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Cross Submission on EDB DPP4 Draft Decision

Background

1. The Commerce Commission (the Commission) published the draft Default Price Quality Paths for Electricity Distribution Businesses from 1 April 2025 draft decision on 29 May 2024[1] and feedback was sought from stakeholders.
2. The Commission released the submissions that it received in response to this decision on 12 July 2024 and invited stakeholders to provide cross submissions.
3. We have reviewed the submissions and provide Orion's feedback in this cross-submission.
4. Orion has contributed to, and supports, the joint submission from the "Big6" EDBs (Vector, Orion, Wellington Electricity, Aurora, Unison and PowerCo). We also support the cross submission provided by Electricity Networks Aotearoa (ENA).
5. We welcome the opportunity to engage with the Commission in online workshops on matters relating to these decisions, including the upcoming Innovation workshop.

Cross Submission Commentary

Context

6. There was general acknowledgement across submitters that the electricity sector is in a period of change and that it is important that the regulatory settings provided for in DPP4 are appropriate to support this transition.

[1] Default-price-quality-paths-for-electricity-distribution-businesses-from-1-April-2025-Draft-reasons-paper-29-May-2024.pdf (comcom.govt.nz)

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"*MEUG appreciates the trade-offs that the Commission has had to make during this DPP reset, balancing the need for increased investment in the distribution networks, against the uncertainty facing the energy sector and the price shocks facing all consumers*."[2] MEUG.

"*The Commission's decision is taking place in a period of significant change and uncertainty for the sector, where EDBs play a key role in enabling the electrification of New Zealand*."[3] PowerCo

"*EDBs are recognised as enablers of New Zealand's transition to a low-carbon future. To get to this future will require significant increases in investment and for EDBs to adopt new ways of doing things. This has to be achieved against a backdrop of significant and sustained cost inflation, a need to train and develop people, and considerable uncertainty as to how this new future will develop*"[4] Energy Trusts of New Zealand.

7. We also acknowledge that there is uncertainty around what this transition will look like and how it will occur, and that this creates challenges for the Commission when making its DPP4 decisions.

8. While there is an uncertainty around the future, we reiterate that it is important that the Commission ensures that settings in DPP4 support the necessary transition that the sector is going through. Inappropriate regulatory settings could significantly hinder New Zealand's ability to transition to a low carbon economy, or to make this transition more expensive than it needs to be.

Increase in Capex Allowances

9. In preparing its draft decision, the Commission has had to balance providing sufficient allowances for EDBs to ensure that they are able to invest in and maintain their networks, while considering the price impacts on consumers. This trade-off is discussed by EECA, who state *"We acknowledge and agree that the Commission needs to increase the amount of revenue available to Electricity Distribution Businesses (EDBs) to grow and future-proof this increasingly critical infrastructure. We also agree that it is essential that this is balanced by safeguards to protect the consumer from unnecessary price increases."*[5]

10. Some submitters, including Fonterra and the Major Electricity Users Group (MEUG), have argued that there isn't sufficient justification for the 125% increase in capex allowances. As stated by MEUG, they *"are not convinced that sufficient justification has been given to move away from the 120% limit applied for DPP3"*.[6]

[2] Paragraph 5, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[3] Paragraph 2, page 3, https://comcom.govt.nz/__data/assets/pdf_file/0032/359285/Powerco-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[4] Page 1, https://comcom.govt.nz/__data/assets/pdf_file/0029/359219/Energy-Trusts-of-New-Zealand-ETNZ-Submission-on-EDB-DPP4-draft-decisions-11-July-2024.pdf
[5] Page 3, https://comcom.govt.nz/__data/assets/pdf_file/0027/359217/EECA-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[6] Paragraph 12, page 3, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

11. Other submitters have submitted that they are concerned about the impact on consumers, particularly during the current cost of living crisis. For example, ERANZ submitted that:

> *"Ensuring that electricity continues to remain affordable for households is critical right now because of the broader financial pressures households are facing from cost-of-living increases. It is essential the Commission prioritises these financial challenges in forming its final decisions paper to prevent exacerbating the financial burden on consumers."*[7]

12. We acknowledge that the current high inflationary environment is creating higher costs across the economy. But EDBs are not immune to this inflation. It is therefore vital that this is recognised in the allowances that are set.

13. It is important that conversations around the size of the increase of allowances acknowledge that most of the increase in revenue are driven by exogenous factors. Unfortunately, submitters cited above fail to acknowledge this.

14. Orion agrees with the Energy Trusts of New Zealand who comment that:

> *"the bulk of the increases are caused by a reversion to rates of return that are more consistent with long-term averages than the artificially low WACC for DPP3. The Commission must learn from this and adopt an approach that delivers greater price stability."*[8]

15. While factors such as increased WACC will lead to an increase in prices for consumers, it is vital that EDBs are provided with realistic allowances, taking into account the exogenous factors faced by EDB. Orion submits that a failure to do so will mean that we are unable to appropriately maintain and renew our network and limit our ability to support increasing customer demand.

16. The Business Energy Council (BEC) cover this in their submission:

> *"Overall, the draft decision helps maintain allowances in line with inflation and increased costs – a necessary outcome – but additional revenue that would fund new investments required for more demand remains greatly limited.*
>
> *This could be a material risk to the reliability and capability of the network in the future if necessary investments are delayed and network demand increases. Delaying investment could simply defer costs to the next regulatory period, and with it, risks the possibility of increasing the overall cost if it is more expensive to upgrade the network in the future due to foreseen or unforeseen reasons."*[9]

17. A higher capex allowance will enable EDBs to ensure that their networks are maintained and can continue to provide for the needs to their communities. Consumers will not benefit from delays in investment, which can cost more in the long run, or from networks which are unreliable.

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[7]Page 2, https://comcom.govt.nz/__data/assets/pdf_file/0022/359221/ERANZ-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

[8] Page 2, https://comcom.govt.nz/__data/assets/pdf_file/0029/359219/Energy-Trusts-of-New-Zealand-ETNZ-Submission-on-EDB-DPP4-draft-decisions-11-July-2024.pdf

[9] Paragraph 10, page 3, https://comcom.govt.nz/__data/assets/pdf_file/0023/359213/Business-Energy-Council-BEC-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

18. We consider that a higher cap is needed to provide a better balance between ensuring that EDBs have the allowances to maintain and invest in their networks, while ensuring that consumers do not face unnecessarily high costs.

19. Horizon Energy submitted, and we support, that "*a cap of 150% of the reference period is applied for the DPP4 final decision. This will significantly reduce the forecast shortfall in capex while managing the price impact due to increased capital investment needed in DPP4.*"[10]

20. We note that a number of other EDBs, including Wellington Electricity, Unison and Alpine, are also seeking an increase in the capex allowances to allow them to maintain and invest in their networks. We cross submit in support of these submissions that an increase in capex allowances is required.

Adjusting the capital allowances for capital contributions

21. We note that Wellington Electricity supports the proposed new method to adjust capex allowance by customer contributions, as they consider that this method *"correctly reflects that the proportion of capital contributions compared to net capex could change over time if some capex categories grow faster than others."*[11]

22. Orion disagrees with this statement and does not support the Commission's draft decision to adjust capex allowances by capital contributions.

23. Under this proposal, the timing of one-off projects can have a significant impact on an EDBs capex settings in the upcoming regulatory period. As an example, we assume two companies have identical "normal" capex profiles (both historic and forecast) and both are forecasting a 50% uplift in normal gross capex. Both companies have a large one-off project which is 75% customer funded, but for Company A this project is forecast to occur in the next period, while the project was completed in the current regulatory period for Company B.

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[10] Paragraph 16, page 2, https://comcom.govt.nz/__data/assets/pdf_file/0027/359208/5BPUBLIC5D-Horizon-Networks-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[11] Page 12, https://comcom.govt.nz/__data/assets/pdf_file/0028/359209/5BPUBLIC5D-Wellington-Electricity-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

24. The fiscal implications for this are set out below:

	Company A	Company B
Historic Normal Gross Capex	1000	1000
Historic Normal Contribution	20	20
Historic Normal Net Capex	980	980
Historic Project capex	0	200
Historic Project Contribution	0	150
Historic Project Net Capex	0	50
Total Historic Net Capex	980	1030
Forecast Normal Gross Capex	1500	1500
Forecast Normal Contribution	25	25
Forecast Normal Net Capex	1475	1475
Forecast Project Capex	200	0
Forecast Project Contribution	150	0
Forecast Project Net Capex	50	0
Total Forecast Net Capex	1525	1475
DPP4 Allowance Calculation	1121	1475
% of forecast Net Capex	74%	100%
Old method of allowance calculation	1225	1288
% of forecast Net Capex	80%	87%

25. While these numbers are illustrative only, it is clear that the draft decision to calculate capex allowances on a gross basis adjusted by forecast customer contributions can significantly impact on the net capex received by an EDB. Under the scenario above, Company A receives an allowance set at 74% of their forecast net capex, while Company B, whose project has already been completed receives 100%. This difference is much larger than it would have been under DPP3 methodologies (80% vs 87%).

26. Furthermore, if the expected projects are cancelled or delayed beyond the regulatory period, the affected EDB will have their capex allowance artificially reduced. Any such reduction will lead to affected EDBs needing to correspondingly reduce their capex programme, which has the potential to delay investment in the network, and consequently decreasing network performance and/or increasing costs in the longer term.

27. It is therefore essential that, if this draft decision is implemented, that adjustments to capex allowances are based on the most accurate information. There have been a number of significant changes in the last year, which will have an impact on the number of new connections that EDBs can expect in the upcoming regulatory period (e.g. the removal of the GIDI fund). Many of these changes are outside of an EDB’s control, but under the draft decision, they could make a material difference to the capex allowance received by an EDB.

28. While we remain opposed to this decision, we submit to the Commission that, if they wish to continue with this proposal, that EDBs should have the opportunity to resubmit their forecast customer contributions to ensure that it best reflects the current environment. This is consistent with the approach taken elsewhere in the draft DPP4 decision, where the Commission is seeking to use the most up to date information.

Revenue smoothing

29. We note that the MEUG "*would prefer a smoothing profile that weighted a higher proportion of funding to be recovered in the later years, enabling EDBS to address deliverability concerns and demand uncertainty first, while acknowledging the compounding cost pressures facing electricity consumers.*"[12]

30. Orion cross submits against this position.

31. Cost pressures have been building throughout DPP3. While other businesses in the economy have been able to pass these increases onto their customers, EDBs have had to absorb the costs throughout the DPP3 regulatory period while they await a reset of revenues at the start of DPP4. It is important that EDBs are able to get relief from these cost pressures early in the DPP4 regulatory period, rather than facing further delays. Insufficient revenues in the early years of the period will mean that EDBs will continue to have to make difficult trade-offs between maintaining their network, improving their networks' resilience and providing new connections.

32. In addition, ensuring that there is sufficient revenue in the early years of the regulatory period will also support EDBs who are considering a CPP proposal. The Commission notes in the draft decision paper that EDBs can apply for a CPP, if the DPP is not appropriate for their business. But as these applications take two years to complete, all EDBs who are not already on a CPP will be faced with the DPP4 revenues for at least the first two years of the period.

33. Increased revenue smoothing to the end of the regulatory period, as suggested by MEUG, increases the revenue gap at the start of the regulatory period for EDBs, who may consider a CPP proposal appropriate for their business, at a time when they are unable to apply for a CPP.

34. Orion submits that it is essential that there is sufficient revenue in the early years of the period to enable EDBs to make prudent decisions in the early years of the period, especially given the costs that EDBs are currently carrying from DPP3 and the inability for EDBs to seeking a CPP application at the beginning of the period.

35. We also disagree with the assertion made by MEUG that there are deliverability concerns that need to be addressed. Orion is confident that we will be able to deliver our proposed capex programme. We consider that our proposed capex spending is appropriate, necessary and achievable to be able to meet the needs of our customers and region. We reject the assertion by MEUG that we need more time to be able to deliver on this programme.

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[12] Paragraph 26, page 6, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

Reopeners

36. In the draft reasons paper, the Commission references the ability of EDBs to seek reopeners if the default settings in DPP4 are not appropriate.

37. When discussing the process for reopeners, Energy Trusts of New Zealand state that:

> *"in a resource constrained and price-sensitive environment, it does not make sense for EDBs to have to expend considerable effort on such activities, without a degree of confidence about the likely outcomes".*[13]

38. Orion agrees and supports efforts from the Commission to streamline the reopener process. We encourage the Commission to consider the proposed reopener guidelines that were submitted by the Big6 EDBs.

39. We also agree with the Business Energy Council that:

> *"It is important however that the reopener process operates in a timely fashion and lengthy delays are avoided. We recommend providing assurance to EDBs that reopener applications will be streamlined but the overall process remains robust and transparent to stakeholders, ensuring any amendments to revenue allowances are validated on accurate and tested evidence. A lengthy process could translate to the slowing down of projects which involve building or maintaining critical infrastructure, and as a result, could potentially impact security and quality of supply."*[14]

40. Lengthy, resource intensive reopener processes could delay necessary projects and ultimately the cost of these is borne by the consumer. We welcome efforts to streamline the reopeners application process and cross submit in support of the view provided by Vector in their submission:

> *"We recommend the Commission make further refinements to the re-openers in the IMs to provide confidence to the sector that EDBs will be able to access funding in an efficient and timely way when the need arises. Implementing a fast-track process using an independent verifier would be a way to achieve this in a way consistent with the low cost DPP."*[15]

Opex reopener

41. Wellington Electricity and PowerCo have both made submissions in support of the creation of a new opex reopener.

> *"A reopener should be available to networks to apply for additional opex allowances needed to maintain a network's quality standards. This would allow the Commission to apply a higher level of scrutiny to new allowances in the limited circumstances when the allowances are needed to meet customer quality expectations.*

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[13] Page 3, https://comcom.govt.nz/__data/assets/pdf_file/0029/359219/Energy-Trusts-of-New-Zealand-ETNZ-Submission-on-EDB-DPP4-draft-decisions-11-July-2024.pdf
[14] Paragrpah 17, page 5, https://comcom.govt.nz/__data/assets/pdf_file/0023/359213/Business-Energy-Council-BEC-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[15] Page 4, https://comcom.govt.nz/__data/assets/pdf_file/0028/359245/Vector-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

The Risk Event reopener is available in these exact circumstances but it only applies to capex. We think the regulatory model should be agonistic about the type of expenditure. Expanding the Risk Event reopener to include opex would not change the risk it is mitigating, it would just require expanding it to include allowances for operating expenditure." Wellington Electricity[16]

and

"While there are opex reopeners for costs associated to the energy transition (e.g. flexibility services), there isn't anything available for base opex. As Aurora has acknowledged we are bound by the timings of resets and if spend isn't known with enough certainty to meet the step change criteria at the time of the reset, we are forced to make costly trade-offs. This is evident in the Commission's recent trends study mentioned below.

In light of the above, we recommend the Commission expands the reopeners to include more drivers for opex (e.g. re-tendering field services), or allow for a single issue CPP. This addresses the Commission's concerns that customers bear the risk that EDBs are overfunded upfront but mitigates against the asymmetric risk of under investment as EDBs can apply for more funding when the cost arises mid-period. This solution is aligned with the Commission's decision-making framework because it:

- *Is consistent with low-cost principle – by making the most of existing mechanisms already familiar to the Commission (i.e. as opposed to introducing more).*
- *Allows for proportionate security – as EDBs must meet the higher burden of proof required for reopeners compared to step changes."* PowerCo[17]

42. Orion cross submits in support of the creation of an opex reopener to allow for increases in opex allowances. Such a reopener would enable EDBs to make prudent decisions when faced with significant increases in opex, rather than having to find savings within their existing allowances or creating a capex bias. Like other reopeners, EDBs would need to meet the specific criteria, providing assurance that consumers are not facing unnecessarily high costs as a result of this new reopener.

Innovation and Non-traditional Solutions Allowance (INTSA) – Increasing the cap

43. In the draft decision, the Commission decided to raise the INTSA to 0.6% of the Maximum Allowable Revenue (MAR), but also discussed setting the INTSA at 5% instead. A number of submitters supported INTSA having a higher than proposed cap including:

"We recommend that the more ambitious option outlined below – including maximum permissible INTSA expenditure of up to 5% of MAR – becomes part of the Commission's DPP4 Final Determination." ECObulb[18]

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[16] Page 20, https://comcom.govt.nz/__data/assets/pdf_file/0028/359209/5BPUBLIC5D-Wellington-Electricity-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[17] Paragraph 16, page 5, https://comcom.govt.nz/__data/assets/pdf_file/0032/359285/Powerco-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[18] Recommendation 1, page 22, https://comcom.govt.nz/__data/assets/pdf_file/0026/359216/Ecobulb-Submission-on-EDB-DPP4-draft-decisions-2-July-2024.pdf

"The proposed INTSA is set at a very low rate (0.6%) and may not be material enough to drive the change that is needed. An INTSA up to a rate of 5% may be needed to drive the change that is needed." MEUG[19]

"However, we are concerned that the innovation allowance cap of 0.6% is small and will be insufficient to address the significant need for innovative solutions. We recommend increasing the INSTA cap." EECA[20]

"EDBs having an innovation and non-traditional solution allowance (INTSA) of 5% of MAR allows them to undertake larger and more innovative energy efficiency and demand-side initiatives." Consumer NZ[21]

"The proposed INTSA regime is a good step to supporting the innovation needed. But it is too small and need to be increased substantially, e.g. the 5% option." SolarNZ[22]

"We are concerned that the innovation allowance is low compared to the significant need for non-network solutions in the face of large demand for capex. The innovation allowance cap must provide enough room to invest in non-network solutions and unleash innovation. We believe it would be beneficial for the Commission to increase the cap." Business Energy Council[23]

44. Orion cross submits in support of increasing the INTSA cap from the currently proposed 0.6% of MAR. We agree with Consumer NZ that is it *"better to have a 5% of MAR maximum permissible expenditure available to EDBs that they don't spend, rather than having a lower percentage MAR limit that results in EDBs having insufficient maximum permissible expenditure to fund worthy energy efficiency projects."*[24]

Innovation and Non-traditional Solutions Allowance (INTSA) - Criteria

45. It will be important that the criteria for the INTSA are practical, clear and workable to ensure that the Commission's aims of improving the uptake of INTSA in DPP4. While Orion welcomes most of the changes that are proposed, we cross submit in support of the following point raised by the ENA:

"Rather than use "riskier than business as usual," which is an ambiguous phrase, difficult to interpret with any precision and harder to substantiate with evidence, ENA recommends the Commission replace criteria 5(c) with the following:

(c) either—

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[19] Paragraph 28, page 6, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[20] Page 5, https://comcom.govt.nz/__data/assets/pdf_file/0027/359217/EECA-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[21] Page 5, https://comcom.govt.nz/__data/assets/pdf_file/0030/359238/Powerswitch-Consumer-NZ-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[22] Page 2, https://comcom.govt.nz/__data/assets/pdf_file/0024/359241/SolarZero-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[23] Paragraph 20, https://comcom.govt.nz/__data/assets/pdf_file/0023/359213/Business-Energy-Council-BEC-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[24] Page 7, https://comcom.govt.nz/__data/assets/pdf_file/0030/359238/Powerswitch-Consumer-NZ-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

(i) the financial benefits to the EDB of the project or programme are uncertain; or

(ii) there is a material risk that the project or programme may not result in:

(a) any financial benefit to the EDB; or

(b) a sufficient financial benefit to justify the investment.

If the Commission does not adopt the above and decides to retain a criterion that attempts to capture the idea of innovation as a relatively 'riskier' activity, then the Commission should consider either elaborating ENA submission on DPP draft decision 14 on the definition or including a non-exhaustive list of indicative factors and practical examples of the circumstances in which a project or programme will be considered riskier than business as usual."[25]

46. Under the current definition, it is unclear when solutions become business as usual and therefore no longer eligible for funding under the INTSA mechanism. This is noted by FlexForum in their submission:

"*It isn't clear when the use of non-traditional solutions like flexibility become BAU rather than riskier than BAU. Not addressing this design question will significantly weaken the incentives for distributors to use flexibility and prevent improvements in productivity and efficiency of distribution services through the use of flexibility.*"[26]

47. Orion cross submits in support of the suggested adjustments (set out below) from PowerCo to the INTSA process to increase regulatory certainty for EDBs:

"*We also consider the following adjustments will improve the process and provide certainty to EDBs to progress projects:*

- *Specifying a timeframe of 20 working days for the Commission to decide whether to approve an INTSA proposal. As an ex-ante process, having certainty on process timing is critical for project planning.*
- *Enabling a project to be split into individual phases and outputs to allow for the spread of funding (not just limited to full completion). Innovative or non-traditional projects typically go through several phases to assess and trial the project, potentially spanning multiple financial years. This can be enabled through the application requirements which include information on delivery dates, outputs, and costs per disclosure year."*[27]

48. Enabling funding to be split into individual phases will encourage EDBs to undertake more ambitious, multi-year projects, rather than requiring them to carry the cost across multiple financial years.

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[25] Page 13, https://comcom.govt.nz/__data/assets/pdf_file/0028/359218/Electricity-Networks-Aotearoa-ENA-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[26] Page 8, https://comcom.govt.nz/__data/assets/pdf_file/0023/359222/FlexForum-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[27] Paragraph 87, page 17, https://comcom.govt.nz/__data/assets/pdf_file/0032/359285/Powerco-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

49. A relatively short approval process for INTSA projects will provide certainty for EDBs to be able to take advantage of opportunities as they arise. Long approval times may also see costs of projects increase while approval is sought. In addition to the comments by PowerCo above, we cross submit in support of FlexForum's submission that:

> "*the Commission needs to commit to move quickly and 'sign off' INTSA and BCA projects promptly, ie, 1-2 months. Requiring distributors to wait extended periods to begin a project will cause projects to not start because the approval takes things past the window of opportunity. The Commission can encourage and enable distributors to accelerate their progress by accelerating its own processes."*

Innovation and Non-traditional Solutions Allowance (INTSA) – Quality impacts

50. We cross submit in support of the Consumer Advisory Council's (CAC) submission point that:

> *"We support the decision that outages directly associated with an INTSA project would be able to be excluded from assessment against the quality standards and incentives up to a specified limit (draft decision RP7)"*

This is in line with Orion's original submission, although we maintain our position that it is most appropriate for EDBs to have choice over whether to seek an exclusion or not.

51. Vector has raised the following:

> *"However, it is our view that SAIDI and SAIFI related to flexibility service providers should be entirely carved out, rather than capped. This would otherwise this could act as a disincentive to engage with third parties on innovative projects and services."*[28]

Orion supports this submission point. The Commission is seeking to increase the utilisation of the INTSA mechanism in its draft DPP4 decision. Placing a cap on the SAIDI/SAIFI exclusions for INTSA projects risks weakening this incentive.

52. If the Commission remains concerned about excessive quality impacts, we consider that the exclusion of an INTSA project from SAIDI/SAIFI calculations could be considered as part of INTSA applications, as suggested by Wellington Electricity:

"We support excluding SAIDI and SAIFI associated with INTSA projects from the quality standards.

However, the cap of 0.5% of the limits is too low (e.g. less than 0.19 unplanned SAIDI minutes for Wellington Electricity) to be significant in providing EBDs assurance that their participation in innovation projects will not lead to an adverse quality path outcome. We prefer an alternative approach of the SAIDI and SAIFI risk being assessed as part of the INTSA application process and, on that basis, approving caps that reflect the scope of the project and the risk it carries. This also formalises the good practice of quantifying any reliability risk associated with NTS. The risks of using NTS is an important learning area that should be captured in the INSTA reporting and shared with the industry."[29]

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[28] Paragraph 138, page 27, https://comcom.govt.nz/__data/assets/pdf_file/0028/359245/Vector-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[29] Page 48, https://comcom.govt.nz/__data/assets/pdf_file/0028/359209/5BPUBLIC5D-Wellington-Electricity-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

Step changes

53. We cross submit in support of PowerCo's submission point that:

> *"We disagree with the Commission that a cap on step changes is required. Imposing an arbitrary threshold undermines the purpose of the decision-making factors and increases the risk of underfunding EDBs. The step change decision-making framework allows the Commission to apply proportionate scrutiny and if the Commission is satisfied that step changes meet the decision-making factors, there is not justification for a cap on step changes."* [30]

54. As outlined in by our original submission we consider that, by definition, the step changes are undergoing additional scrutiny. This should provide the Commission with a higher level of confidence in this expenditure.

55. We remain concerned that the introduction of a cap on these step changes creates perverse incentives for EDBs, undermining the incentives that are intended through the step changes. We cross submit in support of the following point in FlexForum's submission:

> *"However, we are concerned that capping the aggregate step change increase in investment will lead to inadequate or inefficient investment in new capability."*[31]

56. Orion submit that the Commission should remove the cap on step changes. If the Commission considers that a cap is necessary, we consider that a higher cap should be in place.

Individual Price-Quality Paths

57. While it was not part of the Commission's draft decisions, MEUG has submitted that:

> *"There is a growing case to introduce Individual Price-quality Paths (IPP) for the 6 largest EDBs in New Zealand. This would allow greater scrutiny of expenditure, provide for a more tailored approach and provide the level of assurance that consumers need."*[32]

58. Orion's preference is for a well-functioning DPP regime, where allowances are set at an appropriate level to enable networks to be invested in and maintained, supported by efficient reopeners and CPP processes that enable EDBs to apply for adjustments to their allowances as appropriate. We consider that the current system has sufficient opportunity for scrutiny of expenditure through the information that is already provided by EDBs.

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[30] Paragraph 23, page 6, https://comcom.govt.nz/__data/assets/pdf_file/0032/359285/Powerco-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[31] Page 8, https://comcom.govt.nz/__data/assets/pdf_file/0023/359222/FlexForum-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[32] Page 8, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

59. However, such a system requires that allowances are set at an appropriate level to ensure that quality standards are met and networks are maintained in a manner to meet the expectations of customers. A system that is reliant on a large number of reopener and CPP applications to enable EDBs to maintain and invest in their networks will be inefficient and costly with significant resources required from both EDBs and the Commission.

Insurance

60. A number of the submissions received by the Commission raise concerns around the increases in insurance costs that EDBs are facing. For example, the submission from MEUG states:

> *"MEUG recognises that insurance costs across the country are rising for both businesses and households. However, the cost for regulated monopolies in electricity distribution and transmission sectors seem to be increasing at a much greater rate, primarily due to increases in occurrence and impact of severe weather events."*[33]

61. Orion cross submits in support of comments made by Wellington Electricity that "*currently networks are incentivised to reduce coverage and increase a customer's exposure to post-event recovery costs in response to an insurance cost increase*"[34]. Such incentives are not appropriate and are not in the best long-term interests of customers.

62. To overcome these perverse incentives, Orion supports calls for the Commission to consider how these increasing costs are treated within a DPP framework.

> e.g. *"An opex step change has been included for increased insurance costs. ENA welcomes the recognition of the increased insurance costs faced by EDBs. However, ENA's view is that given that insurance costs are expected to continue to increase at a rate well above the opex escalator, they should either have a specific insurance escalator applied or be treated as a pass-through cost."* – From the ENA submission.[35]

63. Submissions from MEUG and Fonterra called for the Commission to consider a body similar to the Natural Hazards Commission (formerly known as EQC) to provide more cost-effective insurance cover for EDBs.

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[33] Paragraph 23, page 5, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[34] Page 25, https://comcom.govt.nz/__data/assets/pdf_file/0028/359209/5BPUBLIC5D-Wellington-Electricity-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[35] Page 4, https://comcom.govt.nz/__data/assets/pdf_file/0028/359218/Electricity-Networks-Aotearoa-ENA-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

"MEUG recognises that insurance costs across the country are rising for both businesses and households. However, the cost for regulated monopolies in electricity distribution and transmission sectors seem to be increasing at a much greater rate, primarily due to increases in occurrence and impact of severe weather events. We recommend that the Commission, EDBs and its supporting body, Electricity Network Aotearoa (ENA) investigate other options for insurance for electricity infrastructure to provide more cost-effective cover. This could take the form of a government body such as the Natural Hazards Commission (formerly EQC)" MEUG[36]

64. Orion supports measures to provide more cost-effective insurance cover and considers that appropriate levels of cover are in the best interests of consumers. However, it is not clear that replicating the Natural Hazards Commission is the most appropriate vehicle. We note the following submission point from Wellington Electricity:

    "Wellington Electricity has access to global experts and can pool our buying power with other electricity networks in Australia (South Australian Power Networks, United Energy, CitiPower and Powercor), the United Kingdom (UKPN), and Hong Kong (Hong Kong Electric). Even with this buying power, we cannot meaningfully influence the price."[37]

65. If the Commission wishes to explore such a mechanism, we suggest that the Commission should seek to learn from not only the Natural Hazards Commission model, but also look to learn from other approaches such as the Local Authority Protection Programme (LAPP), to ensure that any scheme is fit for purpose and able to deliver for its participants. The LAPP model has been tested over the last 15 years with recent natural events and its membership has drop from 46 members in 2015 to only 22 in 2024. Any new scheme for EDBs should be informed by recent examples to maximise the likelihood that it achieves its purpose.

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[36] Paragraph 23, page 5, https://comcom.govt.nz/__data/assets/pdf_file/0027/359226/Major-Electricity-Users-Group-MEUG-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf
[37] Page 25, https://comcom.govt.nz/__data/assets/pdf_file/0028/359209/5BPUBLIC5D-Wellington-Electricity-Submission-on-EDB-DPP4-draft-decisions-12-July-2024.pdf

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