

Submission to the Commerce Commission

on the

**Information Disclosure
Discussion Paper**

**Made on Behalf of
21 Electricity Distribution Businesses**

11 September 2009

Submission on the Information Disclosure Discussion Paper

A revised regulatory regime for electricity lines businesses (ELBs), gas pipeline businesses (GPBs) and major international airports came into effect on 14 October 2008, with some provisions for ELBs delayed until 1 April 2009, via a new Part 4 of the Commerce Act 1986 (the Act). The Commerce Commission (the Commission) is required to consult on and publish determinations on Information Disclosure Regulation (IDR) to apply to each sector including Electricity Distribution Businesses (EDBs).

Accordingly the Commission has released a Discussion Paper: *Information Disclosure Discussion Paper, 29 July 2009* (the ID Paper), which sets out its preliminary views on the approach to IDR for regulated suppliers including EDBs.

This paper forms our submission on the ID Paper which has been prepared by PricewaterhouseCoopers (PwC) on behalf of the following 21 EDBs:

- Alpine Energy Limited
- Aurora Energy Limited
- Buller Electricity Limited
- Counties Power Limited
- Eastland Network Limited
- Electra Limited
- Electricity Ashburton Limited
- Electricity Invercargill Limited
- Horizon Energy Distribution Limited
- MainPower New Zealand Limited
- Marlborough Lines Limited
- Nelson Electricity Limited
- Network Tasman Limited
- Network Waitaki Limited
- Northpower Limited
- OtagoNet Joint Venture
- The Lines Company Limited
- The Power Company Limited
- Top Energy Limited
- Waipa Networks Limited
- Westpower Limited.

This group of EDBs together comprises 575,599 connections (or 30% of the total electricity distribution sector), 69,594 system kilometres (or 48% of the total electricity distribution sector) and \$2.5 billion dollars of regulated network fixed assets (or 34% of the total electricity distribution sector).¹ The ownership structures represented include consumer and community trusts, a listed company, local body and co-operative ownership, as well as those managed by management companies. Group members include networks with predominantly urban systems, others that are sparsely populated and a number with significant urban areas combined with rural and remote rural characteristics. In some instances EDBs which support this submission have also chosen to make individual submissions on areas of particular interest.

Our Submission

- 1 This submission focuses on IDR for EDBs. It therefore does not address the information disclosure issues pertaining to other sectors.
- 2 We have previously responded to significant consultation on IDR for EDBs introduced under the previous Part 4A of the Act. The consultation has only recently been completed and resulted in substantial changes to IDR for EDBs which were gazetted in October 2008. We have also recently responded to Commission consultations on Regulatory Provisions of the Commerce Act², the DPP Reset for EDBs³, Input Methodologies (IMs)⁴ and the Electricity Commission's (EC's) consultation on model pricing methodologies.⁵ These consultations have potential impacts on the scope and form of IDR for EDBs. Where relevant we have included references to our earlier submissions, but we have not sought to repeat the substance of those submissions in this paper.
- 3 We would welcome the opportunity to discuss the points raised further with the Commission as the consultation process proceeds. We have previously actively participated in Commission workshops and discussion forums for IDR and would welcome the opportunity to contribute in this way in the future.

¹ Based on 2008 Information Disclosure Data

² *PricewaterhouseCoopers*, Submission on the Regulatory Provisions of the Commerce Act 1986 Discussion Paper, 16 February 2009

³ *PricewaterhouseCoopers*, Submission to Commerce Commission, Input Methodology Discussion Paper, 14 August 2009

⁴ *PricewaterhouseCoopers*, Submission to Commerce Commission, Reset of Default Price-Quality Path for Electricity Distribution Businesses Discussion Paper, 17 July 2009

⁵ *PricewaterhouseCoopers*, Submission on the Proposed Model Approach to Distribution Pricing Methodology 10 July 2009

- 4 Our submission is structured as follows:
- i) Statutory Framework and Consultation Process
 - ii) Monitoring Performance
 - iii) Return on Investment
 - iv) Financial Information
 - v) Regulatory Asset Base Disclosures
 - vi) Quality Disclosure and Statistics
 - vii) Asset Management Plans
 - viii) Pricing and Other Disclosure Provisions
 - ix) Publication, Retention, Certification, Statutory Declaration and Audit
 - x) Summary of our Views on the Specific Proposals for EDBs.

- 5 The primary contact for this submission is:

Lynne Taylor
Director
PricewaterhouseCoopers
lynne.taylor@nz.pwc.com
(09) 355 8573

i) STATUTORY FRAMEWORK AND CONSULTATION PROCESS

Purpose of Information Disclosure Regulation

- 6 Subpart 4 of the Act sets out the requirements for IDR. Section 53A sets out the purpose of IDR as follows:

The purpose of information disclosure regulation is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of the Part is being met.

- 7 The Purpose of Part 4 is set out in section 52A as follows:

(1) The purpose of this Part is to promote the long-term benefit of consumers in markets referred to in section 52 by promoting outcomes that are consistent with outcomes produced in competitive markets such that suppliers of regulated goods or services—

(a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and

(b) have incentives to improve efficiency and provide services at a quality that reflects consumer demands; and

(c) share with consumers the benefits of efficiency gains in the supply of the regulated goods or services, including through lower prices; and

(d) are limited in their ability to extract excessive profits.

- 8 We note that this purpose for IDR differs from the purpose which was contained in the now superseded subpart 3 of Part 4A which is set out below.

(1) The purpose of this subpart is to promote the efficient operation of markets directly related to electricity distribution and transmission services by ensuring that large line owners and large electricity distributors make publicly available reliable and timely information about the operation and behaviour of those businesses, so that a wide range of people are informed about such factors as profits, costs, asset values, price (including terms and conditions of supply), quality, security, and reliability of supply of those businesses.

- 9 Given the change in the purpose for IDR that has now been implemented, it is appropriate for the Electricity Distribution (Information Disclosure) Requirements 2008 (EDIDR) which currently apply to EDBs to be reconsidered and a new determination made which is consistent with the new overall 52A purpose statement and the new specific 53A purpose for IDR.

- 10 We believe that the 53A purpose for IDR reflects an important distinction from that which previously applied under Part 4A. The purpose of IDR is clearly now to provide information to enable interested parties to **assess whether** the **section 52A Purpose Statement** is being met. [emphasis added]
- 11 An assessment of whether the Purpose Statement is being met is achieved by publication of information and monitoring that information. It does not require the IDR to ensure per se that the Purpose Statement is met. This is different to the Part 4A purpose statement for IDR which explicitly stated that IDR was to promote the efficient operation of markets.
- 12 Wellington International Airport Limited (WIAL) noted these points in its submission on the Regulatory Provisions Paper as follows:

Section 57T(1) stated that the purpose of information disclosure was to actively promote efficient markets. Section 53A, on the other hand, states that the purpose of information disclosure is to allow interested persons to assess whether the overall purposes of Part 4 are being met. Interpretations of section 57T(1) are therefore irrelevant to the operation of the information disclosure regime set out in subsection 4 of Part 4.

and

Thirdly, the information provided need only be sufficient to allow an assessment of whether the purpose of Part 4 is being met. This does not mean all the information that is potentially available or even extensive information. All that is required is enough to make the relevant assessment.⁶

- 13 We agree with the position set out by WIAL. We believe that it is appropriate for the Commission to fully reconsider EDIDR and the purpose of the new IDR to apply to EDBs given the purpose for IDR has changed as has the overall purpose statement for the regulation of goods and services in electricity distribution markets.
- 14 It is disappointing therefore that the ID Paper is proposing essentially a similar approach to the EDIDR for EDBs recently developed under Part 4A, albeit with a few proposed modifications and additions. We support the explicit consideration of the section 52A purpose statement as

⁶ Wellington International Airport Limited, Submission on Commerce Act 1986, paragraphs 5.3.20 and 5.3.26

demonstrated in the ID Paper, however we believe that there has been insufficient recognition of the new 53A purpose for IDR in the Discussion Paper. Accordingly we do not support the proposed IDR for EDBs which predominantly reflects the existing EDIDR.

- 15 We also note the objective for IDR which was outlined in the original Cabinet Decision Paper which provided recommendations to Ministers following review of Parts 5 and 4A of the Commerce Act.⁷ One of the objectives of the review was to tailor the regulatory regime to New Zealand's small size (with small firms and limited resources). Light handed disclosure regulation was seen as an important component of the regulatory regime in this context. It was also seen as a relatively low cost form of regulation. We are therefore concerned that the ID Paper does not appear to have adequately considered these objectives and has introduced significant regulatory creep in its proposals, for example in respect of consolidations to statutory financial statements and disclosure of business policies. We comment further on these specific proposals later in this submission.

Process for Making an Information Disclosure Regulation Determination

- 16 Section 52P requires the Commission to make a determination as to how IDR is to apply to suppliers of regulated services. The determination must include the IMs that apply. Section 52S states that IMs must be applied to regulated services for which section 52P determinations are made. Section 53F provides for a limited exemption from the cost of capital and pricing methodology IM for suppliers which are only subject to IDR (for EDBs this includes those EDBs which meet the consumer ownership exemption criteria set out in Section 54D).
- 17 We believe it is premature for the Commission to be consulting on the detailed provisions for IDR for EDBs. Section 54I(1) states that the Commission must make a section 52P determination for IDR as soon as practicable after 1 April 2009. Section 54W also states that the existing EDIDRs which apply under Part 4A continue to apply to EDBs until a section 54I(1) determination is made. Thus EDBs continue to be subject to IDR until a new determination is made. The EDIDR were only recently introduced in 2008, after a prolonged consultation process, and they reflected substantial changes to the previous 2004 IDRs. EDBs contributed a significant amount of effort to the consultation process that supported the development of the EDIDR. This culminated in the new provisions introduced late last year, and for which the first disclosures were made in April this year. We do not believe it is an

⁷ Office of the Minister of Commerce and Office of the Minister of Energy, Review of Parts 4 and 4A of the Commerce Act, 27 November 2007

appropriate use of our time, or the Commission's, to be re-consulting on these provisions at this time.

- 18 In addition we note that the EDIDR were implemented after the Commerce Amendment Act was passed, just ten months ago. It is surprising that the Commission went ahead and implemented these changes if it was planning to undertake a review of them within the very next year. This is not in our view an efficient use of industry resources.
- 19 We do not believe that the Commission should be reconsidering the detailed components of IDR at this time as the IMs must be included in the Part 4 IDR determination and they have not yet been determined. Accordingly the IDR consultation cannot presuppose the outcomes of the IM consultations and the IM consultation process must be completed. The Commission's preliminary views on IMs are set out in a number of places in the ID paper. These form the basis of the recommendations for IDR in some instances. The Commission's preliminary views are not relevant for IDR consultation. The Commission is required to take into consideration the views of interested parties before it can make its determinations.
- 20 We have previously expressed our concerns about the timetable for the planned consultations on a number of work streams which have emerged from the Part 4 amendments. We submitted on this issue in our recent IM submission. There are complex issues to be considered. There is also a large amount of information to be assessed before robust decisions can be made. This involves not only the three sectors captured by the new Part 4, but sub sectors within these, the detailed application of the multiple regulatory instruments to apply to each sector, as well as the IMs themselves. We are extremely concerned that the interrelationships between the work streams will not be adequately considered, as they are being developed in parallel. It is important for the Commission to fully consider the application of relevant IMs, to consider the potential impact of DPP/PPP regulation on IDR and to give due consideration to sector-specific issues.
- 21 We also note that the Ministry of Economic Development has just recently released its preliminary findings from its review of the electricity market. This report has important implications for distributors, as well as other participants in the electricity market. In our view these recommendations need to be fully considered before any determinations under Part 4 can be made. They have not been considered for the purpose of this submission.
- 22 As stated in our IM submission we urge the Commission to prioritise its work streams in respect of EDBs over the forthcoming months to ensure adequate time is allocated to each component and the interrelationships between each of the regulatory instruments is fully

addressed before changes to the regulatory requirements for EDBs are implemented. In this respect, as we have previously submitted, we suggest:

- The DPP reset is of most importance as it must apply from 1 April 2010, and must be gazetted four months prior. The DPP Reset Discussion Paper published in June indicated that there is still considerable work to be done on the design of the DPPs before a draft determination can be made. In addition, the treatment of exempt EDBs, Enforcement Guidelines and the drafting of the gazette notice containing the specific provisions of the DPP must be completed. As previously submitted, we support the postponement of the assessment of possible starting price adjustments until the IMs have been determined.
- The IMs for EDBs are the next most important, because they must be determined before revised IDRs can be implemented, CPP proposals made available and starting prices for the DPP can be confirmed. The Act permits IM determinations to be delayed until the end of next year. We submit the Commission should seriously consider postponing the IM determinations to allow the essential work to be completed on the DPP reset and to allow sufficient consideration of the responses made to the lengthy IM Paper and the Electricity Market Review.
- Revised IDRs can be further delayed. EDBs have only just implemented new disclosure requirements which are consistent with the Commission's views in 2008. We do not believe it is appropriate for the Commission to be re-consulting on information disclosure at this stage, before the DPP and IMs have been determined. A large amount of material in the ID Paper repeats the consultation we undertook in 2007 and 2008. If IDR is to be developed in a meaningful way, it must incorporate full consideration of:
 - The new section 53A purpose for IDR
 - The IMs
 - The specification of the DPP (in order to ensure consistent data requirements where relevant)
 - The experiences from EDIDR which will assist in identifying whether the information provided by the current requirements is meaningful.

Assessing Performance in the Context of the Purpose Statement

23 As noted above, the section 53A purpose for IDR is to provide information to interested parties to assess performance against the purpose statement. Section 53B(2) sets out the Commission's role in respect of IDR as follows:

If a supplier of goods and services is subject to information disclosure regulation, the Commission –

(a) may monitor and analyse all information disclosed in accordance with the information disclosure requirements

(b) must, as soon as practicable after any information is publicly disclosed, publish a summary and analysis of that information for the purpose of promoting greater understanding of the performance of individual regulated suppliers, their relative performance, and the changes in performance over time.

- 24 These requirements provide useful guidance as to how information disclosure requirements should be designed. The specification of the Commission's role in respect of IDR is a new requirement introduced into Part 4 following the Commerce Amendment Act. These new requirements therefore also provide the basis for a reassessment of the scope and content of IDR.
- 25 We note that the ID Paper includes proposals for a number of detailed schedules to be developed for each sector for annual IDRs. These are to be supplemented by additional disclosure of policies, contracts, prices, asset management plans and reconciliation statements. The annual disclosures are also to be audited to confirm their compliance with the IDRs. We accept that a number of different types of disclosure information may be required in order to assess performance of regulated suppliers against the purpose statement. We address each of these in more detail in the remainder of the submission.
- 26 We believe that the level of detail proposed for IDRs for EDBs is excessive in the context of the section 53A purpose for IDR. It appears as if the Commission is anticipating that it will monitor compliance with IDR by requiring regulated suppliers to disclose a considerable amount of supporting information, derivation schedules and explanatory material. This information is not required to meet the section 53A purpose for IDR, and indeed may very well hinder the achievement of the purpose by providing too much data and insufficient information.
- 27 As noted above, we support the external audit of annual disclosures to provide assurance that the IDRs have been correctly complied with by each regulated supplier. This process adds costs to the regime, but ensures that the information is compliant as well as achieving consistency objectives. It therefore means that the information that is disclosed can be specifically targeted to assessing performance against the purpose statement. Additional information which may illustrate compliance is not required and does not meet the cost-effectiveness objectives as it duplicates the audit role. We have outlined our specific concerns in the following paragraphs in particular where we believe the proposals reflect data for which the primary purpose is compliance assessment, not performance assessment.

28 IDR has been implemented in the past with guidance for regulated businesses, by way of Handbooks, templates and definitions.⁸ This guidance assists with compliance and also assists interested parties interpret the information disclosed. Such guidance should continue to be part of the IDRs. It reduces the amount of information that must be disclosed, and therefore compliance costs, and ensures the information that is disclosed is of a high quality.

ii) MONITORING PERFORMANCE

29 Monitoring performance against the Section 52A purpose statement is the objective of IDR. We suggest that this should be achieved by a limited number of well specified annual indicators, which address historical profit, efficiency and quality performance supplemented by annual disclosures of prices, standard contracts, pricing methodologies and AMPs (including forecasts of asset related expenditure and quality targets)

30 These can meet the regulatory objectives for IDR and allow assessment of performance against the section 52A purpose statement in the following ways:

Regulatory Objective	Information to be Disclosed
Incentives to invest and innovate	AMPs Performance Indicators
Incentives to improve efficiency	Performance Indicators
Service quality consistent with demand	Historical quality performance AMPs Standard customer contracts
Share efficiency gains with consumers including through lower prices	Pricing methodologies Standard customer contracts Tariff schedules
Limit profits	ROI

⁸For the avoidance of doubt, we do not support the requirement for EDBs to disclose information in the same format as that prescribed in the current EDIDR templates and definitions.

31 Section 53B(2) sets out the Commission's role in respect of IDR. The ID Paper refers briefly to the Commission's summary and analysis in a number of places, but most specifically addresses this in section 3.1.1. The ID Paper however provides little information about the process the Commission proposes to undertake in this respect, the format of the proposed summary and analysis, the timing, and the expected impact of such publications. This would have been helpful in the context of the ID Paper in order to assess the reasonableness of the Commission's proposals for IDR for EDBs and we believe it is an oversight in the ID Paper.

iii) RETURN ON INVESTMENT

32 The return on investment (ROI) indicator is dependent on the specification of the opening and roll forward Regulatory Asset Base (RAB), cost allocation methodologies, regulatory tax and the specification of the cost of capital. These have not yet been determined. The ROI formula therefore cannot be determined at this time.

33 Table 5 of the ID paper, sets out the Commission's preliminary view on the specification of the ROI formula and the relevant inputs required. These preliminary views include views on a number of items which have only recently been consulted upon as part of the IM consultation including the components of the RAB, and the specification of profit in the context of the cost of capital (or WACC) benchmark. The Commission's preliminary views on these items are not an appropriate basis on which to propose detailed IDR requirements, as noted above.

34 We therefore submit that any consultation on the ROI formula for IDR purposes cannot be undertaken until the IMs have been determined.

35 We note that in our IM submission, in response to the discussion on regulatory tax we raised our dissatisfaction with the Commission's approach to specifying regulatory profit and regulatory tax in the existing information disclosure requirements for EDBs, and the consequential irrational outcomes in the ROI measure for EDBs. The current requirements include a mismatch between regulated revenue and regulatory tax for a number of EDBs. Although these issues were raised a number of times during the previous consultations on information disclosure for EDBs, the Commission implemented its preferred approach without adequate consideration of the outcomes it would generate. This comes about from the application of a notional tax payable approach to a pre tax profit which includes in it significant non taxable revenues for some EDBs. This results in those EDBs reporting artificially high returns. We therefore submit that once the regulatory tax IM has been determined, further consideration of the specification of regulatory revenue and profit must be undertaken before new IDRs for EDBs are determined.

iv) FINANCIAL INFORMATION

36 Financial information is required to generate profitability measures and provide inputs into efficiency performance indicators. Forecast asset related expenditure is also required to assess investment and innovation performance. Financial information will be required to be consistent with the following IMs:

- Cost allocation methodology
- Regulatory asset base
- Regulatory taxation.

37 The level of detail to be disclosed in financial information disclosures will be influenced by the performance indicators to be disclosed to assess performance against the section 52A purpose statement. These performance indicators need to be specified before the financial information disclosures can be determined.

38 In addition, as noted above, financial statement and performance indicator disclosures are to be audited, as they are currently. This avoids the need for detailed financial statement disclosures. It also assists interested parties in understanding performance if the disclosures are purely targeted at measuring performance.

39 Accordingly we do not support the disclosure of detailed asset derivation tables, financial statements and consolidation statements. In order to assess financial performance, and assist with performance indicators for efficiency assessments we suggest the following information is required to be disclosed:

- Revenue
- Transmission costs
- Expenses
- Depreciation
- Taxation
- Interest
- Revaluations (if any)
- Profit
- RAB/RIV (inclusive of all components such as working capital)
- Capital expenditure
- Related party transactions.

40 The degree to which each of these is disclosed on a more disaggregated basis should be determined by the specification of the performance indicators and the IMs.

- 41 We do not support the proposed forecast statement of operating and capital expenditure in the annual disclosures. Forecasts should be included in the AMP where the explanation and justification for these forecasts is set out, consistent with the asset information, policies and procedures and quality targets which support the planned expenditure. Any disclosure of forecast operating and capital expenditure in annual disclosures is an unnecessary duplication.
- 42 We believe that the variance analysis for prior year actual asset related expenditure compared to prior year forecasts should form part of annual disclosures. However this is because it provides an indication of investment performance, and can be included within five months of year end (which is not possible in the AMP itself because AMPs are disclosed at the beginning of the year).
- 43 The consolidation statement is not required. It does not assist with assessing performance against the section 52A purpose statement. It is also inconsistent with the behaviour of firms operating in competitive markets to expect such information to be disclosed. In addition it is not required because the audit of annual disclosures ensures the definition of the regulated business that has been adopted for disclosure purposes, is consistent with the IDRs and associated IMs. Finally, the disclosure of related party transactions provides sufficient transparency over inter-company relationships which impact on the financial performance of the regulated business. The proposal is not justified.
- 44 In any event, it is not certain whether the proposed disclosures are possible for some entities, or whether they will generate information which is meaningful. Some EDBs are owned by more than one party and therefore have no parent which reports a single set of statutory financial statements. Other EDBs have balance dates which differ from the regulatory reporting dates which make it impossible to prepare consolidation statements. In addition, the proposed regulatory financial statements may depart from GAAP in a number of significant ways including in the measurement of income, expenses, depreciation, tax, interest, distributions, fixed assets and current assets. The regulatory financial disclosures currently proposed also are not formatted in a manner which is equivalent to a set of statutory financial statements. The costs of preparing the consolidation statements and disclosing them are therefore likely to be considerable, particularly given the regulatory statements are so far removed from GAAP. We do not believe this is justified for the reasons outlined above and strongly oppose the proposal.
- 45 We note that section 53D provides for the Commission to include in IDR consolidated financial statements. These may only be required however, as set out in section 53D(1) for the purpose

of the Commission's monitoring of compliance. As noted above, we believe monitoring compliance is achieved by the publication of guidance and the audit of disclosures for compliance including related party transactions. For owners of regulated businesses including owners of more than one regulated business, the cost allocation IM will determine how these businesses are ring fenced for disclosure purposes. Publication of consolidated statements can be avoided therefore for all, and should be, in order to meet the cost effectiveness and transparency objectives.

v) REGULATORY ASSET BASE DISCLOSURES

- 46 The RAB IM is also currently being consulted upon in order to meet the section 52T IM requirements of Part 4. This consultation will determine a new opening RAB for EDBs and a new methodology for rolling forward the RAB. It includes consideration of the assets to be included in the RAB, the manner in which the opening RAB assets are valued, and the manner in which adjustments are made for asset additions, capital efficiency reviews, depreciation, revaluations, disposals, acquired and sold assets, lost and found assets and asset register corrections.
- 47 Once the new RAB has been established it will be rolled forward on an annual basis, and these values will be inputs into the measurement of regulatory profit for the purpose of IDR. It is also anticipated that these same values will influence the assessment of starting prices for DPPs and the building blocks analysis that is likely to form part of CPP determinations, where relevant.
- 48 For this reason, the assessment of possible starting price adjustments for the DPP for EDBs has been delayed until IMs have been determined. In addition, EDBs are unable to submit proposals for CPPs until IMs have been determined. As noted previously, as IDR must include the RAB IM, it is necessary for the IM consultation process to be completed before new IDR for EDBs can be implemented. It is not appropriate to continue with the proposals outlined in the ID Paper for RAB disclosures on the basis of the Commission's preliminary views on the RAB IM. Accordingly we submit it is premature to determine the scope of a Regulatory Valuation Roll Forward Report, an Asset Transactions Report, and whether or not an Initial RAB Report is required.
- 49 The proposals for RAB disclosures as set out in section 6.4 of the ID Paper essentially replicate those which currently apply to EDBs under the EDIDR. These proposals must be assessed in the context of the new section 53A purpose for IDR. For instance the proposal for the Annual Valuation Roll Forward by Asset Class Report is justified in the ID Paper as

providing interested persons with an understanding of the types of assets regulated business units have invested in over the past and in the current period. There is no explanation as to how this information will assist interested persons in assessing whether the section 52A purpose statement is being met and we submit it won't meet this objective. It is therefore not justified.

vi) QUALITY DISCLOSURE AND STATISTICS

50 Quality measurement is an important component of the DPP for EDBs. We have recently submitted on this topic in our DPP Reset submission. The ENA has also provided additional material to the Commission to assist the development of a robust measurement of reliability and the assessment of this aspect of performance of EDBs. We believe that it will be useful if quality measures included in DPP regulation are included in IDR, where relevant, to minimise compliance costs.

51 Quality measures are also an important component of asset management planning. We support the inclusion of quality targets in AMPs.

52 Accordingly we believe that annual disclosures should include historical quality performance and an assessment of the annual performance compared to the relevant targets for the year. All forecasts of quality, including targets should be included in AMPs, where the justifications for the targets can be explained. This avoids the duplication inherent in the proposals in the ID Paper.

53 The ID Paper proposes that requisite (the level of quality demanded by consumers) as well as target and actual quality performance should be disclosed. We support the proposal that suppliers are best placed to determine requisite quality standards and the associated targets that they may set themselves during a forecast period. We have previously submitted on the difficulty in assessing consumer demand for quality for electricity distribution networks and the inherent constraints in providing differential supply quality for customers connected to the same part of the network. We acknowledge it is possible to accommodate individual customer requirements for customers with dedicated assets, but this is not the case for general connections. Any consideration of requisite quality therefore can at best be reflective of a majority or sample view.

54 In addition, actual supply quality achieved in any one year is a reflection not only of the actions of the supplier, but also other participants in the electricity supply industry (for example Transpower, electricity generators and electricity retailers) and other factors such as third

parties working on or around electricity distribution infrastructure or environmental influences such as weather events. Any specification of requisite and target quality must take these into consideration.

55 The ID Paper lists the following aspects of quality:

- Reliability
- Safety
- Supply quality
- Customer service.

56 EDBs typically currently measure and set targets for reliability and supply quality as part of their annual reporting and AMP processes. Safety performance may also be included in AMP processes, but is also covered in specific industry reporting requirements. We agree with the ID Paper that safety statistics therefore are not required for IDR. We do not however support the inclusion of customer service measures for quality measurement for EDBs. For the most part, electricity consumers are serviced through electricity retailers with interposed agreements with line owners. The electricity retailer has primary responsibility for customer service for electricity consumers. Any attempts to measure customer service aspects of EDB performance are therefore likely to predominantly reflect customer's perceptions of retailers' performance. Given the primary service quality aspects of EDB performance is measured by supply quality and reliability we submit that the costs associated with establishing and maintaining effective customer service measures is not justified.

57 In addition to supply quality, the ID Paper proposes that statistical data is included in annual disclosures. We agree that such data can assist interested parties interpret performance, and in addition it can be used as denominators in various performance indicators. It cannot however fully normalise for all external influences. It must also be based on information which is readily available, ie: based on information a supplier would reasonably be expected to maintain. Demand, capacity and asset related information is already included in the EDIDR. The specification of this can be determined only once performance indicators have been developed, the RAB IM has been determined and a full assessment of the section 53A purpose for information disclosure has been made.

58 We do not support the disclosure of pricing statistics. The current requirements for EDBs are overly simplistic, misleading and unable to be disclosed for some EDBs due to their pricing structures. Pricing performance is adequately measured through tariff and pricing methodology disclosures.

vii) ASSET MANAGEMENT PLANS

- 59 AMPs have been disclosed by EDBs for a number of years. Currently they are required to be disclosed annually prior to each planning period, for a ten year period. We support the continued disclosure of annual AMPs to assist in the assessment of the innovation, investment and quality components of the section 52A purpose statement. We also support the continuation of the requirement to disclose forecasts of asset related expenditures and supply targets in AMPs to assist with these objectives. We do not support the duplication of these forecasts in annual disclosures, as this is superfluous and therefore not cost effective. The supporting data for the forecasts is contained in the AMP itself, which enables interested persons to better assess performance.
- 60 The ID Paper includes proposed requirements for AMPs. These are similar to the current EDIDR. As EDBs have developed their AMPs over a number of years to meet the existing disclosure requirements we believe this is an appropriate starting point from a cost effectiveness perspective. However, these requirements need to be reassessed in the context of Part 4. The specific consideration of the section 54Q energy efficiency requirements is an example of this.
- 61 The proposed variance statement should be included in annual disclosures in our view, rather than the AMP itself. This is primarily a pragmatic suggestion to address the requirement to publish variances between prior year forecasts and prior year performance. These can only be made after the end of the year. As AMPs are to be disclosed prior to the end of the year it is not possible to include variance analysis in the plan itself. Annual disclosures are made within 5 months of year end, and thus can include the variance analysis for the prior year.
- 62 We do not however support the proposal for Directors certification that the AMP describes actual processes and practices implemented by the business. The AMP is a plan. It should describe **planned** processes and practices relevant to the planning period. It may be appropriate for the AMP to specify to what extent these differ from current processes and practices. This should not require specific Director's certification however, as Directors are already required to certify the entire AMP document in their annual declarations.
- 63 We acknowledge and support the planned assessment of EDB AMPs in the context of the Section 54Q energy efficiency requirements. We believe the Commission has an obligation to demonstrate to interested parties how the regulatory instruments applying to EDBs meet the Section 54Q requirements in this respect. We also note the proposal for the Commission to undertake a specific innovation and investment review in the context of AMPs. There is little

information about how the Commission proposes to undertake such reviews. In this respect we are extremely concerned about the proposals for investment, innovation and quality ratings to be developed by the Commission as part of its AMP reviews. These can only be achieved as a result of subjective assessments and we do not support the proposal that subjective assessments be presented in the form of a quantified ratings on investment, innovation and quality. We believe that such ratings will infer a level of accuracy which is not warranted.

64 EDBs have had their AMPs reviewed by the Commission over recent years. These reviews have been undertaken by consultants employed by the Commission. From time to time different consultants have been employed for this role. The review process has suffered in our view in three main respects:

- The findings have not been made available to EDBs in a timely fashion which has prevented EDBs from addressing particular points of concern in subsequent AMPs;
- Different consultants have had different views and interpretations of the requirements and accordingly some EDBs rated highly by one consultant have been rated poorly by others;
- The review has focussed primarily on compliance rather than the overall adequacy of the plan.

65 We encourage the Commission to address these concerns when developing and implementing its AMP review process, and believe this can be achieved without the need to develop subjective AMP review ratings.

viii) PRICING AND OTHER DISCLOSURE PROVISIONS

66 We support the continued disclosure of pricing methodologies, tariff schedules and standard customer contracts because we believe it assists in meeting allocative efficiency objectives and assists interested parties in assessing the section 52A purpose statement. We have submitted on pricing methodologies in our IM submission and our recent submission to the EC on model approaches to distribution pricing. We note the Electricity Market Review also includes recommendations in respect of distribution pricing.

67 We do not support the disclosure of pricing statistics. The statistics which are currently disclosed by EDBs are meaningless, and unable to be reported on by some EDBs whose tariff structures are not the same as those assumed in the EDIDR. The relative price index, calculated on the basis of an average unit charge for groups of consumers is pointless and misleading. It is distorted by the relative fixed, variable and capacity components of tariffs as well as the transmission components and underlying cost structures and customer mix of EDBs.

We do not support this disclosure and question how it can be used in monitoring of EDB performance in a meaningful way. In particular we question:

- how can this disclosure support the measurement of performance?
- how is the Commission planning to use the measures in its performance monitoring reports?
- what caveats will the Commission place around interpretation of the measures in order to ensure interested persons are not misled by the proposed measures?

68 We agree that section 53F precludes those EDBs which are subject to information disclosure regulation only, from having to apply the pricing methodology determined as an IM in accordance with section 52T. We also agree that sections 53C and section 53F provide for information disclosure regulation to include pricing methodology disclosure requirements for consumer owned businesses, but that these may differ from the section 52T methodologies.

69 We note that EDBs are subject to other legislative constraints on their pricing namely:

- The GPS requirement that the Government expects EDBs to maintain any changes to rural line charges the same as changes to urban line charges
- The low user fixed charge requirements; and
- The Electricity Act requirement (currently before the House) for EDBs to continue to supply remote customers, many of whom are served by uneconomic lines.

70 It is these constraints that need to be taken into consideration in any monitoring undertaken by the Commission. They create challenges for EDBs in managing their pricing options and the burden on some networks is significantly greater than others, due to the characteristics of the network area supplied and the associated customer base. EDBs are required to manage all of the legislative obligations on them in the best way they can for their own customer base. Any simplified and poorly specified pricing statistics cannot reflect these requirements and nor should they. They are simply not an appropriate way to measure performance against the purpose statement.

71 We support the continued disclosure of tariff schedules and standard customer contracts (which will apply to five or more consumers). Contracts which have been negotiated with customer specific terms between a supplier and a customer should not be disclosed, as these have been agreed and reflect the specific requirements of the consumer. Disclosure of a schedule of such contracts should suffice without disclosure of the contract terms (which may be commercially sensitive to the consumer). In addition we note that the current requirement to disclosure non standard contract terms is particularly onerous for large EDBs and the purpose of such disclosures is not clear. We are not aware of any person requesting the

information and suggest the requirement should be modified at the very least to require disclosure of a schedule of non standard contracts, not each and every contract per se.

- 72 The ID Paper also proposes that assumptions, methodologies and policies should be disclosed. There is no information provided which explains the Commission's expectations about assumptions and methodologies. We submit that any additional disclosure should be limited if disclosures have been audited and the disclosure complies with the requirements. These policies should only be required if they are needed to support assessments of performance, not assessments of compliance.
- 73 We do not support the disclosure of the policies proposed in section 9.3.2 of the ID Paper. IDR are intended to provide a light handed regulatory mechanism for assessing whether the regulatory purpose statement is met. The policies listed in paragraph 496 are justified in the ID Paper as necessary for determining the assessment of risks that could materially impact on the profitability or viability of the regulated business. This proposal is contrary to section 5.3.2 of the ID Paper which states that the Commission does not believe financing or cash flow information is required for disclosure purposes. We support this view, and believe this is also relevant in the context of the policies outlined below.
- 74 Policies for credit, delegated authorities, sponsorship and insurance will not have a material impact on profitability or cash flow expenses. These policies reflect business decisions, and are not required in order to meet the purpose for IDR. They are also policies which apply to the overall business not the regulated business. For this reason we believe they are beyond the scope of the regulatory regime and should not be disclosed. They are not consistent with assessments of performance against the section 52A purpose statement.

vii) PUBLICATION, RETENTION, CERTIFICATION, STATUTORY DECLARATION AND AUDIT

- 75 We support the publication and retention provisions currently provided for EDBs in the EDIDRs. We also support the requirement for Directors to certify the disclosures and to provide a statutory declaration for information provided to the Commission. The additional proposal for a declaration that pricing methodologies have been used to set prices is also reasonable. However we do not support the proposed new requirement that AMP certifications include a statement that the AMP describes actual processes and practices implemented by the business for the reasons set out above. The existing Directors' declarations in respect of AMPs are sufficient.

- 76 We believe that audit of disclosures is an important part of the disclosure process and ensures that disclosures have been prepared with IDRs. Accordingly, it is possible to limit the disclosures to the information required to monitor performance. It is also important that the form of the audit opinion required for different types of information (for example financial and non financial) is carefully considered. It is not in our view appropriate for auditors to opine on prospective information such as AMPs or pricing methodologies, tariff schedules or contract disclosures which are outside the skill set of auditors. Accordingly we believe the scope of the audit should be that the disclosures comply with the IDRs for annual disclosures only. As indicated previously we believe annual disclosures should not contain prospective information as this is best disclosed in AMPs.
- 77 We do not believe reference to applicable industry standards is required for audit purposes and this may introduce potential conflicts. All compliance requirements should be included in IDR themselves. Auditors should be free to determine the wording of their opinions within the requirements set out for them in terms of the scope of the audit.
- 78 We acknowledge the need to allow for different standards of audit assurance on historical financial, historical non-financial and prospective financial and non-financial information. While we support the expected standard of audit assurance on historical financial information set out in Table 13 of the ID Paper, we have a number of concerns about the proposed standard of assurance on historical non-financial information and prospective information.⁹
- 79 The expected standard of assurance on historical non-financial information requires auditors to form an opinion on whether the information has been prepared in all material respects in accordance with the IDRs. This standard of opinion implies that the underlying source data (ie outage records and interconnection point (ICP) data supporting SAIDI and SAIFI statistics, electricity volumes, circuit length etc) has been audited. Our experience in auditing the SAIDI and SAIFI statistics used for Threshold Compliance Statements demonstrates that in most cases it is not practicable to obtain sufficient audit assurance over the completeness and accuracy of fault records and ICP data because of a lack of independent evidence to support outage records, and a lack of control over the completeness and accuracy of ICP data. Consequently, there is widespread qualification of audit opinions on Threshold Compliance Statements.

⁹ As noted previously, we do not support the inclusion of prospective financial information in annual disclosures, but for completeness we have addressed issues with the audit of prospective financial information.

- 80 To avoid similar qualifications on historical non-financial components of disclosure information, we submit that the expected standard of assurance should remain as it is in the 2008 EDIDR ie: that the information has been compiled in accordance with guidance (if any) issued pursuant to the EDIDR and calculated based on source data provided by the EDB.
- 81 We do not support the proposal that auditing requirements for prospective financial and non-financial information should be similar to the standard of assurance required by the Securities Regulations 1983. The publication and audit of a registered prospectus is by nature an infrequent event, and the standard of assurance is justified by the purpose of the prospectus and reliance on it by investors. To impose the same audit requirements on annual disclosure information will in our view, disproportionately increase compliance costs relative to the benefits of increased assurance.
- 82 In practice it would be difficult and costly for auditors to determine whether the prospective financial information has been properly compiled on the basis of the assumptions made or adopted by the EDB and set out in the AMP. Auditors will not have the requisite expertise to evaluate engineering assumptions within the AMP and will require expert opinions from technical specialists in order to do so, at additional cost. In addition the AMP is a complex and lengthy document, typically 150 – 250 pages in length. The assumptions underpinning the specific prospective information which is extracted for information disclosure are frequently not readily identifiable or clearly set out in a separate section within AMPs. Expenditure forecasts in AMPs reflect consideration of a large number of factors, and reflect the judgements of the planners about those factors. They are also at best only estimates, particularly in the latter periods in a plan. This is entirely different to the modelling which accompanies the forecasts contained in investment prospectuses which are typically limited to a period of no more than 3 years.
- 83 We therefore submit that the standard of assurance over prospective financial and non-financial information set out in the 2008 EDIDR is appropriate. The perceived benefits of the additional assurance proposed in the ID Paper are not justified due to the increased cost required to achieve it.
- 84 The proposal that audit opinions are addressed to interested persons and contain a statement acknowledging the auditor's duty of care to the Commission significantly increases the risk to auditors of taking on responsibilities to third parties with regard to their opinion. Auditors would seek significantly higher fees to reflect the additional risk assumed, or alternatively may decline the engagement. A non-restricted assurance report addressed to interested persons increases

the risk that the report and assurance provided will be misinterpreted by persons other than the specified intended user(s) and that the work performed may not be appropriate for their needs.

85 Finally, we also support the independence requirements for auditors that are currently set out in the EDIDRs for EDBs.

X) SUMMARY OF OUR VIEWS ON THE SPECIFIC PROPOSALS FOR EDBS

86 The table overleaf provides a summary of our preliminary views on the proposals for EDBs as set out in Tables 16 and 17 of the ID Paper.

Proposed Disclosure	Scope of Disclosures	Preliminary Views
1 Performance Indicators	Refer 1(a) – 1(d) below	Indicators must be meaningful, targeted and based on information which EDBs would typically be expected to collect and maintain in a cost effective manner. Indicators must be consistent with IMs.
1(a) Innovation and Investment	AMP Review Rating – Innovation and Investment Capital Expenditure Ratio Renewal Ratio Capital Expenditure Growth Ratio	AMP review ratings are not supported because they are subjective and not required. AMP disclosures are sufficient. Other ratios are simple but can be misleading where RAB measures are used as denominators where the method for measuring the RAB differs historically to the roll forward method, and the method used to calculate depreciation and additions. Any use of ODV or Replacement Cost and Depreciated Replacement Cost figures can only be retained if this valuation approach is retained. Otherwise the performance indicators are misleading.
1(b) Efficiency	Operational Expenditure Ratio Overhead Operational Expenditure Ratio Maintenance Expenditure Ratio Capacity Utilisation Relative Unit Price Index	Opex ratios are simple, but subject to the same limitations as noted above in respect of capex ratios. Capacity utilisation is supported. The relative unit price index as it is simplistic, meaningless and difficult to specify on a consistent basis for all businesses in a regulated sector. It is not supported.
1(c) Quality	SAIDI and SAIFI AMP Review Rating – Quality Customer Perception	Support reliability measures. Do not support the AMP review rating due to its subjective nature and disclosure of the AMP itself and a review assessment is sufficient to meet the requirements without an “indicator”. Do not support the publication of an indicator for customer perception for the same reasons set out above. It will require a subjective assessment which is not appropriate for performance indicators which suggest a level of accuracy based on quantitative data,
1(d) Prices and Profits	ROI	We support the disclosure of ROI but this cannot be specified until the IMs have been determined.

Proposed Disclosure	Scope of Disclosures	Preliminary Views
2 Financial Information	Regulatory Profit Statement & Notes Regulatory Asset Statement Regulatory Tax Calculation Forecast Statement Consolidation Statement Additional detail: - revaluations - vested assets - capital contributions - opex categories - capex categories	<p>We support the disclosure of profit, asset and tax statements but these should be limited to the disclosure of the key components of each for the disclosure year.</p> <p>We do not support the disclosure of a forecast statement in the annual disclosures. AMPs are the appropriate place for forecasts.</p> <p>We also do not support the disclosure of consolidation statements as they are not justified, they do not provide performance information, they will not be possible for some EDBs and the information is likely to be meaningless due to the significant departures from GAAP proposed for the regulatory statements.</p> <p>The additional detail required can only be specified once the performance indicators and the IMs have been determined.</p>
3 Regulatory Asset Base	Regulatory Valuation Roll Forward Report Annual Valuation Roll-Forward by Asset Class Report Asset Transactions with Other Regulated Suppliers Report Initial RAB Report	<p>We do not support the roll forward or asset class reports as these are not required to assess performance. The Regulatory Asset Statement (above) is sufficient.</p> <p>We agree that asset transaction reports are required to provide clarity for performance assessment purpose sin the year of a transaction.</p> <p>Until the RAB IM is determined it is not possible to say whether an initial RAB report is required</p>
4 Statistics	Asset Statistics Demand Statistics Capacity Statistics Pricing Statistics	<p>We support the disclosure of statistics to the extent that they are required for the denominators for performance indicators and to normalise business performance.</p> <p>We do not support the disclosure of any statistics which are in addition to those that EDBs would typically collect and maintain.</p> <p>We do not support the disclosure of pricing statistics because they are not required due to other pricing disclosures, are meaningless and therefore not justified.</p>
5 Quality	Interruptions Faults Reliability Customer Service	<p>Interruptions, faults and reliability performance indicators are reasonable as these are the aspects of quality which most directly impact on consumers.</p> <p>Customer service indicators are not justified as the customer interface is with the retailer, and customers are unlikely to be able to readily distinguish between retailer and distributor performance. The costs of developing meaningful customer service indicators are not justified.</p>

Proposed Disclosure	Scope of Disclosures	Preliminary Views
6 Asset Management Plans	Assets Covered Service Levels Development Planning Lifecycle Asset Management Planning Risk Management Evaluation of Performance 10 year Planning Period	AMP disclosures meet a number of the performance assessment objectives. Retaining similar provisions to existing requirements may have some cost effectiveness advantages The effectiveness of the Commission's reviews of AMPs to date have been limited for a number of reasons (as set out earlier) Directors should not declare that AMPs represent actual policies and procedures, because the AMP is a statement of planned policies and procedures
7 Pricing	Pricing Methodology Prices Pricing Statistics Contracts	We support the disclosure of pricing methodologies consistent with the IM. We support the disclosure of tariff schedules and standard contracts. We do not believe it is necessary to disclose non standard contracts negotiated between customers and the EDB. This is an onerous requirement, especially for larger EDBs and the justification for it is not clear. A schedule of non standard contracts is sufficient. We do not support the disclosure of relative pricing statistics as these are not required to assess performance. They cannot be specified in a meaningful way without considerable compliance cost and therefore cannot be justified. Other pricing disclosures are sufficient.
8 Segmentation of Business Activity	Non contiguous networks Consumer control applies to part of network	These requirements should be reviewed to determine whether they are meeting the original objective. We suggest that the compliance cost may outweigh any perceived benefits.
9 Other	Assumptions Methodologies Policies	Not supported. These are not required to assess performance and therefore they are inconsistent with the purpose for IDR The proposals for policy disclosures do not meet cost-efficiency implementation objectives and reflect undue regulatory scrutiny on normal business processes. The objective of the policy disclosure is inconsistent with the purpose for IDR.
10 Publication, Retention, Certification	Director Certification for All Audit of Annual Disclosures Statutory Declarations for All	We agree in principle that Director's declarations and certifications should be provided on all disclosure information. Audits of annual disclosures should be retained to assist ensure compliance, and reduce the amount of information that should be disclosed. The scope of auditor role must be consistent with the skill and expertise of external financial auditors. Audits on AMPs, forecast information and pricing methodologies are not justified and outside traditional audit expertise.