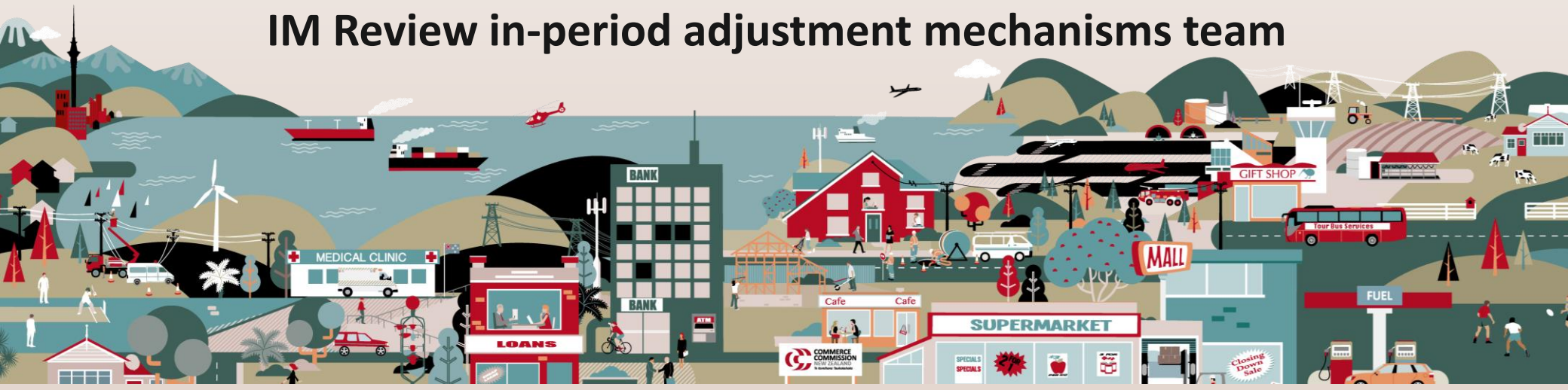


Workshop : Price-quality path in- period adjustment mechanisms (Staff views)

Material to guide stakeholder preparation for the
workshop

29 November 2022

IM Review in-period adjustment mechanisms team



Context, purpose and scope for the workshop (1)

- In the expenditure forecasting session at the EDB workshop we held on 7 November, we advised that we would hold a further session to discuss price-quality path in-period adjustment mechanisms.
- The purpose of this 29 November workshop is to:
 - better understand issues raised in submissions on the IM Review Process and Issues paper; and
 - seek more detailed stakeholder feedback on our current direction of analysis on selected key issues. This will assist us in reaching our draft decisions in the IM Review.
- The IMs that relate to this workshop for both electricity and gas are for [Electricity Distribution](#), [Electricity Transmission](#), and [Gas Pipeline Distribution and Transmission](#) (latest amendments).

Context, purpose and scope for the workshop (2)

- We intend for this workshop to be a two-way conversation.
- To enable our conversation, we are publishing this slide pack and questions for you to consider in advance of the workshop.
- We will be seeking written feedback on our current direction of analysis and matters discussed at the workshop.
- We will also invite you to respond to questions which we will update and provide after the workshop.

Approach to the workshop (1)

- In this workshop, for each key issue we will:
 - share our current thinking;
 - discuss the suggested approach; and
 - work through the specific questions for that issue.
- These slides and all matters we cover at the workshop are intended to facilitate conversation and reflect the preliminary thinking of Commission staff only. They do not reflect settled Commission positions or prevent the Commission from concluding different positions on the relevant matters.

Approach to the workshop (2)

- This workshop is being recorded:
 - We will publish the recording and our slide deck following the conclusion of the workshop for the benefit of those who cannot attend.
 - The workshop conversation and written feedback and responses to it will be on the IM Review record.
- Given we have limited time for each issue and that this is an online workshop, we propose some ground rules for attendees today:
 - please respect the views of others (e.g., avoid speaking over others).
 - use the “raise hand” function on Teams if you wish to speak.
 - keep comments succinct (e.g., 1-2 minutes) so that all participants have time to contribute.
 - stay on mute and with your camera off unless speaking.
 - have your sound and camera (if possible) on when invited to speak.

Approach to the workshop (3)



- We would like a conversation on the topics set out in these slides and will be inviting you to speak.
- We will also monitor the Teams chat function during this workshop.
- If we have any significant MS Teams connectivity issues on the day, we will send you an alternative Zoom link as a back-up.

Workshop agenda

Time	Session topic
9:00 – 9:10	Introduction - Context for the workshop
9:10 – 9:25	<ul style="list-style-type: none">• Regulatory ecosystem• Key issues and current direction of analysis
9:25 – 10:05	<ul style="list-style-type: none">• Reopener process
10:05 – 10:15	Break
10:15 – 10:30	<ul style="list-style-type: none">• Reopener thresholds
10:30 – 11:00	<ul style="list-style-type: none">• Type & extent of reopeners
11:00 – 11:10	Break
11:10 – 11:30	<ul style="list-style-type: none">• Other mechanisms
11:30 – 11:50	<ul style="list-style-type: none">• CPP
11:50 – 12:00	Workshop wrap up and next steps

Some terminology

Term	Description
In-period adjustment mechanisms	<ul style="list-style-type: none">• Global term for all mechanisms used to adjust the DPP/CPP price-quality path once set.• For the purposes of this workshop, we have not included pass-through costs and recoverable costs as in-period adjustments.
Reopeners	<ul style="list-style-type: none">• Colloquial term for 'In-period adjustment mechanisms' and 'reconsideration of the price-quality path'.
Single-issue CPP	<ul style="list-style-type: none">• A reduced-scope CPP where customisation is sought in respect of one part of the supplier's DPP.
Supplier	<ul style="list-style-type: none">• Regulated businesses, ie, non-exempt EDBs, GTB and GDBs, and Transpower

Our decision-making framework (1)



- [Framework paper](#) published in October 2022.
 - Explains how we are approaching our IM Review decisions.
 - We recommend you become familiar with and use the Framework to develop your submissions in line with our approach.
- Core principles:
 - **Part 4 purpose:** promoting the long-term benefit of consumers by promoting outcomes consistent with workably competitive markets (s 52A of the Act).
 - **IM purpose:** promoting certainty of the rules for suppliers and consumers (s 52R).
 - **Potential tension:** We must consider how our decisions impact upon certainty, but the section 52A purpose is at the forefront of our decision-making.

Our decision-making framework (2)



- Two elements to our IM Review decisions:
 - Review element: whether the IMs are fit for purpose and whether we should consider changing the IM.
 - Change element: whether the IMs should be changed, and how a change could be implemented.
 - Key question: *does the proposed IM change better promote our objectives than the status quo?*
- Any changes to our in-period adjustment mechanisms will need to be consistent with our IM Review decision-making framework.

Decision-making tradeoffs

- While introducing additional in-period adjustment mechanisms might provide greater flexibility in dealing with outcomes of various scenarios, we are mindful of the following tradeoffs:
 - blurring the role of the DPP as the relatively low-cost generic approach to setting price-quality paths, and creating greater regime complexity and greater regulatory cost for stakeholders and us;
 - contributing to potentially less certainty for stakeholders, as the outcome of a reopener application is not guaranteed and is subject to approval discretion; and
 - the potential to disincentivise businesses to innovate and achieve efficiencies.
- We are also mindful of the proportionate scrutiny principle, ie, our effort needs to be focused on those in-period adjustment mechanisms with the greatest potential impact on consumer price and/or quality.

Our general approach to reopeners (1)

- Reopeners exist so that the price-quality path can be reconsidered during the regulatory period. We or a supplier may initiate the process if a reopener trigger event occurs.
- Limiting the circumstances in which DPPs can be reconsidered reflects the differences in approach to setting a DPP and a CPP and is in line with s53K of the Act.

Our general approach to reopeners(2)

- Reopeners are to be used selectively, rather than routinely, for circumstances that are:
 - significant
 - generally externally driven
 - unforeseeable at the time the price-quality path is set, or, foreseeable but uncertain in timing and cost.
- Our approach to reopeners is to support a timely approval process, but ensure these mechanisms are not used in circumstances where a higher level of scrutiny under a CPP is required.

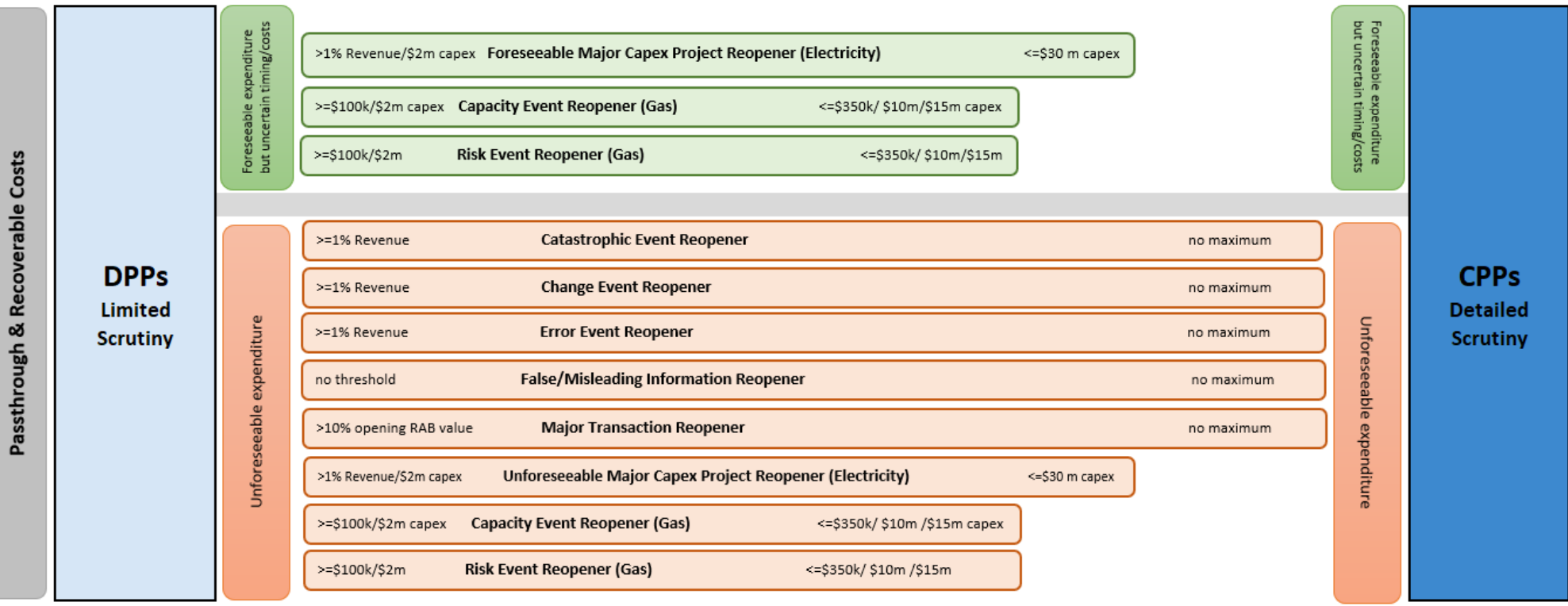
Regulatory ecosystem



Regulatory ecosystem (1)

- We have visualised our existing in-period adjustment mechanisms in a ‘regulatory ecosystem’ diagram on slide 16.
- The scope of our discussion during this workshop will be on in-period adjustment mechanisms only.
- We will be using this regulatory ecosystem diagram as a reference during the workshop when we discuss reopener coverage.

Regulatory ecosystem (2)



Notes:

- This is a high-level summary only – please refer to the EDB, GDB and GTB IM determinations (including unconsolidated May 2022 gas sector IM amendments) for full details on our website.
- Only EDB and GPB DPP expenditure reopeners are shown.
- Where a sector is not specified, the reopener applies to both electricity and gas.

Key issues and current direction of analysis



Key issues and current direction of analysis (1)

Key issue	Current direction of analysis
DPP Reopeners: Process	<ul style="list-style-type: none"> • Considering a standardised process for reopener application, assessment and approval • Considering timeframes for application and evaluation • Considering consequential impacts of reopeners; not only on capex and opex in price path but also on quality standards, quality incentive measures and expenditure incentive measures • Reviewing Ofgem and AER reopener processes for potential learnings • Considering multiple party single-application DPP reopeners
DPP Reopeners : Thresholds	<ul style="list-style-type: none"> • Considering the continued use of lower and upper value thresholds and whether these work well for businesses of varying sizes • Considering application of a single threshold for combined projects • Reviewing Ofgem and AER thresholds as a comparison
DPP Reopeners: Type and extent	<ul style="list-style-type: none"> • Mapping events and scenarios as described in submissions against our existing suite of reopeners (see slides 31-33) • Reviewing the features of Ofgem and AER reopeners as a comparison • Reviewing whether reopeners should include opex more consistently * <p><i>*Not a discussion topic at this workshop. Submissions have been received on this topic from our process and issues paper. Further opportunity to submit following the workshop and on our draft decisions.</i></p>

Key issues and current direction of analysis (2)

Key issue	Current direction of analysis
Other mechanisms	<ul style="list-style-type: none"> • Considering the ongoing role of contingent allowances • Reviewing scenarios for inclusion under a wash-up mechanism • Considering other mechanisms in use by overseas regulators
CPP Improvements	<ul style="list-style-type: none"> • Considering whether we should allow for the application process and information requirements to be streamlined based on what is driving the need for a CPP application
DPP Reopeners/CPP: Need for a single-issue CPP	<ul style="list-style-type: none"> • Mixed submissions on a single-issue CPP. Our effort will focus on DPP reopeners instead.
DPP Reopeners: Ambiguity and uncertainty in current reopener provisions* <i>*Not a discussion topic at this workshop. Submissions have been received on this topic from our process and issues paper. Further opportunity to submit following the workshop and on our draft decisions.</i>	<ul style="list-style-type: none"> • Reviewing reopener provisions for consistency across sectors • Comparing with Fibre IM reopeners (Telecommunications Act, Part 6) • Resolving possible ambiguity in provisions.

Reopener process



Reopener process (1)

- Our current direction of thinking for the reopener process is to adapt for Part 4, the structure of the reopener process developed for the Fibre IMs under Part 6 of the Telecommunications Act and to include some additional detailed steps relevant to Part 4.
- Our current thinking on those additional detailed steps is set out in the table on the following slides.

Reopener process (2)

STAGES	STAGE DESCRIPTION	ADDITIONAL DETAILED STEPS – CURRENT DIRECTION OF THINKING
Trigger stage	Events that may be reopener events	<ul style="list-style-type: none"> • A preliminary evaluation of whether a trigger event can be demonstrated, before an applicant starts pulling together more detailed information.
	Procedural requirements for the reconsideration process	<ul style="list-style-type: none"> • A requirement to identify the main driver for the reopener application.
Reconsideration stage	When a price-quality path may be reconsidered and amended	<ul style="list-style-type: none"> • Why the reopener is justified and whether there is justifiable urgency, so that it can be prioritised for evaluation and scheduled for a decision in accordance with the Part 4 purpose. • Use of application windows during the regulatory period, with possibly more emphasis on the period after the third year of a regulatory period for many of the reopener types (ie, arguably the part of the period with greater uncertainty in the DPP/CPP forecasts).

Reopener process (3)

STAGES	STAGE DESCRIPTION	ADDITIONAL DETAILED STEPS – CURRENT DIRECTION OF THINKING
<p>Reconsideration stage (continued)</p>	<p>Commission consideration of whether to amend the price-quality path</p>	<p>If we are satisfied that a reopener event has occurred, we may then have regard to procedural requirements, including:</p> <ul style="list-style-type: none"> • A demonstration by the applicant of any consumer consultation undertaken by the applicant in respect of the proposed price-quality path reopening, and the results of that consultation. • The extent to which the applicant demonstrates that it has considered reprioritisation of its DPP/CPD expenditure allowance in response to the trigger event before it considered an application for additional expenditure. • The extent to which there could be ‘fast-track’ amendments (eg, by making it clear for each reopener event what the price-quality path amendments would be and if/how they would be applied, ie, capex, opex, quality standards and incentive measures, and applying proportionate scrutiny by specifying alternative formulae upfront that could apply to a price-quality path in defined circumstances). This could permit a shorter process and simpler/shorter consultation process.

Reopener process (4)

STAGES	STAGE DESCRIPTION	ADDITIONAL DETAILED STEPS – CURRENT DIRECTION OF THINKING
Amendment stage	Amending the PQ path after consideration	<ul style="list-style-type: none">• Make it clearer for each reopener event what the price-quality path amendments would be and if/how they would be applied, ie, capex, opex, quality standards and incentive measures.

Questions to consider

- What do you think of our current thinking on updating the process steps for a reopener, broadly in line with the equivalent process under the Fibre IMs?
- Rather than provide separate guidance on the current rules, would this updated process address any concerns you may have on the current perceived lack of clarity?
- As our current thinking is based largely on our review of the EDB reopeners, with reference to the Fibre reopener provisions, are there any significant variations to this process that we should consider for Gas or Transpower?
- From a workability point of view, how significant is the overhead to produce information for a reopener application? Could suppliers repurpose or use existing business case justification information that they already produce internally for reopener applications?

Reopener thresholds



Regulatory Ecosystem highlighting reopener thresholds

DPPs Limited Scrutiny	Foreseeable expenditure but uncertain timing/costs	>1% Revenue/\$2m capex	Foreseeable Major Capex Project Reopener (Electricity)	<=\$30 m capex	
		>=\$100k/\$2m capex	Capacity Event Reopener (Gas)	<=\$350k/ \$10m/\$15m capex	
		>=\$100k/\$2m	Risk Event Reopener (Gas)	<=\$350k/ \$10m/\$15m	
	Unforeseeable expenditure	>=1% Revenue		Catastrophic Event Reopener	no maximum
		>=1% Revenue		Change Event Reopener	no maximum
		>=1% Revenue		Error Event Reopener	no maximum
		no threshold		False/Misleading Information Reopener	no maximum
		>10% opening RAB value		Major Transaction Reopener	no maximum
		>1% Revenue/\$2m capex	Unforeseeable Major Capex Project Reopener (Electricity)	<=\$30 m capex	
		>=\$100k/\$2m capex	Capacity Event Reopener (Gas)	<=\$350k/ \$10m /\$15m	
>=\$100k/\$2m	Risk Event Reopener (Gas)	<=\$350k/ \$10m /\$15m			

Notes:

- This is a high-level summary only – please refer to the EDB, GDB and GTB IM determinations (including unconsolidated May 2022 gas sector IM amendments) for full details on our website.
- Only EDB and GPB DPP expenditure reopeners are shown.
- Where a sector is not specified, the reopener applies to both electricity and gas.

Reopener thresholds

- The reopener thresholds are designed to strike a balance between ensuring that a supplier can seek reconsideration of a price-quality path if the effect of an event is so material that the existing path is no longer appropriate **and** the need to appropriately restrict the circumstances or events under which a path should be reconsidered.
- Our current view is that thresholds for reopeners work well. Business size is accounted for through the use of scaled revenue percentages.

Question to consider

- Are the current materiality thresholds still appropriate? If not, please explain why.

Types and extent of reopeners



Reopener coverage (1)

General theme from submissions

Scenarios from submissions

Coverage by current reopener

DEMAND

Unexpected growth of connections

Increase in capacity

Incremental demand growth

Covered by Unforeseeable & Foreseeable Major Capex Reopeners

Appears to be covered by Foreseeable Major Capex Reopener for demand growth above a certain threshold.

LEGISLATIVE AND REGULATORY CHANGE

Change arising from government policy

Legislative change impacting others in the supply chain affects costs for businesses

Once policy is passed into legislation, it is covered by the Change Event Reopener

Could be covered by the Change Event Reopener

MATERIAL CHANGES IN COST STRUCTURES

Escalating costs and supply chain delays

Inflation

Material increases impacting system growth, connection and asset relocation project costs appears to be partially covered under the Foreseeable Major Capex Projects Reopener

This scenario is being considered in the Risk Allocation and Incentives topic.

Reopener coverage (2)

General theme from submissions

Scenarios from submissions

Coverage by current reopener

FLEXIBILITY SERVICES

Flexibility services

Non wire solutions

These scenarios are being considered in the Risk Allocation and Incentives topic. We are considering whether reopeners should include opex.

CLIMATE CHANGE

Climate change adaptation

Increased expenditure on disaster readiness & additional reporting

Appears to be partially covered through Change Event Reopener. However, is this largely foreseeable and covered by business' forecasts?

Potential gap. However, is this largely foreseeable and covered by businesses' forecasts?

DIGITALISATION/DATA

Greater use of digitalisation & data

Potential gap. However, is this foreseeable and covered by businesses' forecasts?

CYBER RESILIENCE

Cybersecurity costs

Potential gap. However, is this foreseeable and covered by businesses' forecasts?

Reopener coverage (3)

General theme
from submissions

GENERAL
UNCERTAINTY
(NON-SPECIFIC)

Scenarios from
submissions

Limited range of circumstances to
cover unanticipated expenditure
requirements

Coverage by
current reopener

Unable to determine coverage due to lack of
specificity

Reopener coverage (4)

- Our current thinking is that:
 - the current reopeners appear to cover many of the events and scenarios you told us about in submissions, and that additional reopeners are not needed.
 - the current unforeseeable and foreseeable major capex reopeners address the transition to increased electrification by providing for system growth, connection and asset relocation, except where a non-traditional opex solution is proposed.
 - the current Gas capacity event and risk event reopeners also provide coverage for uncertain capacity and asset deterioration that is either unforeseen or foreseeable but with uncertain timing.

Questions to consider

- What are the electrification scenarios that need to be accounted for in reopeners, and why?
- Is expenditure relating to disaster readiness, cyber security, greater use of digitalisation and data able to be foreseen and is it within the control of suppliers? If not, please explain.

Other in-period adjustment mechanisms



Other in-period adjustment mechanisms

- We are considering :
 - whether contingent projects* could be included as a mechanism for reconsideration of a DPP if supported by adequate information in Asset Management Plans
 - whether a range of mechanisms could apply, for eg, reopeners used for larger suppliers, and use-it-or-lose-it allowances for smaller suppliers
 - whether there are other scenarios that could be included under a wash-up mechanism.

* A contingent project is a project that has been listed as a 'contingent project' with an associated trigger event in a DPP/ CPP determination

Questions to consider

- Can you-identify circumstances when suppliers might want to make use of a contingent project reopener? Why are the current reopeners not suitable?
- What situations or examples might suppliers use mechanisms such as use-it-or-lose-it allowances for?
- Which scenarios could we consider including under a wash-up mechanism and why?

CPP improvements and need for a single-issue CPP



CPP Improvements

- A CPP allows an individual regulated supplier to have an alternative price-quality path that better meets its particular circumstances.
- Since CPPs are designed to better meet the particular circumstances of the supplier, there is a greater emphasis on supplier-specific costs in setting a CPP than in setting a DPP.
- The information to be provided as part of a CPP proposal must therefore be sufficient to support this analysis, test whether the CPP application meets the evaluation criteria, and enable us to determine a CPP.
- Our current thinking is that the full set of information requirements should apply to all CPPs. Rather than streamlining CPP processes and information requirements, our current direction is to focus on the DPP reopeners instead.

Need for a single-issue CPP

- A single-issue CPP is a reduced-scope CPP where customisation is sought in respect of one part of the supplier's DPP.
- Our current thinking is that DPP reopeners could address issues that could have been addressed by a single-issue CPP.
- There was mixed support in submissions for a single-issue CPP.
- We have the ability to :
 - adjust the depth of our scrutiny of CPPs in line with the proportionate scrutiny principle; and
 - approve a modification or exemption from the CPP requirements that will not detract, to an extent that is more than minor, from our evaluation of the CPP proposal, our determination of a CPP, and the ability of interested persons to consider and provide their views on the CPP proposal.

Questions to consider

- What are the barriers or challenges of applying for a CPP?
- Keeping in mind the need for : (1) scrutiny of expenditure for large step-changes in investment associated with CPPs, (2) transparency of information and (3) ability to consult for interested parties eg, consumers:
 - How might the current CPP IMs be refined to promote the overarching objectives of the IM Review?
 - If there are information or application requirements that you consider are not needed for the regime, which ones are they and why?
- How do you view the effectiveness of the modification and exemption provision in the current CPP provisions?
- If you hold a view that our current suite of DPP reopeners does not fulfil a similar purpose as a single-issue CPP, please explain why.

Concluding remarks and next steps



Next steps

- You will have an opportunity to provide written feedback about what was discussed. This can be provided by email or presentation for example.
- We will circulate a defined set of questions after the workshop to guide feedback.
- The deadline for feedback in writing is 13 December 2022. Please use our im.review@comcom.govt.nz email address with the subject heading 'Price-quality path in-period adjustment mechanisms workshop'.
- We will collate your views and use these to inform our next steps.
- We are targeting Q2 2023 for publication of our in-period adjustment mechanisms draft decision.

