

28 June 2019

**To:**

All suppliers of electricity distribution services that are not exempt from default/customised price-quality regulation under section 54G of the Commerce Act 1986

## **Notice to supply information to the Commerce Commission under section 53ZD(1)(e) and 53ZD(1)(f) of the Commerce Act 1986**

### *Background*

1. In our September 2018 process update on the default price-quality paths for electricity distribution businesses (EDBs) from 1 April 2020 (DPP reset), we (the Commerce Commission) indicated that we intended to issue information requests under section 53ZD of the Commerce Act 1986 (the Act) to EDBs.<sup>1</sup>
2. Our September process update proposed two rounds of information gathering, comprising:<sup>2</sup>
  - 2.1 an initial request in late 2018 for information relating to EDBs' quality of service over a period up to 31 March 2018, without audit and certification requirements, which we would use for analysis supporting our draft decision for the DPP reset; and
  - 2.2 an additional request in mid-2019, adding information up to 31 March 2019, with audit and certification requirements, which we would use for any further analysis and for the final decision on the DPP reset.
3. The initial request referred to at paragraph 2.1 was made on 9 November 2018.<sup>3</sup>

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<sup>1</sup> Commerce Commission "Default price-quality paths for electricity distribution businesses from 1 April 2020 – process update" (6 September 2018), para 14, available at: [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0026/95552/Process-update-paper-EDB-DPP-2020-2025-6-September-2018.PDF](https://comcom.govt.nz/_data/assets/pdf_file/0026/95552/Process-update-paper-EDB-DPP-2020-2025-6-September-2018.PDF).

<sup>2</sup> Ibid, at para 14 and 17.

<sup>3</sup> Commerce Commission "Notice to supply information to the Commerce Commission under section 53ZD(e) of the Commerce Act 1986" (9 November 2018), available at: [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0009/106002/Notice-to-supply-quality-of-service-information-for-DPP3-reset-15-November-2018.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0009/106002/Notice-to-supply-quality-of-service-information-for-DPP3-reset-15-November-2018.pdf)

4. This section 53ZD(1)(e) and section 53ZD(1)(f) notice (the Notice) is the additional request referred to at paragraph 2.2. However, the Notice does not request information relating to certification as was originally proposed.
5. We note that section 103(2) of the Act provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) of the Act and any person who does so is liable on summary conviction to a fine not exceeding \$100,000 in the case of an individual or \$300,000 in the case of a body corporate.

*Purpose of the Notice*

6. Under section 53ZD(1)(e) and section 53ZD(1)(f) of the Act, we require each EDB that is not exempt from default/customised price-quality regulation under section 54G of the Act (non-exempt EDB) to provide us with:
  - 6.1 the information specified in Schedule A; and
  - 6.2 an assurance report as specified in Schedule B by an **independent auditor** in relation to all the information specified in Schedule A.
7. We require this information for the purpose of carrying out our function of resetting the DPP under section 53P of the Act. In particular, the historic information required under the Notice concerning non-exempt EDBs' quality of service will inform and assist our decision-making concerning the quality standards and any incentives we set for non-exempt EDBs as part of the DPP reset.

*Date, place and format of responses*

8. Each non-exempt EDB must provide the information as set out in Schedules A and B as a response to the Notice by email to [regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz), where
  - 8.1 the information set out in Schedule A must be provided in an 'unlocked' electronic Excel spreadsheet format; and
  - 8.2 the information set out in Schedule B must be provided in either MS Word or PDF formats.
9. The email must be addressed to Dane Gunnell, with the subject "[EDB name] - Response to section 53ZD Notice – 2020 DPP reset: Issued June 2019", by no later than **5:30pm on Thursday 15 August 2019**.

*Interpretation*

10. In the Notice, unless the context requires otherwise:
  - 10.1 a word that denotes the singular also denotes the plural, and vice versa;
  - 10.2 words in **bold** type have the following meanings:

- 10.2.1 **adverse environment** means an **unplanned interruption** where the primary cause is an adverse environment, such as a slip or a seismic event
- 10.2.2 **adverse weather** means an **unplanned interruption** where the primary cause is adverse weather conditions, other than **lightning**, **vegetation** contact or **adverse environment**
- 10.2.3 **cause** means one of either:
- (a) **lightning**;
  - (b) **vegetation**;
  - (c) **adverse weather**;
  - (d) **adverse environment**;
  - (e) **third party interference**;
  - (f) **wildlife**;
  - (g) **human error**;
  - (h) **defective equipment**;
  - (i) **other cause**;
  - (j) **unknown**; or
  - (k) **planned interruption**
- 10.2.4 **consumer** has the same meaning as defined in the **IM determination**
- 10.2.5 **defective equipment** has the same meaning as defined in the **ID determination**
- 10.2.6 **EDB** has the same meaning as defined in the **IM determination**
- 10.2.7 **FENZ levy** means any **levy** payable to Fire and Emergency New Zealand under the Fire and Emergency New Zealand Act 2017
- 10.2.8 **human error** has the same meaning as defined in the **ID determination**
- 10.2.9 **ICP** has the same meaning as defined in the **ID determination**
- 10.2.10 **ICP minutes** means the total sum of minutes an **interruption** **interrupts** electricity supply to each **ICP** affected by the **interruption**

- 10.2.11 **ID determination** means the *Electricity Distribution Information Disclosure Determination* [2012] NZCC 22, including amendments in effect at the date of the Notice
- 10.2.12 **IM determination** means the *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26, including amendments in effect at the date of the Notice
- 10.2.13 **independent auditor** has the same meaning as defined in the **ID determination**
- 10.2.14 **interruption** has the same meaning as defined in the **ID determination**, and **interrupts** and **interrupted** have corresponding meanings
- 10.2.15 **interruption identifier** means the unique reference used by an **EDB** to record an **interruption**
- 10.2.16 **ISAE (NZ) 3000** means International Standard on Assurance Engagements (New Zealand) 3000 (Revised), Assurance Engagements Other than Audits or Reviews of Historical Financial Information, issued by the New Zealand Auditing and Assurance Standards Board of the External Reporting Board under s 12(b) of the Financial Reporting Act 2013
- 10.2.17 **levy** has the same meaning as defined in the **IM determination**
- 10.2.18 **lightning** has the same meaning as defined in the **ID determination**
- 10.2.19 **location** means the name of a circuit on which an **interruption** originated
- 10.2.20 **low voltage (LV)** has the same meaning as defined in the **ID determination**
- 10.2.21 **network** has the same meaning as defined in the **ID determination**
- 10.2.22 **operational expenditure** has the same meaning as defined in the **ID determination**
- 10.2.23 **other cause** means an **unplanned interruption** for which the primary cause is not **lightning, vegetation, adverse weather, adverse environment, third party interference, wildlife, human error, or defective equipment**
- 10.2.24 **pecuniary penalties** means fines or penalties imposed by—
- (a) a court; or

- (b) any other body with a statutory power to impose such fines or penalties
- 10.2.25 **planned interruption** means an **interruption** in respect of which not less than 24 hours' notice was given, either to the public or to all electricity **consumers** affected by the **interruption**, where that **interruption** was initiated by either—
- (a) the **EDB**; or
  - (b) **Transpower** in respect of an asset that is now owned by the **EDB**
- 10.2.26 **SAE 3100** means Standard on Assurance Engagements 3100 (Revised) – Compliance Engagements, issued by the New Zealand Auditing and Assurance Standards Board of the External Reporting Board under s 12(b) of the Financial Reporting Act 2013
- 10.2.27 **SAIDI value** means the system average interruption duration index value based on **planned interruptions** and **unplanned interruptions**
- 10.2.28 **SAIFI value** means the system average interruption frequency index value based on **planned interruptions** and **unplanned interruptions**
- 10.2.29 **third party interference** has the same meaning as defined in the **ID determination**
- 10.2.30 **Transpower** has the same meaning as defined in section 54B of the Act
- 10.2.31 **unknown** means all **unplanned interruptions** where the cause is not known
- 10.2.32 **unplanned interruption** means an **interruption** that is not a **planned interruption**, but which originated from either:
- (a) the **EDB's network**; or
  - (b) an asset owned by **Transpower** that is now owned by the **EDB**
- 10.2.33 **vegetation** has the same meaning as defined in the **ID determination**
- 10.2.34 **wildlife** has the same meaning as defined in the **ID determination**.

*Use of supplied information and confidentiality*

11. We do not currently intend to publish EDBs' responses to this Notice. However, as part of our decision-making and modelling on the DPP reset, we may use and publicly refer to particular information EDBs provide in responding to the Notice.
12. If you consider that, for confidentiality reasons, we should not publicly refer to any particular part of your response, please:
  - 12.1 specify the relevant part; and
  - 12.2 give clear reasons why you consider that part is confidential.
13. If you indicate that we should not publicly refer to part of your response, we will discuss with you before deciding whether not to do so.
14. However, please note that all responses we receive, including any parts that we do not publish, can be requested under the Official Information Act 1982. This means we would be required to release material that we do not publish unless good reason existed under the Official Information Act 1982 to withhold it. We would normally consult with you before releasing any material that you request not to be published.

Dated at Wellington: 28 June 2019

Signed by:

A handwritten signature in black ink, appearing to read 'S. Gale', with a stylized flourish at the end.

Stephen Gale  
Commissioner

## Schedule A: Information required

1. For each **interruption** from 1 April 2008 to 31 March 2019, the **EDB** must provide the information specified in clause 1(a)-(m) of Schedule A, in chronological order starting with the first **interruption** after 1 April 2008:
  - (a) '**interruption identifier**';
  - (b) '**location**';
  - (c) 'start date (dd/mm/yyyy)';
  - (d) 'start time (hh:mm:ss am/pm)';
  - (e) 'end date (dd/mm/yyyy)';
  - (f) 'end time (hh:mm:ss am/pm)';
  - (g) '**SAIDI value**';
  - (h) '**SAIFI value**';
  - (i) 'number of **ICPs interrupted**';
  - (j) '**ICP minutes**';
  - (k) whether the **interruption** was an **unplanned interruption** or a **planned interruption**;
  - (l) '**interruption cause**'; and
  - (m) an explanation of the specific details of the **cause** E.g. for **adverse weather**, specific details could be 'gusts of up to 120kmph'.
2. For each **interruption** from 1 April 2008 to 31 March 2019, the **EDB** may provide, in chronological order starting with the first **interruption** after 1 April 2008, any other information the **EDB** considers would help clarify the context of the **interruption**.
3. The **EDB** must provide the amount of any **FENZ levy** included in **operational expenditure** paid for the period 1 April 2018 to 31 March 2019.
4. The **EDB** must provide the amount of any **pecuniary penalties** included in **operational expenditure** paid for the period 1 April 2018 to 31 March 2019.

## Schedule B: Information required

1. In relation to the information specified in Schedule A, the **EDB** must procure an assurance report by an **independent auditor** that is prepared in accordance with **SAE 3100** and **ISAE (NZ) 3000**, signed by the **independent auditor** (either in their own name or that of their firm), that—
  - (a) is addressed to the Commerce Commission as the intended user of the assurance report; and
  - (b) states—
    - (i) that it has been prepared in accordance with **SAE 3100** and **ISAE (NZ) 3000**;
    - (ii) the work done by the **independent auditor**;
    - (iii) the scope and limitations of the assurance engagement;
    - (iv) the existence of any relationship (other than that of auditor) which the **independent auditor** has with, or any interests which the **independent auditor** has in, the **EDB** or any of its subsidiaries;
    - (v) whether the **independent auditor** has obtained sufficient recorded evidence and explanations that they required and, if not, the information and explanations not obtained; and
    - (vi) whether, in the **independent auditor's** opinion, as far as appears from an examination:
      - (A) the **FENZ levy** and **pecuniary penalty** information provided in respect of clauses 3 and 4 of Schedule A is consistent with the **EDB's** internal records; and
      - (B) the **interruption** data provided in respect of clauses 1 and 2 of Schedule A are consistent with:
        - (AA) the SAIDI statistics and SAIFI statistics provided under the *Commerce Act (Electricity Distribution Thresholds) Notice 2004* [2004] for the following periods:
          - i. 1 April 2008 to 31 March 2009; and
          - ii. 1 April 2009 to 31 March 2010;
        - (BB) the **SAIDI values**, **SAIFI values**, SAIDI statistics and SAIFI statistics provided under the *Electricity Distribution Services Default Price-Quality Path Determination 2010* [2010] Decision 685 for the following periods:



- i. 1 April 2010 to 31 March 2011;
  - ii. 1 April 2011 to 31 March 2012; and
  - iii. 1 April 2012 to 31 March 2013;
- (CC) **SAIDI values, SAIFI values**, SAIDI statistics and SAIFI statistics provided under the *Electricity Distribution Services Default Price-Quality Path Determination 2012* [2012] NZCC 35 for the following periods:
- i. 1 April 2013 to 31 March 2014; and
  - ii. 1 April 2014 to 31 March 2015;
- (DD) **SAIDI values** and **SAIFI values** provided under the *Electricity Distribution Services Default Price-Quality Path Determination 2015* [2014] NZCC 33, as amended, for the following periods:
- i. 1 April 2015 to 31 March 2016;
  - ii. 1 April 2016 to 31 March 2017;
  - iii. 1 April 2017 to 31 March 2018; and
  - iv. 1 April 2018 to 31 March 2019.