

# **Information Disclosure Requirements for Electricity Distribution Businesses and Gas Pipeline Businesses**

## **Process Update Paper**

Date: 23 May 2012

## Purpose

1. The purpose of this Process Update Paper is to:
  - summarise progress since the Commerce Commission (the Commission) released its draft Information Disclosure Determinations for electricity distribution businesses (EDBs) and gas pipeline businesses (GPBs) (draft ID Determinations) on 16 January 2012
  - advise interested persons of the updated process the Commission will follow in finalising its draft ID Determinations
  - set out the implications of the revised timeline for disclosures relating to the 2012 disclosure year, for EDBs and GPBs.
2. We have set out the process we will follow in setting information disclosure requirements for Transpower in a separate Process Update Paper.<sup>1</sup>
3. We are not seeking submissions on this paper.

## Progress since draft decisions

4. We issued our draft ID Determinations on 16 January 2012. Since then we have:
  - received submissions and cross-submissions on the draft ID Determinations
  - reconvened the technical reference group on information disclosure on 30 April and 1 May 2012. Attachment 1 provides information on the membership of the technical reference group, and the timing and focus of the group's input.

## Our updated process

5. We plan to further engage with interested persons on the implementation of the proposed information disclosure (ID) requirements through a round of technical consultation on the revised draft ID Determinations. With the exception of the specific topics identified in paragraph 6 below, this consultation will be limited to submissions on whether the technical drafting of the revised draft ID Determinations give effect to the updated draft decisions. It is not an opportunity for submissions on the substantive content and approach to the revised draft ID Determinations.

---

<sup>1</sup> Commerce Commission, *Information Disclosure Requirements for Transpower: Process Update Paper*, 2 May 2012, available from <http://www.comcom.govt.nz/part-4-review-of-electricity-information-disclosure-requirements/>

6. At the same time as technical consultation, we will consider limited substantive submissions on specific topics. The topics are:
  - revised information disclosure requirements in relation to gas transmission pipeline capacity
  - definitions for terms that were not defined in the draft ID Determinations.
7. While definitions are largely technical, we recognise that they may impact on the substance of proposed information requirements. We will therefore consider substantive comment on definitions that were not part of the draft ID Determinations.
8. Where a submitter proposes an alternative for the topics in paragraph 6, we expect that specific technical drafting suggestions that give effect to that alternative proposal will also be provided.
9. We will consider whether there is a need to provide for cross-submissions on these topics once we have received submissions.
10. Parties submitting in technical consultation on revised draft ID Determinations will be the same as those submitting on our draft additional input methodologies. We have adjusted our timetable for further consultation on ID to take account of the consultation timetable for the draft additional input methodologies. Table 1 sets out our updated process and timeframes for ID.

**Table 1: Updated process and timeframes**

<b>Key Steps</b>	<b>Date</b>
Revised draft ID Determinations and Update Paper released for technical consultation	late June 2012
Submissions on revised draft ID Determinations	mid July 2012
Final ID Determinations released	August 2012

11. We propose to make amendments to input methodologies that apply to ID for electricity lines services and gas pipeline services, specifically to:
  - modify the treatment of asset acquisitions by EDBs, GDBs, and GTBs from related parties in the asset valuation input methodologies
  - align all of the input methodologies for GDBs and GTBs on the basis of a single common 'disclosure year' from 1 October to 30 September.

12. We issued a Notice of Intention to commence work on these amendments on 19 April 2012.<sup>2</sup> We published a consultation paper on these proposed changes on 11 May.<sup>3</sup> Submissions are due on that paper on 1 June 2012.
13. Our previous consultation in relation to the treatment of related party transactions under ID had a wider scope than the current consultation on amendments to IMs. This is because the IMs only specifically apply to a limited set of transactions. We will take account of all submissions received on the draft ID determinations making our final decisions on the treatment of related party transactions under ID. In addition, our final ID Determinations will be consistent with our final decisions on the proposed amendments to the IMs.

### **Implications of the revised timeline for disclosures relating to the 2012 disclosure year**

14. The updated process will affect the timing of EDBs' and GPBs' disclosures for the 2012 disclosure year. We set out our revised expectations for when the first disclosures under the new ID Determinations would be required in Table 2 below.
15. Some of the submissions we received on the draft ID Determinations commented on the timing of information disclosure, including when new ID requirements should first apply. GPBs' submissions also commented on our proposed definition of 'disclosure year' (the period to which disclosed information relates). As we have yet to make final decisions on these matters, the timings below are indicative only. However, we will not require suppliers to make disclosures for the first year to which new ID requirements apply any earlier than the times indicated in Table 2.
16. If we decide that the new ID requirements will not apply to EDBs until the 2013 disclosure year, we will grant an exemption in relation to disclosure deadlines under clause 9 of the Electricity Distribution Information Disclosure Requirements 2008 (2008 ID Requirements), with respect to the disclosures in clauses 3, 4, 6, and 7(5) so that EDBs will not be required to disclose information under the 2008 ID Requirements before 31 December 2012 (as shown in Table 2 below).

---

<sup>2</sup> Notice of Intention: Proposed Amendments to Input Methodologies for Electricity Lines Services and Gas Pipeline Services, 19 April 2012.

<sup>3</sup> Commerce Commission, Consultation on Electricity and Gas Input Methodology Determination Amendments 2012: Draft amendments to Decisions 710, 711, and 712 under s52X of the Commerce Act 1986, 11 May 2012, available from <http://www.comcom.govt.nz/assets/Pan-Industry/Input-Methodologies/Correspondence-and-Process-Updates/Consultation-on-Electricity-and-Gas-Input-Methodologies-11-May-2012.PDF>.

Table 2: Revised timing for first disclosures under new ID Determinations

Disclosure type	First year to which disclosure applies	Proposed timing of first disclosure under new ID Determinations
EDBs—forecast disclosures*	Year ended 31 March 2014	By 1 April 2013 (no change)
EDBs—actual disclosures	Year ended 31 March 2012	31 December 2012
GPBs—forecast disclosures*, **	Year ended 30 September 2014	By 30 September 2013
GPBs—actual disclosures	Year ended 30 September 2012	By 30 April 2013

\* forecast information is for the period starting from the specified disclosure year.

\*\* Given our revised timing we have decided not to require GPBs to provide forecast disclosures for the year ended 2013. This is a change from our draft ID Determinations.<sup>4</sup>

### GPBs: Transition from the Gas (Information Disclosure) Regulations 1997

17. We have been working with the Ministry of Economic Development (MED) to ensure a smooth transition from the Gas (Information Disclosure) Regulations 1997 (GIDRs), which the MED administers, to the new ID Determinations. Based on our discussion with MED regarding final disclosures under the GIDRs, our expectation is that the timing of initial disclosures under the new regime proposed above will not cause any material discontinuities in data. If we confirm our draft decision that the first year to which the new ID Determinations apply is the year ended 30 September 2012, then:

- for those GPBs whose 2011 financial year ended on 30 June 2011 (Vector Limited, Powerco Limited, and GasNet Limited), this will result in a three month gap in information between the last disclosure under the GIDRs, and the first disclosure under the new ID Determinations. As discussed in our Draft Reasons Paper, we consider a three month gap is not material, and so we do not propose to require further information from these GPBs;<sup>5</sup>
- for Maui Development Limited a disclosure of performance measures and statistics for the year ended 31 December 2011, under the GIDRs is due by 31 May 2012. This will result in a three month overlap of information rather than the nine month gap previously provided for in the draft ID Determination.

<sup>4</sup> See Commerce Commission, *Information Disclosure Requirements for Electricity Distribution Businesses and Gas Pipeline Businesses: Draft Reasons Paper*, 16 January 2012, page 101, table 6.2.

<sup>5</sup> *Ibid.*, page 103, paragraph 6.57.

Accordingly, if Maui makes a final disclosure for the year ended 31 December 2011 under the GIDRs, no additional transitional disclosure will be required under the new ID Determination.<sup>6</sup>

18. If the Commission decides to defer the first disclosure year for GPBs under the new ID Determinations to year ended 2013, then the GIDRs will continue to apply to GPBs, with respect to the 2012 financial year. MED has indicated that it may consider granting exemptions to Vector Limited, Powerco Limited, and GasNet Limited in relation to disclosure deadlines under the GIDRs for the 2012 financial year on a case by case basis.

---

<sup>6</sup> This is a change from our draft Decision. In our draft ID Determination for GTBs we provided that MDL would be required to disclose specific information in relation to the 12 month period to 31 December 2011, under the new requirements (see Commerce Commission, *Draft Commerce Act (Gas Transmission Services Information Disclosure) Determination 2012*, clause 2.10.9). This was to address the 9 month gap that would arise if MDL's final disclosure under the GIDRs is for the year ended 31 December 2010.

### Attachment 1: Purpose and membership of the Technical Reference Group

1. In 2011 we convened a technical reference group (TRG) to provide technical input to the draft ID Determinations. In particular, we sought input on the proposed requirements for asset management information. The TRG comprised industry representatives from a range of small and large suppliers of gas distribution, gas transmission and electricity distribution services. The TRG met with Commission staff on 31 October 2011 and 1 November 2011. Minutes from the TRG meeting are available on our website.<sup>7</sup>
2. Following receipt of submissions on the draft ID Determinations, we reconvened the TRG to obtain detailed technical feedback on the implementation of specific elements of the ID requirements, as an input to finalising ID Determinations. The TRG met on:
  - Monday 30 April to discuss requirements for electricity distribution businesses
  - Tuesday 1 May to discuss requirements for gas pipeline businesses.
3. We consulted with the original TRG members to confirm which individuals with working knowledge of each sector could advise on the workability of proposed requirements. Table 3 below records the attendees at the recent TRG meetings.

**Table 3: Technical Reference Group attendance: 30 April and 1 May 2012**

<b>Technical reference group: EDBs (30 April 2012)</b>	<b>Technical reference group: GPBs (1 May 2012)</b>
Dennis Jones (Orion)	Lynne Taylor (PWC)
Lynne Taylor (PWC, on behalf of ENA)	Ryno Verster (Vector)
Ryno Verster (Vector)	David Innes (Vector)
Brent Norriss (The Lines Company)	Michael Clark (Vector)
Greg Buzzard (Powernet)	Geoff Evans (GasNet)
Karen Frew (Powerco)	Jelle Sjoerdsma (Maui Development Limited)
	Karen Frew (Powerco)
	Ian Wilson (GIC)

<sup>7</sup> See, Commerce Commission, *Information Disclosure Technical Reference Group Meeting (31 October to 1 November 2011)*, available at <http://www.comcom.govt.nz/assets/Electricity/Information-Disclosure/Part-4-Review/Minutes-ID-Technical-Reference-Group-Meeting-31-October-2011.pdf>.

4. At these meetings, the TRG provided feedback on the proposed form of data collection in relation to:
  - 4.1 schedules 6, 7, 13, 14, 15, 16, 18, and 19 of each of the draft ID Determinations
  - 4.2 Appendix B of the draft GTB ID Determination and the draft GDB ID Determination.
5. The focus of the meetings was on detailed implementation of these schedules and appendices. We will highlight changes resulting from the TRG's feedback in the Update Paper that will accompany our revised Draft ID Determinations.