



27 August 2024

Ben Woodham  
Electricity Distribution Manager  
Commerce Commission  
Wellington

Email: infrastructure.regulation@comcom.govt.nz

Dear Ben,

### **Submission on EDB DPP4 innovation and non-traditional solutions workshop – implementation design**

1. Orion welcomes the opportunity to engage with the Commerce Commission (the Commission) on the implementation and design of the innovation and non-traditional solutions allowance (INTSA), both through the recently held workshop and with this submission.
2. Overall, Orion is encouraged by, and very supportive of, the efforts that the Commission is taking to ensure that the Default Price-Quality Path period 4 (DPP4) INTSA regime encourages innovation and provides benefits to consumers. As we noted in our earlier submission on the draft DPP4 decision, we support the proposed changes to the INTSA regime for DPP4 and expect that the proposed changes will incentivise additional innovation projects.
3. Our comments in this submission are based on the material provided by the Commission to support the workshop on 14 August and the resulting discussion. We have not sought to reiterate points made in previous submissions relating to the draft DPP4 decision, except where they provide context for comments in this submission.

## **Design of the scheme**

### **Ring fencing part of the INTSA allowance for collaborative projects**

4. During the workshop, the Commission asked if the maximum permissible expenditure should be increased from 0.6%, but with the increase ring fenced to only those projects that involve more than one EDB.
5. As discussed in our previous submission, Orion supports an increase in the maximum permissible expenditure allowance encourage EDBs to be innovative, utilise non-traditional solutions when feasible and be ambitious. Regardless of the size of the allowance, EDBs will only be able to access the funding if they are able to meet the necessary criteria. If EDBs do not have appropriate projects, they will not be able to access the full funding.

6. But Orion does not support the ring-fencing of some of the INTSA allowance to only be available of projects involving more than one EDB. Ring-fencing the funding would create additional complexity with minimal benefit for consumers.
7. Ring-fencing funding could create a perverse incentive, suggesting that the 0.6% allowance should be used only for EDB-specific projects, potentially discouraging collaboration. A more sensible approach would be to assess each project on its merits and encourage collaboration across the entire allowance, not just among EDBs but also with other parties, including flexibility stakeholders and Transpower. This approach could result in more or less than 0.4% being spent on collaborative initiatives, but it would ensure that funding is allocated to projects that provide the most benefit.
8. The current scheme already enables EDBs to collaborate when there are benefits from doing so. These benefits could include sharing the costs, sharing expertise, increasing scale or testing the proposal under a range of conditions. Orion currently delivers the majority of our innovative activities in collaboration with other parties (18 out of 33 activities are collaborative), including the Resi-Flexi project underway with Wellington Electricity.
9. The newly proposed mechanism which enables EDBs to recover up to 100% of costs for projects whose benefits fall to third parties will also encourage collaboration, although with non-EDB parties. Such collaboration may be more beneficial than EDBs collaborating with other EDBs, as it opens up more opportunities across the supply chain.
10. Orion considers that there are other mechanisms that the Commission could use during DPP4 to encourage and assess the level of collaboration that EDBs are undertaking. This could assist the Commission in considering whether there is an issue around collaboration that needs to be addressed in the future. For example, EDBs could report on their collaborative projects under the Information Disclosure (ID) requirements. This could be met as part of the requirements under section 17.6.4 of the ID requirements (that is, how the EDB's decision-making and innovation practices depend on the work of other companies, including other EDBs and providers of non-network solutions). Orion already reports on this in our Innovation Strategy. Alternatively, INTSA applications could be required to discuss any intended collaboration associated with a particular project.

### **Financial benefits**

11. Orion considers that there needs to be further clarity around how financial benefits are defined. In the draft decision, the Commission seeks to allow EDBs to recover a higher proportion of the costs if they gain no financial benefit. It will be important to be clear how this is defined, including over what time period. For example, how will projects be considered when there are theoretical benefits in the future, such as reinforcement deferral from flexibility, but no realisable financial benefit within the DPP period, or through IRIS? Similarly, many projects will generate insights that lead to future projects or solutions. How should initiative be categorised where the financial benefits cannot be determined before initiating the project?

12. The Commission may wish to look at the approach that is being used in the UK<sup>1</sup>. In particular, we note that in the UK system, a high-level assessment of expected net benefits is provided at the project registration followed by a requirement to share data on the forecast net benefits with the sector at the completion of the project.
13. We suggest that the initial guidance on financial benefits should start simple, while ensuring there is the ability to revise guidance overtime as experience with innovation matures.
14. Details on the financial benefits should be made clear in the determination.

#### **Eligible expenditure**

15. Orion recommends that the Commission provides details on what EDBs can and cannot recover as part of their INTSA projects in the forthcoming guidance document. This will provide certainty for EDBs as they plan their INTSA projects and will make for a more efficient INTSA process.
16. For example, it would be helpful to understand whether the following could be recovered as part of an INTSA project:
  - a. Contributing to the development of third-party software.
  - b. Contributing to the cost of distributed energy resources (DER) for trials (e.g. batteries or electric vehicle chargers).
  - c. Internal resource on projects.
17. The Commission may wish to look at the guidance that is used in the UK on eligible expenditure.<sup>2</sup>

#### **Supporting INTSA projects at the end of the DPP period**

18. There is a risk that the regulatory regime incentivises all projects to be undertaken at the start of the regulatory period and that work on INTSA related projects or the initiation of new projects ceases towards the end of the period.
19. We understand that the Commission is currently considering how the INTSA regime can support projects to be undertaken at, or towards, the end of the regulatory period. Orion encourages the Commission to include mechanisms to ensure that momentum is not lost around INTSA projects as we move through the period. Options to do so could include providing EDBs with the opportunity to roll over some of their INTSA allowance into the early period of the following regulatory period, or ring fencing some of the INTSA allowance for the end of the regulatory period.

---

<sup>1</sup> <https://smarter.energynetworks.org/media/nqtl34r4/energy-networks-innovation-process-final.pdf>

<sup>2</sup> Chapter 4, RIIO 2 NIA Governance Document (<https://smarter.energynetworks.org/media/ynrfamyk/riio-2-nia-governance-document-v3-clean-1.pdf>).

## INTSA Application Process

### Project Eligibility Assessment Template

20. Orion supports the Project Eligibility Assessment (PEA) template and the publication of guidance to support an efficient application process.
21. We consider that the PEA should be made compulsory in the determination. Mandatory use of this template would assist in the publication of applications in an easily searchable manner (see below for further discussion on this). There is little benefit from allowing EDBs to use their own application formats.
22. While the PEA could be mandated in the Determination, we consider that the PEA template itself should not form part of the determination. Instead, the template should remain part of the guidance, enabling it to be more easily changed by the Commission if required.
23. The PEA should outline the success criteria sought from the project, rather than having a focus on the outputs, as these may not be known at the start of the project. Similarly, the output may change if the project evolves over time or resources are sought to support delivery. For example, external consultants or expertise may be sought via a tender process to support delivery following approval of a PEA.
24. We also consider that the PEA could include a section which states how the project builds on the learnings of previous projects. Such a section would encourage EDBs to refer to the close out reports on related topics or leverage global insight.

### Approval process and processing time

25. Orion submits that the Commission needs to ensure that the application process is scalable and fit for purpose, depending on the size and complexity of projects.
26. We heard during the workshop that the Commission is not keen to set deadlines for the processing of applications. It would be beneficial if the Commission is able to be transparent with EDBs about how long it is likely to take for an application to be assessed. This could involve reporting on the current processing times or outlining expected timeframes in the guidance material. Providing accurate estimates of processing time will enable EDBs to plan and resource projects accordingly.
27. During the workshop, the Commission staff suggested that applications are likely to take up to two months to process, depending on the complexity of the application. Orion considers that this is too slow and will likely block small projects from getting underway and stifle momentum on larger projects that build on a previous phase.
28. The start-stop of projects will be disruptive for EDBs and challenging to manage. EDBs would need to dedicate resource to developing the scope of a project and then stand the resource down for two months while the application is being assessed.
29. For small and less complex projects in particular, a much faster turn around time is required. We encourage the Commission to consider a threshold below which applications can expect a much faster turn around time, even if this is a target rather than a definitive timeframe. For those projects that are small or that build on existing INTSA projects, a short turn around time (e.g. one to two weeks) should be able to be achieved.

30. Having an explicit shorter time frame for smaller project will encourage more smaller projects and initiatives that build on each other. It will also encourage EDBs to submit their larger projects in phases, if they know that the applications will be processed more quickly. In contrast, if there is a long processing time regardless of the size of the application, EDBs will be incentivised to get as much of the project approved in a single application as possible despite uncertainty over how later phases should be delivered.

### **Publication of applications**

31. The Commission is proposing to publish INTSA application on their website as soon as is practicable (and prior to application). We understand from the workshop that the intent behind this proposal was to ensure that there was transparency around how long it was taking for applications to be processed.
32. Orion does not support releasing the applications before they are assessed for several reasons. First, applications may contain commercially sensitive information that should not be disclosed. It would be inappropriate for commercially sensitive information, including about the nature of the proposal, to be publicly released, particularly before the project had funding and is confirmed to be going ahead.
33. As discussed in our previous submission, there may be commercially sensitive information contained in applications that should not be released, even after the approval of an application. For example, ensuring that information that is related commercial negotiations is withheld from release. But we consider that once the application is approved, it would be appropriate (and more efficient) to release more information that would be possible prior to the application being assessed.
34. Second, a requirement to publish information about a proposal before approval may make third parties reluctant to participate in INTSA projects which would stifle innovation and the use of non-traditional solutions.
35. Third, the proposal may be refined and amended through the approval process. Publication after assessment will ensure that only the finalised proposal is made public.
36. Transparency around the time taken for applications to be processed can be achieve in other ways, avoiding the disadvantages of the current proposal. For example, the Commission could report on processing times on a regular basis, or the title of a proposal could be published when an application has been received by the Commission (potentially with an indicator of the status of the application).
37. Orion does support publishing the proposals after they have been assessed by the Commission. This would provide visibility for other EDBs to understand what work is underway. Commercially sensitive information would need to continue to be withheld from the public release documents as discussed above.
38. Orion encourages the Commission to consider making the publication of these applications searchable to assist the sector to find relevant projects. An easy to search website or portal will assist the sector to learn from what others are doing. If designed well, the PEA could assist in the publication of information in a standardised way (which will assist with the searchability of information).
39. The Commission could look to international examples of searchable websites and portals in designing such a website, including:

- a. The ENA Innovation Portal (UK) which allows downloading of searched projects to enable users to easily search through multiple previous projects without downloading all the PEAs separately (<https://smarter.energynetworks.org/>).
  - b. Knowledge Bank (Australia) which is easy to filter and export the results (<https://arena.gov.au/knowledge-bank/>)
  - c. V2G Hub (worldwide) which presents insights across the whole portfolio of projects as well as links to individual project reports (<https://www.v2g-hub.com/insights>).
40. We recommend that the Commission works collaboratively with the sector when building a portal or website for the publication of INTSA applications to ensure that it works for all parties. This engagement could be facilitated through the ENA.

## Undertaking and Completing Projects

### Annual reporting

41. Some eligible INTSA projects will be run over multiple years. While we recognise that the intention is to keep this as a low cost regime, we consider that there is value in progress being shared annually to enable others to learn from the project as it is progressing.
42. Annual reporting on the progress of each project could be incorporated into the description of innovation practices that are already required under clause 17.6 of the Information Disclosure requirements. Incorporating it into this reporting will ensure that the compliance cost of undertaking annual reporting will not be too burdensome, while enabling progress and learns to be shared throughout the life of a project.

### Change management process

43. Orion recommends that the Commission include a change management process into the INTSA to enable EDBs to adapt projects as required. While there are some aspects of the programme that should not be able to be changed (e.g. the problem and objectives), enabling EDBs to change other aspects (e.g. the deliverables) will enable EDBs (and therefore the sector) to deliver the desired outcomes in the most effective and efficient way as insight is gained.
44. The Commission may be interested in the approach taken in the UK which enables some aspects of the project to be changed after the project starts, including changes to funding. More information on this regime can be found in Chapter 3 of the Ofgem's RII0-2 NIA Governance Document<sup>3</sup>. Allowed changes made during delivery are reported in progress and closedown reports to ensure transparency.
45. Providing for projects to be changed throughout the life of the project should be provided for in the determination.

---

<sup>3</sup> <https://smarter.energynetworks.org/media/ynrfamyk/riio-2-nia-governance-document-v3-clean-1.pdf>

### **Early project completion**

46. The INTSA regime should enable EDBs to end a project early. It makes little sense for an EDB to continue with a project to meet reporting milestones or prior commitments if there is little benefit in doing so (based on learning throughout the project). The EDB should still be required to complete a close out report to summarise their lessons and ensure that others can learn from their experiences.
47. While enabling early project completion, EDBs should also be able to recover the costs that they have spent on their project to date. Otherwise, EDBs will be incentivised to continue projects to the end to enable them to recover their costs, for little benefit.
48. The ability for projects to be completed early should be provided for in the determination.

### **Close out report**

49. The Commission may wish to consider providing flexibility around the close out reports to enable the reports to reflect the complexity of the INTSA project. The Commission has indicated that the processing of applications will depend on the complexity of the application. Similarly, the close out report should reflect the complexity of the INTSA project.
50. Orion encourages the Commission to enable this flexibility to ensure that the close out reports are fit for purpose. Matters that should be addressed in the close out report could be included in the guidance material to ensure that close out reports enable shared learnings across the sector. The guidance could also cover other forms of dissemination, such as industry wide forums or presentations.

## **Concluding Remarks**

We do not consider any part of this cross submission to be confidential. Please do not hesitate to contact me on [REDACTED] if you wish to discuss our cross submission.

Yours sincerely

[REDACTED]

Kelly Chapman  
**Regulatory Lead**