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COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

Proposed amendment to the input methodologies for electricity distribution businesses – accounting for shifted revenue

Draft decision

4 November 2025

Contents

Introduction

1. This paper sets out and explains a proposed amendment to the input methodologies (IMs) for electricity distribution businesses (EDBs) to account for revenue shifted (either accelerated or deferred) in the regulatory period immediately before an EDB moves to a customised price-quality path (CPP).

2. This paper outlines our draft decision and invites submissions on the proposed amendment.

3. For our draft decision, we describe:

   3.1 the draft amendment; and

   3.2 how the draft decision is likely to promote the Part 4 purpose or the s 52R purpose of the IMs.

4. The draft decision is based on the framework for IM amendments framework outcome set out in Attachment A.

Accounting for shifted revenue when transitioning to a CPP

How revenue smoothing works in the DPP

5. When setting a default price path (DPP) using a building blocks model,[1] we build up a revenue allowance based on forecast costs to create the building blocks allowable revenue (BBAR) for each year. We then set a smoothed maximum allowable revenue (MAR) series that is equivalent in present value terms to the BBAR over the period of the DPP.

6. This MAR series takes the form of a starting price year that then increases by (CPI-X),[2,3] where X is a value determined by the Commission when setting the price path, for the remaining years of the regulatory period.

7. An EDB-specific X-factor can be set by the Commission to either prevent price shocks to consumers or to mitigate undue financial hardship to suppliers.[4] Use of an X-factor 'tilts' the revenue path, changing the timing of when revenue will be recovered. Depending on the chosen X-factor, revenue is deferred to later in the DPP or brought forward to earlier in the DPP.

8. The net present value of the two revenue series (ie with X-factor or without) are the same when considering the whole five-year regulatory period. All the X-factor changes is the timing of revenue recovery.

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[1] For more information on the building blocks model, see slides 37-44 of Commerce Commission "Introduction to the DPP for stakeholders -2020 reset of the DPP for EDBs" (5 November 2018).

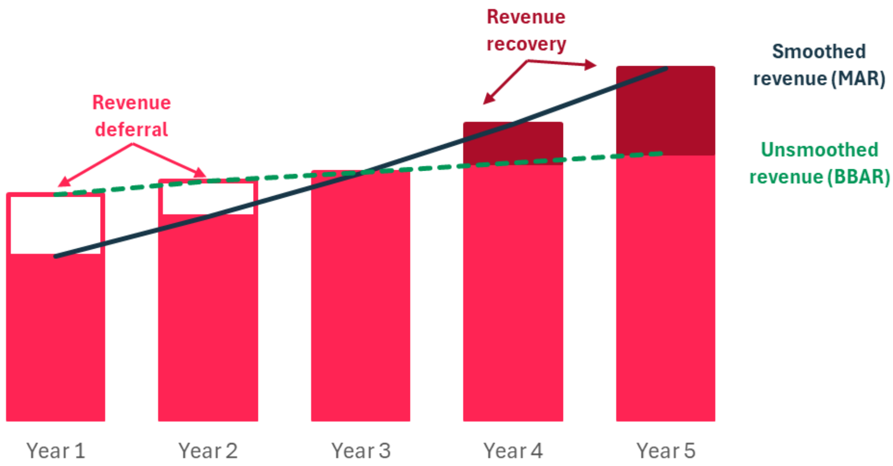
[2] A starting price year is the first year of a regulatory period. It provides a baseline from which the subsequent years of the regulatory period are based.

[3] CPI stands for consumer price index, a measure of economy wide inflation.

[4] Section 53P(8)(a) of the Commerce Act 1986 (the **Act**).

9. For example, if revenue was deferred via an X-factor, the first two years of a regulatory period will have reduced revenue, and the final two years will have increased revenue as the EDB ‘catches up’.[5] This effect is illustrated in Figure 1 below.

Figure 1. Revenue deferral under an alternate X-factor



The issue when transitioning to a CPP

10. An issue arises when an EDB applies for a CPP part way through a regulatory period. When the EDB transitions from the DPP to a CPP mid-period, either the EDB (in the case of deferral) or consumers (if revenue has been accelerated) will not have been made whole for building blocks revenue during the DPP period.

11. Currently, when an EDB applies for a CPP, we assess the EDB’s expenditure proposal and set a revenue path sufficient to compensate the EDB for the level of forecast expenditure we consider is prudent and efficient. The IMs do not prescribe how (if at all) any outstanding shifted revenue from the prior regulatory period should be accounted for in the CPP revenue path.

12. The further through a regulatory period that an EDB applies for a CPP, the less exposed it is to the impact of shifted revenue. However, if an EDB applies in years one or two of a DPP period, it (and consumers) will have experienced some (or all) of one side of the equation, without having experienced any of the other.

13. Given the potential quantum of revenue at stake,[6] we consider that the lack of certainty may create a material disincentive for EDBs to apply for a CPP.

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5 The opposite happens when accelerating revenue: the early years have increased revenue with the final two years having decreased revenue to compensate. In the third year (of a five year period) revenue is approximately equal on smoothed and unsmoothed terms. Note that even absent an alternate X-factor some shifting of revenue occurs when smoothing BBAR to MAR, albeit a much less material amount.

6 For example, our DPP4 decision deferred the equivalent of approximately 15% of a year’s BBAR revenue on average (approx. 10% in year one and another 5% in year 2).

Our draft decision is to amend the Input Methodologies

14. To address the issue outlined above and account for shifted revenue, our draft decision is to reference a new defined term 'shifted revenue' in the MAR calculation for a CPP found in 5.3.4(1) of the IMs.[7]

15. We are proposing the definition of 'shifted revenue' would be:

> the sum of the differences, in present value terms, between the BBAR before tax, and the MAR before tax, for each **disclosure year** of the **DPP regulatory period** immediately before the start of the **CPP regulatory period**

16. By comparing BBAR with the MAR of the DPP that the EDB is on when it applies for the CPP, we ensure that EDBs and consumers correctly bear appropriate costs from that DPP, while also ensuring that expenditure in the out years of that DPP (and therefore likely to be included in any CPP expenditure proposal) is not 'double counted'.

17. By amending the MAR calculation, shifted revenue can be included in any revenue smoothing that occurs during the CPP. This means that the revenue can be spread across the CPP period, mitigating the initial price shock consumers could experience.

18. This proposed amendment ensures that EDBs are not deterred from applying for a CPP at any point during the DPP when doing so would be in the best interest of consumers. We consider the proposed amendment better promotes the s 52A(1)(a) limb of the Part 4 purpose in the Act by ensuring there are incentives to invest.

19. In the case where revenue has been accelerated in a prior regulatory period,[8] we consider that it is in the long-term interest of consumers, and in keeping with s 52(1)(d) of the Act, that EDBs are unable to 'double recover' revenue from consumers when applying for a CPP.

20. We consider the proposed amendment promotes the IM purpose under s 52R of the Act by providing certainty to both suppliers and consumers on how changes in the timing of revenue recovery in the regulatory period prior to a CPP will impact the CPP revenue path. We consider that our approach provides sufficient certainty to stakeholders such that they are reasonably able to estimate the material effects of the methodology, while still leaving us some discretion to account for variations that may arise due to the flexibility of the CPP provisions.

21. CPPs can represent a substantial uplift in allowed expenditure and consequently revenue recovered from consumers. Given the potential materiality of the shifted revenue, we consider it is appropriate to include it alongside the revenue of the CPP when making revenue smoothing decisions for the CPP.

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[7] *Electricity Distribution Services Input Methodologies Determination* 2012 [2012] NZCC 26 (as amended).

[8] Either through the natural tendency of MAR smoothing to accelerate revenue recovery – especially where expenditure in a DPP period is backloaded – when compared to BBAR expenditure or through explicit acceleration to relieve undue financial hardship.

22. In keeping with our IM amendments framework for making IM amendments outside of the statutory review cycle, we consider the proposed amendment:

    22.1 incrementally improves the price-quality paths by clarifying and providing certainty around how the IMs account for shifted revenue; and

    22.2 does not amend a 'fundamental IM'.[9]

23. By making an amendment to the IMs now, any amendment, if confirmed in our final decision, will be in effect for any CPPs that occur during the DPP4 period after our final decision on this amendment. Waiting for the next full IM review would mean that only CPPs from 2031 would be impacted.[10] Given the extensive use of alternate X-factors in the DPP4 final decision, and signals from multiple EDBs that they are contemplating a CPP, we consider it is appropriate to make an amendment now.

Alternatives considered

IM variation

24. We considered whether it was more appropriate to handle the shifted revenue issue via an IM variation during the CPP process, rather than amend the IMs.

25. When applying for a CPP, an EDB can propose IM variations specific to their CPP application.[11] IM variations require the agreement of both parties (the EDB and the Commission). As such, the EDB has no guarantee that we will agree with any IM variation they propose.

26. The opposite situation occurs when revenue has been accelerated. While we can propose a variation, if the EDB does not agree to a variation, we are unable to vary the IMs unilaterally.

27. An incentive exists then, for an EDB to only agree to a variation to acknowledge shifted revenue when it is in the EDB's interest to do so (ie, when it would lose out on revenue deferred in a prior regulatory period).

28. Given the materiality, the uncertainty in outcome with an IM variation is still likely to lead to a disincentive for an EDB to apply for a CPP, in contrast to the outcome with our proposed IM amendment.

29. An IM amendment has the advantage consistency in approach for all EDBs applying for a CPP, where using an IM variation could potentially be different from one application to the next.

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[9] As listed in s 52T(1)(a) of the Act.

[10] The IMs must be reviewed at least every seven years. As the previous IM review was completed in November 2023, the next full IM review must be completed by November 2030, with any amendments taking effect at the start of any price-quality path that commences after November 2030 (ie 1 April 2031).

[11] Section 53V(2)(c) of the Act.

30. We also consider an IM amendment better promotes the Part 4 purpose by ensuring that consumers (who cannot propose an IM variation) are protected in the case when an EDB who has had revenue accelerated applies for a CPP.

31. Given this issue will likely arise in most if not all CPP applications (especially any applications during DPP4 where substantial revenue has been deferred for most EDBs), we consider that an IM amendment now provides more certainty to both EDBs and consumers that shifted revenue will be appropriately accounted for. In our view this approach better promotes the s 52R IM purpose and aligns with the IM amendments framework.

Accounting for shifted revenue via recoverable cost

32. We also considered an alternative approach that accounted for shifted revenue via a recoverable cost. This could be done through a change in the reference to 'clawback' found in clause 5.3.4(2) to explicitly reference shifted revenue.[12]

33. The value of the shifted revenue to be acknowledged would be calculated in the same way (ie, the sum of the differences between BBAR and MAR).

34. We consider that accounting for shifted revenue through a recoverable cost mechanism could introduce substantial volatility to the price path and expose consumers to an even more substantial year one price shock.

35. As such, we consider it is preferable to include the additional revenue in the MAR calculation and smooth the impact across the CPP period, protecting consumers from additional volatility in prices.

How you can provide your views

36. Following submissions and cross-submissions, we aim to make and publish our final decision on this amendment by the end of February 2026.

37. Alongside this draft decision paper we have published a [Draft] Electricity Distribution Services Input Methodologies (accounting for shifted revenue) Amendment Determination 2026.

Submissions on this paper

38. We seek your views on our draft IM amendment that gives effect to our draft decision. We have allowed four weeks for submissions and two weeks for cross-submissions as follows:

    38.1 submissions are due by 5pm on **Friday 5 December 2025**; and

    38.2 cross-submissions are due by 5pm on **Friday 19 December 2025**.

Address for submissions

39. Please email submissions to infrastructure.regulation@comcom.govt.nz with "EDB IM amendment" in the subject line of your email.

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[12] *Electricity Distribution Services Input Methodologies Determination* 2012 [2012] NZCC 26, cl 5.3.4(2).

40. We prefer submissions in either a format suitable for word processing (such as a Microsoft Word document), or a ‘locked’ format (such as a PDF) for publication on our website.

Confidential submissions

41. We encourage public submissions so that all information can be tested in an open and transparent manner. However, we recognise that parties making submissions may wish to provide information in confidence. We offer the following guidance:

    41.1 if it is necessary to include confidential material in a submission, the information should be clearly marked, with reasons why that information is considered to be confidential;

    41.2 where commercial sensitivity is asserted, submitters must explain why publication of the information would be likely to unreasonably prejudice their commercial position or that of another person who is the subject of the information;

    41.3 both confidential and public versions of the submission are required to be provided; and

    41.4 the responsibility for ensuring that confidential information is not included in a public version of a submission rests entirely with the party making the submission.

42. We request that you provide multiple versions of your submission if it contains confidential information or if you wish for the published electronic copies to be ‘locked’. This is because we intend to publish all submissions on our website. Where relevant, please provide both an ‘unlocked’ electronic copy of your submission, and a clearly labelled ‘public version’.

Attachment A Decision-making framework

A1 This attachment sets out the framework we have applied in reaching our draft decision. It explains:

A1.1 our framework for considering potential IM amendments, which is relevant in considering what IMs may be appropriate to amend outside of the statutory IM review cycle under s 52Y of the Act; and

A1.2 the decision-making framework we have applied in proposing the potential amendments.

Framework for considering the scope of potential IM amendments

A2 Our framework considers:

A2.1 the statutory context;

A2.2 our specific powers to amend IMs; and

A2.3 what we must take account of when amending IMs outside of the statutory IM review cycle under s 52Y of the Act.

Statutory context

A3 When considering amendments to IMs, we must consider the purpose of IMs and the purpose of Part 4. This section discusses the tensions between making changes to improve the regime and the certainty intended by the IMs.

A4 The purpose of IMs, set out in s 52R of the Act, is to promote certainty for suppliers and consumers in relation to the rules, requirements and processes applying to the regulation, or proposed regulation, of goods or services under Part 4. To that end, s 52T(2)(a) requires all IMs, as far as is reasonably practicable, to set out relevant matters in sufficient detail so that each affected supplier is reasonably able to estimate the material effects of the methodology on the supplier. In that way, the IMs constrain our evaluative judgements in subsequent regulatory decisions and increase predictability.[13]

A5 However, some uncertainty remains inevitable.[14] As the Court of Appeal observed (in relation to a judicial review against decisions made in the IMs under Part 4) "certainty is a relative rather than an absolute value",[15] and "there is a continuum between complete certainty at one end and complete flexibility at the other".[16]

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[13] *Wellington International Airport Ltd & others v Commerce Commission* [2013] NZHC 3289 at [213].

[14] *Wellington International Airport Ltd & others v Commerce Commission* [2013] NZHC 3289 at [214].

[15] *Commerce Commission v Vector Ltd* [2012] NZCA 220, [2012] 2 NZLR 525 at [34].

[16] *Commerce Commission v Vector Ltd* [2012] NZCA 220, [2012] 2 NZLR 525 at [60].

A6 The s 52R purpose is primarily promoted by having the rules, processes and requirements set upfront prior to being applied by regulated suppliers or ourselves.

A7 However, as recognised in ss 52X and 52Y, these rules, processes and requirements may change over time.

A8 The power to amend an IM must be used to promote the policy and objectives of Part 4 of the Act as ascertained by reading it as a whole. It is clear that Parliament saw the promotion of certainty as being important to the achievement of the purposes of price-quality regulation. While this is to an extent implicitly inherent in s 52A (for example, providing suppliers with incentives to invest in accordance with s 52A(1)(a)), it is also expressed in s 52R in relation to the purpose of IMs. It is also made clear in other aspects of the regime, such as the restrictions on reopening DPPs during their regulatory periods.[17]

A9 When considering IM amendments, we must therefore be mindful that this may have a detrimental effect on:

A9.1 the role that predictability plays in providing suppliers with incentives to invest in accordance with s 52A(1)(a); and

A9.2 the role that the IMs play in promoting certainty for suppliers and consumers in relation to the rules, requirements, and processes in advance of being applied by us and suppliers in setting the DPP, CPP or Individual Price-Quality Path (IPP), as applicable.

A10 At times there will be a tension between making changes to improve the regime and better promote the s 52A purpose on the one hand, and certainty on the other.

A11 While we will have regard to the s 52R purpose (and the other indications of the importance of promoting certainty), ultimately, we must nevertheless make decisions that we consider promote the s 52A purpose.

A12 Section 52A governs all of our decision-making processes under Part 4, including our IM decisions. The other purpose statements within Part 4 are relevant matters, but they should be applied consistently with s 52A.[18]

A13 When making our decisions we must only give effect to these other purposes to the extent that doing so does not detract from our overriding obligation to promote the purpose set out in s 52A.

A14 Therefore, where the promotion of s 52A requires amendment to an IM, s 52R does not prevent us from making a change that is consistent with s 52A.

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17 For further discussion see *Wellington International Airport Ltd & others v Commerce Commission* [2013] NZHC 3289 at [213]-[221].

18 We note that the High Court, in *Wellington International Airport Ltd & Ors v Commerce Commission* considered that the purpose of IMs, set out in s 52R, is “conceptually subordinate” to the purpose of Part 4 as set out in s 52A when applying the "materially better" test. See *Wellington International Airport Ltd v Commerce Commission* [2013] NZHC 3289 at [165].

Amendments inside and outside the IM statutory review cycle

A15 This section considers the circumstances in which IMs may be amended and what must be taken into account when making amendments to IMs outside the statutory review cycle.

A16 All IMs must be reviewed at least once every seven years, as mandated by s 52Y.[19] This process is key to delivering on the s 52R certainty purpose of the IMs, while at the same time allowing the regime to mature and evolve in response to changing circumstances.

A17 Given the certainty purpose of the IMs and the scheme set out in the Act to promote this purpose, we must carefully assess what amendments are appropriate to consider outside the statutory IM review cycle. As noted previously, the predictability the IMs provide is key to promoting the s 52A purpose and, in particular, incentives to invest as required under s 52A(1)(a).

A18 On the other hand, it is important that the IMs are fit-for-purpose going into a price-quality path reset, particularly as under s 53ZB(1) IM amendments made after a price-quality path is determined (other than in limited circumstances) will not affect the price-quality path until the next reset.[20]

A19 Leading up to a price-quality path reset, we may therefore need to consider which topics are appropriate to consult on as potential s 52X amendments in order to identify changes to the IMs that are necessary to ensure that the DPPs are workable and effective in promoting the outcomes in s 52A.

Amendments outside the statutory IM review cycle

A20 We generally focus on two types of amendments outside the statutory IM review cycle:

A20.1 those that support incremental improvements to price-quality paths; and

A20.2 those that enhance certainty about – or correct technical errors in – the existing IMs.

A21 We do not generally consider it appropriate to consider 'fundamental' changes outside of the statutory IM review cycle. Fundamental IMs are generally those that define the fundamental building blocks used to set price-quality paths (listed in s 52T(1)(a)), and that are central to defining the balance of risk and benefits between suppliers and consumers.

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19 The next statutory Part 4 IM review is due to be completed by 2030.

20 Under s 53ZB(2) a price-quality path must be reset by us with a new price-quality path made by amending the price-quality path determination if: an IM changes as a result of an appeal under s 52Z; and that changed IM would have resulted in a materially different price-quality path being set had the changed IM applied at the time the price-quality path was set.

A22 However, we can and will reconsider fundamental building blocks IMs where there is a compelling and urgent rationale for doing so.[21]

The decision-making framework we apply

A23 In deciding whether to propose IM amendments, we are using a decision-making framework that we have developed over time to support our decision-making under Part 4 of the Act.[22] This has been consulted on and used as part of prior processes, and helps provide consistency and transparency in our decision-making.

A24 Specifically, in respect of each potential amendment we will consider whether it would:

A24.1 promote the Part 4 purpose in s 52A of the Act more effectively;

A24.2 promote the IMs purpose in s 52R of the Act more effectively (without detrimentally affecting the promotion of the s 52A purpose); and

A24.3 significantly reduce compliance costs, other regulatory costs, or complexity (without detrimentally affecting the promotion of the s 52A purpose).

A25 We may also take into account the following where they are relevant and where taking them into account does not compromise our achievement of the s 52A purpose of Part 4:

A25.1 whether there are alternative ways to address the identified issues without changing the IMs;

A25.2 the permissive considerations under s 5ZN of the Climate Change Response Act 2002;[23] and

A25.3 other Part 4 provisions, namely:

A25.3.1 the purpose of ID (s 53A);

A25.3.2 the purpose of default/customised price-quality regulation (DPP/CPP regulation) (s 53K);

A25.3.3 requirements relating to energy efficiency (s 54Q); and

A25.3.4 decisions made under the Electricity Industry Act 2010 (s 54V).

A26 We refer to the outcomes specified in paragraph A24 as the 'IM amendments framework outcomes' in this paper.

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21 An example of this was the re-consideration of the Part 4 WACC percentile decision in 2014. The compelling reason was criticism by the High Court of this decision in the IM merits appeal process, and the urgency was due to the upcoming default price-quality path and individual price-quality resets for EDBs and Transpower New Zealand Limited.

22 See Commerce Commission "Part 4 Input Methodologies Review 2023 Framework paper" (13 October 2022), para X20-X21.

23 Commerce Commission, "Default price-quality paths for gas pipeline businesses from 1 October 2022 – Final reasons paper" (31 May 2022) (Gas DPP3 final decision), at paras 2.24-2.25; Note of clarification – our Part 4 Input Methodologies Review 2023 Framework paper (21 December 2022).