

Proposed reopener guidelines – consultation draft

This document is directed at electricity distribution businesses (EDBs) and gas distribution businesses (GDBs) subject to default price-quality regulation and customised price-quality regulation under Part 4 of the Commerce Act.

The purpose of this document is to provide guidance for EDBs and GDBs considering nominating a reopener event, preparing a reopener proposal, or subject to a reopener consideration process.

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1. Introduction

Reopeners address forecasting uncertainty at the time price-quality paths are set by allowing price-quality paths to be adjusted within a regulatory period in response to changes in circumstances during a regulatory period. Reopeners are specific to an individual EDB or GDB.

1.1 Context

The Commission sets default price-quality paths (DPPs) for EDBs and GDBs in a relatively low-cost way. DPPs are not intended to meet all circumstances that regulated suppliers may face, especially if these circumstances require significant scrutiny of costs and/or quality targets of a particular EDB or GDB.

EDBs and GDBs can face changed or unexpected circumstances during a regulatory period that require additional expenditure to be incurred. Without any in-period adjustment to the price-quality path, that expenditure may not be able to be accommodated within the settings of the price-quality path by reprioritising expenditure. This could result in an unavoidable breach of quality standards and/or result in penalties under the regulatory incentive schemes.

Accordingly, in response to unforeseen events or where new information becomes available, EDBs and GDBs may apply for increases in their expenditure allowances during a regulatory period by nominating a reopener event and submitting a reopener proposal. In addition, the Commission may elect to reopen an EDB's or GDB's price-quality path.

DPP reopeners are a low-cost alternative to CPPs

Reopener applications involve less scrutiny than a CPP proposal and are more appropriate in circumstances that:

- are separately identifiable or discrete
- are targeted to address a specific, rather than a general issue
- have less interdependence with the rest of the supplier's network
- are likely to affect a smaller number of consumers
- are unlikely to require wide consultation with consumers and other stakeholders.

Reopeners provide for proportionate scrutiny of additional funding sought during a regulatory period. This helps to ensure consumers are only subject to price increases where these are justified and represent value for them.

1.2 Purpose and use of these guidelines

The purpose of these guidelines is to provide additional information to that contained in the IMs to assist EDBs and GDBs to:

- consider whether to nominate a reopener event
- prepare a reopener proposal
- understand the reopener process
- understand how the Commission will evaluate a reopener proposal.

Appendix A contains a glossary of terms used in these guidelines.

Appendix B contains a table of references to relevant IM clauses for EDBs and GDBs.

Appendix C contains a table of thresholds used to define reopener events.

Appendix D contains examples of reopener events.

This document is a guidance document only, as the IMs contain the rules, thresholds, definitions, and criteria that must apply to reopeners.

1.3 Applicable input methodologies

These reopener guidelines should be read in conjunction with the relevant IMs. The current version of the IMs can be found on the Commission's website.

The provisions for EDB reopeners are set out in the EDB IMs as follows:

- Part 3, Subpart 3, Incremental Rolling Incentive Scheme
 - specifies incentive adjustments following price-quality path reopeners
- Part 4, Subpart 5, Reconsideration of the default price-quality path
 - specifies when DPPs may be reconsidered
 - specifies the events that may be DPP reopener events
 - specifies the Commission's considerations for a DPP reopener event, including whether a CPP is more appropriate, and how DPPs may be amended
- Part 5, Subpart 6, Reconsideration of the customised price-quality path
 - specifies when CPPs may be reconsidered
 - specifies the events that may be CPP reopener events
 - specifies the Commission's considerations for a CPP reopener event and how CPPs may be amended.

The equivalent IM provisions for GDBs are set out in the GDB IMs, as follows:

- Part 4, Subpart 5, Reconsideration of the default price-quality path
- Part 5, Subpart 7, Reconsideration of the customised price-quality path.

2. When a price quality path may be reopened

This section describes the type of reopener events available to EDBs and GDBs, and the thresholds and criteria that must be met to confirm that a reopener event has occurred.

2.1 Reopener events

Price-quality paths may only be reopened for certain events. The types of events are listed in Table 2.1 below and defined in the relevant sections of the IMs. Refer to Appendix B for the relevant clause references.

Table 2.1: Reopener events

Event applicable to	DPPs	CPPs
EDBs and GDBs	Catastrophic event Change event Error event False or misleading information event Major transaction event Risk event	Catastrophic event Change event Error event False or misleading information event Major transaction event WACC change event Contingent project Unforeseen project
EDBs only	Unforeseeable large project Foreseeable large project Quality standard variation proposal	
GDBs only	Capacity event Resilience or asset relocation event	

2.2 Criteria for reopener events

As specified in the IMs, reopener events must occur within the regulatory period, and must commence no earlier than 12 months before the end of the prior regulatory period. They may include a series or a programme of related events. Most categories of events have thresholds which must be met before an event qualifies as a reopener event. These are specified in the IMs and listed in Appendix C for reference.

2.3 Categories of reopener events

There are two general categories of reopener events, both of which may be nominated by either an EDB/GDB or the Commission.

The first category involves unforeseen events which involve additional expenditure or a change in quality standards or quality incentives. It is expected this category of reopeners will typically be nominated by EDBs or GDBs. These events include catastrophic events, large or contingent project events, and risk, capacity, and resilience or asset relocation events.

Because this category of reopeners is designed to address changes in expenditure or quality standards during a regulatory period, the qualifying criteria require confirmation that:

- the event was not anticipated, was uncertain, or was outside the control of the EDB or GDB, as appropriate
- the event was not provided for in the applicant's price-quality path

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- a response to the event is required within the regulatory period
- the response is prudent
- for quality variation proposal reopeners, the response is supported by relevant consumers or other stakeholders, as appropriate.

Catastrophic events

The catastrophic event category has some unique features which will be reflected in the application and the decision to amend a price-quality path. These include:

- that remediation for the event will occur during and immediately following the event and before the reopener application is made
- that remediation for the event may also continue into the future
- costs incurred because of the event, and prior to the amended price-quality path coming into effect, will be reflected in a catastrophic event allowance recoverable cost
- that associated insurance and compensation outcomes:
 - may not be known with certainty when the application is made
 - may be related to operating expenditure and capital expenditure
 - may, in certain circumstances, be accounted for as other regulated income.

The second category of reopeners is where new information becomes available, typically involving changes to data or assumptions used to set price-quality paths. It is expected that the Commission may nominate these types of events, although EDBs and GDBs are able to as well. These include change events, error events, false and misleading information events, WACC events for CPPs or major transaction events.

The criteria for these events are less onerous than for the unforeseen event category of reopeners, and meeting the IM thresholds may be sufficient for the event to qualify as a reopener.

Appendix D includes a high-level description of each type of event and examples of circumstances which may be resolved by each type of event.

3. Information to be provided

This section contains guidance for the preparation of a reopener proposal document. This includes guidance about the level of detail required for a reopener proposal, and the style and structure of proposals. It also addresses the critical content required to ensure the proposal is compliant with the IMs, and the Commission and other stakeholders have sufficient information to assess and understand the consequences of the proposal.

3.1 Context

Any reopener proposal must clearly provide the Commission with answers to the following questions:

- whether a reopener event has occurred
- why an amendment to the price-quality path is justified
- what that amendment should be
- whether the proposed amendment is consistent with Part 4 of the Commerce Act (the Act), specifically section 52A, and the relevant IM clauses that apply:
 - clause 4.5.15 of the EDB and GDP IMs for DPPs
 - clause 5.6.13 of the EDB IMs for CPPs
 - clause 5.7.13 of the GDB IMs for CPPs.

The IMs prescribe the minimum information that a proposal must contain to assist the Commission in answering these questions. Applicants are only required to provide information related to whether a CPP is more appropriate than a DPP reopener if requested by the Commission after a proposal has been submitted.

It is recommended that proposals include a table that maps out which sections of the proposal relate to individual IM requirements.

3.2 Style and structure of proposals

It is recommended that reopener proposals adopt a style and structure that clearly and concisely sets out the evidence that applicants wish to present in support of their request to amend their price-quality path.

Proposal structure

A reopener proposal should follow a logical structure that aligns with the requirements set out in the IMs and, where possible, reflects the additional guidance in this document. The proposal should consist of a core narrative that concisely sets out all the relevant evidence that the Commission requires to make an informed decision.

Further detailed analysis, technical information and supporting documents should be set out in clearly identified appendices. Where evidence presented in the appendices is relied upon in the core narrative this should be clearly identified, and the core narrative should include a specific reference to supporting evidence. It is recommended that the document also includes a table of contents and glossary of terms.

Any proposed redactions of confidential or commercially sensitive material for the purpose of publication should be clearly identified.

The Commission expects the proposal to be subject to appropriate internal governance arrangements. Reopener proposals should be signed by an approved officer of the EDB or GDB. A point of contact should be provided for each reopener proposal.

Proposal style

The core narrative should be clear and concise in the presentation of all the relevant evidence required to make an informed decision. The emphasis should be on the proportionate presentation of evidence. The narrative should focus on quantifiable and objective evidence rather than subjective or qualitative assertions.

3.3 Proportionate information

It is recommended that proposals reflect a proportionate approach to information provision, avoiding duplication and superfluous information or narrative. The following factors should be considered when determining the proportionate amount of evidence to be presented on any topic:

- the materiality of the issue with respect to the overall decision
- the complexity of the issues being considered
- the quality of evidence being presented
- the level of certainty about the future and the forecasts to be included in the proposal
- other relevant considerations, such as the impact on consumers, and the extent to which affected consumers will directly fund the proposal, either upfront or over time.

In addition, the amount or level of detail of information and evidence to be provided in a proposal may be proportionate to the materiality of the proposal. The following thresholds may be applied when assessing the proportionality of the information to be included in a proposal.

Table 3.1 Proportionality thresholds for information

Materiality	Applicable IM revenue or cost materiality threshold for the event
Low	Proposal is no more than 2x the minimum threshold
Medium	Proposal is between 2x and 5x the minimum threshold
High	Proposal is more than 5x the minimum threshold

3.4 Content for a reopener proposal

a) Demonstrating that a reopener event has occurred

A clear description of the event, assessed against the IM requirements, is a key component of a proposal. The requirements for demonstrating that a reopener event has occurred or is expected to occur are set out in the IMs. There are different criteria depending on the type of reopener. The proposal should clearly demonstrate that the relevant criteria have been met.

The proportionality guidance for information (above) is less relevant for this section of the proposal. This is because sufficient information must be included in the proposal to fully demonstrate that a reopener event has occurred.

b) Demonstrating why an amendment to the price-quality path is required

The proportionality guidance for information is relevant for this section of the proposal, given the wide range and scale of potential reopener events.

Needs case / problem statement

The proposal must include a clear statement as to the need for the proposed expenditure or the problem the applicant is trying to address. The affected network assets should be identified. As well as demonstrating the needs case, the proposal must provide the rationale for the level of expenditure proposed and why this level should be regarded as being prudent and efficient.

Consideration of options and selection of the preferred option

The proposal must include a clear description of the options considered to address the problem and the selection process undertaken to reach the preferred option. Suggested content for this section of the proposal includes:

- a clear description of the options considered, setting out the key features of each option
- options to delay proposed expenditure into the next regulatory period, including:
 - reprioritising projects and programmes
 - consequences for service levels, asset performance, risk of failure or asset degradation, and cost due to reprioritisation
 - maintaining good asset management practice consistent with asset health and condition indicators
 - ability to meet consumer demand
- the criteria used to assess the various options and the assessment of each option against these criteria
- a summary of any cost benefit analysis, business cases and engineering justification supporting the proposed option
- justification for the proposed timing of additional expenditure.

When demonstrating that both the proposed project and the proposed costs were not included in the applicant's price-quality path, the following references will be useful:

- the Asset Management Plan (AMP) used to determine the price-quality path
- any capping of forecast expenditure reflected the applicant's price-quality path
- any prioritisation of the forecast work programme following the price-quality path determination, including projects identified for potential reopener applications, or identified as unable to be funded within the price-quality path settings.

The preferred option

The proposal must include a clear description of the preferred option, sufficient to allow the Commission to make an informed decision on the suitability of the option. This may include the following, as appropriate:

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- a description of the key features of the preferred option including how that option will address the issues set out in the needs case / problem statement
- if the preferred option reflects a particular scenario, a description of the scenario
- a statement of the key benefits of the preferred option along with any drawbacks identified
- a statement of the benefits to consumers of the preferred option
- evidence of the technical feasibility of the preferred option, using technical appendices as appropriate, and including single line diagrams or aerial maps of the project location where relevant
- a project delivery programme including the current status of the preferred option, planned resourcing and procurement, provisional dates, and key milestones, including commissioning dates.

Cost information

Where the proposal relates to the expenditure allowances, it must include sufficient information about the proposed additional costs to allow the Commission to evaluate them.

This will include:

- whether the costs are opex or capex
- the amounts for each category of opex or capex consistent with the regulatory AMP expenditure categories, in real and nominal terms, and by disclosure year
- evidence to justify why the expenditure is additional to that already provided for in the applicant's price-quality path
- why the proposed cost is efficient and consistent with the expenditure objective (where relevant)
- to what extent capital contributions, insurance or other compensation will be received to offset the proposed costs, including:
 - whether proposed capital contributions are consistent with the applicant's policies
 - whether insurance or other compensation relates to assets or operations
- a description of cost estimation methods including relevant assumptions, policies, sources of data and uncertainties reflected in the proposed costs and contribution or compensation amounts.

c) Demonstrating the proposed amendment to the price-quality path

The proposal must set out the proposed amendments to the applicant's price-quality path.

Amending the price path

For those proposals which involve additional opex and/or capex, the financial model which supports the price-quality determination should be updated with the proposed incremental expenditure.

The intent is that the price path is amended to the extent necessary to reflect a situation where the additional expenditure is assumed to have been included in the forecast when the price path was originally determined.

The impact on building blocks allowable revenue (BBAR) and forecast net allowable revenue (FNAR) or allowable notional revenue (ANR)¹ for each year of the regulatory period should be presented in the proposal. This may include prior years where expenditure has been incurred prior to a reopener nomination, such as for a catastrophic event.

Amending the quality standards

A proposal to amend the quality standards should set out the proposed changes to the values of the quality standard metrics and parameters, and the quality incentive metrics, specified in the applicant's price-quality determination, as appropriate. These may be determined by modifying the models used to derive the quality standards and incentives for the applicant's DPP or CPP.

The proposal should include an explanation of the analysis undertaken to derive the proposed changes to the price-quality path, including any intermediate calculations and assumptions.

d) Demonstrating whether the reopener proposal is consistent with the Act

While this task is primarily the responsibility of the Commission, an applicant can assist by ensuring that a reopener proposal:

- demonstrates why the proposal is in the long-term interests of consumers, including with reference to the s52A purpose of regulation
- clearly addresses each of the relevant IM requirements
- includes a checklist demonstrating where in the proposal the relevant IM requirements have been addressed.

¹ FNAR applies to EDBs, ANR applies to GDBs

4. Application process

The purpose of this section is to provide guidance about the reopener process from the perspective of the applicant. The following section provides information about the Commission's process when assessing reopener proposals and events.

4.1 Before submitting a reopener proposal

It is important that applicants prepare reopener proposals which are compliant with the requirements of the relevant IMs, and provide supporting evidence, which is relevant, concise, and able to be readily understood. Adherence to these guidelines is recommended.

Key steps prior to nominating a reopener event will include the following:

- identify a reopener event:
 - assess whether all the criteria in the IMs for the relevant reopener event have been fully met
- gather necessary information:
 - collect and prepare all necessary information and documentation to support the reopener event proposal, as described in the previous section of these guidelines and the IMs
- seek stakeholder input:
 - applies to quality standard variation proposals or projects which are in response to a specific consumer need, such as an asset relocation or a new or upgraded consumer connection
- engage with the Commission:
 - early engagement is recommended, at least [3 months] prior to submitting a reopener proposal
 - this will help the Commission to plan resourcing for responding to the proposal
 - it will also assist the applicant to understand the Commission's requirements and evaluation approach, and to prepare compliant, high-quality proposals.

4.2 During the assessment process

Once a reopener proposal has been submitted, the Commission's assessment process commences. This is described in the next section of these guidelines. The key steps for the applicant during this stage are as follows:

- submit the proposal for a reopener
 - notify the Commission of the reopener event and provide the required information for assessment
 - notify the Commission of any confidential information that the applicant wishes to be redacted from the public version of the proposal document. Redactions may be appropriate for confidentiality, commercial sensitivity, or security reasons
 - there is no requirement for director certification of the reopener proposal
 - there is no requirement for the applicant to publish the reopener proposal
- provide supplementary information
 - if requested by the Commission, provide additional information in a timely manner which fully responds to the information request

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- respond to the Commission's queries
 - be prepared to answer any questions or provide further clarification as required by the Commission during the assessment process
 - this may include making engineering or other personnel available to discuss options and the technical components of the proposed solution to the event
- draft decision
 - before publishing the draft decision, the Commission may engage with applicants about the technical drafting and the narrative in the decision papers
 - such requests typically have a short response time
 - respond to the draft decision once published via written submission
 - be prepared to respond to consumer or stakeholder queries once the draft decision is published.

4.3 Streamlined process

The Commission recognises that there may be urgent consumer driven reopener proposals that would benefit from a streamlined application and assessment process. These are most likely to involve situations where:

- the EDB or GDB is aware of a potential consumer need, but the consumer has been unable to provide the level of certainty required for a reopener event sufficiently in advance of the project
- the EDB or GDB was unaware of an urgent consumer need.

In such instances, and subject to receiving a compliant reopener proposal, the Commission will consider a streamlined evaluation and amendment process where:

- the applicant has actively engaged with the Commission, prior to submitting the reopener application
- the applicant has engaged an independent and suitably qualified expert to review the proposed solution contained in the proposal
- the proposal does not have a material impact on consumers other than the consumer(s) who has triggered the proposal.

5. Assessment process

The purpose of this section is to provide guidance about the Commission's process for assessing reopener nominations and determining amendments to price-quality paths.

5.1 Context

The Commission's objective is to be as agile, efficient, and proportionate as is reasonably practicable. The assessment process is designed to deliver most decisions within [six months] after a reopener nomination has been received. However, the Commission notes that this may not always be possible.

For some applications a streamlined assessment process may be appropriate, as described in the preceding section. In these instances, the assessment process may be reduced by up to [three months] compared to a standard process.

The assessment process outlined in 5.2 below applies to reopener proposals initiated by EDBs or GDBs. However, the Commission may also initiate reopeners, such as for a WACC change event or where false or misleading information has been used in determining a price-quality path. The process for reopeners initiated by the Commission is addressed in 5.3 below.

5.2 Indicative process for reopener proposals

Table 5.1 outlines the Commission's indicative assessment process for reopener proposals. More detail about each stage is included below.

Table 5.1 Indicative assessment stages

Stage	Explanation	Expected duration
a) Pre nomination engagement	Discussions with applicant before reopener nomination lodged	[3+ months] Dependent on the applicant's preparation, degree of certainty about the event, and the complexity of the event
b) Nomination received	Publish a website notice of a nomination for a reopener and the process for determining the outcome	[1 week]
c) Evaluation i) Trigger	Determine whether the nomination meets the relevant IM criteria for a reopener event Publish a website notice as to whether a reopener event has occurred	[1 - 4 months] If the Trigger stage concludes with a rejection of the nomination, the duration would be expected to be [1-2 months]. If the Trigger stage concludes with confirmation that a reopener event has occurred, and therefore the Consideration stages proceeds, the duration could extend to [4 months] before a draft decision is made.
ii) Consideration	Determine whether the applicant's price-quality path will be reopened and amended, subject to consultation Determine whether the application is better suited to a CPP	Duration will depend on the

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Stage	Explanation	Expected duration
iii) Amendment	Determine the proposed amendments to the applicant's price-quality path	information included in the proposal, the complexity of the event, and whether further information is required from the applicant before a decision can be made.
d) Draft decision	<p>Publish a statement as to whether the applicant's price-quality path will be reconsidered and the proposed amendments.</p> <p>Where the price-quality path is to be amended, the following will be published:</p> <ul style="list-style-type: none"> ● draft decision paper ● supporting models ● draft amendments to the DPP/PPP determination 	
e) Consultation	The draft decision will be subject to consultation	<p>[2 - 4 weeks]</p> <p>Duration will depend on complexity and materiality of the proposed amendments, and the impacts on consumers or other stakeholders</p>
f) Final Decision	Feedback on the draft decision will be considered before a final decision is published	<p>[1 month]</p> <p>The duration will depend on the extent of the feedback and the issues to be considered before making a final decision</p>

a) Pre nomination engagement

The Commission encourages applicants to engage with the Commission prior to submitting a reopener proposal. This will help the Commission to plan its resourcing and approach by gaining an understanding of the materiality and complexity of the event under consideration.

Pre-engagement may also help applicants prepare high quality and compliant proposals with appropriate evidence, as the Commission can respond to questions and provide clarifications about the requirements during this stage. It may also assist to streamline reopener approval processes.

The appropriate timing and extent of the pre-nomination engagement will vary depending on the specific nature of the reopener being discussed. The Commission expects applicants to initiate discussions with the Commission no later than [three] months prior to a proposal being submitted.

The Commission notes that discussions during this stage will not commit either the Commission or the applicant during the later stages of the assessment process.

b) Nomination received

When a reopener nomination is received a notice must be published on the Commission's website to that effect. This notice will state that a nomination has been received from the

applicant and provide information about next steps. The proposal will be published alongside the notification.

Notifying that a reopener nomination has been received will be of interest to stakeholders of the applicant, and other reopener applicants or potential applicants of reopeners.

c) Evaluation

i) Trigger

The Commission will evaluate reopener proposals against the relevant IM criteria and determine whether the proposed reopener event has occurred. A nomination will be rejected if it does not meet the criteria for the relevant event as specified in the IMs.

If there is insufficient information in the proposal to confirm whether an event has occurred, the applicant will receive a written request for supplementary information. The Commission may also wish to meet with the applicant to understand the context for the event and the information in the proposal, before determining whether a reopener event has occurred.

At the end of this stage the Commission will publish its decision as to whether a reopener event has occurred, and the reasons for the decision should the Commission determine that a reopener event has not been triggered.

Where the Commission determines a reopener event has occurred, the Commission may choose to undertake the *Consideration* and *Amendment* stages before the Commission formally notifies the acceptance decision. The Commission will endeavour to keep the applicant up to date with its progress as it works through the evaluation stage.

ii) Consideration

Proportionate scrutiny

During the *Trigger* stage the Commission will assess the complexity and materiality of the event. This will determine the level of scrutiny the Commission will apply when the proposed impact on the price-quality path is evaluated. This provides the Commission with flexibility to adapt its approach and timeframes to suit the circumstances of each proposal.

The Commission will consider the following when determining the proportionate scrutiny for each proposal:

- the materiality of the proposal
- the size of the potential adjustment to the price-quality path relative to the price-quality path applying to the applicant
- the extent to which the project will be funded by the consumer(s) which has triggered the need for the amendment to the price-quality path
- the degree of pre-nomination engagement and the clarity with which the proposal is presented
- the constraints of the DPP regime.

The following thresholds may be used as a guide to assess the materiality of the proposal. The minimum thresholds referred to in Table 5.2 are specified in the IMs and presented in Appendix C for reference.

Table 5.2 Proportionate scrutiny thresholds

Materiality	Applicable IM revenue or cost materiality threshold for the event
Low	Proposal is no more than 2x the minimum threshold
Medium	Proposal is between 2x and 5x the minimum threshold
High	Proposal is more than 5x the minimum threshold

Supplementary questions

The Commission may ask supplementary questions once the proposal is received. These may include requests for supporting models and evidence of Board approvals.

Assessment criteria

The Commission's assessment of whether a price-quality path is reopened will include consideration of:

- the impact of the reopener event on the applicant's costs, revenues, and quality outcomes
- whether the applicant's DPP or CPP explicitly or implicitly accounts for the reopener event
- whether the required action can be delayed until a future regulatory period
- the extent to which the applicant contributed to or could have prevented the adverse consequences
- whether the applicant has appropriately reviewed and reprioritised its planned capex and opex
- the alignment of the proposal with the 52A purpose statement objectives.

CPP proposal more appropriate

The Commission may determine that a CPP proposal is a more appropriate option for addressing the impact of the event, than reopening the DPP. This may apply when the reopener event impacts a wide range of costs which were used to set the applicant's DPP. This option does not apply to error events, major transaction events, or the discovery of false or misleading information.

In determining whether a CPP is more appropriate, the Commission will consider:

- whether the proposed projects relate to a wider project or programme requiring wide consumer engagement
- the materiality of the expected price and quality impacts on consumers
- the proportion of consumers expected to be impacted by changes to the price path
- whether the event will have upstream or downstream impacts on the network
- whether large projects (either foreseeable or unforeseeable) exceed \$30m in a disclosure year. This value ignores any capital contributions, or any amounts included in the DPP
- the consequences of deferring the decision to allow for the applicant to prepare and submit a CPP application, and for the Commission to assess the CPP application and make a CPP determination.

iii) Amendment

The amendments to the price path, quality standards, and quality incentive measures must be limited to those that are reasonably necessary to mitigate the effect of the reopener event, after taking into consideration any insurance or compensatory entitlements. The Commission may amend quality standards and quality incentive measures for any reopener event.

The following event specific limitations apply:

- the Commission may not amend the price path in response to a quality standard variation proposal event
- the Commission may only amend opex in the price path where it is more effective than capex in responding to a risk event
- price path amendments for foreseeable and unforeseeable projects are limited to the efficient costs of a prudent EDB or GDB.

The Commission must take the expenditure objective into account when determining amendments to the price-quality path. The expenditure objective means:

the objective that capex and opex reflects the efficient costs that a prudent EDB/GDB would require to-

- (a) meet or manage the expected demand for electricity/gas distribution services, at appropriate service standards, during the DPP regulatory period or CPP regulatory period and over the longer term; and*
- (b) comply with applicable regulatory obligations associated with those services*

When considering a quality standard variation proposal, the Commission must consider:

- whether the proposed variation better reflects the realistically achievable performance of the applicant
- consultation with and support by consumers for the variation.

Calculating the value of amendments to the price path

The intent is that the price path is amended to the extent necessary to reflect a situation where the approved expenditure is assumed to have been included in the forecast when the price path was originally determined.

The following description applies to reopeners where additional capex and/or opex is permitted to be recovered during the regulatory period.

The Commission will apply the following approach when calculating the price path amendments:

- determine the changes to the capex and/or opex allowances able to be recovered for each year of the regulatory period
- rerun the financial model which supports the DPP/ CPP determination (including the impact of any reopeners previously determined within the regulatory period) with the

modified expenditure amounts to derive the modified BBAR for the relevant disclosure years of the regulatory period

- recalculate maximum allowable revenue (MAR) before tax, using the applicant's applicable X factor, to reflect the modified BBAR in the relevant disclosure years
- determine revised forecast FNAR or ANR for the relevant disclosure years beyond the amendment determination date
- back cast MAR in the first year of the regulatory period for inclusion in the amendment determination to give effect to the revised price path
- for EDBs, amend the forecast capex and forecast opex to reflect the modified expenditure amounts for the relevant years, for the purpose of IRIS.

The Commission will also reconsider the financeability analysis, which was undertaken when the price path was originally determined, when amending the price path.

Where reopener events involve other components of the revenue building blocks such as the WACC, RAB or tax related building blocks, the same process will apply, with the appropriate revenue building blocks replaced with updated amounts in the financial model.

For catastrophic events, a reopener recoverable cost may be determined to provide for the recovery of expenditure incurred before the amended price-quality path comes into effect. The recoverable cost will be determined alongside the price path amendments. This is because the amended FNAR or ANR will only apply to disclosure periods following the amendment determination.

Calculating the amendments to the quality path

Where a quality standard variation has been proposed, the Commission may use the modeling approach developed by the applicant, subject to any modifications reflected in the decision, to determine the impact on the quality standards or quality incentives.

Where an amendment to the quality standards or incentives are not the result of a nomination for a quality standard variation, the Commission will use the quality standards models which support the relevant DPP/ CPP determination. This will likely involve:

- determining the changes to inputs or parameters for the quality standards or quality incentives
- rerunning the DPP/ CPP determination quality standards models to determine modified standards and or incentive rates
- modified standards may include changes to the following:
 - unplanned SAIDI or SAIFI target, boundary, limit
 - planned SAIDI or SAIFI target, limit
 - SAIDI incentive rates, caps, and collars.

d) Draft decision

The draft decision will include:

- a statement as to whether a reopener event has occurred
- a statement as to whether it is proposed that the applicant's price-quality path is to be reopened and amended
- a statement as to whether a CPP is more appropriate.

The draft decision will include explanations for each statement, including:

- a description of the event
- the evaluation against the IM criteria for the reopener event
- the matters considered in reopening the price-quality path
- the level of scrutiny applied to the proposal
- the matters considered in recommending that a CPP is more appropriate, where relevant
- the proposed amendments to the price-quality path and the reasons that the amendments are proposed
- the methods for determining the proposed amendments.

In addition, the draft decision will include information about how interested parties can provide views on the draft decision.

The draft decision will be accompanied by a draft amendment determination and supporting models where appropriate.

e) Consultation

Public consultation will be undertaken on the draft decision. The process and duration for the consultation will depend on the characteristics of the reopener event.

Standard consultation will involve invitations to stakeholders for written submissions on the draft decision. More targeted consultation may be undertaken where the event impacts a particular group of consumers or individual consumers. This will be determined once the materiality of the reopener and how it may impact consumer prices or service quality is understood.

f) Final decision

Consultation feedback will be assessed before a final decision is made, including any additional evidence provided by the applicant during the consultation stage. The final decision will be published on the Commission's website and include:

- a final reasons paper, including the results of consultation on the draft decision
- a price-quality path amendment determination, where relevant
- supporting models, where relevant.

Where possible, final decisions will be published at least four months prior to the start of a disclosure year, to allow for any price-path amendments to be reflected in the year immediately following the assessment of the reopener nomination.

Applicants are encouraged to submit their formal reopener nominations at least six months before the target date for a final decision.

5.3 Indicative process for reopeners initiated by the Commission

Where a reopener is initiated by us, the indicative process outlined above is expected to be modified. The process is described in Table 5.3 overleaf.

The Commission may use its existing information gathering powers to obtain any further evidence required to determine a reopener that it initiates. Should this option be used, the

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Commission will, where appropriate, follow the principles on which the indicative reopener assessment process is based including a proportionate approach to the information requested and level of analysis.

Table 5.3 Indicative process stages for reopeners initiated by the Commission

Stage	Modified process - for Commission initiated reopeners	Modified process - expected duration
a) Pre engagement	Discussions with the EDB or GDB impacted by the event Request information from the EDB or GDB if required	[1 - 2 months] Dependent on the complexity of the event and whether information is required from the EDB/GDB
b) Trigger	Publish a website notice that the reopener event has been initiated and the process for determining the outcome	[1 week]
c) Consideration and Amendment path	Determine the proposed amendments to the price-quality path of the relevant EDB or GDB	[1 - 2 months] Duration will be shorter for simple or routine amendments such as a WACC change event or an error event.
d) Draft Decision	Publish a statement as to whether the EDB/GDB's price-quality path is to be amended, and the proposed amendments Where the price-quality path is to be amended, the following will be published: <ul style="list-style-type: none"> • draft decision paper • supporting models • draft amendments to the DPP/ CPP determination 	
e) Consultation	The draft decision will be subject to consultation	[2 weeks]
f) Final Decision	Feedback on the draft decision will be considered before a final decision is published	[1 month] Duration will depend on the extent of feedback on the draft decision

Appendices

A. Glossary of terms

Act	Part 4 of the Commerce Act
AMP	asset management plan
ANR	allowable notional revenue
CPP	customised price-quality path
DPP	default price-quality path
EDB	electricity distribution business
FNAR	forecast net allowable revenue
GDB	gas distribution business
IM	input methodology
IRIS	incremental rolling incentive scheme
MAR	maximum allowable revenue
RAB	regulated asset base
SAIDI	system average interruption duration index
SAIFI	system average interruption frequency index

B. Applicable input methodologies

Table B1 Applicable IMs for EDB reopeners

IM Clause references	EDB IMs for DPPs	EDB IMs for CPPs
Part 1 General Provisions		
1.1.4 Interpretation	Includes key definitions	
Subpart 3 Incremental rolling incentive scheme (EDBs IMs only)		
Section 4 Price quality path amendments and other events	3.3.13 Calculating alternative incentive adjustments following price-quality path transitions 3.3.14 Calculating incentive adjustments for other events	
Part 4 Subpart 5 Reconsideration of the default price-quality path Part 5 Subpart 6 Reconsideration of the customised price-quality path		
Section 1 When Commission can reconsider the DPP/ CPP	4.5.1 When a DPP may be amended 4.5.2 Process for reconsideration of the DPP 4.5.3 Confidential information	5.6.1 When a CPP may be amended 5.6.2 Process for reconsideration of the CPP 5.6.3 Confidential information
Section 2 Events that may be reopener events	4.5.4 Catastrophic event 4.5.5 Change event 4.5.6 Error event 4.5.7 False or misleading information 4.5.8 Major transaction event 4.5.9 Unforeseeable large project 4.5.10 Foreseeable large project 4.5.11 Risk event 4.5.12 Proposal of a quality standard variation	5.6.4 Catastrophic event 5.6.5 Change event 5.6.6 WACC change event 5.6.7 Error event 5.6.8 False or misleading information 5.6.9 Major transaction event 5.6.10 Contingent project 5.6.11 Unforeseen project
Section 3 Commission consideration of whether and how to amend the DPP/ CPP	4.5.13 Commission consideration of whether to amend the DPP 4.5.14 Commission may determine CPP proposal more appropriate 4.5.15 Amending DPP after reconsideration	5.6.12 Commission consideration of whether to amend the CPP 5.6.13 Amending CPP after reconsideration

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Table B2 Applicable IMs for GDB reopeners

IM Clause references	GDB IMs for DPPs	GDB IMs for CPPs
1.1.4 Interpretation	Includes key definitions	
Part 4 Subpart 5 Reconsideration of the default price-quality path Part 5 Subpart 7 Reconsideration of the customised price-quality path		
Section 1 When Commission can reconsider the DPP/ CPP	4.5.1 When a DPP may be amended 4.5.2 Process for reconsideration of the DPP 4.5.3 Confidential information	5.7.1 When a CPP may be amended 5.7.2 Process for reconsideration of the CPP 5.7.3 Confidential information
Section 2 Events that may be reopener events	4.5.4 Catastrophic event 4.5.5 Change event 4.5.6 Error event 4.5.7 False or misleading information 4.5.8 Major transaction event 4.5.9 Capacity event 4.5.10 Risk event 4.5.11 Resilience or asset relocation event	5.7.4 Catastrophic event 5.7.5 Change event 5.7.6 WACC change event 5.7.7 Error event 5.7.8 False or misleading information 5.7.9 Major transaction event 5.7.10 Contingent project 5.7.11 Unforeseen project
Section 3 Commission consideration of whether and how to amend the DPP/ CPP	4.5.13 Commission consideration of whether to amend the DPP 4.5.14 Commission may determine CPP proposal more appropriate 4.5.15 Amending DPP after reconsideration	5.7.12 Commission consideration of whether to amend the CPP 5.7.13 Amending CPP after reconsideration

C. Reopener thresholds

The thresholds set out in the following table must be met before an event qualifies as a reopener event. Where two thresholds are specified for a reopener event, one of the thresholds must be met. Unless specified as a range, the thresholds are minimum requirements.

Table C1 Thresholds for reopener events

Reopener	Measure	Revenue / RAB threshold	Cost threshold
Catastrophic event	Costs of remediation net of any insurance or compensatory entitlements	1% FNAR/ANR for regulatory period	\$5m Vector or Powerco \$2.5m other EDBs \$100,000 for GasNet \$2m for other GDBs
Change event	Additional reasonable costs (whether capex, opex, or both)	1% FNAR/ANR for the regulatory period	\$5m Vector or Powerco \$2.5m other EDBs \$100,000 for GasNet \$2m for other GDBs
Error event	Aggregate amount of the FNAR/ANR/MAR after tax Value of quality standard metrics or measures	\$100,000 for the regulatory period No threshold	No threshold
False or misleading information		No threshold	No threshold
Major transaction event	Value of acquisition, disposal, or rights or interests obtained, or obligations incurred	10% opening RAB in disclosure year of acquisition	No threshold
Unforeseeable large project (EDB DPPs only)	Relevant expenditure, including consequential opex and capex and net of contributions and any amounts included in the DPP	1% FNAR/ANR for the regulatory period	\$5m Vector or Powerco \$2.5m other EDBs
Foreseeable large project (EDB DPPs only)	Relevant expenditure, including consequential opex and capex and net of contributions and any amounts included in the DPP	1% FNAR/ANR for the regulatory period	\$5m Vector or Powerco \$2.5m other EDBs
Risk event	Relevant opex and capex, net of contributions and any amounts included in the DPP	1% FNAR/ANR for the regulatory period	\$5m Vector or Powerco EDBs \$2.5m other EDBs Between \$100,000 - \$350,000 for GasNet Between \$2m and \$10m for other GDBs
Quality standard variation proposal (EDBs only)		No threshold	No threshold

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Reopener	Measure	Revenue / RAB threshold	Cost threshold
Capacity event (GDBs only)	Relevant expenditure, including consequential opex and capex and net of contributions and any amounts included in the DPP		Between \$100,000 - \$350,000 for GasNet Between \$2m and \$10m for other GDBs
Resilience or asset relocation event (GDBs only)	Forecast commissioned assets net of contributions and any amounts included in the DPP		Between \$100,000 - \$350,000 for GasNet Between \$2m and \$10m for other GDBs
WACC change event (CPPs only)		No threshold	No threshold
Contingent Project (CPPs only)	Relevant expenditure	10% annual revenue in most recent disclosure year	
Unforeseen project (CPPs only)	Total forecast capex and opex	10% annual revenue in most recent disclosure year	

D. Reopener event examples

The table below contains a high-level description of each type of event and examples of circumstances which may be resolved by each type of event.

Table D1 Reopener event examples

Type of event	Description	Examples of relevant circumstances for EDB or GDB
Catastrophic	For events beyond the control of suppliers that have unforeseeable timing and with adverse consequences that need to be rectified	<p>Work in the short to medium term that cannot be delayed without quality standards being breached and addresses adverse consequences of an event that could not have been foreseen, such as natural disasters</p> <p>Retrospective recovery of costs (costs incurred in the time between the event occurring and when the price path is amended) for work undertaken in the immediate aftermath of an event that could not have been foreseen such as natural disasters (eg, to restore electricity after a cyclone)</p>
Change	Change in, or new legislative or regulatory requirement applying to a supplier	<p>New or amended legislation or a judicial interpretation of legislation that results in additional reasonable costs</p> <p>New or changed GAAP requirements that when applied to a regulated supplier results in a change in how expenditure, assets, liabilities, revenue, or taxation are recognised or measured</p> <p>Changes in a local authority plan that apply to an EDB/GDB and result in required additional reasonable costs</p>
Error	Either incorrect data was used, or data was incorrectly applied to set the price-quality path	Outage data used to set an EDB's unplanned quality standards was incorrectly extracted from the source data
False or misleading information	Where the Commission relied on false or misleading information provided in setting the DPP or CPP	An EDB's information disclosures for the four years prior to the start of the regulatory period contained calculation errors which resulted in RAB depreciation being understated and the RAB being overstated
Major transaction	For situations where consumers are acquired or no longer supplied, and this results in assets used to serve consumers being acquired or sold	A non-exempt EDB acquires a sub-network of another non-exempt EDB during the disclosure year, and the RAB value of the sub-network exceeds 10% of the RAB of the acquiring EDB
Risk event	Asset deterioration impacting quality standards or safety that is either unforeseen or foreseeable but not sufficiently certain	A gas compressor manufacturer identifies an engineering design fault that has caused deterioration (or likely to cause deterioration) that will likely result in premature failure of a component in the compressor within 18 months if not replaced. The GDB receives notification of this from the manufacturer along with recommendations for it to replace the component in four compressors. It performs a risk assessment which concludes that action is required. Replacement of this component is not indicated in the AMP
Unforeseeable /Unforeseen large project	Unforeseeable capex project or programme for connection, system growth, combination of connection and system growth, or asset relocation	Unexpected consumer demand has necessitated more investment in connection assets than planned at the time an EDB's DPP was determined. The additional demand reflects multiple commercial developments and residential subdivisions. The EDB had planned to invest in additional connection capacity during the regulatory period, but the demand is more than

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Type of event	Description	Examples of relevant circumstances for EDB or GDB
		<p>anticipated. In addition, the extra demand requires part of the 11kV network to be reinforced to maintain security standards. This upgrade was not previously scheduled to fall within the regulatory period</p>
Foreseeable large project	Foreseeable but under-forecasted or underfunded capex project or programme for connection, system growth, combination of connection and system growth, or asset relocation	<p>A new connection point to the network is required for a new dairy factory that is being constructed. This connection project is not provided for in DPP allowances. The size of the connection is 8MW and the forecast expenditure exceeds \$2.5 million. Capacity investment is required on the network to support the new dedicated connection. The large connection contract mechanism is not applied</p> <p>Increased EV uptake causes an increase in demand requiring network capacity investment. This scenario was forecasted in the AMP schedules. It was not provided for in DPP allowances due to uncertain timing and cost. The need for the network capacity investment is now more certain</p> <p>A zone substation needs to be relocated due to flood risk</p>
Quality standard variation	Proposal to vary quality standards to better reflect the realistically achievable reliability performance of an EDB	An EDB has determined that the price path expenditure allowances are insufficient for it to meet the quality standards. Consumer consultation has indicated a preference for increasing the unplanned reliability limit rather than increasing expenditure and therefore prices
Capacity event	Need for additional GDB capacity (established or reasonably anticipated demand for connection, system growth, replacement and renewal, combination of connection and system growth, that was uncertain in timing or could not have reasonably been foreseen	A new connecting party (or parties) require the GDB to enhance part of its network to meet the forecast gas capacity increase
Resilience or asset relocation event	Need for additional GDB investment for resilience or asset relocation, that was uncertain in timing or could not have reasonably been foreseen	At the time the DPP was determined, emerging ground stability issues indicated that a section of a GDB's network may need to be relocated in the future. During the regulatory period, a series of slips resulting from weather events caused more land movement, increasing the risk of damage to pipelines and interruptions to supply. Accordingly, the pipelines need to be relocated before the end of the regulatory period, to maintain network resilience
Contingent project	Project that is reasonably required but is contingent on a trigger being activated	A CPP determination includes a new connection project which was specified as being contingent on the customer confirming the development requiring the new connection to the network. The customer confirms the development is to proceed and the connection is required in the fifth year of the CPP
WACC change	CPP spans more than one DPP regulatory period, requiring the regulatory WACC to be amended	A five-year CPP commences in year three of a DPP regulatory period and ends in year two of the next DPP regulatory period. A new DPP WACC is determined for the second DPP, which must apply to the final two years of the CPP