

23 May 2024

Commerce Commission
Attention: Vhari McWha, Commissioner
By Email

Dear Vhari

ELECTRICITY DISTRIBUTION SERVICES INPUT METHODOLOGY AMENDMENT DETERMINATION 2023

1. We write on behalf of our members (the **EDBs**) in relation to the Commission’s Electricity Distribution Services Input Methodology Amendment Determination 2023 (the **Electricity IM**).
2. The EDBs have significant concerns about the Commission’s process to amend cl 4.2.2 of the Electricity IM relating to depreciation of existing assets, including the “technical correction” made by the Commission in the final version (the **Depreciation Change**). Given the change only become apparent as a result of the Commission’s recent s 53ZD notices in the context of DPP4, if cl 4.2.2 is implemented it could have material unanticipated impacts on our members, the full extent of which is not likely to be known until the draft DDP4 decision is released.
3. It is for this reason that we are writing to seek an urgent meeting before the release of the draft DDP4 as we understand post-release there will be a ‘black out’ period for the ability to have a discussion on this matter.
4. We would like to discuss the potential options for a transition to this new methodology, which would allow implementation of the change systematically and that considers the differing resources across our members to manage the change.

The Electricity IM

5. The Commission’s 2023 input methodology review process (the **IM Review**) commenced on 23 February 2022. That was followed by a draft Decision-Making Framework paper on 20 May 2022 and the final Decision-Making Framework paper on 13 October 2022. On the basis of the framework established by these papers, the Commission consulted with industry participants across three workshops in November 2022.
6. The Commission did not raise issues relating to depreciation of existing assets until 20 December 2022, when it released an options paper regarding investment incentives (the **Options Paper**).¹ That paper, however, focussed solely on gas pipelines.² In any event,

¹ [IM-Review-2023-Options-to-maintain-investment-incentives-in-the-context-of-declining-demand-20-December-2022.pdf \(comcom.govt.nz\)](#).

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Electricity Networks Aotearoa is a trading name of the Electricity Networks Association.

the Commission did not express a view on how to resolve the issue. Rather, it said it would “consider how best to address this in our draft decision” and identified “Option B” as “a potential solution”.³ On 1 March 2023 the Commission issued an updated notice of intention, shifting the timeframe for the IM Review, including the submission and cross-submission rounds.

7. On 14 June 2023, the Commission published a draft of the Electricity IM (the **Draft IM**), which ran to 248 pages and was accompanied by a number of special topic papers. Similarly to the Commission’s initial issues paper and subsequent framework papers, none of the special topic papers addressed the Depreciation Change.
8. Interested parties were only given 25 working days to provide submissions on the Draft IM. As the Commission is aware, at this point a number of EDBs (for example, Vector, Unison, Powerco and Orion) voiced concerns with the inadequate amount of time provided for the making of submissions, and the ENA is aware the Commission declined requests for extensions of time to respond. Given the short timeframe for submissions and the scope of the work required, some EDBs felt they had to be selective on the issues they responded to and engaged experts on.
9. In this context, whilst cl 4.2.2 of the Draft IM proposed amendments to how existing assets might be depreciated,⁴ including one amendment to replace “base year” with “disclosure year”, how cl 4.2.2 would be implemented and its potential scale of impact was not clear from the Draft IM.⁵ The Draft IM did not give this proposed change any significance.
10. The final version of the Electricity IM was published on 13 December 2023.⁶ It confirmed the Depreciation Change proposed in the Draft IM but with one important qualification, which was described as a “technical correction” by the Commission in its supporting final decision report,⁷ which does not form part of the Electricity IM.

³ At [3.21].

⁴ [Draft-Electricity-Distribution-Services-Input-Methodologies-IM-Review-2023-Amendment-Determination-2023.pdf \(comcom.govt.nz\)](#).

⁵ The Commission provided some guidance in its accompanying explanatory report (the Explanatory Report), however the Explanatory Report does not form part of the Draft IM: [Part-4-IM-Review-2023-Draft-decision-Report-on-the-Input-methodologies-review-2023-paper-14-June-2023.pdf \(comcom.govt.nz\)](#). At [4.6], the Explanatory Report said the Commission was making the Depreciation Change to require EDBs and gas pipeline businesses, when forecasting depreciation for a DPP period, to depreciate existing assets using the weighted average value of the remaining asset life for those assets for each year of the DPP period. At [4.10], the Commission said the proposed change was intended to require suppliers to “forecast” the value of depreciation for each individual existing asset for each of the disclosure years in the DPP period. At [4.11], the Commission considered that this proposal better promoted the purposes of Part 4 of the Act by seeking “to limit suppliers’ ability to extract excessive profits”.

⁶ [Electricity-Distribution-Services-Input-Methodologies-IM-Review-2023-Amendment-Determination-2023.pdf \(comcom.govt.nz\)](#).

⁷ [Part-4-IM-Review-2023-Final-decision-Report-on-the-Input-methodologies-review-2023-paper-13-December-2023.pdf \(comcom.govt.nz\)](#).

11. Our members (and other interested parties) were not given an opportunity to provide submissions or other feedback on the impact of the “technical correction” and its implications for the Depreciation Change or on EDBs’ businesses. It was simply incorporated as part of the final version of the Electricity IM, without industry input or other advice. The “technical amendment” itself materially impacts depreciation calculated applying the Depreciation Change.

The impact of the Depreciation Change

12. Given the absence of emphasis on the Depreciation Change during the IM Process, where no submissions or cross-submissions addressed it, the implications and impact of it were not immediately apparent (at least to the EDBs) on the face of the Electricity IM. It was only once EDBs began trying to implement the Depreciation Change, as part of DPP4, and began preparing their responses to the Commission’s notice to supply information under s 53ZD of the Act dated 20 March 2024, that the implications of the Depreciation Change and the scale of the impact – including the effect of the “technical correction” – started to become apparent.
13. The implementation of the Depreciation Change varies depending on the size and nature of each EDB’s asset base. But indications by some EDBs suggest that it would adversely impact their businesses and revenue in a significant and material way. These changes were not anticipated or planned for during the DPP4 period, and in turn could have unintended consequences for consumers – in particular, the level of investment to be undertaken.

A potential way forward

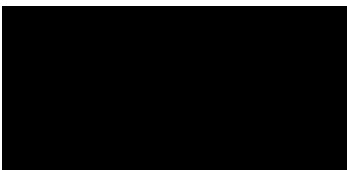
14. It has been unfortunate that there was not more dialogue and transparency on the practice and scale of consequences given the significance of the Depreciation Change to our members and consumers. However, we consider that there are potential solutions which will both ameliorate the EDBs’ concerns and fulfil the Commission’s objectives, including under ss 52A (promoting the long-term benefit of consumers) and 52R (ensuring the Electricity IM is sufficiently certain) of the Act.
15. One solution is an amendment to the Electricity IM, pursuant to s 52X of the Act, for example to phase in/transition the implementation of the Depreciation Change. That would enable all EDBs to have sufficient time to be able to properly understand, practically implement, and account for the Depreciation Change. We note the Commission has recently stated an intention to consider amending those IMs that apply to Transpower, including the Commission’s indication in its amended notice of intention dated 15 May 2024 that it is considering “discrete amendments” for implementing RAB indexation.⁸

⁸ [RCP4-input-methodologies-Amended-Notice-of-Intention-15-May-2024.pdf \(comcom.govt.nz\)](https://www.ena.org.nz/RCP4-input-methodologies-Amended-Notice-of-Intention-15-May-2024.pdf) at [6.1].
[ena.org.nz](https://www.ena.org.nz)

Next steps

16. We would be grateful if you could please confirm your availability for a meeting before the draft DPP4 decision on 29 May 2024. We propose the meeting be attended by both the Commission and ENA – nominated representatives. Please can you provide your availability for the proposed meeting by no later than 5:00 pm on 24 May 2024.
17. We look forward to hearing from you.

Kind regards



James Kilty

ENA Chair (acting)

CC:

