

Proposed Compliance Requirements for the 2015-2020 Default Price-Quality Paths for Electricity Distributors

Draft reasons paper

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1. Introduction

Purpose of paper

- 1.1 This paper seeks feedback on the compliance requirements for default price-quality paths that we propose to put in place for electricity distributors from 1 April 2015. Details on how you can provide your views can be found in Chapter 9.
 - 1.1.1 Submissions are due by **29 August 2014**.
 - 1.1.2 Cross-submissions are due by **12 September 2014**.
- 1.2 This paper should be read in conjunction with:
 - 1.2.1 the proposed drafting of the determination for the default price-quality paths (Draft Determination);¹
 - 1.2.2 the paper that outlines and explains the default price-quality paths that we propose to put in place from 1 April 2015 (Main Policy Paper);² and
 - 1.2.3 the companion papers that discuss quality targets (Quality Incentives Paper) and explain proposed amendments to input methodologies (IM Amendments Paper and IRIS Amendments Paper).³
- 1.3 By providing your views on this paper, you will help inform our decisions on the reporting requirements that will apply from 1 April 2015.

Compliance with the default price-quality path determination

- 1.4 By 30 November 2014, we are required to reset the default price-quality paths applying to electricity distributors. Each default price-quality path specifies a maximum price, as well as targets and incentives for service quality. These paths will remain in force for the regulatory period that starts on 1 April 2015.
- 1.5 On 30 June 2014, we provided an explanation for each component of the proposed default price-quality paths for electricity distributors.⁴ For example, we explained how and why we propose to set starting prices based on the current and projected profitability of each distributor.

¹ Commerce Commission “Electricity distribution services default price-quality path draft determination” (18 July 2014).

² Commerce Commission “Proposed default price-quality paths for electricity distributors from 1 April 2015” (30 June 2014).

³ Commerce Commission “Proposed Amendments to Input Methodologies: Incremental Rolling Incentive Scheme” (18 July 2014); Commerce Commission “Proposed amendments to input methodologies for electricity distribution services (second type)” (18 July 2014); and Commerce Commission “Proposed Quality Targets and Incentives for Default Price-Quality Paths for Electricity Distributors from 1 April 2015” (18 July 2014).

⁴ Supra n 2.

Proposed reporting requirements included in the Draft Determination

- 1.6 The proposed reporting requirements for the default price-quality path are included in the Draft Determination that we released alongside this paper.
- 1.7 To help you provide your views, this paper provides an explanation for the reporting requirements. We have structured this paper as follows:
 - 1.7.1 Chapter 2 outlines the main features of, and the proposed due dates for, the annual compliance statement that we propose distributors will be required to submit to report compliance with their default price-quality paths;
 - 1.7.2 Chapters 3-7 provide our proposed information requirements that we consider necessary for distributors to demonstrate compliance their default price-quality paths;
 - 1.7.3 Chapter 8 gives the proposed timeframes for distributors to propose a customised price-quality path; and
 - 1.7.4 Chapter 9 outlines the timeframes, address, and format for responses to this paper, as well as explaining how submissions can be made on a confidential basis.
- 1.8 We invite you to provide your views on the proposed reporting requirements, and we encourage you to provide suggested wording for any parts of the Draft Determination that you would like to see changed.

2. Annual compliance statement

Purpose of chapter

- 2.1 This chapter outlines and explains the main features of the proposed annual compliance statement.

Outline of this chapter

- 2.2 Each year, distributors are required to provide us with a statement that demonstrates whether they have complied with the default price-quality path in the previous assessment period, which runs from 1 April to 31 March.
- 2.3 This chapter covers the:
- 2.3.1 contents of the annual compliance statement;
 - 2.3.2 proposed due dates for the annual compliance statement; and
 - 2.3.3 proposed audit requirements for the annual compliance statement.
- 2.4 You can find a more detailed description of the information that must be included in the compliance statement for each major topic (for example quality standards or price restructuring) in the relevant chapter in this paper.

Contents of the annual compliance statement

- 2.5 An annual compliance statement should be clearly presented and understandable, and meet all the requirements set out in clause 11 of the Draft Determination. Amongst other things the compliance statement should include an explicit, up-front statement about whether or not the distributor has complied with the price path and quality standards.
- 2.6 Compliance statements must also contain information to support the distributor's statement of compliance. This information is specified in clause 11 of the Draft Determination. More specifically:
- 2.6.1 clause 11.4 of the Draft Determination sets out the information that must be included in the compliance statement to support a distributor's statement of compliance or non-compliance with the price path; and
 - 2.6.2 clauses 11.5 and 11.6 of the Draft Determination set out the information that must be included in the compliance statement to support a distributor's statement of compliance or non-compliance with the quality standards.

- 2.7 In addition, each compliance statement must be accompanied by a director's certificate, and an independent audit report covering all information contained within the compliance statement.⁵

Proposed due dates for providing compliance statements

- 2.8 The determination prescribes the:
- 2.8.1 proposed date by which distributors must submit their compliance statements to the Commission; and
 - 2.8.2 proposed date by which distributors must publish their compliance statement on their website.
- 2.9 Table 2.1 sets out the proposed due dates for compliance statements.

Table 2.1: Proposed due dates for compliance statements

Assessment period	Last day for submission to the Commission
First (2016)	Monday 13 June 2016
Second (2017)	Thursday 15 June 2017
Third (2018)	Wednesday 13 June 2018
Fourth (2019)	Thursday 13 June 2019
Fifth (2020)	Monday 15 June 2020

- 2.10 These dates have been determined in accordance with clause 11.1 of the Draft Determination.⁶ That clause states that the compliance statement must be submitted within 50 working days of the end of the assessment period.
- 2.11 Following submission to the Commission, the compliance statement must be published on the distributor's website within five working days.
- 2.12 We also propose to require that distributors provide us with digital copies of their price-quantity schedules within five working days of providing their compliance statement.⁷

⁵ These are required by clause 11.3 of the Draft Determination. The requirements for the certificate and report are set out in schedules 6 and 7 of the Draft Determination, respectively.

⁶ These dates take into account current public holidays, and are subject to change if there any changes to public holidays.

⁷ Draft Determination, clause 11.2(b).

Proposed assurance requirements

- 2.13 The Draft Determination requires that compliance statements be accompanied by an assurance report that covers the entire compliance statement. In the Draft Determination, we have updated the auditing standards that apply to compliance statements. All assurance reports must now comply with the Standard on Assurance Engagements 3100 – Compliance Engagements (SAE 3100) and the International Standard on Assurance Engagements (New Zealand) 3000 (ISAE (NZ) 3000).
- 2.14 Following feedback from auditors and distributors, we propose to move away from prescribing a pro forma assurance report in the determination. Instead, we now specify a list of requirements that the assurance report must meet. This will give auditors greater flexibility in the form of assurance report they provide.⁸
- 2.15 The list of assurance requirements that we are proposing is modelled on those used for information disclosure and Orion’s customised price-quality path. This includes a requirement for the auditor to state whether, in his or her opinion, proper records have been kept to enable the complete and accurate compilation of the compliance statement.⁹
- 2.16 In response to this requirement in the information disclosure context, we have received a number of qualified assurance reports on distributors’ information disclosures. The reason most frequently provided was limitations on the ability of distributors to collect and record network reliability information.
- 2.17 We seek views on the impact on distributors and auditors of preparing and receiving a qualified assurance report on their compliance statements, and the likelihood that this will occur, if we adopt our proposed audit requirements.

⁸ The revised form of assurance statement is set out in schedule 7 of the Draft Determination. This approach is consistent with the approach we took in the Orion customised price-quality path determination.

⁹ Draft Determination, schedule 7, paragraph 1(b)(vii).

3. Price limits including pass-through and recoverable costs

Purpose of this chapter

- 3.1 This chapter summarises the proposed information requirements for distributors to demonstrate compliance with the price limits, including the treatment of pass-through and recoverable costs.

Price limit net of pass-through and recoverable costs

- 3.2 Compliance with the price limit is assessed net of pass-through and recoverable costs. We compare the amount of revenue that the distributor has generated, after deducting the allowances for pass-through and recoverable costs, with the maximum revenue that could be generated while still maintaining compliance.
- 3.3 In particular, this section covers the following points:
- 3.3.1 our new proposed approach to determining compliance with the weighted average price cap;
 - 3.3.2 compliance is demonstrated using notional values;
 - 3.3.3 pricing decisions in one year do not affect the prices allowed in later years;
 - 3.3.4 treatment of prompt payment discounts; and
 - 3.3.5 treatment of quantity wash-ups notified by retailers.

Proposed changes to compliance with the price path from our previous determination

- 3.4 As outlined in our Main Policy Paper, we propose a new approach for the treatment of transmission charges in our Draft Determination and the accompanying IM Amendments Paper.
- 3.5 This approach was originally proposed by Vector in its submission on our process and issues paper for the default price-quality path reset.¹⁰ We have adopted proposed drafting provided by Vector for the purposes of consultation.
- 3.6 Under the proposed approach, a number of Transpower-related transmission charges – including avoided transmission charges – are treated separately from other recoverable cost terms.
- 3.7 In order to implement this new approach, we propose that the weighted average price cap apply only to the distribution (ie, non-transmission) components of prices.

¹⁰ Vector “Submission on the process and issues paper” (24 September 2013).

We have proposed in our IM Amendments Paper the amendments to our input methodologies necessary to give effect to this approach.

- 3.8 The new definitions proposed under in the IM Amendments Paper have been included in the Draft Determination.
- 3.9 For our Draft Determination we must also consequentially update the formulas for allowable notional revenue and notional revenue. Under the proposed approach, distributors must exclude the transmission component of prices when calculating their allowable notional revenue and notional revenue.
- 3.10 Transmission prices will be subject to a separate limit within the regulatory period. How suppliers comply with this new proposed requirement is discussed at paragraph 3.45.

Compliance is demonstrated using notional values

- 3.11 Rather than assessing compliance based on the distributor's actual revenue, we assess compliance on the basis of 'notional' revenue. The revenue is 'notional' because it is based on quantities that are lagged by two years, rather than the quantities for the year in question. This approach ensures that all the values can be calculated at the time the distributor sets its prices.
- 3.12 Two types of notional revenue figures are calculated:
- 3.12.1 'allowable notional revenue', which is the amount that the distributor's distribution prices are allowed to generate net of pass-through costs and recoverable costs on a notional basis;¹¹ and
- 3.12.2 'notional revenue', which is the amount that the distributor's distribution prices did generate net of pass-through costs and recoverable costs on a notional basis.¹²
- 3.13 The distributor will be compliant with the price path if notional revenue is less than or equal to allowable notional revenue. The difference between the two terms reflects the distributor's pricing decisions, because equivalent quantity terms are used in each.
- 3.14 If a distributor's distribution prices change during the assessment period, then allowable notional revenue will be calculated using the weighted average price that

¹¹ The method for calculating allowable notional revenue is set out in schedules 4A and 4B of the Draft Determination.

¹² The method for calculating notional revenue is set out in clause 8.5 of the Draft Determination. In practice, a distributor's actual revenue will differ from notional revenue, because notional revenue is based on lagged quantities. For this reason, at the start of the regulatory period, we adjust the distributor's allowable notional revenue by the forecast difference by deflating by lagged quantities.

applied to the corresponding lagged quantity during the pricing year, ie, rather than the closing price.

Pricing decisions in one year do not affect the prices allowed in later years of the regulatory period

- 3.15 As in the 2012 default price-quality path determination for electricity distributors, we have included a revenue differential term in the allowable notional revenue formula.¹³
- 3.16 The revenue differential term prevents an over- or under-recovery in one period from increasing or decreasing allowable notional revenue in the next period.
- 3.17 Therefore, if a distributor prices below its price cap in any year, the price allowed in subsequent years will not be affected.
- 3.18 The revenue differential term is calculated as the difference between notional revenue and allowable notional revenue for the immediately preceding assessment period. However, there is no revenue differential term for the first assessment period. This is because the price cap applies from the start of the regulatory period onwards.
- 3.19 In the absence of the revenue differential term:
- 3.19.1 an over-recovery in one period would increase allowable notional revenue in the next period. As a result, a supplier would not only receive the over-recovery in the period of the over-recovery, but would also receive an increased allowable notional revenue in the next period;
- 3.19.2 likewise, an under-recovery in one period would decrease allowable notional revenue in the next period.
- 3.20 The revenue differential term does not decrease allowable notional revenue to compensate for an over-recovery in the previous period. Likewise, the revenue differential term does not increase allowable notional revenue to compensate for an under-recovery in the previous period.¹⁴
- 3.21 In its submission, the Electricity Networks Association proposed the introduction of a ‘compliance wash-up’ mechanism to replace the revenue differential term.¹⁵ We discuss this further at paragraph 3.35 of this paper.

¹³ This revenue differential term is represented in allowable notional revenue calculations as $ANR_{t-1} - NR_{t-1}$.

¹⁴ Commerce Commission “2010-2015 Electricity Distribution Default Price-Quality Path Revenue Differential Term Amendment - Reasons Paper” (30 November 2011).

¹⁵ Supra n 10, paragraphs 131-135.

Treatment of prompt payment discounts

- 3.22 Where some consumers have taken up a posted discount, and other consumers have not, there are two different prices and quantities used for calculating compliance with the price path.¹⁶
- 3.22.1 One set of distribution prices that take into account the posted discount, and there are quantities associated with those who took the posted discount.
- 3.22.2 A second set of distribution prices that do not take into account the posted discount, and there are quantities associated with those who did not take up the posted discount.
- 3.23 To help clarify this treatment, we propose a change to the definition of the quantity term used in the Draft Determination, both in the interpretation section, and in the compliance formulas for allowable notional revenue and notional revenue.

Treatment of quantity wash-ups notified by retailers

- 3.24 Distributors have raised questions about what quantities should be used in reporting compliance where the distributor had set its prices based on the latest available information at the time it set its prices, but then a retailer has notified the distributor of a wash-up of quantities prior to the distributor reporting compliance.¹⁷
- 3.25 This situation arises because the quantities used by the distributor to set its prices for the forthcoming year are the quantities provided to them by the Electricity Authority's Reconciliation Manager. However, because of the way the reconciliation process operates, these quantities may be revised between when the distributor sets its prices and when they report compliance.
- 3.26 Where a distributor has calculated allowable notional revenue using a pre-wash-up quantity, that same quantity should be used for calculating notional revenue and determining compliance with the price path.

Allowances for pass-through and recoverable costs

- 3.27 Some costs that distributors face may be passed through directly to their consumers. These costs have been defined as pass-through costs and recoverable costs in the up-front rules, requirements and processes of regulation (collectively referred to as 'input methodologies').

¹⁶ The appropriate treatment of posted discounts is specified in the relevant input methodologies. See clause 3.1.1(4) of the Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26.

¹⁷ Powerco "Submission on the process and issues paper" (24 September 2013), paragraphs 110-111.

- 3.28 In particular, costs that are relevant for distributors' default price-quality paths include:¹⁸
- 3.28.1 'pass-through costs', such as local authority rates and levies;¹⁹ and
 - 3.28.2 'recoverable costs' such as Transpower transmission charges, claw-back applied by the Commission under s 54K(3) or 53ZB(3) of the Act, or new investment contracts, and incentive adjustments such as avoided transmission charges, the incremental rolling incentive scheme, and our proposed energy efficiency and demand side management incentives.²⁰
- 3.29 When demonstrating compliance, distributors deduct pass-through and non-transmission recoverable costs from their regulated revenues. (Under our proposed approach, Transmission recoverable costs are now excluded from the distribution prices used to calculate allowable notional revenue and notional revenue.)
- 3.30 In our IM Amendments Paper, released alongside the Draft Determination, we propose introducing several additional recoverable cost terms.²¹
- 3.30.1 a recoverable cost term implementing the quality incentive scheme we propose to implement under section 53M(2);
 - 3.30.2 a recoverable cost term implementing the incentives for energy efficiency and demand side management initiatives we propose to implement;
 - 3.30.3 a 'wash-up' for capital expenditure in the final year of the current default price-quality path, ie, 1 April 2014 to 31 March 2015, in order to more accurately reflect the regulatory asset base used to forecast return on and of capital during the next regulatory period;
 - 3.30.4 a 'wash-up' for additional expenditure provided in a regulatory period for spur asset purchases that were forecast to be completed prior to the reset, but which were not concluded;
 - 3.30.5 a recoverable cost term to provide for pass-through of any levy or other charges or costs associated with any automatic under-frequency load shedding programme that the Electricity Authority may implement during the regulatory period;
 - 3.30.6 a one-off recoverable cost term to allow for a recovery of additional revenue for three distributors (Alpine Energy, Top Energy, and Centralines)

¹⁸ There may be other recoverable costs that apply to distributors if they move onto a customised price-quality path.

¹⁹ *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26, clause 3.1.2.

²⁰ *Supra* n 19, clause 3.1.3.

²¹ In Commerce Commission "Proposed amendments to input methodologies for electricity distribution services (second type)" (18 July 2014), we also propose updating the recoverable cost term that provides for an amount equal to transmission costs avoided as a result of distributed generation.

to address the NPV-negative impact of our decision at the 2012 reset to limit price increases in the last two years of the current regulatory period.

- 3.31 In addition, we propose in our IRIS amendments paper, released alongside the Draft Determination, to introduce a new incremental rolling scheme that will, if adopted, apply to distributors subject to a default price-quality path.²²
- 3.32 The Draft Determination also provides rules for the treatment of indirect transmission charges, a pass-through-like cost that may be recovered in accordance with the Draft Determination.²³

Pass-through and recoverable cost uncertainty

- 3.33 As discussed in our Main Policy Paper, distributors should have the opportunity to recover pass-through and recoverable costs in full. This can be difficult in practice under the current default price-quality path determination as:
- 3.33.1 distributors have difficulty forecasting the amounts of pass-through and recoverable costs; and
- 3.33.2 actual amounts recovered over an assessment period are subject to volume risk.
- 3.34 We invited views on this issue in our process and issues paper. In response, distributors suggested a variety of solutions.
- 3.35 ENA proposed introducing a new wash-up mechanism under which any under or over-recovery of notional revenue, adjusted for the time-value of money, would occur following an assessment period.²⁴ An adjustment for the under or over-recovery could be made in the following year, ie, two years after the under or over-recovery occurred.²⁵
- 3.36 ENA further proposed that the wash-up not be constrained to specific causes.²⁶ As a result, under or over-recovery would not result in a breach of the price path, but would instead incur an adjustment at a later point in time.
- 3.37 In order to ensure forecasts were as accurate as possible, the ENA proposed introducing a penalty where variances between allowable notional revenue and notional revenue exceed a specific threshold.²⁷

²² IRIS Amendments Paper. The current provisions relating to the incremental rolling incentive scheme apply only for a distributor subject to a customised price-quality path, and the five years after its expiration.

²³ Indirect Transmission Costs are able to be passed-through under the current 2012 determination as well.

²⁴ Electricity Networks Association "Submission on the process and issues paper" (24 September 2013), paragraphs 131-137.

²⁵ Supra n 24, paragraph 132.

²⁶ Supra n 24, paragraph 134.

- 3.38 Vector proposed, in the alternative, that we determine a separate path for pass-through and recoverable costs that acts like a revenue cap.²⁸
- 3.39 Under Vector's proposed approach, the compliance formula would remove reference to pass-through and recoverable costs. Distributors would be required to report each year on their actual pass-through and recoverable costs and the amount of revenue received in respect of those costs. Any under or over-recovery would be added to, or subtracted from, the allowance for the next year.
- 3.40 A number of submitters supported Vector's proposal.
- 3.41 In the Gas Distribution Services Default Price-Quality Path Determination 2013, we introduced an approach to mitigate forecasting risk under which pass-through and recoverable costs could be recovered only where they are sufficiently certain. Any costs that are not ascertainable at the time prices are set would be recovered in the next year, adjusted for the time-value of money.
- 3.42 Both Vector²⁹ and ENA³⁰ submitted that this approach could address much of the forecasting risk, though they also noted some potential challenges with the approach, particularly at the end of a regulatory period.
- 3.43 We consider a hybrid approach of Vector's proposal and our approach for gas pipeline businesses is appropriate. Our hybrid approach:
- 3.43.1 applies Vector's proposal to transmission charges; and
 - 3.43.2 applies our approach for gas pipeline businesses to all other pass-through and recoverable costs.
- 3.44 The reasons for our revised approach are discussed in Chapter 5 of our Main Policy Paper. Our approach to introducing a separate cap for transmission prices is set out at paragraph 3.45, below. Our approach to clarifying when pass-through costs and recoverable costs may be deducted is set out beginning at paragraph 3.55 below.

Proposed compliance requirements for transmission charges

- 3.45 Under our proposed approach to transmission charges, suppliers must calculate their transmission balance at the end of each assessment period. The transmission balance must be provided as part of the annual compliance statement.
- 3.46 Transmission charges includes indirect transmission charges, which are defined in the Draft Determination, and the following transmission recoverable cost terms:

²⁷ Supra n 24, paragraph 136.

²⁸ Supra n 10, paragraph 51.

²⁹ Supra n 10, paragraph 49.

³⁰ Supra n 24, paragraph 128.

- 3.46.1 charges payable to Transpower for electricity lines services provided in respect of the transmission system, calculated in accordance with the transmission pricing methodology;
 - 3.46.2 a charge payable to Transpower in respect of a new investment contract (as defined in the Electricity Industry Participation Code);
 - 3.46.3 a charge payable for the supply of system operator services (except to the extent the charge is a pass-through cost); and
 - 3.46.4 an amount equal to the avoided transmission costs as a result of the connection of distributed generation.
- 3.47 Transmission charges avoided as a result of a distributor purchasing system fixed assets from Transpower will remain a non-transmission recoverable cost, and are not included in the transmission balances.
- 3.48 In the first year of the regulatory period, the transmission balance is the difference between the actual transmission recoverable costs (including indirect transmission charges) and the transmission component of prices and quantities for that year (lagged quantities are not used).
- 3.49 In each subsequent year of the regulatory period, the transmission balance is recalculated, and is:
- 3.49.1 the difference between the actual transmission recoverable costs (including indirect transmission charges) and the transmission component of prices and quantities for that year, less
 - 3.49.2 the transmission balance for the previous year (adjusted for the cost of debt).
- 3.50 In order to comply with the price path, the transmission balance at the end of the regulatory period must be less than or equal to zero. Under the proposed approach, a negative balance (of unrecovered charges) is not carried over into the next regulatory period.
- 3.51 We seek your views as to whether we should allow a negative transmission balance (of unrecovered charges) to be carried over into the next regulatory period.
- 3.52 Under Vector's proposed approach, as reflected in the current Draft Determination, distributors have a substantial degree of flexibility in how they set the transmission component of prices. We are concerned that this may give distributors too much flexibility in calculating the annual amount they will recover for transmission charges.

- 3.53 We seek your views as to whether we should propose a mechanism to limit this flexibility, for example, by:
- 3.53.1 requiring transmission charges to be estimated on an annual basis using an estimate of quantities within a designated percentage range of known (ie, lagged) quantities; or
 - 3.53.2 setting a limit on the transmission balance that may be carried over between assessment periods, such as by limiting the maximum transmission balance to 5% of the annual transmission charges.
- 3.54 We seek submissions on the proposed approach to transmission charges, and on whether we should undertake a mechanism to limit the flexibility provided to distributors under Vector's proposed approach.

When pass-through and recoverable costs can be deducted

- 3.55 The requirements for determining the amount of pass-through and recoverable costs that may be recovered in a pricing period are set out in Schedule 5 of the Draft Determination.
- 3.56 Distributors can only deduct pass-through and recoverable costs that are 'ascertainable' prior to the start of the assessment period, ie, they cannot deduct values that are not certain. This minimises the chances of a distributor over- or under-recovering against the price path.
- 3.57 Our proposed approach does not require that the distributor recover these costs only on an ex post basis. A distributor may deduct recoverable or pass-through costs that have not previously been incurred, provided that the amount is certain to be payable during the assessment period.
- 3.58 Any amount of a pass-through or recoverable cost that is not ascertainable at the time the distributor sets prices would be recovered in a subsequent assessment period, after the amount becomes certain. In some cases this may mean that a portion of pass-through and recoverable costs may not be recovered until after the amount is notified to the distributor.
- 3.59 Any amount deferred to a later assessment period must be adjusted for the time-value of money in accordance with the cost of debt.
- 3.60 In addition, the pass-through costs or recoverable costs that are used to calculate notional revenues and allowable notional revenues must not:
- 3.60.1 have already been passed through to prices by the distributor, ie, any costs must not be recovered twice;
 - 3.60.2 otherwise be able to be recovered except through prices; or

3.60.3 relate to costs that were incurred by the distributor more than two years prior to the current assessment period.

3.61 Under our proposed approach, non-forecast revenues (such as mid-period refunds of pass-through or recoverable costs from a previous year), would be applied (deferred) to the next assessment period, after the amount becomes known.

Pass-through and recoverable costs may be adjusted for the time-value of money

3.62 Pass-through costs and recoverable costs that become known after a distributor sets its prices may be claimed in a future period and may be adjusted for the time-value of money using the cost of debt, which is specified in the determination.

Specified recoverable costs require the Commission's approval

3.63 Some recoverable costs require our approval to be passed through to prices.

3.64 The remainder of this chapter describes the existing process for recoverable costs that require our approval, and then the new approval process proposed in the Draft Determination.

Current treatment of recoverable costs that require the Commission's approval

3.65 Two recoverable costs currently require the Commission's approval of the amount of the recoverable cost in accordance with any process set out in the default price-quality path determination:³¹

3.65.1 any charge payable to Transpower in respect of a new investment contract,³²

3.65.2 the allowance for transmission charges a distributor has avoided liability to pay as a result of a purchase of system fixed transmission assets from Transpower.³³

3.66 No express approval process for these recoverable costs is specified in our current 2012 default price-quality path determination.³⁴ Instead, we conduct an ex post review to assess whether the recoverable costs were appropriate.

New approval process for recoverable costs requiring the Commission's approval

3.67 As discussed above, the Draft Determination requires that recoverable costs be known before they may be passed through to prices. As such, we have clearly articulated an approval process for all recoverable costs that require our approval.³⁵

³¹ Supra n 19, clause 3.1.1(2).

³² Supra n 19, clause 3.1.1(1)(c).

³³ Supra n 19, clause 3.1.1(1)(e).

³⁴ However, we do currently require approval of indirect transmission charges within the 2012 determination. See clauses 11.3(e) and 11.5 of the Electricity Distribution Services Default Price-Quality Path Determination 2012.

- 3.68 Requests for approval may be submitted alongside the annual compliance statement, but are not a part of the annual compliance statement. Requests for approval of revenue foregone as a result of energy efficiency and demand side management initiatives must be submitted at the same time as the annual compliance statement.
- 3.69 We have not proposed any timeframes for our approval, in part because the timing of any request for approval is contingent on the distributor obtaining the necessary information, for example, a calculation of avoided transmission charges from Transpower. In other circumstances, additional supporting information may be required from the distributor before we can approve the recoverable cost amount.
- 3.70 The timing of any request for approval, or any delay in providing additional information we subsequently require, may mean we are unable to approve a recoverable cost prior to the new prices being notified for an assessment period. In such circumstances, the distributor would not be able to pass-through the recoverable cost to prices until the next assessment period.
- 3.71 We have specified approval processes for these recoverable costs in Schedule 5 of the Draft Determination. The request for approval must be submitted before the recoverable cost can be passed through to prices in an assessment period.
- 3.72 The request for approval must include:
- 3.72.1 for new investment contracts, a copy of the contract;
 - 3.72.2 for avoided transmission charges, a calculation of the transmission charges avoided as a result of a purchase of transmission assets from Transpower, along with supporting document and other information showing how the amount was calculated.
- 3.73 The approach the distributor must use to calculate avoided transmission charges is set out in paragraph D10 to D12 of the Main Policy Paper.
- 3.74 We propose removing the requirements for approval of indirect transmission charges.
- 3.75 We also propose, in our Main Policy Paper and IM Amendments Paper, adding two new recoverable costs that require our approval:
- 3.75.1 compensation for foregone revenue resulting from an energy efficiency or demand side management initiative;

³⁵ The approval process for avoided charges is set out in schedule 5 of our Draft Determination. The methodology for calculating avoided charges is discussed in paragraphs D10 - D12 of the Main Policy Paper.

- 3.75.2 compensation for any charges, costs, or revenues relating to automatic under-frequency load shedding programme.
- 3.76 We also propose updating the recoverable cost term relating to avoided transmission charges as a result of distributed generation (also referred to as embedded generation) to require Commission approval.³⁶
- 3.77 In the case of the charges or revenues associated with automatic under-frequency load shedding or distributed generation under the Electricity Industry Participation Code, we will require the distributor to show that the amount was calculated in accordance with any regulation made by the Electricity Authority under the Electricity Industry Act 2010.

Approval process for energy efficiency recoverable costs

- 3.78 The rules governing our approval of foregone revenue associated with energy efficiency and demand side management initiatives are set out in Schedule 5 of the Draft Determination. These recoverable costs, including the process for their approval, are discussed further in Chapter 7 of this paper.

³⁶ Supra n 19, clause 3.1.3(1)(f).

4. Quality standards set as targets

Purpose of chapter

- 4.1 This chapter outlines and explains the information that distributors must provide to demonstrate compliance with the quality standards, which we propose to set as targets within an incentive scheme for quality.
- 4.2 For a more thorough explanation of how the proposed revenue-linked quality incentive scheme functions, please see the accompanying paper on quality.³⁷

Information required to support statement about compliance

- 4.3 Along with stating whether or not they are compliant with the quality standards, we propose that distributors must provide certain information to support that statement. The required information is set out in clause 11, and includes:³⁸
- 4.3.1 where the distributor is non-compliant, the reasons why;
 - 4.3.2 what actions the distributor has taken to mitigate any non-compliance and to prevent similar non-compliance in the future;
 - 4.3.3 the SAIDI and SAIFI assessed values and the quality targets for the assessment period, and the actual SAIDI and SAIFI statistics used to calculate the assessed values;
 - 4.3.4 any calculations or re-calculations of the SAIDI and SAIFI targets, caps, and collars following a major transaction or purchase of Transpower transmission assets;³⁹
 - 4.3.5 explanations for any major event days; and
 - 4.3.6 a description of the policies and procedures which the distributor has used for capturing and recording Interruptions and for calculating SAIDI and SAIFI values for the assessment period.⁴⁰

³⁷ Commerce Commission “Proposed Quality Targets and Incentives for Default Price-Quality Paths for Electricity Distributors from 1 April 2015” (18 July 2014).

³⁸ Draft Determination, clauses 11.5 and 11.6.

³⁹ For a detailed description this recalculation, see Commerce Commission “Proposed Quality Targets and Incentives for Default Price-Quality Paths for Electricity Distributors from 1 April 2015” (18 July 2014), paragraphs 2.22-2.23.

⁴⁰ During the first regulatory period, there was considerable inconsistency between distributors in the level of detail provided in response to the equivalent of this requirement. We expect that sufficient detail will be provided to clearly demonstrate the policies and procedures used for recording interruptions and calculating SAIDI and SAIFI. Process diagrams that indicate the controls and checks performed are useful. Where internal policy documents that are not publically available are referred to, the relevant content of those policies must be explained.

Compliance with the quality standards

- 4.4 To comply with the quality standards in a given assessment period, a distributor's:
- 4.4.1 assessed SAIDI must not exceed the SAIDI target; and
 - 4.4.2 assessed SAIFI must not exceed the SAIFI target.
- 4.5 Failure to meet the SAIDI target or SAIFI target would constitute non-compliance with the quality standards. We do not propose to take enforcement action for performance worse than the quality targets but still the below the SAIDI or SAIFI cap (the limit for poor performance beyond which the automatic penalty no longer increases) except in exceptional circumstances. The revenue-linked quality scheme will therefore provide distributors with greater certainty on when the Commission is likely to take enforcement action for non-compliance with the quality standards.
- 4.6 In exceptional circumstances where quality standards are not met, we may still seek pecuniary penalties under s 87 or criminal sanctions under s 87B of the Commerce Act for that underperformance. Such enforcement action would be in addition to the penalty under the revenue-linked quality incentive scheme.

5. Large transactions

Purpose of this chapter

- 5.1 This chapter sets out the proposed compliance obligations for distributors that are involved in certain large transactions during an assessment period. This includes setting out our proposed approach to adjusting allowable notional revenue following a major transaction, ie, a transaction that will result in consumers being supplied by a different distributor.
- 5.2 These changes are being introduced to provide distributors with both greater flexibility in structuring any large transaction, and with greater certainty about how the Commission will assess compliance following the transaction. As such, we are interested in your views on whether the process set out here is sufficiently clear, and in any alternative proposals for how to address large transactions.

Large transactions are divided into two categories

- 5.3 Large transactions are divided into two categories:
- 5.3.1 amalgamations and mergers, which, as a category, covers situations where two distributors amalgamate under the Companies Act 1993 (amalgamations),⁴¹ or situations where one distributor takes over another by any other means (mergers);⁴² and
- 5.3.2 transactions (other than an amalgamation or merger) which result in consumers being served by a different distributor. We propose to define these as “major transactions”, and they are referred to as such in the remainder of this chapter.

Effect of large transactions on the price path and quality standards

We are not proposing to change the effect of amalgamations and mergers on the price path and quality standards

- 5.4 Currently, following an amalgamation or merger, distributors are required to adjust their price path and quality standards by aggregating the price-quality paths of the companies that merged.⁴³ We are not proposing to change this approach.

⁴¹ This definition comes from clause 1.1.4(2) of Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26. We are not proposing to change this definition, but in the Draft Determination we explicitly incorporate it by reference to the input methodologies.

⁴² This definition comes from clause 4.1 of the 2012 Electricity Distribution Determination, and we are not proposing any changes to it in the Draft Determination.

⁴³ As required by clause 3.2.1 of Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26.

Proposed changes to the effect of large transactions on the price path and quality standards

- 5.5 Major transactions create two principle issues relating to the price path and quality standards:
- 5.5.1 how to adjust the distributor's price path; and
 - 5.5.2 how to adjust the distributor's SAIDI and SAIFI targets.
- 5.6 Major transactions are currently dealt with by having both the seller and purchaser of the distribution assets in question adjust their notional and allowable notional revenue by the amount of revenue associated with the transferred assets.⁴⁴ We are proposing changes to this process, as outlined in the next section of this chapter.

Our proposed approach to adjusting the price path following a major transaction

- 5.7 Our proposed approach for how distributors are to determine their price path obligations following a major transaction aims to:
- 5.7.1 allow parties flexibility to structure their transaction as they see fit, to the extent consistent with the other objectives;
 - 5.7.2 ensure that consumers are not, in aggregate, worse off as a result of the transaction;
 - 5.7.3 ensure that both the seller and purchaser are aware of their price path obligations, and that these obligations are not ambiguous; and
 - 5.7.4 avoid ambiguity as to the allocation of allowable notional revenue, pass-through costs, and recoverable costs between seller and purchaser.
- 5.8 Under our proposed approach, the seller and purchaser of network assets must agree the amount of allowable notional revenue attributable to the transaction, and any pass-through and recoverable costs attributable to the transaction. This may be done as part of the transaction, or addressed separately by the parties to the transaction.
- 5.9 In the assessment period in which consumers are first supplied by a different distributor, the seller must deduct the amount of allowable notional revenue attributable to the transaction from its allowable notional revenue for the assessment period. The seller must also exclude any pass-through and recoverable costs attributable to the transaction from its calculation of notional revenue for that first assessment period.
- 5.10 Conversely, the buyer must increase its allowable notional revenue for that first assessment period by the same amount as the seller reduces its allowable notional revenue, and include in its calculation of notional revenue any pass-through and recoverable costs the seller has excluded.

⁴⁴ Electricity Distribution Services Default Price-Quality Path Determination 2012, schedule 1F

- 5.11 In other words, following a major transaction, the aggregate allowable notional revenue of the two distributors is the same – there is only a change as to how the total amount is allocated between the two distributors.
- 5.12 In calculating allowable notional revenue in the subsequent assessment period, the seller must deduct the amount of pass-through costs and recoverable costs attributable to the transaction from the pass-through costs and recoverable costs from the previous year. The buyer must increase its pass-through and recoverable costs used to calculate allowable notional revenue by the same amount.
- 5.13 This approach ensures that over all, there is no increase in allowable notional revenue or in the amounts that may be passed through to or recovered from consumers. At the same time, it leaves the parties free to arrange the transaction as they see fit.
- 5.14 The seller and purchaser will be responsible for ensuring the amounts they add to or deduct from their allowable notional revenue, and the amounts they add to or deduct from their otherwise applicable pass-through and recoverable costs, which are disclosed in their annual compliance statements, align with the amounts disclosed to the Commission in the notice given after the transaction occurred. This notice must be supplied in the first instance by the seller.

Our proposed approach to adjusting the quality standards following a major transaction

- 5.15 Our proposed approach for adjusting the quality standards following a major transaction is for both seller and buyer to recalculate their SAIDI and SAIFI targets using the historical data that either excludes or includes the transferred assets, as is set out in Chapter 2 of the quality standards and incentives paper.⁴⁵

Compliance obligations relating to large transactions

We propose to remove the alternative compliance provisions

- 5.16 The 2012 determination also provides that, where a large transaction leaves a distributor unable to demonstrate compliance with the price-quality path, it can demonstrate compliance using an ‘alternative approach’.⁴⁶ We propose to remove that provision, as we consider it unnecessary in light of the process we are proposing for compliance following major transactions.

Updated requirement to notify the Commission of a large transaction

- 5.17 The Draft Determination proposes updated notification requirements following a major transaction.
- 5.18 A distributor must notify the Commission in writing if it enters into a large transaction that meets the size thresholds specified in clause 10.1 of the Draft

⁴⁵ Proposed Quality Targets and Incentives for Default Price-Quality Paths for Electricity Distributors, chapter 2

⁴⁶ Electricity Distribution Services Default Price-Quality Path Determination 2012, clause 10.3

Determination.⁴⁷ The seller's notification to the Commission must include additional information about the large transaction, as specified in clause 10.2 of the Draft Determination.

- 5.19 We propose that the notification must be provided to the Commission within 30 working days after entering into the agreement that gave effect to the transaction.⁴⁸

Updated requirement to include specified information about the large transaction in the compliance statement

- 5.20 We propose that a distributor that participates in a large transaction must state in its compliance statement whether or not it complied with the requirements relating to large transactions, and include any information or calculations demonstrating compliance with the large transaction requirements.⁴⁹
- 5.21 This requirement replaces the equivalent clause in the current 2012 determination.⁵⁰

⁴⁷ Broadly, this is any transaction that changes the value of a distributor's distribution assets or their distribution revenue by more than 10%.

⁴⁸ In the current 2012 determination, the notice period is 30 days, as opposed to the proposed 30 *working* days.

⁴⁹ Clause 11.7 of the Draft Determination.

⁵⁰ Electricity Distribution Services Default Price-Quality Path Determination 2012, clause 11.3(j).

6. Price restructures

Purpose of this chapter

- 6.1 This chapter outlines the proposed compliance obligations for distributors that restructure their prices during an assessment period, and explains the reasons behind the changes to these obligations. In particular, it covers:
- 6.1.1 the rules applying to price restructuring; and
 - 6.1.2 the obligation to notify the Commission in advance of certain types of price restructuring.
- 6.2 We are introducing the changes in this chapter primarily to help distributors ensure they are complying with the price path. We are interested in your views on how we can make the price restructuring process as straightforward as possible, while still minimising the risk of non-compliance with the price path.

Rules relating to price restructuring

- 6.3 We are proposing to introduce updated rules for price restructuring, which focus on the quantities that distributors use when calculating notional revenue. In particular, we are proposing:
- 6.3.1 a definition of price restructuring;
 - 6.3.2 rules for how suppliers are to determine quantities where they undertake a price restructure;
 - 6.3.3 guidance for situations where historic quantity data is available; and
 - 6.3.4 guidance for situations where historic quantity data is not directly available.
- 6.4 A distributor may restructure its prices during an assessment period. These changes will affect how it calculates notional revenue for that period. However, a price restructure should not impact a distributor's allowable notional revenue.
- 6.5 When calculating notional revenue, a distributor must use the quantities from two years previous that correspond to the extent practicable with each of its prices.⁵¹ A price restructure may make it difficult to derive these lagged quantities. The rules set out in our Draft Determination, and explained below, aim to give guidance on what quantities should be used, and how to derive a reasonable estimate where actual quantities are not available.

⁵¹ As per the definition of quantities set out in clause 3.1.1.(5)(a) of the Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26.

Definition of price restructuring

- 6.6 We are proposing to introduce a definition of price restructuring to make it easier for distributors to identify whether a given change to its prices needs to be treated as a restructure. The definition is set out in Box 6.1 below.

Box 6.1: Definition of price restructuring

Restructure of Prices means any change in the allocation of connections to load groups by a Non-exempt EDB or any change in its Prices other than:

- (a) a change to the value of a Price applicable to any existing load group; or
- (b) any changes to the numbers of connections within any existing load group; or
- (c) the movement of connections between existing load groups at the request of the customer.

Rules for determining quantities

- 6.7 When distributors calculate allowable notional revenue and notional revenue, they must:
- 6.7.1 use the same quantities in calculating both allowable notional revenue and notional revenue;⁵² and
 - 6.7.2 for every price in their pricing schedule, have a quantity (other than forecasts) that corresponds to the extent practicable to that price.⁵³

Where historical quantities are available

- 6.8 In practice, using historical quantity information to work out the quantities that correspond to prices in a restructured price schedule may be straightforward.⁵⁴ Certain instances of this, for which we propose specific rules, are:
- 6.8.1 combining load groups;
 - 6.8.2 separating a load group; and
 - 6.8.3 creating a new 'empty' load group
- 6.9 Where the distributor has combined existing load groups, the quantity corresponding to this group that must be used in calculating allowable notional revenue is the sum of the quantities corresponding to each of the previous groups.
- 6.10 Where the distributor has assigned connections in an existing group into multiple new groups, the quantities corresponding to each new load group must be based on

⁵² Supra n 19, clause 3.1.1(1)(d).

⁵³ Supra n 19, clause 3.1.1(5)(a).

⁵⁴ Draft Determination, clause 8.7.

the connections from the original group assigned to each new group. As such, the sum of the quantities for all of the new groups must equal the sum of the quantities for the original group.

- 6.11 Where the distributor creates a new ‘empty’ load group – ie, one that is to be populated only by consumers moving by their own choice – the quantity corresponding to that group is zero.

Where historical quantities must be estimated

- 6.12 In other circumstances, where corresponding lagged quantities are not available, we are proposing rules for how distributors must calculate an appropriate lagged quantity. In any price restructuring other than the types listed in paragraph 6.8, all prices in a distributor’s price schedule must still have a two-year lagged quantity associated with them.
- 6.13 Where an estimate is being used, a distributor may use any reasonable methodology to calculate it, provided that it uses any relevant information – related to quantities or otherwise – available at the time. However, a distributor may not estimate any quantity using any forecast quantities.⁵⁵

Obligation to notify the Commission in advance

- 6.14 Where a distributor proposes to restructure its prices in such a way that it will have to use estimated quantities (as described in paragraph 6.13), we are proposing that – 30 days prior to the new prices taking effect – the distributor must provide the Commission with:⁵⁶
- 6.14.1 a schedule containing the new prices, with all the corresponding quantities;
 - 6.14.2 a description of the methodology used to determine the quantities: and
 - 6.14.3 forecasts of the quantities for the assessment period in which the price restructure will occur.
- 6.15 Forecast quantity information is not used to calculate notional revenue. However, it is important that we have this information, so that we can ensure distributors take care in making their quantity estimates, and to allow us to assess whether a distributor’s estimate and forecast assumptions were reasonable.

⁵⁵ Draft Determination, clause 8.8.

⁵⁶ Draft Determination, clause 8.9.

7. Compensation for demand side management initiatives

Purpose of chapter

- 7.1 This chapter outlines and explains the information that we propose to require in support of an application for compensation for revenue foregone as a result of demand side management initiatives, as well as the process for having amounts approved.

Incentive mechanism for energy efficiency and demand side management

- 7.2 As discussed in our Main Policy Paper, the proposed design of the energy efficiency and demand side management incentive mechanism would:
- 7.2.1 cover a broad scope of activities that have the purpose of improving energy efficiency or demand side management (excluding primarily tariff-based measures);
 - 7.2.2 limit financial compensation to foregone revenue from energy efficiency or demand side management initiatives;
 - 7.2.3 use a principles-based approach to establishing a link between energy efficiency or demand side management activities and foregone revenue;
 - 7.2.4 require a request for approval of an allowance for foregone revenue to be submitted alongside the annual compliance statements; and
 - 7.2.5 apply any financial adjustment in the year after assessment as an additional recoverable cost.
- 7.3 The approach we have proposed closely follows the recommendations of Castalia in its report to Vector of April 2014.⁵⁷ As these recommendations were in turn based on the D-factor regime implemented in New South Wales, Australia, we have considered the New South Wales approach in the drafting of our Draft Determination.⁵⁸
- 7.4 We propose that applications for an approval of energy efficiency and demand side management adjustments be submitted along with the annual compliance statement, 50 working days after the assessment period for which a foregone revenue adjustment is sought.⁵⁹

⁵⁷ Castalia “Providing a D-Factor Mechanism under the DPP Framework: Report to Vector” (April 2014).

⁵⁸ See, for example, Network Demand Management Consultation Working Group “Guideline Methodology for estimating foregone revenue” (28 April 2005).

⁵⁹ For the avoidance of doubt, if approved, the revenue adjustment would be applied two assessment periods after the assessment period to which the foregone revenue relates.

- 7.5 As described in the Draft Determination,⁶⁰ any application should include:
- 7.5.1 a detailed description of the energy efficiency initiative or demand side management initiative for which the distributor seeks a foregone revenue adjustment;
 - 7.5.2 a reasonable estimate of the actual foregone quantities arising in the assessment period for each energy efficiency or demand side management initiatives, as well as the data, calculations, and assumptions used to derive the estimate;
 - 7.5.3 a statement identifying other factors that may have contributed to the foregone quantities, and reasonable estimates on their impact;
 - 7.5.4 the price(s) that applied to the foregone quantities during the assessment period; and
 - 7.5.5 an estimate of foregone revenue.
- 7.6 Following assessment of the information provided, we would determine an amount of foregone revenue attributable to the energy efficiency or demand side management initiative. As discussed in our Main Policy Paper, we may also request additional information we consider necessary to establish a causal link between the foregone revenue and the initiatives undertaken by the distributor.
- 7.7 We intend to take into consideration the costs of supplying any information and the amount of the foregone revenue being sought by the distributor when deciding how much additional information is necessary.
- 7.8 We would be guided in our assessment of the foregone revenue attributable to energy efficiency or demand side management by a number of principles. The principles we propose to use to assess and approve any request for an allowance are set out in our Main Policy Paper.⁶¹

⁶⁰ Schedule 5, paragraphs 8–11.

⁶¹ Table E1.

7.9 We invite views on:

7.9.1 how this process should operate in practice and whether more specific guidelines should be adopted; and

7.9.2 whether the principles listed in the Main Policy Paper are appropriate, or if any should be removed and others included.

Annual compliance statement and timing of financial compensation

7.10 As described in the Main Policy Paper and Draft Determination, we propose that the foregone revenue is provided alongside the annual compliance statement.⁶²

7.11 Approved foregone revenue would be a recoverable cost term called an ‘energy efficiency and demand incentive allowance’ and can be recovered in the assessment period following approval (ie, two assessment periods after the assessment period to which the foregone revenue relates).⁶³

7.12 We invite views on the timing of this process and our proposal for distributors to submit applications for approval at the same time as the annual compliance statement.

Definition and scope of energy efficiency or demand side management initiative

7.13 We have not proposed a definition of an energy efficiency initiative or demand side management initiative. However, we consider that some definition of those terms – potentially derived from that used in New South Wales – would likely be helpful. We seek proposals from parties on appropriate definitions consistent with our proposal.

7.14 We currently propose that the incentive mechanism applies to a broad range of initiatives, not necessarily limited to regulated activities, which deliver positive net benefits for the provision of regulated lines services. We invite views on how the mechanism should interact with current incentives for energy efficiency or demand side management initiatives.

⁶² Schedule 5, paragraph 8.

⁶³ Supra n 21, subclause 3.1.3(1)(m).

8. Dates for proposing a customised price-quality path

Purpose of chapter

- 8.1 This chapter outlines and explains the timeframes that we propose within which distributors may propose customised price-quality paths. In particular it covers:
- 8.1.1 the dates for proposing a customised price-quality path; and
 - 8.1.2 the reasons behind the customised price-quality path proposal windows.

Dates that a customised price-quality path can be proposed

- 8.2 The dates on which a customised price-quality path proposal may be submitted (other than following a catastrophic event) are listed in Table 8.1. The dates are inclusive.

Table 8.1: Dates for proposing a CPP

Year	February window	May window
2015		Mon 4 May—Mon 11 May
2016	Mon 8 Feb—Mon 15 Feb	Mon 2 May—Tue 9 May
2017	Tue 7 Feb—Tue 14 Feb	Mon 1 May—Mon 8 May
2018	Mon 12 Feb—Mon 19 Feb	Mon 7 May—Mon 14 May
2019	Mon 11 Feb—Mon 18 Feb	

- 8.3 Following a catastrophic event, a distributor may make a customised price-quality path proposal at any time during the 24 months following the event.
- 8.4 In either case, no customised price-quality path applications can be made in the 12 months before the end of the regulatory period, ie, between 1 April 2019 and 31 March 2020.
- 8.5 We limit applications to two one-week windows because the Act allows us to prioritise applications where we receive more than four in one year.⁶⁴ In order to undertake this prioritisation exercise, we need all the applications to be submitted at the same time.
- 8.6 The first of these windows is set in the first week of February so that the Commission can prioritise applications, complete the customised price-quality path determinations within the statutory timeframes, and have them ready to come into effect at the beginning of the next disclosure year.

⁶⁴ Commerce Act 1986, s 53Z.

- 8.7 The second window is set in the first week of May to allow distributors a second chance to submit an application in the event that the Commission did not receive four or more applications in the February window.
- 8.8 We sought feedback earlier this year on the approach and process we followed in setting a customised price-quality path for Orion New Zealand Limited.⁶⁵ We received a number of responses to our request for feedback.
- 8.9 Feedback on the Orion customised price-quality path process indicated that further attention should be given to the timing of the customised price-quality path application window in order to ease pressures on the timeframes surrounding the preparation of customised price-quality path applications.
- 8.10 We have not proposed any changes to the application windows for a customised price-quality path determination, but seek your views on whether the current timeframes are still appropriate, or should be changed.
- 8.11 For further discussion of the application windows, see our reasons paper for the input methodologies amendments that set the application windows in March 2012.⁶⁶

⁶⁵ Commerce Commission “Feedback on setting Orion’s customised price-quality path” (4 March 2014).

⁶⁶ Commerce Commission “Electricity Distribution Services Default Price-Quality Path Determination Amendment No. 3 Reasons Paper” (22 March 2012).

9. How you can provide your views

Purpose of this chapter

- 9.1 This chapter outlines the timeframes, address, and format for responses, as well as explaining how submissions can be made on a confidential basis.

Responding to this paper

- 9.2 As noted in the Introduction, we welcome your views on any aspect of this paper. We also invite you to provide any other material that you think should be considered in reaching our final decision.

Timeframes for responses

- 9.3 We welcome your views in the timeframes set out below.
- 9.3.1 Submissions are due by **5pm Friday 29 August 2014**.
- 9.3.2 Cross-submissions are due by **5pm Friday 12 September 2014**.
- 9.4 A number of other consultation steps are being conducted in parallel as part of the reset of the default price-quality paths for electricity distributors.⁶⁷ As well as allowing parties to consider each aspect of the proposals simultaneously, we have allowed 6 weeks for submissions on each publication, and 2 weeks for cross-submissions.
- 9.5 We do not intend to take into account any material that is submitted outside of the timeframes provided. Any party that is concerned about the time to engage with the material should contact us with a request for an extension outlining their specific concerns.

Address for responses

- 9.6 Responses to this paper should be addressed to:

John McLaren, Chief Advisor, Regulation Branch
c/o regulation.branch@comcom.govt.nz

Format for responses

- 9.7 We prefer responses in a file format suitable for word processing, rather than the PDF file format.

⁶⁷ Main Policy Paper, chapter 9.

Requests for confidentiality

- 9.8 We encourage full disclosure of submissions so that all information can be tested in an open and transparent manner. However, if it is necessary to include confidential material in a submission, we offer the following guidance:⁶⁸
- 9.8.1 both confidential and public versions of the submission should be provided; and
 - 9.8.2 the responsibility for ensuring that confidential information is not included in a public version of a submission rests entirely with the party making the submission.
- 9.9 We request that you provide multiple versions of your submission if it contains confidential information or if you wish for the published electronic copies to be 'locked'. This is because we intend to publish all submissions and cross-submissions on our website. Where relevant, please provide both an 'unlocked' electronic copy of your submission, and a clearly labelled 'public version'.

⁶⁸ You can also request that we make orders under s 100 of the Act in respect of information that should not be made public. Any request for a s 100 order must be made when the relevant information is supplied to us, and must identify the reasons why the relevant information should not be made public. We will provide further information on s 100 orders if requested by parties. A benefit of such orders is to enable confidential information to be shared with specified parties on a restricted basis for the purpose of making submissions. Any s 100 order will apply for a limited time only as specified in the order. Once an order expires, we will follow our usual process in response to any request for information under the Official Information Act 1982.