

16 August 2023

Mr Ajay Anand  
Chief Executive  
Horizon Energy Group  
52 Commerce Street  
Whakatane 3120

By email only: [REDACTED]

Cc: [REDACTED]

Dear Mr Anand

**Horizon Energy Distribution Limited: compliance advice relating to the annual price-setting compliance statement requirements for the 2023 assessment period**

1. The Commerce Commission (**Commission**) has investigated Horizon Energy Distribution Limited's (**Horizon**) possible contravention of the *Electricity Distribution Services Default Price-Quality Path Determination 2020* [2019] NZCC 21 (as amended) (**DPP3**) for the 2023 assessment period (**AP**). We have now completed our investigation and are writing to provide you with compliance advice.
2. In summary, Horizon self-reported that it had incorrectly stated the opening wash-up account balance (**OWAB**) in its annual price-setting compliance statement for AP 2023. This error had no effect on charges to consumers. Having considered the relevant information, the Commission considers that a compliance advice letter is the appropriate response.

**Horizon's conduct**

3. On 21 December 2022, Horizon wrote to the Commission disclosing an error in its annual price-setting compliance statement for AP 2023. Horizon reported an OWAB of \$664,000, instead of \$721,000 (**the error**). This error occurred because Horizon did not account for time value of money in the OWAB, as required under clause 3.1.3 (12)(e) of the *Electricity Distribution Services Input Methodologies Determination 2012*, as amended (**EDB IMs**).
4. Schedule 1.7 of DPP3 states that the OWAB is nil for APs 2021 and 2022. AP 2023 was therefore the first AP where the annual price-setting compliance statement required an OWAB calculation.

5. The OWAB is an input of the forecast allowable revenue (**FAR**) calculation. Horizon's reported FAR for AP 2023 was therefore incorrectly calculated at \$32.877 million, instead of \$32.820 million. The FAR used to set prices was \$57,000, or 0.17%, higher than it should have been had the error not occurred.

### **The investigation**

6. On 22 March 2023 we opened an investigation into Horizon's AP 2023 annual price-setting compliance statement error and requested further information from Horizon.
7. We asked Horizon to prepare a restated copy of the annual price-setting compliance statement for AP 2023 in the same format as required in clause 11.1(c) of DPP3, and to publish the restated price-setting compliance statement on Horizon's website in accordance with clause 11.1 of DPP3.

### *Reasons for the error*

8. Horizon explained the error was inadvertent and stated it expected to recover approximately \$32.777 million revenue for AP 2023, \$0.1 million lower than forecast at the time of completing the price-setting compliance statement incorrectly, and \$43,000 less than what the target revenue should have been had the error not occurred.

### *Further error in restated compliance statement*

9. Horizon provided its restated annual price-setting compliance statement for AP 2023 and published it on its website on 17 April 2023. In Horizon's restated annual price-setting compliance statement, the forecast revenue from prices (**FRFP**) was changed from \$32.877 million to \$32.750 million. We queried this with Horizon.
10. Horizon stated that it updated the AP 2023 annual price-setting compliance statement to reflect the change in the OWAB and the change in the forecast quantities as it interpreted our request for a restated price-setting compliance statement to require the most recent forecasts.

### *Impact of the errors*

11. Under clause 8.4 of DPP3, Horizon must demonstrate in its annual price-setting compliance statement that its FRFP does not exceed the lower of its FAR or a 10% increase upon the FRFP from the previous year.
12. Horizon's original annual price-setting compliance statement contained the error that overstated the FAR by \$57,000.
13. Horizon's restated annual price-setting compliance statement demonstrates compliance with clause 8.4. However, this is because Horizon incorrectly updated its forecast quantities. If Horizon retained the forecast quantities as stated in the original statement, it would not have demonstrated compliance.

14. On 3 August 2023, Horizon advised that its audited actual revenue for AP 2023 was \$32.095 million. As the actual revenue falls below the correct FAR of \$32.820 million, Horizon did not overcharge customers.
15. There were no implications on the incremental rolling incentive scheme as it is not a revenue-based incentive measure.

### **The Commission's view**

16. As a result of our investigation, we have formed the view that Horizon's conduct appears to be a one-off error, arising when Horizon did not include time value of money in the OWAB calculation and did not identify the error during internal quality assurance processes. While incorrect statements are a matter of concern to the Commission, we have not identified evidence of systemic issues that would require an enforcement response higher than a compliance advice letter.
17. Horizon has previously contravened its price-quality standards on two occasions, however, neither contravention is similar in nature to this contravention, nor directly related to similar processing tasks such as calculation errors to account for time of value of money. Accordingly, we view this as conduct occurring for the first-time with no suggestion that the error is likely to be repeated.
18. We understand that Horizon has implemented the following steps to mitigate future errors:
  - 18.1 engaged an external party to review the forecast calculations in the annual price-setting and annual compliance statements for the remainder of the regulatory period;
  - 18.2 updated the calculations to more clearly signpost the requirement to account for time value of money in the OWAB; and
  - 18.3 improved quality assurances on the calculations within the annual price-setting compliance statement.
19. Having considered Horizon's conduct and applying our enforcement criteria, we have decided that a compliance advice letter is the appropriate enforcement outcome as this reflects the seriousness with which we view this type of conduct.
20. In this case, the error was the result of an incorrect calculation. Horizon could have identified and prevented this error through the correct application of DPP3 and maintaining prudent quality assurance processes. We recommend that Horizon regularly reviews its compliance procedures and policies to ensure that changes to DPP requirements are incorporated correctly, and that Horizon ensures appropriate quality assurance is conducted on all calculations required in compliance statements.
21. Although the Commission has decided not to take enforcement action against Horizon in respect of this contravention, our decision to issue compliance advice in this instance does not prevent us from taking higher-level enforcement action in

respect of any contraventions in the future. We may take this contravention into account when considering any future contraventions by Horizon.

### **Penalties for contravening price-quality standard requirements**

22. Where a non-exempt electricity distribution business (**EDB**) has contravened the quality standards in a Price-Quality Path, section 87 of the Commerce Act 1986 allows the court to impose a pecuniary penalty against the EDB of up to \$5,000,000. If the court imposes a penalty, then the Commission or affected persons may apply to the Court for compensation under section 87A in respect of the loss or damage resulting from the contravention.

### **Further information**

23. This letter is public information and will be published on our website.
24. Thank you for your assistance with this investigation. Please contact Jo Lipscombe by email at [REDACTED] if you have any questions about this matter.

Yours sincerely



Vhari McWha  
Commissioner