

General comments and observations about EDBs information disclosures

Disclosure year 2013



General comments and observations about EDBs information disclosures for the 2013 disclosure year

Purpose

1. We are issuing these comments to provide feedback to EDBs about the first year of information disclosure under the 2012 electricity and gas Information Disclosure (ID) regime.
2. The document is intended to inform EDBs and their auditors about the level of compliance with these requirements for 2013, and our compliance expectations for 2014. This document should be used by electricity and gas businesses to increase their understanding of their obligations under the ID requirements and to improve their compliance where necessary.
3. The clarifications we make about our compliance expectations and the guidance we provide about the ID requirements is relevant to both EDBs and GPBs. While we provide specific comments on aspects of the EDB disclosures, the general guidance is also relevant to GPBs.
4. We are not seeking feedback from suppliers about the observations or comments within this document although suppliers are free to provide us with their views if they wish to do so.

Scope of our review of EDBs information disclosures

5. We have made general comments in this document about aspects of EDBs 2013 disclosures. We do not make statements about each EDB's compliance with the ID requirements or comment on our enforcement response to instances of non-compliance.
6. The scope of our assessment for the 2013 disclosures is not limited to the comments in this paper. Further review of suppliers' disclosed information may occur at other times as necessary in fulfilling our responsibilities under Part 4 of the Commerce Act 1986.
7. Our approach for assessing disclosed information will become more targeted over time as suppliers better understand the requirements and the level of EDBs' compliance improves.

Key messages about compliance with information disclosure regulation

8. We acknowledge that EDBs put in substantial effort in completing their 2013 disclosures under the new ID regime. However, there are some key areas that need to be addressed by many EDBs in their next disclosures to better comply with the ID requirements.

9. Non-compliance with the ID requirements is a breach of regulated suppliers' statutory obligations, and is a contravention of section 86 of the Commerce Act 1986¹.
10. We expect improved compliance from EDBs in the 2014 disclosure year particularly with regard to the timeliness, completeness, and quality of disclosed information.
11. Most EDBs disclosed information on time, but a small number of EDBs failed to comply with the public disclosure dates under the determination.
12. The quality and completeness of disclosed information varied across EDBs. While some EDB's disclosures were of a higher quality than others some general improvements can be made by all EDBs. We found basic errors in some disclosures, such as inconsistencies between disclosed information in excel and pdf, and missing or erroneous data.
13. We expect that all suppliers have robust internal processes in place to monitor compliance with their regulatory obligations. Complying with regulatory obligations should be integrated into normal business practices, including processes for checking the completeness and quality of disclosed information.
14. Our feedback about issues and recommendations to assist suppliers improve their 2014 disclosures is in the following table.
15. While these issues do not all affect compliance with the determination, we are also seeking an improvement in the quality of EDBs disclosures. This will improve transparency of information and better quality of data for use by interested persons.

Next steps for 2014

16. We are focusing on educating suppliers to understand their regulatory obligations and to reduce the level of non-compliance. We are running education workshops in early 2014 and will continue to respond to queries about ID through the ID Issues Register process.
17. We expect an improved level of compliance from suppliers in 2014 as they better understand the requirements and how to comply.
18. Suppliers can contact us about problems in complying with the requirements, or to raise queries about the requirements. Please send queries to: regulation.branch@comcom.govt.nz.

¹ The Commission may bring court proceedings seeking a pecuniary penalty, and in the case of an intentional breach lay criminal charges.

General comments about EDBs information disclosures for disclosure year 2013

All clause references refer to the Electricity Distribution Information Disclosure (ID) Determination 2012 unless otherwise indicated.

1. Late public disclosure of information

What we observed

Most EDBs publicly disclosed their 2013 disclosures on time, however it was disappointing that a number of suppliers disclosed information after the required due date. We followed up late disclosure of information directly with EDBs.

- *4 EDBs disclosed AMPs to the Commission after the required due date.*
- *2 EDBs disclosed pricing methodologies to the Commission after the required disclosure date.*
- *All EDBs disclosed line charges on their website for the 2014 pricing year. However, not all EDBs disclosed this information to the Commission.*
- *2 EDBs failed to meet the required due date to disclose all information that was required by 31 August for disclosure year 2013.*

Our feedback and expectations

- We expect all EDBs to meet their regulatory disclosure obligations and disclose information on time.
- Failing to disclose information within the time required is a contravention of section 86(1)(a) of the Commerce Act 1986.
- ‘Publicly disclose’ is a defined term under clause 1.4.3 of the ID determination. Suppliers are required to disclose to the Commission within 5 working days of a public disclosure date.

AMP reports

- Suppliers are not required to disclose a full AMP in disclosure year 2014, but may elect to do so under clause 2.6.3 of the ID determination.
- We have provided guidance about the disclosure years when a full AMP is required to be disclosed. This guidance is included in the ID Issues Register published on our website (#216).
- Further guidance about the disclosure years when a full AMMAT is required is also provided within the general information in the excel templates for schedule 11a-13 v3.0 on our website at:
<http://www.comcom.govt.nz/regulated-industries/electricity/electricity-information-disclosure/current-electricity-information-disclosure-requirements/>

	<p>Pricing methodologies</p> <ul style="list-style-type: none"> • EDBs are required to publicly disclose pricing methodologies before the start of the pricing year. The pricing year begins on 1 April of each disclosure year. EDBs are subject to a number of additional requirements when their pricing methodology has changed or a different pricing methodology is adopted. In this case EDBs are required to publicly disclose earlier, at least 20 days before any new prices take effect. The relevant pricing disclosure requirements are under clauses 2.4.1 and 2.4.2 of the ID determination. • We are aware that EDBs received comments about their 2013 pricing methodologies from Castalia as part of the EA’s review of distributors pricing methodologies. We anticipate that EDBs will consider the recommendations from the review in preparing their 2014 pricing disclosures. <p>Line charges</p> <ul style="list-style-type: none"> • EDBs are required to publicly disclose their line charges for the 2014 pricing year at least 20 working days before the prices take effect on 1 April of each disclosure year, and to the Commission within 5 working days of the disclosure.
2. Requests for extension to disclosure dates	
<p>What we observed</p> <p>For the 2013 information disclosure year, we received 9 exemption requests (from 7 EDBs) that included requests for extension to disclosure dates.</p> <ul style="list-style-type: none"> • <i>Exemptions were granted to 4 EDBs to extend their public disclosure dates based on reasonable grounds. 2 exemption requests were declined by the Commission.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • The Commission may exempt an EDB from any or all of the requirements of the determination as specified in a written notice to the EDB, and amend or revoke any such exemption, under clause 2.11 (1) and (2) of the ID determination. EDBs may choose to apply for exemptions if they are unable to meet any part of the requirements on reasonable grounds. • It is important that EDBs plan the completion of their disclosures in good time to avoid failing to disclose on time.

	<ul style="list-style-type: none"> • EDBs intending to apply for exemptions should contact the Commission as early as practicable. The application must identify the relevant clause and explain why they are unable to meet their obligations under ID in time.
3. Completeness of disclosed information	
<p>What we observed</p> <p>We found that some EDB's disclosures were incomplete. We noted a number of instances where required information was not disclosed, including missing required data points. The absence of the required information was not always explained.</p> <p>3a. Forecast information</p> <ul style="list-style-type: none"> • <i>Examples include forecast disclosures missing data in CY, and information for non-network opex not disclosed in schedule 11b Report on Forecast Operational Expenditure.</i> • <i>A number of EDB's forecast disclosures displayed nominal and constant prices the wrong way round or used the incorrect year as the base year.</i> • <i>Some EDBs did not disclose the value of commissioned assets in capital expenditure forecast schedule 11a, including forecasts for CY 2013. However we noted that these EDBs disclosed actual commissioned assets for the 2013 disclosure year in schedule 4.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • Suppliers must complete all required disclosures under ID. We expect suppliers to clearly indicate why a required disclosure has not been made. • Suppliers can indicate 'not applicable' or 'n/a' or if the value of the required information is zero, then suppliers should populate a zero or dash in the required cell where applicable. • If schedule 5c is not applicable, suppliers should indicate 'not applicable' in an input cell in the schedule. • This recommendation is also applicable to the mandatory note disclosures. • Further guidance has been provided in the revised excel templates v3.0 on our external website about the interpretation of nominal prices for forecast information. • We recommend that suppliers adopt a checklist to ensure that all parts of the determination requirements are met, including tracking the completeness and format of disclosures, and disclosure due dates.

<p>3b. Historical financial information</p> <p>What we observed Some EDBs failed to disclose pass-through and recoverable costs in the breakdown required in schedule 3(ii) of the ID disclosures.</p> <ul style="list-style-type: none"> • <i>We found instances of EDBs not providing a breakdown of pass-through and recoverable costs in schedule 3(ii), instead overriding the formula totaling pass-through and recoverable costs in order to disclose a total figure in row 49.</i> • <i>Some EDB's disclosures were missing schedules, for example schedules 5g and 5f.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • We request suppliers to provide full pass-through and recoverable costs data in schedule 3(ii). • Our intention is that exempt and non-exempt EDBs apply IM clause 3.1.2 and 3.1.3 and disclose the breakdown of these costs in schedule 3(ii).
<p>4. Interpretation of information disclosure requirements</p>	
<p>What we observed Misinterpretation of information disclosure requirements has resulted in a number of errors in EDBs 2013 disclosures. The following examples were noted:</p> <ul style="list-style-type: none"> • <i>Schedule 12c(i) - Disclosing ICP connections as 'net' rather than the required 'gross' basis (refer to ID Issues register #81).</i> • <i>Schedule 5a - Permanent difference adjustments in calculating 'regulatory taxable income' were not correctly applied in accordance with the electricity Input Methodology (IMs) e.g. 'regulatory profit/loss before tax' was not adjusted for total revaluation to derive 'income included in regulatory profit/(loss) before tax but not taxable'.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • Suppliers are encouraged to raise queries through the ID Issues register process so we can assist them in understanding the requirements. • There was a common misunderstanding of the requirements in completing schedule 5a. We will hold a regulatory taxation workshop in early 2014 to provide further guidance to suppliers and auditors of the requirements in completing schedule 5a.

5. Independent assurance report - qualifications

What we observed

Qualified audit opinions were issued to a number of EDBs regarding their network reliability information disclosed in schedule 10.

- *Qualified audit opinions were issued to 8 EDBs relating to ID schedule 10(i) to 10(iv). The audit opinions stated that there were inherent limitations in the ability of the company to collect and record network reliability information required to be disclosed.*

Our feedback and expectations

- We expect that those EDBs with qualified audit opinions will assess the quality of their processes for collecting network reliability information required to be disclosed in schedule 10(i) to 10(iv) and improve those processes to the extent reasonably possible.
- We suggest that audit firms consider the basis on which assurance is gained for the reliability of SAIDI and SAIFI information. We make this comment with respect to the extent to which interested person's place reliance on audited and certified disclosed information.

6. Alterations to excel templates

What we observed

We noticed that a number of EDBs made alterations to original formulas or to template formats that resulted in disclosed information containing errors. This was observed across a range of EDBs disclosure templates.

- *A number of EDBs altered original formulas or created new formulas within the excel ID templates causing errors to occur in disclosed information (affecting 31 schedules across the EDBs).*
- *Some suppliers altered the structure of the excel ID templates causing formulas to be omitted or not properly copied across e.g. total formulas in schedule 8.*

Our feedback and expectations

- We ask suppliers not to make any unilateral alterations to the excel ID templates but instead inform us of any errors within the excel templates they have identified.
- We recommend that suppliers complete their 2014 disclosures using the revised excel templates that will be available on our website. The publication dates for revised excel templates are posted on our website.
 - <http://www.comcom.govt.nz/current-electricity-information-disclosure-requirements/> for EDBs , or
 - <http://www.comcom.govt.nz/gas-information-disclosure/> for GPBs.
- For EDBs, we published revised excel templates for ID schedules 11a-13 on our website on 13 December 2013.
- Guidance will be available with the published templates to assist users to complete the schedules and to identify the changes in the 2014 templates.
- EDBs are required to complete schedules 8, 9a, 9b, and 9c for each of their

<ul style="list-style-type: none"> • <i>EDBs with sub-networks incorrectly used sub-network totals instead of consolidated business totals in their disclosures.</i> <p>We appreciate that a number of EDBs corrected known formula errors in the excel templates as instructed in our guidance published on our website on 28 May 2013. We found it very helpful when suppliers provided commentary about the alterations made within the templates.</p>	<p>sub-networks. EDBs must also disclose the consolidated business totals of their sub-networks in schedules 8, 9a, 9b, and 9c.</p>
7. Consistency of disclosed information	
<p>What we observed</p> <p>A small number of EDB's disclosures of forecasts differed from the disclosed information contained within their AMP report for disclosure year 2013. This is due to the EDBs submitting updated forecast information with their year ending disclosures to correct errors in previously disclosed information. The disclosed forecast information re-submitted to the Commission is consequently not consistent with the forecast information contained within the AMP reports.</p> <ul style="list-style-type: none"> • <i>9 EDBs disclosed different information between the excel templates and pdf disclosures.</i> • <i>A number of EDBs did not disclose their 2013 expenditure forecasts from their 2012 Asset Management Plan in the correct categories outlined in the transitional provision clause 2.12.5(5) and (8).</i> • <i>The re-submitted information in some instances was not re-certified and we were not informed that the EDB had intended to revise and re-submit these disclosures.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • Where EDBs propose to disclose revised information to correct errors, we ask that suppliers first inform the Commission. • We expect that disclosed forecast information contained within the AMP report is consistent with disclosed forecast information contained within the excel templates submitted to the Commission. • EDBs are not required to provide updated forecast information after the initial disclosure of forecast schedules due by 31 March each year. • We do not expect EDBs to re-submit their AMP forecast schedules in excel format to the Commission in August. EDBs must submit their AMP forecast schedules in excel format when they disclose their Asset Management Plan to the Commission.

8. Governance responsibilities – certification of compliance with the ID determination

What we observed

We observed an absence of proper internal review of some EDB's disclosures prior to public disclosure and submission to the Commission.

- *As previously stated, we found a number of errors or where incomplete information was disclosed. Those disclosures containing incomplete information or errors had been director certified.*

We also noted that some EDBs were not fully aware of the new requirements for certification by directors.

- *We noted an instance of a statutory declaration being disclosed instead of the Director Certification required under the 2012 ID determination.*

Our feedback and expectations

- Director Certificates are required to be signed by 2 directors of the EDB under clause 2.9 of the electricity ID determination.
- Director Certification obligations for the 2014 disclosure year are set out in clauses 2.9.1 to 2.9.2 of the ID determination. Clause 2.9.3 relates to certification of transitional provisions for the 2013 disclosure year.
- Directors should ensure that the clauses and statements they are attesting to reflect a true and accurate statement of compliance with the ID requirements. We expect that directors take due consideration of processes in place to ensure that information is disclosed correctly.
- Statutory declarations are not required under the 2012 ID determination.

9. Inconsistencies in initial Regulatory Asset Base (RAB) and asset adjustment information (2004-2009)

What we observed

We investigated inconsistencies in a small number of EDB's 2013 disclosures relating to initial RAB and/or asset adjustments compared with information previously provided to the Commission for the asset adjustment process.

We sought explanations from the EDBs about these inconsistencies.

- *We consider that the reasons for the inconsistencies have been adequately explained by the EDBs, and that errors were corrected in order to disclose accurate information in the 2013 disclosure year.*

Our feedback and expectations

- EDBs should contact the Commission about issues with previous disclosures before making revisions to their disclosures. We will advise suppliers about the appropriate next steps regarding their disclosure after considering the errors in previously disclosed information

<p>10. RAB roll-forward (2010-2013)</p>	
<p>What we observed We found that there were issues with some EDB's RAB roll-forward.</p> <ul style="list-style-type: none"> • <i>4 EDBs were found to have asset commissioned information that was inconsistent with previous information submitted to the Commission.</i> • <i>1 EDB applied incorrect CPI values to calculate asset revaluations in 1 year of their RAB roll-forward.</i> • <i>1 EDB disclosed inconsistent asset revaluations amounts in their RAB roll-forward and in the calculation of asset revaluations.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • We expect that the information disclosed will be consistent with information previously submitted to the Commission. • We expect EDBs to use their 2010-2013 roll-forward RAB amounts disclosed in 2013 to complete schedule 4(i) for the 2014 disclosure year. • We intend to publish the CPI values for the disclosure year 2014 in a future update of the ID Issues Register to assist suppliers.
<p>11. RAB roll-forward - transitional disclosures (2010-2012)</p>	
<p>What we observed Our comments about the roll-forward of opening balances from prior year closing (schedules 4 and 5a) include:</p> <ul style="list-style-type: none"> • <i>Generally well done by EDBs. Most of the opening balances rolled-forward were automatically linked from other schedules.</i> • <i>All but 1 EDB corrected an opening balance formula error requested by the Commission.</i> 	<p>Our feedback and expectations</p> <ul style="list-style-type: none"> • For 2014 and subsequent disclosure years, suppliers are required to manually input opening balances from the prior year's closing balance. • We will provide further guidance on the excel templates to assist supplier's understand what information is carried forward from prior year closing to current year opening.

12. Pricing and related information	
<p data-bbox="147 256 495 284">12a. Capital contributions</p> <p data-bbox="147 336 398 363">What we observed</p> <p data-bbox="147 376 1012 443">We observed a range of practices by suppliers in documenting and disclosing information about capital contributions.</p> <ul data-bbox="147 496 1012 754" style="list-style-type: none"> <li data-bbox="147 496 1012 563">• <i>We only received capital contribution policies from 13 EDBs for 2013.</i> <li data-bbox="147 616 1012 754">• <i>Some EDB's capital contributions policies do not include all required information, such as a statement of whether a person can use an independent contractor to undertake some or all of the work related to the capital contribution.</i> 	<p data-bbox="1068 256 1485 284">Our feedback and expectations</p> <ul data-bbox="1068 296 2132 483" style="list-style-type: none"> <li data-bbox="1068 296 2132 363">• The requirements for disclosure of capital contributions are set out under clauses 2.4.6 to 2.4.8 of the ID determination. <li data-bbox="1068 376 2132 483">• EDBs should check this disclosure requirement, and if applicable, ensure their disclosures meet the requirements set out in clauses 2.4.6 to 2.4.7 of the ID determination.
<p data-bbox="147 770 734 798">12b. Contracts – standard and non-standard</p> <p data-bbox="147 850 398 877">What we observed</p> <p data-bbox="147 890 1021 957">We have observed that only 5 EDBs disclosed prescribed terms and conditions of contracts to the Commission in 2013.</p>	<p data-bbox="1068 770 1485 798">Our feedback and expectations</p> <ul data-bbox="1068 810 2132 997" style="list-style-type: none"> <li data-bbox="1068 810 2132 877">• Public disclosure of pricing information is an ongoing compliance obligation under ID. <li data-bbox="1068 890 2132 997">• If suppliers have further questions about the ID requirements for disclosing pricing and related information, please contact us. Our responses are located on the published ID Issues Register on our website.

13. Mandatory and voluntary note disclosures

What we observed

Explanatory note disclosures contained a varying depth of information by EDBs. We also found that all required sections were not completed in some EDB's mandatory notes disclosures.

Our feedback and expectations

- EDBs are required to complete all mandatory note disclosures. Suppliers must ensure that the requirements for individual note disclosures are met and that the information is consistent with related schedules.
- If a mandatory note disclosure is not applicable to the supplier, an appropriate remark should be made to indicate this.
- We encourage EDBs to provide a more comprehensive level of information in the notes. Explanatory notes provide useful additional context to support the information disclosed in the schedules.

14. Format of disclosures

What we observed

We noted a number of instances where EDB's disclosures were not provided to the Commission in the required format or not clearly displayed.

- *Some disclosures published on EDB's websites were hard to read due to the size of the schedules and resolution of the document once transferred to pdf format.*
- *Some disclosure schedules in pdf format were not fully displayed.*

Our feedback and expectations

- It is important that EDBs make their disclosures in the correct format. This enables interested persons to easily extract information from the disclosures in assessing whether the Part 4 purpose has been met.
- We request that suppliers review their pdf format disclosures before publicly disclosing on their websites to ensure readability for users.

Disclosure format requirements under ID

- EDBs are required to disclose information on their website in the following format:
 - PDF or Excel/Word format
- EDBs are required to disclose information to the Commission in the following format:
 - Format disclosed on EDBs website; and
- Schedules in Excel format (or Word format where applicable)
- We suggest that suppliers resize the excel templates when converting into pdf format for better display and readability for interested persons.

In the event of an error

19. Where an EDB or GPB discovers an error made in a previous ID disclosure, we request the EDB or GPB to:
 - 19.1 bring the error to our attention;
 - 19.2 provide a thorough explanation for how the error occurred; and
 - 19.3 provide a thorough explanation of the steps taken to prevent such an error from occurring in future.

In the event of non-compliance

20. Where an EDB or GPB anticipates future non-compliance with the ID requirements, we expect the EDB or GPB to provide a thorough explanation of:
 - 20.1 the non-compliance such that the Commission can understand how and why the past non-compliance occurred:
 - 20.2 the actions the EDB has taken to mitigate the impact of the non-compliance; and
 - 20.3 the actions the EDB has taken to prevent such a non-compliance from occurring again.
21. We will work with suppliers in addressing non-compliance and our enforcement response options available, which may include re-disclosure.

Index

1. Late public disclosure of information
2. Requests for extension to disclosure dates
3. Completeness of disclosed information
4. Interpretation of information disclosure requirements
5. Independent assurance report – qualifications
6. Alterations to excel templates
7. Consistency of disclosed information
8. Governance responsibilities
9. Inconsistencies in the initial RAB and asset adjustment information (2004-2009)
10. RAB roll-forward (2010-2013)
11. RAB roll-forward - transitional disclosures (2010-2012)
12. Pricing and related information
13. Mandatory and voluntary note disclosures
14. Format of disclosures