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

Information Disclosure Review - Process and Issues

We refer to the recently published Information Disclosure Regulation Electricity Lines Services and Gas Pipeline Services Process and Issues Paper which sets out the Commerce Commission's planned process for a review of the Information Disclosure Requirements (IDRs) to apply to Electricity Distribution Businesses (EDBs), Transpower and Gas Pipeline Businesses (GPBs). The ENA appreciates the opportunity to comment on the proposed review process and the scope of the review.

The ENA agrees it is timely to review the IDRs to apply to EDBs now that the Input Methodology (IM) determinations have been finalised. We note that following extensive consultation significant improvements were introduced into the 2008 IDRs for EDBs. We anticipate that the progress made in 2008 will greatly facilitate the forthcoming review which primarily will focus on ensuring IDR is consistent with the IMs, in addition to addressing those components of the IDRs which were not included in the 2008 review.

The proposed timetable is for a Discussion Stage (April/May 2011), to be followed by a Draft Decision Stage (Sept/Oct 2011) followed by Technical Consultation leading to Final Decisions (Nov/Dec 2011). We are concerned at the timing of the Discussion Stage which overlaps with the end of the regulatory reporting period for all EDBs and statutory reporting period for most EDBs. During that time EDBs will be compiling external financial statements and regulatory financial statements. Most EDBs prepare these at the same time to enable the audits to be undertaken concurrently. For non exempt EDBs, DPP compliance assessments and the Section 53ZD Starting Price Adjustment (SPA) information request will also require compilation at this time. Accordingly the scheduling of the Discussion Stage during April/May is the worst time of the year for the financial and regulatory personnel primarily affected by the topics to be considered. The ENA therefore requests that the Commission extend its Discussion Stage to the end of June to better recognise the compliance pressures on EDBs during April/May this year particularly those EDBs subject to the DPP.

A number of topics are highlighted for consideration during the Discussion Stage. We note and look forward to contributing to the consultation on the review of AMP disclosures; related party transaction; merger and acquisition; and contract disclosures during this stage. There is however no mention of a number of additional topics which were proposed in the July 2009 Discussion Paper including customer consultation, policies and customer service disclosures. It would be helpful if the Commission were able to clarify its intentions in this respect.

The ENA continues to challenge however the Commission's plans for disclosures of reconciliations between regulatory and statutory financial statements. We believe the cost allocation IM, the IDR templates and the external audit of IDR financial disclosures provide sufficient transparency and assurance over the ring-fencing of the regulated service. This provides sufficient information to assist interested parties in assessing performance of regulated businesses against the Purpose Statement. It also provides sufficient information in order to monitor compliance. Additional reconciliations would include information pertaining to non regulated services which fall outside the scope of Part 4 of the Commerce Act including those which operate in highly competitive environments. In addition, such disclosures are expected to be complex to compile given the large number of differences between regulatory methodologies and reporting requirements and external statutory rules and reporting formats (including different reporting periods for some EDBs).

The Process and Issues Paper suggests that consultation on the historical financial disclosure templates consistent with the IMs will form part of the Draft Determination Stage to be undertaken in September/October. The ENA suggests this would benefit from earlier engagement as the planned four week consultation period is insufficient to deal with the implementation detail which necessarily forms a large part of this consultation. Accordingly, we submit that this consultation should commence during the Discussion Stage to ensure that there is adequate time available to the Commission to consider and implement input from interested parties and undertake the necessary quality review of the spreadsheets and accompanying guidance.

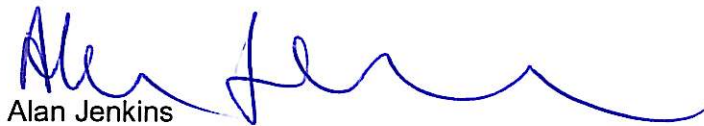
In this respect we suggest the Commission uses workshops with interested parties during the Discussion Stage to gather input before publishing its consultation papers. These could also be used to assist in the development of the new IDR templates for historical financial information. The ENA submits this would be an efficient process as it would reduce the level of redrafting and review required between the Discussion and Draft Determination stages and again between the Draft and Final Draft Determination stages. Workshops have proven useful during previous regulatory implementations and we would be happy to work with the Commission in this manner during the IDR project.

The ENA supports the proposals for IDR reporting periods to align with the DPP assessment period (ie: at 31 March each year), for the same IDR requirements to apply to all EDBs and for the new IDRs to apply for the 2011/12 reporting period for the first time. We note that in 2008, transitional provisions were introduced for some information to allow businesses time to implement new reporting formats. We suggest similar provisions may be usefully employed when implementing the 2012 IDRs.

We note that EDBs will be required to duplicate some regulatory information as they move to implement the new IMs. For example regulatory asset base (RAB) disclosures for the forthcoming 2011 disclosures will be prepared using the existing 2008 IDR methodology, however the RAB IM requires the RAB to be established using a new methodology which commences with an initial RAB at 1 April 2009. This will be reported for the first time in 2012 for consumer owned EDBs and as part of the SPA information request for the remaining EDBs in May 2011. We support the intention to leverage the SPA process where possible in establishing new IDRs for EDBs. We refer the Commission to our submission of 28 February 2011 which included a number of suggested improvements to the SPA information request. These were intended to better reflect the manner in which EDBs compile and manage their regulatory information, the roles and responsibilities of auditors and independent engineers and the level of guidance necessary to support the request to ensure it can be completed accurately and audited efficiently.

We trust the Commission finds these comments useful as it considers its IDR review work programme for 2011.

Yours sincerely



Alan Jenkins
Chief Executive
Electricity Networks Association