

21 January 2025

Commerce Commission
Infrastructure Regulation Team
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For: Claire Harkess

By email to: infrastructure.regulation@comcom.govt.nz

Cross Submission on Electricity Distribution Information Disclosure Related Party Transaction Threshold Draft Package 2025

Westpower appreciates the opportunity to provide this cross-submission in response to submissions received on the Commerce Commission's Draft Decision relating to the related party transaction threshold.

This cross-submission focuses on Orion's submission which suggests reducing the proposed threshold increase \$30 million to \$26 million, and the reasoning provided in support of that position.

Summary of Westpower's Position

Westpower does not support lowering the proposed threshold from \$30 million to \$26 million as suggested by Orion. Other submissions from ENA, Unison and Centrallines, Wellington Electricity, and the IEGA support an increase in the threshold as proposed. Orion is the only EDB to propose decreasing the threshold, and its reasoning is not supported by sector evidence or regulatory practice. Retaining or increasing the threshold aligns with the Commission's intent to ensure proportionality and efficiency.

Orion's Inflation Argument

Orion's rationale is that inflationary movements since 2017 do not justify an increase to \$30 million. However, this does not reflect the higher cost inflation experienced within the sector. A \$26 million threshold would become outdated very quickly and require yet further frequent amendment, resulting in unnecessary cost. The rapid increase in costs for EDBs in the last few years, which looks set to continue, is outlined in our original submission, and the main reason for suggesting that the threshold is increased beyond \$30 million.

Orion's Reference to Two EDBs

Orion suggests that two unnamed EDBs would gain an exemption under the \$30 million threshold despite high proportions of related party transactions. Orion does not identify these EDBs or state whether they are consumer owned (and surplus profit is returned to consumers), nor do they provide

any supporting data. Without identifying the networks concerned, their expenditure levels, related party values, whether they are regulated or not, nor providing ICP counts, the claims cannot be tested or validated. In the absence of transparent evidence, Orion's reference to two unnamed EDBs should not be relied upon as justification for lowering the threshold.

Regulatory Burden

A \$26 million threshold would increase compliance obligations and costs for small EDBs and is inconsistent with the Commission's goal of reducing unnecessary regulatory burden. It would also undermine stability by creating a threshold likely to require early further adjustment.

Sector Consensus

All submitters other than Orion support the \$30 million threshold or a higher level, with CPI adjustment. Setting the threshold at \$26 million would be inconsistent with sector need and would not reflect current cost pressures.

Conclusion

Orion's proposal lacks evidential support and does not demonstrate that lowering the threshold would improve regulatory effectiveness. Westpower submits that the Commission should remain focused on proportionality, evidence, and the broader sector context, rather than on unsubstantiated concerns raised by a single, large regulated EDB. Westpower reiterates its original submission that an increase to \$40-\$50 million is appropriate. We reiterate that the compliance effort required to meet disclosure obligations once the threshold is surpassed is disproportionate to the risk or impact on customers, particular for EDBs which are community owned, and therefore surplus profits are returned to consumers.

If further clarification is required, please contact the undersigned.

Yours faithfully,

Lisa Leyland
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