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Dr Mark Berry
Chair
Commerce Commission
P O Box 2351
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Dear Mark

Further Work for the Reset DPP

We refer to the recently published Further Work for the Reset DPP Process Paper which sets out the Commerce Commission's planned process for a number of work streams that are to be considered in the context of the Reset DPP for EDBs.

The ENA supports the areas identified for further work, as follows:

- Consistency with Input Methodologies (IMs)
- Starting price adjustments
- Revenue adjustment term within allowable notional revenue
- Energy efficiency mechanisms
- Quality incentives
- Enforcement Guidelines.

We note that the Final Decisions Paper on the Reset DPP indicated that further work was also to be undertaken on the definition of avoided transmission costs. This issue is omitted from the areas for further work identified in the Process Paper, and needs to be included.

The ENA is concerned at the proposed consultation timetable, particularly as the proposed General Issues Discussion Paper appears to coincide with the timing for the Input Methodology Draft Determinations, workshops and associated submissions. It is difficult to achieve meaningful consultation when the timetables of significant consultation documents overlap (as experienced in mid 2009). It would be helpful if the Commission were to publish an overall timetable for all of the consultations which impact EDBs and GPBs during 2010 inclusive of target publication dates and deadlines for submissions. In addition the Electricity Industry Bill consultation timetable for 2010 also needs to be considered, as well as the Electricity Commission's and the Gas Industry Company's work programmes for the year.

ENA members appreciate the Commission has a number of work streams it plans to complete in 2010 and 2011 and has a number of resources engaged in preparing relevant

consultation documents for each of these work streams. The scheduling of consultation documents and submission deadlines is an important issue however as EDBs and their advisors have limited resources available to them with the experience required to meaningfully engage across these work streams. Although it is possible to scale up regulatory teams to a certain extent, EDBs must ensure their senior managers and boards are fully briefed and actively engaged in the decisions that need to be made in response to the Commission's papers. These functions are not scalable and businesses still have to function.

We are also concerned at the proposed sequencing of the Reset DPP consultations. The Input Methodologies are to be finalised in the fourth quarter of 2010 (at the latest by 31 December), however the proposed Reset DPP timetable includes the Input Methodology consistency work stream in the June/July General Issues Paper with a Draft Decision and amended Determination scheduled for October, ahead of the Input Methodology Determinations. This sequencing is unnecessarily premature and not appropriate.

To date there has been very little consultation on how starting price adjustments may be implemented. As any starting price adjustments will be influenced by the Input Methodologies, it is appropriate for this work stream to be scheduled after the IM determinations are finalised. There are also two important consultation steps which appear to be missing from the proposed timetable and which need to occur before the proposed information request for starting price adjustments is made. The first is the implementation of the IMs and the second is consultation on the methodology for the Reset DPP. The ENA considers good regulatory practice requires that the methodology is determined before an information request is issued to implement that methodology.

It is not clear how much time has been allowed for EDBs to apply the new IMs following the final determinations. It will not be possible to estimate this until the final IMs have been determined. This will be an important factor in determining the timetable for the Reset DPP work stream. Accordingly the ENA submits that the Reset DPP process should be sequenced as follows:

- Finalise IM Determinations
- Implementation of IMs through amended information disclosure requirements⁽¹⁾
- Consultation and Decision on the Reset DPP methodology⁽¹⁾
- Specification of a Reset DPP implementation information request
- Consultation and Draft Decision on the implementation of the Reset DPP
- Technical drafting consultation
- Final Decision on the Reset DPP.

⁽¹⁾ These steps may be undertaken simultaneously.

We also note that following the proposed mid year Discussion Paper, only three of the six work streams are scheduled for further work in 2010 and 2011. The timetable for further work on the energy efficiency mechanisms, quality incentives and Enforcement Guidelines

are missing from the Process Paper. This omission needs to be addressed. In particular and as previously submitted the Enforcement Guidelines are required as soon as possible and preferably before the commencement of the Reset DPP. Post breach uncertainty was a major contribution to overall regulatory uncertainty under the previous thresholds regime, and the lack of guidance regarding the Commission's likely considerations and actions following a breach of the DPP contributes to similar outcomes.

Finally, we support the planned consultation on the headroom issue scheduled for 2010, and endorse the proposals to have this consultation completed and the outcomes gazetted by 1 December 2010. This timing is necessary to provide clarity for EDBs when setting their prices for the following pricing year.

We trust the Commission finds these comments useful as it considers its scheduling and processes for 2010 and 2011.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan', followed by a long, sweeping horizontal line that extends to the right.

Alan Jenkins
Chief Executive