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Commerce Commission  
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## **Horizon Energy Distribution Limited (Horizon Networks) submission on Targeted Information Disclosure Review – Electricity Distribution Businesses Draft decisions paper – Tranche 1**

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1. Thank you for providing us the opportunity to make a submission on *Targeted Information Disclosure Review – Electricity Distribution Businesses Draft decisions paper – Tranche 1*.
2. Horizon Networks is a small trust-owned Electricity Distribution Business (EDB) serving over 25,000 consumers in the Eastern Bay of Plenty region. As a trust owned EDB, we have a strong consumer focus and seek to benefit both our Shareholder Trust Horizon and the communities we serve.
3. We recognise that the environment that EDBs operate in is constantly changing, with consumer and shareholder expectations of performance, decarbonisation, climate change, resilience planning and expectations around asset management driving the need for additional disclosure requirements. These additional requirements should provide a meaningful and low cost of way of delivering insights into how EDBs are addressing the varying stakeholder expectations.
4. We also recognise that the Commerce Commission has already consulted on changes to the disclosure requirements in March 2022. This submission seeks to support and inform the Commerce Commission on how it can effectively deliver on its decision.
5. In principle, Horizon Networks supports increased disclosure where there is a net consumer benefit however we have concerns regarding the practical implementation of the requirements as currently drafted. We have identified five areas where the requirements need to be improved to better deliver on the Commerce Commissions goal of allowing stakeholders to assess if outcomes are broadly consistent with what is expected in a competitive market.<sup>1</sup>
  - Retrospective regulation does not provide EDBs with the opportunity to develop efficient information disclosure systems and processes
  - Q3: The new connection timeframes do not provide a measure of EDB performance or customer satisfaction
  - Q11: The SAIDI and SAIFI transitional requirements may have unintended impacts on DPP4
  - AM10: Reporting disconnections will not provide a measure of EDB performance
  - AM13: The requirement to create duplicate reports with and without cybersecurity expenditure increases manual processing risks.
6. Each area is discussed in more detail below and solutions are proposed that will allow the Commerce Commission to better meet the goals of the information disclosure regime.

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<sup>1</sup> Clause 52 the Commerce Act sets the purpose of Part 4 of the Commerce Act as:  
*The purpose of this Part is to promote the long-term benefit of consumers in markets referred to in section 52 by promoting outcomes that are consistent with outcomes produced in competitive markets such that suppliers of regulated goods or services—*

*(a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and  
(b) have incentives to improve efficiency and provide services at a quality that reflects consumer demands; and  
(c) share with consumers the benefits of efficiency gains in the supply of the regulated goods or services, including through lower prices; and  
(d) are limited in their ability to extract excessive profits*

**Retrospective regulation does not provide EDBs with the opportunity to develop efficient information disclosure systems and processes**

7. The targeted information disclosure regime includes five changes that will require EDB's to report on activities from 1 April 2022 in order to comply. These are:
  - Q3 - time taken to set up new connections
  - Q13 - greater breakdown of third-party interference
  - AM10 - disconnection disclosure
  - AM13 – cybersecurity OPEX
  - A1 - changes to recoverable and pass-through costs definition

**Retrospective regulation drives inefficient manual processing of information**

8. While EDB's may have the information, the information is unlikely to be captured in an efficient manner that will stand-up to scrutiny. As a result:
  - there is going to be manual re-work required to put the information into a form where it can be reported in the disclosures
  - there is going to be challenges in demonstrating these manual processes are robust enough to satisfy auditors.
9. For example, Horizon Networks is currently collecting information that could be used to report the different types of third-party interference, however this information is recorded in a description field that does not align with the specific categories the Commerce Commission wishes to know about.
10. Similarly, Horizon does not currently explicitly identify operational expenditure on cybersecurity, so will need to manually review all ICT expenditure across the Horizon Energy Group and identify expenditure that relates to cybersecurity for Horizon Networks. This manual process will need staff to apply judgement to identify transactions and will be difficult to audit. A more efficient approach would be to set these requirements as forward looking so we can setup the systems and processes to report this correctly from the start of the financial year.

**Retrospective regulation creates risk of parliamentary review of decisions**

11. Retrospective regulations are undesirable, as they create uncertainty. If the legal status of past conduct, such as what information regulated EDB's must collect is altered, there can be no certainty as to the legal status of current conduct.<sup>2</sup>
12. In other words, by creating an obligation on EDBs that they must have been recording certain information prior to the effective date of the regulation, EDBs cannot be certain that what they are collecting now is compliant should the Commerce Commission chose to retrospectively change the regulations in the future.
13. Retrospective regulations are one of nine grounds on which the Regulations Review Committee may draw the House's attention to a regulation.<sup>3</sup>
14. It is not desirable for the Commerce Commission or the industry in general to be subject to the uncertainty of retrospective regulations or a review that may look to challenge the collection of information that is intended to benefit consumers.
15. If there is a desire to understand retrospective performance of the EDBs then existing data collection powers, not be subject to audit or director certification should be used, such as retrospective information requests under 53ZD of the Commerce Act.

**A forward-looking obligation supports efficient, timely reporting**

16. Horizon Networks supports the need to collect the information but suggests that the obligation be made forward looking so that systems and processes can be created to traceably and efficiently collect and report the information required.

<sup>2</sup> [Chapter 11 | New Zealand Centre for Public Law | Victoria University of Wellington \(wgtn.ac.nz\)](#)

<sup>3</sup> [Standing order 327\(h\)](#) The regulation is retrospective where this is not expressly authorised by the enactment under which it is made.

17. Horizon Networks have considered the practicality of a transitional provision, which would allow participants that have information to provide it until such time as the systems and processes can be developed.
18. In general, Horizon Networks does not support transitional provisions that are retrospective. While transitional provisions appear pragmatic, the output will invariably be inconsistent and would work against the Commerce Commission's information disclosure goal of allowing stakeholders to assess if outcomes are broadly consistent with what is expected in a competitive market.
19. For this reason, Horizon Networks supports new obligations that provide EDBs sufficient time to develop the systems and processes necessary to report the information in a way that can stand up to the rigour of external audit.
20. **Horizon Networks Recommends:** The Commerce Commission make the ID requirements effective from the next full financial year to allow EDBs to develop the systems and processes to traceably and accurately disclose the information.
21. **Horizon Networks Recommends:** To support implementation of the new requirements the Commission should develop meaningful and consistent guidance that EDBs can follow and that can stand up to audit.

**Q3: The new connection timeframes do not provide a measure of EDB performance or customer satisfaction**

22. The Commerce Commission has decided to require EDBs to disclose the following information in Schedule 9e(i) of the electricity distribution information disclosures:
  - average time taken to give a quote for a new ICP
  - average time taken to make a new ICP
  - average time taken to give a quote for alterations to be made to an existing ICP; and
  - average time taken to make alterations to an existing ICP.
23. The Commerce Commission has provided very clear definitions of how to measure these connections.
24. For quotations the definition is:

*Where time taken for EDBs to provide a quote begins with the EDB's receipt of the customer request and ends with the customer's receipt of the EDB quote.*
25. For new connections and alterations, the definition is:

*Where time taken for an EDB to install a new ICP or alter an existing ICP begins with the later of the customer's agreement to the proposed design and quote, payment of any required upfront payment by the customer, and readying of the site by the customer, and ends with the receipt of the certificate of compliance for new connections or power restoration to the customer's ICP for alterations*
26. Of particular concern, in its decision the Commerce Commission has stated "*In our view, EDBs should be able to provide this information considering they are ultimately responsible for the process from start to finish*".<sup>4</sup> This view is inaccurate and reflects a weak understanding of the process on the part of the Commission. The Electricity Industry Participation Code makes the timing of new connections a shared responsibility between EDBs, traders, and MEPs. There are further unregulated dependencies on third party contractors engaged by the customer and living agents.

**The new connection process is complex and regulated by the Electricity Authority**

27. The new connection process is regulated by the Electricity Authority and is set out on Parts 10 and 11 of the Electricity Industry Participation Code 2010 (Code)
28. This process involves four regulated parties, the ATH, the MEP the trader<sup>5</sup> and the EDB (known as the distributor in the Code). The Code prevents EDBs from connecting an ICP unless the trader trading at the ICP has requested the connection – regardless of who initiated the connection process.

<sup>4</sup> Paragraph 4.49 in the [Targeted Information Disclosure Review – Electricity Distribution Businesses Draft decisions paper – Tranche 1](#)

<sup>5</sup> A trader is typically a retailer, however, can also be a consumer if purchasing directly from the clearing manager

29. Under Part 10 of the Code:

- EDBs are responsible for the connection of an ICP. Connection means that all permanent connections of electrical conductors have been made so that the operation of a device will allow electricity to flow.<sup>6</sup>
- EDB's are not authorised to electrically connect an ICP to its network.<sup>7</sup> EDBs are not responsible for the electrical connection of an ICP and do not issue certificates of compliance.

30. Electrical connection means *to operate a device so that electricity is able to flow, including through a point of connection, and electrically connected, electrically connecting, electrical connection, and similar phrases have corresponding meanings.*<sup>8</sup>

31. EDBs do not issue a certificate of compliance (CoC) for any works undertaken within the consumers premises. This will be issued directly to the consumer by the electrician employed by the consumer to undertake the works that require a new or altered connection to the network.<sup>9</sup>

**Because of the complexities and number of parties involved in the connection process, the proposed disclosures will not measure EDB performance or customer satisfaction**

32. The proposed criteria for measuring performance of new connections will result in EDBs reporting on the combined performance of consumers (who need to provide access and engage the retailer), the retailer, MEP, consumers electrician and the EDB. Because the EDB is not involved in all steps of the process, and the Code prevents the EDB from taking ownership of the steps, this renders the information as a very poor measure of EDB performance.

33. Horizon Networks expect the Commerce Commission will want to define customer satisfaction in terms of the elements of the process that the EDB is responsible for; the connection (not electrical connection) process.

**Consumer experience and EDB performance for new connections and alternations should be measured from the time of acceptance to the time the site is ready for electrical connection**

34. Because the Code forbids EDBs from electrically connecting ICPs, a true measurement of customer experience is to look at the elements of the new connection process the EDBs are responsible for. This is the time taken to make the installation ready to connect (the connection process in the Code).

35. **Horizon Networks Recommends:** The Commerce Commission alter its definition for new connections and alterations to measure the part of the connection process the EBD is responsible for. This could be worded as follows:

*Where time taken for an EDB to install a new ICP or alter an existing ICP begins with the later of the customer's agreement to the proposed design and quote, payment of any required upfront payment by the customer, and readying of the site by the customer and or its traders, contractors and livening agents, and ends with the site being connected to the network so that the process of electrical connection can start.*

**The Commerce Commission should be mindful of the impact its regulation will have on EDB behaviour**

36. EDBs recognise that reporting on an aspect to the Commerce Commission is a signal that the Commerce Commission wishes the EBD to place time and emphasis on its performance.

37. Currently each EDB has developed its own connection process to align with how it wishes to operate the network, while complying with the Code and electrical safety regulations.

38. There are many connection models from outsourcing and allowing full competition of connection services to only allowing its own staff to perform the connection - reflecting the availability of skilled and competent staff to undertake the works. By specifying how EDBs customer service for new connections is measured, the Commerce Commission will influence how EDBs choose to operate by setting checkpoints which EDBs implicitly must control.

39. For example, EDBs that operate a fully contestable model which allow third parties to connect consumers on behalf of the EDB will be incentivised to take this function in-house to have greater control over the connection process they need to report on. This could lead to poor consumer outcomes because consumer satisfaction is one factor consumers consider when selecting suppliers in a contestable market.

<sup>6</sup> Paragraph 3.4 in the [Connection and Electrical Connection guidelines](#).

<sup>7</sup> Paragraph 5.79 in the [Connection and Electrical Connection guidelines](#)

<sup>8</sup> Paragraph 3.14 in the [Connection and Electrical Connection guidelines](#)

<sup>9</sup> For example, the electrician who wired the new building or altered the consumers premises for the change to the network connection.

40. **Horizon Networks Recommends:** The Commerce Commission be mindful of where it measures the connection process and work with EDBs, the Electricity Authority and other stakeholders on the new connection process to ensure it will not result in poor consumer outcomes.
41. **Horizon Networks Recommends:** The Commerce Commission publish examples of how new connection timeframes are measured in other jurisdictions such as telecommunication and gas. The examples will demonstrate how the measurements are practically implemented and the value that well thought-out disclosures provide in improving customer outcomes.

#### **Q11: The SAIDI and SAIFI transitional requirements may have unintended impacts on DPP4**

42. The Commerce Commission has decided to modify the definition of SAIFI values and SAIDI values to ensure EDBs record successive interruptions as an additional SAIFI value or SAIDI value if restoration of supply occurs for longer than one minute.
43. To support practical implementation of revised SAIDI and SAIFI reporting, a transitional reporting requirement has been created for the 2023 and 2024 disclosure years. For the 2023 and 2024 disclosure years, where EDBs that do not currently record their SAIFI and SAIDI values using the 'multi-count' approach EDBs are allowed to continue to record their SAIFI and SAIDI values on the same basis that they employed as at 31 March 2022.

#### **In this specific case, Horizon Networks supports the use of transitional reporting requirements**

44. Horizon Networks appreciate the thought that the Commerce Commission has put into considering the complexities of shifting to the new SAIDI and SAIFI reporting regime and the creation of a transitional provision.
45. This transitional provision will provide between 12 and 18 months for Horizon to develop the systems and processes required to implement the 'multi-count' approach while we continue to record SAIDI and SAIFI using the systems and processes that were in place for the 2022 financial year.
46. Horizon Networks supports the SAIDI and SAIFI transitional provision because:
  - SAIDI and SAIFI are already being inconsistently reported
  - the transitional provision is forward looking and provides a practical path to allowing EDBs to more consistently report SAIDI and SAIFI
47. As a result, this provision will align with the information disclosure goal of allowing stakeholders to assess if outcomes are broadly consistent with what is expected in a competitive market by providing a path to greater clarity on how SAIDI and SAIFI are reported.

#### **Horizon Networks is concerned that there will be a requirement to retrospectively calculate SAIDI and SAIFI using the 'multi-count' approach as part of DPP4**

48. The transitional provision for the calculating of SAIDI and SAIFI using the 2022 methodology will end in 2024, and a new DPP will be in place from 2026.
49. Horizon Networks is concerned that in order to implement DPP4, EDBs will need to back-calculate SAIDI and SAIFI using the 'multi-count' approach. As the systems and processes to report SAIDI and SAIFI using the 'multi-count' approach will not be in place until the start of the 2025 reporting period it will not be possible for Horizon Networks to provide complete 'multi-count' SAIDI and SAIFI figures to support accurate SAIDI and SAIFI values that could be used in DPP4.
50. **Horizon Networks Recommends:** The Commerce Commission considers the impact of altering the SAIDI and SAIFI methods on its ability to set meaningful SAIDI and SAIFI targets for DPP4.

#### **AM10: Reporting disconnections will not provide a measure of EDB performance**

51. The Commerce Commission has decided to:
  - Include disconnections data in the information EDBs are required to disclose.
  - Require EDBs to disclose forecast and actual disconnections for both individual connection points (ICPs) and distributed generation.
52. Electrical disconnection is not defined by the Commerce Commission, however the disconnection process is regulated by the Electricity Authority and is defined in [Part 1 of the Code](#) as:

*electrically disconnect means to operate a device so that electricity is unable to flow, including through a point of connection, and electrically disconnected, electrically disconnecting, electrical disconnection, and similar phrases have corresponding meanings*

Disconnections should not be reported by EDBs as disconnections are performed by traders without EDB knowledge or consent

53. Disconnection is a trader (normally the retailer) function that can be undertaken for a variety of reasons without the EDBs knowledge, including at the customer's request, or to manage credit risk including through pre-pay meters.
54. Where advanced metering infrastructure (AMI) is present, this can be done remotely. In other cases, disconnection can be performed by the trader's agent within the consumers premises, downstream of the point of connection between the network and the customer.
55. The EDB is not part of the disconnection process and is unaware of when the ICP has been disconnected (power unable to flow) until the trader updates the status of the ICP in the registry. Therefore, reporting on disconnections will not measure of EDB performance.

Decommissioning is the responsibility of EDBs and can be reported

56. Decommissioning is defined in Part 1 of the Code as:

*decommissioning means—*

*(a) the permanent removal from service of—*

*(i) an asset; or*

*(ii) a point of connection; or*

*(iii) a metering installation associated with a point of connection; or*

*(b) for the purposes of Parts 11 and 15, the permanent removal of a point of connection by—*

*(i) permanently removing an electrical installation associated with the point of connection; or*

*(ii) changing the allocation of electrical loads between points of connection with the effect of making the point of connection obsolete; or*

*(iii) in the case of a distributor-only ICP for an embedded network, the embedded network ceasing to exist and decommission and decommissioned have corresponding meanings*

57. Decommissioning is the responsibility of the EDB and is subject to EA requirements and audits to ensure that information is accurate and populated on the electricity registry.
58. Reporting on decommissioning activities will providing a meaningful view of what is being permanently removed from the network.
59. **Horizon Networks Recommends:** The Commerce Commission require EDBs to reporting on decommissioning activities not disconnection activities, and to disclose actual and forecast decommissioning's.
60. **Horizon Networks Recommends:** The Commerce Commission reduce the regulatory burden on EDBs by obtaining the actual decommissioning information directly from the electricity registry rather than requiring it to be part of the annual disclosure process.

**AM13: Requirement to create duplicate reports with and without cybersecurity expenditure increases manual processing risks**

61. The Commerce Commission has decided to require EDBs to disclose to the Commission their actual and forecast cybersecurity operational expenditure in Schedule 6b(ii) and Schedule 11b.
62. The information regarding cybersecurity expenditure will be disclosed to the Commission only. Separate versions that do not report the actual and forecast cybersecurity operational expenditure will be published.

Requiring different versions of the same document to be created and sent to different parties creates disclosure risks

63. Under this decision, EDBs will be required to produce two sets of almost identical information disclosures for audit and certification.

64. One set of reports will explicitly report cybersecurity expenditure, and the other will have this information within general operational expenditure.
65. This will create confusion for staff handling these reports, both for audit, certification and publication / provision to the Commerce Commission. This increases the risk of an error such as the disclosure of sensitive information to the web, or provision of the incorrect version of the report to the Commerce Commission.

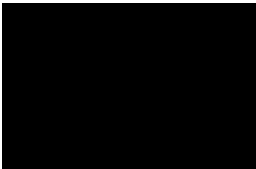
**Information disclosure is not the right mechanism for reporting confidential information**

66. Information disclosures support the Commerce Commissions goal of allowing stakeholders to assess if outcomes are broadly consistent with what is expected in a competitive market.
67. Horizon Networks recognises the need for the Commerce Commission to have visibility of cybersecurity expenditure as an input into the price-quality path reset process. However, because cybersecurity spend is kept confidential, including this in the information disclosure regime will not further stakeholders' ability to assess if outcomes/risks are broadly consistent with a competitive market. As a result, the information disclosure regime is not the right mechanism for obtaining this information.
68. Other tools available to the Commerce Commission, such as information requests under 53ZD of the Commerce Act can allow the Commerce Commission to obtain sufficient information on cybersecurity expenditure to inform any price-quality path reset process.

**Cybersecurity expenditure should be disclosed separately, outside of the information disclosure regime**

69. To avoid confusion and processing risks, cybersecurity expenditure should be provided directly to the Commerce Commission distinct from the information provided in the annual information disclosures and AMP forecasts.
70. **Horizon Networks Recommends:** The Commerce Commission require EDBs to disclose to the Commission their actual and forecast cybersecurity operational expenditure in a clear and separate way.
71. **Horizon Networks Recommends:** The Commerce Commission use an alternative mechanism such as 53ZD to request confidential cybersecurity expenditure information as an input into the default-price path reset process.

Yours Sincerely



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HORIZON ENERGY DISTRIBUTION LIMITED