

# INFORMATION DISCLOSURE REGULATION ELECTRICITY LINES SERVICES AND GAS PIPELINE SERVICES

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PROCESS AND ISSUES PAPER

23 February 2011



COMMERCE COMMISSION

Regulation Branch

Commerce Commission

Wellington

NEW ZEALAND

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## Purpose

- 1 This Process and Issues Paper (**Process Paper**) outlines the proposed process the Commerce Commission (**the Commission**) expects to follow in determining how information disclosure applies to suppliers of electricity lines services and suppliers of gas pipeline services. The Process Paper also provides the Commission's initial views on a number of issues relevant to information disclosure determinations for the aforementioned sectors.
- 2 As the purpose of consulting on this Process Paper is to assist the Commission in finalising its process, where issues of substance are discussed, the Commission is primarily seeking feedback on:
  - the issues that should be considered as part of a discussion stage rather than at the draft decision stage;
  - the questions that the Commission would like to explore further for each issue; and
  - the appropriate form of consultation for each topic.
- 3 Interested parties' detailed views on possible information disclosure requirements will be sought during later stages of consultation.

## Introduction

- 4 Pursuant to Part 4 of the Commerce Act 1986 (**the Act**), both suppliers of electricity lines services and suppliers of gas pipeline services are subject to information disclosure regulation.<sup>1</sup>
- 5 Suppliers of electricity lines services under the Act include Transpower Limited (**Transpower**), the sole owner and operator of the national electricity transmission grid in New Zealand, and the 29 electricity distribution businesses supplying services between Transpower and end users across New Zealand.<sup>2</sup>
- 6 Suppliers of gas pipeline services under the Act include the two businesses supplying gas transmission services in New Zealand: Maui Development Limited (**Maui**), and Vector Limited (**Vector**); and the distribution businesses of Powerco Limited (**Powerco**), GasNet Limited (**GasNet**) and Vector (in addition to its transmission services).

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<sup>1</sup> The relevant section of the Act for suppliers of electricity lines services is s 54F and for suppliers of gas pipeline services s 55C.

<sup>2</sup> A small number of end-users of electricity lines services are also directly supplied by Transpower.

- 7 The purpose of information disclosure is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 4 of the Act is being met.<sup>3</sup> The purpose of Part 4 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.*
- 8 The Commission is required to make s 52P determinations that specify how information disclosure regulation applies to each supplier of electricity lines services and each supplier of gas pipeline services.<sup>4</sup> Determinations for suppliers of electricity lines services are to be made as soon as practicable after 1 April 2009.<sup>5</sup> For suppliers of gas pipeline services determinations are to be made as soon as practicable after subpart 10 of the Act came into force on 14 October 2008.<sup>6</sup>
- 9 On 29 July 2009, the Commission published an Information Disclosure Discussion Paper (Discussion Paper), setting out the Commission's preliminary views on its approach to information disclosure regulation and including specific discussion of the application of information disclosure regulation to the suppliers of electricity lines services, gas pipeline services and specified airport services.<sup>7</sup> The paper sought the views of interested parties on the development of information disclosure determinations.
- 10 Most submissions received from suppliers and organisations representing suppliers proposed that the Commission not conduct further information disclosure regulation consultations on electricity lines and gas pipelines until the IMs and price quality regulations have been determined.<sup>8</sup>

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<sup>3</sup> Commerce Act 1986, s53A

<sup>4</sup> Under s52P the Commission is able to issue more than one determination relating to a particular regulated good, or service, or to a supplier of regulated goods or services, and different parts of any determination may come into effect at different times.

<sup>5</sup> Commerce Act, s 54I(1).

<sup>6</sup> Commerce Act, s 55E(1).

<sup>7</sup> Commerce Commission, *Information Disclosure Discussion Paper*, 29 July 2009.

<sup>8</sup> For example, Vector, Submission to Commerce Commission on Information Disclosure Discussion Paper, 11 September 2009 paragraph 17; ENA, Submission on Information Disclosure for Electricity Distribution Businesses, 11 September 2009, paragraph 41; and Orion, Submission on Information Disclosure Discussion Paper, 11 September 2009, paragraph 11.

The Act requires that, no later than 31 December 2010, the Commission must determine input methodologies (IMs) for electricity lines services, gas pipeline services and specified airport services and, no later than 1 January 2011, make s 52P determinations that specify how information disclosure

- 11 The Commission published input methodologies determinations for electricity lines services and gas pipeline services on 22 December 2010.<sup>9</sup> These determinations include a number of input methodologies (**IMs**) which apply to the information disclosure regulation of Electricity Distribution Businesses (**EDBs**), Transpower, Gas Distribution Businesses (**GDBs**) and Gas Transmission Businesses (**GTBs**). These IMs are:
- cost allocation IMs;
  - asset valuation IMs;
  - treatment of taxation IMs;
  - cost of capital IMs; and
  - pricing methodology IMs (applicable to GDBs and GTBs only).

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regulation applies to each supplier of specified airport services. Section 54S of the Act (as amended by s 155 of the Electricity Industry Act) requires the Commission to determine an IM for Transpower's capital expenditure proposals no later than 1 November 2011. The Minister of Commerce may, on the written request of the Commission, extend the deadline once by a period of up to three months. This input methodology will be determined specifically for application to the individual price-quality regulation of Transpower.

<sup>9</sup> Commerce Commission, *Commerce Act (Specified Airport Services Input Methodologies) Determination*, 22 December 2010; Commerce Commission, *Commerce Act (Transpower Input Methodologies) Determination*, 22 December 2010; Commerce Commission, *Commerce Act (Electricity Distribution Services Input Methodologies) Determination*, 22 December 2010; Commerce Commission, *Commerce Act (Gas Transmission Services Input Methodologies) Determination*, 22 December 2010; Commerce Commission, *Commerce Act (Gas Distribution Services Input Methodologies) Determination*, 22 December 2010.

## Commission's Initial Views

- 12 This section sets out the Commission's initial views on its approach to information disclosure and the process it will follow in determining information disclosure requirements. The Commission's process for determining information disclosure requirements for suppliers of electricity lines services and suppliers of gas pipeline services is split into three separate stages:
- a discussion stage;
  - a draft decision stage; and
  - a decision stage.
- 13 Whilst all proposed disclosure requirements will be consulted on at the draft decision stage, the Commission has identified a number of issues that require more immediate consultation in the discussion stage. The Commission's assessment of which issues require discussion stage consultation and which issues can be appropriately introduced at the draft decision stage reflects:
- the extent to which the issue has been considered previously and whether the Commission had signalled that further consideration is required;
  - the extent to which the issue is already being considered as part of other Part 4 work;
  - whether the issue has been considered as part of the process to determine IMs; and
  - the submissions received from interested parties on the July 2009 Discussion Paper.
- 14 A breakdown of which issues will form discussion stage consultation and which issues will be considered further at the draft decisions stage is set out in the discussion stage and draft decision stage sections below following the section on the approach to determining information disclosure requirements. In reaching the below views the Commission has had regard to the submissions it received on the July 2009 Discussion Paper.

## Approach to Determining Information Disclosure Requirements

### *Consistency in how information disclosure regulation applies*

- 15 For interested persons to assess whether the Part 4 purpose is being met, and for the Commission to promote a greater understanding of the relative performance of all suppliers of the same type of regulated service and their performance over time, disclosed information of similar scope, detail and consistency needs to be made available by all suppliers of the same type of regulated service.<sup>10</sup> The information that would assist interested persons in making such an assessment is likely to be independent

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<sup>10</sup> Commerce Commission, *Information Disclosure Discussion Paper*, 29 July 2009, paragraphs 547–549.

of the ownership structure or regulatory instruments that apply to each supplier. The Commission's view is therefore that consumer-owned EDBs should be subject to the same information disclosure requirements as non-exempt EDBs where possible.<sup>11</sup> The Commission also considers that the disclosure requirements should be very similar between all suppliers of gas pipeline services and of electricity lines services. While some modifications will be necessary (e.g. to reflect differences in the physical characteristics of the networks and differences in IMs such as tax treatment), both electricity lines and gas pipelines are subject to the same provisions for information disclosure regulation under subpart 4 of Part 4.

*Development of information disclosure via other Commission work*

- 16 The Commission is currently undertaking other work under Part 4 which is relevant to information disclosure. Where practicable, the Commission is seeking to develop its information requirements by taking advantage of common areas between its other Part 4 work and information disclosure. Doing so will reduce the overall consultation burden for interested parties and help to ensure the Commission is efficient in its work.
- 17 The discussion section of this paper sets out the Commission's other Part 4 work that is relevant and how the Commission expects to leverage the development of its information disclosure requirements from this work.

*Timing of first disclosure year under the new requirements*

- 18 The Commission is required to determine how information disclosure regulation applies for suppliers of electricity lines services as soon as practicable after 1 April 2009 and for suppliers of gas pipeline services as soon as practicable after subpart 10 of the Act comes into force.<sup>12</sup>
- 19 The Commission anticipates determining its information disclosure requirements for both suppliers of gas pipeline services and electricity lines services in December 2011 (with the exception of a portion of requirements for Transpower which will be determined in 2012, details of which are set out in the timing of Transpower work section below). The first year to which they would apply would be the 2011/2012 disclosure year.
- 20 As input methodologies for information disclosure were published in December 2010, the Commission expects that regulated suppliers should be sufficiently well informed to start collecting most, if not all, of the data that will likely be needed to disclose in accordance with the revised information disclosure requirements. Publication of information disclosure determinations in December 2011 should provide sufficient time for the regulated suppliers to apply these requirements for the 2011/2012 disclosure year.

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<sup>11</sup> The Commission acknowledges there will be differences in disclosed information for non-exempt EDBs and consumer-owned EDBs e.g., rebates for consumer-owned EDBs and disclosures relating to the cost of capital (in light of s 53F, which provides a limited exception to the obligation to apply IMs in the case of suppliers that are only subject to information disclosure).

<sup>12</sup> Commerce Act, s 54I(1) & s 55E(1).

- 21 For requirements that are not covered by the IMs, the Commission will consider the need for any transitional provisions as part of the process to determine the disclosure requirements.

*Timing of Transpower work*

- 22 Under Part 4 of the Act, Transpower is subject to an individual price-quality path (**IPP**), and will be required to apply an IM for capital expenditure proposals (**Capex IM**) by 1 November 2011. Both the IPP and the Capex IM require, or will require, Transpower to submit information to the Commission. The Commission expects to review all information requirements for Transpower to align disclosure and provision of information by Transpower where possible.
- 23 Given the 1 November 2011 timing of the Capex IM is in close proximity to the proposed December 2011 timing for determining information disclosure requirements, the Commission may need to develop the information disclosure requirements for Transpower in two stages. Doing so will ensure consistency between the Capex IM and information disclosure requirements.
- 24 Stage 1 will be aligned with the development of all other information requirements for electricity and gas and conclude in December 2011. Stage 2 (if required) will cover all aspects of Transpower's information disclosure requirements that are relevant to the Capex IM and will conclude in 2012. The later timing of stage 2 will allow the Commission greater consideration of the final Capex IM when developing its information disclosure requirements. The timing of the Transpower work will be signalled in a Process Update Paper scheduled for August 2011.

*Date of disclosure*

- 25 Under s 53C(1)(f) of the Act, the Commission's section 52P determination must specify when and for how long information must be disclosed. The Commission is interested in feedback on its initial views below:
- disclosures are to be made on an annual basis by each supplier – allowing for regular and timely disclosure, consistent with previous disclosure periods for both suppliers of electricity lines services and gas pipeline services;
  - the date of disclosure is to be consistent for suppliers of the same type of service i.e., the same date for all EDBs – allowing for consistent comparison of performance across suppliers of the same type of service; and
  - information disclosure periods are to be aligned with assessment periods for default/customised price-quality paths for EDBs and suppliers of gas pipeline services. For example, if the DPP assessment period for EDBs is the 12 month period 1 April to 31 March, then the information disclosure period would also be the 12 month period 1 April to 31 March – removing the need for assumptions to account for any gap between the two periods when using information disclosure data for the purposes of default/customised price-quality paths.<sup>13</sup>

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<sup>13</sup> Consultation on the disclosure date for gas pipeline services has been scheduled as part of the April 2011 discussion paper for the DPP for suppliers of gas pipeline services.



**Discussion Stage**

- 26 As discussed in paragraphs 13-14, a number of issues have been identified as requiring further development before the draft decision stage. The discussion stage of the process is therefore proposed to be extended to give further consideration to these issues. This discussion stage is intended to provide the Commission's preliminary views on these issues and develop the issues via feedback from interested parties. The Commission also intends to leverage the development of these issues through other relevant Part 4 work where possible.
- 27 The remainder of this section provides the Commission's views on issues it has identified for further development in the discussion stage, starting with those that are relevant to the Commission's other Part 4 work. To develop issues that are not relevant with other Part 4 work, the Commission has scheduled consultation over the months of April/May 2011. The Commission invites feedback on the issues proposed below (including whether there are any other issues that should be considered in the discussion stage) and suggestions on the form of consultation for April/May in submissions to this paper.

*Historical financial information via March starting price adjustment information request*

- 28 The Commission published its draft starting price adjustment (**SPA**) information request on 14 February 2011 for the purpose of making adjustments to the starting prices for EDBs under the 2010-2015 DPP. Following consultation on the draft request, a final SPA information request is expected to be published by the end of March.
- 29 Both the draft and final SPA information requests are intended to obtain information that is consistent with the type of financial information that would be made available via information disclosure requirements that utilise input methodologies, had those requirements been in place at the time the 2010-2015 DPP was set.
- 30 The Commission's preliminary view is that the final SPA information request will form an appropriate basis for historical financial information requirements within the information disclosure draft determinations for both the electricity and gas regulated sectors. The Commission will therefore request feedback on the content of the final SPA information request for the purposes of information disclosure only from all suppliers of gas pipeline services and electricity lines services. The request will be made at the time the information request is finalised and will confirm the relevant schedules for consideration. The deadline for this feedback will be three weeks from the date of publication of the final SPA information request.

*Gas quality information via April Gas Discussion Paper*

- 31 The Commission expects to publish a discussion paper for setting the default price-quality paths (**DPPs**) for suppliers of gas pipeline services in April 2011. As part of this discussion paper, the Commission will provide its views on quality standards for gas DPPs.
- 32 The Commission considers that, similar to electricity distribution – where the quality standards for the DPP are consistent with the quality indicators specified in the

information disclosure requirements – the information disclosure requirements for gas pipeline services may also prove to be consistent with the indicators used in gas DPP quality standards. The Commission therefore considers it will assist interested parties in making submissions if the Commission provides its views on quality indicators for gas information disclosure requirements at the same time as those for quality standards for the gas DPP.

*Transpower forecast information via Transpower Capex IM*

- 33 The Commission published its discussion paper on a Capex IM for Transpower on 24 December 2010 setting out the Commission's preliminary views on the requirements for the Capex IM. The Commission expects a number of the Capex IM requirements to be relevant to the potential information disclosure requirements for Transpower including:
- historical capital expenditure;
  - forecast capital expenditure; and
  - demand forecast information.
- 34 In light of this, the Commission intends to use submissions and cross-submissions on the Capex IM discussion paper, as well as its work on the Capex IM as inputs to the development of the Transpower information disclosure requirements. Doing so will ensure consistency between the Capex IM and information disclosure.

*Consolidated disclosures*

- 35 The Commission has the ability to require a regulated supplier that provides goods or services that are not subject to regulation under Part 4, to publicly disclose consolidated information for the purpose of monitoring compliance with information disclosure regulation. Consolidated financial statements may be required to be disclosed in accordance with the provisions in s 53D(3).
- 36 Some submissions on the July 2009 Information Disclosure Discussion Paper strongly opposed the requirement for consolidation statements. However, the Commission's initial view is that consolidation statements improve transparency and assist the Commission to assess whether the regulatory accounts comply with the ID requirements. Consolidation statements enable the Commission to compare the regulatory accounts to the statutory accounts as they make transparent how much of the difference between the regulatory and statutory accounts is due to differences between NZ GAAP and the regulatory accounting practices, and how much is attributable to the non-regulated activities included in the statutory accounts.
- 37 A consolidation statement could include items such as revenue, operational expenditure, depreciation, revaluations, tax, profit, and asset values. In the discussion stage, the Commission would like to explore the form of consolidation statements and issues concerning the preparation and use of consolidation statements e.g., if different types of regulated services have different disclosure dates.

*Related party transactions*

- 38 Related parties are generally third parties where there is a business or personal relationship which could influence the level of business transacted between the parties and the prices paid for goods or services. Transactions by regulated suppliers with related parties have the potential to affect the financial position and profitability of the regulated supplier.
- 39 The treatment of related party transactions was considered at the time of reviewing the Electricity Information Disclosure Requirements, under Part 4A of the Act, in 2008. No final position was established, with related party transactions ‘held over’ for later consideration.<sup>14</sup> Submitters were divided as to whether the existing requirements, requiring disclosure of the details of transfers between the Lines Business and the Other Businesses (businesses within the same entity) were effective in identifying whether profits were being shifted from regulated to unregulated parts of the business.
- 40 The Commission’s preliminary views, as outlined in the Discussion Paper, are that disclosure of related party transactions would be at least consistent with GAAP, in particular the New Zealand equivalent to International Accounting Standard 24 (NZIAS 24) and, in addition, disclosure should be required for transactions between regulated and unregulated business units of the regulated supplier.
- 41 In considering what information should be disclosed on related party transactions, during the discussion stage the Commission would like to further explore:
- whether disclosing information relating to transactions with unregulated business units may result in the disclosure of commercially sensitive information (and how such an issue could be resolved); and
  - the costs associated with disclosure of related party transactions, including transfer pricing information.

*Mergers & acquisitions (transactions between suppliers)*

- 42 Mergers and acquisitions can reduce the quality of disclosed information, and materially alter the information disclosed by regulated parties. The information disclosure requirements need to preserve continuity in time series data and ensure that performance measures remain meaningful.
- 43 The current EDB information disclosure regulations require pro-rating of asset values, a seller and buyer agreeing values on assets which are transferred by merger, acquisition or sale, and calculating time-weighted averages of certain performance measures following a merger or acquisition.
- 44 During the discussion stage, the Commission proposes to consider whether further information is required, including a requirement that the merged or acquiring entity must provide transparency as to how the disclosures have been merged. Consideration

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<sup>14</sup> Commerce Commission, *Companion Paper to the Revised Information Disclosure Requirements*, 31 October 2008, p 38.

could also be given as to whether the costs of merger and acquisitions should continue to be excluded from operational expenditure.

#### *Asset management plans*

- 45 Asset management plans (**AMPs**) developed under the now repealed Part 4A regulatory regime are currently part of the information disclosure requirements for EDBs. AMPs are intended to provide interested persons with information on the asset management practices of EDBs including the allocation of forecast opex and capex spend to specific projects.
- 46 The Commission's initial view is that the existing AMP requirements form a sound base for the AMP requirements for EDBs under Part 4. Submissions on the Discussion Paper also generally supported the current AMP requirements.<sup>15</sup> The Commission will consider what amendments to these requirements are appropriate under Part 4.
- 47 In the absence of a publicly available document equivalent to an AMP for gas pipeline businesses (**GPBs**), the Commission's initial view is that AMPs would be appropriate for suppliers of gas pipeline services. The Commission proposes to use the draft revised AMP requirements for EDBs as a base for developing gas specific AMP requirements. The process would be similar to that followed in determining the opex/capex information requirements for customised price-quality path proposals as part of IMs.<sup>16</sup>
- 48 The Commission considers that a review of the AMPs disclosed for the year commencing 1 April 2011 will assist in developing the revised Part 4 AMP requirements for both EDBs and GPBs.<sup>17</sup> The Commission is currently considering the scope of the 2011 AMP review, including what the review will assess and how many suppliers' AMPs will be reviewed. Any review will commence as soon as possible after the 2011 AMP disclosures are made in order to feed into the development of the revised requirements. The Commission expects to test its preliminary views on any revised AMP requirements for EDBs and GPBs during the discussion stage.
- 49 The Commission is also considering whether an AMP is appropriate for Transpower as part of a general review of Transpower's information requirements. Transpower is currently required to submit grid upgrade plans (**GUPs**) to the Commission as part of the process for approving investment in its network, and will be subject to a Capex IM

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<sup>15</sup> The process to determine the draft information requirements is summarised in: Commerce Commission, *Input Methodologies for Electricity Distribution Businesses and Gas Pipeline Businesses, Companion Paper (Draft Determinations and Customised Price-Quality Path Requirements)*, 2 July 2010, paragraphs 3.6.3-3.6.5.

<sup>16</sup> The process to determine the draft information requirements is summarised in: Commerce Commission, *Input Methodologies for Electricity Distribution Businesses and Gas Pipeline Businesses, Companion Paper (Draft Determinations and Customised Price-Quality Path Requirements)*, 2 July 2010, paragraphs 3.6.3-3.6.5.

<sup>17</sup> In previous years the Commission has undertaken a review of compliance with the AMP requirements. The last review was of the AMP disclosures for the year commencing 1 April 2009. The Commission signalled in its Statement of Intent for 2010-13 that it would reconsider its approach to the AMP reviews in 2010/11 and that it was likely to move to a more targeted approach on a biennial basis.

once this has been finalised by the Commission.<sup>18</sup> As both the current GUP and the Capex IM are relevant to forecast information, the Commission will consider whether an AMP would be an unnecessary duplication of requirements.

### *Contract disclosures*

- 50 The purpose of contract disclosure is to provide interested persons with an understanding of the terms and conditions associated with prices, so that they may assess whether prices charged for regulated services are efficient. EDBs and Transpower are currently required to publicly disclose the prescribed terms and conditions of contracts (including modifications to existing contracts) under Requirement 5 of the Electricity Distribution (Information Disclosure) Requirements 2008 and Part 3 of the Electricity Information Disclosure Requirements 2004, respectively. GPBs are currently required to disclose the terms and conditions of prescribed agreements (including modifications to existing contracts) under the Gas (Information Disclosure) Regulations 1997 (**GIDRs**).
- 51 In light of the new Part 4 purpose, the Commission will conduct a review of contract disclosure requirements.<sup>19</sup> The review will consider whether the current contract disclosure requirements are appropriate for suppliers of regulated services (including gas pipeline services) under Part 4, and will take into account the differences between electricity and gas, e.g. in contractual arrangements and the extent of competition, at both the distribution and transmission levels.

### *Historical Financial Performance Information*

- 52 The Commission will seek feedback on the final SPA information request to inform development of the draft disclosure requirements for historical financial performance for EDBs, GPBs and Transpower. However, the information required by the final SPA information request is only a subset of the information on historic financial performance likely to be required. Other information the Commission expects that information disclosure regulation will need to cover includes the disclosure of:
- the regulatory asset base roll-forward;
  - deferred tax balances and the impact of temporary differences;
  - segmented performance information; and
  - the calculation of the return on investment and other performance measures.
- 53 In light of this, the Commission may hold additional consultation during the discussion stage on historic financial performance information that is not covered by the SPA

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<sup>18</sup> The Commission assumed responsibility from the Electricity Commission for assessing Transpower's GUPs as part of the Electricity Amendment Act 2010. The Commission is currently developing the Capex IM which will overhaul the current GUP requirements.

<sup>19</sup> The Commission notes that section 53C(4) provides that the Commission may not require the public disclosure of any provision of an existing contract that, immediately before the goods or services became subject to information disclosure regulation, was not required to be publicly disclosed by or under Part 4A of the Act (as in force prior to its repeal by the Commerce Amendment Act 2008) or any other enactment. The Commission considers that this would capture the provisions of contract disclosures currently required under the GIDRs, in addition to Part 4A.

information request The Commission is interested in whether these additional requirements should also be consulted on as part of the discussion stage, or when the Commission issues its draft determination (September 2011).

### **Draft Decision Stage**

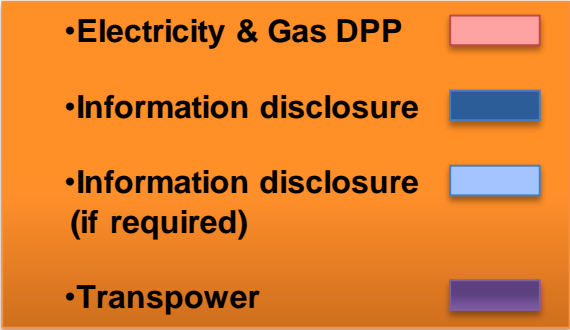
- 54 In the draft decision stage the Commission will consider all submissions from the discussion stage and publish a draft determination(s) and draft reasons paper(s) in September 2011. The draft determination(s) and draft reasons paper(s) will be subject to a four week consultation period followed by a two week period for cross-submissions. The Commission considers the total consultation period of six weeks will be sufficient given the consideration given to issues in the discussion stage and the IMs applicable to information disclosure were set in December 2010.
- 55 The Draft Capex IM for Transpower is expected to be published in July 2011. The Commission has therefore scheduled a potential process update paper in August 2011 to confirm the timing for the development of the Transpower information disclosure requirements.

### **Decision Stage**

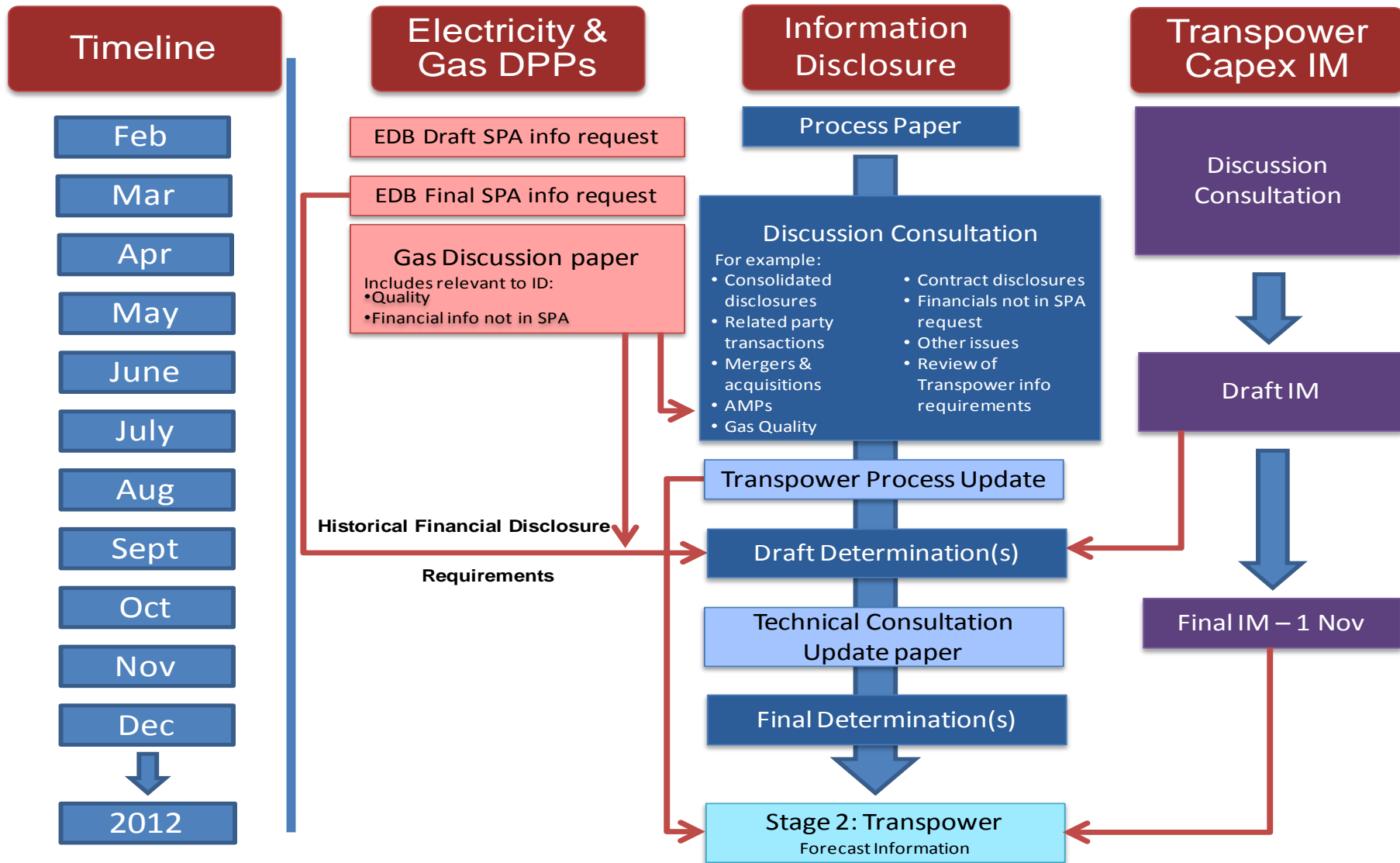
- 56 In the decision stage the Commission will publish its determination(s) for information disclosure requirements and reasons paper(s) setting out its decisions in November and December 2011 having considered submissions and cross-submissions from the draft decisions stage. The final determination(s) may be preceded by a short round of technical consultation on the revised draft determination(s) to allow interested parties to comment on how changes to the Commission's draft decisions have been given effect to in the determination.

### Overview of Information Disclosure Process

57 This section provides an overview of the process and indicative dates for determining information disclosure requirements for suppliers of electricity lines services and suppliers of gas pipeline services. Table 1 provides an overview of key steps and their indicative dates. Figure 1 overleaf illustrates the information disclosure process in the context of the Commission’s wider Part 4 work. Included below is a legend for use when reading Figure 1.



**Figure 1: Overview of key interrelationships between ID and other Part 4 work**





**Table 1: Overview of Key Steps and Indicative Dates**

<b>Key Step</b>	<b>Indicative Date</b>
Submissions due on: Process and Issues Paper	9 March 2011
Feedback on SPA information request for the purpose of information disclosure from all parties (EDBs, Transpower, all GPBs)	3 weeks from publication of final SPA information request
Discussion stage consultation	April - May 2011
Publication of: Transpower Process Update Paper (if required)	August 2011
Publication of: Draft Determination(s) Draft Reasons Paper(s)	Early September 2011
Submissions due on: Draft Determination(s) Draft Reasons Paper(s)	Early October 2011
Cross-submissions due on: Draft Determination(s) Draft Reasons Paper(s)	October 2011
Publication of: Revised Draft Determination(s) & Technical Consultation Update Paper (if required)	Mid November 2011
Publication of: Determination(s) Reasons Paper(s)	Mid December 2011
Stage Two: Transpower forecast information (if required)	2012

## Submissions

- 58 Submissions are invited on this Process Paper, which sets out the Commission's proposed process for making information disclosure determinations for suppliers of electricity lines services and suppliers of gas pipeline services and some initial views on matters relevant to information disclosure regulation.
- 59 Submissions should be received by the Commission no later than 5pm Wednesday 9 March 2011 ("due-date"). All submissions should be supported by documentation and evidence, where appropriate.
- 60 In order to meet the publication dates set out in this paper, the Commission relies on submissions being provided by the due-date. The Commission will only allow extensions beyond the due-date if the submitter provides good reasons in writing. Unless an extension has been granted, the Commission may not be in a position to adequately consider submissions if received after the due-date.
- 61 To foster an informed and transparent process, the Commission intends to publish all submissions on its website. Accordingly, the Commission requests an electronic copy of each submission and requests that hard copies of submissions not be provided (unless an electronic copy is not available). Submissions should be sent to:

[regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz)

or

John Groot  
Regulation Branch  
Commerce Commission  
P.O. Box 2351  
Wellington

## *Confidentiality*

- 62 Parties making submissions may wish to provide confidential or commercially sensitive information to the Commission. Parties can request that the Commission makes orders under s100 of the Act in respect of information that should not be made public. Any request for a s100 order must be made when the relevant information is supplied to the Commission and must identify the reasons why the relevant information should not be made public. The Commission will provide further information on s100 orders if requested by parties, including the principles that are applied when considering requests for such orders. Any s100 order will apply for a limited time only as specified in the order. Once an order expires, the Commission will follow its usual process in response to any request for information under the Official Information Act 1982.
- 63 The Commission discourages requests for non-disclosure of submissions, in whole or in part, as it is desirable to test all information in a fully public way. It is unlikely to agree

to any requests that submissions in their entirety remain confidential. However, the Commission recognises there will be cases where interested parties making submissions may wish to provide confidential information to the Commission.

- 64 If it is necessary to include such material in a submission the information should be clearly marked and preferably included in an appendix to the submission. Interested parties should provide the Commission with both confidential and public versions of their submissions in both electronic and hard-copy formats. The responsibility for ensuring that confidential information is not included in a public version of a submission rests entirely with the party making the submission.

### **Next Steps**

- 65 Following submissions to this Process Paper, the Commission will update its process and set out further detail on the issues discussed following consideration of submissions. Interested parties will be advised of the process for consultation on the April – May 2011 discussion stage as soon as possible.