



COMMERCE COMMISSION

CONSOLIDATED VERSION OF COMMERCE ACT (ELECTRICITY DISTRIBUTION DEFAULT PRICE-QUALITY PATH) DETERMINATION 2010 (including all amendments as at 20 October 2011)

On 30 November 2009 the Commission published Decision 685 Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010 (“principal determination”). This is a consolidated version of the principal determination and all current amendments made to the principal determination.

Pursuant to Part 4 of the Commerce Act 1986, the Commerce Commission (the “Commission”) has made the following amendments to the principal determination:

Decision 704 – Commerce Act (Electricity Distribution Default Price-Quality Path) Amendment Determination 2010

On 30 November 2010, the Commission issued Decision 704 to amend clause 8.4 of the principal determination. Decision 704 sets out the amendment determination, which comes into effect on and from 1 April 2011 and applies for the period 1 April 2011 to 31 March 2015.

Decision 722 – Commerce Act (Electricity Distribution Default Price-Quality Path) Amendment Determination 2011

On 30 March 2011, the Commission issued Decision 722 to amend clause 11.1 of the principal determination. Decision 722 sets out the amendment determination, which comes into effect on and from 31 March 2011 and applies for the period 31 March 2011 to 31 March 2015.

Decision [XXX] – Commerce Act (Electricity Distribution Default Price-Quality Path) Amendment Determination 2011a

On 20 October 2011, the Commission issued Decision [XXX] to amend Schedule 1 and a number of other clauses within the principal determination. Decision [XXX] sets out the amendment determination, which comes into effect on and from 31 March 2012 and applies for the period 31 March 2012 to 31 March 2015.

COMMERCE ACT (ELECTRICITY DISTRIBUTION DEFAULT PRICE-QUALITY PATH) DETERMINATION 2010

Pursuant to Part 4 of the Commerce Act 1986, the Commerce Commission makes the following determination:

1 Title

This determination is the Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010.

2 Commencement Date

This determination comes into force on 1 April 2010.

3 Application

3.1 This determination resets the default price-quality path provided for by section 54J(2) of the Act, ~~as required by under section 54K(3) section 54K(3)~~ of the Act.

3.2 This determination applies to every Non-exempt EDB during the Regulatory Period.

4 Interpretation

4.1 In this determination, unless the context otherwise requires,—

Act means the Commerce Act 1986

Annual Compliance Statement means a written statement made by a Non-exempt EDB under clause 11

Assessed Values means the aggregate SAIDI Values and SAIFI Values for an Assessment Period, which are derived from a Normalised Assessment Dataset

Assessment Dataset means the set of daily SAIDI Values and SAIFI Values for an Assessment Period, with SAIDI Values and SAIFI Values for an Interruption that spans multiple calendar days accrued to the day on which the Interruption began

Assessment Date means a date as at which compliance with the default price-quality path must be demonstrated, being 31 March of each of the years 2011 to 2015

Assessment Period means a period of 12 months ending on an Assessment Date

Auditor, in relation to a Non-exempt EDB, means a Person who:

- (a) is qualified for appointment as auditor of a company under the Companies Act 1993 or, where the Non-exempt EDB is a public entity (as defined in section 4 of the Public Audit Act 2001), is the Auditor-General; and
- (b) has no relationship with, or interest in, the Non-exempt EDB that is likely to involve the Person in a conflict of interest; and
- (c) has not assisted with the preparation of the Annual Compliance Statement or provided advice or opinions (other than in relation to audit reports) on the methodologies or processes used in preparing the Annual Compliance Statement; and
- (d) has the necessary expertise to properly undertake an audit required by clause 11.2; but

- (e) need not be the same Person as the Person who audits the Non-exempt EDB's accounts for any other purpose

Catastrophic Event has the same meaning as clause 5.6.1 of the IM Determination

~~**Avoided Transmission Charge** means any expense (including the cost of capital) of a Non-exempt EDB that arises during an Assessment Period from any activity which substitutes for use of the Transmission System~~

Class B Interruptions means planned Interruptions by a Non-exempt EDB

Class C Interruptions means Unplanned Interruptions originating within the System Fixed Assets of a Non-exempt EDB

~~**Commerce Act Levy** means an electricity industry levy paid or payable by a Non-exempt EDB under the Commerce Act 1986~~

Commission means the Commerce Commission

Consumer has the same meaning as in section 2(1) of the Electricity Act 1992

Consumer-Owned has the meaning set out in section 54D of the Act

CPI has the same meaning as clause 1.1.4 of the IM Determination ~~the consumer price index stipulated in the "All Groups Index SE9A" (or any successor to that index), as published by Statistics New Zealand~~

Director ~~has the same meaning as clause 1.1.4 of the IM Determination means, in the case of a Non-exempt EDB that is not a company, a person occupying a position in, or in relation to, the Non-exempt EDB that is comparable with that of a director of a company~~

EDB means a supplier of Electricity Lines Services other than Transpower

~~**Electricity Commission Levy** means an industry levy paid or payable by a Non-exempt EDB in accordance with section 172ZC of the Electricity Act 1992~~

Electricity Distribution Services has the same meaning as clause 1.1.4 of the IM Determination

Electricity Lines Services has the meaning set out in section 54C of the Act

First Assessment Period means the period 1 April 2010 to 31 March 2011

GST has the same meaning as clause 1.1.4 of the IM Determination

IM Determination refers to the Commerce Act (Electricity Distribution Services Input Methodologies) Determination 2010

Interruption means, in relation to the conveyance of electricity to a Consumer by means of a Prescribed Voltage Electric Line, the cessation of conveyance of electricity to that Consumer for a period of 1 minute or longer, other than by reason of disconnection of that Consumer—

- (a) for breach of the contract under which the electricity is conveyed; or
- (b) as a result of a request from the Consumer; or
- (c) as a result of a request by the Consumer's electricity retailer; or
- (d) for the purpose of isolating an unsafe installation

Non-exempt EDB means an EDB other than a Consumer-Owned EDB exempt under section 54G(2) of the Act

Normalised Assessment Dataset means an Assessment Dataset normalised in accordance with Schedule 3

Normalised Reference Dataset means a Reference Dataset normalised in accordance with Schedule 3

Pass-Through Costs has the same meaning as clause 3.1.2(1) of the IM Determination

~~(a) — the Transmission Charges, Rates, Electricity Commission Levies, and Commerce Act Levies paid or payable by a Non-exempt EDB during a Pricing Period;~~

~~but does not include:~~

~~(b) — any amounts described in paragraph (a) if the Non-exempt EDB demonstrates to the satisfaction of the Commission that those amounts were passed on transparently to its Consumers and/or electricity retailers~~

Person includes a corporation sole, a body corporate, and an unincorporated body

Posted Discount means a discount to charges payable for the supply of electricity distribution services ~~discount to line charges payable for Electricity Line Services where those discounts are offered by way of published tariffs schedules, whose take-up is determined by Consumers~~

(a) that is offered by an EDB in a published tariff schedule; and

(b) the take-up of which is determined by consumers

Prescribed Voltage Electric Line means an electric line that is capable of conveying electricity at a voltage equal to or greater than 3.3 kilovolts

Prices has the same meaning as clause 3.1.1(4) of the IM Determination

~~means:~~

~~a posted price (as defined in section 52C of the Act) in nominal terms (such as a tariff, fee or charge) or a component thereof, in relation to an Electricity Lines Service, and may include a Posted Discount;~~

~~but does not include:~~

~~any amounts described in paragraph (b) of the definition of Pass-Through Costs~~

Pricing Period means a 12 month period ending on 31 March

Quantity means the unit of quantity (which may include, but is not limited to, kWh, kVA, kW, and day) corresponding to a Price

~~**Rates** means the rates on System Fixed Assets paid or payable by a Non-exempt EDB to a territorial local authority under the Rating Powers Act 1988 or the Local Government (Rating) Act 2002~~

Recoverable Costs has the same meaning as clause 3.1.3(1) of the IM Determination

Reference Dataset means the set of daily SAIDI Values and SAIFI Values for the Reference Period, with SAIDI Values and SAIFI Values for an Interruption that spans multiple calendar days accrued to the day on which the Interruption began

Reference Period means the period 1 April 2004 to 31 March 2009

Regulatory Period means the period 1 April 2010 to 31 March 2015

Reliability Limits means the SAIDI and SAIFI levels against which a Non-exempt EDB's annual reliability performance is assessed

SAIDI Values means system average interruption duration index values based on Class B Interruptions and Class C Interruptions

SAIFI Values means system average interruption frequency index values based on Class B Interruptions and Class C Interruptions

System Fixed Assets means all fixed assets owned, provided, maintained, or operated by a Non-exempt EDB or Transpower that are used or intended to be used for the supply of Electricity Lines Services

System Operator Services means co-ordination services for the control, dispatch, and security functions necessary to operate the Transmission System

Third Assessment Period means the period 1 April 2012 to 31 March 2013

~~Transmission Charge~~ means any amount in respect of:

- ~~(a) — Electricity Lines Services provided to a Non-exempt EDB in respect of the Transmission System in accordance with the Transmission Pricing Methodology; and~~
- ~~(b) — the provision of System Operator Services; and~~
- ~~(c) — new investment contracts, as defined in Schedule F5 of Section IV of Part F of the Electricity Governance Rules 2003, between Transpower and a Non-exempt EDB; and~~
- ~~(d) — Avoided Transmission Charges~~

Transmission Pricing Methodology means the methodology Transpower uses to determine the prices it charges for its services, as set out in Schedule F5 of Section IV of Part F of the Electricity Governance Rules 2003

Transmission System means New Zealand's national electricity grid

Transpower has the meaning set out in section 54B of the Act

Unplanned Interruption means any Interruption in respect of which less than 24 hours notice, or no notice, was given, either to the public or to all Consumers affected by the Interruption.

4.2 Unless the context otherwise requires,—

- (a) terms used in this determination that are defined in the Act but not in this determination have the same meanings in this determination as in the Act;
- (b) words appearing in this determination with capitalised initial letters are defined terms and bear the meanings given to them in this clause 4; and
- (c) a word which denotes the singular also denotes the plural and vice versa.

5 **Default price-quality path**

During the Regulatory Period every Non-exempt EDB must comply with the default price-quality path, which consists of both:

- (a) the price path specified in clause ~~89~~;
- (b) the quality standards specified in clause ~~910~~.

6 Reconsideration of the price-quality path

The circumstances in which the default price-quality path may be reconsidered are set out in Subpart 2 of Part 4 of the IM Determination.

7 Applicable input methodologies

~~No input methodologies will apply to this determination until applicable input methodology determinations have been made.~~ The input methodologies that apply to this determination are:

- (a) Subpart 1 of Part3 of the IM Determination;
- (b) Subpart 2 of Part3 of the IM Determination; and
- (c) Subpart 2 of Part4 of the IM Determination.

8 Customised price-quality path proposal date

8.1 A proposal for a customised price-quality path must be received by the Commission under normal circumstances:

- (a) in the last week of January in 2012 or 2013; or
- (b) the first week of March in 2012 or 2013, if less than four proposals are made in the last week of January for the corresponding year.

8.2 A proposal for a customised price-quality path may be made to the Commission at any time for a Catastrophic Event, except in the last 12 months of the Regulatory Period. ~~The annual period within which any proposal for a customised price-quality path must be received by the Commission will be determined following the publication of input methodology determinations.~~

9 Price path

9.1 Starting Prices

The starting Prices that apply during the Regulatory Period are as set out in Schedule 1 unless reset or amended as provided for under the Act.

9.2 Rate of change

The annual rate of change in Prices (i.e., X), relative to the CPI, allowed during the Regulatory Period is as set out in Schedule 2.

9.3 Allowable notional revenue

Allowable notional revenue (R_t) specifies the maximum Prices that may be charged during an Assessment Period.

9.4 Compliance with the price path

The notional revenue (NR_t) of a Non-exempt EDB at any time during the Assessment Period must not exceed the allowable notional revenue (R_t) for the Assessment Period, such that:

$$\frac{NR_t}{R_t} \leq 1$$

where:

NR_t is the notional revenue for the Assessment Period t , being equal to:

$$\sum_i P_{i,t} Q_{i,t-2} - K_t - V_t$$

R_t is the allowable notional revenue for the Assessment Period t , other than the First Assessment Period and the Third Assessment Period, being equal to:

$$\left(\left(\sum_i P_{i,t-1} Q_{i,t-2} - K_{t-1} - V_{t-1} \right) + (R_{t-1} - NR_{t-1}) \right) \times ((1 + \Delta CPI_t) \times (1 - X))$$

where:

t denotes the year of the Assessment Date in the Assessment Period, for which compliance is being assessed;

i denotes each Price relating to an Electricity Lines Service;

$P_{i,t}$ is the i^{th} Price during any part of the Assessment Period t ;

$P_{i,t-1}$ is the i^{th} Price during any part of the Pricing Period $t-1$;

$Q_{i,t-2}$ is the Quantity corresponding to the i^{th} Price during the Pricing Period $t-2$;

K_t is the sum of all Pass-Through Costs during the Assessment Period t ;

K_{t-1} is the sum of all Pass-Through Costs during the Pricing Period $t-1$;

V_t is the sum of all Recoverable Costs during the Assessment Period t ;

V_{t-1} is the sum of all Recoverable Costs during the Pricing Period $t-1$;

R_{t-1} is the allowable notional revenue during the Assessment Period $t-1$;

NR_{t-1} is the notional revenue during the Assessment Period $t-1$;

X is the rate of change for the Non-exempt EDB as specified in Schedule 2; and

ΔCPI_t is the derived change in the CPI to be applied during the Assessment Period t , being equal to:

$$\frac{CPI_{Dec,t-3} + CPI_{Mar,t-2} + CPI_{Jun,t-2} + CPI_{Sep,t-2}}{CPI_{Dec,t-4} + CPI_{Mar,t-3} + CPI_{Jun,t-3} + CPI_{Sep,t-3}} - 1$$

where:

$CPI_{q,t}$ is the CPI for the quarter q of year t

9.5 Allowable notional revenue (R_t) for the First Assessment Period

R_{2011} is the allowable notional revenue for the First Assessment Period, being equal to:

$$\left(\sum_i P_{i,2010} Q_{i,2009} - K_{2010} \right) \times ((1 + \Delta CPI_{2011}) \times (1 - X))$$

where:

$P_{i,2010}$ is the i^{th} starting Price as specified in Schedule 1;

$Q_{i,2009}$ is the Quantity corresponding to the i^{th} Price for the Pricing Period 1 April 2008 to 31 March 2009;

K_{2010} is the sum of all Pass-Through Costs, other than Commerce Act Levies, during the Pricing Period 1 April 2009 to 31 March 2010;

X is the rate of change for the Non-exempt EDB as specified in Schedule 2; and

ΔCPI_{2011} is the derived change in the CPI to be applied during the First Assessment Period, being equal to:

$$\frac{CPI_{Dec,2008} + CPI_{Mar,2009} + CPI_{Jun,2009} + CPI_{Sep,2009}}{CPI_{Dec,2007} + CPI_{Mar,2008} + CPI_{Jun,2008} + CPI_{Sep,2008}} - 1$$

9.6 Allowable notional revenue (R_t) for the Third Assessment Period for all Non-exempt EDBs listed in Schedule 1

R_{2013} is the allowable notional revenue for the Third Assessment Period, being equal to:

$$\frac{AR_{2013} + (K_{2013} + V_{2013})}{\Delta D} - (K_{2013} + V_{2013})$$

where:

AR_{2013} is the allowable revenue that relates to the Third Assessment Period for the Non-exempt EDB as set out in Schedule 1.

ΔD is the real revenue growth projection figure for the Non-exempt EDB as set out in Schedule 1.

$(K_{2013} + V_{2013})$ is the sum of all Pass-Through Costs and Recoverable Costs during the Third Assessment Period.

9.7 Restructuring of Prices

If a Non-exempt EDB restructures its Prices that apply during an Assessment Period, it must demonstrate to the satisfaction of the Commission in its Annual Compliance Statement for that Assessment Period:

- (a) whether or not the restructuring of itself increased its allowable notional revenue for that Assessment Period above that which would have applied if the restructuring had not occurred; or

- (b) where it is not possible to demonstrate the effects of the restructure on allowable notional revenue under paragraph (a), whether or not the restructuring of itself increased its revenue for that Assessment Period above that which would have applied if the restructuring had not occurred; and, if the restructuring of itself—
- (c) did not increase the Non-exempt EDB’s allowable notional revenue (referred to in paragraph (a)) or revenue (referred to in paragraph (b)) for that Assessment Period, clause ~~8.6~~9.4 will apply as if the new Price structure applied on and from the beginning of that Assessment Period; or
- (d) did increase the Non-exempt EDB’s allowable notional revenue (referred to in paragraph (a)) or revenue (referred to in paragraph (b)) for that Assessment Period, the price path will not have been complied with.

9.8 Alternative compliance following restructuring of Prices

If a Non-exempt EDB restructures its Prices that apply during an Assessment Period, and—

- (a) the Commission is satisfied that, because of a lack of information beyond the control of the Non-exempt EDB, it is not practicable for the Non-exempt EDB to demonstrate the effect of the restructuring under clause ~~8.6~~9.7 and therefore to demonstrate compliance with the price path for that Assessment Period; and
- (b) the Non-exempt EDB demonstrates to the satisfaction of the Commission, by use of an alternative approach that has the equivalent effect of clause ~~8.6~~9.7, that the substance of that clause has been complied with—

the Non-exempt EDB will be regarded as having complied with the price path during that Assessment Period.

9.9 2009/10 Commerce Act ~~levies~~ Levies

If a Non-Exempt EDB paid ~~Commerce Act Levies~~ levies as set out under clause 3.1.2(2)(b)(i) of the IM Determination during the Pricing Period 1 April 2009 to 31 March 2010 then that Non-Exempt EDB may apportion those levies evenly over the Regulatory Period and include the resulting apportioned amounts as Pass-Through Costs.

10 Quality standards

10.1 Compliance with quality standards

A Non-exempt EDB must, in respect of each Assessment Period other than the First Assessment Period, either:

- (a) comply with the annual reliability assessment specified in clause ~~9.2~~10.2 for that Assessment Period; or
- (b) have complied with those annual reliability assessments for the two immediately preceding extant Assessment Periods.

10.2 Annual reliability assessment

A Non-exempt EDB's Assessed Values for an Assessment Period must not exceed its Reliability Limits for that Assessment Period, such that:

$$\frac{SAIDI_{ASSESS,t}}{SAIDI_{LIMIT}} \leq 1; \text{ and}$$

$$\frac{SAIFI_{ASSESS,t}}{SAIFI_{LIMIT}} \leq 1$$

where:

$SAIDI_{ASSESS,t}$ is the SAIDI Assessed Value for the Non-exempt EDB for the Assessment Period t , and is calculated using the process outlined in Schedule 3;

$SAIDI_{LIMIT}$ is the SAIDI Reliability Limit for the Non-exempt EDB, and is calculated using the process outlined in Schedule 3;

$SAIFI_{ASSESS,t}$ is the SAIFI Assessed Value for the Non-exempt EDB for the Assessment Period t , and is calculated using the process outlined in Schedule 3; and

$SAIFI_{LIMIT}$ is the SAIFI Reliability Limit for the Non-exempt EDB, and is calculated using the process outlined in Schedule 3.

11 Transactions involving a Non-exempt EDB's Business Mergers and acquisitions

11.1 Where a Non-exempt EDB has completed an amalgamation in accordance with Part 13 of the Companies Act 1993, clause 3.2.1 of the IM Determination applies.

11.2 Where a Non-exempt EDB takes over or otherwise merges with another Non-exempt EDB other than by an amalgamation, or purchases all the assets of a Non-exempt EDB (together a merger) clause 3.2.1 of the IM Determination applies, as if the merger was an amalgamation.

11.3 Where a Non-exempt EDB has completed a transaction other than an amalgamation or a merger which:

- (a) involves the disposal or acquisition of a significant portion of the assets of a Non-exempt EDB's business; or
- (b) affects a significant portion of the liabilities or obligations of a Non-exempt EDB's business; or
- (c) otherwise significantly changes the size or of the Non-exempt EDB's business and/or its liabilities:

the Non-exempt EDB or, if the transaction is with another Non-exempt EDB, each of the Non-exempt EDBs, must comply with clause 11.4.

11.4 Where clause 11.2 applies, the Non-exempt EDB or Non-exempt EDBs must:

- (a) state to the extent practicable whether or not the Non-exempt EDB complied with the price path in clause 9 for that Assessment Period;
- (b) state to the extent practicable whether or not the Non-exempt EDB complied with the quality standards in clause 10 for that Assessment Period; and

- (c) notify the Commission within 30 days of the completion of the transaction as to the nature and effect of that transaction to enable that the Commission to assist the Non-exempt EDB to demonstrate compliance in terms of clause 12 for the Assessment Periods following the one in which the transaction occurred.

11.5 The expression “a significant proportion of the Non-exempt EDB’s business” means the proportion of the assets of the Non-exempt EDB which the Commission considers may have a material effect on the calculation of the price path in clause 9 or the quality standards in clause 10 of the affected Non-exempt EDB.

~~11.6 If a Non-exempt EDB completes a purchase, merger, takeover, disposal, or other similar transaction with another Non-exempt EDB during an Assessment Period, it must state, to the extent practicable, as part of its Annual Compliance Statement for that Assessment Period:~~

- ~~(a) whether or not each of the Non-exempt EDBs involved in the transaction complied with the price path in clause 8 for that Assessment Period; and~~
- ~~(b) whether or not each of the Non-exempt EDBs involved in the transaction complied with the quality standards in clause 9 for that Assessment Period.~~

~~11.7 If a Non-exempt EDB completed a purchase, merger, takeover, disposal, or other similar transaction with an EDB in the preceding Assessment Period:~~

- ~~(a) the price path for the current Assessment Period must be calculated in accordance with clause 8 as if the transaction occurred at the beginning of the current Assessment Period; and~~
- ~~(b) the Reliability Limits for the current Assessment Period must be recalculated using the process outlined in Schedule 3 as if the transaction occurred at the beginning of the Reference Period; and~~
- ~~(c) the Assessed Values for the current Assessment Period must be calculated using the process outlined in Schedule 3; and~~
- ~~(d) the annual reliability assessments as specified in clause 9.2 for the two immediately preceding extant Assessments Periods must be recalculated using the process outlined in Schedule 3 as if the transaction had occurred at the beginning of those periods.~~

~~11.8 If~~

- ~~(a) the Commission is satisfied that, because of a lack of information, beyond the control of the Non-exempt EDB, it is not practicable to determine whether a Non-exempt EDB involved in a purchase, merger, takeover, disposal, or other similar transaction complied with the price path and quality standards in an Assessment Period; and~~
- ~~(b) the Non-exempt EDB demonstrates to the satisfaction of the Commission, by use of an alternative approach that has the equivalent effect of clauses 8 and 9, that the substance of those clauses has been complied with~~

~~the Non-exempt EDB will be regarded as having complied with the default price-quality path during that Assessment Period.~~

~~11.9 If System Fixed Assets were transferred from Transpower to a Non-exempt EDB by way of sale, gifting, lease or similar transaction, the Non-exempt EDB must, for the~~

~~Assessment Period that immediately follows the Assessment Period in which the transfer was completed:~~

- ~~(a) — recalculate its Reliability Limits using the process outlined in Schedule 3, including the planned and unplanned interruptions by Transpower that are relevant to the System Fixed Assets transferred, as if the transfer occurred at the beginning of the Reference Period; and~~
- ~~(b) — calculate its Assessed Values using the process outlined in Schedule 3, including any planned and unplanned interruptions by Transpower that are relevant to the System Fixed Assets transferred.~~

12 Annual Compliance Statement

12.1 Every Non-exempt EDB must provide to the Commission within 70 working days following the first Assessment Date (being 31 March 2011), and within 50 working days following each subsequent Assessment Date, an Annual Compliance Statement consisting of:

- (a) a written statement that states whether or not the Non-exempt EDB has complied with the price path in clause 8-9 and the quality standards in clause 9-10 in respect of the Assessment Period ending on that Assessment Date;
- (b) sufficient information to support the statement required by paragraph (a), including:
 - (i) the amount of allowable notional revenue, the amount of notional revenue, Prices, Quantities, units of measurement associated with all numeric data, and other relevant data, information, and calculations;
 - (ii) the amounts of Pass-Through Costs, including both the forecast amounts when the Non-exempt EDB set Prices for the Assessment Period and the actual amounts for the Assessment Period, and any information relevant to the variance between the forecast and actual amounts;
 - (iii) the amounts of Recoverable Costs, including both the forecast amounts when the Non-exempt EDB set Prices for the Assessment Period and the actual amounts for the Assessment Period, and any information relevant to the variance between the forecast and actual amounts;
 - (iv) information relating to any amounts specified as Recoverable Costs consistent with clause 3.1.3(1)(e) of the IM Determination including:
 - (a) proof that a transaction was completed consistent with clause 3.1.3(1)(e) of the IM Determination;
 - (b) the amount of charge relating to clause 3.1.3(1)(b) of the IM Determination that the Non-exempt EDB has avoided liability to pay as result of that Non-exempt EDB having purchased transmission assets from Transpower, subject to clause 12.2; and
 - (c) proof of the amount of charge relating to the contract entered into in relation to clause 3.1.3(1)(c) of the IM Determination, which

may be provided by confidential disclosure of the contract to the Commission;

- (v) if the Non-exempt EDB restructured its Prices as referred to in clause ~~8-6-9.7~~, information of the kind set out in clause ~~11~~12.1(b) paragraphs (i) and (ii) that demonstrates:
 - (a) if clause ~~8-6-9.7~~(a) applies, whether or not the restructuring has of itself increased the Non-exempt EDB's allowable notional revenue above that which would have applied if the restructuring had not occurred, using both the previous and restructured Prices and Quantities; and
 - (b) if clause ~~8-6-9.7~~(b) applies, whether or not the restructuring has of itself increased the Non-exempt EDB's revenue above that which would have applied if the restructuring had not occurred, using both the previous and restructured Prices and Quantities, and reasoning why it is not practicable for the Non-exempt EDB to demonstrate the effects of the restructuring on allowable notional revenue; and
 - (c) if clause ~~8-7-9.8~~ applies, why it is not practicable for the Non-exempt EDB to demonstrate the effects of the restructuring on allowable notional revenue or revenue;
 - (vi) Assessed Values and Reliability Limits for the Assessment Period, relevant SAIDI and SAIFI statistics and calculations (including those in Schedule 3), the annual reliability assessments for the two immediately preceding extant Assessment Periods, and other relevant data and information;
 - (vii) a description of policies and procedures which the Non-exempt EDB has used for recording the SAIDI and SAIFI statistics for the Assessment Period;
 - (viii) if System Fixed Assets were transferred from Transpower to the Non-exempt EDB, SAIDI and SAIFI statistics and calculations (including those in Schedule 3) for the Assessment Period in which the transfer was completed that demonstrate whether or not the transfer increased the Non-exempt EDB's Assessed Values;
 - (ix) ~~if a Non-exempt EDB used an alternative approach to demonstrate compliance as referred to in clause 10.3, an explanation as to why that alternative approach was needed;~~
 - (x) the date on which the statement was prepared; and
- (c) a certificate in the form set out in Schedule 5, signed by at least one Director of the Non-exempt EDB.

12.2 The amount of charge referred to in clause 12.1(b)(iv)(b):

- (a) for the Assessment Period in which the charge is first recovered, is the amount that would have been charged by Transpower for the use of the assets transferred to the Non-exempt EDB as specified in a pricing schedule determined by Transpower for the year immediately preceding the Assessment Period in which the charge is first recovered; and

- (b) for each of the remaining Assessment Periods in which the charge may be recovered under clause 3.1.3 (4) of the IM Determination, may be adjusted where an Non-exempt EDB can demonstrate to the Commission that the Non-exempt EDB has made adjustments using a method consistent with the Transmission Pricing Methodology.
- 12.3 An Annual Compliance Statement referred to in clause ~~11~~12.1 must be accompanied by a report on the Annual Compliance Statement that is signed by an Auditor and is in the form set out in Schedule 4.
- 12.4 An Auditor's report given for the purposes of clause ~~11.2~~12.3:
 - (a) may be qualified only if the Auditor considers that the Annual Compliance Statement concerned has not been prepared, in all material respects, in accordance with this determination, and the report explains with full reasons the respects in which the statement so fails; and
 - (b) where this determination requires the Commission to be satisfied in relation to a matter, need not express a view in relation to the Commission's satisfaction.

Dated at Wellington this 30th day of November 2009.
COMMERCE COMMISSION

SCHEDULE 1

Clause 89

STARTING PRICES

The starting Prices that apply during the Regulatory Period are the Prices that applied as at 31 March 2010.

For a Non-exempt EDB listed in Table 1, the Prices that apply for the Third Assessment Period are determined using clause 9.6 with the inputs specified for the Non-exempt EDB in Table 1.

Table 1: Inputs for determining Prices for the Third Assessment Period

Non-exempt EDB	AR ₂₀₁₃ (\$m)	ΔD (%)
Alpine Energy	30.2	104.0%
Aurora Energy	57.7	100.8%
Centralines	7.9	102.1%
Eastland	20.5	102.9%
Electricity Ashburton	29.0	106.0%
Electricity Invercargill	12.8	102.2%
Horizon Energy	19.5	103.6%
Nelson Electricity	6.7	104.3%
Network Tasman	28.4	105.1%
OtagoNet	22.5	100.8%
Powerco	220.9	102.9%
The Lines Company	29.9	102.4%
Top Energy	29.6	105.5%
Unison	90.7	102.6%
Vector	399.4	105.9%
Wellington Electricity	109.1	104.2%

SCHEDULE 2

Clause 89

RATE OF CHANGE

The annual rate of change in Prices (i.e., X) is 0% unless specified otherwise in the Table 2.

Table 2: Alternative rates of change for specified Non-exempt EDBs

Non-exempt EDB	Annual rate of change in Prices following the Third Assessment Period (%)
Alpine Energy	-5
Centralines	-10
The Lines Company	-5
Top Energy	-10

SCHEDULE 3

Clause 910

RELIABILITY LIMITS AND ASSESSED VALUES

This schedule sets out the process for calculating a Non-exempt EDB's Reliability Limits and Assessed Values for the purposes of assessing compliance with the quality standards as set out in clause 910.

Reliability Limits

In order for a Non-exempt EDB to calculate its Reliability Limits, the Non-exempt EDB must undertake the steps set out below:

Develop a non-zero dataset

Construct a non-zero dataset containing only those days from the Reference Dataset where the daily SAIDI Value is greater than zero (i.e., exclude zero SAIDI days).

Calculate boundary values

Using the non-zero dataset, calculate the SAIDI boundary value (B_{SAIDI}) as follows:

$$B_{SAIDI} = e^{(\alpha_{SAIDI} + 2.5\beta_{SAIDI})}$$

where:

α_{SAIDI} is the average of the natural logarithm (\ln) of each daily SAIDI Value in the non-zero dataset;

β_{SAIDI} is the standard deviation of the natural logarithm (\ln) of each daily SAIDI Value in the non-zero dataset.

Using the non-zero dataset, calculate the SAIFI boundary value (B_{SAIFI}) as follows:

$$B_{SAIFI} = e^{(\alpha_{SAIFI} + 2.5\beta_{SAIFI})}$$

where:

α_{SAIFI} is the average of the natural logarithm (\ln) of each daily SAIFI Value in the non-zero dataset;

β_{SAIFI} is the standard deviation of the natural logarithm (\ln) of each daily SAIFI Value in the non-zero dataset.

Normalise the Reference Dataset

For any day in the Reference Dataset where the daily SAIDI Value is greater than B_{SAIDI} :

- (i) replace the daily SAIDI Value with B_{SAIDI} ; and
- (ii) replace the daily SAIFI Value with B_{SAIFI} if the daily SAIFI Value for that day exceeds B_{SAIFI} .

Calculate Reliability Limits

The SAIDI Reliability Limit ($SAIDI_{LIMIT}$) is as follows:

$$SAIDI_{LIMIT} = \mu_{SAIDI} + \sigma_{SAIDI}$$

where:

μ_{SAIDI} is the average annual SAIDI Value in the Normalised Reference Dataset, which is given by:

$$\frac{\text{Sum of daily SAIDI Values in the Normalised Reference Dataset}}{5}$$

σ_{SAIDI} is the standard deviation of daily SAIDI Values in the Normalised Reference Dataset multiplied by $\sqrt{365}$.

The SAIFI Reliability Limit ($SAIFI_{LIMIT}$) is as follows:

$$SAIFI_{LIMIT} = \mu_{SAIFI} + \sigma_{SAIFI}$$

where:

μ_{SAIFI} is the average annual SAIFI Value in the Normalised Reference Dataset, which is given by:

$$\frac{\text{Sum of daily SAIFI Values in the Normalised Reference Dataset}}{5}$$

σ_{SAIFI} is the standard deviation of daily SAIFI Values in the Normalised Reference Dataset multiplied by $\sqrt{365}$.

Assessed Values

In order to calculate its Assessed Values, a Non-exempt EDB must undertake the steps set out below.

Normalise the Assessment Dataset

For any day in the Assessment Dataset for Assessment Period t where the daily SAIDI Value is greater than B_{SAIDI} :

- (i) replace the daily SAIDI Value with B_{SAIDI} ; and
- (ii) replace the daily SAIFI Value with B_{SAIFI} if the daily SAIFI value for that day exceeds B_{SAIFI} .

Calculate Assessed Values

- (a) The SAIDI Assessed Value ($SAIDI_{ASSESS,t}$) is the sum of daily SAIDI Values in the Normalised Assessment Dataset for the Assessment Period t ; and
- (b) The SAIFI Assessed Value ($SAIFI_{ASSESS,t}$) is the sum of daily SAIFI Values in the Normalised Assessment Dataset for the Assessment Period t .

SCHEDULE 4

Clause ~~4~~12

FORM OF AUDITOR'S REPORT ON ANNUAL COMPLIANCE STATEMENT

To the readers of the Annual Compliance Statement of [*insert name of Non-exempt EDB*] for the Assessment Period ended on [*insert Assessment Date*]:

I/We have audited the attached statement, which is an Annual Compliance Statement in respect of the default price-quality path prepared by [*insert name of Non-exempt EDB*] for the period [*insert Assessment Period*] and dated [*insert date*] for the purposes of clause ~~4~~12 of the *Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010* (“the Determination”).

In relation to the price path set out in clause 89 of the Determination, my/our audit included examination, on a test basis, of evidence relevant to the amounts and disclosures contained on pages [*insert page references*] of the Annual Compliance Statement.

In relation to the SAIDI and SAIFI statistics for the Reference Period and the Assessment Period ended on [*insert Assessment Date*], including the calculation of the Reliability Limits and the Assessed Values, which are relevant to the quality standards set out in clause 910 of the Determination, my/our audit included examination, on a test basis, of evidence relevant to the amounts and disclosures contained on pages [*insert page references*] of the Annual Compliance Statement.

My/Our audit also included assessment of the significant estimates and judgments, if any, made by [*insert name of Non-exempt EDB*] in the preparation of the Annual Compliance Statement and assessment of whether the basis of preparation has been adequately disclosed.

Directors' Responsibilities

The Directors of [*insert name of Non-exempt EDB*] are responsible for the preparation of the Annual Compliance Statement in accordance with the Determination and for such internal control as the Directors determine is necessary to enable the preparation of an Annual Compliance Statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities

My/Our responsibility is to express an opinion on the Annual Compliance Statement based on my/our audit. I/We conducted my/our audit in accordance with International Standards on Auditing (New Zealand). Those standards require that I/we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the Annual Compliance Statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Annual Compliance Statement. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the Annual Compliance Statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the Annual Compliance Statement in order to design audit procedures that are appropriate in the

circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates, as well as evaluating the overall presentation of the Annual Compliance Statement.

I/We believe that the audit evidence I/we have obtained is sufficient and appropriate to provide a basis for my/our audit opinion.

I/we have no relationship with, or interests in *[insert name of Non-exempt EDB]* other than *[insert relationship and/or interests including a statement verifying that no conflict of interest exists]*.

Opinion

In my/our opinion, the Annual Compliance Statement of *[insert name of Non-exempt EDB]* for the Assessment Period ended on *[insert Assessment Date]*, has been prepared, in all material respects, in accordance with the Determination.

***[Qualification on Opinion]**

*[My/Our opinion is qualified as follows:]

**[Insert the nature of and reason(s) for the qualification together with the impact on the Annual Compliance Statement]*.

My/Our audit was completed on *[insert date]* and my/our opinion is expressed as at that date.

[Signature of Auditor]

[Name of auditing firm]

[Address of auditing firm]

[Date]

*Delete if inapplicable.

Note: Section 103(2) of the Commerce Act 1986 provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) and any person who does so is liable on summary conviction to a fine not exceeding \$10,000 in the case of an individual or \$30,000 in the case of a body corporate.

SCHEDULE 5

Clause ~~4~~12

FORM OF DIRECTORS' CERTIFICATE ON ANNUAL COMPLIANCE STATEMENT

I/We, *[insert full name/s]*, being director/s of *[insert name of Non-exempt EDB]* certify that, having made all reasonable enquiry, to the best of my/our knowledge and belief, the attached Annual Compliance Statement of *[name of Non-exempt EDB]*, and related information, prepared for the purposes of the *Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010* are true and accurate **[except in the following respects]*.

**[insert description of non-compliance]*

[Signatures of Directors]

[Date]

**Delete if inapplicable.*

Note: Section 103(2) of the Commerce Act 1986 provides that no person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it. It is an offence to contravene section 103(2) and any person who does so is liable on summary conviction to a fine not exceeding \$10,000 in the case of an individual or \$30,000 in the case of a body corporate.

EXPLANATORY NOTE

The purpose of the *Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010* (“the Determination”) is to set a default price-quality path for non-exempt EDBs for the 5 years beginning 1 April 2010, pursuant to Part 4 of the Commerce Act 1986 (“the Act”).

Pursuant to section 53N of the Act, each non-exempt EDB is required to provide to the Commission an annual compliance statement stating whether or not it has complied with the default price-quality path set in this determination together with supporting evidence. The annual compliance statement is to be accompanied by both an auditor’s report and a directors’ certificate. Each non-exempt EDB should publish its annual compliance statement on its website as soon as practicable.

This determination was originally published on 30 November 2010 and amended on [XX] October 2011 to reset the default price-quality path to take account of the input methodologies for electricity distribution services published by the Commission in December 2010. This amendment was made under section 54K(3) of the Act and resets prices from 1 April 2012 based on each supplier’s current and projected profitability, as well as making a number of other amendments for consistency with input methodologies.

The Commission has conducted a consultation process prior to making this determination, and individually before making amendments. A decisions paper for this determination, and each amendment, provides reasons for the Commission’s decision set out in this determination, and can be found at:

<http://www.comcom.govt.nz/electricity-default-price-quality-path/>

Copies of this determination are available for inspection free of charge at the Commission (during ordinary office hours), on the Commission’s website at the above link, or for purchase at a reasonable price at the Commission.

~~The Commission is permitted under section 54K(2) of the Act to make this determination prior to the determination of applicable input methodologies. The Commission intends to amend this determination (including the provisions relating to starting prices) following the publication of input methodology determinations.~~

~~Once applicable input methodologies have been determined, the Commission will also amend this determination to state the annual period during which any proposal for a customised price-quality path must be received (given that the requirements and criteria for such proposals will be set in input methodology determinations under section 52T(1)(d) of the Act).~~

~~The allowable notional revenue for the first assessment period (i.e., the period from 1 April 2010 to 31 March 2011) has been set out in clause 8.5. This clause has been included to remove potential misunderstanding of the use of starting prices in the price path and demonstrates that 31 March 2010 prices may be inflated by the CPI X term.~~

~~The Commission has conducted a comprehensive process of consultation before making this determination. A decisions paper providing detailed background to, and analysis of, this determination, has been issued together with this determination, and can be found at:~~

<http://www.comcom.govt.nz/IndustryRegulation>