

Consultation on Electricity and Gas Input Methodology Determination Amendments 2012

Draft amendments to Decisions 710, 711, and 712 under s52X of the Commerce Act 1986

Date: 11 May 2012

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Purpose

1. This paper explains the proposals for amending the input methodologies for electricity lines services and gas pipeline services. It includes both our draft reasons for the proposed amendments and the draft methodologies.
2. We invite your views on any matter relevant to proposals by **5 pm on 1 June 2012**. We will have regard to views we receive within this timeframe when making our final decisions which are expected by **30 June 2012**.

Introduction

Background

3. On 19 April 2012 we published a Notice of Intention to begin work on proposed amendments to input methodologies made under Part 4 of the Commerce Act 1986 (**the Act**) for electricity lines services and gas pipeline services.¹
4. The input methodologies that are proposed to be amended are contained in the following determinations:
 - *Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010, Decision 710*
 - *Commerce Act (Gas Distribution Services Input Methodologies) Determination 2010, Decision 711*
 - *Commerce Act (Gas Transmission Services Input Methodologies) Determination 2010, Decision 712.*
5. The suppliers affected by the proposed amendments are referred to in this paper as electricity distribution businesses (**EDBs**), gas distribution businesses (**GDBs**) and gas transmission businesses (**GTBs**).²
6. The proposed amendments are intended to:
 - modify the treatment of asset acquisitions by EDBs, GDBs, and GTBs from related parties in the asset valuation input methodologies
 - align all of the input methodologies for GDBs and GTBs on the basis of a single common 'disclosure year' from 1 October to 30 September.
7. The proposed amendments in respect of related party asset acquisitions apply to the input methodologies for EDBs, GDBs and GTBs in respect of information disclosure and

¹ Commerce Commission, *Notice of Intention: Proposed Amendments to Input Methodologies for Electricity Lines Services and Gas Pipeline Services*, 19 April 2012, available on the Commission's website at: <http://www.comcom.govt.nz/correspondence-and-process-updates/>.

² The input methodologies for Transpower New Zealand Limited, which supplies electricity lines services, are not contained in the Part 4 input methodologies determinations listed in paragraph 4 and are not subject to the proposed amendments.

customised price-quality paths.³ The amendments in respect of the ‘disclosure year’ for gas suppliers apply to all of the input methodologies for GDBs and GTBs.

8. Section 52S of the Act provides that input methodologies must be applied by every regulated supplier in accordance with the relevant section 52P determination (for example, information disclosure determinations for EDBs, GDBs and GTBs).
9. The need for considering these amendments has arisen following discussions with interested persons on information disclosure requirements and on default and customised price-quality paths.

Scope of this consultation

10. Sections 52V and 52X of the Act govern the process for the proposed amendments.
11. Those sections required us to publish the Notice of Intention to begin work on the amendments. They also require us to publish draft methodologies (contained in this paper) and allow interested persons a reasonable opportunity to submit their views.
12. The Commission has received a number of requests for technical amendments or clarification of the input methodologies since they were first published in December 2010. Unless otherwise stated, this consultation does not cover those requests. Those requests are being addressed under our general process for Part 4 amendments.⁴

Structure of this paper

13. We have structured this paper into two main sections:
 - Explanation and draft reasons for modifications to the value of asset acquisitions by EDBs, GDBs and GTBs from related parties;
 - Explanation and draft reasons for the alignment of GDBs and GTBs across a single common ‘disclosure year’ from 1 October to 30 September.
14. The draft input methodologies are included in **Attachments A to C** where the proposed changes to existing input methodologies are indicated in highlighted text.
15. The last section of this paper explains what happens next with respect to submissions and final decisions on the proposed amendments.

³ Additional input methodologies for default price-quality paths for asset valuation are being determined separately: <http://www.comcom.govt.nz/additional-input-methodologies-for-electricity-and-gas-dpps/>.

⁴ Commerce Commission, *Process for Amendments and Clarifications of Part 4 Determinations*, 8 March 2011, available on the Commission’s website at: <http://www.comcom.govt.nz/correspondence-and-process-updates/>.

Preliminary views on treatment of related party asset acquisitions

Overview

16. Parties which are related to each other may be incentivised to set transaction values for asset acquisitions that are inconsistent with the Part 4 regulatory objectives. The existing input methodologies therefore provide rules for these transactions.
17. We propose to modify the existing rules to allow a more targeted approach to determining 'arm's length' equivalent values. The new rules have materiality thresholds and greater flexibility for suppliers to address individual circumstances.
18. The proposed amendments apply to the input methodologies for EDBs, GDBs and GTBs in respect of information disclosure and customised price-quality paths.

Background

19. The determination of related party asset acquisition values is relevant in two ways to assessing performance under information disclosure regulation and in setting customised price-quality paths, namely:
 - asset values determine the return *of* capital calculated for suppliers in each period (for instance, to cover depreciation in asset values)
 - they allow the return *on* capital required for suppliers to cover their financing costs to be calculated in conjunction with an estimate of the cost of capital.
20. The terms (especially price) and conditions agreed between related parties can therefore influence the returns of, and information disclosed by, regulated entities.
21. However, parties which are related to each other may have different incentives for setting the terms and conditions of asset acquisitions than parties which are unrelated. The price set for an asset sold to a regulated supplier by its related party, for example, may exceed an equivalent price set at arm's length.
22. We consider that the Part 4 objectives require that the regulatory value of asset acquisitions should approximate that which would otherwise be negotiated in an arm's length transaction. This is because an arm's length price is that which would normally be observed in workably competitive markets.
23. We consider that this approach, in conjunction with the specific forms of regulation under Part 4, promotes the long-term benefit of consumers. This is because it promotes outcomes that are consistent with outcomes produced in competitive markets such that regulated suppliers—
 - have incentives to innovate and to invest, including in replacement, upgraded, and new assets;
 - have incentives to improve efficiency and provide services at a quality that reflects consumer demands;

- share with consumers the benefits of efficiency gains in the supply of the regulated services, including through lower prices; and
 - are limited in their ability to extract excessive profits.
24. The issue is a significant one in the context of regulated suppliers under Part 4. For instance, it was established as part of the work on draft information disclosure requirements that EDBs reported related party transactions for 2011 which exceeded \$260m in aggregate, including capital expenditure on assets that exceeded \$190m.⁵
25. It was also observed as part of that work that approaches to valuing related party transactions in the actual agreements between related parties differ between suppliers. Some used the cost incurred by the related party as the basis for setting the transaction value, while others attempt to estimate a market price.⁶
26. The existing asset valuation input methodologies for EDBs, GDBs and GTBs already provide rules that govern the regulatory value of asset acquisitions. The information disclosure input methodologies require that the value of a commissioned asset which is acquired from a related party is “... its depreciated historic cost in respect of the related party ... or ... where sufficient records do not exist to establish this cost, its market value as at its commissioning date as determined by a valuer”.⁷
27. The same requirements currently apply to the input methodologies for customised price-quality paths, with some modifications to accommodate the ‘forecast’ nature of asset values required under CPPs.⁸ The input methodologies for default price-quality regulation do not currently include asset valuation input methodologies and therefore do not have rules for valuing related party asset acquisitions.
28. In January 2011, Unison requested a change to these input methodologies for EDBs to permit market valuations on asset transfers from related parties, irrespective of whether historic cost information exists.⁹ In our interim response to Unison, we

⁵ Related party transactions which involve a supplier’s operating expenditure are relevant to the input methodologies on customised price-quality paths. However, we do not propose to amend the input methodologies for CPPs for operating expenditure as part of this consultation. Suppliers are obligated to provide detailed information to the Commission on all material amounts of related party operating expenditure under existing CPP provisions – see, for instance, *Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010*, clause D17.

⁶ Commerce Commission, *Information Disclosure Requirements for Electricity Distribution Businesses and Gas Pipeline Businesses Draft Reasons Paper*, 16 January 2012 Paragraph A1.41.

⁷ Commerce Commission, *Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010*, clause 2.2.11(g). Commerce Commission, *Commerce Act (Gas Distribution Services Input Methodologies) Determination 2010*, clause 2.2.11(g). Commerce Commission, *Commerce Act (Gas Transmission Services Input Methodologies) Determination 2010*, clause 2.2.11(g).

⁸ Commerce Commission, *Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010*, clause 5.3.11(g). Commerce Commission, *Commerce Act (Gas Distribution Services Input Methodologies) Determination 2010*, clause 5.3.11(g). Commerce Commission, *Commerce Act (Gas Transmission Services Input Methodologies) Determination 2010*, clause 5.3.11(g).

⁹ Unison, *Letter to Karen Murray Re: Treatment of transactions between related parties*, 24 January 2011.

indicated that we agreed that an amendment to the IM may be warranted and proposed this be consulted on formally, including with other interested persons.¹⁰

Proposed amendments

Analysis

29. Given the potential significance of related party transactions for regulated suppliers, we have considered how the input methodologies might be amended to promote Part 4 outcomes. We have considered, in particular, how the rules might be better targeted so as to meet the Part 4 regulatory objectives while minimising compliance costs for individual suppliers.
30. One possibility is that the relatively 'mechanical' rules in the existing input methodologies could be altered to allow suppliers to adopt their actual transaction values for regulatory purposes provided that additional information was provided that allowed interested persons to understand and assess how prices had been set.
31. We are not convinced, however, that a general qualitative description provided by suppliers about the price setting processes for all related party transactions would provide adequate assurance that the asset acquisition values adopted approximated those that would be arrived at in workably competitive markets.
32. Here, the risk is that such general supporting disclosures could be relatively opaque and subjective, and not provide any meaningful information to assess the arm's length value of specific assets acquired. There would also be little opportunity for interested persons (including ourselves) to validate or assess the price setting process.
33. We therefore consider that some other criteria are required based on objective and verifiable information which supports the arm's length nature of particular transactions. However, we also recognise that the quantum of asset acquisition transactions for *some* suppliers may not be of sufficient magnitude to warrant an examination of specific documentation to establish an arm's length price.

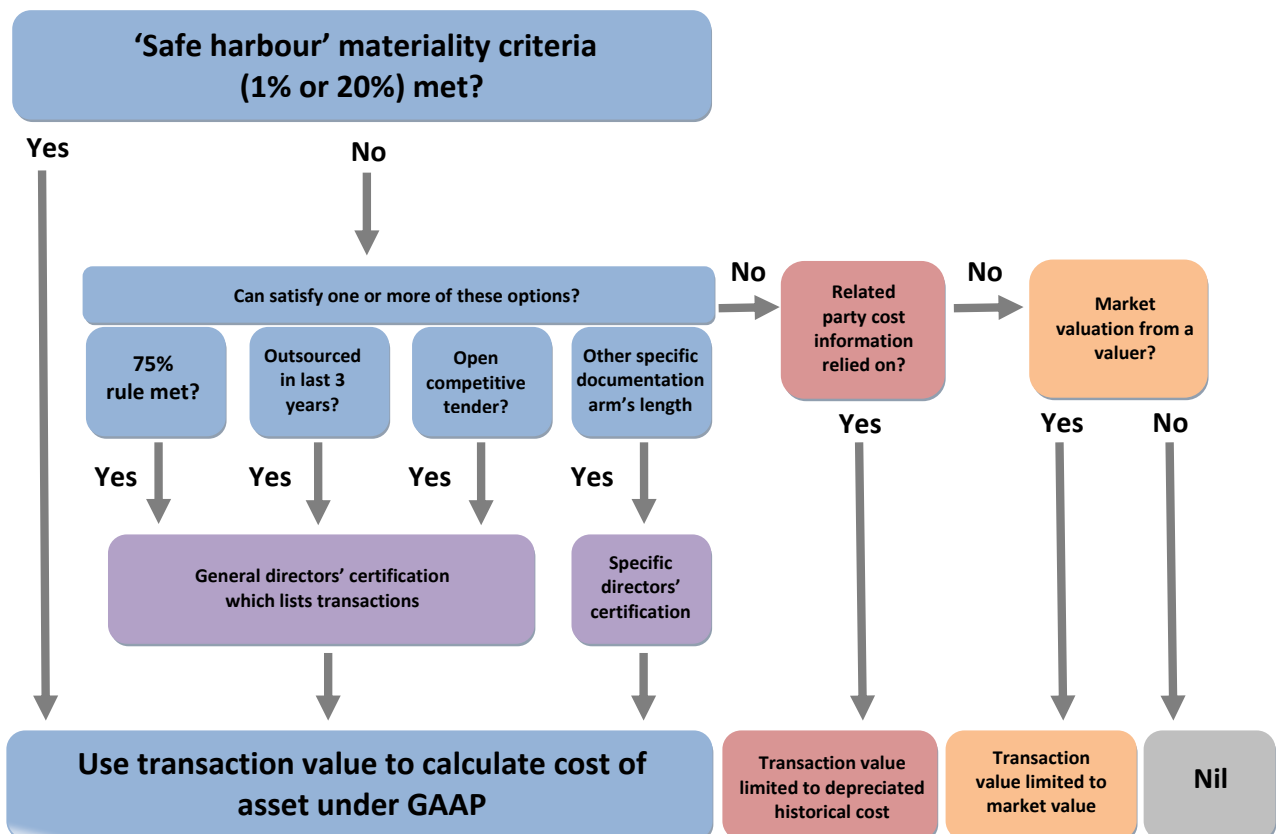
Amendments

34. We propose that the regulatory value of asset acquisitions by regulated suppliers from related parties under input methodologies be determined using materiality thresholds. For those suppliers that do not meet materiality thresholds there should be some flexibility allowed as to the types of provide objective and verifiable information required to address their individual circumstances.
35. We propose that related party asset acquisitions be valued at a cost determined under generally accepted accounting practice (GAAP) based on:
 1. the transaction value, where the cost of all assets acquired from any related parties in a disclosure year is less than 1% of the regulated supplier's total regulatory asset base value in that disclosure year

¹⁰ Commerce Commission, *Letter to Unison Re: Treatment of transactions between related parties*, 25 February 2011.

2. the transaction value, where the cost of all assets acquired from any related parties in a disclosure year is less than 20% of the cost of all assets commissioned by the regulated supplier in that disclosure year
 3. the transaction value, where the related party makes at least 75% of its sales of assets to unrelated parties and the prices charged to the regulated supplier are demonstrably the same as those charged to unrelated parties
 4. the transaction value, where the type of asset in question has previously been acquired by the regulated supplier from an unrelated party within the last 3 years and the regulated supplier can demonstrate that the cost of supply from its related party (taking account of inflation) was the same or less than the cost of the similar type of asset incurred under the previous arrangement
 5. the transaction value, where an open competitive tender process has been used by the regulated supplier and the asset was acquired pursuant to the lowest conforming tender price
 6. the transaction value, where verifiable documentation exists which is sufficient to demonstrate objectively that the price charged to the regulated supplier for the asset is equivalent to an arm's length price
 7. a cost limited to the depreciated historic cost of the asset to the related party determined by applying generally accepted accounting practice as on the day before the acquisition by the regulated supplier, if sufficient records are obtained and are elected to be relied on by the regulated supplier to establish this amount
 8. a cost limited to the market value of the asset as at its commissioning date as determined by a valuer
 9. In all other cases, the asset acquisition value should be recorded for regulatory purposes at a nil value.
36. We propose that Directors' certifications will be required where the asset value is determined in accordance with the options 3, 4, and 5 above. The certification will identify the transactions that fall within each of the classifications and will provide assurance that the various conditions referred to above have been met.
37. A transaction-specific directors' certification will be required for those transactions where values are determined in accordance with objective documentation under option 6. At a minimum these directors' certifications will attest to the fact that specific consideration has been given to ascertaining the transaction value, that the transaction is equivalent to an arm's length price, describe the basis and process for ascertaining that price, and confirm that objective and verifiable documentation exists that supports this process and the price arrived at.

38. It is proposed that these amendments apply to the asset valuation input methodologies for EDBs, GDBs and GTBs for information disclosure and customised price-quality paths. As noted above, the existing input methodologies for customised price-quality paths reflect the same requirements as those for information disclosure regulation, with modifications to accommodate the 'forecast' nature of asset values.
39. Some important practical implications of the proposed approach above are that:
- the materiality thresholds (for example, falling below an aggregate transaction value for related party asset acquisitions) means that the effort required to provide assurance over an arm's length equivalent valuation is commensurate with the materiality of the amounts involved
 - affected suppliers can potentially avail themselves of several alternative options depending on their specific circumstances. The existing option for relying on related party cost information has been retained, recognising that this data is often available in practice for wholly-owned or controlled entities
 - all of the alternative options rely to various degrees on the existence of objective and verifiable facts or information (for example, confirmation of previous outsourcing arrangements or an open competitive tender process) to support the value for the transaction
 - the option for adopting a nil value in all other cases will incentivise a supplier with a material amount of related party transactions to take the steps necessary to avail itself of one of the other options.
40. The various alternatives are described in the following flow diagram:



41. The text of the draft input methodologies is included in **Attachment A** where the proposed changes to existing methodologies are indicated in highlighted text.
42. In drafting the methodologies, we have made use of the existing definition of 'arm's length transaction' which is contained in clause 1.1.4(2) of each of the relevant input methodology determinations.
43. We have also specified that the form of the directors' certification will be that prescribed in an ID determination. This will allow the form of the certification to be updated in minor ways from time to time to meet the practical needs of regulated suppliers and interested persons.

Prior work and submissions

44. The following section describes prior consultation and the submissions received from interested persons relating to related party transactions. Many submitters did not distinguish specifically between related party asset acquisitions or related party operating expenditure. However, these submissions are included below on the basis that issues raised are common to both situations and are therefore relevant.
45. The issue of related party transactions was canvassed in the background materials for the financial issues workshop as part of the draft information disclosure requirement consultation. We identified six possible options for the treatment of related party transactions (which included the treatment of operating expenditure as well as asset acquisitions).
46. The six options proposed were:¹¹
 - Retention of the status quo under existing information disclosure regulation
 - Transactions to be determined using arm's-length prices
 - Transactions to be included at cost to the related party providing the service
 - Require additional disclosures of prices in excess of an arm's length price
 - Require more information (including margins on external sales)
 - Require transactions to be disclosed at cost unless the supplier also makes significant external sales on the same basis as for related party transactions (the Ofgem approach¹²).
47. Suppliers indicated that they attempted to generally establish prices on an arm's-length market price basis. However, there was often little information to identify

¹¹ Commerce Commission, *Workshop 3: Financial Disclosure Requirements – Specific Issues and Draft Templates*, 10 June 2011, paragraph 8-9.

¹² Ofgem does not generally permit the inclusion of any internal profit margins of the licensee or related party margins in the regulatory asset value unless the related party concerned earns at least 75 per cent of its turnover from sources other than related parties and charges to the licensed entity are consistent with charges to external customers.

market prices, and many suppliers were unable to objectively identify how it could be demonstrated that the transaction value was equivalent to an arm's length price. The lack of objective information was attributed to a small number of potential providers, and there are rarely any comparable transactions.

48. Suppliers noted the difficulty of establishing market prices using a tender process. For example, in some regions of the country the number of potential suppliers is too small. Further, for various business reasons, many regulated businesses only use related parties to supply the more important services.¹³ As a result, there was little or no objective information available to assess whether the related party price represented that which was consistent with workably competitive markets.
49. We subsequently proposed that any amendment to the existing rule should provide that a regulated supplier must disclose the value of related party asset acquisitions on one or more of the following bases:¹⁴
- At the cost incurred by the related party providing the service
 - At the transaction value, where the related party makes at least 75% of its sales to unrelated parties and the prices charged to the regulated supplier are demonstrably the same as those charged to unrelated parties
 - At the transaction value, where the type of transaction in question had previously been outsourced and the regulated supplier can demonstrate that the cost of supply from the related party was the same or less than the costs incurred under the previous outsourced arrangement
 - At the transaction value, where the value of all transactions with that related party is less than 1% of the regulated supplier's total revenue from the regulated service for that year and the total value of all related party transactions is less than 5% of the regulated supplier's total revenue from the regulated service
 - At the transaction value, where:
 - open competitive tenders have been used, and
 - the EDB can certify that the tender was open, that it was run to ensure there were credible competing tenders, and the lowest qualifying tender was selected
 - In all other cases, the transaction should be disclosed at a nil value.

¹³ For example, a number of suppliers stated that they preferred to use related parties, as the related party took a longer term view of the relationship and were more willing to invest in training and the assets used to provide the contracted services, than outsourced providers. On the other hand, Orion's disclosures explain that its transactions with related parties take place on an arms-length basis, established on the basis of contestable tenders.

¹⁴ Commerce Commission, *Draft Commerce Act (Electricity Distribution Services Information Disclosure) Determination 2012*, 16 January 2012, paragraph 7.

50. The submissions received from ENA and supported by 29 electricity distribution businesses opposed the proposals and suggested an alternative approach of adopting actual transaction values but accompanied by greater general qualitative disclosure, such as information on how prices were set.¹⁵
51. Several submitters raised issues with how the proposed approach to disclosing related party transactions would apply in some contexts (such as in regions where there are few potential respondents to tenders), and that it may lead to operational inefficiencies.
52. PwC and ENA suggested lower thresholds for the 'safe harbour' transaction values than those proposed by the Commission.¹⁶ For example these submitters proposed reducing the 75% threshold for the proportion of sales made to other related parties to 50%, and increasing the cap on the value of all transactions with a related party from 1% of regulated revenue to 20%.
53. PwC and ENA raised the concern that the proposals were de facto efficiency adjustments, which may directly affect the incentives around efficient outsourcing, operational structures and delivery of services.¹⁷ ENA also submitted that the proposals would set prices and effectively regulate the provision of electrical contracting services.¹⁸

Preliminary views on 'disclosure year' for gas pipeline services

Overview

54. The current definition of regulatory 'disclosure year' for GDBs and GTBs is the 12 month period aligned with their financial reporting year end, until such time as a year end date for the 12 month period is specified under information disclosure regulation.
55. We propose that a single common disclosure year from 1 October to 30 September apply to GDBs and GPBs with effect from the start of the Part 4 regulatory regime. This aligns with the 'pricing year' for most gas business customers.
56. The proposed amendments apply to all of the input methodologies for GDBs and GTBs.

Background

57. A distinction exists between 'financial years' and 'pricing years' for GDBs and GTBs.

¹⁵ ENA, *Submission on Information Disclosure Requirements for Electricity Distribution Businesses: Draft Determination and Draft Reasons Paper*, 9 March 2012, page I, paragraph 21.

¹⁶ PwC, *Submission to the Commerce Commission on Draft Commerce Act (Electricity Distribution Services Information Disclosure) Determination 2012*, 9 March 2012, paragraph 119; ENA, *Submission on Information Disclosure Requirements for Electricity Distribution Businesses: Draft Determination and Draft Reasons Paper*, 9 March 2012, paragraph 127.

¹⁷ PwC, *Submission to the Commerce Commission on Draft Commerce Act (Electricity Distribution Services Information Disclosure) Determination 2012*, 9 March 2012, paragraphs 102, 107, 111; ENA, *Submission on Information Disclosure Requirements for Electricity Distribution Businesses: Draft Determination and Draft Reasons Paper*, 9 March 2012, paragraphs 120, 123-126.

¹⁸ ENA, *Submission on Information Disclosure Requirements for Electricity Distribution Businesses: Draft Determination and Draft Reasons Paper*, 9 March 2012, paragraph 20, 120.

58. The ‘financial year’ is based on the balance date for general purpose financial reporting under the Financial Reporting Act 1993.
59. The ‘pricing year’ refers to the period commencing on the date that gas suppliers’ notified price changes take effect under their contractual arrangements with customers.
60. The financial years and pricing years for the GDBs and GTBs are set out in Table 1.

Table 1: Financial and pricing years for GDBs and GTBs

| Gas supplier | Financial year | Pricing year |
|------------------------|---------------------------|-------------------|
| GasNet (GDB) | July-June | October-September |
| Powerco (GDB) | April-March ¹⁹ | October-September |
| Vector (GDB and GTB) | July-June | October-September |
| Maui Development (GTB) | January-December | July-June |

61. The term used in the input methodologies to refer to a 12 month period for calculating amounts and values for asset valuation, cost allocation, taxation and cost of capital is that of ‘disclosure year’.
62. That term is used consistently between the input methodologies for information disclosure regulation and for default and customised price-quality regulation. It is also used for all of the input methodologies for rules and processes.
63. The definition of disclosure year is contained in clause 1.1.4(2) of each of the existing input methodologies determinations for GDBs and GTBs:

“**disclosure year** shall be construed as a 12 month period ending on the date specified in-

- (a) whilst they are in force, the Gas (Information Disclosure) Regulations 1997; or
- (b) thereafter, an ID determination,

as the last date in the period to which annual disclosure relates;

Example: under clause 6(2) of the Gas (Information Disclosure) Regulations 1997, a pipeline owner that is a company must publish financial statements in respect of the 12 month period ending on the balance date of the company as defined by the Financial Reporting Act 1993. Until an ID determination is made, 'disclosure year' for a GDB that is a company with a balance date of 31 March means 12

¹⁹ Powerco recently changed its financial year balance date from 30 June to 31 March, effective from 31 March 2012. Powerco said the reason for this change was to “remove complexity and compliance costs by aligning regulatory reporting and financial reporting” - Powerco Announces Change to Annual Balance Date, 30 March 2012, <https://www.nzx.com/companies/PWC/announcements/221387>.

month period ending on 31 March, and 'disclosure year 2010' means 12 month period ending on 31 March 2010;"²⁰

Proposed amendments

Analysis

64. In considering what year-end date for the 12 month disclosure period for GDBs and GTBs should be adopted under input methodologies, we have considered two main options:
- Require GDBs and GTBs to calculate amounts and values based on their respective financial years. This is the approach that has been taken under the existing gas information disclosure requirements administered by the Ministry of Economic Development, or
 - Require GDBs and GTBs to calculate amounts and values based on a single common disclosure year ending on 30 September. This would be aligned with the proposed compliance period under gas default price-quality path regulation.
65. There are a number of strengths and weaknesses associated with either option.
66. The main strength of having varied 'disclosure years' among suppliers, aligned to financial years, is that there will be little need for suppliers to modify or update existing financial accounting systems used to generate and verify reporting information on a financial year-end basis. This would likely mean that there was reduced initial compliance costs for businesses to meet their Part 4 information disclosure requirements for the first year (and future years) of reporting.
67. The main drawbacks of having varied disclosure years among suppliers are that:
- It may make it more difficult for interested persons to compare performance across suppliers and thereby assess whether the sector as a whole is meeting the purpose of Part 4, for example due to the impact of exogenous and sporadic events
 - A disclosure year based on a financial year end would involve a discontinuity in time-series data (and a greater or less than 12 month transitional period) if the financial year end is changed by the supplier in the future²¹

²⁰ This definition differs for GTBs in that it refers to Maui Development specifically – see clause 1.1.4(2), definition of 'disclosure year' in the input methodologies for GTBs.

²¹ Powerco recently changed its balance date from 30 June to 31 March, effective from 31 March 2012. Powerco said the reason for this change was to "remove complexity and compliance costs by aligning regulatory reporting and financial reporting".²¹ We presume these reasons must relate to Powerco's electricity distribution business only (that has a regulatory reporting date of 31 March) as a 31 March date does not match any proposed regulatory or pricing year for its gas business - Powerco Announces Change to Annual Balance Date, 30 March 2012, <https://www.nzx.com/companies/PWC/announcements/221387>.

- Disclosed information would not be aligned to the proposed pricing/compliance periods for DPP. As a consequence, regulated gas businesses would need to prepare additional information on some items (for example, quantities aligned with the disclosure year) to demonstrate compliance with the DPP. Verification and validation of this customised information would likely be more difficult.

68. On the other hand, the main strengths of adopting a single common disclosure year for the period 1 October to 30 September for all gas suppliers is that:

- Alignment of disclosed information between gas businesses is likely to make it easier for interested persons to assess overall sector performance, as the data disclosed for different businesses would be more comparable
- It avoids having an inconsistent time-series if a GPB decided to change their financial year (as Powerco has done) in future periods
- There is the potential for reduced compliance costs for suppliers as at least some of the information disclosed under ID could be used for DPP compliance purposes.²²

69. A disadvantage of adopting a single common disclosure year relates to the increased compliance costs for suppliers of complying with information disclosure. However, a proportion of these costs would likely be one-off costs incurred in transitioning to the new reporting cycle. Another disadvantage is that gas suppliers who also operate as electricity suppliers (currently Vector and Powerco) will have three separate disclosure years – one for electricity, one for gas, and one for their financial year.

Amendments

70. On balance, we consider the option of a single common disclosure year aligned on a 30 September year end (consistent with the proposed compliance assessment year for the gas DPP) is the preferred option.

71. This option is likely to best give effect to information disclosure regulatory instruments, as it makes it easier for interested persons to assess performance of the gas sector as a whole, and ensures a consistent time-series of trend data is available to be built up for the future. In addition, it may avoid the need for additional information to be provided under default price-quality path regulation, for each compliance period.

72. We acknowledge that there are likely to be some costs incurred by gas suppliers (which are ultimately borne by gas customers) in modifying their reporting processes from the 'legacy' systems that apply under current MED reporting requirements. However, we also note that gas suppliers have not previously been regulated under

²² In addition, information would be available over time that could be aligned with pricing years for DPP price-quality paths (although this is dependent on the outcome of consultation on gas DPPs).

Part 4 regulation and this represents an opportunity to migrate existing reporting cycles to a consistent basis across all of the new regulatory instruments.²³

73. As mentioned above, the definition of ‘disclosure year’ is used consistently across all input methodologies for GDBs and all input methodologies for GTBs. The proposed changes therefore apply to all input methodologies for GDBs and GTBs, including those for default and customised price-quality paths, and for rules and processes.

Implementation

74. There are a number of ways in which this proposal could be implemented.
75. One factor to consider is that establishing a 30 September disclosure year with effect from the current year (for instance, 2012) would mean that some suppliers would have a greater or less than 12 month transition from the prior information disclosure periods (administered by the MED) based on financial year ends.
76. Alternatively if a 12 month period was retained in all cases then the information disclosure year would either omit information for a period of time since the MED disclosures, or overlap with a portion of the prior disclosures. Simply specifying in information disclosure regulation that the disclosure year-end for all suppliers is 30 September (as is currently anticipated by the definition of ‘disclosure year’ in clause 1.1.4 for each of the gas input methodology determinations) might lead to this result.
77. Another issue to consider is that although the input methodologies for GDBs and GTBs have not yet been applied in any Part 4 regulatory context, the initial regulatory asset base values for GDBs and GTBs at the start of the Part 4 regime have been established with effect from a date relative to their financial year reporting for 2009.
78. The Commission would prefer to maintain continuity of asset value and deferred tax roll-forward balances from this date, and to avoid any unnecessary overlaps or ‘gaps’ in reported information (including information from transition to the Part 4 regime).
79. In order to do so, we propose to:
- Define ‘disclosure year’ as the 12 month period ending 30 September. This would have effect from the inception of the Part 4 regime under the Act
 - Update the regulatory asset base values for GDBs and GTBs as at 30 June 2009 (31 December 2008 for Maui Development) for a 3 month period (9 months for Maui Development) of depreciation, revaluations, asset additions and disposals to establish a value of the RAB at the start of a period later in time (ie, the start of the 2010 disclosure year).
80. A minor change to clauses relating to the timeframes for making cost of capital determinations and estimates is also required to avoid unintended consequences.

²³ We note that the 29 regulated electricity businesses have operated under the Commerce Act for many years with a single common disclosure year of 31 March (despite having varying financial year ends).

81. The text of the draft input methodologies is included in **Attachment B** for GDBs and **Attachment C** for GTBs where the proposed changes to existing methodologies are indicated in highlighted text.

Prior work and submissions

82. We have previously consulted on various aspects relating to disclosure years for GDBs and GTBs in our Discussion Paper on the Initial Default Price-Quality Path for GPBs.²⁴
83. In that paper we proposed adopting a 30 September year-end as the basis for assessing compliance with the default price-quality path which (with the exception of Maui Development) meant that suppliers' pricing years would be aligned with the DPP compliance assessment period. This was reflected in our draft decisions on the Initial DPP for GDBs and GTBs.²⁵
84. Vector, Powerco, and GasNet supported the draft decision as to compliance assessment period.²⁶ Maui Development (which, as indicated above, has a different pricing year to other suppliers) indicated that it would not resist changing its pricing year to align with this compliance assessment period if there were adequate reasons for doing so.²⁷
85. The Commission's Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services Process and Issues Paper, issued in February 2011, proposed aligning disclosure years for gas businesses for information disclosure purposes with the assessment periods proposed for default price-quality paths.²⁸
86. We received varied submissions on this proposal. Maui Development and Vector submitted that information disclosure reporting should be aligned with their financial reporting years (31 December and 30 June respectively).
87. Vector's reasons included:²⁹
- synergies in preparation and audit of financial and regulatory statements
 - avoiding the complexities of undertaking cost allocations relating to the same shared costs (gas and electricity) but to two different disclosure year ends

²⁴ Commerce Commission, *Discussion Paper on the Initial Default Price-Quality Path for GPBs*, 1 April 2011.

²⁵ This consultation has now been superseded by the direction from the High Court that we consult on a stand-alone starting price adjustment input methodology – see *Vector Limited v Commerce Commission* HC Wellington, 26 September 2011, Clifford J, CIV-2011-485-536.

²⁶ Vector, *Submission on the Draft Initial DPP for GPBs*, page 8; Powerco, *Submission on Draft Initial DPP for GPBs*, page 4; GasNet, *Submission on the Draft Initial DPP for GPBs*, page 12, paragraph 33.

²⁷ For example Maui Development, *Commerce Commission Submission: Initial Default Price-Quality Path for Gas Pipeline Businesses Discussion Paper April 2011*, May 2011, page 12, paragraph 9.2.

²⁸ Commerce Commission, *Information Disclosure Regulation Electricity Lines Service sand Gas Pipeline Services Process and Issue Paper*, 23 February 2011, page 6.

²⁹ Vector, *Submission to Commerce Commission on Information Disclosure Process and Issues Paper*, 9 March 2011, page 6. These points were made with specific reference to electricity, but seem equally applicable to gas. Maui Development stated that it agreed with Vector's submission on this point (note 31, paragraph 9.3).

would be avoided, reducing cost and improving the reliability and consistency of the allocations

- greater comparability between regulatory and financial disclosures as the need to make assumptions and adjustments to cover any timing difference would be avoided.

88. In our Draft Gas Distribution Services Information Disclosure Determination (issued 17 January 2012) we considered whether all GPBs should adopt a 30 September disclosure year.
89. We considered that the advantages include:
- having all suppliers disclosing information covering the same period
 - having the same disclosure period as the proposed DPP assessment period.
90. Our preliminary view was that these advantages would be likely to outweigh the additional cost and complexity identified as concerns by Vector and Maui Development in their previous submissions.³⁰
91. In submissions on the draft decision, Vector and Maui Development both said that they were opposed to a regulatory disclosure year being different to their financial year.
92. Maui Development argued that it cannot be compared to other gas businesses, as its technical and system operations are performed under contract by Vector, so there is no other GTB it can be compared with. Accordingly Maui Development submitted that there is no advantage in requiring it to disclose information over any other period than its actual financial and budgeting year.³¹
93. An example of how the first year of information disclosures for regulated gas suppliers might be presented if a 30 September year end was adopted was included in Schedule 20 of the draft information disclosure determinations for GDBs and GTBs.

Effective date of amendment

94. The Commission's preliminary view is that the proposed changes should come into effect upon publication as a notice in the *Gazette*.

³⁰ Commerce Commission, *Information Disclosure Draft Reasons Paper*, 16 January 2012, page 101, paragraph 6.45.

³¹ Maui Development, *Submission on Draft ID Determinations*, pages 11-12, paragraphs 50-54; Vector, *Submission on Draft ID Determinations*, page 13, paragraph 47.

Consultation

Submissions

95. We will take account of all previous work and submissions on these issues in relation to Part 4 consultation, including all Commission materials and the statements of parties at the information disclosure workshops.
96. A practical advantage of utilising this work is to reduce the costs to the Commission and interested persons by avoiding having to consider many of the issues 'anew'. This will avoid the need for some interested persons to resubmit their views in the current consultation if they had done so as part of information disclosure consultation and consider that their views remain relevant to this consultation on input methodologies.
97. Written submissions are invited on the proposals in this paper by no later than **5pm on Friday, 1 June 2012**.
98. You should send your submissions in electronic format to:

Karen Murray, Manager, Regulation Branch
c/o regulation.branch@comcom.govt.nz with "Amendment to input methodologies" in the subject heading.
99. The Commission encourages parties to be as transparent as possible in making their submissions available to the Commission. If it is necessary for you to submit confidential information, the Commission notes that this information will be processed in accordance with the requirements of the Official Information Act 1982, should a request for access to the confidential information be made by a third party.
100. If you wish to submit confidential information to the Commission as part of your submissions, please identify the information with bold square brackets. Please also produce both a public and confidential version of your submissions so that the Commission can upload the public versions to its website.

Final decisions

101. We will consider the views of interested persons received in submissions and intend to make final decisions on the proposed amendments by **30 June 2012**.
102. Any amendments to the input methodologies will be published by way of a notice in the *Gazette* and will include our reasons for determining the amendments to the input methodologies.
103. Any updates on the consultation process in the interim will be published on the Commission's website as required.

Attachment A – Draft Methodology – Related Party Asset Acquisitions

The proposed amendment below relates to clause 2.2.11 of the input methodologies for EDBs. The same amendment is proposed in all material respects, and with all necessary modifications, for:

- Clause 5.3.11 of the input methodologies for EDBs
- Clauses 2.2.11 and 5.3.11 of the input methodologies for GDBs
- Clauses 2.2.11 and 5.3.11 of the input methodologies for GTBs.

2.2.11 Value of Commissioned assets

(1) Value of **Commissioned** asset, in relation to an asset (including an asset in respect of which **capital contributions** were received or a **vested asset**), is the cost of the asset to an **EDB** determined by applying **GAAP** to the asset as on its **commissioning date**, except that, subject to subclause (2), the cost of-

- (a) an intangible asset, unless it is-
 - (i) a **finance lease**; or
 - (ii) an **identifiable non-monetary asset**,
 is nil;
- (b) an **easement**, is limited to its market value as on its **commissioning date** as determined by a **valuer**;
- (c) **easement land** is nil;
- (d) a **network spare**-
 - (i) which is not required, in light of the historical reliability and number of the assets it is held to replace; or
 - (ii) whose cost is not treated wholly as or part of the cost of an asset under **GAAP**,
 is nil;
- (e) an asset-
 - (i) acquired from another **regulated supplier**; and
 - (ii) used by that **regulated supplier** in the **supply of regulated goods or services**,

is limited to the unallocated opening RAB value of the asset for the **regulated supplier** as on the day before the **commissioning date** (as 'unallocated opening RAB value' is defined in the **input methodologies** applying to the **regulated goods or services supplied** by the **regulated supplier**);

- (f) an asset that was previously used by an **EDB** in its **supply of other regulated services** is limited to the unallocated opening RAB value of the asset in relation to those **other regulated services** as on the day before the **commissioning date** (as 'unallocated opening RAB value' is defined in

the **input methodologies** applying to the **regulated goods or services supplied** by the **EDB**);

- (g) an asset acquired from a **related party** other than an asset to which paragraphs (e) or (f) **or subclause (5) applies** is-
 - (i) its depreciated historic cost in respect of the **related party** determined by applying **GAAP** as on the day before the acquisition by the **EDB** **provided sufficient records are obtained and are elected to be relied on by the EDB to establish this cost**;
 - (ii) its market value as at its **commissioning date** as determined by a **valuer**; or
 - (iii) **in all other cases, nil**;
 - (h) an asset in respect of which **capital contributions** were received where such contributions do not reduce the cost of the asset when applying **GAAP**, is the cost of the asset by applying **GAAP** reduced by the amount of the **capital contributions**; and
 - (i) a **vested asset** in respect of which its fair value is treated as its cost under **GAAP**, must exclude any amount of the fair value of the asset determined under **GAAP** that exceeds the amount of consideration provided by the **EDB**.
- (2) When applying **GAAP** for the purpose of subclause (1), the cost of financing is-
- (a) applicable only in respect of the period commencing on the date the asset becomes a **works under construction** and terminating on its **commissioning date**; and
 - (b) calculated for a-
 - (i) **non-exempt EDB**, using, subject to subclause (3), a rate no greater than the **75th percentile estimate of WACC** applying in respect of the relevant date for its calculation under **GAAP**; and
 - (ii) **consumer-owned EDB**, using a rate no greater than the **EDB's** estimate of its post-tax **WACC** as at the relevant date for its calculation under **GAAP**.
- (3) For the purpose of subclause (2)(b)(i)-
- (a) where no **WACC** in respect of the relevant date has been published pursuant to clause 2.4.8, the rate is calculated using a rate no greater than the **EDB's** estimate of its post-tax **WACC** as at the relevant date for its calculation under **GAAP**; and
 - (b) where an asset has not been **commissioned** within the period to which the **75th percentile estimate of WACC** referred to in subclause (2)(b)(i) applied, the cost of financing after that period is calculated using a rate no greater than the **75th percentile estimate of WACC** applying to that later period.
- (4) For the avoidance of doubt-
- (a) revenue derived in relation to **works under construction** that is not included in regulatory income under an **ID determination** or preceding

regulatory information disclosure requirements reduces the cost of an asset by the amount of the revenue where such reduction is not otherwise made under **GAAP**; and

- (b) where expenditure on an asset which forms part of the cost of that asset under **GAAP** is incurred by an **EDB** after that asset was **commissioned**, such expenditure is treated as relating to a separate asset.

(5) An asset referred to in subclause (1)(g) is that for which-

- (a) its cost, aggregated with the cost of all assets acquired from any **related party** which are first **commissioned** in that **disclosure year**, is less than:
- (i) one per cent of the sum of **opening RAB values** for the **EDB** for that **disclosure year**; or
- (ii) twenty per cent of the aggregate cost of all assets first **commissioned** by the **EDB** in that **disclosure year**; or
- (b) a certificate is completed by no fewer than 2 of the **EDB's directors** in the form prescribed by an **ID determination** attesting to the fact that:
- (i) the asset was acquired from a **related party** for which at least 75 per cent of the **related party's** sales of assets are made to parties other than the **EDB** and the price charged to the **EDB** for the asset by the **related party** is demonstrably the same in all material respects as the price charged by the **related party** to those other parties;
- (ii) the price charged to the **EDB** for the asset by the **related party** is, in all material respects, demonstrably the same or less than the price (adjusted for inflation) paid for assets of a similar type that have been acquired by the **EDB** within any of the preceding 3 **disclosure years** from a party that is not a **related party**;
- (iii) the price charged to the **EDB** for the asset was determined in accordance with the lowest conforming tender received by the **EDB** in an open competitive tender process; or
- (iv) documentation exists which is sufficient to demonstrate objectively that the price charged to the **EDB** for the asset is equivalent to that which would be expected under an **arm's length transaction**.

Attachment B – Draft Methodology – GDB Disclosure Year

1.1.4 Interpretation

- (2) In this determination, including in the schedules, the words or phrases in bold type bear the following meanings:

2009 disclosure financial statements means the financial statements disclosed by the **GDB** in question in accordance with the Gas (Information Disclosure) Regulations 1997 for the **year ended 30 June 2009**;

disclosure year shall be construed as a 12 month period ending on **30 September**;

*Example: 'disclosure year 2010' means 12 month period ending on **30 September 2010**;*

disposed asset means, for the purpose of-

- (a) Part 2, an asset that, in the **disclosure year** or **other period** in question, has been sold or transferred, or has been irrecoverably removed from the **GDB's** possession without consent but is not a **lost asset**; and
- (b) Part 5, an asset that, in relation to a **disclosure year**, is-
 - (i) sold or transferred but is not a lost asset; or
 - (ii) forecast to be sold or transferred;

excluded asset means an asset that is-

- (c) not used to **supply gas distribution services** as on **30 June 2009**;
- (d) designated as 'excluded' type as a result of the **asset adjustment process**;
- or
- (e) **easement land**;

initial RAB has the meaning specified in clause **2.2.2**;

initial RAB value means value of an asset in the **initial RAB** determined in accordance with clause 2.2.3(4);

2.2.1 Asset adjustment process for setting initial RAB

- (1) Asset adjustment process means the process of assets-
- (a) being designated as one of the following asset types:
 - (i) 'excluded';
 - (ii) 'included'; or
 - (iii) 'value modified';
 - (b) of 'value modified' type being assigned a **modified value**; and
 - (c) of 'included' type being assigned an **included value**,
- (2) Subject to subclauses (3) to (6), under the asset adjustment process, a **GDB** may elect to undertake none, some or all of the following things:
- (a) modify the value of an asset owned by NGC Holdings Limited or a subsidiary company thereof, which asset is treated as of 'value modified' type;

- (b) designate an asset, except one of those described in subclause (4), used by a **GDB to supply gas distribution services**, as of 'included' type; and
 - (c) correct the following types of errors found in a **GDB's** asset register, where the error relates to **2009 disclosed assets**:
 - (i) assets omitted in error, which assets are designated as of 'included' type;
 - (ii) assets included in error, which assets are designated as of 'excluded' type; and
 - (iii) assets allocated to the incorrect asset category, or given an estimation of quantity, age, category or location now known to be incorrect, which assets are designated as of 'value modified' type;
- (3) The modified value of an asset to which subclause (2)(a) is applied is determined by adjusting its value-
- (a) in respect of an asset to which subclause (2)(b) or (2)(c) was applied and valued pursuant to subclause (5) or (6), as the case may be; or
 - (b) where neither subclause (2)(b) nor (2)(c) was applied, included in 'Non-Current Assets' in the **2009 disclosure financial statements**,
to the value it would have had as of **30 June 2009** had it been revalued to take account of changes in the consumer price index since the first day of the **disclosure year** 2006 consistent with the method used by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services**.
- (4) For the purpose of subclause (2)(b), the assets are-
- (a) **2009 authorisation assets**;
 - (b) assets that were eligible to be **2009 authorisation assets**;
 - (c) **2009 disclosed assets**;
 - (d) assets that were eligible to be **2009 disclosed assets**;
 - (e) **easement land**; and
 - (f) intangible assets, unless they are-
 - (i) **finance leases**; or
 - (ii) **identifiable non-monetary assets**.
- (5) The included value of an asset to which subclause (2)(b) is applied is-
- (a) its depreciated historic cost determined by applying **GAAP** as of **30 June 2009**; or
 - (b) where sufficient records do not exist to establish this cost, its depreciated carrying value in the general purpose financial statements of the **GDB**.
- (6) The included value or modified value, as the case may be, of an asset to which subclause (2)(c) is applied is determined by-
- (a) taking its value, subject to subclause (7), that resulted, or for an omitted asset, would have resulted, from application of the Gas (Information Disclosure) Regulations 1997, as of the date-
 - (i) the asset was first **commissioned**; or

- (ii) that fixed assets were most recently revalued, other than for the sole purpose of accounting for inflation, under the Gas (Information Disclosure) Regulations 1997, whichever is the later;
- (b) implementing the corrections or modifications required to account for the matters specified in subclause (2)(c) as the case may be; and
- (c) adjusting that value to the value as of **30 June** 2009 by taking account of-
 - (i) **unallocated depreciation** in accordance with the **standard depreciation method**, where the total asset life used for the purpose of that method is the total asset life used for the purpose of the **2009 disclosure reports**; and
 - (ii) revaluation to account for consumer price index changes using a method consistent with that used to account for such revaluation in the **2009 disclosure reports**.
- (7) Where subclause (6)(a)(ii) applies, the value must be obtained using the revaluation methodology that was applied, or would have been applied, in respect of that asset as of the date in question.

2.2.2 Composition of initial RAB

(1) Initial RAB means-

- (a) **2009 authorisation assets**;
- (b) **2009 disclosed assets**;
- (c) **included assets**; and
- (d) **assets first commissioned by the GDB between 1 July 2009 and 30 September 2009**,

less-

- (e) **excluded assets**;
- (f) intangible assets, unless they are-
 - (i) **finance leases**; or
 - (ii) **identifiable non-monetary assets**;
- (g) **works under construction**; and
- (h) **disposed assets for the period between 1 July 2009 and 30 September 2009**.

2.2.3 Initial RAB values for assets

(1) Subject to subclauses (2) and (3), the unallocated initial RAB value of-

- (a) an **included asset** or **value modified asset**, is its **included value** or **modified value**, as the case may be; and
- (b) any other asset included in **2009 authorisation assets** and described in-
 - (i) paragraph (a) of the definition of 2009 authorisation assets, is its value specified in the **2005 authorisation valuation**; and

- (ii) paragraph (b) of the definition of 2009 authorisation assets, is its cost determined by applying **GAAP** to the asset as on its **commissioning date**,

adjusted as of **30 June** 2009 by taking account of-

- (iii) depreciation; and
- (iv) changes in the consumer price index;

since the first day of the **disclosure year** 2006 consistent with the method used by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services**;

- (c) any other asset included in **2009 disclosed assets**, is its value included in the 'Non-Current Assets' category in the **2009 disclosure financial statements**; and
- (d) an asset first **commissioned** by the **GDB** between 1 July 2009 and 30 September 2009 is its **value of commissioned asset**.

- (2) For the purpose of subclause (1), where an asset is used by a **GDB** in the **supply** of-

- (a) one or more **regulated service**; or
- (b) one or more **regulated service** and one or more **unregulated service**,

where at least one of those **regulated services** is a **gas distribution service**, the unallocated initial RAB value is the value of the asset had no allocation of asset value relevant to regulatory disclosures been undertaken.

- (3) For the purpose of subclause (1), the value established as the unallocated initial RAB value must include an adjustment for the three month period between 1 July 2009 and 30 September 2009 by taking account of-

- (a) **unallocated depreciation** applicable to that period in accordance with the **standard depreciation method**, using a total asset life consistent with that used in the **2009 disclosure reports** or by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services** as the case may be; and
- (b) revaluation applicable to that period to account for consumer price index changes using a method consistent with that used in the **2009 disclosure reports** or by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services** as the case may be.

- (4) The initial RAB value of an asset is determined as the value allocated to **gas distribution services** as a result of-

- (a) adopting its **unallocated initial RAB value**; and
- (b) applying clause 2.1.1 to it **as at 30 September 2009**.

2.2.8 Physical asset life

- (5) Physical asset life means, subject to subclauses (2) and (4), in the case of-

- (a) a **fixed life easement**, the fixed duration or fixed period (as the case may be) referred to in the definition of **fixed life easement**;

- (b) an extended life asset or a refurbished asset, its physical service life potential as determined by the **GDB**;
- (c) a reduced life asset, its physical service life potential determined by an **engineer**, subject to subclause (3);
- (d) a **found asset** for which a similar asset exists as described in subclause 2.2.12(2)(b)(i), the **asset life** applying to the similar asset;
- (e) an asset not referred to in paragraphs (a) – (d)-
 - (i) in the **initial RAB** and an **included asset**; or
 - (ii) not in the **initial RAB**,
 and-
 - (iii) having a **standard physical asset life**, its **standard physical asset life**;
 - (iv) not having a **standard physical asset life**, the asset life applying to an asset with an **unallocated opening RAB value** that is similar in terms of asset type; and
 - (v) in all other cases, the physical service life potential determined by an **engineer**, subject to subclause (3);
- (f) an asset (other than a composite asset) not referred to in paragraphs (a) – (e), its remaining physical service life potential as on **30 June 2009** as determined in accordance with the method used to determine an allowance for depreciation, in the case of a-
 - (i) **2009 authorisation asset**, in the 'Gas Control Model' used by the **Commission** for the purpose of authorising the supply of **controlled services**; and
 - (ii) **2009 disclosed asset**, for the purpose of the **2009 disclosure financial statements**;
- (g) a composite asset, the average asset life of the assets comprising it determined in accordance with paragraphs (a) - (f), with the modification that each such asset life must be weighted with respect to the proportion of its respective **opening RAB value** to the sum of the **opening RAB values** of the components in the earliest **disclosure year** in which all component assets were held by the **GDB**.

The proposed amendment below relates to clause 2.4.8 of the input methodologies for GDBs. The same amendment is proposed in all material respects, and with all necessary modifications, for clauses 4.1.8 and 5.3.29 of the input methodologies for GDBs.

2.4.8 Publication and making of estimates

- (1) The **Commission** will publish all determinations and estimates that it is required to make by this subpart-
 - (a) on its website; and
 - (b) no later than 1 month after having made them.
- (2) Where a time frame applying to the **Commission** for making or publishing determinations or estimates required by this subpart has not been met due to-

- (a) an amendment to this determination; or
- (b) the determination of a period to which the estimates apply,

then the **Commission** must instead make or publish the estimates as soon as practicable.

Attachment C – Draft Methodology – GTB Disclosure Year

1.1.4 Interpretation

- (2) In this determination, including in the schedules, the words or phrases in bold type bear the following meanings:

2009 disclosure financial statements means the financial statements disclosed by the **GTB** in question in accordance with the Gas (Information Disclosure) Regulations 1997 for the **year ended 30 June 2009 (or the year ended 31 December 2008 for Maui Development Limited)**;

disclosure year shall be construed as a 12 month period ending on **30 September**;

Example: 'disclosure year 2010' means 12 month period ending on 30 September 2010;

disposed asset means, for the purpose of-

- (a) Part 2, an asset that, in the **disclosure year or other period** in question, has been sold or transferred, or has been irrecoverably removed from the **GTB's** possession without consent but is not a **lost asset**; and
- (b) Part 5, an asset that, in relation to a **disclosure year**, is-
 - (i) sold or transferred but is not a lost asset; or
 - (ii) forecast to be sold or transferred;

excluded asset means an asset that is-

- (c) not used to **supply gas transmission services** as on **30 June 2009 (or 31 December 2008 for Maui Development Limited)**;
- (d) designated as 'excluded' type as a result of the **asset adjustment process**;
or
- (e) **easement land**;

initial RAB has the meaning specified in clause **2.2.2**;

initial RAB value means value of an asset in the **initial RAB** determined in accordance with clause 2.2.3**(4)**;

2.2.1 Asset adjustment process for setting initial RAB

- (1) Asset adjustment process means the process of assets-
- (a) being designated as one of the following asset types:
 - (i) 'excluded';
 - (ii) 'included'; or
 - (iii) 'value modified';
 - (b) of 'value modified' type being assigned a **modified value**; and
 - (c) of 'included' type being assigned an **included value**,
- (2) Subject to subclauses (3) to (6), under the asset adjustment process, a **GTB** may elect to undertake none, some or all of the following things:

- (a) modify the value of an asset owned by NGC Holdings Limited or a subsidiary company thereof, which asset is treated as of 'value modified' type;
 - (b) designate an asset, except one of those described in subclause (4), used by a **GTB** to **supply gas transmission services**, as of 'included' type; and
 - (c) correct the following types of errors found in a **GTB's** asset register, where the error relates to **2009 disclosed assets**:
 - (i) assets omitted in error, which assets are designated as of 'included' type;
 - (ii) assets included in error, which assets are designated as of 'excluded' type; and
 - (iii) assets allocated to the incorrect asset category, or given an estimation of quantity, age, category or location now known to be incorrect, which assets are designated as of 'value modified' type;
- (3) The modified value of an asset to which subclause (2)(a) is applied is determined by adjusting its value-
- (a) in respect of an asset to which subclause (2)(b) or (2)(c) was applied and valued pursuant to subclause (5) or (6), as the case may be; or
 - (b) where neither subclause (2)(b) nor (2)(c) was applied, included in 'Non-Current Assets' in the **2009 disclosure financial statements**,
- to the value it would have had as of **30 June 2009** had it been revalued to take account of changes in the consumer price index since the first day of the **disclosure year** 2006 consistent with the method used by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services**.
- (4) For the purpose of subclause (2)(b), the assets are-
- (a) **2009 authorisation assets**;
 - (b) assets that were eligible to be **2009 authorisation assets**;
 - (c) **easement land**; and
 - (d) intangible assets, unless they are-
 - (i) **finance leases**; or
 - (ii) **identifiable non-monetary assets**.
- (5) The included value of an asset to which subclause (2)(b) is applied is-
- (a) its depreciated historic cost determined by applying **GAAP** as of **30 June 2009** (or **31 December 2008 for Maui Development Limited**); or
 - (b) where sufficient records do not exist to establish this cost, its depreciated carrying value in the general purpose financial statements of the **GTB**.
- (6) The included value or modified value, as the case may be, of an asset to which subclause (2)(c) is applied is determined by-
- (a) taking its value, subject to subclause (7), that resulted, or for an omitted asset, would have resulted, from application of the Gas (Information Disclosure) Regulations 1997, as of the date-

- (i) the asset was first **commissioned**; or
- (ii) that fixed assets were most recently revalued, other than for the sole purpose of accounting for inflation, under the Gas (Information Disclosure) Regulations 1997,
whichever is the later;
- (b) implementing the corrections or modifications required to account for the matters specified in subclause (2)(c) as the case may be; and
- (c) adjusting that value to the value as of **30 June 2009 (or 31 December 2008 for Maui Development Limited)** by taking account of-
 - (i) **unallocated depreciation** in accordance with the **standard depreciation method**, where the total asset life used for the purpose of that method is the total asset life used for the purpose of the **2009 disclosure reports**; and
 - (ii) revaluation to account for consumer price index changes using a method consistent with that used to account for such revaluation in the **2009 disclosure reports**.
- (7) Where subclause (6)(a)(ii) applies, the value must be obtained using the revaluation methodology that was applied, or would have been applied, in respect of that asset as of the date in question.

2.2.2 Composition of initial RAB

(1) Initial RAB means-

- (a) **2009 disclosed assets**;
- (b) **included assets**; and
- (c) assets first **commissioned** by the **GTB** between 1 July 2009 and 30 September 2009 (or between 1 January 2009 and 30 September 2009 for Maui Development Limited),

less-

- (d) **excluded assets**;
- (e) intangible assets, unless they are-
 - (i) **finance leases**; or
 - (ii) **identifiable non-monetary assets**;
- (f) **works under construction**; and
- (g) **disposed assets** for the period between 1 July 2009 and 30 September 2009 (or between 1 January 2009 and 30 September 2009 for Maui Development Limited).

2.2.3 Initial RAB values for assets

(1) Subject to subclauses (2) and (3), the unallocated initial RAB value of-

- (a) an **included asset** or **value modified asset**, is its **included value** or **modified value**, as the case may be; and
- (b) any other asset, is, in the case of-

- (i) Maui Development Limited, its value used for the calculation of the 'Accounting Return on Total Assets' measured in the **2009 disclosure financial statements**; and
 - (ii) any other **GTB**, its value included in 'Non-Current Assets' in the **2009 disclosure financial statements**; and
 - (c) an asset first **commissioned** by the **GTB** between 1 July 2009 and 30 September 2009 (or between 1 January 2009 and 30 September 2009) is **its value of commissioned asset**.
- (2) For the purpose of subclause (1), where an asset is used by a **GTB** in the **supply** of-
- (a) one or more **regulated service**; or
 - (b) one or more **regulated service** and one or more **unregulated service**,
- where at least one of those **regulated services** is a **gas transmission service**, the unallocated initial RAB value is the value of the asset had no allocation of asset value relevant to regulatory disclosures been undertaken.
- (3) For the purpose of subclause (1), the value established as the unallocated initial RAB value must include an adjustment for the three month period between 1 July 2009 and 30 September 2009 (or nine month period between 1 January 2009 and 30 September 2009 for Maui Development Limited) by taking account of-
- (a) **unallocated depreciation** applicable to that period in accordance with the **standard depreciation method**, using a total asset life consistent with that used in the **2009 disclosure reports** or by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services** as the case may be; and
 - (b) revaluation applicable to that period to account for consumer price index changes using a method consistent with that used in the **2009 disclosure reports** or by the **Commission** in its 'Gas Control Model' for the purpose of authorising the supply of **controlled services** as the case may be.
- (4) The initial RAB value of an asset is determined as the value allocated to **gas transmission services** as a result of-
- (a) adopting its **unallocated initial RAB value**; and
 - (b) applying clause 2.1.1 to it **as at 30 September 2009**.

2.2.8 Physical asset life

- (1) Physical asset life means, subject to subclauses (2) and (4), in the case of-
- (a) a **fixed life easement**, the fixed duration or fixed period (as the case may be) referred to in the definition of **fixed life easement**;
 - (b) an extended life asset or a refurbished asset, its physical service life potential as determined by the **GTB**;
 - (c) a reduced life asset, its physical service life potential determined by an **engineer**, subject to subclause (3);
 - (d) a **found asset** for which a similar asset exists as described in subclause 2.2.12(2)(b)(i), the **asset life** applying to the similar asset;
 - (e) an asset not referred to in paragraphs (a) – (d)-

- (i) in the **initial RAB** and an **included asset**; or
 - (ii) not in the **initial RAB**,
- and-
- (iii) having a **standard physical asset life**, its **standard physical asset life**;
 - (iv) not having a **standard physical asset life**, the asset life applying to an asset with an **unallocated opening RAB value** that is similar in terms of asset type; and
 - (v) in all other cases, the physical service life potential determined by an **engineer**, subject to subclause (3);
- (f) an asset (other than a composite asset) not referred to in paragraphs (a) – (e), its remaining physical service life potential as on **30 June 2009 (or 31 December 2008 for Maui Development Limited)** as determined in accordance with the method used to determine an allowance for depreciation, in the case of a-
- (i) **2009 authorisation asset**, in the 'Gas Control Model' used by the **Commission** for the purpose of authorising the supply of **controlled services**; and
 - (ii) **2009 disclosed asset**, for the purpose of the **2009 disclosure financial statements**;
- (g) a composite asset, the average asset life of the assets comprising it determined in accordance with paragraphs (a) - (f), with the modification that each such asset life must be weighted with respect to the proportion of its respective **opening RAB value** to the sum of the **opening RAB values** of the components in the earliest **disclosure year** in which all component assets were held by the **GTB**.

The proposed amendment below relates to clause 2.4.8 of the input methodologies for GTBs. The same amendment is proposed in all material respects, and with all necessary modifications, for clauses 4.1.8 and 5.3.25 of the input methodologies for GTBs.

2.4.8 Publication and making of estimates

- (2) The **Commission** will publish all determinations and estimates that it is required to make by this subpart-
- (a) on its website; and
 - (b) no later than 1 month after having made them.
- (3) Where a time frame applying to the **Commission** for making or publishing determinations or estimates required by this subpart has not been met due to-
- (a) an amendment to this determination; or
 - (b) the determination of a period to which the estimates apply,
- then the **Commission** must instead make or publish the estimates as soon as practicable.