

20 November 2022

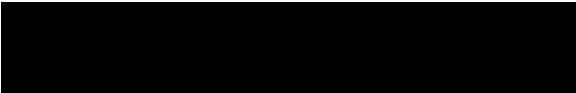
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Submission to the Commerce Commission on re-openers

The Electricity Networks Association (ENA) appreciates the opportunity to respond to the Commerce Commission's (Commission) follow-up questions from its 29 November 2022 workshop on "Price-quality path in-period adjustment mechanisms". This submission is on behalf of the ENA's members listed in the appendix to this submission, the electricity distribution businesses of New Zealand.

Please don't hesitate to get in touch with ENA if you'd like to discuss our submission. Contact Keith Hutchinson (keith@electricity.org.nz, 021 0849 9419) in the first instance.

Yours sincerely,



Keith Hutchinson
Regulatory Manager
Electricity Networks Association

A. Questions relating to reopener process

A1. Would our proposed updated reopener process address any concerns you may have on the current perceived lack of clarity in the reopeners?

ENA supports the reopener process set out at a high level in the workshop slides and in the Fibre IMs.

The formalisation of the re-opener process must document clear timeframes for each step. This is critically important to increasing the effectiveness and usability of the re-openers.

A2. What do you think of our current thinking on updating the process steps for a reopener, broadly in line with the equivalent process under the Fibre IMs with relevant Part 4 reopener process additions?

Documenting and formalising the re-opener process, particularly the “trigger” stage, addresses many of the ENA’s concerns regarding the current process’s lack of clarity. However, the timeliness and duration of the assessment of the final re-opener application remain a concern for EDBs.

A3. As our current thinking is based largely on our review of the EDB reopeners, with reference to the Fibre reopener provisions, are there any significant variations to this process that we should consider for Gas or Transpower IMs?

No comment, other than to note that Transpower has specific arrangements for large capex items which make in-period re-openers less critical.

A4. From a workability point of view, how significant is the overhead to produce information for a reopener application? Could suppliers repurpose or use existing business case justification information that they already produce internally for reopener applications?

The overhead cost of preparing a re-opener request under the current framework is high. . In some cases, EDBs do not have the capacity internally to complete reopener applications and need to appoint consultants to assist with the submission – especially the case for EDBs with smaller numbers of FTE’s EDBs have most of the relevant information at hand, but the lack of clear guidance from the Commission on the re-opener application documentation requirements leads to delays and additional costs for EDBs and double handling of data.

The establishment of a proforma re-opener business case justification by the Commission would reduce the overhead burden by providing certainty over the information and analysis required. It would also streamline the process by reducing the number and scope of additional data requests from the Commission.

A5. Note that this topic was not discussed at the workshop:

We are making refinements to DPP reopener IMs to reduce ambiguity, improve clarity and consistency. Please provide examples of areas that could be improved in this respect.

No comment

B. Questions relating to reopener thresholds

B1. Are the current reopener materiality thresholds still appropriate? If not, please explain why.

The absence of a cohesive approach to dealing with uncertainty across the DPP allowance setting and re-openers framework leads to fragmentation and creates gaps.

To address these gaps, the Commission should institute a mechanism (whether re-opener or other mechanisms) to capture expenditure below 1% but has a high value and impact for customers and therefore should be encouraged to proceed (e.g. net zero and resilience expenditure).

Similarly, the thresholds for the re-openers and other uncertainty mechanisms should cover cumulative expenditure (i.e. where individual-related or interdependent projects are under the threshold but together would meet the threshold).

B2. Some submissions on our Process and Issues paper raised that the cost of more than one project should be able to be considered to meet the lower DPP reopener threshold level. Our current thinking is that projects should only be considered for a cumulative application if each project is substantive, and the projects are part of the same programme or relate to the same scenario. What are your views on this?

Can you please provide examples of:

- **where you would have applied for a reopener, if projects could have been considered together?**
- **potential future situations where you think you might have a number of projects, the combined cost of which will meet the current threshold?**

ENA's view is that projects should be considered together if they are cumulative and are part of the same programme or relate to the same scenario. The individual size of each project is irrelevant.

In some cases EDBs also take the opportunity to bring forward investments in system growth whilst delivering customer-initiated connection work. This results in capex and opex being spent in periods earlier than initially forecast in AMPs due to timing of decarbonisation/electrification projects. There should be a consideration to be able to include expenditure on these expedited projects to re-openers.

C. Questions relating to the type and extent of reopeners

C1. Could you please provide feedback on our initial assessment of coverage provided by our existing DPP reopeners of the scenarios from submissions on the Process and Issues paper?

Incremental demand is not captured by the major capex re-opener. The expenditure to respond to this scenario is unlikely to take the form of large discreet projects. Rather it will comprise of programs of numerous smaller scale projects. That said, there may be

circumstances where incremental demand growth triggers significant investment by EDBs on time scales not previously considered. These investments can include an upgrade of upstream assets (i.e. substations or GXP).

C2. What are the electrification scenarios that you consider need to be accounted for in DPP reopeners, and why?

The rate of uptake of EVs and end-user behaviour in the charging of EVs is likely to be the most significant nationwide scenario. For individual EDBs and clusters of EDBs, the gas phase-out and process heat conversions will be critical. Consideration of encompassing projects with a resilience driver should be made.

C3. Process and issues paper submissions suggested that new or expanded reopeners may be needed to address the higher levels of general uncertainty anticipated. Please provide specific examples of scenarios to enable us to assess coverage provided by our current reopeners.

The electricity sector is undergoing a once-in-a-century transformation. The pace, scale, and path of the transformation is and will remain uncertain. Government energy policy to support the transformation is in the early stages of development. The most impactful policies are likely to be the phase-out of fossil fuel use including, gas and coal. These scenarios should be covered by uncertainty mechanisms such as re-openers, contingent allowances, or wash-ups.

C4. Is expenditure relating to disaster readiness, cyber security, greater use of digitalisation and data able to be foreseen and is it within the control of suppliers? If not, please explain.

The need for expenditure by EDBs on cyber security, digitisation and data is foreseeable, but the scale and timing of this expenditure is unknown. These costs are not entirely controllable by EDBs due to the discovery nature of some of these projects

The recent cyber-attack on the Colonial Pipeline demonstrates the real and material consequences of a failure to invest in cyber security for crucial infrastructure utilities like EDBs. ENA notes that there is no benefit to consumers for EDBs to underspend, as the cost of cyber security breaches can be significant.

C5. Note that this topic was not discussed at the workshop:

We are reviewing whether DPP reopeners should provide more scope for opex, for example:

- **there may be scenarios where an opex solution might be more cost-effective than a capex solution**
- **opex that is consequential to capex**

Can you tell us about any other scenarios which might be appropriate for opex to be included in DPP reopeners?

Non-network solutions can provide mechanisms to defer capex. Under the current IMs these solutions won't be able to be taken into account as regulated capex or opex. Consideration should be given to whether costs incurred to efficiently defer capex investment should be considered as part of reopener applications, if thresholds are met.

D. Questions relating to other in-period adjustment mechanisms

D1. Can you identify circumstances in which suppliers might want to make use of a potential DPP contingent project reopener?¹ Please explain why the current reopeners are not suitable in those circumstances.

Uncertainty about the pace and scale of process heat conversion and distributed generation developments are the most likely reasons for an EDB to make use of contingent project reopeners.

Large process heat conversions and development of large, distributed generation facilities are driven by factors outside the control of EDBs. Business investment decisions are made independent of EDBs and can be driven by events such as receipt of investment grants (e.g. GIDI funding), or planning or resource approval.

It can also take considerable time for a project to reach fruition and require EDB facilitation expenditure. Wind projects, in particular, have historically taken significant time to move from consent to final investment decision and completion.

A contingent project re-opener would give both EDBs and project proponents certainty that the network infrastructure can and will be delivered in time to meet the project's needs.

D2. Which scenarios could we consider including under a DPP wash-up mechanism, and why?

Incremental demand growth should be covered by a DPP wash-up mechanism. Another is the growth in small-to-medium scale distributed generation (large one-off investments to facilitate large DG is best covered by a contingent project re-opener).

Smaller scale costs that are difficult to forecast but simple to validate ex post (e.g. cybersecurity costs where the provider also offers services in the competitive market) could be appropriate for a wash-up.

Costs that are outside the control of the EDB (e.g. GAAP changes) could also be subject to a wash-up.

D3. Do you consider that there may be value in us considering a range of in-period adjustment mechanisms, eg, reopeners used for larger suppliers and as part of the DPP, use-it-or-lose-it allowances² for smaller suppliers, and if so, why?

¹ A contingent project is a project that has been listed as a 'contingent project' with an associated trigger event in a DPP/PPP determination. Projects are identified and listed in advance, well supported by information in Asset Management Plans.

² Use-it-or-lose-it allowances are provided where the need for funding has been identified at the time of setting the DPP, but the timing or exact amount of expenditure is uncertain. Unspent allowances are returned.

Yes. Uncertainty mechanisms, allowance-setting processes and in-period re-openers can and should form part of a comprehensive suite of tools to respond to uncertainty. Considering each in isolation will create gaps, distort incentives, and ultimately put at risk benefits to consumers.

D4. Can you identify any other potential in-period adjustment mechanisms which you think we should consider? What situations would this cover, which are not covered by current reopeners or other mechanisms we are considering as outlined in questions D1-D3?

Resilience expenditure is an area that is not adequately covered by the IM re-openers. Provision for re-opening projects with a resilience driver should be made.

E. Questions relating to the CPP mechanisms

E1. What are the barriers or challenges of applying for a CPP?

The primary barrier to EDBs applying for a CPP is the cost and resources required. Many EDBs do not have the resources to enter a CPP, putting the CPP process out of reach for all but a handful of large EDBs.

There is also a timing element whereby customer consultation, trends or views need to be gathered over a period of time before and to support any application thereby delaying any relief from a CPP decision.

E2. How do you view the effectiveness of the modification and exemption provisions in the current CPP IMs?

No comment

E3. Keeping in mind the need for: (1) scrutiny of expenditure for large step-changes in investment associated with CPPs, (2) transparency of information, and (3) ability to consult for interested parties eg, consumers:

- **How might the current CPP IMs be refined to better promote the overarching objectives of the IM Review?**
 - **Are there information or application requirements that you consider are not needed for the regime? If so, which ones are they, and why?**
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No comment

E4. If you hold a view that our current suite of DPP reopeners does not fulfil a similar purpose as a single-issue CPP, please explain why, and provide examples of scenarios that would not be covered by existing DPP reopeners.

No comment

Appendix A – ENA Members

The Electricity Networks Association makes this submission along with the support of the members, listed below.

Alpine Energy
Aurora Energy
Buller Electricity
CentraLines
Counties Energy
Eastland Network
Electra
EA Networks
Horizon Energy Distribution
Mainpower NZ
Marlborough Lines
Nelson Electricity
Network Tasman
Network Waitaki
Northpower
Orion New Zealand
Powerco
PowerNet
Scanpower
Top Energy
The Lines Company
Unison Networks
Vector
Waipa Networks
WEL Networks
Wellington Electricity Lines
Westpower