

31 March 2020

To: All suppliers of electricity distribution services as regulated under Part 4 of the Commerce Act 1986

Tēnā koutou,

Notice of conditional exemptions from electricity distribution services information disclosures

1. In light of the COVID-19 pandemic, the Commerce Commission (**Commission**) gives notice under clause 2.11.1(1) of the Electricity Distribution Information Disclosure Determination 2012 (**ID Determination**) that it has decided to extend a number of the timeframes specified in the ID Determination for the public disclosure of information in 2020 by suppliers regulated under Part 4 of the Commerce Act 1986 (**Part 4**).
2. This notice sets out the changes to disclosure timeframes for electricity distribution businesses (**EDBs**) that supply regulated services under Part 4. The current disclosure requirements for EDBs are set out in the ID Determination.
3. This course of action was signalled in the open letter to Part 4 regulated industries, *Extension of information disclosure deadlines for Part 4 regulated industries*, dated 26 March 2020.

Information usually due 5 months after the end of the current disclosure year

Disclosure requirements

4. The ID Determination requires that, within 5 months of the end of each disclosure year, each EDB must publicly disclose:
 - 4.1 information relating to its financial position, in accordance with clause 2.3.1;
 - 4.2 if applicable, an engineer's report relating to information on physical service life potential, in accordance with clause 2.3.18;
 - 4.3 information on quantities and revenues billed, in accordance with clause 2.4.21;
 - 4.4 non-financial information relating to network assets, in accordance with clauses 2.5.1 and 2.5.2; and

- 4.5 explanatory notes to disclosed information, in accordance with clause 2.7.1.
- 5. In addition, each EDB may publicly disclose further comments on disclosed information in accordance with clause 2.7.3, within 5 months after the end of each disclosure year.
- 6. The ID Determination also requires that each EDB must, within 5 months and 5 working days after the end of each disclosure year:
 - 6.1 disclose to the Commission information supporting the disclosed information that relates to that EDB's financial position, in accordance with clause 2.3.2.

Exemption granted

- 7. By this notice, the Commission grants EDBs an exemption from the requirements stated above to complete, publicly disclose, or disclose to the Commission, information pertaining to the disclosure year ending on 31 March 2020 by the relevant due date in the ID Determination. The relevant due date would normally be 31 August 2020. Instead, EDBs are now required to complete and publicly disclose the information listed above, by **31 October 2020**.
- 8. The Commission notes that the definition of 'publicly disclose' in the ID Determination includes requirements to:
 - 8.1 provide a copy of the disclosed information to the Commission within 5 working days after the information is disclosed to the public;
 - 8.2 provide any person with a copy of the information within 10 working days of being requested to do so.
- 9. These public disclosure requirements have not changed. However, the requirement in 5.1 above to provide copies of disclosed information to the Commission now applies to 5 working days after the extended disclosure date of 31 October 2020.

Pricing methodologies, AMPs and other information disclosed before the start of the year

Disclosure requirements

- 10. The ID Determination requires that, before the start of each disclosure year, each EDB must publicly disclose:
 - 10.1 a pricing methodology, in accordance with clause 2.4.1;
 - 10.2 an asset management plan (AMP), in accordance with clause 2.6.1 or an AMP update in accordance with clause 2.6.3 and 2.6.4;
 - 10.3 information on forecasts and asset condition, in accordance with clause 2.6.6; and

10.4 mandatory explanatory notes on forecast information, in accordance with clause 2.7.2.

11. Given the new disclosure year is about to start on 1 April 2020, the Commission expects that the majority of EDBs are in the process of finalising these documents for disclosure, and will still be able to comply with these requirements. However, the Commission is aware that EDBs might be experiencing delays in being able to obtain director certification for this information due to current circumstances.

Exemption granted

12. Therefore, by this notice, the Commission grants EDBs an exemption from the requirements stated above to publicly disclose, or disclose to the Commission, pricing methodologies, AMPs, AMP updates, and associated information on forecasts and asset condition by 31 March 2020. Instead, EDBs are now required to publicly disclose the pricing methodology, AMP (or AMP update), and forecast and asset condition information listed above, by **30 April 2020**.
13. We would encourage EDBs that have already prepared these disclosures and had them director certified to publicly disclose them as soon as practicable.

Pricing and other disclosure requirements

Disclosure requirements

14. The exemptions above do not relate to the requirements to publicly disclose prices, changes in pricing methodologies or the adoption of a different pricing methodology, capital contributions, prescribed terms and conditions of contracts, or financial distributions arising from ownership interest.
15. However, the Commission recognises that some EDBs may seek to provide some financial relief to electricity consumers by reducing prices below currently published and notified levels for the disclosure year beginning 1 April 2020.
16. The ID Determination requires that each EDB must give 20 working days' notice of pricing or pricing methodology changes. Specifically, EDBs must:
- 16.1 at least 20 working days before changing or withdrawing a price or introducing a new price that is payable by 5 or more customers, publicly disclose and give notice of the change in that price, in accordance with clause 2.4.19;
 - 16.2 at least 20 working days before introducing a new price that is payable by 4 or fewer customers, give written notice of that new price, in accordance with clause 2.4.20; and
 - 16.3 publicly disclose any change in pricing methodology or adoption of a different pricing methodology at least 20 working days before prices determined in

accordance with the change or the different pricing methodology take effect,, in accordance with clause 2.4.2.

Exemption granted

17. By this notice, the Commission grants EDBs an exemption from the 20 working day disclosure and notification period in clauses 2.4.19 and 2.4.20, but only if an EDB is changing an existing price by reducing that price. EDBs that reduce a price are now only required to publicly disclose or notify that price reduction **3 working days** before reducing that price. The same exemption applies to any change in a pricing methodology solely needed to give effect to any relevant reductions in prices. This exemption applies for price reductions occurring up to and including 31 October 2020.
18. For the avoidance of doubt, this exemption does not relate to price increases, the withdrawal of prices, or the introduction of new prices.

Assurance and certification

19. The Commission highlights that the requirements in sections 2.8 and 2.9 of the ID Determination for associated assurance reports and certifications associated with all disclosed information still apply, taking into account the relevant extensions above.

Further information

20. This exemption notice may at any time be revoked or amended by the Commission in accordance with clause 2.11.1(2) of the ID Determination.
21. A copy of this exemption notice will be published on the Commission's website.
22. The exemptions in this notice have been granted on an exceptional basis, in light of the COVID-19 pandemic, and taking into account the Financial Markets Authority's changes to the deadlines for financial reporting.¹
23. The Commission recognises that the situation with COVID-19 in New Zealand is constantly changing and evolving, and further changes to timeframes or exemptions may be appropriate in the future. We will remain open and responsive to industry feedback, to ensure that companies are able to focus on providing essential goods and services during the COVID-19 pandemic.
24. We intend to be pragmatic in our approach to enforcement where regulated suppliers can demonstrate that any compliance issues have arisen as a consequence of prioritising efforts to protect customers, security of supply and safety or as a consequence of factors entirely outside of the supplier's control. We would

¹ See the Financial Markets Authority's media release here: <https://www.fma.govt.nz/news-and-resources/media-releases/fma-to-extend-deadline-for-financial-reporting/>

appreciate all EDBs keeping us informed of any decisions that they make that may lead them to breach their disclosure, or other, regulatory requirements.

25. If you have any questions relating to this notice, please contact Stephen Bass on (04) 924 3749 or Stephen.Bass@comcom.govt.nz.

Yours sincerely

A handwritten signature in blue ink that reads "Sue Begg". The signature is written in a cursive style with a large initial 'S'.

Sue Begg
Deputy Chair