

9 April 2025

Caroline Ovenstone
Alpine Energy Limited
24 Elginshire Street
Washdyke
Timaru 7910

c/o: [REDACTED]
Chapman Tripp

By email only: [REDACTED]

Dear Caroline

Alpine Energy Limited: Warning for contraventions of information disclosure requirements for years ended 2014 – 2022

1. The purpose of this letter is to advise you of our enforcement decision for Alpine Energy Limited's (Alpine) contraventions of the information disclosure requirements in the Electricity Distribution Information Disclosure Determination 2012 [2012] NZCC 22 (ID Determination) for disclosure years (DYS) 2014 – 2022.
2. The Commission and Alpine have agreed that, under s 53B(1) and s 86(2) of the Commerce Act (the Act), Alpine contravened an information disclosure requirement in respect of each of the 2014 – 2022 DYS. It did so by disclosing information in Schedule 4 of the ID Determination that is either false or misleading (ID Contraventions). Specifically, Alpine disclosed depreciation and regulatory asset base (RAB) values that did not comply with the requirements of the asset valuation input methodologies.
3. The impact of the ID Contraventions is that the Commission set Alpine's maximum allowable revenue higher than should have been the case for the 2015-2020 (DPP2) and 2020-2025 (DPP3) default price-quality regulatory periods. This led to consumers being overcharged for the lines components of their electricity bills.
4. The Commission has accepted enforceable undertakings offered by Alpine and has decided that the appropriate enforcement response is to issue a warning letter to Alpine for its conduct. The Commission considers that enforceable undertakings is the most effective way to remediate consumers who bore the impact of Alpine's ID Contraventions.

Background to the Commission's enforcement decision

5. As an electricity distribution business (EDB), Alpine is subject to information disclosure regulation under Part 4 of the Act. This form of regulation requires a regulated supplier to publicly disclose information in accordance with requirements the Commission determines.
6. One of those requirements is to disclose information related to depreciation in respect of its RAB consistently with the Electricity Distribution Services Input Methodologies Determination 2012 (EDB IMs), which includes the asset valuation input methodologies.
7. A contravention of an information disclosure requirement may attract a penalty of up to \$5,000,000 under section 86(3) of the Act. Section 86(2) provides that an EDB contravenes an information disclosure requirement where it discloses information under the ID Determination that is either false or misleading.
8. Alpine is also subject to default price-quality regulation under Part 4 of the Act. This form of regulation sets the maximum revenue that Alpine is permitted to recover and the quality standards which it must meet.

The investigation

9. On 8 August 2023, Alpine reported to the Commission an error in its depreciation calculations in its annual information disclosures in Schedule 4: Report on the value of the RAB of the ID Determination for the 2014 – 2022 DYs.
10. The error related to Alpine's calculation of depreciation, which accelerated depreciation of some assets or caused continued depreciation of some assets after the assets had reached the end of their accounting life.
11. Following Alpine's report, the Commission opened an investigation into Alpine's errors. Alpine cooperated with the Commission by providing information and engaging with the Commission throughout the course of the investigation.
12. Our investigation focused on the circumstances that led to the error in calculating depreciation. The error dated back to information Alpine disclosed to the Commission in 2012 as part of setting the first default price-quality path. On 24 September 2012, the Commission issued a section 53ZD notice that required EDBs to restate the 2010 RAB values to comply with the newly determined asset valuation input methodology.
13. In response to the Commission's notice, Alpine built a RAB roll-forward model. The roll-forward model contained a coding error that affected the calculation of depreciation on pre-2010 assets for purposes of the RAB roll-forward. The coding error meant that the model continued to calculate depreciation on pre-2010 assets even once the asset value had reached zero. Therefore, the roll-forward model overstated depreciation and as a result of that, it progressively understated the value of the RAB.

14. Alpine discovered the error in 2023 when it identified an unexplained difference between the RAB and its fixed asset register. The RAB was lower relative to the fixed asset register than expected.
15. Our investigation also considered the impact of the ID Contraventions on Alpine's maximum allowable revenue for DPP2 and DPP3. The ID Contraventions affected Alpine's maximum allowable revenue because the Commission used the information disclosed under the ID Determination to set allowable revenues for EDBs subject to default price-quality regulation.
16. As Alpine was set a higher maximum allowable revenue, Alpine overcharged consumers in DPP2 and DPP3. The total amount overcharged in 2025 present-value terms is \$16.9m, comprised of \$13.1m from DPP2 and \$3.8m from DPP3.
17. Alpine also accrued in error a wash-up amount of \$10.8m for the assessment period (AP) 2024. Alpine will also have accrued in error a wash-up amount for AP 2025, but this figure can only be calculated after the conclusion of the 2025 disclosure year.

The Commission's view

18. The Commission's view is that Alpine has contravened an information disclosure requirement under s 53B(1) and s 86(2) of the Act for each of the 2014-2022 DYs. This is because:
 - 18.1 the ID Determination requires that, when complying with the ID Determination, every EDB must apply specified input methodologies, including Subpart 2 of Part 2; asset valuation;
 - 18.2 the asset valuation input methodology in the EDB IMs sets out the method for calculating depreciation;
 - 18.3 Alpine failed to properly apply the asset valuation input methodology in calculating depreciation because the RAB roll-forward model incorrectly accelerated depreciation of certain pre-2010 assets, and/or continued to depreciate those assets into negative values, contrary to the requirements of the EDB IMs;
 - 18.4 Alpine used this incorrect model to populate its information disclosures, specifically Schedule 4, in the 2014 –2022 DYs; and
 - 18.5 as Schedule 4 contained false or incorrect disclosures that did not comply with the EDB IMs, Alpine therefore contravened an information disclosure requirement.
19. Alpine has admitted to the ID Contraventions.

Enforcement decision: Enforceable undertakings and warning

20. The Commission has decided to accept the enforceable undertakings offered by Alpine and issue this warning letter to Alpine, in response to the ID Contraventions.

Enforceable undertakings

21. Under section 74A of the Commerce Act, the Commission may accept enforceable undertakings from an EDB in connection with an enforcement matter under the Act. These are written commitments to take specific steps aimed at addressing the Commission's concerns with the EDB's conduct. If the Commission considers that the EDB has breached an undertaking, we can apply to the High Court for orders to enforce the terms of the undertaking.
22. Alpine offered, and the Commission has accepted, enforceable undertakings which include the following commitments:

Return of overcharge

- 22.1 Alpine will return the total value of the overcharge by:
 - 22.1.1 refunding at least \$16.9m to current consumers via bill credits paid via retailers; and
 - 22.1.2 returning the 2024 AP wash-up amount to consumers by reducing forecast revenue from prices and actual revenue by at least \$10.8m in the 2026 AP; and
 - 22.1.3 returning the 2025 AP wash-up amount to consumers by:
 - (a) establishing a programme to provide discretionary payments to former consumers that would otherwise be ineligible to receive a refund; and
 - (b) returning the remainder, if any, of that part of the 2025 AP wash-up amount that represents an overcharge to consumers by reducing forecast revenue from prices and actual revenue in the 2027 AP.

Community initiatives

- 22.2 Alpine will, within two years of the commencement date of the undertakings, spend or commit to spend at least \$1,500,000 on initiatives to support access to electricity in the local community, which may include community resilience, energy efficiency initiatives and financial assistance for vulnerable or low income households.

Improvement actions

- 22.3 By 31 August 2025, Alpine will prepare and disclose to the Commission an improvement plan setting out actions Alpine intends to take that are designed to mitigate the risk of a similar contravention occurring again.
- 22.4 By 31 August 2026, Alpine will report to the Commission on progress made implementing the steps set out in the improvement plan.

Warning for contravention of information disclosure requirements

23. The Commission warns Alpine for the ID Contraventions. We consider that a warning to Alpine is an appropriate enforcement response, rather than taking legal proceedings, based on the enforcement criteria below and the enforceable undertakings offered by Alpine.
24. In accordance with the purpose of Part 4 of the Commerce Act, the enforceable undertakings support the Commission's enforcement objectives of limiting EDBs' ability to extract excessive profits. The harm caused to consumers by the overcharge can be redressed through enforceable undertakings.
25. We note that if, despite the measures included in enforceable undertakings, Alpine contravenes an information disclosure requirement again in the future, this warning may be a relevant factor that may lead us towards a stronger enforcement response. This will be particularly relevant where the circumstances and contributors to these contraventions remain relevant to future contraventions.

Enforcement criteria

26. In reaching our enforcement decision we considered the relevant circumstances, as well as information provided by Alpine to the Commission, and assessed Alpine's conduct against our enforcement criteria:
 - 26.1 extent of detriment;
 - 26.2 seriousness of conduct; and
 - 26.3 public interest.
27. We consider the detriment arising from the contravention to be high as it led to significant over recovery of revenues from consumers. The lengthy period of non-detection of the contravention has impacted consumers.
28. Although Alpine's conduct was unintentional, it was repeated, and Alpine failed to detect this issue for over a decade. The Commission expects businesses to have systems and processes in place that support compliance with regulatory obligations and detect non-compliance so that consumers are not negatively impacted. Accordingly, we consider that Alpine's conduct was serious, in the sense that it did not take enough care or attention, to allow the errors to occur and remain undetected for so long.
29. The ID Contraventions caused significant detriment to consumers over the relevant periods and we consider there is a high public interest in the resolution of this matter. The ID Contraventions and their impact have particular significance in Alpine's community where the EDB is owned by the local councils and LineTrust South Canterbury. A warning is an appropriate response in these circumstances.

Further information

30. This warning is public information and will be published on the case register on the Commission website.
31. The Commission will be making public comments about our investigation and conclusions, including issuing a media release, making comment to media or otherwise publicising the outcome (such as on our social media forums).
32. Thank you for your assistance with our investigation. Please contact Robert Cahn, Chief Legal Counsel, Infrastructure Regulation, at [REDACTED] if you would like to discuss this letter.

Yours sincerely

[REDACTED]

Vhari McWha
Commissioner