

## **Cross-Submission**

Commerce Commission Part 4 Input  
Methodologies Review 2022

Process and Issues Paper

3 August 2022

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# 1. INTRODUCTION

1. Aurora Energy Limited (**Aurora**) welcomes the opportunity to provide this cross-submission on the Commerce Commission's (the **Commission's**):
  - 1.1. Part 4 Input Methodologies Review 2023: Process and Issues Paper – (the **Issues Paper**); and
  - 1.2. Part 4 Input Methodologies Review 2023: Draft Framework paper (the **Framework Paper**).
2. No part of our submission is confidential.

## 2. APPROACH TO THE REVIEW

3. Due to the relatively short period to consider submissions on the Issues Paper and Framework Paper, we have largely focussed on submissions made by electricity distribution businesses (EDBs) and electricity lines services stakeholders.
4. There appears to be general consensus among submitters on two counts:
  - 4.1. climate change response and adaptation is set to pose real challenges for the distribution sector over the next decade or so; and
  - 4.2. The Commission has largely chosen appropriate topics and issues as the focus of the input methodologies (IM) review.
5. Given this general agreement, our cross-submission is focussed on some general themes observed in submissions, as they relate to the review approach and decision-making framework. We will provide our specific views on individual topic areas at the appropriate time in the review process.

### 2.1. ENGAGEMENT APPROACH

6. In our submission, we suggested that, with the criticality of getting decarbonisation right, that the Commission should consider a more fulsome engagement approach to try and create a shared understanding and vision, among regulated suppliers and a comprehensive group of stakeholders, of the role of electricity networks in decarbonisation.<sup>1</sup>
7. We note that this was a theme identified by other submitters. Vector noted the contrasting approach of direct engagement taken by Ofgem in engaging on RII0-ED2,<sup>2</sup> Orion considered that in-person engagement would help provide context to the challenges faced by EDBs,<sup>3</sup> and Wellington Electricity suggested that industry working groups should be formed to work through more complex issues before feeding back into the Commission review process.<sup>4</sup>
8. Aurora considers that one of the most significant challenges with decarbonisation and electrification is the lack of coordination among the Nation's regulatory and advisory bodies. Each is doing good work in its own sphere of influence, in accordance with legislative mandates<sup>5</sup>, but there is no obvious evidence of coordinated leadership. There is an opportunity, starting with the IM review, for the Commission to help to fill this void by adopting a comprehensive, collaborative and inclusive engagement approach.

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<sup>1</sup> Aurora Energy Limited. (2022). Submission - Commerce Commission Part 4 Input Methodologies Review 2022: Process and Issues Paper. Paragraph 17, p3.

<sup>2</sup> Vector Limited. (2022). Submission on the IM Review 2023 Process and Issues Paper. Paragraph 16, p6.

<sup>3</sup> Orion New Zealand Limited (2022). Feedback on the Input Methodologies 'Draft Framework Review' and 'Process and Issues' Papers. Paragraph 19, p3.

<sup>4</sup> Wellington Electricity Lines Limited. (2022). Part 4 Input Methodologies Review 2023 – Process and Issues Paper Section 3.1, p5.

<sup>5</sup> For example, the Climate Change Response Act 2002.

## 2.2. PRODUCTIVITY

9. Unison used Aurora to illustrate that, with regard to the measurement of productivity, appearances can be deceiving:

*“Perhaps the most useful evidence on the Commission’s question about the state of industry efficiency and productivity, may be from the experience with Aurora. The Commission has approved, through close independent scrutiny of Aurora’s expenditure plans, a substantial expenditure programme that will see Aurora’s revenues and prices move from well-below average position on a per ICP comparison with other EDBs to above average. Ironically, from a simplistic “productivity” assessment, Aurora will go from being highly productive prior to its CPP to show a substantial decline in productivity as considerably more will be expended on delivering similar levels of kWh and customers served. But from an efficiency perspective, Aurora’s end-state will be a more resilient, safer and reliable network, with a well-informed community on how Aurora has planned and delivered its approved expenditure programme.”<sup>6</sup>*

10. We agree with Unison’s argument. Considerable care should be taken not to draw material conclusions from limited productivity analysis, and to avoid conflating productivity and efficiency. We also agree with Vector<sup>7</sup>, who expressed concern that a focus on productivity analysis could distract from the key issues of the IM review, and that the work on productivity analysis could be undertaken as the Commission discharges its summary & analysis obligations<sup>8</sup>.

## 2.3. AFFORDABILITY

11. References, within the Issues Paper, to impending price rises driven by, *inter alia*, increasing interest rates gives rise to a concern that there may be an appetite to focus the outcome of the IM review on price suppression. This would not be a productive outcome in terms of decarbonisation, when it is widely accepted among submitters that electrification will drive network investment.

12. For example, the Consumer Advocacy Council recognised the tension between investment need and price impact in its submission, noting that:

- *“The Commerce Commission needs to ensure that ... EDBs can invest in their networks to support future consumption growth and connection of distributed generation”;*
- *“... investment is needed to meet our decarbonisation needs”;* and
- *“Adapting networks to meet the demands of the energy transition requirements may result in increasing costs to consumers in the short term, but provided appropriate investment is made, could lower costs in the future.”<sup>9</sup>*

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<sup>6</sup> Ibid. Paragraph 28, p11.

<sup>7</sup> Ibid. Paragraph 164, p29.

<sup>8</sup> Commerce Act 1986, section 53B2)(b).

<sup>9</sup> Consumer Advocacy Council. (2022). Submission. Paragraph 3.1, p2, *et pass*.

13. Regardless of EDBs' investment needs, there is some indication among electricity lines services stakeholders that price suppression is a desired outcome:
- 13.1. MEUG continues its fight to have WACC dropped to the 50<sup>th</sup> percentile<sup>10</sup>. For this round of arguments, MEUG has added the novelty of a proposal that EDBs could apply for a higher percentile under unspecified circumstances. We do not consider this proposal workable, or that the argument for the 50<sup>th</sup> percentile has any greater merit than it did in the past.
- 13.2. Mercury expressed concern that the prospect of continued outturn inflation above forecast means that the inflation forecasting methodology is no longer fit for purpose.<sup>11</sup> We note, however, that there was little concern for the fitness of the inflation forecasting methodology when EDBs were being disadvantaged by systematic over-forecasting of inflation throughout the DPP1 and DPP2 periods.
14. We would be concerned if the IM review, in the face of emerging economic conditions, was used to opportunistically adjust settings to effect a price suppression outcome. While we recognise that price impact is a valid consideration in the price-quality regulation of EDBs, we consider that price suppression is not a primary Part 4 purpose – it would be a short-term benefit only to consumers, and at this critical juncture as we move toward electrification, would likely run counter to consumers' long-term benefit by drastically suppressing investment.

## 2.4. RING-FENCING

15. We note that Mercury and Contact Energy have, in their respective submissions, resurrected the issue of ring-fencing of distributors' investment in distributed energy resources and similar assets that can support flexibility services. Both have advocated for a resumption of the 'Spotlight on Emerging Contestable Services' project.
16. While Aurora understands those submitters' concerns, and prefers a market-led approach, we have one residual concern – if the market is called upon, the market must turn up. At this particular time in the development of the flexibility services market, we are not confident that a commercially viable market response will be forthcoming in all circumstances and locations. If the market is unable or unwilling to respond, an EDB facing those circumstances must be able to act quickly, decisively and without unnecessary restriction. To create circumstances otherwise would not be in the interest of an EDB's consumers.

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<sup>10</sup> Major Electricity Users' Group. (2022). IM review process and issues. Paragraph 8, p2.

<sup>11</sup> Mercury NZ Limited. (2022). Process and Issues/Draft Framework submission. P3.

## 3. DECISION-MAKING FRAMEWORK

17. Our observation is that, for the most part, submitters support the proposed decision-making framework.

### 3.1. PRIORITISATION

18. MEUG suggested that the framework requires some form of process to determine which issues are carried forward to the Change element of the review, arguing that “[s]uppliers have the resources to promote an issue back onto the shortlist in the Change element phase whereas consumers do not” and that the decision-making framework “explicitly requires an assessment of the change in the long-term benefit of consumers for each issue in the longlist and that is used to rank issues to progress to the shortlist in the Change element stage.”<sup>12</sup>

19. We disagree with MEUG. The Part 4 purpose has primacy, and the long-term benefit of consumers is inherent in the purpose. We consider that Part 4 guides the Commission to focus on change proposals that would have the greatest benefit to consumers provided, of course, that those proposals are merited.

### 3.2. REVIEW CYCLE

20. We noted, in our original submission, that the ‘normal’ seven-year review cycle means that the IMs that will be set by 2023 are highly likely to apply to both the 2025 and 2030 DPP resets before further review takes effect<sup>13</sup>. This point was picked up by other submitters, with Unison going as far as suggesting that IM reviews should be scheduled on a 5-yearly basis, noting that “it is better to conceive of this IM Review and the next DPP reset as part of a package that need to work effectively together”. Unison, helpfully, also set out a range of considerations that would assure the long-term benefit of consumers if such a ‘package’ approach was taken.<sup>14</sup>

21. Aurora acknowledges the benefits of the approach suggested by Unison; however, we also recognise that IM reviews are not a trivial undertaking and impose a significant burden on regulated suppliers, electricity lines services stakeholders, and the Commission. If a shorter review cycle was to become embedded in the framework, Aurora’s view is that future reviews should be more targeted, according to the prevailing circumstances. With maturing of the regulatory framework, there must be aspects of the IMs that remain uncontroversial and which do not require constant revisiting.

### 3.3. PERMISSIVE CONSIDERATIONS OF THE CLIMATE CHANGE RESPONSE ACT

22. In our original submission, we presented the view that the Commission should take amore positive stance toward the permissive considerations of the Climate Change Response Act 2002 (CCRA), and noted that the .

<sup>12</sup> Major Electricity Users’ Group. (2022). IM draft framework paper. Paragraph 5, p2.

<sup>13</sup> Aurora Energy Limited. (2022). Submission - Commerce Commission Part 4 Input Methodologies Review 2022: Process and Issues Paper. Paragraph 6, p2.

<sup>14</sup> Ibid. Paragraphs 15-17, p8.

permissive considerations are intrinsically entwined with the Part 4 purpose. Support for the permissive considerations of the CCRA has been widespread among EDBs.

23. Wellington Electricity went further, stating its view that supporting New Zealand's Emissions Reduction Plan (ERP) cannot remain optional and that the ERP calls for actions that are in the long-term-benefit of consumers. Accordingly, Wellington Electricity felt that the CCRA should be a mandatory consideration under the Part 4 framework.<sup>15</sup>
24. Given the criticality of electricity infrastructure to decarbonisation, it is difficult to argue with Wellington Electricity's view. We understand, of course, that it is possible to academically isolate 'consumers' to those persons that contract for an electricity supply service; however, electricity use is pervasive and almost all New Zealanders are either an electricity consumer or have a dependent relationship with an electricity consumer.
25. It is also possible to confine consideration of electricity lines services to the narrowest sense, and ignore any wider external benefits that might arise from operation of the electricity system. However, it would be a perverse outcome if consumers' economic interests were prioritised to the detriment of long-term environmental factors that are necessary to sustain wellbeing and, potentially, life itself.
26. Are consumers economic interests important? Should EDBs be incentivised to undertake electrification and perform their day-to-day activities as efficiently as possible, in order to manage consumer costs? The answer is an unequivocal 'yes', but there are wider, emerging issues at stake.
27. Vector's submission also reminds us that the resilience of EDBs' networks will be challenged by extreme weather and other climate change-related impacts and that, to the long-term benefit of consumers, EDBs will need to make resilience related investments.<sup>16</sup>

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<sup>15</sup> Ibid. Section 2.1, p2-3.

<sup>16</sup> Ibid. Paragraphs 21-22.