

From the Electricity Networks Association

Submission on proposed compliance requirements for the 2015-2020 Default Price-Quality Paths for electricity distributors

Final

29 August 2014

The Electricity Networks Association makes this submission along with the explicit support of its members subject to Default Price-Quality Path regulation, listed below.

Alpine Energy Ltd
Aurora Energy Ltd
Centralines Ltd
Eastland Network Ltd
EA Networks Ltd
Electricity Invercargill Ltd
Horizon Energy Distribution Ltd
Nelson Electricity Ltd
Network Tasman Ltd
Orion New Zealand Ltd
OtagoNet Joint Venture
Powerco Ltd
The Lines Company Ltd
Top Energy Ltd
Unison Networks Ltd
Vector Ltd
Wellington Electricity Lines Ltd

Contents

1.	Introduction	1
1.1	Summary	2
2.	Annual compliance statement.....	6
2.1	Information to be provided	6
2.2	Contents of the annual compliance statement	6
2.2.1	Compliance	6
2.3	Assurance requirements	7
2.3.1	Complete and accurate	7
2.4	Recommendations	8
3.	Price limits including pass-through and recoverable costs	9
3.1	Weighted average price cap	9
3.1.1	Notional values	9
3.1.2	Revenue differential term	9
3.1.3	Prompt payment discounts	9
3.2	New recoverable cost terms	9
3.2.1	Quality incentive	10
3.2.2	Energy efficiency and demand side management initiative incentive	10
3.2.3	Capex wash-up	10
3.2.4	Spur asset purchase wash-up	11
3.2.5	Catastrophic event allowance	11
3.2.6	Electricity Authority AUFLS programme	12
3.2.7	Additional revenue for three EDBs	13
3.2.8	Indirect transmission costs	13
3.2.9	Customer service lines	13
3.3	Modifications to existing recoverable costs	14
3.3.1	Avoided transmission as a result of distributed generation	14
3.3.2	Ex ante approvals for transmission recoverable costs	15
3.4	Recovering pass-through and recoverable costs	16
3.4.1	Ability to recover	16
3.4.2	Transmission revenue balance	17
3.4.3	Timing of recovery	18
3.4.4	Commission approval	19
3.5	Recommendations	20
4.	Quality standards as targets.....	22
4.1	Statements of compliance	22
4.2	Compliance with the quality standards	22
4.3	Adjustments to the quality standards	23
4.4	Information to be provided	23
4.5	Recommendations	23
5.	Large transactions.....	25

5.1	Defining transactions	25
5.2	Effect on the DPP	25
5.2.1	Price path	25
5.2.2	Quality standards	26
5.2.3	Compliance obligations	26
5.3	Recommendations	26
6.	Price restructures	27
6.1	Rules to apply	27
6.1.1	Estimating quantities	27
6.2	Notification	28
6.3	Recommendations	28
7.	Demand side management initiatives	29
7.1	Incentive mechanism	29
7.1.1	Definition and scope of energy efficiency or demand side management initiatives	29
7.1.2	Process for approval	30
7.1.3	Contents of an application	30
7.1.4	Proposed Principles	30
7.2	Recommendations	30
8.	Dates for proposing a CPP.....	32
8.1	Proposed dates	32
8.2	Recommendations	33
	Attachment A – D factor principles.....	34

1. Introduction

1. The Electricity Networks Association (ENA) appreciates the opportunity to submit to the Commerce Commission (the Commission) on the Proposed Compliance Requirements for the 2015-2020 DPP for Electricity Distribution Businesses – Draft Reasons Paper (the Draft Reasons Paper)¹.
2. The ENA has also submitted on a number of other related consultations, which were published on 4 July 2014 and 18 July 2014.² We note that the following Commission papers, released alongside this Draft Reasons Paper on 18 July 2014, contain information which is relevant for assessing and demonstrating compliance with the proposed Default Price-Quality Path (DPP):
 - a) Proposed Amendments to Input Methodologies for Electricity Distribution Services
 - b) Proposed Electricity Distribution Input Methodology Amendments 2014 (IM Amendments)
 - c) Electricity Distribution Services Default Price-Quality Path Draft Determination 2015 (Draft Determination)
 - d) Proposed Quality Targets and Incentives for Default Price-Quality Paths from 1 April 2015 (Quality Incentive Paper).
3. We have considered these supporting papers, and where relevant have included comments on them, in this submission.
4. We note that the Draft Reasons Paper has invited submitters to provide suggested wording where necessary to support proposed changes. We consider that careful review of the proposed detailed drafting is important, as unintended consequences can sometime arise when new requirements are introduced into regulatory rules.
5. Due to the large volume of consultation material to be responded to in August, the ENA has sought an extension, which has been granted, on the detailed drafting of the DPP Determination and associated Input Methodology (IM) amendments which have been proposed. Accordingly, we anticipate providing the Commission with our detailed comments on the proposed drafting as soon as practicable.
6. We also note that there are a number of new compliance requirements and methods which are proposed for the next regulatory period. These have not been able to be tested practice, and we suggest that there may be unintended consequences which may arise from a compliance perspective in the next regulatory period. We note the

¹ Commerce Commission, Proposed Compliance Requirements for the 2015-2020 Default Price-Quality Paths for Electricity Distributors, 18 July 2014

² Refer: <http://www.comcom.govt.nz/regulated-industries/electricity/electricity-default-price-quality-path/default-price-quality-path-from-2015>

Commission may need to be mindful of potential implementation issues, which may need to be addressed via subsequent amendments to the DPP Determination.

7. The ENA represents the 29 electricity network businesses (ENBs) in New Zealand.

1.1 Summary

8. For the purpose of preparing annual DPP Compliance Statements, the ENA:
 - a) Supports the proposal to retain the current timeframes for submitting and publishing Compliance Statements.
 - b) Has no objection in principle to ENBs providing the Commission with PxQ data in electronic format but requests further information as to why this change is proposed, and what the electronic version of the information is to be used for.
 - c) Notes the proposed new compliance approaches to transactions, price restructures and recovery of recoverable and pass-through costs, all of which will impact Compliance Statements, and are addressed later in this submission.
 - d) Supports the proposal to include additional explanations in Compliance Statements in the advent of any non-compliance.
 - e) Submits that the additional information to be disclosed about any non-compliance should enable the Commission to streamline its post breach processes, and resolve inadvertent breaches in a timely and cost effective manner.
 - f) Supports the development and publication of Enforcement Guidelines for Part 4.
 - g) Supports flexibility for auditors in formatting their audit opinions.
 - h) Submits that the proposal to change the audit opinion to consider whether complete and accurate information has been compiled in support of the Compliance Statement is modified, in recognition of the manual nature of outage recording processes, which is reflected in the current DPP audit opinion.
9. For the purpose of assessing compliance with the price path the ENA:
 - a) Supports the retention of lagged quantities (and the clarifications which have been proposed as to how these are to be derived under certain circumstances) and the revenue differential term which preserves the price path between assessment periods.
 - b) Supports proposals to introduce a number of new recoverable costs, which allow for deferred recovery/refund across regulatory periods where necessary, and for spreading recovery/refund within a regulatory period to minimise price shocks and/or match the underlying revenue building blocks.
 - c) Submits that in this respect:

- i. the proposed spur asset wash-up is unable to be implemented in practice because no discrete opex allowance has been included in the price path for assets to be purchased in FY15. We have submitted an alternative approach in our submission on the DPP Main Policy Paper which resolves this issue
 - ii. the proposed catastrophic event allowance is extended to cover the financial impacts not provided for in the price path of other re-opener events, does not prematurely exclude potential consequences of catastrophic events, and considers the financial impacts of the other incentive mechanisms to be included in the price path.
- d) Notes that we have previously submitted that an ENB should be able to recover both the costs to restore network assets following a catastrophic event and those arising from step changes in demand from such an event.
- e) Submits indirect transmission costs are included as a new recoverable cost in the IMS to improve consistency with other transmission costs. In addition, the ENA submits they are not subject to pre-approval.
- f) Submits a new recoverable cost is included to enable ENBs to recover the costs of taking on responsibility for customer service lines in order to address public safety issues, which could be subject to pre-approval by the Commission. The inability for non-exempt ENBs to recover their costs is a real barrier to addressing this important issue.
- g) Does not support the proposal to change ex-post approval processes to ex ante approval processes for recoverable costs where clear evidence is available of the amount to be recovered, including invoices and payments which apply under existing contractual arrangements with owners of distributed generation or Transpower. The proposal introduces unnecessary uncertainty particularly as there is no evidence of any circumstances which would lead to non-approval of these charges.
- h) Submits that the compliance wash-up option previously proposed by the ENA fully addresses the concerns raised about forecasting error and volume risk, and can be readily implemented.
- i) Notes that should a transmission balance approach be implemented, that the full balance should be able to be carried between regulatory periods to ensure these costs are able to be recovered. Pricing discipline is provided by information disclosures and Compliance Statement disclosure.
- j) Notes that the proposed pre-approval process for some transmission recoverable costs is at odds with the transmission balance approach which washes up for differences between forecast and actuals and does not allow for lagged recovery.
- k) The proposal for an ascertainable cost approach to other non-transmission recoverable costs has not addressed the concerns we have previously raised, and unduly limits the ability to ultimately recover costs, and imposes an

artificial recovery deadline which ENBs may not be able to meet due to circumstances outside their control.

- l)* Notes that the transmission revenue balance approach could be extended to include other recoverable costs and pass through costs, which would be a straight forward solution to the issues we have identified with the proposed ascertainable cost method.
- m)* Supports the proposal for pre-approval of the energy efficiency and demand incentive because this involves some judgement as to how the allowance is derived and valued.

10. With regards to the service quality component of the DPP the ENA:

- a)* Supports the proposal to include additional explanations in Compliance Statements in the advent of any non-compliance, conditional on changing the compliance standard for quality targets to better reflect underlying performance. The current proposal, which is not supported, classifies normal variation above the historical mean as non-compliant, and fails to normalise MEDs in some circumstances. As a result, the proposed explanatory disclosures are not meaningful.
- b)* Submits that the proposed compliance standard is significantly increased relative to the current DPP and adds regulatory uncertainty as to likely enforcement action in circumstances which the ENA views as within the bounds of normal variation, and for this reason is not supported.
- c)* Supports proposals for adjusting quality standards following a transaction or transfer of assets from Transpower.

11. Where large transactions occur between non-exempt ENBs (excluding spur asset transfers with Transpower), the ENA:

- a)* Notes that IM clause 3.2.1 provides the overarching rules for how amalgamations are to be treated for ENBs subject to price-quality regulation.
- b)* Supports the proposed approach to adjusting the price paths for sellers and buyers, and associated compliance information requirements.
- c)* Notes that the proposals require modification to recognise that transactions may also be undertaken with exempt ENBs, which have no price path.
- d)* Suggests that the proposed DPP Determination drafting in this respect can be improved.

12. Where prices are restructured and in order to assist with DPP compliance obligations, the ENA:

- a)* Supports the proposal to clarify how price restructuring is to be treated from a compliance perspective for the DPP.
- b)* Supports the proposed guidance for establishing lagged quantities corresponding to prices when deriving allowable notional revenue and notional revenue for DPP compliance purposes.

- c)* Considers that explanations for any quantity estimates made should be included in Compliance Statements along with the remainder of the compliance and explanatory information, rather than notified to the Commission prior to the new prices taking effect.
- d)* Submits that ENBs should be able to give reasonable consideration to other relevant information when estimating quantities.

13. In implementing an energy efficiency and demand incentive, the ENA:

- a)* Acknowledges and supports leveraging from the NSW, Australia D Factor regime.
- b)* Submits that another way to address this incentive is through a volume wash-up, which would be simpler, less costly, more certain and allow for the sharing of benefits with consumers.
- c)* Considers the scope of the incentive should be broadened, including extending the scope to tariff initiatives, as it is currently excludes activities which achieve outcomes consistent with section 54Q.
- d)* Agrees with the process for applying for the incentive, but submits that approval must be granted in a timely and cost effective way, and well before prices are set for the following year.
- e)* Submits that a principled approach (rather than specific method) is appropriate and that the proposed principles are modified consistent with our suggestions included in Attachment A, which will assist to minimise compliance costs.

14. The ENA submits that with respect to CPP application windows, the proposed February windows are unrealistic, given the pre-application timing constraints which exist within the current CPP IMs. The ENA has previously suggested a number of modifications to the CPP IMs which are required before these early windows can be implemented.

15. We provide more detailed comment on these points in the body of our submission. The ENA's contact person for this submission is:

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2. Annual compliance statement

2.1 Information to be provided

16. DPP Compliance Statements are currently submitted to the Commission within 50 working days of the end of each annual assessment period, and published on websites within 5 working days. We support the proposal to retain these requirements.
17. It is also proposed that digital copies (in MS Excel compatible format) of PxQ schedules which support the price path compliance position (ie: allowable notional revenue (ANR) and notional revenue (NR)) are to be provided to the Commission within 5 working days of submitting the compliance statement. The Draft Reasons Paper does not explain why this new requirement has been included in the Draft Determination.
18. In principle the ENA has no objection to this requirement, however it introduces an additional compliance obligation, and it is not clear why the Commission considers it needs this subset of the DPP compliance information in digital form. The ENA therefore requests further information as to why this change is proposed, and what the electronic version of the information is to be used for.

2.2 Contents of the annual compliance statement

19. Clause 11 of the Draft Determination describes the information which must be included in a DPP Compliance Statement. Our comments below focus on the areas where changes are proposed, relative to the current DPP Determination.
20. It is proposed that new compliance approaches will be adopted where businesses have restructured prices, or undertaken large transactions. Accordingly it is proposed that there will be new information requirements for Compliance Statements following either of these events. We address these topics in later sections of this submission.

2.2.1 Compliance

21. Compliance with the price path is also to be assessed in a slightly different way to the current DPP, due to changes to the arrangements for the recovery of pass-through and recoverable costs. We address these proposals in the next section of this submission.
22. It is proposed that Compliance Statements will include a statement of compliance with the price path, and in the event of non-compliance, an explanation of the reasons for non-compliance, and actions taken to mitigate this and prevent similar outcomes in future periods. The ENA supports the addition of explanations for non-compliance.
23. It is also proposed that Compliance Statements will include a statement of compliance with the quality targets, and in the event of non-compliance, an explanation of the reasons for non-compliance, and actions taken to mitigate and prevent similar outcomes in future periods. The ENA supports the addition of explanations for non-compliance.

We include additional comments on how compliance with the quality standards are to be assessed in Section 4 of this submission.

24. In addition, explanations as the cause of Major Event Days (MEDs) are to be included. We support this additional requirement and have proposed amendments to the identification of MEDs in our submission on the Quality Incentive Paper which will make the proposed disclosures more meaningful.
25. The ENA considers that such statements should enable the Commission to streamline its post breach processes. This should result in the Commission resolving inadvertent breaches, which have been mitigated by subsequent actions in a timely and cost effective manner.
26. As previously submitted,³ the ENA considers that the Commission has been remiss in failing to publish Enforcement Guidelines for the DPP, and note that these guidelines were previously provided under the Part 4A thresholds regime, and were signalled in earlier consultation documents on the DPP.

2.3 Assurance requirements

27. Compliance Statements are to include a signed assurance report. It is proposed that the pro forma report is removed, and replaced with a list of requirements which auditors must meet when issuing their audit reports. We agree that affording auditors some flexibility in how they word their opinions with appropriate guidance, is a sensible development.
28. The ENA is not able to comment on the specific requirements for auditors' reports, and understands that individual ENBs and/or their auditors will be providing feedback on the specific audit requirements directly.

2.3.1 Complete and accurate

29. It is proposed that auditors must opine on whether 'proper records have been kept to enable the complete and accurate compilation of the Compliance Statement'. This is not a requirement of the current DPP Determination audit report, which requires the auditor to opine on whether the statement is 'free from material misstatement'.
30. When the DPP Determination was first developed, there was considerable debate on the form of the audit opinion, and when transitioning from the Part 4A thresholds to the Part 4 DPP, it was recognised that a 'true and fair' audit standard was not appropriate for reliability data. Accordingly, the audit opinion was changed to reflect the 'free from material misstatement' requirement.
31. The reason for this is that often there is no independent evidence available to support the completeness and accuracy of recorded faults, and control over the accuracy of ICP data included in the SAIDI and SAIFI calculations tends to be limited. This is an

³ ENA, Submission on default price-quality paths from 1 April 2015 for 17 electricity distributors: process and issues paper, 30 April 2014, section 6.2.1

inevitable outcome of manual recording processes, which comprise much of the data used to record outages. This means that while it is possible to test the reliability data to confirm that it 'fairly represents' the quality performance of an EDB, it is much more difficult to achieve the higher audit standard of 'complete and accurate'.

32. While ENBs continually improve their data processes, the costs of fully automating data collection would be prohibitive, and in our view not justified for the purpose of meeting a 'complete and accurate' audit standard.
33. We therefore submit that the proposed Schedule 7(b)(vii) requirement for Audit reports is removed.

2.4 Recommendations

34. For the purpose of preparing annual DPP Compliance Statements, the ENA:
 - a) Supports the proposal to retain the current timeframes for submitting and publishing Compliance Statements
 - b) Has no objection in principle to ENBs providing the Commission with PxQ data in electronic format but requests further information as to why this change is proposed, and what the electronic version of the information is to be used for
 - c) Notes the proposed new compliance approaches to transactions, price restructures and recovery of recoverable and pass-through costs, all of which will impact Compliance Statements, and are addressed later in this submission
 - d) Supports the proposal to include additional explanations in Compliance Statements in the advent of any non-compliance.
 - e) Submits that the additional information to be disclosed about any non-compliance should enable the Commission to streamline its post breach processes, and resolve inadvertent breaches in a timely and cost effective manner.
 - f) Supports the development and publication of Enforcement Guidelines for Part 4.
 - g) Supports flexibility for auditors in formatting their audit opinions.
 - h) Submits that the proposal to change the audit opinion to consider whether complete and accurate information has been compiled in support of the Compliance Statement is modified, in recognition of the manual nature of outage recording processes, which is reflected in the current DPP audit opinion.

3. Price limits including pass-through and recoverable costs

3.1 Weighted average price cap

35. The price path is in the form of a weighted average price cap, and although similar to the specification of the price path under the current DPP, a number of amendments are proposed. We comment on these in the following paragraphs.

3.1.1 Notional values

36. We support the proposal to continue to assess the price path using notional values, based on quantities which are lagged two years and weighted during the year if prices change during an assessment period. This approach ensures the required quantity data is available at the time prices are set.

37. The Compliance Paper provides clarification as to how retailer quantity wash-ups are to be treated. We welcome this clarification, which indicates that the quantities used when setting prices are the appropriate quantities for compliance purposes, even where wash-ups have been notified subsequently. The ENA agrees with this approach, which ensures consistency in deriving ANR and NR and avoids unintentional compliance outcomes as a result of information which was not known at the time prices were set.

3.1.2 Revenue differential term

38. The revenue differential term is to be retained, which ensures pricing decisions in one assessment period do not affect the price path in the next assessment period. The ENA supports retention of the revenue differential term.

3.1.3 Prompt payment discounts

39. The ENA appreciates further clarification as to the treatment of prompt payment discounts when complying with the DPP price path, but notes these are not widely used by ENBs.

3.2 New recoverable cost terms

40. The IMs allow for recoverable and pass-through costs to be recovered directly from consumers through prices. There are a number of new recoverable costs which are proposed for the 2015-2020 DPP. In addition other refinements are proposed to the way in which recoverable and pass-through costs are recovered, calculated, approved and disclosed in Compliance Statements.

3.2.1 Quality incentive

41. A quality incentive adjustment recoverable cost is to be introduced to the price path, to give effect to the financial reward/penalty scheme where quality performance falls within the proposed SAIDI and SAIFI caps and collars.
42. The IMs are to include a 'quality incentive adjustment' term and related definitions. The penalty/reward is reflected in the price path through the V term (which is intended to capture all of the non-transmission recoverable costs). We note that the proposed IM amendments include new terms ('revenue at risk' and 'incentive rate') which are not defined in the Draft IMs or the Draft DPP Determination. We suggest they need to be defined in the DPP Determination. We also note that similar provisions are envisaged for CPP Determinations.
43. The method for calculating the recoverable cost is specified in Schedule 5 of the Draft DPP Determination. As the incentive is a recoverable cost, it is able to be carried between regulatory periods. The ENA supports this mechanism for this reason, as it allows for the time lag necessary to gather the information and determine the financial reward/penalty, before reflecting it in prices.

3.2.2 Energy efficiency and demand side management initiative incentive

44. An 'energy efficiency and demand incentive allowance' recoverable cost is to be introduced to the price path, to give effect to the financial compensation mechanism for energy efficiency and demand side management initiatives.
45. The IMs are to include an 'energy efficiency and demand incentive allowance' term and reference to a Commission approval process to be set out in the DPP (or CPP) Determination. The allowance is reflected in the price path through the V term (which is intended to capture all of the non-transmission recoverable costs). As the incentive is a recoverable cost, it is able to be carried between regulatory periods. The ENA supports this mechanism for this reason, as it allows for the time lag necessary to determine the value and seek approval before reflecting it in prices.
46. The method for calculating the recoverable cost and the process for applying for the allowance is specified in Schedule 5 of the Draft DPP Determination. We comment on these proposals in Section 7 of this submission.

3.2.3 Capex wash-up

47. A 'capex wash-up adjustment' recoverable cost is to be introduced to the price path, to adjust the price path for differences between the forecast value of capex in FY15 and the actual value of commissioned assets in that year. The value of the recoverable cost is to reflect the impact on the return of and return on assets building blocks in the DPP regulatory period due to the wash-up of actual vs forecast. The ENA supports this proposal as it ensures accurate RAB information is included in the price path.
48. It is proposed that the recoverable cost is to be spread evenly over the DPP regulatory period (from the second assessment period onwards) with time value of money (TVM) adjustments. The ENA supports the proposal to spread the recoverable cost, as this is

consistent with the recovery of the return of and on assets, over time, as represented in the underlying building blocks.

49. In addition, a proposed new IM sub-clause defines the capex wash-up adjustment with reference to:
- a) Section 53P(3)(b) of the Act
 - b) The present value of the revenues for the regulatory period
 - c) Value of commissioned assets in the year immediately following the base year
 - d) Forecast value of commissioned assets in the year immediately following the base year
 - e) Use of the DPP WACC to calculate the revenue impact
 - f) Use of the Commission's method for setting starting prices, X factor, and timing assumptions.
50. Our detailed comments on the drafting will be provided at a later date.

3.2.4 Spur asset purchase wash-up

51. A similar wash-up is proposed for actual vs forecast spur asset purchases in FY15, where these were forecast to occur, but did not proceed. The adjustment is to be spread over the regulatory period, from the second year, ie: once the information is available and able to be reflected in prices. The ENA supports this proposal, which is a pragmatic way to accommodate transactions planned for the year immediately prior to the next regulatory period.
52. It is proposed that a 'transmission asset wash-up adjustment' is included as a new recoverable cost (which will always be negative). The adjustment is to cover the value of opex and capex associated with the assets in question, which is reflected in the price path.
53. We note that the proposed approach to determining the opex allowance for spur assets to be transferred means that it is not possible to identify a discrete allowance. Thus the proposal is not able to be implemented in practice. Our submission on the DPP Main Policy Paper submitted an alternative opex forecasting method, which would, if implemented, resolve this issue.
54. The wash-up adjustment is to be defined in the IMs, with reference to amounts to be specified in a DPP Determination. We support this approach which is transparent, and easy to apply, as the values are known in advance. We consider this is a more straight forward approach to the alternative option of a new DPP re-opener.

3.2.5 Catastrophic event allowance

55. A new recoverable cost is to be introduced to allow for additional costs to be recovered where they were incurred immediately following a catastrophic event, and prior to a reset price path coming into effect. Our submission on the DPP Main Policy Paper proposed modifications to the scope of the recoverable cost, including:

- a) Extension of the recoverable cost to adjust for the financial impact of other re-opener events, prior to the price path being reset
- b) Consideration of the financial impact of the catastrophic event on suppliers and consumers due to the incentive mechanisms (for quality, expenditure efficiency and energy efficiency and demand side management) which are proposed to be included in the DPP price path from 2015 onwards
- c) Consideration of all financial impacts of the catastrophe on suppliers, as the proposed definitions includes some, but excludes others. The ENA considers that it is unduly premature to rule out from consideration some impacts and not others, when one catastrophic event may be quite different to the next. While the Orion NZ experience has assisted us to understand how well the Part 4 provisions were designed for such circumstances, we cannot be sure that if another major event were to occur, there would be similar impacts on consumers and suppliers as demonstrated in Canterbury following the 2010 and 2011 earthquakes.

56. We have previously submitted that an ENB should be able to recover both the costs to restore network assets following a catastrophic event and those arising from step changes in demand from such an event. It is the ENA's position that in order for price regulation to be consistent with the purpose of Part 4, an ENB needs to be able to recover its expected prudent costs to supply the regulated service (ex ante), or its prudent costs incurred (ex post). If prices are set such that the ENB is not able to recover its costs (either ex ante or ex post) it has no incentive to incur those costs, that is such price regulation would undermine its incentives to invest (which would be an outcome contrary to the purpose of Part 4).

57. We note that a catastrophic event often changes electricity demand patterns, and indeed this was and is the case following the Canterbury earthquakes across Orion's network foot print.⁴

3.2.6 Electricity Authority AUFLS programme

58. A new recoverable cost is also proposed to allow for levies, charges, costs or revenues associated with automatic under-frequency load shedding (AUFLS) events and associated regulations which may be implemented by the Electricity Authority (EA). The EA is considering changes to its AUFLS arrangements which may result in distributors receiving compensation payments, or incurring charges which need to be passed on to consumers.

59. The ENA supports this new provision and notes that the recoverable cost requires pre-approval by the Commission. In the Draft DPP Determination it is suggested that the evidence to be supplied would be evidence of the amount claimed, with reference to regulation under the Electricity Industry Act. This appears unduly complex, as we

⁴ Refer, ENA Submission on Yarrow Report in Relation to Orion's CPP Application, 26 June 2103

consider there is no reason why pre-approval by the Commission is required in this instance.

60. Evidence of invoices or rebates with regards to any AUFLS activity will provide unambiguous evidence for auditors and Directors of charges or compensation payments associated with AUFLS. We do not consider that the Commission needs to exercise any judgement in this respect, and the proposed approval process will add complexity, and possibly delays in passing these costs/benefits onto consumers.

3.2.7 Additional revenue for three EDBs

61. In our submission on the DPP Main Policy Paper, we supported the intention to add a new recoverable cost for three ENBs which were denied the ability to recover their revenue requirement in full in the prior regulatory period, due to their price caps.
62. This is to be included as a new '2013-15 NPV wash-up allowance' recoverable cost in the IMs and is defined with reference to amounts to be included in the DPP Determination. We agree with the proposal to specify the amounts in the DPP Determination which provides transparency and certainty, and minimises compliance costs for the ENBs concerned.
63. We have previously submitted that the relevant ENBs should have input into the rate of recovery of these deferred amounts, including into the next regulatory period if required, to minimise price shocks and align with longer term pricing strategies.

3.2.8 Indirect transmission costs

64. An additional category of transmission charges was introduced in the 2012 DPP Determination in recognition of situations where ENBs incur charges which are consistent with the transmission pricing methodology (TPM), but which are passed on by an intermediary rather than Transpower. We consider that a new recoverable cost category should be included in the IMs for indirect transmission charges, to ensure consistency across the regulatory rules which apply to all transmission related recoverable costs.
65. The practical effect of this suggestion is that the definition of indirect transmission recoverable cost moves from the DPP Determination to the IMs. We consider this provides more certainty, consistency and transparency than the current approach.

3.2.9 Customer service lines

66. We have previously submitted that the Commission should include a recoverable cost category for services implemented in relation to customer service lines, with a provision for pre-approval of any proposed cost recovery by the Commission.
67. The lack of maintenance of customer service lines is a looming public safety risk. These lines are not (in general) the responsibility of ENBs, but nor are many customers aware that they are (in general) responsible for their monitoring, maintenance and replacement. If they are aware, they are often not well-placed to complete this role.

68. The ENA has provided material to the Commission relating to this issue, including a report from Energia that recommends ENBs offer one of two services (at their discretion) to address this public safety issue:
- a)* An Inspect, Maintain and Replace service or
 - b)* An Inspect, Notify and Enforce service.
69. A necessary step for non-exempt ENBs to be able to implement these recommendations is that the Commission needs to provide a recoverable cost mechanism for recovering the associated costs. ENBs are not well-placed to project the costs of providing services related to customer service lines as most do not have a history of providing this service. This would be a transitional measure to allow ENBs and the Commission to gather information and data on the size of the costs. It is expected that it will take some time to determine the size of the problem. The ENA suggests that the Commission could require a pre-approval process to satisfy itself that ENBs are not over-recovering. If no allowance is made then this will impose a barrier to businesses moving ahead with this important public safety issue.

3.3 Modifications to existing recoverable costs

3.3.1 Avoided transmission as a result of distributed generation

70. ENBs may pay avoided costs of transmission (ACOT) charges to distributed generators, which may be embedded or notionally embedded within the distributor's network. These charges are currently defined as a recoverable cost in the IMs with reference to the Electricity Industry Participation Code (the Code).
71. It is proposed that the term is amended in recognition of a review of the EA's regulations governing distributed generation (DG). The Compliance Paper suggests that this provides flexibility in the event of changes to the Code. We note that changes to the Code were published on 19 August⁵, however no changes were introduced to guidelines and principles for determining ACOT payments associated with DG.
72. The current IM definition is to be replaced with a 'distributed generation allowance' recoverable cost term. This term in turn, is to be defined in the IMs with reference to:
- a)* Payments or receipts associated with avoided transmission charges arising from distributed generation
 - b)* Embedded and notionally embedded
 - c)* Part 6 of the generation Code or the Electricity Industry Act (the EIA).

⁵ Electricity Authority, Operational review of Part 6 of the Code, Decisions and reasons paper, Final decision, 19 August 2014

73. The ENA supports this improved definition, which allows for potential changes under the EIA or the Code.
74. It is also proposed that these recoverable costs will be subject to pre-approval by the Commission and that evidence must be provided to show how the amount is calculated in accordance with any regulation made by the EA under the EIA. We do not consider that this is necessary for ACOT for DG because Part 6 of the Code currently provide guidelines and default arrangements. Current contractual arrangements exist which reflect commercial arrangements between the parties. These are consistent with the Code – which we note does not prescribe a method for determining ACOT.
75. The contractual arrangements, and invoices and payments between the parties provide uncontroversial evidence of the allowances which meet the proposed definition of the recoverable costs. The drafting in the DPP Determination (at paragraph 6(c)) fails to recognise that these payments currently arise as the result of commercial contracts (and hence invoices and payments) between DG owners and distributors.
76. While we cannot predict how these rules may change, the current arrangements are straight forward and do not justify an additional approval step. Where existing contracts are in place, the current arrangements are suitable. We consider that the proposed new approval process should only be implemented if the EA changes its DG regulations, and if these, as a result, justify some judgement on the Commission's part as to whether the ACOT charges paid are to be passed on to consumers.

3.3.2 Ex ante approvals for transmission recoverable costs

77. In addition it is proposed that pre-approval is sought for new investment charges paid to Transpower and ACOT allowances arising from spur asset transfers. Supporting documentation is to be provided in support of applications for approval.
78. Our comments on the approval processes are included later in this section of the submission.
79. In our submission on the DPP Main Policy Paper we responded to the new proposals for determining the value of the ACOT recoverable cost for spur asset transfers. For the reasons included in that submission (refer paragraph 142) we do not support the proposed new method which we consider is not achievable in practice and is inconsistent with the intent of the recoverable cost specified in the IMs, and described more fully in the IM Reasons Paper.

3.4 Recovering pass-through and recoverable costs

3.4.1 Ability to recover

80. In our submission on the Process and Issues Paper,⁶ and the more recent submission on the DPP Main Policy Paper we considered the possibility that ENBs were unable to fully recover pass-through and recoverable costs due to the way in which the price path was specified.
81. We agree that, as stated in the Compliance Paper, ENBs should have the opportunity to recover pass-through and recoverable costs in full, and support improvements to address volume risk, and forecasting uncertainty as proposed.
82. Our submission on the Process and Issues Paper proposed a compliance wash-up to address all of the reasons (including forecasting uncertainty and volume risk) why an ENB may be unable to fully recover pass-through and recoverable costs without risking inadvertently breaching the price path. ENBs are currently unable to comply, and fully recover their allowable revenues, pass through and recoverable costs. Compliance headroom is required to avoid inadvertent breaches.
83. The ENA continues to support a compliance wash-up approach, as previously submitted, and encourages the Commission to consider further the proposals put forward in our earlier submission.⁷ While our proposed approach is acknowledged in the Companion Paper (paragraphs 3.35 - 3.37), and the DPP Main Policy Paper (paragraphs 5.5 – 5.7) it has not been adopted. Neither paper explains why the proposed alternative approach is preferred. We note that the alternative proposal addresses some but not all of the compliance risk we have addressed in our compliance wash-up proposal.
84. We note that the wash-up proposal can be disaggregated and applied separately to recoverable costs, pass through costs and forecast volume error.
85. Without prejudice to our position, we have also considered the proposals for a hybrid approach which:
- a) Introduces a transmission revenue balance approach which is to be separate to the price path.
 - b) Applies an ascertainable cost method for the recovery of non-transmission related pass-through and recoverable costs.

⁶ Commerce Commission, Default price-quality paths from 1 April 2015 for 17 electricity distributors: Process and issues paper, 21 March 2014

⁷ ENA, Submission on default price-quality paths from 1 April 2015 for 17 electricity distributors: process and issues paper, 30 April 2014, sections 6.1, 6.2 and 6.3

3.4.2 Transmission revenue balance

86. The ENA considers that in principle the proposed transmission revenue balance approach usefully addresses some of the current compliance issues associated with recovering transmission charges from consumers. The ENA supports the following features of the proposal:
- a) Use of actual transmission payments and revenues to be derived from the transmission components of posted prices and actual – not lagged quantities.
 - b) Inclusion of indirect transmission charges and payments to Transpower as derived under the transmission pricing methodology (TPM) new investment contracts, for system operator services, and payments to owners of DG for ACOT.
 - c) Exclusion of the spur asset transfer ACOT recoverable cost as this is an allowance which provides for the recovery of costs which are associated with distribution (not transmission) services, once the assets have been transferred.
 - d) A rolling balance, which provides for unders/overs in the previous year to recovered/passed back with TVM adjustments, in recognition of the fact that the transmission components of prices will be set with imperfect information about billable quantities and actual transmission charges.
87. We note that some of these costs (payments to owners of DG and new investment charges payable to Transpower) are to be subject to Commission approval processes. As stated earlier we do not consider that these charges require pre-approval. We consider that the pre-approval process for these costs is not consistent with a transmission balance approach. As the costs are invoiced to ENBs by third parties consistent with the contractual arrangements between those parties, the amounts should be able to be recovered in the year in which they are incurred, and reflected in the transmission components of prices for that year. It will be necessary to anticipate the amounts when setting prices, with a wash up via the balance in the subsequent year, once the actual charges have been invoiced. A pre-approval step does not work with this arrangement.
88. The ENA does not support the proposal that negative transmission balances at the end of the regulatory period are unable to be carried over into the next regulatory period. This introduces an artificial break point into the balance which prevents ENBs from fully recovering these costs. We consider this proposal is not consistent with the intent of the mechanism which is to address forecasting error and information uncertainty.
89. We note the concern raised in the Companion Paper about the degree of flexibility in how transmission prices are set relative to transmission costs. We consider that this can be addressed through TVM penalties on transmission balances which exceed a certain percentage (say 5%) of transmission costs. A similar TVM penalty approach was proposed in our compliance wash-up option.
90. In addition, ENBs will disclose information in their Compliance Statements about the transmission balance, including explanations of variances between forecast and actual transmission charges and revenues. This adds discipline to the derivation of

transmission tariffs, in addition to that already required under clause 2.4 of the Electricity Distribution Information Disclosure Determination 2012 (the IDD).

91. We do not support the alternative suggestion in paragraph 3.53.1 of the Compliance Paper) to use estimated quantities as a discipline on transmission revenues. This proposal adds unnecessary complexity by introducing lagged quantities into the transmission balance. The use of actual quantities is one of the important advantages of the proposal because it removes volume risk, and is simple to implement.

3.4.3 Timing of recovery

92. It is proposed that the remaining pass-through and recoverable costs are only able to be recovered through prices once the amount becomes certain. While recognising this approach can address forecasting risks, our previous submissions have raised concerns about the proposed ‘ascertainable cost’ approach, including:
- a) Developing a practical definition of ‘ascertainable’
 - b) Introducing inconsistencies with IDD disclosures due to the lagged nature of the recovery, relative to the costs incurred, which compromises the usefulness of the regulatory financial performance disclosures
 - c) Introducing transitional issues between regulatory periods, and regulatory mechanisms (ie: DPP to CPP)
 - d) That one year of non-ascertainable costs is never recovered as there will always be an amount of revenue which has not been recovered, despite the costs being incurred (and paid for) by the ENB.
93. We note that these concerns have not been addressed in the proposal put forward in the Compliance Paper and accordingly we continue to support a compliance wash-up approach.
94. We also note that the transmission revenue balance approach could be extended to include other recoverable costs and pass through costs, which would be a straight forward solution to the issues we have identified above. This would require the transmission component of posted prices (which is currently prescribed in the Information Disclosure Determination) to be extended to include these other costs.
95. We consider this option can be readily implemented, as we understand the Commission’s Project Tidy team is currently considering amendments to the 2012 Information Disclosure Determination, which are to be consulted upon shortly, and introduced prior to beginning of the next regulatory period.
96. Under the ascertainable cost approach, recovery will be reliant on:
- a) Commission approval processes for certain costs (including the energy efficiency and demand incentive allowance, the AUFLS allowance, the spur asset transfer ACOT allowance and the catastrophic event recoverable cost)
 - b) The amounts able to be recovered being notified to the ENB.

97. In addition it is proposed that pass-through and recoverable costs cannot be recovered if they were incurred more than two years prior to the current assessment period. The ENA does not consider that this two year limitation is reasonable, as ENBs may not be able to influence when costs become certain or approved.
98. In order to address these concerns, the ENA submits that the Commission should document its approval processes including the information required and the maximum timeframes within which approval or non-approval must be notified to the ENB. This must occur in a timely way otherwise, at best there is a risk of price instability if costs are unduly deferred due to delays in approvals, and at worst, non-recovery if the two year limitation applies.

3.4.4 Commission approval

99. The current DPP Determination provides for an ex-post review of recoverable costs which require Commission approval (namely new investment contracts and ACOT for spur asset purchases). An ex ante approval process currently applies for indirect transmission costs.
100. It is now proposed that ex ante approvals are required for a number of recoverable costs, although the Compliance Paper does not explain why the current approach is to be changed. We do not consider that pre-approvals are required where there is uncontroversial evidence available to Directors and auditors of recoverable cost amounts which are consistent with the IM specifications. These include, as stated above:
- a) New investment charges
 - b) ACOT payments to owners of DG
 - c) Indirect transmission charges.
101. The ENA submits that an ex-post approval process is sufficient for these costs. This is preferred because it minimises compliance cost and complexity and reduces uncertainty. We agree with the new proposal that an ex post approval process is also applied to indirect transmission charges.
102. The Compliance Paper provides no indication of problems which have arisen in the ex-post review of these costs to date and therefore under what circumstances the costs may not be approved. We therefore consider this additional compliance step is not justified, as the current approach has worked well to date, and the proposal introduces unnecessary regulatory uncertainty.
103. We also do not consider that pre-approval of any AUFLS payments/revenues is required as these will be supported by suitable evidence, which does not require the Commission to exercise any judgement.
104. As noted elsewhere in this submission, we agree with the proposal to pre-approve the energy efficiency and demand side management incentive allowance because this requires some judgement as to how the allowance is derived and valued.

3.5 Recommendations

105. For the purpose of assessing compliance with the price path, the ENA:

- a) Supports the retention of lagged quantities (and the clarifications which have been proposed as to how these are to be derived under certain circumstances) and the revenue differential term which preserves the price path between assessment periods.
- b) Supports proposals to introduce a number of new recoverable costs, which allow for deferred recovery/refund across regulatory periods where necessary, and for spreading recovery/refund within a regulatory period to minimise price shocks and/or match the underlying revenue building blocks.
- c) Submits that in this respect:
 - i. the proposed spur asset wash-up is unable to be implemented in practice because no discrete opex allowance has been included in the price path for assets to be purchased in FY15. We have submitted an alternative approach in our submission on the DPP Main Policy Paper which resolves this issue
 - ii. the proposed catastrophic event allowance is extended to cover the financial impacts not provided for in the price path of other re-opener events, does not prematurely exclude potential consequences of catastrophic events, and considers the financial impacts of the other incentive mechanisms to be included in the price path.
- d) Notes that we have previously submitted that an ENB should be able to recover both the costs to restore network assets following a catastrophic event and those arising from step changes in demand from such an event.
- e) Submits indirect transmission costs are included as a new recoverable cost in the IMs to improve consistency with other transmission costs. In addition, the ENA submits they are not subject to pre-approval.
- f) Submits a new recoverable cost is included to enable ENBs to recover the costs of taking on responsibility for customer service lines in order to address public safety issues, which could be subject to pre-approval by the Commission. The inability for non-exempt ENBs to recover their costs is a real barrier to addressing this important issue.
- g) Does not support the proposal to change ex-post approval processes to ex ante approval processes for recoverable costs where clear evidence is available of the amount to be recovered, including invoices and payments which apply under existing contractual arrangements with owners of distributed generation or Transpower. The proposal introduces unnecessary uncertainty particularly as there is no evidence of any circumstances which would lead to non-approval of these charges.

- b)* Submits that the compliance wash-up option previously proposed by the ENA fully addresses the concerns raised about forecasting error and volume risk, and can be readily implemented.
- i)* Notes that should a transmission balance approach be implemented, that the full balance should be able to be carried between regulatory periods to ensure these costs are able to be recovered. Pricing discipline is provided by information disclosures and Compliance Statement disclosure.
- j)* Notes that the proposed pre-approval process for some transmission recoverable costs is at odds with the transmission balance approach which washes up for differences between forecast and actuals and does not allow for lagged recovery.
- k)* The proposal for an ascertainable cost approach to other non-transmission recoverable costs has not addressed the concerns we have previously raised, and unduly limits the ability to ultimately recover costs, and imposes an artificial recovery deadline which ENBs may not be able to meet due to circumstances outside their control.
- l)* Notes that the transmission revenue balance approach could be extended to include other recoverable costs and pass through costs, which would be a straight forward solution to the issues we have identified with the proposed ascertainable cost method.
- m)* Supports the proposal for pre-approval of the energy efficiency and demand incentive because this involves some judgement as to how the allowance is derived and valued.

4. Quality standards as targets

4.1 Statements of compliance

106. As noted in Section 2, DPP Compliance Statements are to include statements of compliance or otherwise with the quality standards, and supporting explanations.

4.2 Compliance with the quality standards

107. It is proposed that in terms of assessing compliance or otherwise with the quality standards, the quality targets are to be set as the quality standards. Reliability performance above the target is to be deemed non-compliant. In addition it is proposed that:

- a) No enforcement action is envisaged where performance is under the cap, except in exceptional circumstances
- b) Pecuniary penalties may be sought in addition to financial penalties which arise from the incentive scheme.

108. Our accompanying submission on the Quality Incentive Paper addresses assessing compliance against the quality targets. As noted in that submission, the current proposal that annual SAIDI or SAIFI in excess of the target is deemed non-compliant is not supported. In principle, there is an equal probability of complying or non-complying each year, simply due to normal variation around the historical mean (which is how it is proposed the target is set).

109. Accordingly the proposal to explain why the target has been exceeded, and what actions have been taken to mitigate the result, and prevent similar results in the future, is not meaningful.

110. The ENA considers that non-compliance should be assessed where the annual SAIDI or SAIFI exceeds the cap⁸, twice within a three year period. Our reasons for this proposal are set out in our accompanying submission on the Quality Incentive Paper.

111. The proposal to explain the reasons for non-compliance, and any mitigating actions is more reasonable under our proposed approach to determining non-compliance. It is also consistent with the current 'non-compliance' standard. Thus attention is focussed on outcomes which are not already penalised by the financial incentive mechanism, and where there is a sustained pattern of performance which exceeds the cap.

112. We consider that this is consistent with maintaining a no material deterioration reliability standard, while acknowledging that there is year on year variation in reliability performance, which is influenced by factors outside of an ENB's control.

⁸ As per the Quality Incentive Paper, cap refers to the maximum SAIDI or SAIFI where marginal penalties no longer apply

113. Our submission on the Quality Incentives Paper also includes proposed changes to the way in which major event days (MEDs) are to be identified and normalised. We do not support the proposed SAIFI constraints which exclude some SAIDI days which exceed their MED boundary value from the normalisation step. Accordingly the value of the proposed MED explanations is compromised, due to the artificial constraints on identifying MEDs. We have proposed removing these constraints, in order to achieve a better measure of underlying reliability performance, and appropriate recognition of all, not some, MEDs.
114. Further the proposal to take enforcement action where the performance falls above the target but below the cap under certain circumstances is not supported. The cap is one standard deviation above the historical mean. This is well within the band of normal variation (as is currently provided for in the DPP Quality Limits). The Compliance Paper provides no indication as to what “exceptional circumstances” would require further enforcement action and accordingly we consider this proposal introduces significant uncertainty into the DPP.
115. This proposal, combined with the suggestion that additional penalties may be sought if reliability performance exceeds the cap, has significantly increased the standard of compliance relative to the current DPP quality limits. The current limits recognise that there is normal variation in year on year reliability performance, and that ENBs are unable to control many of the circumstances which cause outages. In addition there are a number of factors which influence outage durations including health and safety considerations, network topography and the level of opex and capex provided for in the price path.

4.3 Adjustments to the quality standards

116. The ENA supports the proposal for ENBs to adjust their quality standards and associated parameters in the year of a transaction or acquisition of spur assets from Transpower. On this basis, compliance with the quality standard after the transaction will be assessed on the basis of an adjusted standard, which reflects the impact of the assets which have been added or removed from the ENB’s regulatory asset base.

4.4 Information to be provided

117. Paragraph 4.3 of the Compliance Paper explains the information which is to be included in Compliance Statements in support of the Quality Standard. The ENA supports these proposals, conditional on modifying the compliance/non-compliance criteria, and the MED normalisation methods as submitted in our accompanying Quality Incentives Paper submission. Absent these modifications the proposed explanations for non-compliance and MEDs are not meaningful.
118. The ENA supports the additional disclosures to be included when the quality standard has been adjusted following a transaction or transfer of Transpower’s spur assets.

4.5 Recommendations

119. With regards to the service quality component of the DPP the ENA:

- a)* Supports the proposal to include additional explanations in Compliance Statements in the advent of any non-compliance, conditional on changing the compliance standard for quality targets to better reflect underlying performance. The current proposal, which is not supported, classifies normal variation above the historical mean as non-compliant, and fails to normalise MEDs in some circumstances. As a result, the proposed explanatory disclosures are not meaningful.
- b)* Submits that the proposed compliance standard is significantly increased relative to the current DPP and adds regulatory uncertainty as to likely enforcement action in circumstances which the ENA views as within the bounds of normal variation, and for this reason is not supported.
- c)* Supports proposals for adjusting quality standards following a transaction or transfer of assets from Transpower.

5. Large transactions

5.1 Defining transactions

120. The ENA supports the proposed clarification of the impact of large transactions on the DPP price path and quality standards and notes that IM clause 3.2.1 provides the overarching rules for how amalgamations are to be treated for ENBs subject to price-quality regulation.

121. We note and support the definitions of two categories of large transactions:

- a) Amalgamations and mergers are currently defined in the 2012 DPP Determination and we support retention of this approach
- b) Major transactions are also to be defined, which are transitions which involve a consumer being supplied by another EDB, but which are not amalgamations or mergers.

5.2 Effect on the DPP

5.2.1 Price path

122. The current arrangements for combining price paths of merged companies are to continue. The ENA supports this approach.

123. Where assets are transacted, ie: transferred from one non-exempt ENB to another (excluding spur asset transfers from Transpower), new arrangements are proposed which involve:

- a) Agreement between the two ENBs as to the amount ANR attributable to the transaction, and associated pass through or recoverable costs
- b) The amounts (above) are to be deducted by the seller and added by the purchaser in the first assessment period where consumers are supplied by a different ENB
- c) Notification by the seller to the Commission of the details of the transaction within 30 working days of entering into the transaction, if the transaction exceeds the size thresholds in the DPP Determination.

124. We note that these provisions cannot apply where one party is an exempt ENB. In this instance, where customers are to be supplied by an exempt ENB, the ANR and pass-through and recoverable costs will be deducted by the seller (a non-exempt EDB), but there will be no offsetting transaction for the exempt ENB.

125. Further, where consumers are to be supplied by a non-exempt ENB, and were previously supplied by an exempt ENB, no ANR balances, or recoverable or pass through costs exist for those consumers.

126. This situation will persist until such time as the exempt ENB loses its exempt status and a DPP for that ENB is determined.

5.2.2 Quality standards

127. The ENA supports the intention to adjust quality standards to reflect the transfer of assets within a regulatory period, as discussed in Section 4.

5.2.3 Compliance obligations

128. The ENA supports the proposal to remove the alternative compliance approach option, subject to recognising that transactions between exempt and non-exempt ENBs cannot comply with the proposed new requirements.

129. The ENA also supports the disclosure requirements for Compliance Statements following a large transaction however we consider that clause 11.7(b) is too broad. We will provide alternative drafting in a forthcoming submission which is more tailored to the requirement for transparency over the adjustments made to price paths and quality standards and which avoids overlap with clauses 11.4 and 11.5 of the Draft DPP Determination.

5.3 Recommendations

130. Where large transactions occur between non-exempt ENBs (excluding spur asset transfers with Transpower), the ENA:

- a) Notes that IM clause 3.2.1 provides the overarching rules for how amalgamations are to be treated for ENBs subject to price-quality regulation.
- b) Supports the proposed approach to adjusting the price paths for sellers and buyers, and associated compliance information requirements.
- c) Notes that the proposals require modification to recognise that transactions may also be undertaken with exempt ENBs, which have no price path.
- d) Suggests that the proposed DPP Determination drafting in this respect can be improved.

6. Price restructures

6.1 Rules to apply

131. The ENA supports the proposal to clarify how price restructuring is to be treated from a compliance perspective for the DPP. We consider that additional information in this respect assist in avoiding potential inadvertent breaches or non-compliance and helps minimise compliance costs.
132. It is proposed that additional guidance is provided by:
- a) Defining price restructuring
 - b) Providing rules and guidance for determining the lagged quantities to apply in the event of a price restructure.
133. The ENA supports the addition of a definition for a price restructure and will comment on the specific drafting in due course. The ENA also supports the clarifications proposed which specify that:
- a) The same quantities are to be used for ANR and NR
 - b) Every price is to have a lagged quantity, subject to c) and d) below
 - c) How quantities are derived for combined, separate or new load groups
 - d) Estimates may be used to derive lagged quantities, but these are not to be derived from forecast information.
134. The ENA supports these principles which are consistent with the specification of the price path, using lagged quantities and equivalence between how ANR and NR are measured.

6.1.1 Estimating quantities

135. We note that Clause 8.9 (b) of the Draft DPP Determination describes the limits on what the Commission will consider a reasonable methodology for estimating quantities where none is available, and prohibits the use of forecast quantities to estimate previous quantities.
136. The ENA suggests that it may be reasonable in some circumstances to use a similar method to estimate previous quantities as is used to forecast future quantities and submits that the Commission should be clear that this is not what is intended. The proposed requirement does not recognise the trade-off between cost and complexity nor parsimony as a desirable model attribute. A preferable requirement would be therefore to enable ENBs to give reasonable consideration to other relevant information when estimating quantities.

6.2 Notification

137. It is proposed that prior to the implementation of a price restructure where quantities must be estimated, notification must be provided to the Commission at least 30 working days prior to the new prices taking effect.

138. It is not clear why this notification is required at this time. There is no pre approval process proposed. The Compliance Paper states at paragraph 6.15:

..it is important that we have this information, so that we can ensure distributors take care in making their quantity estimates, and to allow us to assess whether a distributor's estimate and forecast assumptions were reasonable.

139. This information can be included in Compliance Statements at the end of the assessment period which will provide transparency over the approach to estimating the quantities. Accordingly the ENA does not support this additional notification requirement which falls outside of the existing timeframes for reporting compliance and supporting explanations for the DPP.

6.3 Recommendations

140. Where prices are restructured and in order to assist with DPP compliance obligations, the ENA:

- a) Supports the proposal to clarify how price restructuring is to be treated from a compliance perspective for the DPP.
- b) Supports the proposed guidance for establishing lagged quantities corresponding to prices when deriving ANR and NR for DPP compliance purposes.
- c) Considers that explanations for any quantity estimates made should be included in Compliance Statements along with the remainder of the compliance and explanatory information, rather than notified to the Commission prior to the new prices taking effect.
- d) Submits that ENBs should be able to give reasonable consideration to other relevant information when estimating quantities.

7. Demand side management initiatives

7.1 Incentive mechanism

141. We have commented on the proposed design of the energy efficiency and demand incentive mechanisms in our response to the DPP Main Policy Paper.
142. We acknowledge and support the leveraging from the NSW, Australia D Factor regime for the purpose of assessing and approving the compensation to be provided through the recoverable cost incentive for the next regulatory period.
143. We have also submitted that another way to address this incentive is through a volume wash-up, which would be simpler, less costly, more certain and allow for the sharing of benefits with consumers.⁹ The ENA continues to support this alternative for these reasons.

7.1.1 Definition and scope of energy efficiency or demand side management initiatives

144. Our submission on the DPP Main Policy Paper set out our views on the scope of the proposed incentive. In that submission we advocate for a broader scope than that proposed, in particular.
- a) Energy efficiency investments should include all investments which service the end purpose of meeting the objectives of section 54Q (section 5.1.3)
 - b) Actions to reduce compliance costs for ENBs should be investigated, otherwise the proposal disadvantages smaller ENBs where the compensating revenue adjustment is likely to be quite modest (paragraph 100(c))
 - c) A TVM adjustment is required to recognise the 2 year lag before the incentive payment is reflected in prices (paragraph 100(b))
 - d) The Commission needs to be transparent and consistent in assessing and approving applications as there is considerable uncertainty in the proposed process (paragraph 100(d))
 - e) Price restructuring or tariff initiatives which provide outcomes which are consistent with section 54Q should be included in the scope of the incentive (paragraph 101).

145. The ENA is broadly supportive of a definition of a relevant initiative based on the NSW definition. We consider the key elements are that the initiative should have the

⁹ ENA submission on Process and Issues Paper, sections 5.2.1 and 4.5

purpose of reducing the cost of providing electricity lines services by changing the level or pattern of demand, the source of energy or the use of the network. In addition the incentive should be neutral to whether the ENB provides the programme itself or contracts a third party provider. The ENA reiterates its submission that there should be no exceptions to this definition.

7.1.2 Process for approval

146. We have considered the proposed approval process and:

- a) Agree that including applications with Compliance Statements for an assessment period is a sensible approach
- b) Submit that an approval timeline should be provided which ensures the Commission completes its assessment and approval processes in a timely way. This is necessary to ensure the recoverable cost is able to be included in prices for the assessment period commencing immediately after the submission of the application, including TVM adjustments
- c) Consider that more specific methodologies should not be adopted. This allows ENBs to apply the principles to any form of efficiency or demand management initiative they choose to adopt.

7.1.3 Contents of an application

147. We consider that the proposed contents of an application is a reasonable stating position, and note that precedents are available from NSW, and will emerge within New Zealand, which may enable these requirements to be refined over time.

148. The ENA supports the need to be pragmatic and ensure that the costs of the process to ENBs and the Commission do not exceed the benefit to consumers of the initiative. The principles and their application need to take account of the size of any potential incentive, and the limited experience of such initiatives to date.

7.1.4 Proposed Principles

149. A number of principles have been proposed (and were included in the DPP Main Policy Paper) to provide guidance to ENBs as to how the applications may be viewed by the Commission. We support the use of principles for this process.

150. In particular we note that the principles should reflect the need to be pragmatic and limit the size of compliance costs.

151. We have included a number of suggested refinements to the proposal principles, and included them in Attachment A, which we consider, if adopted, will assist EDBs to minimise the costs of complying with the proposed scheme.

7.2 Recommendations

152. In implementing an energy efficiency and demand incentive, the ENA:

- a)* Acknowledges and supports leveraging from the NSW, Australia D Factor regime.
- b)* Submits that another way to address this incentive is through a volume wash-up, which would be simpler, less costly, more certain and allow for the sharing of benefits with consumers.
- c)* Considers the scope of the incentive should be broadened, including extending the scope to tariff initiatives, as it is currently excludes activities which achieve outcomes consistent with section 54Q.
- d)* Agrees with the process for applying for the incentive, but submits that approval must be granted in a timely and cost effective way, and well before prices are set for the following year.
- e)* Submits that a principled approach (rather than specific method) is appropriate and that the proposed principles are modified consistent with our suggestions included in Attachment A, which will assist to minimise compliance costs.

8. Dates for proposing a CPP

8.1 Proposed dates

153. The Draft DPP Determination includes the application windows for submission of CPP applications in each year (except year 5) of the next regulatory period. Applications for CPPs following a catastrophic event are not limited to the windows, and may be made within 24 months of the event (except in year 5).
154. The proposed dates provide for an initial window in early February, and a second window in early May, which is available if no more than 4 applications are made in the February window each year. The windows are to allow for prioritisation if a number of applications are received in any one year.
155. As acknowledged in the Compliance Paper, we have previously submitted that the February window is too tight given the information, review and consultation processes that must be completed prior to submitting a CPP application. Our 11 April 2014 submission included a number of suggested changes to the CPP IMs to alleviate these timing constraints including:
- a) Changes to the pre application verification processes
 - b) Modifications to the pre application consumer consultation processes, including removing the constraint currently imposed by the timing of the CPP cost of capital determination and the requirement to consult with consumers once the proposed price path is known
 - c) Reducing the scope of the pre application audit
 - d) Introducing pre-selection of identified projects
 - e) Reconsidering the timing and availability of the application windows.¹⁰
156. The Compliance Paper asks for feedback on the proposed windows. However this is difficult to respond to without understanding whether our suggested modifications to the CPP IMs to address these constraints are to be implemented prior to, or within the next regulatory period. Absent modifications which address our concerns, we continue to believe that the February window is too tight. This window compromises the ability of ENBs to complete the prescribed pre application processes, and effectively consider and incorporate the feedback from consumers, verifier, independent engineer and auditor prior to finalising and submitting a CPP application.
157. We acknowledge that the Commission requires sufficient time to assess a CPP application and make a Determination prior to 30 November, to enable the CPP to apply from the start of the next pricing period. We consider that the assessment process can only be helped by allowing ENBs sufficient time to compile a

¹⁰ ENA, Feedback on setting Orion's customised price-quality path, 11 April 2014, section 3.4

comprehensive proposal which adequately reflects the feedback from the external parties noted above.

8.2 Recommendations

158. The ENA submits that with respect to CPP application windows, the proposed February windows are unrealistic, given the pre-application timing constraints which exist within the current CPP IMs. The ENA has previously suggested a number of modifications to the CPP IMs which are required before these early windows can be implemented.

Attachment A – D factor principles

The ENA’s recommended changes to the proposed principles for estimating foregone revenue (D-factor) are presented in the following table.

Change	Explanation
<p>Principle 3 delete final sentence “When calculating foregone revenue (<i>ex post</i>), the actual quantities foregone should be compared with the targeted change in quantities.”</p>	<p>This sentence appears to be misplaced and should be moved to principle 4</p>
<p>Principle 4 insert new first sentence “When calculating <u>estimating</u> foregone revenue (<i>ex post</i>), the actual quantities foregone should be compared with the targeted change in quantities.”</p>	<p>This is the misplaced sentence from principle 3, with a change that revenue should be described as estimated rather than calculated as this is a more accurate description of the process.</p>
<p>Principle 4 amend (what becomes) the second sentence “The estimation process should identify <u>consider</u> whether other factors (such as weather or economic conditions) may explain part or all of the reduction in demand claimed.”</p>	<p>“Identify” implies determining a quantitative relationship, whereas “consider” allows some factors to be eliminated as not material. This distinction is in the AER principles, which suggest that there should be a balance between separating significant effects due to other factors, but not requiring such separation where the effects are not significant, justification must be provided for the decision to adjust /not</p>
<p>Principle 5 delete the second sentence “The Commission may require independent confirmation of this as part of further information request steps to be detailed below.”</p>	<p>This applies more broadly and a new principle should be substituted for this sentence that captures this intent (see below).</p>

Change	Explanation
<p>Principle 7 delete the second sentence “The application of this tariff should be limited to the component related to the use of the distribution network (i.e. price components from generation, transmission and retail should be excluded).”</p>	<p>This comment applies to all prices used to estimate foregone revenue and should be a separate principle.</p>
<p>New principle: “The Commission may request further information, independent evidence, director certificates or audit statements relating to the activities, sample or calculations used to establish the link between the initiative and foregone revenue. However, such requests shall take into account the likely cost of providing the information relative to the extent of the benefits identified.”</p>	<p>This principle covers the point in current principle 5 and codifies the Commission’s commitment to be mindful of compliance costs (see para E19 of the DPP draft decision paper).</p>
<p>New principle: “The price estimate shall be those components that relate to the use of the distribution network (i.e. price components from generation, transmission and retail should be excluded).”</p>	<p>This principle clarifies what the P represents in principle 1.</p>