



# Comments on the Commission's Review of Information Disclosure Requirements

Presentation to the Commerce Commission,  
for the Electricity Networks Association

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## Context

- **Our presentation covers the three issues raised in our written submission:**
  - The need for the Commission to clarify the performance it considers needs to be monitored
  - The desirability of using a conceptual framework and GAAP to develop and implement the disclosure requirements
  - Some pros and cons of the proposed valuation methods

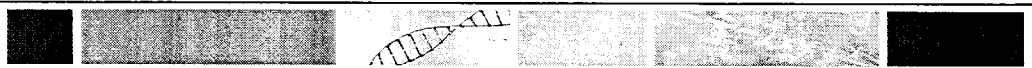
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## Need for clarity as to the performance that is to be monitored

- The Commission states in the Review that disclosed information is intended to be used to:
  1. Set thresholds
  2. Assess compliance with thresholds
  3. Inform the initial stage of a post-breach inquiry
  4. Satisfy section 57T, *“to make publicly available reliable and timely information about the operation of those businesses, so that a wide range of people are informed about such factors as profits, costs, asset values, price (including terms and conditions of supply), quality, security, and reliability of supply of those businesses.”*
  
- The first three uses relate to procedures under the control of the Commission, but it has yet to disclose the dimensions of performance to be considered under each in the future

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## Need for clarity as to the performance that is to be monitored

- For example, the Commission has not stated the basis on which thresholds will be reset for 2009 onward, or how these thresholds will be structured:
  - In the absence of knowing this it is unclear how lines businesses are able to comment on whether the proposed disclosures would meet the Commission's requirements, or whether these requirements could be satisfied in a more cost effective manner
  - Similarly it is currently unclear what information will be required to monitor compliance with these thresholds or undertake initial post-breach inquiries
  
- We suggest the Commission clarify the basis on which it intends to set thresholds in 2009, and how it intends to structure them, as part of the next step in this Review

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## Use of a conceptual framework and GAAP

- **The technical issues related to setting information disclosure requirements are very similar to those related to setting accounting standards**
  - Accounting standard setters have developed conceptual frameworks to guide the development of accounting standards and their interpretation
  - These conceptual frameworks reflect many years of experience in standard setting and research
  - The NZ Framework is based on that of the International Accounting Standards Board, whose standards are being adopted as the international norm
  
- **We suggest the Commission use the NZ Framework to frame and assess the various disclosure options it is considering in order to:**
  - Provide a structured way of considering options
  - Reach a conclusion that is likely to be more durable, and consistent (where possible) with general purpose financial reporting

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## Use of a conceptual framework and GAAP

- **Disclosure requirements consistent with GAAP would enable the Commission, preparers, auditors and other users to rely on GAAP when preparing, auditing and interpreting disclosed information**
  - We note the Ministry of Commerce considered departing from GAAP in 1998 but decided against it
  - It is difficult to imagine how departing from GAAP would "*promote the efficient operation of markets directly related to electricity distribution and transmission ...*"(the purpose of s 57T)
  
- **We suggest the Commission, as the Review proceeds, test whether its proposed disclosure requirements are consistent with GAAP, with a stated preference for consistency unless there are compelling net benefits to departures from GAAP**

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## Valuation methods

- **The Commission proposes the two valuation methods of ODV and IHC:**
  - This is in contrast to its draft decisions of 2002 which comprised ODV and DHC (the latter without indexing)
- **The criterion for acceptance of a valuation method has also changed:**
  - In 2002 the criterion was *“Investors in system fixed assets should expect to recover their reasonable costs”*
  - Now it is whether methods other than ODV would provide results comparable to ODV

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## Valuation methods

- **From a regulatory design perspective, a key difference in the ODV/DHC option versus the ODV/IHC option is the latter does not provide lines businesses the same ability to manage their exposure to regulatory risk**
  - This is due to indexation applying to both ODV and IHC (but not DHC), which in turn leads to (typically) a deferral of cash revenue relative to DHC
  - In our view this cash deferral gives rise to greater exposure to regulatory opportunism than under DHC, thus placing greater pressure on the need for regulatory certainty
  - Regulatory practice in electricity over the last 12 years, and the Commission’s practice in valuation and its application across sectors over the last 5 years, lacks consistency and thereby undermines regulatory certainty
  - Further, the Commission has yet to commit to a set of durable regulatory rules in electricity (e.g. how thresholds will be reset) or the governance of rules (e.g. how and when RC asset values will be updated)

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## Valuation methods

- Greater exposure to regulatory risk in the absence of addressing regulatory uncertainty can be expected to deter investment (while holding allowable WACC constant)
  
- **We suggest the Commission either:**
  - Addresses regulatory uncertainty by clarifying key regulatory rules and how they will be changed through time (i.e. their governance), and implements ODV only;  
  
or if that is not possible or desired
  - Re-introduces DHC as an alternative to ODV to enable lines businesses to manage their exposure to this aspect of regulatory risk

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