

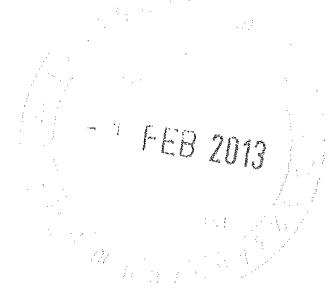
Electricity Networks Association

7th Floor, Wellington Chambers, 154 Featherston Street
PO Box 1017

Wellington, New Zealand 6140

Telephone: 64-4-471 1335 Fax: 64-4-496 5209

E-mail adj@electricity.org.nz



1 February 2013

Dr Mark Berry
Chair
Commerce Commission
P O Box 2351
Wellington 6140

Dear Dr Berry

Proposed amendments to input methodologies for gas pipeline services

We refer to the Consultation Paper "Potential amendments to input methodologies for gas pipeline services for February 2013" dated 21 December 2013.

We are interested in two of the proposed amendments – namely, those relating to the definitions of notional deductible interest and regulatory profit/(loss) before tax – because these items have some read-across to the electricity distribution input methodologies (IMs).

Firstly, we note that the proposed amendment to the definition of notional deductible interest requires the following corrections.

1. The Consultation Paper proposes a single new definition for notional deductible interest, to apply to each of the tax IMs for information disclosure (ID), DPPs and CPPs – specifically, in clauses 2.3.4(2), 4.3.3(2) and 5.3.16(2) of the gas distribution IMs and clauses 2.3.1(5), 4.3.4(1) and 5.3.15(5) of the gas transmission IMs.

However, currently the IMs have three different definitions for notional deductible interest – one for ID, one for DPPs and one for CPPs.

The new definition proposed in paragraph 12 of the Consultation Paper is only suitable for the DPP IMs (clause 4.3.3(2) of the gas distribution IMs and clause 4.3.4(1) of the gas transmission IMs). The proposed definition needs to be adjusted to make it suitable for the ID and CPP IMs.

The definitions for notional deductible interest in the ID IMs refer to 'regulatory investment value' rather than the 'opening investment value' used in the proposed definition. In order for the proposed definition to be used in clauses 2.3.4(2) of the gas distribution IMs and 2.3.1(5) of the gas transmission IMs, "opening investment value" needs to be replaced by "regulatory investment value".

The definitions for notional deductible interest in the CPP IMs also refer to 'regulatory investment value', but then add 'RAB proportionate investment' to 'regulatory investment value'. In order for the proposed definition to be used in clauses 5.3.16(2) of the gas distribution IMs and 5.3.13(5) of the gas transmission IMs, "opening investment value" needs to be replaced by "regulatory investment value + RAB proportionate investment".

2. The new definition proposed in paragraph 12 of the Consultation Paper (to be used in each of the six clauses mentioned above) introduces a new term – “debt rate” – which is not defined elsewhere in the IMs. We assume that this term is intended to be the same as ‘cost of debt’, which is defined, and if so we suggest that ‘debt rate’ be changed to ‘cost of debt’ in the definition. Otherwise, ‘debt rate’ needs to be defined.

In addition, we note that the amendment proposed (in paragraph 21 of the Consultation Paper) to the definition of regulatory profit/(loss) before tax for DPPs (in clause 4.3.1(4) of the gas distribution and gas transmission IMs) removes the inconsistency between that definition and the corresponding definition for CPPs (by removing the adjustment for TCSD from the DPP definition). However this amendment will not remove the inconsistency with the definition for regulatory profit/(loss) before tax used in Schedule 16 of the gas ID determinations (where regulatory profit includes an adjustment for revaluations).

We note that the recent adjustments to the IMs relating to the timing of cash flows have introduced a layer of complexity that was previously absent and not contemplated when the IMs were initially drafted and consulted on.

The Commission has proposed, and implemented, a number of amendments to the IMs since they were initially determined in December 2010. These amendments do not appear to us to be linked together through any structured process. We note that the Consultation Paper is the second set of proposed amendments relating to cash flow timings; that it was released only 5 weeks after the previous amendments were determined (and proposes to amend one of the new definitions implemented in the November determination); and that it only relates to gas pipeline services whereas previous IM amendments covered both gas and electricity. We submit that IM amendments should be managed as a structured process, which considers the IMs for all sectors together, proposes amendments at reasonable intervals, and groups together amendments as much as possible.

The recent amendments of the IMs introduce some regulatory uncertainty for suppliers. This is particularly the case regarding adjustments for cash flow timing. The proposed adjustment to notional deductible interest adjusts the timing assumptions for one line item, but there are potentially similar arguments for many other line items. We therefore suggest that the Commission signals how it will reconsider the IMs going forward to give suppliers greater certainty over the process.

Another adverse outcome of a piecemeal approach to amending the IMs, and the increasing levels of complexity being added, is that inconsistencies have developed across sectors and different forms of regulation (ID, DPPs, CPPs).

There will be inconsistencies across sectors if the proposed amendments to the gas IMs are implemented. We assume that the Commission is also intending to make analogous amendments (for notional deductible interest and regulatory profit/(loss) before tax) to the electricity distribution IMs. It would be helpful if the Commission could signal its intention to do so – otherwise, our members are uncertain as to the future rules that will apply to them.

Yours sincerely



Alan Jenkins
Chief Executive
Electricity Networks Association