



COMMERCE COMMISSION

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

Initial Reset Determination (DRAFT)  
Consultation Paper

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Network Performance Branch  
Commerce Commission  
Wellington  
New Zealand  
16 October 2009

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## Introduction

- 1.1 The Commerce Commission (“Commission”) is currently undertaking a process to reset the default price-quality path applying from 1 April 2009 to 31 March 2010 (“Initial DPP”). As part of this process, the Commission is publishing a draft determination for consultation with interested parties. The draft determination (attached at Appendix A) reflects the draft decisions outlined in the Draft Decisions Paper<sup>1</sup>. The Commission received submissions on the Draft Decisions Paper on 12 October 2009. These submissions have not as yet been taken into account in the draft determination given that the consultation period for cross-submissions is still open.<sup>2</sup>

## Draft Determination

- 1.2 The purpose of this paper is to provide background and explanation of the draft determination, and also to assist submitters wishing to provide their views. The draft determination is indicative only and the purpose of this paper is to elicit views from interested parties on the form of the determination. Submissions on the Discussion Paper<sup>3</sup> suggested that it would be beneficial to publish details of the draft determination as early as possible, allowing a more efficient consultation process. The potential use of an additional consultation paper was also raised in the Draft Decisions Paper.
- 1.3 The Commission recognises that submissions received on the Draft Decisions Paper relate to issues covered by the draft determination and may impact the clauses as drafted. The Commission requests that submitters provide comments on the draft determination, addressing its current form and content, as these reflect the Commission’s draft decisions. Any further comments from submitters, e.g., reflecting positions in submissions on the Draft Decisions Paper, should also be provided.

## Process Update

- 1.4 Given that this paper constitutes an additional step in the consultation process, the Commission now intends to substitute a concise “Consultation Update” paper for the “Updated Decisions Paper” as was contemplated in the

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<sup>1</sup> Commerce Commission, *Initial Reset of the Default Price-Quality Path for Electricity Distribution Businesses, Draft Decisions Paper*, 8 September 2009.

<sup>2</sup> Cross-submissions on the Draft Decisions Paper are due on 27 October and the Commission notes that these will affect its consideration of submissions.

<sup>3</sup> Commerce Commission, *Reset of Default Price-Quantity Path for Electricity Distribution Businesses Discussion Paper*, 19 June 2009. Refer to submissions from Electronic Networks Association, *Submission on the Reset of the DPP for Electricity Distribution Business*, 17 July 2009, p. 17; and PricewaterhouseCoopers, *Submission to the Commerce Commission on the Reset of Default Price-Quantity Path for Electricity Distribution Businesses Discussion Paper*, 17 July 2009, p. 11.

Draft Decisions Paper. This is intended to be published alongside an updated determination on **16 November 2009**.

- 1.5 The Consultation Update paper will respond to submissions on the Draft Decisions Paper, discuss the reasoning for any changes to the Commission's draft decisions and support technical consultation on an updated determination.
- 1.6 The Commission intends that this process will deliver the following outputs by 1 December 2009:
- a **Final Decisions Paper** that provides detailed background to, and analysis of, the decisions included in the Initial Reset Determination;
  - the **Initial Reset Determination** that sets how default/customised price-quality regulation applies to EDBs for the period from 1 April 2010 to 31 March 2015; and
  - a **summary of the Initial Reset Determination** to be published in the New Zealand Gazette.

## Submissions

- 1.7 Submissions are invited on the draft determination and should be received by the Commission no later than **1pm Friday, 30 October 2009**.
- 1.8 All submissions should be supported by documentation and evidence, where appropriate. The Commission intends to publish all submissions on its website. 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). Submissions should be sent to:

[NPB@comcom.govt.nz](mailto:NPB@comcom.govt.nz); or

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

## Form and Content of the Draft Determination

- 1.9 This section provides guidance on a number of clauses in the draft determination. As discussed in paragraph 1.3, the Commission invites interested parties to submit their views on any aspect of the draft determination and to highlight any issues they consider relevant. To assist in the provision of feedback, the Commission has posed questions on particular issues it would like to receive comment.
- 1.10 Unless previously defined in this paper, capitalised terms in this section are those as defined in the draft determination.

### Clause 4: Interpretation

- 1.11 This clause sets out defined terms that are used in the draft determination. Definitions that have been further refined since the publication of the Draft Decisions Paper include:
- i. *Price*: the Commission's draft decision as set out in the Draft Decisions Paper was to base the definition of Price on that employed under the Part 4A thresholds regime ("Thresholds"). The reference to relevant services used in the definition of Price in the draft determination differs from that used under the Thresholds. The definition of service reflects the electricity lines services definition under Part 4.

- Q.1)** Are there any defined terms which you consider unclear in their description or inappropriate for the purposes of the draft determination? If so, please explain and where appropriate provide suggested wording.
- Q.2)** Do you consider the definitions of Transmission Charge and Pass Through Costs to be appropriate? If not, please explain why. Are there other elements (e.g. loss and constraint rentals) which you consider should be included in the definitions? If so, please explain and provide suggested wording.

### Clause 5: Default price-quality path

- 1.12 The Reset DPP is structured to include both a price path and a set of quality standards, which will be separately assessed.

### Clause 6: Applicable input methodologies

- 1.13 The Commission is required by section 52P(3)(c) of the Commerce Act to specify all input methodologies that apply when making a determination. As no input methodology determinations will be published prior to 1 April 2010, no input methodologies have been specified in the draft determination.

### Clause 7: Customised price-quality path proposal date

- 1.14 The Commission is required by section 53O(e) to specify the annual date by which any proposal for a customised price-quality path must be received. The detail of CPP proposals are to be determined as part of the input methodologies work programme. As these will not have been published by 1 April 2010, the draft determination does not specify an annual submission date for CPP proposals.

**Clause 8: Price path***Starting Prices*

- 1.15 Consistent with the Draft Decisions Paper, the draft determination specifies that starting prices are those prices that applied at the end of the preceding regulatory period, unless reset under section 54K(3). As noted in the explanatory note to the draft determination, the Commission intends to adjust starting prices after the publication of input methodology determinations.

*Rate of Change*

- 1.16 Consistent with the Draft Decisions Paper, a single rate of change (X) of 0% is specified in schedule 2 of the draft determination.

*Allowable Notional Revenue Assessment Formula*

- 1.17 Every Non-exempt EDB must comply with the Price path during the Regulatory Period. The Allowable Notional Revenue assessment formula outlines the mechanism by which compliance with the Price path is assessed.
- 1.18 In developing the draft determination, the Commission has introduced refinements to the formulae set out in the Draft Decisions Paper including:
- i. *Allowable Notional Revenue in First Assessment Period:* for clarity, the Allowable Notional Revenue in the First Assessment Period (i.e., the period from 1 April 2010 to 31 March 2011) has been set out in the draft determination. 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;
  - ii. *Price Path Assessment Formula:* refined definitions are used in clause 8.3 of the draft determination, though these remain consistent with the approach in the Draft Decisions Paper;<sup>4</sup> and
  - iii. *CPI Derivation Formula:* the formula to derive the change in the CPI under the Price path has been amended slightly from that outlined in the Draft Decisions Paper.<sup>5</sup> While the output and structure of the formula remains the same, the subscript *t* which previously referred to a calendar year has been amended to *y* to allow for referencing consistency given that the subscript *t* now refers to an Assessment Period. This subsequently required a minor change to the CPI derivation formula to ensure the *y* subscript refers to the correct period.

*Restructuring of Prices*

- 1.19 The purpose of clause 8.5 is to take account of price restructuring during an Assessment Period. Non-exempt EDBs must provide the Commission with

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<sup>4</sup> supra n 1, p. 132.

<sup>5</sup> supra n 1, p. 137.

evidence that confirms, or otherwise, that the Allowable Notional Revenue has not been increased. If no increase occurs, then for the purposes of compliance, the new Price structure will apply as if it applied from the beginning of the Assessment Period. However to satisfy the Price path assessment, the Allowable Notional Revenue must not increase as a result of the restructuring.

- Q.3)** Do you consider the Allowable Notional Revenue assessment formulae to reflect the Commission's draft decisions? If not, please explain and provide suggested amendments.
- Q.4)** Do you consider the definition of Allowable Notional Revenue for the First Assessment Period to be appropriate? If not, please explain and provide suggested amendments.
- Q.5)** Do you consider the price restructuring notification requirements to be clear and workable? If not, please explain and provide suggested amendments.

### **Clause 9: Quality standards (including Schedule 3)**

1.20 Quality standards are set out in clause 9, while the numerical calculations for compliance purposes are outlined in Schedule 3. The description of the process for calculating Reliability Targets and Assessed Values has been rationalised and the structure has been refined from that set out in Appendix C in the Draft Decisions Paper.

- Q.6)** Do you consider the quality standards assessment formulae to reflect the Commission's draft decisions? If not, please explain and provide suggested amendments.
- Q.7)** Do you consider the explanation of the annual and multi year assessments to reflect the Commission's draft decisions? If not, please explain and provide suggested amendments.

### **Clause 10: Mergers and Acquisitions**

- 1.21 Clause 10 takes account of a number of possible scenarios that may occur during an Assessment Period involving Non-exempt EDBs, including mergers and acquisitions.
- 1.22 For Non-exempt EDBs that are involved in such a transaction it is proposed that each will be required to provide a written statement and sufficient information to indicate compliance, or otherwise, with the Price path for the Assessment Period in which the transaction was completed.
- 1.23 Similarly, it is proposed that Non-exempt EDBs be required to provide a written statement for each EDB Network involved in the transaction, which indicates compliance, or otherwise, with the quality standards. Such statements would need to be provided for each Assessment Period thereafter, including the Assessment Period in which the transaction was completed, until the Non-exempt EDB can demonstrate, to the satisfaction of the Commission, that it is more appropriate to confirm compliance for a single EDB Network.

**Clause 11: Annual Compliance Statement**

1.24 The purpose of clause 11 is to specify the requirements for annual compliance statements. These requirements include the timeframe for providing statements and supporting information to the Commission which disclose whether or not the Non-exempt EDB has complied with the default price-quality path.

**Q.8)** Do you consider the compliance statement requirements of Clauses 10 and 11 to be appropriate? If not, please provide details.

**Q.9)** Are there additional matters which you consider should be addressed in the overall Initial Reset Determination? If so, please explain.

**Appendix A**  
**Draft 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 for Electricity Distribution Services provided for by section 54J(2), as required by section 54K(1) of the Act.
- 3.2 This determination applies to every supplier of Electricity Distribution Services (other than a supplier that is Consumer-Owned) during the period 1 April 2010 to 31 March 2015.

**4. Interpretation**

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

**Act** means the Commerce Act 1986

**Allowable Notional Revenue** means the maximum prices that may be charged by a Non-exempt EDB, as set out in clauses 8.3 and 8.4

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

**Assessed Values** means the aggregate SAIDI 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

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

**Auditor**, in relation to 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 the necessary expertise to properly undertake an audit required by clause 11.1(c); but

- (d) 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 the Assessment Period from any activity which substitutes for use of the Transmission System

**Class B** means planned interruptions by a Non-exempt EDB

**Class C** 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

**EDB Network** means a geographically distinct (i.e., non-contiguous) electricity distribution network owned by a Non-exempt EDB

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

**Electricity Distribution Services** means all Electricity Lines Services, other than those supplied by 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

**Non-exempt EDB** means a supplier of Electricity Distribution Services other than a supplier that is Consumer-Owned

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

**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 beyond reasonable doubt that those amounts were passed on transparently to its Consumers and/or electricity retailers

**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 Distribution 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

**Publicly Available** has the meaning set out in section 52C of the Act

**Quantity** means the unit of quantity (for example, kWh, kVA) 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 and SAIFI values for the Reference Period

**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 Targets** 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 Distribution Services by that Non-exempt EDB

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

- (a) Electricity Lines Services provided to a Non-exempt EDB by Transpower, and includes any amounts received from or payable in relation to charges in accordance with the Transmission Pricing Methodology; and
- (b) 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

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**

Every Non-exempt EDB must comply with the following default price-quality path during the Regulatory Period:

- (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 as provided for under section 54K(3).

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

For each Assessment Period, a Non-exempt EDB’s notional revenue ( $NR_t$ ) must not exceed its Allowable Notional Revenue ( $R_t$ ), such that:

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

where:

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

$$\sum_i P_{i,t} Q_{i,t-1} - K_t$$

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

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

where:

$t$  denotes the Assessment Period for which compliance is being assessed;

$i$  denotes each price relating to an Electricity Distribution Service;

$P_{i,t}$  is the  $i^{th}$  Price at the Assessment Date for the Assessment Period  $t$ ;

$P_{i,t-1}$  is the  $i^{th}$  Price at the Assessment Date for the Assessment Period  $t-1$ ;

$Q_{i,t-1}$  is the quantity corresponding to the  $i^{th}$  Price during the Assessment Period  $t-1$ ;

$K_t$  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

$\Delta CPI_t$  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  $t$

$CPI_{q,y}$  is the CPI for the quarter  $q$  in the calendar year  $y$

**8.4 Allowable Notional Revenue in the First Assessment Period**

$R_t$  for the First Assessment Period, being  $R_{2011}$ , is the Allowable Notional Revenue for that period, being equal to:

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

where:

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

$Q_{i,2010}$  is the quantity corresponding to the  $i^{th}$  starting price;

$K_{2010}$  is the sum of all Pass-Through Costs allowable under this determination 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

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

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

where:

$CPI_{q,y}$  is the for the quarter  $q$  of the calendar year  $y$ .

**8.5 Restructuring of Prices**

- (a) If a Non-exempt EDB restructures its Prices applying during an Assessment Period, it must demonstrate to the Commission, with supporting evidence, the impact of the restructuring on its Allowable Notional Revenue.
- (b) To satisfy clause 8.3 the restructuring, of itself, should not increase the Non-exempt EDB's Allowable Notional Revenue. If this is the case clause 8.3 will apply as if the new Price structure applied on and from the beginning of the Assessment Period.

**8.6 2009/10 Commerce Act levies**

If a Non-Exempt EDB paid Commerce Act levies during the 2009/10 Assessment Period then that Non-Exempt EDB may amortise this amount using a straight-line accounting method over the Regulatory Period and include this amount as a pass-through cost.

**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, comply with either:

- (a) 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 Targets for that Assessment Period, such that:

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

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

where:

*SAIDI<sub>ASSESS,t</sub>* is the SAIDI Assessed Value for the Non-exempt EDB's EDB Network for the Assessment Period *t*, which is calculated using the process outlined in Schedule 3;

*SAIDI<sub>TARGET</sub>* is the SAIDI Reliability Target for the Non-exempt EDB's EDB Network, which is calculated using the process outlined in Schedule 3;

*SAIFI<sub>ASSESS,t</sub>* is the SAIFI Assessed Value for the Non-exempt EDB's EDB Network for the Assessment Period *t*, which is calculated using the process outlined in Schedule 3; and

*SAIFI<sub>TARGET</sub>* is the SAIFI Reliability Target for the Non-exempt EDB's EDB Network, which is calculated using the process outlined in Schedule 3.

## **10. Mergers and acquisitions**

If a Non-exempt EDB is involved in a purchase, merger, takeover, disposal, or other similar transaction, which results in a change in its total number of Consumers or system length of 10% or more, it must state as part of its Annual Compliance Statement under clause 11, to the extent practicable:

- (a) whether or not each of the EDB Networks involved in the transaction complied with the Price path in clause 8.3 or 8.4 for the Assessment Period in which the transaction was completed; and
- (b) whether or not each of the EDB Networks involved in the transaction complied with the quality standards in clause 9 in the Assessment Period in which the transaction was completed and for each Assessment Period thereafter until the Non-exempt EDB can demonstrate, to the satisfaction of the Commission, that this can be done in respect of a single EDB Network.

## **11. Annual Compliance Statement**

11.1 Every Non-exempt EDB must provide to the Commission within 50 working days of each Assessment Date an Annual Compliance Statement consisting of the following:

- (a) a written statement that states whether or not the Non-exempt EDB complied with the default price-quality path as at the Assessment Date;
- (b) sufficient information to enable the Commission to properly determine the accuracy of the statement required by paragraph (a), including:
  - (i) the amounts of allowable notional revenue, notional revenue, Prices, Pass-Through Costs, units of measurement associated with all numeric data, and other data, information, and calculations;
  - (ii) quantities ( $Q_i$ ) both as forecast when the Non-exempt EDB set Prices for the Assessment Period and the actual amounts for that period and an explanation of any variance between the forecast and actual amounts, including units of measurement and calculations;
  - (iii) if the Non-exempt EDB restructured its Prices as set out in clause 8.5 during the Assessment Period, information, as set out in clause 11(b)(i) and clause 11(b)(ii) that states whether or not the Non-exempt EDB has complied with the Price path in clause 8.3 using both the previous and restructured Prices;
  - (iv) if assets used for providing Electricity Lines Services were transferred between Transpower and the Non-exempt EDB, information that states whether or not the transfer, of itself, increased the Non-exempt EDB's Assessed Values;

- (v) in relation to the quality standards in clause 9, other than in the First Assessment Period, the annual performance for the two previous Assessment Periods, SAIDI and SAIFI statistics and calculations (including those in Schedule 3), and other relevant data and information;
  - (vi) a description of policies and procedures which the Non-exempt EDB has used for recording the SAIDI and SAIFI statistics of that EDB Network 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 compliance statement concerned:
  - (i) fails to comply with this clause 11; or
  - (ii) fails to give a true and fair view of the matters to which it relates (having regard to any information or explanations that may have been provided by the Directors of the Non-exempt EDB); and
- (b) the Auditor's report explains with full reasons the respects in which the statement so fails.

Dated at Wellington this 30<sup>th</sup> day of November 2009.  
COMMERCE COMMISSION

**SCHEDULE 1**

*Clause 8*

**Starting Prices**

The starting Prices are the Prices that applied on 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 TARGETS AND ASSESSED VALUES

This schedule sets out the process for calculating an EDB’s Reliability Targets and Assessed Values for the purposes of assessing compliance with the quality standards as set out in clause 9.

Reliability Targets

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

*Develop a non-zero dataset*

Construct a non-zero dataset containing only those days from the Reference Dataset where the daily SAIDI Value > 0 (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:

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

$\beta_{SAIDI}$  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:

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

$\beta_{SAIFI}$  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 Targets*

The SAIDI Reliability Target ( $SAIDI_{TARGET}$ ) is as follows:

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

where:

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

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

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

The SAIFI Reliability Target ( $SAIFI_{TARGET}$ ) is as follows:

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

where:

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

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

$\sigma_{SAIFI}$  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 for each EDB Network.

### *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 examined 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 assessment as at [*insert Assessment Date*] 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 this report the attached statement is called "the annual compliance statement".

*Directors' Responsibilities*

Directors of [*insert name of Non-exempt EDB*] are responsible for the certification of the annual compliance statement in accordance with the Determination.

*Auditor's Responsibilities*

It is my/our responsibility to express an independent opinion (in the form prescribed in the Determination) on the annual compliance statement and report my/our opinion to you.

I/We conducted my/our audit in accordance with the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand.

*Basis of Opinion – Price path; Quality standards: SAIDI and SAIFI Statistics for the Assessment Period ended [*insert assessment date*]*

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 and which relate to:

- (a) the Price Path set out in clause 8 of the Determination;
- (b) the SAIDI and SAIFI statistics for the Assessment Period ended on [*insert Assessment Date*] which are relevant to the quality standards set out in clause 9 of the Determination.

It 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.

I/We planned and performed my/our audit of the annual compliance statement so as to obtain all the information and explanations which I/we considered necessary, including for the purpose of obtaining sufficient evidence to give reasonable assurance that the annual compliance statement is free from material misstatements (whether caused by fraud or error).

## **DRAFT FOR CONSULTATION: 16-10-09**

In forming my/our opinion I/we also evaluated the overall adequacy of the presentation of information in the annual compliance statement.

*Basis of Opinion – Quality standards: SAIDI and SAIFI Statistics for the Years Ended 31 March [insert relevant years]*

In relation to the SAIDI and SAIFI statistics for the years ended 31 March [insert relevant years] which are relevant to the quality standards set out in clause 9 of the Determination, I/we have undertaken procedures to provide reasonable assurance that:

- (a) the amounts and disclosures in the annual compliance statement relating to those statistics have been correctly derived and calculated based on the source data provided to me/us. I/We have not performed audit procedures on the source data.

### *Relationship and Interests*

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

### *Opinions*

I/We have obtained all the information and explanations I/we have required.

### Price Path

In my/our opinion, having made all reasonable enquiry, to the best of my/our knowledge the amounts or details set out in the annual compliance statement relating to the Price Path set out in clause 8 of the Determination and related information have been prepared in accordance with the Determination, and give a true and fair view of the performance of [insert name of Non-exempt EDB] against that path for the Assessment Period ended on [insert Assessment Date].

### Quality standards:

In my/our opinion, having made all reasonable enquiry, to the best of my/our knowledge:

- (a) the SAIDI and SAIFI statistics for the Assessment Period and Reference Period ended which are relevant to the quality standards set out in clause 9 of the Determination and related information have been calculated or prepared in accordance with the Determination and in accordance with [insert name of Non-exempt EDB]'s policies and procedures for recording SAIDI and SAIFI statistics as disclosed in the annual compliance statement, and fairly represent the reliability performance of [insert name of Non-exempt EDB] for the Assessment Period and Reference Period;
- (b) the SAIDI and SAIFI statistics for the Assessment Period ended on [insert Assessment Date], give a true and fair view of the performance of [insert name of Non-exempt EDB] against the quality standards set out in clause 9 of the Determination for the Assessment Period ended on [insert Assessment Date].

**\*[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 this 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"); and

Pursuant to section 53N of Part 4 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 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.

The Commission is required 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 and rates of change) following the determination of such methodologies.

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

The Allowable Notional Revenue for the First Assessment Period (i.e., the period from 1 April 2010 to 31 March 2011) has been set out in clause 8.4. 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.

In relation to Restructuring of Prices in clause 8.5, if an EDB has restructured its prices during an assessment period (e.g., a change in the ratio of volume to capacity based charges), then, on assessment, an EDB will have to demonstrate that the new overall tariff structure is revenue neutral. EDBs should provide evidence demonstrating that, all other things being equal, the price restructure did not create an increase in allowable notional revenue for the business, above that which would have applied if the restructure had not occurred.

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.