) the SAIDI Caps and SAIDI Collars applicable to the Non-exempt EDB in accordance with paragraph 7;
 - (c) the Historical Daily Average Unplanned SAIDI in accordance with paragraph 8
 - ~~(e)~~(d) the SAIFI Targets applicable to the Non-exempt EDB in accordance with paragraph ~~8~~9;
 - ~~(d)~~(e) the SAIFI Caps and SAIFI Collars applicable to the Non-exempt EDB in accordance with paragraph ~~9~~10;
 - (f) the Historical Daily Average Unplanned SAIFI in accordance with paragraph 11.

6. For the purposes of paragraph 5, the SAIDI Target for each Assessment Period must be increased by the historic SAIDI performance of assets acquired, or decreased by the historic SAIDI performance of assets disposed or transferred, calculated in accordance with the formula –

$$SAIDI_{target} = (0.5 \times SAIDI_{average} \text{ for Planned Interruptions} + SAIDI_{average} \text{ for Unplanned Interruptions}) \times 365$$

where:

$SAIDI_{average}$ is the average daily SAIDI Values of the assets in question over the period for which SAIDI Values are available for those assets, not to exceed 10 years, where any daily SAIDI Value for Unplanned Interruptions greater than the Boundary SAIDI Value equals the Boundary SAIDI Value

7. For the purposes of paragraph 5, the SAIDI Cap and SAIDI Collar must be adjusted by an amount equal to the percentage change in the SAIDI Target following recalculation in accordance with paragraph 6.
8. For the purpose of paragraph 5, the Historical Daily Average Unplanned SAIDI for each Assessment Period must be increased by the historical SAIDI performance of assets acquired, or decreased by the historical SAIDI performance of assets disposed or transferred, calculated in accordance with the formula –

$SAIDI_{average}$ for unplanned interruptions

= the sum of daily unplanned SAIDI Values of the assets in question, for days which are not Major Event Days, over the period for which SAIDI Values are available for those assets, not to exceed 10 years

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the number of days over the period for which SAIDI Values are available for those assets, not to exceed 10 years, which are not Major Event Days and where the daily unplanned SAIDI Value is greater than zero

89. For the purposes of paragraph 5, the SAIFI Target for each Assessment Period must be calculated in accordance with the formula –

$$SAIFI_{target} = (0.5 \times SAIFI_{average} \text{ for Planned Interruptions} + SAIFI_{average} \text{ for Unplanned Interruptions}) \times 365$$

where:

$SAIFI_{average}$ is the average daily SAIFI Values of the assets in question over the period for which SAIFI Values are available for those assets, not to exceed 10 years, where any daily SAIFI Value for Unplanned Interruptions greater than the Boundary SAIFI Value, equals the Boundary SAIFI Value.

910. For the purposes of paragraph 5, the SAIFI Cap and SAIFI Collar must be adjusted by an amount equal to the percentage change in the SAIFI Target following recalculation in accordance with paragraph 89.

11. For the purpose of paragraph 5, the Historical Daily Average Unplanned SAIFI for each Assessment Period must be increased by the historical SAIFI performance of assets acquired, or decreased by the historical SAIFI performance of assets disposed or transferred, calculated in accordance with the formula –

SAIFI_{average} for unplanned interruptions

= the sum of daily unplanned SAIFI Values of the assets in question, for days which are not Major Event Days, over the period for which SAIFI Values are available for those assets, not to exceed 10 years

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the number of days over the period for which SAIFI Values are available for those assets, not to exceed 10 years, which are not Major Event Days and where the daily unplanned SAIFI Value is greater than zero

5.3 Defined terms

176. Clause 4.2 of the Draft DPP Determination includes a number of terms relevant to the Quality Standards. We have reviewed these and submit that the following amendments are required.

Term	Issue/Comment	Suggested Resolution
Boundary SAIDI Value Boundary SAIFI Value	Definitions include references to CPP Regulatory Period which we consider are unnecessary (refer section 2.2.1 above). We note there are no Boundary Values specified for CPP Regulatory Periods in Schedule 3, as suggested by the proposed definitions	Remove reference to CPP Regulatory Period. Redraft Clause 5 (refer section 2.2.1 above)

<p>SAIDI Assessed Value SAIFI Assessed Value</p>	<p>Definitions refer to 'adjusted' SAIDI and SAIFI values, however the adjusted values are not defined. Suggest reference to Schedule 3 is sufficient, as this includes the requirements to adjust values under certain circumstances</p>	<p>Remove the term 'adjusted' from the definition</p>
<p>SAIDI Target SAIDI Target</p>	<p>Definitions include reference to the target as the compliance standard, which we do not support</p>	<p>Remove definitions, as not required, given the requirements and information to be set out in Clause 5 and Schedule 3.</p>

6. Large transactions

6.1 Notification

177. Clause 10 of the Draft DPP Determination retains the current requirement to notify the Commission of a transaction if it meets either a specified asset value or revenue threshold. We continue to support the general requirement for notification, subject to materiality thresholds as proposed.
178. The asset value and revenue thresholds specified in the Draft DPP Determination are worded slightly differently to those in the 2012 DPP Determination. The majority of the changes appear to have been made to improve the clarity of the clauses, and we support these. The most notable change is that the revenue threshold has been changed from 'revenue' to 'notional revenue'. This seems sensible, since notional values are used elsewhere for compliance purposes.
179. The 2012 DPP Determination stated that ENBs, when notifying the Commission of a transaction, had to provide information as to "the nature and effect of the transaction". The Draft DPP Determination specifies what information needs to be provided – namely, information about ANR and pass-through and recoverable costs. This is intended to mirror the proposed new approach for determining the price paths that will apply following a transaction.
180. In principle, we support these new requirements however we note that the values of the items requested may not be known with certainty at the time the information is to be provided to the Commission. Indeed some of the amounts will not be known with certainty until after the end of the Assessment Period within which the transaction takes place.
181. We therefore submit that, the initial notification to the Commission (within 30 working days of entering into the agreement) should include only the relevant information that is available at that time, and an indication of when the remaining information will be subsequently provided.
182. We therefore recommend that clause 10.2 of the Draft DPP Determination be amended as follows:
- 10.2 Where a Non-exempt EDB enters into an agreement to transfer assets to another EDB as part of a Major Transaction, the notice required under clause 10.1 must include:
- (a) the allowable notional revenue attributable to the Major Transaction, determined in accordance with Schedule 4C, for the Assessment Period in which consumers are or will be first supplied Electricity Lines Services by a different EDB as a result of the Major Transaction;
 - (b) the Non-exempt EDB's allowable notional revenue for the Assessment Period in which the transaction will occur, as adjusted in accordance with Schedule 4C;

- (c) where available at the time of the notice under clause 10.1, the Pass-through Costs and Recoverable Costs attributable to the Major Transaction, determined in accordance with Schedule 4C, for the Assessment Period in which the transaction will occur; and
- (d) for any items stated in subclause (c) which are not available at the time of the notice under clause 10.1, the date on which the non-exempt EDB expects to provide this information to the Commission; and
- (~~e~~) the basis on which allowable notional revenue, Pass-through Costs, and Recoverable Costs were allocated, or are expected to be allocated, between the parties.

6.2 Price path adjustments

6.2.1 Mergers and amalgamations

183. Clause 10.3 of the Draft DPP Determination continues the current arrangements for combining the price paths of non-exempt ENBs which amalgamate or merge, consistent with clause 3.2.1 of the IMs.

6.2.2 Transactions

184. Clause 10.4 of the Draft DPP Determination includes new compliance requirements for transactions which are not mergers or amalgamations. These are specified in Schedule 4C in the Draft DPP Determination.

185. As stated in our submission on the Compliance Paper, we support in principle the proposed new arrangements for adjusting the price path for major transactions other than mergers or amalgamations (i.e. where a subset of assets is transferred). We support the proposal that the two non-exempt ENBs themselves determine how the price path and pass-through and recoverable costs are to be allocated following the transaction.

186. We consider that Schedule 4C of the Draft DPP Determination specifies this proposed new method in a reasonable way.

187. However, there are additional items which will need to be allocated between the buyer and the seller. For example the amounts specified in Tables 5.7 and 5.8 of the Draft DPP Determination for forecast opex and forecast revenue effects from capex, as used to determine the proposed IRIS recoverable costs. Otherwise, the comparison of forecast with actual values following the transaction will not be on a like-for-like basis.

188. There are also a number of recoverable cost items which are recovered over multiple years of the regulatory period. However, the majority of these items reflect wash-ups for financial effects prior to the transaction, and we consider that these should continue to be recovered by the seller.

189. The only item which could usefully be reallocated is the capex wash-up adjustment, and this is only appropriate if the assets being transferred are those which the wash-up amount is based on. In any case, since the two EDBs reallocate ANR themselves, they

are free to do so in a way which incorporates the effects of these future recoverable costs.

190. We therefore recommend that Schedule 4C of the Draft DPP Determination is amended as follows:

Schedule 4C: Recalculation of allowable notional revenue following a Major Transaction

1. Each Non-exempt EDB must, for the Assessment Period in which consumers are or will be first supplied Electricity Lines Services by a different EDB as a result of a Major Transaction, agree a reasonable allocation of:
 - (a) the allowable notional revenue for that Assessment Period attributable to the transaction; ~~and~~
 - (b) the Pass-through Costs and Recoverable Costs for that Assessment Period attributable to the transaction; and
 - (c) the amounts of forecast operating expenditure and forecast effect on revenues of capital expenditure, as specified in Tables 5.7 and 5.8, from the date of the transaction to the end of the Regulatory Period.
2. The Non-exempt EDB transferring assets to another EDB as part of a Major Transaction must:
 - (a) decrease its allowable notional revenue for that Assessment Period by the amount agreed under paragraph 1(a); and
 - (b) exclude any Pass-through Costs and Non Transmission Recoverable Costs attributable to the transaction under paragraph 1(b) for the purposes of calculating allowable notional revenue for the subsequent Assessment Period; and
 - (c) decrease its amounts for forecast operating expenditure and forecast effect on revenues of capital expenditure, as specified in Tables 5.7 and 5.8, from the date of the transaction to the end of the Regulatory Period.
3. The Non-exempt EDB receiving a transfer of assets from another EDB as part of a Major Transaction must:
 - (a) increase its allowable notional revenue for that Assessment Period by the amount agreed under paragraph 1(a); and
 - (b) include any Pass-through Costs and Non Transmission Recoverable Costs attributable to the transaction under paragraph 1(b) for the purposes of calculating allowable notional revenue for the subsequent Assessment Period; and
 - (c) increase its amounts for forecast operating expenditure and forecast effect on revenues of capital expenditure, as specified in Tables 5.7 and 5.8, from the date of the transaction to the end of the Regulatory Period.

191. We also note that, under Schedule 4C of the Draft DPP Determination, the buyer does not take over any of the seller's historical transmission balance, but it may take over part or all of the seller's transmission costs in the year of purchase. We consider that this is appropriate.

6.2.3 Transactions with exempt EDBs

192. The proposed method for determining price paths following a transaction as set out in Schedule 4C is only workable for a transaction between two non-exempt ENBs. For example, where consumers who were previously supplied by an exempt ENB become supplied by a non-exempt ENB, there is no price path applicable to these consumers, and hence no values for ANR etc to allocate.

193. The Draft DPP Determination needs to specify a suitable method to determine the new price path for transactions between an exempt and a non-exempt ENB. We consider that the current method, as specified in the 2012 DPP Determination (Schedule 1F), is suitable.

194. The current method adjusts ANR using prices from the period immediately prior to the transaction, multiplied by CPI, and lagged quantities (as per the price path formula) for those consumers affected by the transaction (ie: those that will be supplied by a different ENB following the transaction).

195. In addition, a method will need to be determined for how the proposed IRIS will operate in practice following a transaction between an exempt and non-exempt ENB.

- a) Where consumers are transferred from an exempt to a non-exempt ENB, we consider a suitable method is to retain the specified forecast values of opex and capex related effects, and to restrict the actual values used to assess the IRIS adjustment to those applicable to the supply of the consumers originally supplied by the non-exempt ENB prior to the transaction. This would require a change to the IRIS IM definitions of 'actual opex' and 'value of commissioned assets'.
- b) Where consumers are transferred from a non-exempt to an exempt ENB, the values for forecast opex and revenue effects of capex for the non-exempt ENB will need to be reduced from the date of the transaction. A method will be required for this adjustment for the Final DPP Determination.

196. Since exempt ENBs have pass-through and recoverable costs, having these items reallocated by the parties themselves is workable.

197. We therefore recommend that Schedule 4C of the Draft DPP Determination is extended as follows (including the amendments recommended above):

Schedule 4C: Recalculation of allowable notional revenue following a Major Transaction

2. Where a Major Transaction involves an EDB other than a non-exempt EDB, the following applies:

- (a) A Non-exempt EDB receiving a transfer of assets from an exempt EDB as part of a Major Transaction must, for the Assessment Period in which

consumers are or will be first supplied Electricity Lines Services by a different EDB:

- (i) Increase its allowable notional revenue for that Assessment Period by an amount determined in accordance with the formula:

$$ANR_t^{adj} = \left(\sum_i P_{i,t-1} Q_{i,t-2} \right) (1 + \Delta CPI_t)$$

where:

ANR_t^{adj} is the amount that allowable notional revenue for Assessment Period t is adjusted for as a result of the additional or excluded services

i denotes each price relating to the additional or excluded services

$P_{i,t-1}$ is the i^{th} price charged by the supplier of the services in the Pricing Period immediately prior to the completed transaction, t-1

$Q_{i,t-2}$ is the Quantity corresponding to the i^{th} price in the Pricing Period two years prior to the completed transaction, t-2

ΔCPI_t is the derived change in the CPI to be applied during Assessment Period t, being equal to:

$$\frac{CPI_{Dec,t-3} + CPI_{Mar,t-2} + CPI_{Jun,t-2} + CPI_{Sep,t-2}}{CPI_{Dec,t-4} + CPI_{Mar,t-3} + CPI_{Jun,t-3} + CPI_{Sep,t-3}} - 1$$

where:

$CPI_{q,t}$ is the CPI for the quarter q of year t

- (ii) Increase its notional revenue for that Assessment Period by an amount determined in accordance with the formula:

$$NR_t^{adj} = \sum_i P_{i,t} Q_{i,t-2}$$

where:

NR_t^{adj} is the amount that notional revenue for Assessment Period t is adjusted for as a result of the additional or excluded services

i denotes each price relating to the additional or excluded services

$P_{i,t}$ is the i^{th} price charged by the supplier of the services in the Pricing Period in which the transaction is completed, t

$Q_{i,t-2}$ is the Quantity corresponding to the i^{th} price, where the quantities used are the same as those used in the equation in paragraph (2)(a)(i) above

ΔCPI_t is the derived change in the CPI to be applied during Assessment Period t, being equal to:

$$\frac{CPI_{Dec,t-3} + CPI_{Mar,t-2} + CPI_{Jun,t-2} + CPI_{Sep,t-2}}{CPI_{Dec,t-4} + CPI_{Mar,t-3} + CPI_{Jun,t-3} + CPI_{Sep,t-3}} - 1$$

where:

$CPI_{q,t}$ is the CPI for the quarter q of year t.

- (iii) Increase its values for forecast operating expenditure and forecast revenue effects of capital expenditure for the Assessment Periods following the transaction by an amount equal to increase in the corresponding actual values as a result of the transaction.
- (b) A Non-exempt EDB transferring assets to an exempt EDB as part of a Major Transaction must, for the Assessment Period in which consumers are or will be first supplied Electricity Lines Services by a different EDB:

 - (i) Decrease its allowable notional revenue for that Assessment Period by an amount determined in accordance with the formula stated in paragraph 2(a)(i);
 - (ii) Decrease its notional revenue for that Assessment Period by an amount determined in accordance with the formula stated in paragraph 2(a)(ii);
 - (iii) Decrease its values for forecast operating expenditure and forecast revenue effects of capital expenditure [method to be determined].
- (c) Each EBD must, for the Assessment Period in which consumers are or will be first supplied Electricity Lines Services by a different EDB as a result of a Major Transaction, agree a reasonable allocation of the Pass-through Costs and Recoverable Costs for that Assessment Period attributable to the transaction.

6.3 Quality standards adjustment

198. We provided our comments on adjustments to the quality standards following large transactions in Section 5.2.3 above.

7. Annual compliance statements

7.1 Information to be included

199. Clause 11 of the Draft DPP Determination describes the requirements for non-exempt ENBs to prepare annual DPP compliance statements, submit them to the Commission and publish them on their websites.

200. This Clause is a redrafted version of Clause 11 in the 2012 DPP Determination, and we consider that a number of the changes proposed improved the clarity of the reporting requirements.

201. In our submission on the DPP Compliance Paper we submitted that:

- a) Information supporting price restructuring should be included in the Compliance Statement, not provided separately to the Commission prior to the restructured prices coming into effect
- b) While there is no issue in principle with supplying electronic versions of PxQ schedules supporting price path compliance, there was no explanation as to why this new requirement was added, or what the information was to be used for.

202. Accordingly:

- a) We request clarification of the purpose and intent for the requirement set out in Clause 11.1 (b)
- b) We submit that an additional sub-clause is included under Clause 11.2, as follows:

(h) if there has been a Restructure of Prices during the Assessment Period, include any additional information in accordance with clause 11.4 (j)

And, in support of this, under Clause 11.4:

(j) For any Restructured Prices for which Quantities must be determined in accordance with clause 8.9:

- i. a schedule of each restructured Price and the corresponding Quantity for the 12 month period ending on 31 March two years prior or, if there is no such corresponding Quantity, the Quantity derived in accordance with clause 8.10;
- ii. the methodology used to determine the Quantity that corresponds to each restructured Price; and
- iii. the Quantities associated with each Price for the Assessment Period.

7.2 Price path compliance

203. Clause 11.4 of the Draft DPP Determination includes the information that must be included in the Compliance Statement in support of the price path assessment.
204. The Draft DPP Determination includes a new requirement to provide information about any non-compliance – namely, an explanation of the reasons for non-compliance, actions taken to mitigate this and to prevent similar outcomes in future years. We support the addition of this requirement.
205. Clause 11.4 largely replicates the current DPP Determination and therefore fails to consider the proposed changes as to how recoverable costs and pass-through costs are to be included in prices, and the approvals processes. In particular Clause 11.4:
- a) does not include any requirement to provide information about the transmission balance within the Compliance Statement
 - b) does not recognise that non transmission recoverable costs and pass through costs can only be included when the amounts are ascertainable
 - c) does not recognise that the approval process has changed and that there are a number of new components to the price path.
206. Accordingly we submit that Clause 11.4 must be redrafted as follows:

Price path compliance

11.4 The Compliance Statement must include any information reasonably necessary to demonstrate whether the Non-exempt EDB has complied with the price path set out in clause 8, including but not limited to:

- (a) if the Non-exempt EDB has not complied with the price path, the reasons for the non-compliance;
- (b) actions taken to mitigate any non-compliance and to prevent similar non-compliance in future Assessment Periods;
- (c) the amount of allowable notional revenue, the amount of notional revenue, the amount of the transmission balance, Prices, Quantities, units of measurement associated with all numeric data, and other relevant data, information, and calculations;
- (d) the amounts of Pass-through Costs and Non Transmission Recoverable Costs used to set prices for the Assessment Period, the period to which those costs relate, and supporting data, information, and calculations used to determine those amounts including the amounts that the Non-exempt EDB used to set Distribution Prices for the Assessment Period, and the actual amounts paid or received for the Assessment Period;
- ~~(e) the amounts of Transmission Recoverable Costs, including the amounts that the Non-exempt EDB used to set Transmission Prices for the Assessment Period, and the actual amounts paid or received for the Assessment Period;~~

~~(f) supporting data, information, and calculations, including any such supporting data, information, or calculations required to be used or applied by the Non-Exempt EDB in accordance with this Determination, used to determine—~~

~~(i) the Pass-through Costs and Recoverable Costs used to set Prices for the Assessment Period, and the period to which those costs relate; and~~

~~(ii) the actual amount of Pass-through Costs and Recoverable Costs that relate to the Assessment Period;~~

~~(g) an explanation as to the cause, or likely cause, of any differences between the amounts of Pass-through or Recoverable Costs used to set Prices and actual amounts of those Pass-through Costs and Recoverable Costs;~~

~~(h) information relating to any amounts specified as Recoverable Costs consistent with clauses 3.1.3(1)(c), (e), (f), (m), and (o) of the IM Determination, including:~~

~~(i) supporting documentation, calculations, or other information showing how the amount of each Recoverable Cost was calculated;~~

~~(ii) evidence of the amount of charge relating to the contract entered into within the Assessment Period in relation to clause 3.1.3(1)(c) of the IM Determination, which may be provided by confidential disclosure of the contract to the Commission~~

~~(f) information relating to any amounts specified as Recoverable Costs which have been approved by the Commission to be recovered within the Assessment Period, consistent with clauses 3.1.3(1)(f), (m) and (x)⁹ of the IM Determination, including supporting documentation, calculations, or other information showing how the amount of each Recoverable Cost was calculated~~

~~(i) the amounts of any Indirect Transmission Charges for the Assessment Period, including information demonstrating how the amounts were calculated.~~

7.3 Quality standards compliance

207. As for the price path information, we support the proposed new requirement to include explanations about any non-compliance. As stated previously however, the proposed new disclosures are not reasonable, if the compliance standard remains as the annual target for SAIDI and SAIFI. We also submit that the two out of three year compliance standard test is retained.

⁹ where (x) refers to our proposed new customer service lines recoverable cost

208. We note that there is overlap between Clause 11.5 and subsequent clauses regarding information to be included in Compliance Statements following transactions including transfers of assets from Transpower. This needs to be removed.

209. We support the requirement in the Draft DPP Determination to provide information as to the cause of all Major Event Days within the Assessment Period. However the proposed quality standard will exclude a number of MEDs from consideration (due to the proposal to constrain SAIDI MEDs to only those MEDS which are also SAIFI MEDS). We consider this constraint compromises the usefulness of the proposed information to be included in Compliance Statements.

210. Accordingly, we submit that Clause 11.5 is amended as follows:

Quality standards compliance

11.5 The Compliance Statement must include any information reasonably necessary to demonstrate whether the Non-exempt EDB has complied with the quality standards set out in clause 9, including but not limited to:

(a) if the Non-exempt EDB has not complied with the quality standards in clause 9, the reasons for not complying;

[(b) actions taken to mitigate any non-compliance and to prevent similar non-compliance in future Assessment Periods;] – *we note this is only meaningful if compliance is assessed consistent with our proposed compliance standard as set out in section 5.1*

(c) SAIDI Assessed Values, SAIFI Assessed Values, and the Quality Targets, Caps and Collars for the Assessment Period, SAIDI and SAIFI statistics, and any supporting calculations (including those in Schedule 3) the annual reliability assessments for the two previous Assessment Periods and other relevant data and information;

~~(d) any re-calculations of the SAIDI and SAIFI Quality Targets, Caps, and Collars following a Major Transaction or transfer of transmission assets from Transpower that become System Fixed Assets for~~

~~(i) the Assessment Period in which the re-calculation was first required; and~~

~~(ii) each succeeding Assessment Period~~

~~including any supporting information, calculations, or data used to determine the historic SAIDI and SAIFI Values of the newly acquired or transferred assets;~~

~~(ed) a description of the policies and procedures which the Non-exempt EDB has used for capturing and recording Interruptions information and for calculating SAIDI and SAIFI Values for the Assessment Period; and~~

~~[(fe) the causes of any Major Event Day within the Assessment Period.] - *we note this is only meaningful if MED normalisation is applied consistent with our proposed approach as set out in section 5.1*~~

7.4 Transaction compliance

211. Clauses 11.6 and 11.7 of the Draft DPP Determination prescribe information that must be included in a Compliance Statement, where a transaction, amalgamation or merger has occurred, including where assets have been transferred from Transpower.
212. While we consider specific information requirements are appropriate, they must be consistent with other processes (such as notifications to the Commission), and parts of Clause 11.
213. Accordingly, we submit that the following amendments are required:

Transfer of ~~the~~ transmission-assets from Transpower

11.6 If a Non-exempt EDB receives a transfer of transmission assets from Transpower that become System Fixed Assets in an Assessment Period, the Compliance Statement for that Assessment Period must:

- (a) include the historic SAIDI and SAIFI statistics of the assets transferred; and
- (b) include the calculations used to adjust the Quality Standards as specified in Schedule 3 relating to a purchase of System Fixed Assets for the Assessment Period in which the transfer was completed ~~demonstrating whether or not the transfer increased the Non-exempt EDB's SAIDI Assessed Values and SAIFI Assessed Values.~~

Amalgamations, Mergers or Transfers of Assets

11.7 If a Non-exempt EDB participates in an Amalgamation, a Merger, or Major Transaction, the Compliance Statement for that Assessment Period must:

- (a) state whether the Non-exempt EDB has complied with clause 10;
- (b) include any information or calculations required to be made under clause 10
- (c) include the calculations specified in Schedule 3 relating to a Major Transaction for the Assessment Period in which the transaction occurred and any supporting information, calculations, or data used to adjust the Quality Standards in accordance with Schedule 3;

8. Director's certification and auditor's reports

8.1 Director's certifications

214. There are no changes proposed for Director's certifications, and we have no comments to make on the proposed drafting for them.

8.2 Auditor's reports

215. It is proposed that the proforma audit report is removed from the DPP Determination and instead the Draft DPP Determination includes, in Schedule 7, the scope of the assurance report to be prepared by the auditor. We support this proposal.

216. Consistent with our submission on the DPP Compliance Paper, we submit that Clause (b) (vii) is removed from Schedule 7 as it extends the scope of the audit beyond that which is required under the 2012 DPP Determination, and therefore does not appropriately reflect the manual nature of the outage recording processes for ENBs.