

# INFORMATION DISCLOSURE REGULATION ELECTRICITY LINES SERVICES AND GAS PIPELINE SERVICES

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UPDATE ON PROCESS

15 April 2011



COMMERCE COMMISSION

Regulation Branch

Commerce Commission

Wellington

NEW ZEALAND

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## Purpose

- 1 The purpose of this Process Update Paper (**Process Update Paper**) is to advise interested parties of the updated process the Commerce Commission (**the Commission**) proposes to follow in determining how information disclosure applies to suppliers of electricity lines services and suppliers of gas pipeline services. The Process Update Paper reflects the Commission's consideration of submissions on the Process and Issues Paper of 23 February 2011.<sup>1</sup>
- 2 This paper:
  - Outlines an enlarged list of issues to be considered as part of a discussion stage rather than at the draft decision stage;
  - Outlines indicative timeframes and forums for the discussion stage;
  - Clarifies certain points raised in submissions; and
  - Advises interested parties of the planned review of Asset Management Plans and capabilities.
- 3 Submissions are not sought on this paper, rather this paper sets out how interested parties can participate in the process for developing the information disclosure requirements including via workshops on identified issues. A formal consultation round on the draft information disclosure requirements for suppliers of electricity lines services and suppliers of gas pipeline services is planned in September and October of this year.

## Introduction

- 4 The Commission issued a Process and Issues Paper on 23 February 2011. That paper proposed a process that included a discussion stage, a draft decision stage, and a decision stage. The paper also identified a number of issues to be discussed during the discussion stage, an April-May timeframe for the discussion stage, and explained the linkages with other Commission work including the SPA process for electricity distribution businesses (EDBs) and gas pipeline businesses (GPBs) and the development of a Capex IM for Transpower.
- 5 Submissions on the Process and Issues Paper were received from:
  - Electricity Networks Association (ENA);
  - GasNet;
  - Major Electricity Users' Group (MEUG);
  - Maui Developments Ltd;
  - Meridian Energy;

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<sup>1</sup> Commerce Commission, Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services, Process and Issues paper, 23 February 2011.

- Powerco;
- PwC on behalf of 21 Electricity Distribution Businesses;
- Transpower;
- Vector; and
- Wellington Electricity Lines Limited.

## Themes from submissions

- 6 In setting new information disclosure requirements, submitters generally supported the proposed discussion stage prior to the draft decision stage. A number of submissions favoured the use of workshops to discuss issues before the Commission publishes its draft decision for consultation.
- 7 ENA proposed that the discussion stage be extended until June given the competing demands on key personnel within regulated suppliers to complete 2011 information disclosures and the information requests in respect of DPPs.<sup>2</sup> For similar reasons, PwC considered it should be deferred until the end of June.<sup>3</sup>
- 8 A number of submitters proposed that the Commission extend the areas to be discussed in the discussion stage to also include, for example:
- Consideration of the detailed historical financial disclosure templates in the discussion stage as the time available in the draft decision stage (September / October) may be insufficient (ENA, PwC and Vector);<sup>4</sup>
  - Discussion about the differences between GPBs and EDBs so as to ensure the disclosure requirements for GPBs are appropriate to GPBs (having regard to the relative size and specific characteristics of GPBs (GasNet and Powerco<sup>5</sup>)). Powerco was also concerned to ensure that regulated gas suppliers were not placed at a disadvantage relative to unregulated competitors. Asset management plans for GPBs were identified as particular issues requiring discussion by Powerco and GasNet;<sup>6</sup>
  - Any key performance indicators the Commission plans to use (Powerco).<sup>7</sup>

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<sup>2</sup> ENA, Information Disclosure Review – Process and Issues, 9 March 2011, page 1.

<sup>3</sup> PwC, Submission to the Commerce Commission on Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services – Process and Issues Paper: Made on behalf of 21 Electricity Distribution Businesses, 9 March 2011, paragraph 9.

<sup>4</sup> ENA, *ibid.*, page 2. PwC, *ibid.*, paragraph 8. Vector, Submission to Commerce Commission on Information Disclosure Process and Issues Paper, 9 March 2011, paragraph 32.

<sup>5</sup> GasNet, Submission on Information Disclosure Regulation for Electricity Lines Services and gas Pipeline Services Process and Issues Paper, 9 March 2011, paragraph 2. Powerco, Submission on Information Disclosure Regulation: Process and Issues Paper, 9 March 2011, paragraphs 7-9.

<sup>6</sup> GasNet, *ibid.*, paragraph 9. Powerco, *ibid.*, paragraph 20.

<sup>7</sup> Powerco, *ibid.*, paragraph 21.

- Pricing-related disclosures including the requirement for EDBs to disclose prices in widely read newspapers and the breakdown of pricing statistics between small, medium, and large consumers (Powerco);<sup>8</sup> and
- Whether CEO compensation contracts should be disclosed and the optimal timing for various disclosures (MEUG).<sup>9</sup>

9 Some submissions considered that the discussion phase should be comprehensive and address all matters currently included in the information disclosure requirements (Wellington Electricity). Transpower was concerned at the degree to which disclosed information was used, or where disclosure requirements were duplicated.<sup>10</sup> Simplification or elimination of some disclosure requirements was favoured. A number of submitters expressed concern about the cost of complying with the information disclosure requirements to ensure the resulting information disclosures represented good value for money. Particular concerns were raised around any requirement for the disclosure of consolidation statements.

### **Commission's response to submissions**

- 10 The Commission thanks submitters for their submissions. In response to submissions, the Commission intends to use workshops and to extend the discussion stage to cover certain additional issues over a longer time frame. In particular, the Commission proposes extending the discussion stage until around the end of June. The proposed timing for the discussion of the draft detailed financial disclosure templates will also be brought forward and discussed in the discussion stage.
- 11 The Commission's intention remains to issue a draft decision and draft information disclosure regulation determination in early September 2011 with a final decision and determination issued by the end of 2011. The 2011/12 disclosure year will be the initial disclosure year under the new information disclosure requirements.
- 12 Issues not covered in the proposed workshops can still be covered in written submissions during formal consultation after the Commission has published its draft decision and determination.

### **Scope of proposed workshops**

- 13 The Commission proposes to hold a series of workshops with interested persons to discuss the options for, and implications of, certain areas of the information disclosure requirements. The purpose of the workshops is to assist the Commission to make a draft decision and draft determination.
- 14 The Commission intends the workshops to be small, informal working sessions comprising a small number of Commission staff and interested parties.

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<sup>8</sup> Powerco, *ibid.*, paragraph 26-28.

<sup>9</sup> MEUG, Submission on Information Disclosure Regulation: Process and Issues Paper, 9 March 2011.

<sup>10</sup> Transpower, Re: Information Disclosure Regulation Process and Issues, 9 March 2011.

- 15 Short workshop materials will be distributed approximately two weeks prior to each workshop. People who are interested in attending the workshop will be invited to identify, in brief bullet point form, the key points that they wish to raise at the workshop. The Commission will then confirm the workshop agenda and the attendees. To foster focussed and efficient group discussion at the workshop, the Commission encourages interested persons to identify representatives who can attend on behalf of a number of submitters.
- 16 It is not proposed to prepare transcripts of the workshops, but minutes will be posted on the Commission's website.
- 17 Formal consultation will occur following the release of the draft decision and determination (September 2011).

- 18 The workshops proposed are as follows:

*Workshop 1: Gas AMP requirements (target audience: asset managers from GPBs)*

- 19 This workshop will discuss the disclosure requirements that are appropriate for GPBs, should GPBs be required to disclose an AMP. The Commission proposes to take the current AMP requirements as they apply to EDBs as a starting point, and consider the amendments, enhancements, and deletions that are required to make them appropriate for GPBs. Prior to the workshop the Commission will circulate marked-up revisions to the EDB requirements for discussion at the workshop. This workshop could also discuss the type of information on the physical network characteristics of gas pipelines that is required to be disclosed.

*Workshop 2: Financial disclosure requirements - specific issues (target audience: senior accounting managers from all regulated services)*

- 20 This workshop will discuss the following topics relevant to regulated services and examine options for requiring disclosure in each area:

- Transactions between related parties;
- Consolidation statements; and
- Disclosure in the event of a merger or acquisition.

*Workshop 3: Disclosure of pricing-related information and statistics, pricing methodologies, contracts, non-contiguous networks, and customer engagement requirements (target audience: regulatory / pricing managers from all regulated services)*

- 21 This workshop will discuss the disclosure requirements as they relate to pricing-related information (for example, the advertising requirements and disclosure of pricing information by specified customer groups), the disclosure of contracts or information included in contracts, and the breakdown of information by non-contiguous networks.

- 22 The 29 July 2009 Information Disclosure Discussion Paper outlined the Commission’s preliminary view that a specific customer engagement requirement should be included in AMPs across all regulated services.<sup>11</sup> In submissions on the Process and Issues Paper, some submissions asked specifically about this proposal.<sup>12</sup> We propose that the inclusion of this requirement as part of the AMP information disclosure requirements be discussed also at this workshop.

*Workshop 4: Financial disclosure requirements – review of detailed templates (target audience: senior accounting managers from all regulated services)*

- 23 The Commission proposes that, like the 2008 information disclosure requirements for EDBs, spreadsheet templates will be prepared to aid disclosure. The fourth proposed workshop will discuss these proposed detailed templates for financial disclosures. The Commission will circulate draft templates two weeks in advance of the workshop.
- 24 The Commission will also consider whether to hold a specific workshop to consider the information disclosure requirements for Transpower. This could include ways to streamline the information reporting requirements on Transpower.
- 25 The timing of the workshops is proposed as follows:

<b>Workshop</b>	<b>Indicative timing</b>
1. GPB AMP requirements	Mid May
2. Financial disclosure – specific issues	Mid May
3.Pricing, pricing methodologies, contracts, non-contiguous networks, customer engagement	Late May
4.Financial disclosures - detailed templates	Early June
5. Transpower ID	tbd

### **Clarification of certain points raised in submissions**

- 26 A number of submissions sought clarification of the Commission’s intentions in regards to certain matters. The Commission’s current thinking on these matters is briefly outlined below.
- 27 Paragraphs 52 and 53 of the Process and Issues Paper caused some confusion. In particular, the statement that the information required by the final SPA information request is only a subset of the information on historic financial performance likely to be required. Some submitters interpreted this to mean that the Commission may require

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<sup>11</sup> Commerce Commission, Information Disclosure Discussion Paper, 29 July 2009, p.96-97

<sup>12</sup> Powerco, Submission on Information Disclosure Regulation: Process and Issues Paper, 9 March 2011, paragraph 21. ENA, Information Disclosure Review – Process and Issues, 9 March 2011, page 2.

the 2010/11 disclosures to be re-disclosed under the new ID requirements, once those requirements are finalised by December 2011.<sup>13</sup> The Commission is not proposing restatement of the 2010/11 information disclosures - the new information disclosure requirements will commence from the 2011/12 disclosure year. Disclosures made under the Electricity Distribution (Information Disclosure) Requirements 2008 do not need to comply with input methodologies.

- 28 The Commission notes Vector's submission to defer the preparation of existing 2010/11 disclosures until after revised information disclosure regulations have been finalised (December 2011) so as to ensure the 2010/11 information disclosures comply with input methodologies.<sup>14</sup> The Commission does not agree with this approach as it would result in an unacceptably long delay between the end of the disclosure year to March 2011 and the resulting information disclosure (May 2012).
- 29 Powerco and ENA enquired as to whether the range of policies identified in the July 2009 discussion paper would require to be disclosed.<sup>15</sup> These policies concerned credit, delegated authority, profit distribution, sponsorship, and insurance. The 2009 Discussion Paper identified these policies as enabling "an assessment of risks that could materially impact on the profitability or viability of the regulated business".<sup>16</sup>
- 30 The Commission's current view is that disclosure of these policies will not be required under the new information disclosure requirements.
- 31 The Electricity Distribution Thresholds Notice requires disclosure of the customer consultation process adopted by each supplier. Powerco and ENA also asked whether the customer consultation requirements will be included in the information disclosure regime.<sup>17</sup> As discussed above in paragraph 22, that remains the Commission's current view and this is proposed for discussion in the third proposed workshop.
- 32 The Process and Issues Paper proposed that feedback on the SPA information request would be sought from all parties three weeks from publication of the final SPA information request.<sup>18</sup> The Commission now proposes that consideration of these views should be discussed in the fourth workshop (on financial disclosure templates).

## **Asset Management Plans (AMPs)**

### *Compliance review of 2011 AMPs*

- 33 As foreshadowed in the Process and Issues Paper, the Commission intends to review the 2011 EDB Asset Management Plans. The review will focus on assessing compliance in

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<sup>13</sup> See, for example: Powerco, Submission on Information Disclosure Regulation: Process and Issues Paper, 9 March 2011, paragraph 14.

<sup>14</sup> Vector, Submission to Commerce Commission on Information Disclosure Process and Issues Paper, 9 March 2011, paragraph 30.

<sup>15</sup> Powerco, *ibid.*, paragraph 21. ENA, *ibid.*, p. 2.

<sup>16</sup> Commerce Commission, Information Disclosure Discussion Paper, 29 July 2009, p.109.

<sup>17</sup> Powerco, Submission on Information Disclosure Regulation: Process and Issues Paper, 9 March 2011, paragraph 21. ENA, Information Disclosure Review – Process and Issues, 9 March 2011, page 2.

<sup>18</sup> Commerce Commission, Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services, Process and Issues paper, 23 February 2011, paragraph 30.



three areas identified in the 2009 review where AMPs were relatively weakly compliant. These areas of compliance are:

- a) satisfying the network development planning criteria;
  - b) satisfying the service levels criteria, which concern the disclosure of the businesses' target levels of performance; and
  - c) satisfying the expenditure forecast, reconciliation and assumption criteria;
- 34 The Commission has engaged Parsons Brinckerhoff to assist it undertaking the compliance review and to recommend revisions to the information disclosure requirements in terms of any gaps it identifies as a result of the analysis. As part of these reviews, the Commission proposes that Parsons Brinckerhoff will undertake site visits to two EDBs. This may be an ongoing feature of future AMP reviews. The Commission will separately contact the two EDBs selected for site visits.
- 35 The reviews are expected to be published in early July 2011.

#### *Assessment of asset management maturity*

- 36 Previous reviews, and the proposed review described above, have taken an essentially compliance based approach, with the contents of the AMP compared against the requirements. However, a higher compliance rating does not necessarily correlate to the quality of the plan, or the EDB's capability to implement the plan successfully. The Commission has therefore considered how to extend the analysis of AMPs to provide additional insight into the quality of asset management planning.
- 37 To this end, Parsons Brinckerhoff has also been asked to develop an approach to assess the maturity of asset management capabilities and processes in EDBs. The proposed approach will have regard to:
- a) the purpose of information disclosure regulation and the Part 4 purpose statement;
  - b) logistical and cost considerations in assessing the asset management planning capability of each EDB;
  - c) existing standards of good infrastructural asset management practice; and
  - d) approaches adopted in other sectors or countries in assessing the maturity of asset management capabilities.
- 38 The Commission would like Parsons Brinckerhoff to engage with regulated suppliers in developing this approach. Accordingly, the Commission proposes to hold a workshop on the development of this maturity assessment tool with interested parties in June 2011, and for Parsons Brinckerhoff to work alongside two EDBs to undertake a pilot test of the proposed approach.
- 39 Once developed, it is the Commission's initial expectation that this maturity assessment tool may also be applied to GPBs as well as EDBs, and could form part of the summary and analysis undertaken by the Commission.
- 40 Parsons Brinckerhoff will also recommend any changes to the information disclosure requirements in respect of any issues identified as a result of this work.

## Summary of key dates

41 Table 1 below summarises the key dates and events for setting new information disclosure requirements for services regulated under Part 4 of the Commerce Act.

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

	<b>Key Step</b>	<b>Indicative Date</b>
Discussion stage	Discussion stage consultation Holding 4-5 workshops (as outlined above)	April - June 2011
	Asset management capability tool workshop	June 2011
	AMP review completed	June 2011
	Asset management capability tool developed including pilot	June 2011
Draft decision stage	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
Decision stage	Publication of: Information Disclosure Determination(s) Reasons Paper(s)	Mid December 2011
	Stage Two: Transpower forecast information (if required)	2012

## **Attendance at the workshop**

- 42 If you wish to attend the workshops you are invited to advise the Commission of your interest by email by Friday 29 April 2011 to:

[john.groot@comcom.govt.nz](mailto:john.groot@comcom.govt.nz)

- 43 In so doing, please provide your name, position and organisation, contact details, identify the workshop(s) you wish to attend, and express any preferences as to the timing of the workshop(s).
- 44 The Commission will send copies of the workshop agenda and associated short papers along with confirmed dates and details of each workshop. The workshop agenda and short papers will also be placed on the website. As discussed in paragraph 15, confirmation of invitations to the workshop will be confirmed after receipt of the topics for discussion and shortly before the workshop.