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Dear Ben

SUBMISSION – ORION CPP 2027 – PROCESS AND ISSUES PAPER

1. INTRODUCTION

1. Orion welcomes this opportunity to provide feedback on the Commerce Commission's (the Commission) consultation, '*Orion New Zealand Limited Customised Price-Quality Path 2027 Process & Issues paper*'.

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).

2. OVERVIEW

4. Orion has applied for a customised price-quality path (CPP) for the 5-year period from 1 April 2027 to 31 March 2032. Our 5-year investment plan comprises a set of interrelated investment needs:

   4.1. Maintain safety and reliability by increasing asset renewal and maintenance activity;

   4.2. Support population and demand growth by expanding and upgrading the network at emerging constraint points;

   4.3. Strengthen resilience to earthquakes and increasingly severe weather events by upgrading at-risk assets and expanding vegetation management activities;

   4.4. Prepare for future energy needs by investigating, piloting and implementing new assets, systems and processes; and

   4.5. Enhance efficiency and capability by completing the transition to a modern, resilient and fit-for-purpose information and communication technology (ICT) environment.

5. Addressing these investment needs now will ensure that we can maintain current service levels and meet future requirements, to the long-term benefit of customers.

6. Our investment plan has been shaped by extensive customer engagement and feedback and has been strenuously challenged and tested both internally by management and our Board of Directors, and externally though the independent verification process undertaken by GHD Advisory.

7. The Commission has commenced its assessment phase, which will build on the Independent Verifier's work and generally involve further scrutiny of unverified expenditure and matters raised for further consideration by the Verifier. We are confident that we have developed a robust, well-justified investment proposal that is supported by customers, and we look forward to responding productively to the Commission's challenge.

3. PRUDENT & EFFICIENT EXPENDITURE ALLOWANCES

8. Orion has proposed investment of $1.51 billion over the CPP period. A substantial proportion of our proposed expenditure has been subjected to scrutiny by an Independent Verifier. The Independent Verifier examined approximately 75.9% of total expenditure and verified approximately 94.9% of the total expenditure it examined (approximately 72.0% of total expenditure). This is broken down as follows:

   8.1. For capital expenditure (capex), the Independent Verifier examined approximately 68.8% of total capex and verified approximately 93.9% of the capex it examined (approximately 64.6% of total capex); and

   8.2. For operational expenditure (opex), the Independent Verifier examined approximately 88.4% of total opex and verified approximately 96.3% of the opex it examined (approximately 85.1% of total opex).[1]

3.1. Reliance on Independent Verification

9. As the Commission acknowledges in the issues paper, prior to our CPP proposal being submitted in June, the work to develop the CPP proposal, the rationale and need for the investment proposed, and the associated consultation process had already been subject to considerable advanced scrutiny and review by an Independent Verifier; a mandatory requirement of the CPP process.

10. We welcome the Commission's confirmation that it is "*... satisfied with the rigour of the verifier's analysis and consider its review to be thorough and undertaken to a high standard.*"[2] We agree with this conclusion and believe that the verified aspects of our CPP proposal have already been subject to robust scrutiny.

11. Orion considers that the integrity of the CPP process depends on the Commission relying on the Independent Verifier's guidance, rather than unnecessarily re-opening its conclusions. Reliance on the Independent Verifier's assessment would reflect the Commission's original policy intent for verification when it set the input methodologies (IMs) in 2010:

> "*The Commission will need to undertake its own assessment of the proposal in order to make a s 52P determination as is required under the Act. In doing so, to the extent practicable, the Commission will seek to avoid duplication of effort and to rely on the professional opinion expressed by the verifier.*"[3]

12. There should be a relatively high hurdle for revisiting conclusions the Verifier has already reached through its detailed assessment. Re-opening or relitigating conclusions that have already been independently tested against the expenditure objective may undermine the role of the Independent Verifier, shift away from the principle of 'proportionate scrutiny', and undermine the integrity of the months-long verification process.

13. We welcome stakeholder engagement on our proposed investment plans. We note, however, that assessing whether the Commission can rely on the Independent Verifier's findings requires a detailed technical review of the verification report and the degree of rigour applied. Some stakeholders may not be well placed to undertake that assessment. We therefore encourage the Commission to adopt the Independent Verifier's findings unless there is a clear, evidenced basis to revisit them.

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[1] GHD Advisory. (2026). *Orion's CPP verification report - CPP period: April 2027 to March 2032*. Table ES 1, piii.
[2] Commerce Commission. (2026). *Orion New Zealand Limited Customised Price-Quality Path 2027: Process & Issues paper*. Paragraph 2.23, p18.
[3] Commerce Commission. (2010). *Input Methodologies (Electricity Distribution and Gas Pipeline Services: Reasons Paper*. Paragraph 9.6.14, p241.

14. Finally, there are a small number of matters where we disagree with the Independent Verifier and have positioned our proposal differently to the Independent Verifier's views. Additionally, the Independent Verifier has made several recommendations for further analysis by the Commission. The Commission has indicated that it will apply additional scrutiny to those areas, which is appropriate.

3.2. Decision-making Processes

15. The Commission has indicated that it intends to review a sample of Orion's investment decisions, focussing on the decision-making processes applied, rather than whether the proposed investments meet the expenditure objective.[4]

16. We note that our planning and decision-making practices were considered by the Independent Verifier as part of its assessment under clause G2 of the IMs. The Independent Verifier noted that "... *Orion's strategy, policies and planning standard generally reflect an appropriate basis from which to propose, justify and defend its CPP proposal*" and further states that "[t]*he policies and standards show alignment between Orion's strategic direction and the proposed programme expenditures. This strategic coherence and diligence generally support the appropriateness of Orion's CPP proposal.*"[5]

17. Despite determining that our planning and decision-making practices were appropriate, the Independent Verifier made recommendations for Orion to focus continual improvement efforts on:

    17.1. risk management practices;

    17.2. asset management maturity;

    17.3. asset data development;

    and we note that the Commission has identified these factors as candidates for development reporting as part of progress and performance monitoring over the CPP period.[6]

18. Consistent with our views on relying on the Independent Verifier's review and report, we consider that the Independent Verifier's assessment reduces the need and cost of revisiting and re-examining those conclusions, and doing so may not be consistent with the principle of proportionate scrutiny.

3.3. Network Transformation

19. Our Network Transformation programme represents a strategic initiative to prepare Orion's network for a more decentralised, data-driven and low-carbon energy future. The programme responds to increasing uptake of distributed energy resources (DER) such as solar PV, batteries and electric vehicles, changing customer behaviour, and the need to manage electricity demand more dynamically.

20. Key activities include improving low-voltage network visibility through smart meter data, network monitoring and analytics, developing advanced network models, trialling batteries, microgrids and community energy solutions, implementing systems such as Distributed Energy Resource Management Systems (DERMS), improving customer connection processes, and increasing the use of demand-side flexibility and other non-network solutions as alternatives to traditional network upgrades.

21. The programme intends to create a more flexible, efficient and future-ready network that can support electrification and renewable energy uptake while maintaining safety, reliability and affordability. It aims to optimise use of existing network assets, increasingly defer or avoid costly traditional reinforcement projects, improve operational decision-making through better data and analytics, and enable customers to connect and use new energy technologies more easily.

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[4] Ibid. Paragraph 2.27, p19.
[5] Ibid. Section 4.4, p49.
[6] Ibid. Paragraph 7.13, p50.

3.3.1. Independent Verifier's Assessment

22. The Independent Verifier considered that Orion's Network Transformation Programme is strategically sound and important for enabling decarbonisation, DER integration, improved network visibility, operational efficiency, and customer outcomes. It supported most of the programme's capex and a substantial portion of opex, finding the overall direction prudent and aligned with industry trends. However, it considered that some proposed data acquisition was insufficiently justified relative to expected benefits, recommending a lower level of smart meter data purchases.

23. We don't agree with the Independent Verifier's view. Orion elected to maintain its proposed level of smart meter data purchase in the final CPP proposal given the criticality it has to Orion's Network Transformation Programme and customer outcomes. The commercial terms with the dominant meter data provider do not provide Orion with alternative purchasing options to acquire the data we need. It is an 'all-or-nothing' offer with no option to purchase a reduced or partial dataset.

3.3.2. Commission Focus

24. The Commission has noted Orion's strong focus on learning and capability development in the network transformation area and considers it important to ensure "*that Orion is equipped to operate an electricity network that is able to respond to increasing demand variability and more decentralised electricity production, consistent with the capabilities expected of a future Distribution System Operator (DSO)*".[7]

25. With that future state in mind, the Commission has indicated that it is considering commissioning an expert review of our Network Transformation programme to ensure that it will serve Orion's customers well, into the future.

26. We agree with the importance of responding adequately to the evolving nature of the electricity system and the role that our Network Transformation programme plays in doing so. We note that the Electricity Authority has recently stated its expectation that it "*wants to see distributors making significant progress towards implementing DSO functions over the next 12 months.*"[8]

27. We welcome the proposed expert analysis of our Network Transformation programme and roadmap and look forward to working productively with the assigned reviewer.

3.4. Opex Efficiencies

28. Orion's CPP proposal incorporates a productivity adjustment of 0.5% per annum, applying to non-network opex. This adjustment was applied to reflect likely efficiencies that would be derived from our ICT investments and Network Transformation investments.

29. Benchmarking undertaken for our CPP proposal indicates that we operate at, or near, the efficient frontier for New Zealand EDBs, in aggregate. Accordingly, our CPP forecasts are premised on what sector-wide productivity gains are reasonably achievable over the CPP period, not the pace at which Orion should close a gap to peers.

3.4.1. Independent Verifier's Assessment.

30. The Independent Verifier considered that Orion's forecast of efficiency improvements was comparatively modest relative to international regulatory precedent and the scale of Orion's planned transformation investments. The Independent Verifier considered a 1% per annum efficiency adjustment to be more appropriate.

[7] Ibid. Paragraph 2.36, p21.
[8] Electricity Authority. (2026). *A roadmap for the future of distribution system operation in New Zealand*. 30 June 2026, p2.

31. In arriving at 1% per annum, the Independent Verifier reviewed a range of efficiency adjustments applied in regulatory determinations across New Zealand, Australia and Great Britain and settled on the higher end of international regulatory precedent.[9]

32. The Independent Verifier also recommended that the 1% efficiency adjustment be applied to all opex categories, rather than being limited to non-network opex as proposed by Orion. Application to all opex categories is positioned as a general productivity/efficiency incentive.

3.4.2. Commission Focus

33. The Commission has indicated that it will consider whether opex efficiency adjustments should be higher than proposed by the Independent Verifier.

3.4.3. Orion's View

34. The scale and application of opex efficiency adjustments is one of a small number of matters where Orion disagrees with the Independent Verifier. We have several concerns:

    34.1. The Independent Verifier's recommendation appears to be solely based on international regulatory precedent rather than any form of analysis, lacks consideration of the New Zealand context relative to international benchmarks, and ignores evidence indicating that Orion is operating at or near the efficient frontier of New Zealand EDBs;

    34.2. The constant efficiency adjustment is misaligned to the ICT and transformation investments upon which it is predicated. These investments are made progressively throughout the regulatory period, implying that efficiencies are less likely to be delivered early in the period;

    34.3. Positioning a blanket opex efficiency adjustment as a general productivity/efficiency incentive, as the Independent Verifier has done, neglects the role of existing expenditure efficiency incentives within the Part 4 framework; and

    34.4. The Commission appears to have accepted the Independent Verifier's views on efficiency and is considering the recommended 1% annual adjustment as a 'floor' value, without any assessment being made as to the likely scale of reasonably achievable efficiencies in each expenditure category.

35. We recognise the importance of pursuing efficiencies, hence the efficiency adjustment we proposed within our proposal. However, efficiencies need to be realistically achievable. Where efficiencies are not realistically achievable, it is likely that productive work to achieve the long-term interests of customers will be deferred to remain within the approved expenditure allowances.

36. The Commission has noted that it intends to explore whether growth-related expenditure can be linked to evidence of observed network or asset utilisation. On the face of it, this does not seem to be unreasonable; however, care needs to be taken to ensure that the location of utilisation measurement is appropriately aligned to the location of the proposed growth investment. For example, it would not be appropriate to test a low voltage feeder growth investment against the utilisation of the upstream zone substation transformers.

37. Network and/or asset utilisation is a conceptual measure of technical efficiency, which is subject to some practical limitations. While the concept of 'use more before building more' is generally sound, the ability to do so is frequently impacted by matters either outside of the distributor's reasonable control (for example, constrained land use), or as a consequence of applying appropriate design standards when sizing assets (for example, standardisation of power transformer sizes at zone substations to minimise lifecycle costs associated with interchangeability and spares holdings).

[9] Ibid. Section 5.4.2, p68.

38. For example, the 2011 Christchurch earthquakes resulted in a reduction of demand to zone substations in the CBD and the eastern Christchurch suburbs, thereby reducing utilisation of assets in those areas. Conversely, the growth of population in the Selwyn district has led to very high utilisation of zone substations in the Rolleston and Lincoln areas, leading to ongoing network upgrades. In addition, standard transformers sizes of 10, 20/23 and 40MVA means that when a transformer upgrade is triggered, a substation transitions from 100%+ utilisation to 50%+ until further demand growth lifts the utilisation level again.

39. We note that utilisation can also be expressed as 'load factor' which indicates the extent to which an asset is utilised over a defined period, e.g. peak winter day or annual utilisation. The long-term commitment by Orion to demand side management has led to very high winter day load factors on the network and our Network Transformation programme will enable us to utilise new technologies to shape demand and continue to achieve our high load factor performance.

40. We remain open to working with the Commission to determine how network and/or asset utilisation measurements can be used to effectively justify growth-related investment decisions.

3.5. Deliverability

3.5.1. Our Deliverability Assessment

41. Orion has undertaken a comprehensive deliverability assessment of its CPP programme, refreshing its analysis of work sequencing, workforce requirements and supply chain capacity as the programme has evolved. We have forecast internal and contractor resource needs, assessed delivery capability across overhead, underground, substation and vegetation workstreams, and validated these forecasts with our Service Delivery Partners (SDPs). Orion has front-loaded workforce growth, strengthened recruitment, retention and capability development programmes, restructured its delivery group to improve end-to-end accountability, and invested in Integrated Asset Management systems and processes to help improve delivery efficiency.

42. To support execution, Orion has actively engaged SDPs through early mobilisation planning, and is providing long-term work programme visibility, renewed and expanded delivery partnerships, and confirmed the availability of local and regional resources to meet forecast workloads. We have also strengthened supply chain resilience through long-term supplier relationships, direct procurement of critical equipment, strategic stockholding, contingency spares, and ongoing monitoring of lead times and market risks. Formal risk assessments and mitigation plans have been developed covering workforce availability, specialist skills, delivery systems, supply chain constraints and cost escalation, providing Orion with confidence that the proposed CPP programme can be delivered safely, efficiently and cost-effectively.

3.5.2. Independent Verifier's Assessment

43. The Independent Verifier concluded that Orion's CPP programme is generally deliverable, provided that Orion successfully implements its planned workforce, contractor, procurement and supply-chain strategies. The Independent Verifier considers that material and equipment availability is manageable and that labour-related delivery risk is low. It expects any resource constraints would more likely require reprioritisation or rescheduling of work rather than prevent delivery of the CPP programme.

3.5.3. Sector Deliverability Implications

44. We have noted the Commission's comparison of Orion's actual and forecast expenditure relative to the total actual and forecast expenditure of all South Island EDBs.[10] While it is not clear from the provided chart or description, it appears that the Commission has used total expenditure including non-network. Not all of this expenditure relates to our proposed work programme and so will not directly influence workforce availability. Notwithstanding, the relative proportion of Orion expenditure versus South Island EDBs appears broadly stable compared with FY2026. This comparison is made alongside concerns expressed by the Commission that Orion's CPP might draw resources away from other EDBs, or cause wage and other cost increases, such that those other EDBs may have difficulty in executing their own work programmes.

45. Clause 16 of Attachment A of the ID determination requires EDBs to include a commentary on capability to deliver in their asset management Plans (AMPs). We have reviewed the 2026 AMPs of all South Island EDBs and have not detected any concerns with deliverability that are specifically driven by Orion's investment plans. The closest relevant deliverability comment we could find, specifically mentioning CPPs, comes from EA Networks, which states:

> "*Significant expenditure has been approved by the Commerce Commission via Customised Price Paths applied for by other EDBs and this may put pressure on resources and therefore wages.*"[11]

We note that this appears to be a generic statement, with materially equivalent statements appearing in EA Networks' AMPs as far back as 2020, long before Orion's CPP was contemplated.

46. We observe that total forecast expenditure for South Island EDBs lifts from FY2026 to FY2028 and then exhibits a flat-to-declining trend from FY2028 to FY2032, suggesting stability in the aggregate work plan across the Island during that latter period. The flat-to-declining trend indicates that, while Orion's work programme increases from FY2028 to a shallow peak in FY2031, other EDBs' work programmes are reducing over the same period. This suggests that, all else being equal, Orion's CPP is unlikely to cause deliverability issues for other EDBs.

47. The IMs require CPP applicants to undertake a deliverability risk assessment and related planning to assure that the CPP work programme, including contingent projects, can be delivered. Additionally, the Independent Verifier is required to undertake an assessment and provide an opinion on the deliverability of the proposed capex and opex projects and programmes. Neither the CPP applicant nor the Independent Verifier is required to consider the impact of the CPP work programme on other EDBs. We further note that the evaluation criteria stated in clause 5.2.1 of the IMs do not include an assessment of impacts external to the CPP applicant's network.

3.6. Innovation Incentives

48. The Commission has indicated that it will consider whether incorporating an innovation incentive like the DPP4 innovation and non-traditional solutions allowance (INTSA) is appropriate, or whether alternative mechanisms may be more suitable. The Commission further noted that Orion chose not to include innovation projects within its proposed CPP expenditure due to the uncertainty involved.

49. At the time of submitting our CPP proposal, we had not identified any innovative project that was sufficiently bold, and which could derive potential future benefits of such materiality, that it could be crafted into a stand-alone innovation incentive mechanism. Instead, we requested that the existing INTSA mechanism be carried into our CPP determination to enable innovative projects to be put forward when the need or opportunity arises.

50. We remain open to an alternative innovation incentive arrangement to INTSA that would better meet the Part 4 purpose[12] and the requirement under section 54Q of the Act to promote incentives, and avoid imposing disincentives, for investment in energy efficiency, demand side management and reduction of energy losses.

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[10] Ibid. Figure 2.5, p24.
[11] EA Networks. (2026). *Asset Management Plan 2026-36*. Section 1.11.2, p43.
[12] Specifically, section 52A(1)(a) of the Commerce Act 1986 (the Act).

3.7. Other Further Scrutiny Signalled

3.7.1. *Customer Benefit*

51. The Commission has expressed concerns regarding "*the extent to which Orion has demonstrated the benefits for consumers compared to the existing levels of DPP4 expenditure.*"[13] We consider that our CPP proposal enumerates the benefits of the investment plan throughout the main proposal and in relation to each expenditure category.

52. In terms of identifying the benefits of that proportion of proposed expenditure that is over and above the levels provided for in DPP4, and our estimate of the allowances that may exist under DPP5, we set those out when explaining our rationale for seeking a CPP.[14] Our description focussed on the consequences if we did not make additional investment; however, the benefits of additional investment can be identified as a simple corollary to the consequences of not making those investments.

53. We also outlined our view of the consequences of not lifting investment in our formal consultation document.[15]

3.7.2. *Forecast Accuracy*

54. In the context of deliverability, the Commission noted that Orion's capital costs were forecast to an accuracy of ±30% (Orions 'class 5' estimate) and speculated that a similar level of uncertainty might exist for the time required to carry out the work.

55. This is an inappropriate conflation, in our view. Estimate classes are not related to the overall scope of the work. We also consider that the Commission's footnote reference (footnote 31) to the Independent Verifier's report may give readers the impression that the Independent Verifier shared similar concerns as to variability in the time required to execute the planned work. In fact, the Independent Verifier only indicated that it had compared Orion's estimate classification "*against the AACE International recommended practice notes for this industry and found general alignment with it.*"[16]

56. Finally, we point out that the stated ±30% level of accuracy relates only to Orion's price book building block unit rates for major projects.

3.7.3. *Renewal and Replacement Capex*

57. The Commission has noted that it intends to further examine replacement and renewal capex that appears unsupported by condition or historical failure rates. We will support the Commission's scrutiny in this area, noting that different forecasting methodologies are appropriate for different asset populations and over different timeframes. Where robust condition or failure history data is available, these can be used directly. For medium-term forecasting and high-volume asset classes, age and expected life provide a valid and well-established basis for forecasting future replacement requirements. This is consistent with approaches adopted by the Australian Energy Regulator and used in previous CPP proposals in New Zealand.

[13] Ibid. Paragraph 2.30, p20.
[14] Orion. (2026). *Customised Price-Quality Path Main Proposal*. Section 2.2.6, p14.
[15] Orion. (2026). *Customised Price-Quality Path Engagement Report*. Appendix K – Consultation Document, p437 (p17 of the Consultation Document).
[16] Ibid. Section 5.2.2.1, p57.

58. We are concerned by the rather leading question posed by the Commission – "*whether stakeholders think Orion may be on balance, prematurely replacing assets in the context of limited data supporting those replacement decisions.*"[17] The Commission has not provided any overview of its analysis in the process and issues paper, and answering the question will require readers to undertake a detailed examination of the relevant sections of Orion's main proposal, 2026 AMP and the Independent Verifier's report in order to form a view – not all readers will be expected to have the necessary understanding to form a view. Further, the Commission has access to more detailed information than presented in the published CPP proposal documents.

59. We trust that the Commission will consider this context when assessing submitters' responses.

4. ADDRESSING EXPENDITURE & INVESTMENT UNCERTAINTY

60. In its 2023 topic paper on 'CPP and in-period adjustment mechanisms', as part of the 2023 Input Methodologies (IM) review, the Commission noted that:

> *"During the next regulatory period* [DPP4]*, regulated suppliers are likely to experience greater levels of uncertainty in relation to their future expenditure requirements due to different views on the speed, nature and location of decarbonisation activities, their use and availability of new energy sector technologies (the "energy transition") and increased resilience requirements."*[18]

This uncertainty remains unresolved and is likely to persist beyond the DPP4 period.

61. In-period adjustment mechanisms ('reopeners') help to manage uncertainty to the benefit of both distributors and customers. Reopeners allow distributors to develop expenditure proposals that are limited to reasonably certain projects and programmes and provide protection to customers by ensuring the revenue path does not contain compensation for less certain projects that may never eventuate. Reopeners provide a process to 'add-in' the project when certainty is achieved.

62. In its process and issues paper, the Commission has noted that EDBs should "*exercise diligence in forecasting efficient expenditure and to provide forecasts that are as accurate as reasonably possible*" and that:

> "*EDBs will be best placed in many cases to manage the risk of future uncertainties themselves through risk management and appropriate prioritisation of expenditure under the expenditure allowances and overall revenue envelope provided under a CPP or DPP.*"[19]

63. We agree with the Commission, to the extent that the relevant investment considerations are under the complete control of the EDB. However, as outlined below, the type of price-quality regulation an EDB is subject to is relevant to the extent to which prioritisation of expenditure can be undertaken without impacting customer outcomes.

64. Orion considers that uncertainty affects default price-quality paths (DPPs) differently to CPPs, because:

64.1. DPP expenditure allowances are set using high-level, 'proxy' scrutiny. For capital expenditure, this has historically involved capping EDBs' DPP-period forecasts at some multiple of the average across an historical reference period. While a small number of EDBs have started to identify uncertain projects in their AMPs and excluding that expenditure from their forecasts,[20] many do not and there is no explicit scrutiny to determine whether the forecasts meet the expenditure objective. There is a reasonable expectation that an EDB will be able to undertake some degree of expenditure reprioritisation before resorting to a reopener application.

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[17] Ibid. Paragraph 2.40.1, p21.
[18] Commerce Commission. (2023). *CPP and in-period adjustment mechanisms topic paper*. 14 June 2023. Paragraph 6.7, p80.
[19] Ibid. Paragraph 3.13, p28.
[20] In 2024 AMPs, used as a basis for setting DPP4 allowances, Alpine, Aurora, Orion, Powerco, Vector and Wellington Electricity identified uncertain projects in this manner.

64.2. CPP expenditure allowances are set after detailed scrutiny by an independent verifier and the Commission and following extensive customer consultation. Expenditure is only allowed if it can be reasonably demonstrated that it meets the expenditure objective. The prudence element of the expenditure objective (right solution at the right time) means that there is less scope to reprioritise expenditure without compromising the effectiveness of the overall work programme. For CPPs, reprioritisation is generally only feasible if more recent/accurate information (e.g., inspected condition versus forecast condition) has indicated that some work can be deferred.

65. We consider that the new and modified reopeners that we have proposed are a pragmatic way of dealing with uncertainty that appropriately balances the risks of customers paying too much or too soon and not being able to satisfy demand for new connections and system growth if our prudent forecasts are materially exceeded. Reopeners are a low-cost 'insurance policy' that helps customer price stability, noting that the circumstances we have designed these new and modified reopeners for involve growth in customer connections that also helps to ameliorate the cost impact.

66. The following sections briefly describe the drivers of uncertainty on Orion's network, and the specific characteristics of the new and modified reopeners.

4.1. Drivers of Uncertainty

67. Orion's network is experiencing sustained growth, which is forecast to continue at least into the 2050s. In the coming years, strong population growth across Selwyn and Greater Christchurch, combined with ongoing urban development and economic activity, will drive increased demand for new connections and network capacity.

68. Additionally, the electricity system is undergoing a series of changes. The energy transition (electrification and decarbonisation) is increasing reliance on electricity, further increasing the demand for network capacity. At the same time, the uptake of distributed energy resources (DER) is creating opportunities to improve network utilisation and defer some traditional investment.

69. Together, this creates a degree of uncertainty that is likely to endure across the CPP period:

69.1. The rate and impact of electrification of heating, transportation, and industrial processes are expected to vary;

69.2. Substantial customer-initiated projects, such as large industrial connections, data centres, and other, new greenfield developments, can emerge with limited warning and, even if known, can be subject to significant variations as to timing and scope; and

69.3. Flexibility market development remains relatively nascent and creates uncertainty around the extent to which flexibility solutions can be brought to bear to defer system growth capital expenditure and, if it can, for how long.

4.2. Our Proposed New and Modified Reopeners

4.2.1. Modified Reopeners

70. Prospective reopeners for CPPs are limited to 'Contingent Projects' and 'Unforeseen Projects':

70.1. A contingent project is one where the project is certain in all respect except for timing, and has been verified as likely to meet the expenditure objective by an independent verifier;

70.2. An unforeseen project is one that would have been unforeseeable to a prudent EDB at the time it lodged its CPP proposal.

71. Both reopeners are subject to a very large financial threshold. The value of expenditure required for either contingent or unforeseen projects must exceed 10% of the EDB's annual revenue in the most recent completed disclosure year. Based on 2025 disclosures, this would amount to $26.2 million[21] for Orion.

72. We consider that this is an exceptionally high threshold to meet, which effectively renders either reopener unusable. Such a threshold would require the project to be of a scale that would be extremely rare on Orion's network. In our view, this means that the reopeners are unable to adequately manage uncertainty as intended and, for this reason, we have requested a modification to reduce the thresholds to the lesser of 1% of Orion's forecast net allowable revenue for the regulatory period and $2.5 million.

73. In Orion's view, the proposed lower financial threshold addresses the reopener workability issue while maintaining an appropriate incentive to reprioritise expenditure where an unforeseen or contingent project is unlikely to meet the lower threshold.

4.2.2. New Reopener – Listed Projects.

74. The listed project reopener is designed to bridge a gap in the CPP reopener suite between completely unknown projects (unforeseen projects) and fully scoped projects subject only to timing uncertainty (contingent projects).

75. Orion's experience has been that there is often early engagement by developers of large, customer-initiated projects which are progressively refined in scope over a period of months and years. These projects cannot be claimed to be unforeseen and yet they lack the scope certainty to be categorised as contingent.

76. Similarly, there may be known, emerging investment challenges and solutions that cannot be fully scoped or costed until further information becomes available and are excluded from the proposed system growth capex forecast.

77. To avoid such projects having to be delayed to a future regulatory period, when funding can be planned for and provided, we have proposed a new 'listed project' reopener. Listed projects would be identified in the CPP determination, and a listed project reopener application would be applied for when appropriate certainty as to scope and timing has been achieved for one (or more) of the listed projects.

78. We have proposed that a listed project would need to be accompanied by an independent Engineer's report stating that, in the Engineer's opinion, the project meets the expenditure objective, and would need to meet the same financial thresholds as the (modified) unforeseen and continent project reopeners (as described in paragraph 72, above).

79. To minimise approval delays that might otherwise frustrate connecting customers or lead to elevated network risk, we have proposed that when the scope of a listed project is finalised, we could request that the Commission assesses the project and recategorise it as contingent. To support recategorisation, we would provide the independent Engineer's report referred to in the preceding paragraph and nominate a trigger event in accordance with the requirements for contingent projects stated in clause 5.6.10(2)(a) of the IMs.

4.2.3. New Reopener – Capacity Event (Prospective and Responsive)

80. As noted in section 4.1, above, unforeseen general demand growth and/or decarbonisation and electrification activity could have a material impact on several demand-driven expenditure categories, including customer connection and system growth.

81. We have proposed a capacity event reopener to manage this uncertainty and ensure that customer demand does not go unsatisfied. A capacity event reopener would be applied for if unforeseen general demand growth required additional expenditure exceeding the lesser of 1% of Orion's forecast net allowable revenue for the regulatory period and $2.5 million, in the following expenditure categories:

[21] Based on Orion's total regulatory income of $262,004,000 as reported in Schedule 3 of its 2025 information disclosure.

81.1. connection capex;

81.2. system growth capex;

81.3. asset relocation capex; or

81.4. a combination of connection capex and system growth capex.

82. While we have a strong preference that a capacity event reopener should be prospective, the fact that DPP periods determine the incremental rolling incentive scheme (IRIS) for capex means that if a sustained, unforeseen demand for capacity occurs in the period FY28 to FY30, it may not be feasible to reopen the CPP without some form of responsive consideration. Accordingly, we have proposed that the capacity event reopener can be applied both prospectively and responsively.

4.2.4. The Urgent Project Allowance

83. We have proposed a modification of the urgent project allowance to permit recovery of prudently occurred 'ramp-up' costs. As noted in the process and issues paper, deliverability is a key consideration in assessing Orion's CPP, and one which EDBs must effectively address when developing a CPP proposal.

84. Setting aside Orion's first CPP proposal, which was made in response to a catastrophic event, and Wellington Electricity's single-issue CPP, all other CPP applicants to-date have ramped up expenditure above the levels underpinning the DPP, especially capex, in advance of the CPP being determined. We understand that by avoiding the need for large step-ups in activity, this ramp-up of expenditure has helped to assure efficient deliverability from the commencement of the CPP.

85. We don't think that it is efficient or achievable for EDBs and their field services partners to somehow 'reserve' workforce capacity so that a step change can be affected from day one of the CPP, leaving a post-determination ramp-up as the only viable alternative to pre-determination ramp-up.

86. Orion considers that a pre-determination ramp-up maximises the utility of the CPP period and considers that the prudently incurred cost of ramping up should be recoverable.

4.3. Captive Insurance

87. The Commission has noted that it will consider whether further uncertainty mechanisms may be required, including a reopener to allow Orion to implement captive insurance arrangements.

88. The time given for submissions on the process and issues paper does not allow us sufficient opportunity to consider options for captive insurance in detail; however, we consider that there is significant complexity involved and agree with the Commission's statement that "[s]*etting up a captive insurer can involve significant upfront and ongoing operating costs however, including meeting regulatory and capital requirements.*"[22]

89. We note that a captive insurance facility would operate as an alternative to the responsive, catastrophic event reopener. We acknowledge that a captive insurance facility can spread the recovery of catastrophic event costs over a longer period than if a catastrophic event reopener is used. For this reason, we suggest that this is a broader policy question that is better answered outside of the narrow CPP assessment process – for example, as part of a substantive IM review.

[22] Ibid. Paragraph 3.18.2, p29.

5. CUSTOMER CONSULTATION

90. From August 2024 to April 2026, we delivered a comprehensive engagement programme to shape our CPP proposal and ensure it reflected customer and stakeholder priorities. Guided by the recognised 'best practice' IAP2 Spectrum approach and building on our existing engagement channels, the programme used a staged process that combined qualitative and quantitative methods to incorporate customer perspectives throughout planning and decision-making. Engagement activities included an independently chaired Customer Advisory Panel, interactive 'Powerful Conversations' customer workshops with a diverse range of customers, annual customer surveys involving around 1,500 participants to understand expectations and inform investment priorities, and individual meetings with business customers, industry and stakeholder organisations, and community representatives including local members of parliament.

91. These activities were supported by a broad communications programme between November 2024 and December 2025, including advertising, digital and social media, stakeholder communications and newsletters reaching approximately 110,000 homes and businesses. Customers were encouraged to learn about and provide feedback on investment plans through our 'Have Your Say' website. Independent specialists were engaged to strengthen the process, with an independent industry expert facilitating the Customer Advisory Panel and specialist research firms designing and analysing workshops and surveys, helping to ensure that the research methods were appropriate for drawing out informed customer views, and the findings were robust and suitable for decision-making.

92. The Process and Issues Paper recognises that Orion undertook an extensive programme of customer engagement. We consider the engagement evidence provides a strong and consistent picture of customer priorities. Across multiple engagement phases and activities, customers expressed consistent preferences, including maintaining safety and reliability, strengthening resilience, supporting growth, preparing for the future, and managing affordability through prudent and efficient investment. In our view, an important consideration is not whether customers endorsed a particular expenditure figure, but whether the proposal appropriately reflects the trade-offs and priorities they consistently identified. Based on the engagement undertaken, we consider the proposal strikes an appropriate balance between risk, reliability and affordability.

5.1.1. Independent Verifier's Assessment

93. The Independent Verifier concluded that Orion's customer consultation programme has been extensive, well planned, and effective. Orion engaged customers through its Customer Advisory Panel, community workshops, focus groups, public forums, surveys, newsletters, advertising, stakeholder meetings, and other communication channels. The Independent Verifier considered the consultation process to be consistent with the IMs and comparable to consultation practices adopted by other regulated network businesses in New Zealand and Australia. They noted that the consultation reached a broad cross-section of stakeholders and generated useful information about customer priorities, service expectations, and willingness to pay for future investment.

94. The Independent Verifier found evidence that Orion has actively used consultation feedback when developing its CPP proposal, including consideration of customer sensitivity to higher line charges and responses to resilience and reliability investment proposals. Overall, the Independent Verifier considered that Orion's consultation activities satisfied the EDB IM requirements and demonstrated meaningful engagement with customers. However, the Independent Verifier noted that the consultation process had not fully concluded when its verification review concluded.

5.1.2. Post Verification Consultation Activity

95. The Issues Paper notes that the Independent Verifier's review of customer consultation was limited to engagement undertaken up to 31 March 2025. Orion's CPP Engagement Report[23] provides a comprehensive account of the engagement activities conducted after this date, the feedback received, and the ways in which that feedback informed further refinements to the proposed investment plan. As such, the consultation evidence available to the Commission extends beyond that considered by the Independent Verifier and should be viewed as part of the broader body of customer evidence supporting the CPP proposal.

96. This evidence can be found in the following chapters:

96.1. Chapter 5: Phase 2 – Consultation on our initial investment approach (April – October 2025);

96.2. Chapter 6: Phase 3 – Consultation on Orion's draft investment plan (October 2025 – April 2026); and

96.3. Chapter 7: Phase 4 – Refinement of the draft investment plan (May – June 2026)

6. REVENUE PATH SMOOTHING

97. The timing of forecast expenditure can result in volatility in the annual revenue requirement under a standard building block approach and if that volatility was reflected directly in prices, it would result in sharp year-on-year changes in customer bills.

98. To avoid volatility in customers' bill, we have applied a smoothing approach that balances:

98.1. the initial step-change in prices as we move from DPP4 to the CPP;

98.2. the annual rate of change in prices; and

98.3. the potential changes to prices when stepping off the CPP and onto year 3 of DPP5.

99. The Commission has acknowledged that Orion's smoothed CPP proposal "*constitutes a reasonable attempt to reduce the potential for price shocks for consumers*" but notes that "*... we consider that taking account of some further factors when assessing options for CPP profiling could be beneficial, particularly once a better sense of the likely level of total CPP revenue increases at our draft decision stage is gained*."[24]

100. Additionally, the Commission has stated that it wants to assess price impact at a 'gross' level, inclusive of passthrough and recoverable costs. We consider that this is appropriate but note that forecasts of passthrough and recoverable costs will be less certain than Orion's final modelled revenue path.

101. Finally, the Commission has suggested that the revenue smoothing limit applied under clause 3.1.1.(1)(b) of the IMs, which manages recoverable cost volatility, should be set at 10% as currently specified within the DPP4 determination. We support that proposal.

102. The purpose of revenue path smoothing is help manage price change volatility for the benefit of Orion's customers and, while the revenue path depends on the final approved expenditure, it is a consideration that is independent of expenditure assessment. We are happy to be guided by the Commission in the matter of revenue path smoothing and will support the Commission as needed.

7. SERVICE QUALITY SETTINGS

103. As noted by the Commission, Orion chose not to include a quality standard variation within its CPP proposal. This is the first (full) CPP application that has been made on a revenue-only basis, and we appreciate that this creates an additional consideration for the Commission in specifying Orion's quality standards and incentive for the CPP period.

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[23] Orion. (2026). *Customised Price-Quality Path Engagement Report*.
[24] Ibid. Paragraphs 5.17-5.18, p39.

104. Our decision not to include a quality standard variation was driven by three main factors:

104.1. Orion has complied with the quality standard over a long period, demonstrating alignment to the Commission's long-standing 'no material deterioration' principle;

104.2. Customers have indicated that they are satisfied with the current level of quality performance and are not prepared to pay more for enhanced reliability; and

104.3. Our investment proposal is based on growth and asset renewal decision-making aimed at maintaining reliability through a continuation of mostly historical practice, including maintaining asset health and growth intervention timing and, in our view, we do not have sufficiently robust, granular historical reliability data to support the complex, bespoke modelling required to achieve a sufficiently accurate forecast of future reliability performance to inform a refinement of the quality standard.

105. We think the fact that Orion has not breached its quality standards over the past decade should be viewed positively. We do not think that it is appropriate to arbitrarily tighten quality standards to the extent that breaching the quality standards becomes an elevated risk that Orion must actively manage. In our view, that would incentivise Orion to mitigate the risk of breach and make targeted reliability investments, likely diverting allowed expenditure from other investments, contrary to customers' stated preferences.

106. In our proposal, we invited the Commission to consider setting Orion's quality standards by applying the same methodology used to set EDBs' quality standards for DPP4. We think that this would be appropriate because, where an EDB has recently been exhibiting better reliability performance than its historical average, as Orion has, the methodology applies a 'sinking lid' to the quality limits over the medium-term. This is consistent with our view that reliability performance investments are not abruptly reflected in better reliability performance, just as reliability issues are not immediately evident when an EDB under-invests in its network, even over the medium-to-long-term.

107. While the process for setting quality standards for DPP4 was relatively straightforward, we don't think that it's necessary to look toward a more complex approach just because of the CPP context, especially if the outcome is reasonable and consistent with the principle of no material deterioration.

108. On a technical note, the Commission has highlighted Orion's proposed investments in resilience in its discussion of reliability standards. It is important not to conflate resilience with reliability – they are different things. This was highlighted in the Commission's recent consultation on resilience principles[25] and well-articulated by the AER in its recent, similar consultation – "*... there is a close relationship between resilience and reliability, because resilience is an input that contributes to the achievement of reliability (the service level outcome)*".[26] That is, network resilience determines how reliable a network may be during and after a high impact event. Resilience investments are not expected to result in a material improvement in reliability under normal operating conditions.

8. CPP PERFORMANCE & PROGRESS MONITORING

109. More recent CPPs (Powerco and Aurora) have featured accompanying enhanced reporting requirements as a means of providing accountability for delivery, including more general business improvements. This is consistent with the purpose of information disclosure (ID) regulation stated in section 53A of the Act.

110. We agree with the Commission's view that "*... accountability and monitoring mechanisms work as a reputational driver for Orion to deliver on investments they have been funded for ...*".[27] Frankly, if we do not deliver on our commitments, subject to adequately explaining any necessary reprioritisation, then we will have failed our customers.

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[25] Commerce Commission. (2026). *Resilience Principles: Decision-making framework for critical infrastructure providers - Draft guidance document*. Paragraphs 1.9-1.11, p5.
[26] Australian Energy Regulatory. (2026). *Network resilience guidelines: Consultation paper*. Section 2.1, p5.
[27] Ibid. Paragraph 7.6, p49.

8.1.1. Content of Enhanced Reporting

111. Considering the purpose of ID, Orion's view is that enhanced reporting should demonstrate delivery of:

111.1. the priorities and expectations communicated to us by customers during the CPP engagement;

111.2. the strategic priorities that underpin our CPP proposal; and

111.3. the projects and programmes forming our investment plan, including explanations for any material variance, including reprioritisation.

112. In doing so, we consider that enhanced reporting should be complimentary and not duplicate:

112.1. normal electricity distribution ID requirements;

112.2. service measures that we have proposed to report on annually in our AMP; and

112.3. reporting required by other regulators.

113. We also consider that enhanced reporting should leverage Orion's existing engagement channels.

114. We are not convinced that all insights provided by prior CPPs' enhanced reporting have been useful, particularly where metrics lack a base-line value, or are unable to be compared with other EDBs. Such insights are better obtained through the normal sector-wide ID requirements.

115. The Commission has indicated that it will explore whether enhanced reporting could be tailored to expenditure categories and gave the examples of changes in capacity being measured and reported against capacity investment, and changes in average asset class age measured and reported where age-based replacements are made. Conceptually, this seems reasonable; however, we anticipate that care will need to be taken in designing such measures. For example, as a large EDB, Orion's targeted investment in network capacity over the CPP period is still likely to affect only a very small change in capacity relative to the overall capacity of the network.

8.1.2. Duration of Enhanced Reporting Requirements

116. The Commission's preliminary view is that it would apply enhanced ID requirements for the CPP period only, but also that it would "*undertake a future information disclosure review of these requirements to assess any ongoing need beyond the CPP and the impact of this…*"[28] We agree that enhanced reporting should be limited to the CPP period. We are less comfortable with the suggestion that enhanced reporting could be extended beyond the CPP period. In Orion's view, an extension of enhanced reporting would only be justified if there was a material non-delivery issue that needed to be addressed post-CPP (again, subject to any necessary reprioritisation).

117. We note that Aurora's enhanced reporting requirements were a mix of time-bound and unbounded requirements, and that the Commission was minded to extend Aurora's unbounded enhanced reporting requirements into DPP4 based on an expectation that Aurora would not "*have fully developed all of the topics in the development plan, regional pricing disclosures, and safety delivery plan to a mature state by the end of the CPP*".[29] The issue with such an approach is that it is untargeted – a material number of reporting requirements for Aurora's unbounded annual delivery report are unrelated to the topics of concern and would impose a disproportionate reporting burden on Aurora. With this in mind, we would question whether that disproportionate reporting burden goes beyond the purpose of ID regulation stated in section 53A of the Act.

118. For the avoidance of doubt, Orion prefers to avoid such a situation by having its enhanced reporting requirements strictly bound to the duration of its CPP. We don't think this would place a restraint on the Commission in any way because, if the Commission holds any residual concerns at the end of Orion's CPP, targeted information disclosure could be imposed, for as long as necessary, by notice given under section 53ZD of the Act.

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[28] Ibid. Paragraph 7.17, p50.

[29] Commerce Commission. (2025). *Aurora Energy's transition to the 2025-2030 default price-quality path: Draft decision reasons paper*. Paragraph 6.6, p61.

8.1.3. Specifying Enhanced Reporting Requirements

119. In terms of specifying CPP reporting obligations, we reiterate our view, expressed in an earlier submission,[30] that specifying bespoke, enhanced reporting for EDBs subject to a CPP within the principal ID determination is likely to produce an unnecessarily complex document over time, especially if catering to multiple CPPs. We consider a more appropriate approach is to specify the enhanced reporting requirements within the CPP determination or, if time does not allow for that, within a notice issued under section 53ZD of the Act.

9. CLOSING

120. Thank you for the opportunity to provide our views on the process and issues paper. Please contact the undersigned if you require further information.

Yours sincerely

Alec Findlater
Regulatory Lead – Commerce Commission

[30] Orion. (2025). *Submission – Aurora Energy's transition to the 2025-2030 default price-quality path*. 5 September 2026. Paragraphs 6.13-6.14, p7.