

Commerce Commission of New Zealand

Initial Reset of the Default Price-Quality Path
for
Electricity Distribution Businesses

Consultation Update Paper



COMMERCE COMMISSION

Network Performance Branch
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CHAPTER 1: INTRODUCTION

1.1 Overview

- 1.1 This paper is the final consultative step in the Commission's process to reset the Initial DPP for EDBs.¹ This paper addresses submissions to the Draft Decisions Paper² published on 8 September 2009 and the Determination Paper³ published on 16 October 2009.
- 1.2 As set out in the Determination Paper, this paper replaces the "Updated Decisions Paper" that was referred to in the Draft Decisions Paper.

1.2 Scope

- 1.3 This paper provides for **technical consultation** on the Initial Reset Determination⁴ (attached as Appendix D). This Initial Reset Determination builds on the draft determination published in the Determination Paper and reflects updates to the Commission's draft decisions and amendments resulting from previous consultation.
- 1.4 The purpose of the technical consultation is to ensure that the Initial Reset Determination accurately reflects the Commission's updated draft decisions. The Commission, therefore, seeks submissions from interested parties on whether the Initial Reset Determination achieves this purpose. Where it is considered that the updated draft decisions have not been accurately reflected in the Initial Reset Determination, the Commission requests that submissions include any drafting amendments that are deemed necessary.
- 1.5 In addition, the purpose of this paper is to:
- set out updates to the Commission's draft decisions⁵ – following further analysis and after fully considering submissions and cross-submissions on the Draft Decisions Paper, the Commission has updated a number of draft decisions;

¹ Unless otherwise stated, terms used in this paper have the same meaning as specified in the Draft Decisions Paper and Draft Determination Paper.

² Commerce Commission, *Initial Reset of the Default Price-Quality Path for Electricity Distribution Businesses, Draft Decisions Paper*, 8 September 2009.

³ Commerce Commission, *Initial Reset of the Default Price-Quality Path for Electricity Distribution Businesses, Initial Reset Determination (DRAFT) Consultation Paper*, 16 October 2009.

⁴ This is the section 52P determination that the Commission intends to publish by 1 December 2009, subject to any changes resulting from the technical consultation.

⁵ Unless otherwise stated in this paper, draft decisions set out in the Draft Decisions Paper remain unchanged.

- set out refinements to the draft determination – The Initial Reset Determination reflects updates to draft decisions and amendments resulting from submissions on the Determination Paper; and
- respond to submissions⁶ on the Draft Decisions Paper and the Determination Paper – submissions were generally supportive of the Commission’s draft decisions and draft determination. However, a number of submissions raised several issues. The Commission’s responses to submissions on the Draft Decisions Paper and Determination Paper are set out in Appendix A and Appendix B, respectively.

1.3 Next Steps

- 1.6 Following this technical consultation, the Commission intends to publish the finalised Initial Reset Determination, a summary of the Initial Reset Determination (to be published in the *New Zealand Gazette*), and the Final Decisions Paper by 1 December 2009.⁷

1.4 Future work

- 1.7 Submissions to the Draft Decisions Paper commented on proposed future work on issues not addressed in the Initial Reset Determination. The Commission notes these submissions, including those relating to:
- prioritisation of future work (e.g., some submissions consider the Enforcement Guidelines should be published prior to the Initial Reset Determination taking effect);
 - the impact of any extension to the timeframe for publishing input methodologies; and
 - the timing of the relevant consultation and implementation processes.
- 1.8 After considering the potential implications of these submissions on the Initial Reset Determination, the Commission does not intend to undertake any further work on these issues prior to the Initial Reset Determination’s publication. The Commission does however, intend to publish in February 2010, a process paper for consultation outlining a proposed programme of work.

1.5 Submissions

- 1.9 The Commission invites submissions on the technical drafting of the Initial Reset Determination (provided as Appendix D). The consultation seeks submissions on whether the Initial Reset Determination accurately reflects the Commission’s updated draft decisions as reflected in the Draft Decisions Paper together with this paper. Where a submitter considers that the updated draft decisions are not

⁶ When referring to “submissions”, this term also refers to cross-submissions received.

⁷ These documents will be made available on the Commission’s website, <http://www.comcom.govt.nz>.

accurately portrayed, the Commission requests that its submission include any necessary drafting amendments. Submissions should be received by the Commission no later than **5 pm Friday, 20 November 2009**. In order to meet the timeframe prescribed in the Act, the Commission will not provide extensions beyond this deadline.

- 1.10 To foster an informed and transparent process, the Commission intends to publish all submissions on its website. Accordingly, the Commission requests an electronic copy of each submission and requests that hard copies of submissions not be provided (unless an electronic copy is not available). The Commission also requires that these electronic copies be provided in an accessible form (i.e., they are ‘unlocked’ and text can be easily transferred). If the submission contains confidential information or if the submitter wishes that the published version be ‘locked’, an additional document labelled “public version” should be provided. Submissions should be sent to:

NPB@comcom.govt.nz;

or

David Healy
Chief Adviser
Network Performance Branch
Commerce Commission
P.O. Box 2351
Wellington

CHAPTER 2: UPDATES TO DRAFT DECISIONS

2.1 Introduction

2.1 This chapter sets out the updates to the Commission's draft decisions set out in the Draft Decisions Paper. In updating its draft decisions, the Commission has considered submissions on the Draft Decisions Paper. Unless otherwise stated in this paper, draft decisions set out in the Draft Decisions Paper remain unchanged. A summary of submissions that raised points of difference to the draft decisions is provided as Appendix A.

2.2 Updates

2.2 Submissions were generally supportive of the Commission's draft decisions on the Reset DPP. However, submissions raised a number of issues and counter-proposals, which are summarised in Appendix A. Having considered all submissions, the Commission has updated its views on the following draft decisions:⁸

- *Update of Quantities* – the Commission's draft decision on the updating of quantities in the price-path (paragraphs 4.43-4.44 of the Draft Decisions Paper) has been amended such that base quantities are to be updated using a t-2 approach. The quantity term in the notional revenue formula has been amended accordingly. The reasoning for this amendment is set out in row 4 of the table in Appendix A; and
- *Non-contiguous networks* – the Commission's draft decision to set quality standards based on non-contiguous networks (paragraph 7.22 of the Draft Decisions Paper) has been amended such that EDBs will not be required to set, and assess performance against, separate reliability limits for each non-contiguous network. The reasoning for this amendment is set out in row 19 of the table in Appendix A.

⁸ The Commission has also amended a number of its views on issues such as compliance requirements and the scope of future work.

CHAPTER 3: UPDATES TO DRAFT DETERMINATION

3.1 Introduction

- 3.1 This chapter sets out updates to the draft determination published in the Determination Paper on 16 October 2009. An Initial Reset Determination is provided as Appendix D, which is subject to technical consultation as discussed in paragraph 1.3. Submissions on the Initial Reset Determination should be focussed on whether the updated draft decisions are accurately reflected.
- 3.2 In drafting the Initial Reset Determination, the Commission has considered submissions to the Draft Decisions Paper and Determination Paper. Submissions to the Determination Paper provided suggested drafting amendments. These are summarised and provided with the Commission's related views in Appendix B.
- 3.3 The Commission has also considered submissions on the interpretation of the purpose of Part 4, and will set out its interpretation in the Final Decisions Paper.

3.2 Initial Reset Determination

- 3.4 The Initial Reset Determination (attached as Appendix D) reflects the Commission's updated decisions as set out in the previous chapter. It also reflects the Commission's consideration of submissions on the Determination Paper.

3.3 Updates

- 3.5 This section highlights the significant amendments made in the Initial Reset Determination:
- *Clause 4 – Interpretation:*
 - *Interruption* – this definition has been included to allow for the consistent measurement and comparison of SAIDI and SAIFI statistics between the Reference Period and the Regulatory Period;
 - *Prescribed Voltage Electricity Line* – this definition has been included to allow for the consistent measurement and comparison of SAIDI and SAIFI statistics between the Reference Period and the Regulatory Period; and
 - *Unplanned Interruption* – this definition has been included to allow for the consistent measurement and comparison of SAIDI and SAIFI statistics between the Reference Period and the Regulatory Period.
 - *Clause 8 – Price path:*
 - *Clause 8.3 – Allowable notional revenue:* this clause and formula has been revised to clarify that a Non-Exempt EDB's notional revenue, at any time during the Assessment Period, must not exceed the greater of the notional revenue at the Assessment Date or the allowable notional revenue for the Assessment Period; and
 - *Clause 8.5 – Restructuring of Prices:* this clause sets out a revised compliance standard for circumstances where a Non-Exempt EDB restructures its Prices.

- *Clause 10 – Mergers and acquisitions:*
 - *Clause 10.2* – this clause has been included to clarify how a Non-Exempt EDB can demonstrate compliance for the Assessment Periods that follow the Assessment Period in which a transaction is completed; and
 - *Clause 10.3* – this clause has been included to provide for an alternative compliance approach in circumstances where, as a result of a purchase, merger, takeover, disposal or other similar transaction, there may be insufficient information to determine whether a Non-Exempt EDB has complied with the price-path or quality standards.

- *Clause 11 – Annual Compliance Statement:*
 - *Clause 11.1(b)(iv)* – this clause has been revised to clarify how a Non-Exempt EDB can demonstrate compliance with the quality standards for the Assessment Periods that follow the Assessment Period in which a transfer of assets from Transpower to the Non-Exempt EDB was completed.

- *Schedule 4 – Form of Auditor’s Report on Annual Compliance Statement:* the form of opinion in this schedule has been revised to be suitable for a single financial statement under a special purpose compliance framework, consistent with New Zealand and International Auditing Standards.⁹ The basis of opinion has been aligned for the price-path and quality standards. These revisions are expected to reduce the potential for qualified audit opinions on SAIDI and SAIFI statistics.

⁹ *International Standard on Auditing (New Zealand) 800* and *International Standard on Auditing (New Zealand) 805*, both of which are effective for audits of financial statements for periods beginning on or after 1 October 2009.

APPENDIX A: DRAFT DECISIONS PAPER SUBMISSIONS

- A1 The Commission received submissions to the Draft Decisions Paper from the following parties:¹⁰
- (i) Auckland Energy Consumer Trust (“AECT”), including a cross-submission;
 - (ii) Aurora Energy Limited (“Aurora”);
 - (iii) Eastland Network Limited (“Eastland”);
 - (iv) Electricity Networks Association (“ENA”);
 - (v) Major Electricity Users Group (“MEUG”);
 - (vi) Orion New Zealand Limited (“Orion”);
 - (vii) Pacific Economics Group (“PEG”), on behalf of ENA;
 - (viii) Powerco Limited (“Powerco”);
 - (ix) PricewaterhouseCoopers (“PwC”);
 - (x) Statistics Research Associates Limited (“SRA”), on behalf of ENA;
 - (xi) Unison Networks Limited (“Unison”);
 - (xii) Vector Limited (“Vector”); and
 - (xiii) Wellington Electricity Lines Limited (“WE”).
- A2 Submissions were, in the main, supportive of the Commission’s draft decisions and views on the Reset DPP. This appendix focuses on matters where submitter views differed from the Commission’s previously published position.
- A3 The table below summarises the points of difference raised by submissions, lists the relevant submitters, and includes the Commission’s response.

¹⁰ These submissions are available on the Commission’s website at:
<http://www.comcom.govt.nz/IndustryRegulation/Electricity/PriceQualityPaths/20102015defaultpricepath.aspx>.

#	Issue	Submitter	Commission's Response
Chapter 3 – Considerations for the Reset DPP			
1	<p><i>Energy efficiency and pricing flexibility under the Notional Revenue methodology</i></p> <p>Vector expressed disappointment that the proposed price-path does not include a dedicated mechanism to counteract what it views as the energy efficiency disincentives of price cap regulation.</p> <p>Submissions did not believe that the notional revenue methodology in itself, and the pricing flexibility it provides for, promotes incentives for energy efficiency. Unison commented that to some degree the methodology provides EDBs the flexibility to implement pricing structures that provide incentives for energy efficiency, but that other aspects of price cap regulation limit the extent to which efficient charging structures can be achieved.</p>	<p>ENA (p.4); Unison (pp.3-4); Vector (p.4)</p>	<p>The Commission notes that there was not a clear consensus among submissions on the use of an energy efficiency mechanism under the Reset DPP with a number of parties supporting a cautious approach. The Commission retains the view that this approach is appropriate, particularly given the tight timeframes afforded to the reset process.</p> <p>As indicated in the Draft Decisions Paper, the Commission intends to undertake further consultation to consider the potential implementation of a dedicated energy efficiency mechanism. This proposal was supported by the majority of submissions. The Commission intends to publish a process paper regarding future DPP work streams in February 2010.</p> <p>The Commission retains its previous position in relation to energy efficiency.</p>
2	<p><i>Provision of re-openers in the Reset DPP</i></p> <p>Most submissions commented that a provision should be included in the Initial Reset Determination (i.e., prior to the input methodology determinations being made) to account for certain events beyond an EDBs control. Submissions commented that a six-month extension to the publication of input methodologies would potentially expose EDBs to greater risks from events of significance that are unforeseeable and outside of their control.</p> <p>Submissions proposed a variety of options for addressing such events prior to input methodologies being published. These options include the provision of such events by way of an explicit re-opener clause; treating such events as a general pass-through cost; or via the Enforcement Guidelines.</p> <p>Submissions further commented that a re-opener provision could be included but that it should not be limited to events which affect the industry as a whole, as local catastrophes or events such as a major earthquake, could be severe enough to require a re-opener for one or a few EDBs. Submissions also commented that it would be inappropriate to rely on CPP mechanism for such events, because such circumstances have immediate consequences.</p>	<p>ENA (p.4); MEUG (p.2); Orion (pp.6-7), Powerco (pp.3-4); PwC (p.7); Unison (p.3) WE (p.3)</p>	<p>The Commission notes that both re-opener provisions and pass-through costs are to be considered under input methodologies. At this time, the Commission does not consider it necessary or appropriate to include a specific provision for re-openers or expand the definition of pass-through costs beyond that set out in the Draft Decisions Paper. The Commission notes that input methodologies will be set prior to the first compliance assessment, and the Initial Reset Determination may be amended to give effect to any relevant decisions on re-openers and/or pass-through costs.</p> <p>The Commission retains its view that no specific provision is required in the Initial Reset Determination to allow for re-openers. The Commission may, however, amend the Reset DPP to give effect to any relevant decisions on re-openers following the publication of input methodology determinations.</p>

#	Issue	Submitter	Commission's Response
	<p>MEUG, however offered a different perspective and suggested that re-openers need not be considered until after initial price resets are made (i.e., after input methodologies are published) because it will only be at that point that EDBs will be able to assess the effect of the DPP in its entirety.</p>		
3	<p>Excluded services</p> <p>Submissions included comments that the Commission has discretion to exclude some services from the Reset DPP, similar to the provision of “excluded services” in the Thresholds Notice. Submissions were of the view that most of the services excluded under Thresholds are also excluded under the Part 4 regime under the Act’s definition of electricity lines services.</p> <p>Submissions also commented that where a consumer conducts a competitive bid process for the provision of electricity lines services resulting in a long-term contract for the supply of those services this should be listed as an exclusion under the definition of electricity lines services. ENA commented that under these circumstance, where there is written agreement from supplier and purchaser, such services should not be subject to the DPP. Unlike clause (j) of the definition for specified services in the Thresholds Notice, ENA considered that a test of workable and effective competition would not be considered necessary. PwC commented that the exclusion of such services where there is evidence to support the existence of workable or effective competition for the services is entirely consistent with the standard of workable competition that underpins Part 4.</p>	<p>ENA (pp.9-10); Powerco (p.9); PwC (p.6); Vector (p.8)</p>	<p>The Commission considers that the Act establishes which services are subject to regulation under Part 4, i.e., those services specified by the definition of electricity lines services. The Commission therefore considers it appropriate for this definition to determine the scope of services subject to the Reset DPP. This view has been reflected in the Initial Reset Determination.</p> <p>The Commission notes that this was not the case when the Thresholds were initially set, as the Act at that time, only defined which type of businesses were subject to Part 4A. As such, the Thresholds Notice included definitions for specified and excluded services. The Commission agrees with submissions that some of the services excluded under the Thresholds continue to be excluded under Part 4 by virtue of the electricity lines services definition.</p> <p>The Commission considers that the scope of services subject to the Reset DPP is determined by the definition of electricity lines services as set out in the Act.</p>

#	Issue	Submitter	Commission's Response
4	<p>Chapter 4 – Price-Path Definition of quantity – t-1 versus t-2 approach</p> <p>The majority of submissions explicitly expressed support for referencing quantities using a t-2 approach, as opposed to the t-1 approach specified in the draft decision. Submissions commented that, although a t-2 approach would reduce comparability between assessment and actual quantities (although year to year variances are likely to be immaterial), the additional 12 month lag would mean that quantities would be actual quantities that are verifiable (i.e., they would not include any estimates) and provide greater certainty – subsequently reducing the number of technical breaches. In addition, the audit requirements specified for the t-1 approach would not be required and the associated compliance costs would be avoided. Submissions noted a t-2 approach was adopted under the Gas Authorisation.</p> <p>Regarding the t-1 approach, submissions commented that there would likely be a degree of uncertainty in terms of compliance, as the t-1 quantities would contain estimates that would need to account for wash-ups that occur at year end. As such, submissions indicated that there would likely be considerable variances between actual and estimated t-1 quantities.</p>	<p>AECT x-sub (pp.1-2); ENA (p.6); PwC (p.8); Powerco (pp.4-5); Vector (pp.6-7); WE (p.4)</p>	<p>In light of submissions, the Commission has reviewed its draft decision and considers that the t-2 approach may provide greater certainty for EDBs. It will allow them to set prices with more certainty and should reduce the potential for technical breaches. The basis for the draft decision to use a t-1 approach (which was originally supported by submissions to the Discussion Paper) was an increased correlation between price and base quantities, i.e., t-1 quantities are considered to be more representative of underlying consumption trends and tariff structures than a t-2 approach and further reduce the potential for the pass-through anomaly to occur (see Draft Decisions Paper pages 51-53). The t-1 approach was initially chosen as it would better mitigate the anomaly. However, as noted by submissions, the t-1 approach involves a measure of estimation and the potential for greater compliance requirements. The t-2 approach has the advantage of dealing with known audited quantities, and so would not require a reconciliation process and would avoid the additional compliance costs. The t-2 approach also more closely aligns with the <i>Transparency Principle</i> (given its use of audited quantities). Although under the t-2 approach the potential impact of the pass-through anomaly may be larger than under the t-1 approach, the Commission agrees with submissions that the impact will be minor.</p> <p>The Commission has amended its views on lagged base quantities, such that an EDB will calculate its allowable notional revenue and notional revenue using the t-2 approach described in the Draft Decisions Paper. The quantities term in the Initial Reset Determination has been updated to reflect this.</p>
5	<p>Indexation of the price-path – lagged CPI versus forecast CPI</p> <p>The majority of submissions expressed support for using a forecast CPI, rather than the lagged CPI approach as specified in the draft decision. Submissions commented that Statistics New Zealand or Reserve Bank CPI forecasts could be used as an agreed forecast. The use of a forecast CPI would require an annual adjustment to take account of the difference between forecast and actual CPI. Submissions recommended an alternative formula (see PwC pp.8-9).</p>	<p>AECT x-sub (p.2); Eastland (p.9); ENA (pp.6-7); Orion (pp.2-4); PwC (pp.8-9); Vector (p.7)</p>	<p>The rationale for the use of a lagged CPI is similar to that for the t-2 approach to lagged quantities. The use of a forecast CPI would more likely align EDB price movements with the economy-wide price movements, but involves potential estimation errors. Alternatively, a lagged CPI uses known CPI adjustments.</p> <p>As discussed in the Draft Decisions Paper, CPI is a robust index that is widely used by regulators to set allowed price increases. One of the benefits of a lagged approach is that it captures relative inflation over time, whereas a forecast CPI (without ex-post adjustment) may not. The forecast approach would need to include an adjustment to account for any estimation errors.</p>

#	Issue	Submitter	Commission's Response
	<p>Submissions commented that a forecast CPI would more likely align EDB price movements with price movements in the wider economy in the relevant period. Submissions were concerned that the transition (from the forecast CPI approach used under the Thresholds and Initial DPP) to a lagged approach would double count the CPI for the 12 months ending 30 September 2009. Low inflation rates are expected for this period and there may be a significant delay for when EDBs can adjust for inflationary pressures.</p>		<p>The Commission considers that the additional complexity and potential uncertainty of such adjustments is not necessary, given the simplicity and transparency of the lagged approach.</p> <p>The Commission considers that the length of the lagged period (effectively 18 months) is necessary due to the relative timings of EDB price setting and the release of the CPI figures by Statistics New Zealand (i.e., the latest available figures prior to 1 December will be those relating to September, six months before the start of the assessment period).</p> <p>In relation to concerns on the level of CPI during the 2010/11 period, the Commission notes that when applying the lagged approach CPI will be 2.47%,¹¹ whereas the RBNZ forecast for this period is 1.70%. Concerns expressed relating to 'double counting' may be misplaced as the derived value of 2.47% is likely to be reasonable when considered in terms of overall CPI trends.</p> <p>The Commission has retained its draft decision that indexation of the price-path should use a lagged CPI approach.</p>

¹¹ See Appendix C for the derivation of this CPI figure.

#	Issue	Submitter	Commission's Response
6	<p><i>Pass-through costs – expanded definition</i></p> <p>Submissions requested that the definition of pass-through costs be expanded to:</p> <ul style="list-style-type: none"> ▪ include regulatory compliance costs – these costs were described by submissions in different ways, from new and unavoidable costs associated with either changes to or the introduction of new legislation or regulation, to costs associated with regulatory processes. AECT commented that such costs may be open to gaming and may require an ex-post prudency review process to be implemented; ▪ allow for additional pass-through costs, subject to Commission pre-approval – such a provision is included in the Gas Authorisation, where approval is sought prior to the beginning of the pricing year; ▪ consider the treatment of significant events as general pass-through costs, rather than under a re-opener provision 	<p>Aurora (p.6); AECT (p.7); AECT x-sub (p.2); ENA (p.7) Orion (pp.6-9); Powerco (p.6); Vector (pp.7-8)</p>	<p>The Commission's draft decision was to specify certain pass-through costs in the Initial Reset Determination (i.e., local authority rates; Commerce Act levies; Electricity Commission levies; and transmission charges). These are consistent with the type of pass-through costs allowed under the Initial DPP.</p> <p>At this time, given that pass-through costs are to be considered under input methodologies, the Commission does not consider it is necessary or appropriate to expand the definition of pass-through costs beyond that previously set out in the Draft Decisions Paper.</p> <p>The Commission does not consider that the definition of pass-through costs should be further expanded prior to input methodologies being determined. The Commission has, therefore, retained its draft decision that pass-through costs for the Initial Reset Determination will include local authority rates, Commerce Act levies, Electricity Commission levies, and transmission charges.</p>
7	<p><i>Pass-through costs – Transmission Charges</i></p> <p>Submissions commented that the definition of transmission charge in the draft determination reflected a reduced range of services than provided for under the Thresholds. Submissions suggested that it omitted some of the transmission services provided by Transpower. For example, submissions commented that the Transmission Pricing Methodology does not include loss constraint excess payments (loss rental rebates), system operator charges or new investment contracts. PwC suggested that the Thresholds Notice definition be adopted.</p>	<p>Submissions to the Determination Paper – ENA (para 10); Orion (para 25); Powerco (para 12); PwC (p.17); Unison (Q2)</p>	<p>The Commission considers that it is appropriate at this time to include provisions for “system operator charges” and “new investment contracts” under the transmission charge term. The Commission considers that system operator charges are largely beyond the control of a Non-exempt EDB and is satisfied that they are not covered by the Transmission Pricing Methodology. However, while retaining new investment contracts, the Commission intends to review their appropriateness as a pass-through cost given that these contracts are subject to negotiation between Transpower and EDBs and that they are likely to be both foreseen and controllable (to an extent). The Commission will reconsider the incentive effects of the pass-through of new investment contracts and their subsequent treatment in light of relevant input methodology determinations.</p> <p>However, the Commission does not consider it appropriate to include provisions for “settlement of financial transmission rights” and “loss and constraint rentals” under the transmission charge term. As financial transmission rights are not currently being used, the Commission considers that they do not need to be provided for at this time. Loss and constraint rentals have been omitted as the Commission considers that these should be passed on transparently to consumers/retailers, and as set out in clause 4, pass-through costs are to exclude those amounts that the EDB can</p>

#	Issue	Submitter	Commission's Response
			<p>demonstrate were passed on transparently.</p> <p>The definition of Transmission Charge in the Initial Reset Determination relates to: services supplied by Transpower in accordance with the Transmission Pricing Methodology; new investment contracts; system operator charges; and avoided transmission charges.</p>
8	<p>Pass through costs – avoided transmission charges</p> <p>Submissions agreed with the Commission's position on avoided transmission charges, but commented they should be explicitly referred to in the Commission's draft decision.</p>	<p>Orion (p.16); Powerco (p.6)</p>	<p>The Commission agrees with submissions and notes that this position has been reflected in the draft determination.</p> <p>The Commission considers that transmission charges should be net of any avoided transmission charges.</p>
9	<p>Pass through costs – K_{t-1} term</p> <p>Orion commented that when setting prices some of the pass-through costs are estimated and that the need for this estimation should be acknowledged in the definition of the K_{t-1} term.</p> <p>Orion also commented that the difference between the actual and estimated values could be explained as part of the compliance process.</p>	<p>Orion (p.5)</p>	<p>The Commission acknowledges that when setting prices, some pass-through costs will need to be estimated by EDBs. However, variances between estimated and actual pass-through cost values should not be material given that the majority of these costs are known in advance. The compliance process would require EDBs to use actual values, but any estimates used by the EDB in setting prices would also be required to be disclosed. As submitted by Orion, it is anticipated that an EDB would explain any significant variances between actual and estimated values, particularly if it led to a breach of the price-path.</p> <p>The Commission considers that the price-path compliance process should take account of any estimates of pass-through costs. This has been reflected in the Initial Reset Determination.</p>
10	<p>Specification of allowable notional revenue</p> <p>Submissions commented that the price-path should incorporate allowances for recovery in future years of headroom established in previous years. To allow for this headroom, submissions suggested that the allowable notional revenue formula be amended as follows:</p> $R_t = (\sum P_{i,t-1} Q_{i,t-1} - K_{t-1} + R_{t-1} - NR_{t-1}) \times (1 + \Delta \text{CPI})(1-X)$ <p>Where ΔCPI reflects the difference in actual versus forecast CPI.</p>	<p>ENA (pp.7-8); Orion (pp.1-2); PwC (pp.9&14-15); Powerco (p.4); WE (p.4)</p>	<p>The Commission has carefully considered submissions on this issue and acknowledges the rationale for the "revenue adjustment term" proposed. However, the Commission considers that due to the relatively late introduction of the amended formula it has been unable to fully assess its effect, leading to a degree of uncertainty around its implications. The Commission is of the view that the following issues should be further considered before the introduction of a 'revenue adjustment term':</p> <ul style="list-style-type: none"> ▪ the potential incentive effects in light of the Part 4 Purpose; ▪ the potential for unforeseen complexities including technical breaches (similar to the pass-through anomaly under the Thresholds);

#	Issue	Submitter	Commission's Response
	<p>Submissions commented that, as proposed, the price-path has the effect of re-establishing allowable notional revenue each year, based on the previous year's actual prices adjusted by CPI-X. This would in turn remove any headroom (or lock in any over recovery) that may exist for the subsequent year (i.e., any allowable price increase not taken would be forgone – resulting in an annual adjustment of CPI or less).</p> <p>Submissions commented that EDBs could reasonably be expected to set prices slightly below allowable notional revenue given potential for more severe penalties for breaches of the price-quality path. This pricing behaviour would be to particularly allow for any uncertainty that may exist when setting prices (e.g., some estimation of pass-through costs required).</p>		<ul style="list-style-type: none"> ▪ the potential impact of estimation, inherent in the adjustment term; ▪ suitability to account for breaches of the price path; ▪ the degree to which the adjustment should replicate the arrangements under the Thresholds; and ▪ the potential need for a mechanism to prevent price-shocks to consumers resulting from revenue accumulated over a number of assessment periods. <p>Given that the adjustment would not be applicable during the first assessment period and to allow it to better assess the above issues, the Commission considers it appropriate to defer the potential introduction of the adjustment term. It will further consider the issue during the first assessment period, with a view to introducing it (or an equivalent term) prior to price setting by Non-exempt EDBs in December 2010. The Commission proposes to further consider the issue in consultation with interested parties.</p> <p>The Commission considers that the formula for allowable notional revenue should not initially include the revenue adjustment term and has not included it in the Initial Reset Determination. The Commission will further consider the issue early next year.</p>
11	<p>Price restructuring</p> <p>Orion commented that when restructuring prices, the annual update of quantity would not resolve the problem of demonstrating price-path compliance, at least not where entirely new quantities were devised (for example, if moving from kVA to kW, or if moving from summer assessment to winter assessment). This is because the new quantity simply did not exist in the previous period and thus it is not possible to demonstrate compliance under both the old and new pricing structures.</p>	Orion (p.6)	<p>If a Non-exempt EDB restructures its prices during the Regulatory Period, it must demonstrate whether or not the restructuring of itself increased its allowable notional revenue from the level that would have applied if the restructuring had not occurred. The Commission acknowledges that while the new quantity may not necessarily have been used in the previous period, it considers that impact of the restructure can be demonstrated using estimates of the equivalent quantities.</p> <p>The Commission has retained its draft decision and has revised the relevant clause in the Initial Reset Determination to provide greater clarity.</p>

#	Issue	Submitter	Commission's Response
	Chapter 6 – Rate of Change		
12	<p><i>Determining the X-factor</i></p> <p>Submissions expressed reservations with the TFP methodology used by Economic Insights, citing that it was highly theoretical, untested and complex. Some submissions expressed a preference for the methodology used by Pacific Economics Group (PEG), while others recommended that the Commission re-engage with industry (and potentially hold a workshop) to produce a more appropriate measure – Powerco commented that this should be done prior to the DPP determination for gas pipeline services. PEG's submission advocates the TFP methodology adopted for their analysis.</p> <p>Most submissions were supportive of the proposed X-factor. MEUG, however, commented that there is a case for the Commission to set an X that has a positive value to incentivise EDBs to make greater productivity gains. MEUG submit that the starting point from which the Commission consider any intangible factors should be an X of 0.6%, the value provided by Economic Insights when excluding EDBs likely to be consumer owned. Where an EDB experiences financial hardship as a result, then the EDB can apply for a CPP.</p> <p>In its cross-submission, AECT are of the view that MEUG's "justifications for a higher X-factor are misleading".</p>	<p>AECT (p.7); AECT x-sub (pp.2-4); Aurora (pp.6-8); MEUG (pp.1-2); Orion (p.10); PEG; Powerco (p.7); Vector (p.10)</p>	<p>In making its draft decision on the X-factor, the Commission has not mechanically applied the conclusions from productivity analysis. The Commission has considered submissions on the current economic climate and the need to consider it when setting the X-factor.</p> <p>In reaching its decision on the value of the X-factor, the Commission carefully considered a range of factors. One consideration was the generic nature of the DPPs and the use of a common X-factor for Non-exempt EDBs. In order for a common X-factor to be suitable across the range of suppliers, a relatively conservative value would seem to be appropriate, with more specific circumstances addressed by a starting price adjustment.</p> <p>In relation to MEUG's comments, the Commission considers that it was appropriate to base productivity analysis on the sector as a whole to inform its decision-making, rather than on an indicative group of EDBs which is subject to variation. As such the Commission considers that the 0.6% value is less appropriate.</p> <p>While productivity analysis has been used to inform its decision, the Commission has considered additional matters when determining the X-factor. The Commission notes that its proposed X-factor of 0% lies within the ranges for the X-factor recommended by both Economic Insights and PEG.</p> <p>The Commission retains its draft decision on the X-factor, i.e., X equals 0%.</p>

#	Issue	Submitter	Commission’s Response
13	<p>Chapter 7 – Quality Standards</p> <p>Zero SAIDI days – included or excluded from analysis</p> <p>SRA recommended that zero SAIDI days be accounted for when calculating boundary values, which are used to identify MEDs.</p> <p>SRA commented that zero SAIDI days (i.e., days where a network demonstrates perfect reliability) should not be ignored in the normalisation of reliability data. SRA suggested that the exclusion of zero SAIDI days “significantly reduces the SAIDI and SAIFI thresholds proposed by the Commission”.</p> <p>SRA questioned the IEEE treatment of zero SAIDI days and relevance to the New Zealand experience, given that “not many small utilities such as cooperatives were included in the initial analysis”. SRA provided statistics on zero SAIDI days experienced by New Zealand EDBs. The proportion of zero SAIDI days for 17 New Zealand networks for 2004 to 2009 ranged from 1.5% to 70%, with a median of 47%.</p> <p>SRA submits that the Commission’s proposed approach would lead to “networks with the same non-zero SAIDI day performance, but widely differing proportions of zero SAIDI days, being treated alike”.</p>	SRA (pp.3-4)	<p>The Commission considers it appropriate to use the IEEE Standard, a recognised international standard, to account for extreme events when setting quality standards for EDBs.¹² The IEEE Standard was developed by industry experts for use by regulators and utility management and is an internationally recognised approach for identifying MEDs.¹³</p> <p>The Commission recognises that there is an argument for the inclusion of zero SAIDI days when determining MEDs, however, the Commission considers that it is appropriate to be consistent with the IEEE Standard. The IEEE Standard specifies that zero SAIDI days are to be excluded when calculating boundary values.¹⁴ As such, the Commission considers that when assessing the significance of an event it is not necessary to contemplate days in which no event occurs.</p> <p>The impact of zero SAIDI days was considered in the development of the IEEE Standard. This included the consideration of outage data from small networks (1,400 to 70,000 customers), which reflect the scale of many New Zealand EDBs. The networks in the study and New Zealand EDBs also have a similar range in zero SAIDI days (i.e., 10 to 290 per annum, compared with 5 to 256 per annum¹⁵ for the 17 New Zealand EDBs analysed by SRA).</p>

¹² Institute of Electrical and Electronics Engineers (“IEEE”), *Guide for Electric Power Distribution Reliability Indices*. Refer: http://standards.ieee.org/reading/ieee/std_public/description/td/1366-2003_desc.html

¹³ For example, see Australian Energy Regulator, “*Electricity distribution network service providers service target performance incentive scheme*”, June 2008.

¹⁴ IEEE Power Engineering Society, *IEEE Guide for Electric Power Distribution Reliability Indices, IEEE Std 1366-2003*, 14 May 2004, p. 9.

¹⁵ This annual range was estimated by the Commission using the data in Table 1 of SRA’s submission.

#	Issue	Submitter	Commission's Response
	<p>Consequently EDBs may be motivated to “ensure that they did have predominantly non-zero SAIDI days”.</p>		<p>The Commission retains its draft decision on this matter. Consistent with the IEEE Standard, zero SAIDI days are to be removed from the Reference Dataset when calculating boundary values.</p>
<p>14</p>	<p><i>Normalisation of SAIFI data</i></p> <p>Submissions expressed a view that SAIFI MEDs should be defined with reference to the specified SAIFI dataset, and thus do not support the proposal to define SAIFI MED days with reference to the SAIDI dataset. Submissions commented that SAIFI and SAIDI are separate components of the DPP that should be separately defined and assessed.</p> <p>Submissions noted that not all major events influence SAIDI and SAIFI in the same manner (i.e., historic breaches have not necessarily been for both SAIDI and SAIFI). For example, PwC submitted data that 14% of quality breaches under the Thresholds from 2005-2009 were for breaches of SAIFI only.</p>	<p>ENA (p.11); PwC (p.16); Powerco (pp.7-8); SRA (p.11); WE (p.7)</p>	<p>The Commission considers it appropriate to use the IEEE Standard when normalising SAIFI data. The process of identifying MEDs using SAIDI data, rather than identifying separate MEDs for SAIDI and SAIFI datasets, is consistent with the IEEE Standard. The IEEE suggests that, as a measure, SAIDI is more representative of the cost of outages to consumers.</p> <p>The Commission has retained its draft decision on this matter. The identification of MEDs using SAIDI data only is in accordance with the process outlined in the IEEE Standard.</p>
<p>15</p>	<p><i>Substitution for MEDs</i></p> <p>PwC commented that in principle replacing MEDs with the boundary value in the reference data as well as the annual assessment seems reasonable, however it assumes that the frequency of major events is consistent between the reference period and the assessment period. By their very nature, extreme events are unpredictable, and hence it is unlikely that this assumption will have a neutral impact on all EDBs.</p> <p>In addition, Vector sought clarity as to why MEDs are not excluded from the relevant datasets and separately assessed, as provided for the IEEE Standard.</p> <p>In its cross-submission AECT supported “substituting extreme event values with average rather than boundary values in the assessment of EDB quality”.</p> <p>From a statistical viewpoint, SRA support the IEEE approach of separately assessing MEDs and normal variation. SRA recommended that “normal variation be assessed using truncated daily data (MEDs excluded) in keeping with IEEE standard 1366TM-2003; [and] MEDs are carefully</p>	<p>AECT x-sub (p.2); PwC (pp.15-16); SRA (pp.9-11); Vector (pp.10-13)</p>	<p>In the case of boundary substitution, the Commission considers it appropriate to remain consistent with the IEEE Standard, as far as reasonably practicable. The IEEE Standard requires that MEDs be removed from the dataset and analysed separately. The IEEE did not intend that extreme events would be excluded and not be considered. Consistent with this, it is not the Commission's intention to exclude MEDs from consideration.</p> <p>The Commission notes the proposal from SRA to censor MED data and to then carefully scrutinise, monitor and assess MEDs. The Commission agrees that this approach would fully reflect the IEEE Standard. However, it considers that such detailed analysis of MEDs is likely to be inconsistent with the low cost rationale of the DPP as the detailed analysis and reporting of extreme events is likely to be a relatively complex and costly exercise.</p> <p>Recognising that major events should be taken into account in some manner (consistent with the intent of the IEEE Standard), the Commission considers that the best alternative to a separate analysis of major events and their impact on distribution networks is to substitute the boundary value for each MED.</p> <p>Boundary value substitution is applied to both the reference and assessment</p>

#	Issue	Submitter	Commission's Response
	<p>scrutinised, monitored and assessed separately from the assessment of normal variation.”</p>		<p>datasets, and as such, the Commission considers that this is likely to have a relatively neutral impact for compliance purposes. The potential for boundary substitution to have a significant negative impact in any given year, is mitigated by the overall design of the quality standard (i.e., the inclusion of the two out of three assessment). The Commission may, also, consider the effect of MED substitution when assessing any breaches of quality standards.</p> <p>The Commission has retained its draft decision i.e., identified MEDs are to be replaced in the reference and assessment datasets with the respective SAIDI and SAIFI boundary value.</p>
<p>16</p>	<p><i>Distribution – log-normal versus alternative distributions</i></p> <p>With regard to the normalisation of daily SAIDI and SAIFI values, SRA recommended that the assumption that non-zero daily SAIDI or SAIFI values follow a log-normal distribution be replaced by the assumption that they follow a mixture of log-normal distributions.</p> <p>After undertaking analysis of 17 networks, SRA considered that "a mixture of normals fits the logarithms of non-zero daily SAIDI and SAIFI data very well, ...as a mixture of two normal distributions provides a very flexible family of distributions that includes the normal distribution as a special case. It can account for bimodality as well as skewness and is widely used in practice to provide accurate, flexible approximations of data distributions." SRA commented that of these 17 networks, "around a third had bimodal distributions over some periods, typically for the logarithms of daily SAIFI, but also the logarithms of daily SAIDI in some cases."</p>	<p>SRA (p.3-11)</p>	<p>While acknowledging that there may be a more representative distribution than a log-normal distribution for some EDBs, the Commission considers that a standard approach, that can be reasonably applied to all EDBs, is appropriate for the Reset DPP given the generic nature of the instrument. The IEEE Standard also uses the assumption of log-normal distribution when normalising reliability, and the Commission has sought to be consistent with the IEEE Standard.</p> <p>The Commission has retained its view on the use of log-normal distributions to normalise daily outage data.</p>
<p>17</p>	<p><i>Consequences of extreme events</i></p> <p>Wellington Electricity submitted that the MED provisions do not capture the consequences of subsequent planned and unplanned outages following a MED (e.g., to make temporary repairs permanent and restore to pre-event conditions and security levels). "The Commission's proposed mechanism for extreme events does not adequately deal with this situation as one event and recovery could influence two adjacent control periods leading to a SAIDI or SAIFI breach."</p>	<p>WE (p.7)</p>	<p>The Commission considers that the frequency of major events will tend to be consistent across both the reference and assessment periods. It also considers that the relative scale and impact of MEDs will tend to be of a similar nature in both periods. As the effects of MEDs (including on planned and unplanned outages) will also be present in the reference dataset, their effect will be largely accounted for in reliability limits.</p> <p>The Commission considers that this matter is sufficiently taken into account in its draft decisions and no amendment is necessary.</p>

#	Issue	Submitter	Commission's Response
18	<p>Two out of three assessment – separate treatment of SAIDI and SAIFI</p> <p>Submissions commented that SAIDI and SAIFI should be treated independently and the two out of three assessment should be independently applied to each (i.e., have separate SAIDI and SAIFI assessments).</p>	<p>Orion (p.9); Powerco (p.8); WE (p.7)</p>	<p>The Commission considers that the <i>annual</i> quality assessment process should consider both SAIDI and SAIFI events together. SAIDI and SAIFI together indicate service quality performance and as such should be considered.</p> <p>The quality standards have been designed to take account of performance over time, such that, failure to meet the <i>annual requirements</i> in more than one of any three consecutive years would constitute a breach of the quality standard.</p> <p>The Commission considers that the two out of three compliance assessment, as defined, is appropriate.</p>
19	<p>Non-contiguous networks</p> <p>Submissions did not support the requirement for EDBs to derive reliability targets for non-contiguous networks. Submissions were of the view that this requirement imposed a higher standard of compliance for those EDBs with non-contiguous networks (i.e., as it increases the number of tests an EDB is required to fulfil, it increases the probability of a failure to comply with the DPP); that principles of consistency and fairness are not being met, as the proposal is inequitable; and separate quality requirements for different networks is inconsistent with the price-path component of the DPP.</p> <p>With specific reference to their network, Powerco considered that “no analysis of the “distinction” between Powerco’s Eastern and Western Network has been undertaken by the Commission. Instead, the Commission has decided that geographical separation equates to</p>	<p>Aurora (p.9); ENA (p.12); PwC (pp16-17); Powerco (p.8)</p>	<p>The Commission’s initial position regarding separate reliability limits for non-contiguous networks was informed by research and consultation undertaken in relation to the suspended thresholds reset. The Commission proposed in the Thresholds Reset Discussion Paper to set and monitor separate thresholds for non-contiguous networks and networks where not all consumers are owners or beneficiaries. The Commission was of the view that reliability performance in separate geographic locations is not necessarily equivalent, and that there was potential for overall performance to mask the performance in one or more areas. Some submissions to the Thresholds Reset Discussion Paper supported this proposal. For example, Powerco “agree[d] that it makes sense to report separately on its Eastern and Western networks. Of course, this also means that reliability thresholds for each separate network would need to be determined on the basis of its own historical performance, rather than aggregate performance of the networks together.”¹⁶</p> <p>The Commission has given careful consideration to the proposed</p>

¹⁶ Powerco, *Submission to the Commerce Commission on 2009 Threshold Reset*, 18 February 2008, p. 30.

#	Issue	Submitter	Commission's Response
	<p>topographical and climatic differences with no evidence base.”</p> <p>Submissions commented that information on non-contiguous networks is required under Information Disclosure, which is sufficient for performance monitoring purposes. Aurora also noted that the EDBs where the consumer controlled test applies for disclosure of reliability performance would not be required to demonstrate compliance for their separate networks.</p> <p>In reference to the inclusion of this requirement at the draft decisions consultation stage, Powerco submitted that “there needs to be a fuller discussion to allow the Commission and EDBs to assess the impact of this requirement on breaching quality.”</p>		<p>requirements for non-contiguous networks. The Commission has considered the proposed requirement in light of the regulatory framework; how quality standards have been set and the incentive effects that the proposed requirement creates; the associated compliance costs; and the matters raised by submissions. The Commission acknowledges that separate requirements for non-contiguous networks would impose a higher standard of compliance compared with other EDBs. On balance, the Commission considers that the separate assessment of non-contiguous networks may not be required at this time, particularly given the oversight and monitoring of the relative performance of such networks that will occur under information disclosure.</p> <p>The Commission has amended its draft decision regarding non-contiguous networks. EDBs with non-contiguous networks will not be required to set, and assess compliance against, separate reliability limits for each network. Rather, every EDB will be required to set its reliability limits on the basis of its whole network.</p>
20	<p>Reliability targets – historic performance under the Thresholds</p> <p>PwC submitted that some EDBs recorded substantial improvements in their reliability performance over the reference period (2005-2009), and that there may be a marked difference between the previous quality threshold and the proposed reliability targets. PwC are of the view that the reliability targets should be set to no less than 80% of the threshold benchmark (using data normalised for extreme events for both SAIDI and SAIFI datasets) for those EDBs which have reported a 20% or more improvement in reliability from the previous quality threshold.</p>	PwC (pp.17-18)	<p>Incentives for improved quality performance, beyond that required by the quality standards, may be provided for by an S-factor type mechanism. As discussed in paragraph 1.8, the Commission plans to undertake further work on issues not addressed in the Initial Reset Determination, such as an S-factor, during the regulatory period. In addition, the quality standards have been designed to take account of potential variances from the mean performance during the reference period.</p> <p>The Commission does not propose to amend the quality standards to make specific provisions for EDBs that improved their reliability performance over the reference period.</p>
21	<p>Nomenclature and technical matters</p> <p>Orion considered that the DPP should refer to “limits” not “targets” in relation to quality measures.</p> <p>SRA commented on terminology and statistical issues relating to the proposed quality standards, including the following recommendations:</p> <ul style="list-style-type: none"> ▪ the term “sampling variability” be used to describe statistical variation rather than “normal variability”; 	Orion (p.19); SRA (pp.13-14)	<p>The Commission agrees with suggested use of the terms “reliability limits” and “sampling variability”.</p> <p>While welcoming the suggestion, the Commission does not consider that it is necessary to adopt the term “standard error” or frame compliance on a daily time scale. The Commission considers that the naming convention and the process for calculating reliability targets and assessed values on an annual basis are sufficiently clear.</p> <p>The use of the sample size n equals 365, as stated in the Draft Decisions</p>

#	Issue	Submitter	Commission's Response
	<ul style="list-style-type: none"> ▪ the use of the term “standard deviation” be clarified – for instance, adopting the term “standard error” to describe the standard deviation of a sample mean; ▪ the sample size used to calculate an EDB’s reliability limit (currently n equals 365) should reflect the relevant treatment of zero SAIDI days (i.e., where they are excluded from analysis, n equals 365 less the number of zero SAIDI days); and ▪ compliance be framed using a daily time scale rather than an annual value. 		<p>Paper, is appropriate as this refers to standard deviation used for the setting of the dead-band and all days, including zero SAIDI days, are included in this analysis.</p> <p>Where appropriate, the Initial Reset Determination will reflect the above drafting changes.</p>
22	<p><i>Initialisation – compliance for the first assessment period</i></p> <p>SRA commented that compliance cannot be assessed for the first assessment period under the two out of three approach and suggested that compliance against the quality standards could be assessed based solely on performance in the first assessment period.</p>	SRA (p.16)	<p>The Commission notes the suggestion from SRA to use an annual assessment alone in the first period, however it considers that a consistent overall assessment process should be adopted through the period.</p> <p>The Commission does not propose to amend the quality standards to allow for breaches in the first assessment period.</p>

APPENDIX B: DETERMINATION PAPER SUBMISSIONS

B1 The Commission received submissions on its draft determination from the following parties:¹⁷

- (i) Auckland Energy Consumer Trust (“AECT”);
- (ii) Eastland Network Limited (“Eastland”);
- (iii) Electricity Networks Association (“ENA”);
- (iv) Orion New Zealand Limited (“Orion”);
- (v) Powerco Limited (“Powerco”);
- (vi) PricewaterhouseCoopers (“PwC”);
- (vii) Unison Networks Limited (“Unison”);
- (viii) Vector Limited (“Vector”); and
- (ix) Wellington Electricity Lines Limited (“WE”).

B2 The table below summarises drafting suggestions raised in submissions, lists the relevant submitters, and includes how these suggestions have been considered in light of the Initial Reset Determination. This table excludes drafting suggestions that are inconsistent with the Commission’s updated draft decisions.

¹⁷ These submissions are available on the Commission’s website
<http://www.comcom.govt.nz/IndustryRegulation/Electricity/PriceQualityPaths/20102015defaultpricepath.aspx>.

#	Drafting Suggestion	Submitter	Initial Reset Determination
1	<p>Clause 4 - Interpretation</p> <p>Definition of Allowable Notional Revenue</p> <p>Submissions suggested that this definition be revised. Comments from submissions included that it is inappropriate for the definition to refer to ‘maximum prices’, or that it may not be necessary under this clause altogether.</p>	<p>Orion (para 6); PwC (p 15)</p>	<p>The definition of allowable notional revenue has been amended and incorporated under clause 8.3.</p>
2	<p>Definition of Avoided Transmission Charge</p> <p>Submissions suggested that this definition be revised to provide clearer criteria for assessing the extent to which transmission charges may be recovered.</p>	<p>Orion (para 25); PwC (p 5)</p>	<p>The Commission considers that the definition of Avoided Transmission Charge remains appropriate and has not been amended.</p>
3	<p>Definition of EDB Network</p> <p>Submissions commented on the use of the term EDB Network and suggested that it be removed.</p>	<p>AECT (para 3); Orion (para 67); ENA (para 53); ENA (para 23)</p>	<p>Consistent with the Commission’s updated decision on non-contiguous networks, set out in paragraph 2.2, the references to “EDB Network” have been removed.</p>
4	<p>Definition of Electricity Commission Levy</p> <p>Submissions considered that, given the potential for the Electricity Commission to be superseded by another regulatory body, this definition should provide for any equivalent levy.</p>	<p>Powerco (paras 4 and 12)</p>	<p>The definition of the Electricity Commission Levy remains unchanged. This is due to the uncertainty surrounding the potential disestablishment of the Electricity Commission and the body or bodies that may replace it. There may also be associated legislative implications. The Commission will amend this definition should the need arise.</p>
5	<p>Definition of Electricity Distribution Service and Electricity Lines Service</p> <p>Submissions suggested that the definition of Electricity Distribution Service is not required. Instead the term Electricity Lines Service (and the definition given to it under the Act) should be used to determine the scope of services subject to default/customised price-quality regulation, this definition would need to be amended to give the same distinction as set in section 54G of the Act.</p>	<p>Vector (paras 9 and 11); PwC (para 7)</p>	<p>To align with the Act and to promote clarity, the definition of Electricity Distribution Service has been removed and the definition of Electricity Lines Service as defined in the Act has been used.</p>

#	Drafting Suggestion	Submitter	Initial Reset Determination
6	<p>Definition of Pass-Through Cost</p> <p>Submission suggested that the definition be amended, such that the term “beyond reasonable doubt” (a criminal law standard of proof) be deleted and replaced with the term “on the balance of probabilities” (a civil standard of proof).</p>	<p>Powerco (para 3); AECT (para 3); ENA (para 12)</p>	<p>The definition of Pass-Through Cost has been revised and the “beyond reasonable doubt” criterion has been replaced with the “to the satisfaction of the Commission” criterion.</p>
7	<p>Definition of Quantity</p> <p>Submissions suggested that this definition be expanded to include connections, kW and day as examples of a unit of quantity.</p>	<p>Unison (p 1); ENA (para 36)</p>	<p>The definition of Quantity has been revised to provide a broader example of the units of quantity.</p>
8	<p>Definition of Transmission Charge</p> <p>Submissions suggested that this definition be revised as it has a narrower meaning than that provided in the Thresholds Notice; for instance, it seems to exclude some Transpower charges faced by EDBs related to the transmission service, and relates to charges from Transpower only.</p>	<p>ENA (para 41); Unison (p 1)</p>	<p>The definition of Transmission Charge has been amended. As discussed above, the Commission considers it appropriate for this definition to include amounts relating to: Electricity Lines Services supplied by Transpower in accordance with the Transmission Pricing Methodology; new investment contracts; system operator charges; and avoided transmission charges.</p>
9	<p>Additional definitions</p> <p>Submissions suggested definitions for the following terms be included:</p> <ul style="list-style-type: none"> ▪ Interruption ▪ Unplanned Interruption ▪ Prescribed Voltage Electric Line <p>Submissions commented that definitions consistent with the Thresholds Notice would enable appropriate comparisons to be made with the reference dataset.</p>	<p>Orion (para 68); Orion (paras 13-18)</p>	<p>Definitions for the terms “Interruption”, “Unplanned Interruption” and “Prescribed Voltage Electric Line” have been included to allow for the consistent comparison of SAIDI and SAIFI statistics between Reference Period and Regulatory Period.</p>
Clause 8 – Price path			
10	<p>Allowable notional revenue</p> <p>Submissions commented that this clause “appears to allow an EDB to set prices throughout the 12 month of the Assessment Period at any level they wish, and provided it resets its prices such that on the Assessment date its prices are at a level such that $NR_t/R_t \leq 1$ then it complies with the price path.”</p>	<p>Orion (para 39)</p>	<p>This clause has been revised to clarify that the assessment formulae are to assess compliance over the entire Assessment Period.</p>

#	Drafting Suggestion	Submitter	Initial Reset Determination
11	<p>Quantities using t-2 approach</p> <p>Submissions suggested that the lagged quantity terms in the price-path formula be amended to reflect a t-2 approach.</p>	<p>Eastland (para 1); PwC (para 19); ENA (para 23); Powerco (para 6)</p>	<p>Consistent with its updated draft decision on the use of t-2 lagged Quantity approach (set out in paragraph 2.2), the Quantity terms in the relevant formulae have been amended.</p>
12	<p>Price restructuring</p> <p>Submissions commented that the provision relating to price restructuring is potentially too broad (e.g., it is not necessary to demonstrate the impact of the restructure in order to demonstrate compliance with the price-path) and in some cases not workable.</p>	<p>Orion (para 50); Vector (para 12); PwC (para 21); ENA (para 25); Unison (p 2); Powerco (para 9)</p>	<p>Compliance requirements for circumstances where a Non-exempt EDB restructures its prices have been amended.</p>
13	<p>2009/10 Commerce Act levies</p> <p>Submissions commented that the requirements around the amortisation of these levies are relatively unclear.</p>	<p>Vector (para 8)</p>	<p>This clause has been revised to clarify how such levies may be apportioned over the regulatory period.</p>
Clause 9 – Quality Standards			
14	<p>Reliability Limits</p> <p>Submissions suggested that “Reliability Limits” may be a more appropriate term than “Reliability Targets”.</p>	<p>Orion (para 13)</p>	<p>The term “Reliability Targets” has been replaced by “Reliability Limits”.</p>
Clause 10 – Mergers and acquisitions			
15	<p>Compliance for periods following a transaction</p> <p>Submissions commented that the price-path and quality standards compliance assessment process is not clear for Assessment Periods following post-transaction completion.</p>	<p>AECT (para 3); PwC (para 37)</p>	<p>This clause has been revised to further specify the compliance requirements for the price path and quality standards following completion of a transaction.</p>

#	Drafting Suggestion	Submitter	Initial Reset Determination
	Clause 11 – Annual Compliance Statement		
16	Disclosure of Annual Compliance Statements Submissions commented on the disclosure requirements for Annual Compliance Statements. Submissions suggested that these statements be made publicly available and submitted to the Commission within 5 working days from when the statement is disclosed.	PwC (para 41); Orion (para 62); ENA (para 50); Powerco (para 17);	The Commission considers that the requirement for the provision of Annual Compliance Statements is appropriate. Guidance on the public availability of Annual Compliance Statements has been included in the Explanatory Note.
17	Statement of compliance Submissions commented that clause 11.1(a) requires the Annual Compliance Statement to include a statement as to whether the Non-exempt EDB complied or otherwise with the Default Price-quality Path, and that this implies the DPP is a single test rather than a separate test for price and quality dimensions.	PwC (para 43); Orion (para 63)	This clause has been clarified such that Non-exempt EDBs must state whether or not they have complied with both the price path and the quality standards.
18	Purpose of supporting information Submissions suggested that clause 11.1(b) be amended, such that supporting information enables compliance, rather than accuracy, to be assessed.	PwC (para 44); Orion (para 67); ENA (para 53)	The purpose of supporting information to be included in Annual Compliance Statements has been clarified.
19	Transfer of assets & quality standards Submissions commented that clause 11.1(b)(iv) provides that the EDB should provide information on whether or not a transfer of assets between Transpower and the Non exempt EDB has, of itself, increased the Non-exempted EDB's Assessed Values, but it does not provide any means of compliance.	Orion (para 68); PwC (paras 38-39); ENA (para 47);	The relevant compliance requirements have been clarified.
	Miscellaneous		
20	Exemption provisions Submissions requested that an exemption provision (as incorporated in the Threshold Notice) be included.	PwC (para 49); ENA (para 58)	An exemption clause has not been included because the Commission considers that it is not authorised to include such a clause under the price-quality provisions of the Act.

#	Drafting Suggestion	Submitter	Initial Reset Determination
21	<p>Multi-day events</p> <p>Submissions requested guidance on how multi-day events are taken into account when calculating Reliability Limits and Assessed Values.</p>	<p>PwC (para 26); ENA (para 35); Vector (paras 14-15)</p>	<p>Consistent with the major event day definition in the IEEE Standard, the Commission considers that any interruption resulting from an extreme event that spans multiple calendar days is accrued to the day in which the interruption began. This clarification has been included in clause 4.</p>
22	<p>Director's Certificate</p> <p>Submissions commented on the use of the term 'true and accurate', and suggested it be replaced with the term 'true and fair'.</p>	<p>PwC (para 53); ENA (para 62)</p>	<p>It is inappropriate to amend the Form of Director's Certificate as suggested by submissions, due to the specification in section 53N(d) for Director's Certificates, which requires that these confirm the 'truth and accuracy' of any information provided.</p>
23	<p>Audit Report</p> <p>Submissions commented that a separate 'Basis of Opinion' for SAIDI and SAIFI statistics for the Reference Period is unnecessary as audited SAIDI and SAIFI information for 2004 to 2009 is available.</p> <p>Submissions also commented that the 'true and fair' audit opinion for SAIDI and SAIFI statistics would likely result in qualified opinions.</p>	<p>PwC (para 51); ENA (para 59)</p>	<p>The Form of Auditor's Report has been revised.</p>

APPENDIX C: WORKED NUMERICAL EXAMPLE – LAGGED CPI

Indicative Calculation of ΔCPI

- C1 Using the Commission’s lagged CPI approach, the change in CPI (i.e., ΔCPI) for the Assessment Period 1 April 2010 to 31 March 2011 is derived using the following formula:

$$\Delta CPI_{11} = \frac{CPI_{Dec,08} + CPI_{Mar,09} + CPI_{Jun,09} + CPI_{Sep,09}}{CPI_{Dec,07} + CPI_{Mar,08} + CPI_{Jun,08} + CPI_{Sep,08}} - 1$$

- C2 Substituting values from the All Groups Index SE9A, as published by Statistics New Zealand, gives the following:

$$\begin{aligned} \Delta CPI_{11} &= \frac{1072 + 1075 + 1081 + 1095}{1037 + 1044 + 1061 + 1077} - 1 \\ &= \frac{4323}{4219} - 1 \\ &= 0.0246504 \\ &= 2.47\% \end{aligned}$$

APPENDIX D: INITIAL RESET DETERMINATION

**DRAFT 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 section 54K(1) 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 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 Dataset means the set of daily SAIDI Values and SAIFI Values for an Assessment Period, with Interruptions that span multiple calendar days accrued to the day on which the Interruption began

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; 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 11.1(c); but

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

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 (Levy on Suppliers of Regulated Goods and Services) Regulations 2009

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 means the consumer price index stipulated in the "All Groups Index SE9A" (or any successor to that index), as published by Statistics New Zealand

Director 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

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

EDB means a supplier of Electricity Lines Services other than Transpower

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

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

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Pass-Through Costs means:

- (a) the Transmission Charges, Rates, Electricity Commission Levies and Commerce Act Levies paid or payable by a Non-exempt EDB during an Assessment 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

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

Price means:

- (a) 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 discount, provided that discount is disclosed;

but does not include:

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

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

Reference Dataset means the set of daily SAIDI Values and SAIFI Values for the Reference Period, with Interruptions that span 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 that are used or intended to be used for the supply of Electricity Lines Services by that Non-exempt EDB

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

Transmission Charge means any amount in respect of:

- (a) Electricity Lines Services provided to a Non-exempt EDB by Transpower 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 8; and
- (b) the quality standards specified in clause 9.

6 Applicable input methodologies

No input methodologies will apply to this determination until applicable input methodology determinations have been made.

7 Customised price-quality path proposal date

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.

8 Price path

8.1 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.

8.2 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.

8.3 Allowable notional revenue

Allowable notional revenue (R_t) specifies the maximum Prices that may be charged during an Assessment Period, such that the notional revenue (NR_t) of a Non-exempt EDB at any time during the Assessment Period must not exceed the greater of the notional revenue at the Assessment Date and the allowable notional revenue for the Assessment Period, where:

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

where:

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

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

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

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

where:

- t denotes 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 Assessment Period $t-1$;
- $Q_{i,t-2}$ is the quantity corresponding to the i^{th} Price during the Assessment 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 Assessment Period $t-1$;
- X is the rate of change for the Non-exempt EDB as specified in Schedule 2; and

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

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

where:

y is the year of the Assessment Date in the Assessment Period t ; and

CPI_q is the CPI for the quarter q

8.4 Allowable notional revenue for the First Assessment Period

R_t for the First Assessment Period, being R_{2011} , the allowable notional revenue for that period, is 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 period 1 April 2008 to 31 March 2009;

K_{2010} is the sum of all pass-through costs allowable during the 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:

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

8.5 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 (with supporting evidence as set out in clause 11.1(b)(i)-(iii)) 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, and—

- (a) if the restructuring of itself did not increase the Non-exempt EDB's allowable notional revenue for that Assessment Period, clause 8.3 will apply as if the new Price structure applied on and from the beginning of that Assessment Period; and
- (b) if the restructuring of itself did increase the Non-exempt EDB's Allowable Notional Revenue for that Assessment Period, the price path will not have been complied with.

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8.6 2009/10 Commerce Act Levies

If a Non-Exempt EDB paid Commerce Act Levies during the period 1 April 2009 to 31 March 2010 then that Non-Exempt EDB may apportion these levies evenly over the Regulatory Period and include the resulting apportioned amounts as Pass-Through Costs.

9 Quality standards

9.1 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 for that Assessment Period; or
- (b) have complied with those annual reliability assessments for the two immediately preceding extant Assessment Periods.

9.2 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.

10 Mergers and acquisitions

- 10.1 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.
- 10.2 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 as if transaction had occurred at the beginning of the current Assessment Period; 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.
- 10.3 If—
- (a) the Commission is satisfied that because of a lack of information, where that deficiency is 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 Annual Compliance Statement

- 11.1 Every Non-exempt EDB must provide to the Commission within 50 working days following each 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 and the quality standards in clause 9 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) Pass-Through Costs, both as forecast 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) if the Non-exempt EDB restructured its Prices as referred to in clause 8.5, information of the kind set out in subparagraphs (i) and (ii) that demonstrates whether or not the Price restructure has of itself increased the Non-exempt EDB's allowable notional revenue using both the previous and restructured Prices and Quantities;
 - (iv) if assets used for providing Electricity Lines Services were transferred from Transpower to the Non-exempt EDB:
 - (a) for the Assessment Period in which the transfer was completed, SAIDI and SAIFI statistics and calculations (including those in Schedule 3) that demonstrate whether or not the transfer increased the Non-exempt EDB's Assessed Values; and
 - (b) for the Assessment Period that immediately follows the Assessment Period in which the transfer was completed, the Reliability Limits must be recalculated using the process outlined in Schedule 3, which must include the planned and unplanned interruptions by Transpower that are relevant to the assets transferred, as if the transfer occurred at the beginning of the Reference Period; and
 - (c) for the Assessment Period that immediately follows the Assessment Period in which the transfer was completed, the Assessed Values must be calculated using the process outlined in Schedule 3, which must include the planned and unplanned interruptions by Transpower that are relevant to the assets transferred, as if transfer had occurred at the beginning of the Assessment Period;
 - (v) 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;

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- (vi) a description of policies and procedures which the Non-exempt EDB has used for recording the SAIDI and SAIFI statistics for the Assessment Period; and
 - (vii) the date on which the statement was prepared;
 - (c) a report on the statement required by paragraph (a) that is signed by an Auditor and is in the form set out in Schedule 4; and
 - (d) a certificate in the form set out in Schedule 5, signed by at least one Director of the Non-exempt EDB.
- 11.2 An Auditor's report given for the purposes of clause 11.1(c) may be qualified only if:
- (a) the Auditor considers that the Annual Compliance Statement concerned:
 - (i) fails to comply with this clause 11; or
 - (ii) has not been prepared, in all material respects, in accordance with this determination; and
 - (b) the Auditor's report explains with full reasons the respects in which the statement so fails.

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

SCHEDULE 1

Clause 8

STARTING PRICES

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

SCHEDULE 2

Clause 8

RATE OF CHANGE

The annual rate of change in Prices (i.e., X) is 0%.

SCHEDULE 3

Clause 9

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 9.

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 $\sqrt{365}$; and

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 11

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 11 of the *Commerce Act (Electricity Distribution Default Price-Quality Path) Determination 2010* (“the Determination”).

In relation to the price path set out in clause 8 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 9 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

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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.

Other than in my/our capacity as auditor I/we have no relationship with, or interests in *[insert name of Non-exempt EDB]*.

Opinions

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 11

**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 director’s certificate. Each non-exempt EDB should publish its annual compliance statement on its website as soon as practicable.

The Commission is permitted under 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).

In clause 8.2 of the determination, the Commission has adopted the term rate of change to represent the ‘X’ component of the CPI-X indexation component of the price-path. While the overall rate of permitted change in weighted average prices under the price path will, in practice, be CPI-X%, the Commission notes that the Act provides an example that refers to the “rate of change” as being solely the “X” in “a CPI-X” path.

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 8.4. 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>

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.