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SUBMISSION – OPEN LETTER: ACHIEVING BETTER OUTCOMES

1. INTRODUCTION

1. Orion welcomes this opportunity to provide feedback on the Commerce Commission's (Commission) open letter, '*Local lines networks: achieving better outcomes for consumers now and in the future*' (the 'open letter').

2. No part of this submission is confidential.

3. Orion owns and operates the electricity distribution infrastructure in Central Canterbury, including Ōtautahi Christchurch city and Selwyn district. Our network is both rural and urban and extends over 8,000 square kilometres from the Waimakariri River in the north, to the Rakaia River in the south; from the Canterbury coast to Arthur's Pass. We deliver electricity to more than 230,000 homes and businesses and are New Zealand's third largest Electricity Distribution Business (EDB).

4. Orion is a member of Electricity Networks Aotearoa (ENA) and participates in an informal group of the six largest price-quality regulated EDBs (Big 6), which was formed in 2021 around a shared interest in delivering future-ready electricity services to communities and a common belief that decarbonisation needs to be integral to the regulatory framework.

5. Orion supports the submissions by ENA and the Big 6, and our own submission provides supplementary views.

2. SUPPORT FOR THE PURPOSE OF THE OPEN LETTER

6. The purpose of the Commission's open letter is to signal its intention to work with the electricity distribution sector to define what good EDB performance looks like, identify priority areas for improvement, and strengthen regulatory incentives to drive better outcomes for consumers.

7. Orion **supports** the purpose of the Commission's open letter.

8. Orion agrees with the Commission's indicative vision that EDBs should be focussed on delivering the fundamentals well, and have the capacity, capability and incentives to do so. Orion finds the indicative vision uncontroversial and aligned to our own development path. However, we consider that the vision statement for 'delivering core network operations well' should have a more active consumer voice, consistent with the Part 4 purpose. Doing the fundamentals well means not only providing reliable services to consumers but ensuring that the quality of services provided reflects consumer demands.

9. We are interested in how the Commission intends to "*work with sector stakeholders to establish a clearly articulated view on what 'good' performance for a local lines network / Electricity Distribution Business (EDB) looks like*"[1] and how it will determine that it has achieved consensus. We encourage the Commission to develop and publish a more definitive work programme, including identifying workshop opportunities to establish common

[1] Commerce Commission. (2026). *Open letter – Local lines networks: achieving better outcomes for consumers now and in the future*. 10 September 2026, p1.

views.

10. Despite our support for the overall vision, we have significant reservations regarding the indicative regulatory interventions outlined in the open letter. We detail our concerns in section 3, below.

2.1. Earlier Work Should be Considered

11. The open letter focusses "*primarily on what can be achieved before the next default price-quality path reset (DPP5) but is not limited to this.*"[2] This open letter follows an open letter consultation released eleven months ago, with an objective of obtaining "*views on... mechanisms, incentives or settings which could be applied in DPP5 (the reset which will apply to EDBs from 1 April 2030), and the process and information for that reset.*"[3]

12. We have seen no evidence to suggest that this earlier consultation has factored into regulatory development planning and **recommend** that the Commission fully considers the submissions to the earlier open letter alongside the submissions it will receive to this current open letter.

2.2. Ongoing Collaboration and Standardisation

13. The Commission should be aware that there is significant collaborative activity already underway across the sector. There are many projects underway, including ENA's significant work programme coordinating (1) the 13 initiatives agreed among all 27 EDBs and communicated to the Minister for Energy in January 2026 and (2) the 5 additional EDB-focussed recommendations of the Asset Dynamics report.[4]

14. Less visible, perhaps, is the important and steadfast standardisation work of the Electricity Engineers' Association (EEA). The EEA, in its submission to the Ministry of Business, Innovation & Employment (MBIE), strikes a cautionary note regarding standardisation:

> "*Standardisation should also be pursued not as an end in itself but only where it helps achieve agreed consumer and other outcomes. Our industry is complex and a one size fits all model would have unintended, and inefficient, consequences. Any standardisation initiative (whether regulatory or not) must preserve the ability for organisations to adapt the model for the realities of their locations and consumers.*
>
> *EDBs operate materially different networks and the EEA's long history of operationalising standardisation has always acknowledged legitimate reasons for different technical, commercial and operational approaches.*"[5]

15. In Orion's view, standardisation should be pursued where feasible and reasonable; however, the collective experience and expertise of the EEA indicates that economic regulation must be structured to recognise legitimate technical differences. Further, in Orion's view, it should be recognised that innovation is unlikely to flourish outside of innovation incentive mechanisms if the regulatory framework incentivises standardisation and punishes deviation.

3. INDICATIVE REGULATORY INTERVENTIONS

16. The open letter indicates that the regulatory regime may need to evolve to achieve the preferred outcomes.

17. Orion agrees, and in our view the most appropriate way to do so is through incentive regulation along with a lesser, but appropriate, level of conduct regulation. However, at this juncture, absent a legislative change to bring all EDBs under the ambit of price-quality regulation, it is difficult to see how effective incentives can be provided to all

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2 Ibid. p5.
3 Commerce Commission. (2025). *Open Letter: Ensuring our approach to price paths is delivering for consumers*. 25 August 2025, p1.
4 Asset Dynamics Limited. (2026). *Electricity Distribution Business Efficiency – Recommendations for Standardisation and Collaboration*. 9 April 2026.
5 Electricity Engineers' Association. (2026). *EEA Submission – Discussion document for the electricity distribution businesses.* pp 1-2.

EDBs uniformly.

18. This is demonstrated by the regulatory change examples provided by the Commission, which are intended to align with the proposed vision and outcome statements. Most of the examples require EDBs to face price-quality regulation for the proposed incentives to be effective. The two examples involving reduced capitalisation into the regulatory asset base (RAB) appear to have universal application at first blush but are unlikely to be effective for exempt EDBs, since there is no explicit link between RAB value and revenue outcomes in the current regulatory framework applying to those EDBs.

19. Orion explicitly opposes the indicative proposals to reduce capitalisation into the RAB based on insufficient use of flexibility, lack of distributed system operations capability, or non-standard procurement. The sanctions, as proposed, are subjective in nature and raise concerns about who would adjudicate the requirement to write-down the RAB entry (the Commission, auditors, independent engineers?) and to what extent that write-down would occur. Further, the RAB write-down proposals are designed to drive a conformity of method, rather than consideration of whether departure from the method can, under certain circumstances, drive better outcomes for consumers.

4. MBIE CONSULTATION

20. The Commission's open letter closely follows consultation by MBIE on options to enhance EDB efficiency.[6] MBIE's consultation heralds a possible inflection point in the economic regulation of EDBs, with potential changes of a significance unseen since the 2008 introduction of Part 4 of the Commerce Act 1986 (the Act).

21. Orion, along with members of the Big 6,[7] considers that consumers will be best served by changes to Part 4 of the Act, and changing the way that regulation applies to a substantial number of EDBs, including ourselves. Our individual submission[8] to MBIE's consultation recommended that:

    21.1. the four largest price-quality regulated EDBs should be subject to individual price-quality (IPP) regulation;

    21.2. all remaining EDBs should be subject to default price-quality (DPP) regulation (with the option to seek a customised price-quality (CPP) path retained);

    21.3. the Commission should be afforded access to a wider regulatory toolset, subject to appropriate and reasonable safeguards; and

    21.4. the Commission should be permitted to consider the results of comparative benchmarking of efficiency as an informative, but not mechanical, input to the DPP-setting process.

22. We do not resile from these views; however, MBIE's consultation landed uncomfortably close to the end of the current electoral cycle, and we accept that that these outcomes are uncertain and will depend on the priorities of the incoming government. We are hopeful that the matters covered by the consultation are sufficiently important that the incoming government, irrespective of flavour, will act on MBIE's final recommendations. Even if supported politically, the process of enacting changes may take some time and will depend on the incoming government's priorities.

5. IMPROVING THE EXISTING FRAMEWORK

23. Considering the existing legislative constraints, our submission focuses on improvements that can be made to the regulatory framework under the current Part 4 provisions. We consider that making incremental changes to the current price-quality and information disclosure (ID) frameworks will not suffice to drive efficiencies and performance improvements, nor demonstrate that those outcomes are being achieved, and that more ambitious

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6 Ministry of Business Innovation and Employment. (2026). *Discussion document for the electricity distribution businesses*.

7 Aurora Energy, Orion, Powerco, Unison, Vector & Wellington Electricity. (2026). *Submission on options to improve the efficiency of electricity distribution businesses.* 30 September 2026.

8 Orion. (2026). *Submission – EDB Efficiency Consultation*.

change should be considered.

24. Incremental changes, over the past decade, have resulted in an increasingly broad and unfocussed regulatory framework, particularly in ID. For some disclosures, there is little evidence that they are useful or used, or that the frequency of disclosure is commensurate with the potential risk the disclosure is attempting to manage.

25. Our submission proposes improvements to the price-quality and ID frameworks that we think will more consistently align all EDBs toward good electricity industry practice and better support the Commission's vision of executing the fundamentals well. In Orion's view, they focus in on the matters that are most likely to drive better consumer outcomes than status quo arrangements. Our proposed improvements are also intended to increase the Commission's ability to rely on EDBs' expenditure forecasts during DPP reset processes.

26. Our proposed improvements are consistent with several of the recommendations made in our submission to the Commission's 2025 open letter and, in some cases, represent refinement or development of our views.

27. Our **recommended** improvements include:

    27.1. The Commission embedding frequent monitoring of sector productivity and efficiency into its summary and analysis;

    27.2. Positioning compliance with the Expenditure Objective as a foundational principle for all EDBs;

    27.3. Removing mandatory publication of asset management plans (AMPs) and, instead, requiring publication of documented asset management systems (AMS) and related strategic asset management plans (SAMPs);

    27.4. Making 5-yearly investment plans foundational for all EDBs;

    27.5. Making ID more targeted and refining disclosure cycles;

    27.6. Redefining 'relatively low cost' for default price-quality regulation; and

    27.7. Requiring independent, external scrutiny of non-exempt EDBs' 5-yearly investment plans.

5.1. Productivity and Efficiency

28. In its open letter, the Commission considers that, while some EDBs are performing well and taking steps to prepare for increasing electrification, efficiency improvements are not occurring consistently across the sector.

29. Historically, EDB productivity studies have indicated that productivity continues to decline across the sector:

    29.1. In 2009, Economic Insights reported that, over the period 1996-2008, sector total factor productivity (TFP) increased by 1.0-1.1 percent per annum. TFP growth was strong between 1996 and 2003 before levelling off thereafter. Economic Insights also found that the segment "*likely to be non-exempt from the default price path*" achieved stronger productivity growth than the industry, with TFP increasing by 1.4-1.5 percent per annum.[9]

    29.2. Using the same methodology as its 2009 study, Economic Insights reported in 2014 that sector TFP grew by 0.82 percent per annum over the period 1996-2014. Productivity growth remained strong through to 2004, averaging 2.2 percent per annum, but weakened markedly thereafter, averaging -0.3 percent per annum over the decade to 2014. During this latter period, non-exempt EDBs achieved TFP growth that was around 0.2 percent higher than the sector average, largely reflecting lower input use.[10]

    29.3. In 2024, CEPA reported a further deterioration in productivity performance over the period 2008-2023, with sector TFP declining by an average of 1.3 percent per annum. TFP fell more rapidly for exempt EDBs (-1.4 percent per annum) than for non-exempt EDBs (-1.2 percent per annum). The decline was most pronounced between 2008 and 2014, when sector TFP decreased by 2.8 percent per annum. During this period, non-exempt EDBs experienced a slightly faster decline (-2.9 percent per annum) than exempt EDBs

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9 Economic Insights. (2009). *Electricity Distribution Industry Productivity Analysis: 1996–2008*. Report prepared for Commerce Commission. Section 5.1, p39. Available from ResearchGate.

10 Economic Insights. (2014). *Electricity Distribution Industry Productivity Analysis: 1996–2014*. Sections 4.2 & 4.3, pp 25-28.

> (-2.5 percent per annum). From 2015 onwards, however, the rate of decline moderated to 0.5 percent per annum for the sector overall. Over this period, the relative performance of exempt and non-exempt EDBs reversed, with TFP declining by 0.7 percent per annum for exempt EDBs and 0.4 percent per annum for non-exempt EDBs.[11]

30. The Australian Energy Regulator (AER) publishes an annual benchmarking report for electricity distribution network service providers (DNSPs). The AER's most recent benchmarking report shows that the productivity trend for Australian DNSPs is broadly similar to New Zealand EDBs[12,13] - slowly declining, and lagging a slowly growing national productivity trend (albeit that the productivity trend of Australian DNSPs appears more volatile year-to-year).

31. Measuring productivity is not without challenges. CEPA's 2024 report comprehensively outlines the factors that can influence or skew productivity measurements, including missing outputs and changes in the operating environment.[14] Similar measurement challenges are identified by the AER, noting that productivity decline is driven by "*capital investment in anticipation of future demand, issues in output measurement, exogenous shifts to higher cost technologies, and unmeasured improvements in output quality such as reliability, safety, visual amenity or lower emissions.*"[15] [emphasis added].

32. Given that the productivity trend of New Zealand EDBs is broadly similar to Australian DNSPs, and there are significant difficulties in accurately measuring productivity performance, it is reasonable to ask whether much weight should be placed on productivity studies.

33. Despite the inherent difficulties in assessing productivity, Orion considers that regular studies can provide insights into productivity growth and, when coupled with relative benchmarking of efficiency, can provide a basis for improvement incentives - what gets measured, get managed.

34. Low productivity is not unique to the distribution sector. New Zealand's productivity, in aggregate, is low. In December 2025, a joint briefing document by MBIE and the Ministry of Foreign Affairs and Trade noted that:

> "*New Zealand's productivity has lagged other advanced economies for several decades. Much of the country's economic growth has been driven by increasing labour inputs (more people working more hours) rather than by improvements in efficiency or output per worker.*"[16]

35. Clearly, improvement in the productivity of the distribution sector can assist with improving national productivity, both directly and as an enabler of economic activity. With EDBs forecasting to invest $22.8 billion in new, upgraded and replacement assets and requiring $12.6 billion of operational expenditure in the 10 years to 2036,[17] it will be critical that EDBs are operating as efficiently as reasonably possible to help ensure that reliable and valued services are delivered to customers at the lowest practicable cost.

36. Historically, the Commission has undertaken productivity studies at uneven intervals, as demonstrated in paragraph 29, above. We note that in 2023, the Commission signalled that it would establish "*an ongoing project with the intention of embedding periodic assessments and publications on EDBs' efficiency/productivity within the Commission's performance and analysis function.*"[18] The Commission outlined a three-phase approach involving:

    36.1. Phase 1 - assessing TFP and partial factor productivity for the sector. We understand that the 2024 CEPA report was the deliverable for this phase.

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11 Cambridge Economic Policy Associates (2024). *EDB Productivity Study*. Table 3, p7.
12 Australian Energy Regulator. (2025). *Annual Benchmarking Report: Electricity distribution network service providers*. November 2025, Figure 1, p9.
13 Ibid. Figure 23, p70.
14 Ibid. Section 6, pp 65-76.
15 Ibid. Section 2.1, p8.
16 Ministry of Business Innovation and Employment & Ministry of Foreign Affairs and Trade. (2025). *New Zealand's productivity in a changing world*. Section 3, p12.
17 EDB information disclosures, $ nominal.
18 Commerce Commission. (2023). *External reviews of electricity distribution businesses' 2023 asset management plans and of efficiency and productivity*. 31 August 2023, p4.

36.2. Phase 2 – a proof-of-concept for assessing comparative efficiency of EDBs. We understand that reports by Michael Pollitt[19] and Erwann Sbai[20] are inputs to this phase but it is unclear how those reports are being used and it appears that this phase is incomplete.

36.3. Phase 3 – analysis of EDB comparative efficiency. Given that phase 2 appears incomplete, it seems unlikely that this phase will have commenced.

37. Orion **supports** the Commission embedding more frequent monitoring of sector productivity and efficiency into its summary and analysis reporting and **recommends** that the Commission revitalises this project and moves it forward at pace.

5.2. Expenditure Objective

38. In our submission to the Commission's 2025 open letter, we provided our views on the Expenditure Objective.

39. Orion views the Expenditure Objective as a critical mechanism for ensuring that EDBs' expenditure is both prudent and efficient and therefore aligned with the long-term interests of consumers. We consider that the current regulatory framework places too little emphasis on the Expenditure Objective, both under the DPP regulation, where it is only weakly referenced, and within ID requirements where it is not featured at all. In Orion's view, the Expenditure Objective currently operates more as a passive statement of expectation than as an active regulatory discipline, unless an EDB is subject to CPP regulation or actively preparing a CPP proposal.

40. We consider that stronger application of the Expenditure Objective, coupled with external, independent scrutiny of investment plans, would help to give the Commerce Commission greater confidence in relying on EDB forecasts and would provide consumers and other stakeholders with clearer evidence that expenditure is justified and consistent with the purpose of Part 4 regulation.

41. We reiterate our 2025 **recommendations** that the Commission:

41.1. amend the definition of Expenditure Objective in the input methodologies (IMs) so it applies to all EDBs, regardless of status;[21]

41.2. amend the ID determination so that EDBs are required to:

41.2.1. describe how their expenditure forecasts comply with the Expenditure Objective;

41.2.2. provide details of the management and governance challenges to assure compliance with the Expenditure Objective; and

41.2.3. summarise the results of any external reviews the EDB has undertaken to test compliance with the Expenditure Objective.[22]

Note: In our 2025 submission, we recommended that the requirements in paragraph 41.2 be satisfied in asset management plans; however, our thinking has evolved and we now consider that these requirements should be attached to investment plans – refer section 5.4, below.

5.3. Replacing AMPs with Documented Asset Management Systems

42. AMP requirements have evolved over time, with the current requirements built on an initial foundation set within the consolidated, 2004 ID determination.[23] We understand that the current AMP requirements, as initially specified in 2012, were based on facets of PAS 55-1:2008 '*Specification for the optimized management of physical*

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19 Pollitt, M. (2025). *Benchmarking and Optimal Scale for Electricity Distribution Boards in New Zealand: A study for the Commerce Commission*. 23 July 2026.

20 Sbai. (2025). *Assessing the Efficiency and Optimal Scale of Electricity Distribution Businesses in New Zealand*.

21 Orion. (2025). *Submission to Open Letter*. Paragraph 66, p14.

22 Ibid. Paragraph 43, p10.

23 Commerce Commission. (2012). *Information Disclosure for Electricity Distribution Businesses and Gas Pipeline Businesses: Final Reasons Paper*. Paragraph 142, p82.

assets'.

43. In our view, AMPs have evolved beyond the core purpose of demonstrating that EDBs are systematically optimising and managing their assets throughout their lifecycle, to include detailed information on investment activities (beyond the 'how' to include the 'what') and other semi-relevant matters. Further, because of standards development and evolution, AMPs may no longer be reflective of best practice.

44. Orion **recommends** that the Commission drops the requirement for EDBs to publicly disclose their AMPs and instead requires EDBs to:

    44.1. develop, document, and publish their AMS with clear alignment to ISO 55001:2024 '*Asset management system – requirements*', along with their associated SAMP; and

    44.2. develop, document, consult on, and publish 5-yearly investment plans (refer section 5.4, below).

45. We anticipate that EDBs' documented AMS would be subject to continuous disclosure and director certified. Renewed disclosure would only be required as material changes to the AMS occur, reflecting the increasing maturity of the EDBs' asset management capability and approach.

46. Orion considers that implementing this recommendation would improve stakeholder understanding of how EDBs manage their assets for long-term consumer benefit.

5.4. 5-Yearly Investment Plans

47. With EDBs' documented AMS disclosing how assets are systematically optimised and managed throughout their lifecycle, a separate disclosure needs to be considered to explain the investments that the EDB proposes to make in the next regulatory period (addressing 'what' and 'why').

48. Orion **recommends** that all EDBs should be required, by the end of the penultimate year of each DPP regulatory period, to publish a comprehensive 5-year investment plan that describes, in detail, the capex and opex projects and programmes that it intends to deliver over the next regulatory period. The key requirements for the investment plan would include:

    48.1. demonstrating that expenditure is aligned to the Expenditure Objective;

    48.2. disclosure of all relevant assumptions, including describing the modelling that underpins forecasts and how project and programme costs have been estimated;

    48.3. demonstrating that the investment plan is deliverable within the regulatory period;

    48.4. describing whether the investment plan has been independently tested, the results of that testing, and any consequential adjustments;

    48.5. describing the results of consumer consultation on the investment plan[24] and detailing how the plan has evolved in response to consumer feedback on service levels, resilience preferences, price, etc.;[25]

    48.6. disclosure of investment uncertainty and identifying projects and programmes that have consequently been excluded from the investment plan, indicating the reason why, and specifying any triggers that might cause the projects or programmes to be brought back into the plan;

    48.7. disclosure of optionality considerations for material projects (and programmes, where relevant) at the short-list stage, including the use of non-network alternatives for relevant expenditure categories, and justification for selection of the preferred option;

    48.8. disclosure of adjustments made to forecasts to reflect ongoing improvement to efficiency, including the quantum of the adjustment, and how and where the adjustments have been applied; and

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[24] In line with relatively low-cost principles, EDBs would only be required to publicise that their draft investment plan is available on their website for comment and provide a reasonable period (3-4 weeks) for consumers to provide feedback.

[25] To support consideration of price impact, we suggest that a simplified, forecast level (± 30%) revenue model is developed by the Commission to assist EDBs' consultations.

48.9. certified by EDB directors that (1) the investment plan has been developed according to the relevant requirements, (2) stated assumptions are reasonable, and (3) forecasts represent the anticipated needs of the business to satisfy the Expenditure Objective during the next regulatory period.

49. For non-exempt business, we consider that some additional requirements would apply to align with the DPP framework. We describe those additional requirements in section 5.7, below.

5.5. Targeted ID and Refined Disclosure Cycles

50. Consistent with the ID purpose[26], Orion considers that disclosures should largely be aligned to the Commission's vision, and outcomes focussed.

51. Orion **recommends** that a more targeted ID regime is developed that clearly demonstrates the outcomes being delivered by EDBs. This would include:

51.1. continuous disclosure of EDBs' documented asset management systems, as described in section 5.3, above;

51.2. disclosure, before the end of the penultimate year of each regulatory period, of a comprehensive investment plan for the next regulatory period, as described in section 5.4, above;

51.3. disclosure, alongside the 5-yearly investment plan, of forecast Schedules 11a to 12d, subject to appropriate structural changes to Schedules 12c and 12d to ensure that the forecast range includes all years of the next regulatory period;

51.4. disclosure of year-ending financial and technical disclosures (Schedules 1 to 10a) within 5 months of the end of the disclosure year (unchanged);

51.5. disclosure, within 5 months of the end of each disclosure year, of a brief delivery report that includes:

51.5.1. a qualitative description of the projects and programmes undertaken during the disclosure year (projects and programmes commenced, completed, and carrying forward to the next disclosure year);

51.5.2. for each capital project with a value of $2 million or greater undertaken in the disclosure year, a description of progress to-date (key activities progressed, financial performance, variance from timeline and forecast cost, etc);

51.5.3. a description of any delivery constraints or difficulties encountered during the disclosure year, how those constraints or difficulties were mitigated, and any preventive action taken to avoid a future reoccurrence;

51.5.4. a description of any previously excluded uncertain projects or programmes that now need to be brought into the investment programme for the current regulatory period, including whether the project or programme will be accommodated through reprioritisation of expenditure, or (in the case of non-exempt EDBs) whether a reopener has or will be pursued;

51.5.5. a description of any of expenditure reprioritisation that has occurred because of new or updated information (for example, resulting from asset inspections throughout the year);

51.5.6. a reforecast, in nominal dollars, of expenditure to the end of the regulatory period reflecting the matters described in paragraphs 51.5.2 to 51.5.5; and

51.5.7. Schedules 12a & 12b;

51.6. disclosure, within 5 months of the end of the second and fifth disclosure years of each regulatory period, of a self-assessment against the requirements of ISO 55001 using the SAM2025 methodology (and any subsequent updates) published by The Institute of Asset Management.[27] This disclosure would replace the

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[26] Section 53A of the Act.

[27] The Institute of Asset Management. (2025). *Self Assessment Methodology 2025 (SAM2025)*.

disclosure required by clause 2.6.1 of the ID determination (Schedule 13 – AMMAT);

51.7. Continued annual or continuous reporting of:

51.7.1. Pricing and related information (ID determination, clause 2.4);

51.8. Customer charters and consumer compensation arrangements (ID determination, clause 2.5.3)

51.9. Capital contribution policies (ID determination, clause 2.4.6);

51.10. Reduced reporting frequency (triennial disclosure) for low-value disclosures or disclosures that show limited variation from year-to-year, including:

51.11. Network geographic information (ID determination, clause 2.5.2A);

51.11.1. Related party transactions (ID determination, clauses 2.3.6 – 2.3.12);

51.12. Transfer of maps of anticipated network expenditure and network constraints (ID determination, clause 2.3.14 - 2.3.16) to 5-yearly investment plans.

52. While we have proposed that disclosure of expenditure forecasts (Schedule 11a and 11b) aligns to the disclosure of the 5-yearly investment plan, we are not convinced of the value of more frequent updates, since the proposed delivery report would require a regulatory-period expenditure re-forecast annually. We have therefore not proposed more frequent disclosure of the expenditure forecasts contained in Schedules 11a and 11b.

5.6. Revisiting 'Relatively Low Cost'

53. The CPP/DPP purpose statement requires that DPPs are set in a relatively low-cost way.[28] In Orion's view, however, the Commission's approach has tended toward considering low-cost more in absolute terms than in relative terms. This is evident from the reasons paper for the first DPP regulatory period, where the Commission acknowledges the 'relatively low-cost' imperative, but goes on to identify 'low cost' techniques and simplifying assumptions in preference to more detailed scrutiny; approaches that largely persist today.[29]

54. In response to the Commission's 2025 open letter, Orion submitted that existing DPP regulation exhibited a number of weaknesses, including that expenditure allowance-setting tends to have an historical anchor that may not adequately recognise future needs, and that EDBs' expenditure forecasts are subjected to limited scrutiny that is unlikely to adequately assess alignment to the Expenditure Objective.[30]

55. Other submitters expressed similar concerns. Powerco noted that "*... it's evident that the DPP4 reset pushed the limits of the DPP framework's ability to deal with growth and an uncertain operating environment ...*"[31] and Vector said that "*Historic expenditure is not a good predictor of future expenditure in a period of rapid change arising from electrification*" and that "*AMP forecasts with appropriate scrutiny from the Commission combined with uncertainty mechanisms in the price path are more likely to deliver an efficient level of expenditure.*"[32]

56. The Commission has noted consumer affordability challenges in its open letter, and the comments by Powerco and Vector refer, at least in part, to the need to satisfy growth driven by electrification. These two issues are real, likely to be enduring over at least the medium term, and in tension with each other.

57. To appropriately manage this tension, Orion considers that the Commission should consider deeper scrutiny of non-exempt EDBs' expenditure plans for future DPP periods, as described in section 5.7, below.

58. We accept that a more 'hands-on' DPP framework will require the Commission to revisit what 'relatively low cost'

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28 Section 53K of the Act.

29 Commerce Commission. (2012). *Resetting the 2010-15 Default Price-Quality Paths for 16 Electricity Distributors*. See for example, paragraphs 4.28 (p36), C10 (p76), G6 (p118).

30 Ibid. Paragraphs 32, p8.

31 Powerco. (2025). *DPP5: setting a renewed approach to regulate & incentivise future electricity distribution*. Section 1, p3.

32 Vector. (2025). *Open Letter: Ensuring our approach to price paths is delivering for consumers*. Paragraphs 47 & 48, p7.

means in the context of DPP versus CPP regulation. We consider that there is adequate scope to do so.

59. Section 54K of the Commerce Act 1986 is clear that a DPP is to be set at a cost that is low relative to the cost of a CPP, which includes preparation, consultation, verification, audit, assessment and determination. CPP costs are significant and this affords the Commission considerable latitude to consider the costs that may be incurred in the DPP-setting process while remaining 'relatively low-cost'.

5.7. Additional Measures Supporting DPPs

60. Our proposal that all EDBs develop, consult on, and publicly disclose 5-yearly, regulatory-period investment plans, described in section 5.4 above, sets the foundation for deeper scrutiny of expenditure forecasts by the Commission as part of the DPP-setting process. To aid the Commission's reliance on non-exempt EDBs' forecasts, Orion **recommends** that:

    60.1. investment plans are reviewed by an Independent Engineer, chosen by the EDB, who will be required to provide a high-level opinion on the degree to which (1) relevant assumptions underpinning the investment plan are reasonable, (2) the investment plan aligns to the Expenditure Objective (including appropriate use of non-network alternatives), and (3) the investment plan is deliverable with the regulatory period. The EDB would be required to include sufficient detail in the investment plan to allow the Independent Engineer to conduct its review and provide its opinion, but would not have to supply underlying models, business cases, programme/project overview documents, etc., consistent with the relatively low-cost nature of DPP regulation;

    60.2. in addition to the certification requirements described at paragraph 48.9, above, directors of non-exempt EDBs would be required to certify that the Independent Engineers' opinion relates to the investment plan disclosed; and

    60.3. within three months of the commencement of the DPP regulatory period, non-exempt EDBs would disclose a table of programmes and projects that will be delivered in the regulatory period, reconciled to the final, approved DPP expenditure allowances. The table would allocate the expenditure for each project and programme to the year(s) in which it will be undertaken and would be accompanied by a description (what and why) of any reprioritisation undertaken because of expenditure allowances being different to the forecast allowances in the EDB's investment plan.

61. We expect that non-exempt EDBs' investment plans should provide sufficient detail and assurance for the Commission to be able to rely on the expenditure forecasts for DPP-setting, after applying proportionate scrutiny. This would remedy an issue that has continually plagued DPP regulation since its inception.[33] The Commission's scrutiny of forecast expenditure could be undertaken internally, or through a consolidated review by an external expert (like IAEngg's review of 2023 AMPs).

62. We would expect that clause 3.1.3 of the IMs would be amended to specify that the cost of obtaining an Independent Engineer's opinion is recoverable.

63. We anticipate that the Commission may also wish to retain one or more 'backstop' constraints, like the existing capping of EDBs' capex forecasts; however, these should be genuine backstops and not a substitute for reliance on, and direct scrutiny of, EDBs' investment plans. Any such backstop should be applied in a targeted manner (i.e., to individual EDBs whose investment plans are considered insufficiently robust).

5.8. Guidance

64. The Commission has recently issued and consulted on draft resilience principles[34] and has floated, among other

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33 Commerce Commission. (2012). *Resetting the 2010-15 Default Price-Quality Paths for 16 Electricity Distributors*. Paragraph B8, p67.

34 Commerce Commission. (2026). *Resilience Principles: Decision-making framework for critical infrastructure providers Draft guidance document*. 3 July 2026.

options, the possibility of developing good practice guidance for EDB-initiated grid exit point investments.[35]

65. Orion supports the Commission developing robust guidance. We see real value in the Commission setting expectations and explaining the type of evidence required to support good practice decision making. In this regard, it is critically important, in Orion's view, that the Commission clearly communicates its expectations, and where new assessment approaches are proposed, they are rigorously tested. This includes the normal process safeguard of consultation or deeper engagement where appropriate. This will enhance readiness, provide predictability, and support investor/supplier confidence in the assessment frameworks.

66. We **recommend** that the Commission continues its work in developing sector guidance.

5.9. Costs and Benefits

67. We have not conducted a detailed cost-benefit analysis of our proposed improvements to the regulatory framework.

68. We expect that all EDBs will experience some uplift in costs, at least initially as they work to develop and disclose their AMS and associated SAMP; however, some costs have been offset by proposed cessation and reduced frequency of other disclosures. For example, the costs of producing 5-yearly investment plans and annual delivery reports can be offset by the proposal to no longer require AMPs to be disclosed, reduced (and alternative) AMMAT reporting, and reduced frequency of related party and GIS data disclosures, as recommended above.

69. We consider that the improvements focus on the Commission's vision that "*EDBs have the capacity, capability and incentives to efficiently deliver the fundamentals well and are prepared for a more highly electrified future.*"[36] We further consider that the improvements we have proposed would better meet the Part 4 purpose[37] across all four limbs, and would result in more targeted disclosure information that would strengthen the ID purpose that sufficient information is readily available to interested persons to assess whether the purpose of Part 4 is being met. [38]

70. For DPP regulation, there will be additional costs involved every five years:

    70.1. Non-exempt EDBs securing an Independent Engineer's opinion on their investment plan;

    70.2. Non-exempt EDBs finalising and disclosing a schedule of programmes and projects that will be delivered in the regulatory period, reconciled to the final, approved DPP expenditure allowances; and

    70.3. The Commission scrutinising EDBs investment plans as part of the DPP reset process.

71. Orion considers that benefits of being able to rely on, and apply proportionate scrutiny of, EDBs' expenditure forecasts outweigh these costs. Eliminating the deficiencies of proxy scrutiny described in paragraph 54, above, strengthens these benefits.

72. Overall, while we expect a moderate increase in costs for all EDBs, Orion considers that the ensuing benefits are likely to outweigh those costs.

6. NEXT STEPS

73. Orion is interested in the 'next steps' proposed by the Commission after it has reviewed submissions (and relevant submissions to its 2025 open letter). Given the potential reform of regulatory settings outlined in the open letter, we have a firm expectation that the Commission will develop and publish a clear work programme leading up to the fifth reset of the default price-quality path (DPP5), including appropriate stakeholder workshops.

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35 Commerce Commission. (2026). *EDB-Initiated GXP Investments: Issues paper*. Paragraph 5.3, p21.
36 Ibid. p3.
37 Commerce Act 1986. Section 52A.
38 Commerce Act 1986. Section 53A

74. This is critical given the frenetic regulatory development activity that EDB's have contended with in the past twelve months, across the various sector regulators, and which shows no sign of abating absent the coordinated regulatory work plan we have advocated for in this submission.

7. CLOSING

Thank you for the opportunity to provide our views on the options for achieving better outcomes for consumers. Please contact the undersigned if you require further information.

Yours sincerely



Alec Findlater
Regulatory Lead – Commerce Commission

APPENDIX 1 – CONSULTATION QUESTIONS

1. Is the proposed future state focus of EDBs delivering core network operations well, having strong commercial arrangements in place and building capability for the future appropriate?

Yes, Orion broadly supports the Commission's proposed focus on:

- delivering core network operations well;
- having strong commercial arrangements in place; and
- building capability for the future.

However, the vision should place greater emphasis on consumers. Delivering the fundamentals well is not solely about reliability and operational performance. It also requires ensuring that service levels reflect consumer preferences and willingness to pay. The Commission should therefore incorporate a stronger consumer outcomes perspective into the vision.

2. Are there aspects which you consider are not adequately addressed within the Vision statement which are either impacting performance now, or are likely to in the future?

Orion considers that the Vision could be enhanced by incorporating specific expectations for consumer engagement. While affordability is the issue *du jour*, the Part 4 purpose specifically requires regulated suppliers to have incentives to "*provide services at a quality that reflects consumer demands*."

Orion also considers that the Expenditure Objective should feature more prominently in the Vision (and in the regulatory frameworks for EDBs more generally). The principle that expenditure should be prudent and efficient is a key enabler of ensuring that resulting prices are as low as reasonably practicable under relevant circumstances, thereby supporting affordability and promoting outcomes consistent with workably competitive markets.

3. What are the industry's priorities, based on the needs of current and future consumers, and are we aligned?

Orion generally agrees that improving efficiency and capability should be priorities. However, regulatory focus should be directed towards areas most likely to improve long-term consumer outcomes.

Key priorities should include:

- embedding frequent productivity and efficiency monitoring across the sector;
- strengthening application of the Expenditure Objective;
- improving asset management maturity;
- improving the quality, credibility, and transparency of investment planning;
- providing stronger evidence and validation that expenditure is prudent and efficient; and
- preparing networks for electrification.;

3.1 Where are the biggest areas of focus where a material difference can be made for consumers and the potential hierarchy (priority) of these?

Ensuring that EDBs are operating and investing prudently and efficiently, including appropriately considering, and incorporating where feasible, flexibility and non-network solutions in their planning. This naturally requires EDBs to build capability to mature their asset management practices, to provide useful and transparent information, and operate in a future that involves orchestrating ubiquitous consumer energy resources.

3.2 How should priorities be valued/evaluated, and what level of assessment or quantification may be good enough for proposed regulatory interventions?

Orion considers that priorities should be evaluated based on consumer benefit, accepting that there may be an element of delayed/future benefit for some capability building; for example, distribution system operation capability.

Regulatory interventions should be evidence-based and targeted. Interventions should not be aimed at the lowest common denominator. Any intervention framework should recognise the role of complexity and the fact that it takes time for the sector to design, agree and embed new/changed practices. Additionally, any intervention framework should recognise capacity absorption that EDBs face due to the

current inconstancy across the broader regulatory environment (refer to the ENA's submission[39] for a deeper discussion of this issue).

4. How are EDBs internally determining the capabilities required to deliver most effectively and efficiently for their consumers and setting the path towards a future state? What is this compared against? Is there a specific set of Board level metrics which are tracked or specific information which it would be useful to require for disclosure to the Commission to better allow comparison?

Orion has a network transformation programme that is aligned to the network transformation roadmap developed by the ENA's Future Networks Forum. The purpose of Orion's network transformation programme is to explore, pilot, and implement network-oriented technology, software, and processes that improve how Orion understands the distribution network and uses that knowledge to adapt and update operational and connections systems and processes to improve the customer experience. This includes testing new equipment on the network to better facilitate the connection and operation of distributed energy resources and low carbon technology.

Alongside this, Orion's people capability is planned and developed deliberately. Orion determines the capabilities it needs through formal, data-driven workforce planning, which feeds our long-term People Strategy. We model our future workforce, including the digital, data-led asset management and electrification skills the network will need, and use that model to decide where to build capability internally, through promotion, early-careers pathways and targeted development, and where to recruit externally or draw on partners. Capability is developed through our in-house Training and Development function, using a skills-first approach managed through our Learning Management System (LMS). Core behaviours, success profiles and a competency matrix are used to identify and close future skill gaps. We also build our own technical pipeline through internship, graduate and trade-training programmes, supported by talent identification, succession planning and retention planning for critical skill sets.

This data-driven approach drives efficiency in three ways. Workforce planning ties capability and capacity to the delivery programme, so capability uplift is timed to when it is needed and internal headcount is blended with partner capacity to flex for peaks, without carrying surplus fixed capacity. Talent planning lowers the cost and time of sourcing. A planned mix of external recruitment, internal promotion and contractor or secondment resource, supported by talent pooling, reduces reliance on higher-cost channels and the risk of capability or capacity gaps that delay delivery. Talent development and retention reduce avoidable replacement, onboarding and restructure costs, because we can fill future roles from within and retain institutional knowledge. Together, these practices build capability once, in the right place and at the right time, rather than repeatedly buying it in or rebuilding it.

We measure progress against our People Strategy, and our Board reviews that progress. We are formally accountable for delivery, and progress is audited. Our workforce indicators include voluntary turnover, time-to-hire, offer acceptance rates and delivery against forecast headcount. We also benchmark against external data.

5. What is needed from regulators/regulation/legislation to enable achievement of the vision and outcomes?

As outlined in our submission to MBIE on its EDB efficiency consultation, a consistent application of price-quality regulation is required. The current two-tiered regulatory framework is no longer fit-for-purpose. This is evident when examining the potential regulatory changes outlined in the Commission's open letter – most relate to incentives and other arrangements provided for under the DPP and cannot be applied to exempt EDBs.

In the absence of needed legislative change, a more targeted regulatory framework as we have recommended in this submission, focussing on the basics, is required to improve visibility and ensure growing capability alignment across the sector.

5.1 What other enablers are important or essential within our, or other, regulatory regimes?

New Zealand's two-tiered regulatory regime is unique internationally, with almost half of regulated EDBs exempt from incentive regulation. Until legislative change removes this anomaly, a refocussing of the existing Part 4 regulation is required to drive an aligned approach across all EDBs that is consistent with incentive regulation. We have suggested how this might be done in section 5 of this submission.

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39 Electricity Networks Aotearoa. (2026). *Response to the open letter on local lines networks: achieving better outcomes for consumers now and in the future*. Section 5.

5.2 What should we deprioritise/reduce regulatory burden on?

In Orion's view, ID is an area overdue for substantive review, which should include considering whether disclosures are used, or whether the scale and frequency of disclosures is commensurate with the potential risk the disclosure is attempting to manage. We discussed the need for a review of ID in our response to the Commission's 2025 open letter.[40]

6. What timescales are feasible?

Orion considers that appropriate regulatory changes can be made prior to the DPP5 reset. We consider that if the Commission works at pace, the changes we have recommended can be implemented within that timeframe while retaining the normal safeguards afforded by stakeholder consultation.

6.1 For EDBs, do you have a clear work programme which identifies when certain capabilities or insights will be more readily accessible?

Orion has a network transformation programme (two complementary programmes of work focussed on network transformation and flexibility and markets development) that sets out the work required to investigate, trial, and implement advanced network technologies, systems and processes to build the capabilities required to plan and operate the network in a changing energy environment. Orion's network transformation programme is presented in summary in our recent CPP proposal.[41]

7. For smaller EDBs, where cost is identified as the key reason for not progressing system or capability development - how is the impact of this assessed and quantified?

Orion is a large EDB by New Zealand standards and therefore offers no response.

8. What are the barriers to increased consolidation and standardisation within the Part 4 regime? What is needed to overcome or reduce these barriers?

Orion does not consider that the Part 4 regulatory framework imposes any material barriers to increased consolidation and standardisation, although we have some concerns about the proposed regulatory incentives designed to drive standardisation (reduced capitalisations, etc.).

We consider that the complexity of the IMs may cause some uncertainty around the correct treatment of shared services costs, especially if the provider of shared services is a regulated supplier. Additionally, concerns that collaboration and standardisation may create risks under Part 2 may lead to a degree of conservatism. Both concerns could be overcome by the Commission providing targeted guidance.

9. Are there particular proposed potential regime changes where you consider alternative approaches may be more impactful and easily implemented by both EDBs and the Commission?

In Orion's view, the ease with which a change can be implemented is a secondary issue only, due to its one-off nature. We have set out proposed improvements to the price-quality and ID frameworks in section 5 of our covering letter, above, which we think would more consistently align all EDBs toward good electricity industry practice and better support the Commission's vision.

10. On the Commission's process from here – how do you think our work programme could be best developed in coordination with the sector?

Ideally, the Commission will announce its 'in principle' framework changes and set a plan for achieving the changes in time for use in the DPP5 reset. This should involve a review of both the IMs (rule setting) and ID (outcomes and accountability), with appropriate stakeholder consultations. We also think that stakeholder workshops have worked well in the past and should be incorporated into the Commission's plan.

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40 Ibid. Section 6.3.1, p13.

41 Orion. (2026). *Customised Price-Quality Path Main Proposal*. Chapter 10, pp 158-170.