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Dear Dane

Firstgas submission on the Commerce Commission's proposed Resilience Principles for regulated infrastructure providers

Firstgas welcomes the opportunity to comment on the Commerce Commission's (Commission) draft guidance for critical infrastructure providers on resilience principles for investment decision-making.

We support the Commission's development of a principles-based approach in a formalised guidance document and the Commission's intention to improve the consistency and transparency of resilience investment decisions. We generally support the direction of the proposed principles. However, the principles cannot be considered in isolation from a broader resilience framework within which they are intended to operate. The final guidance should clarify the resilience *outcomes* and *service expectations* the principles are intended to support, the decisions and regulatory processes to which they will apply, and how they interact with the wider organisational, planning and operational capabilities that contribute to infrastructure resilience.

Our key recommendations are that the Commission:

- include guidance on *how* providers would define the resilience outcomes and service expectations that the principles are intended to support
- clarifies how the principles will be used in regulatory decision-making and ensure they do not become de facto mandatory requirements without appropriate consultation and testing
- applies resilience assessment primarily at a system, programme or overall funding level (as opposed to the individual asset investment level)
- clarifies responsibility for data and analysis that extends beyond information reasonably available to individual infrastructure providers
- ensures the guidance considers the full range of resilience responses, including consequence mitigation, response, recovery and adaptation, rather than defaulting to reliability or asset-hardening solutions
- recognises explicitly that resilience needs, risk tolerances, available evidence and efficient responses differ materially between regulated sectors.

Define how the resilience outcomes are sought

The principles need to sit beneath clear objectives or standards. Without an outcome against which resilience is assessed, providers cannot determine what level of resilience is sufficient, whether an investment is justified, or how trade-offs between affordability, reliability, prevention, response, recovery and adaptation should be evaluated. The guidance currently provides a detailed decision process but no clear destination. The final guidance should explain *how* providers are expected to determine an appropriate resilience outcome and how the Commission will assess whether that outcome represents long-term benefit to consumers.

Clarify status, proportionality and information responsibilities

The Commission describes the principles as guidance and says the level of analysis should be proportionate. We support that intent. However, the guidance also indicates that all principles apply in every case, that providers should move toward full application, and that the Commission will increasingly expect to see the principles demonstrated. For price-quality regulated businesses, the guidance also links robust resilience planning to support for expenditure allowances. Simply, the principles will operate as a de facto assessment framework for expenditure approval. The Commission should be explicit about the status of the guidance, how it will be used over time in regulatory decisions, and the minimum expectations for different decision types and materiality levels. A proportionate approach should avoid requiring every principle, modelling technique or evidence source to be addressed in the same depth for every decision. The cost of analysis should remain commensurate with the value, risk, reversibility and system significance of the decision. Nevertheless, risk aversion amongst infrastructure providers and the Commission will, over time, tend away from proportional effort and expenditure and toward meeting the Commission's (perceived or actual) checklist.

Availability and acquisition cost of data are likely to be major constraints. The guidance expects providers to understand matters such as community risk tolerance, risk-bearing capacity, socio-economic vulnerability, regional economic consequences and infrastructure interdependencies. Developing and maintaining this information would be costly, and assessments may be highly sensitive to assumptions and the willingness of third parties to share reliable information. Many of these assessments extend beyond information reasonably available to individual infrastructure providers. Regulators and government agencies (such as the National Emergency Management Agency) are better placed to coordinate common datasets, scenarios and methodologies because they have the mandate and ability to obtain information consistently across sectors. Requiring each provider to develop equivalent information would risk duplication, conflicting assumptions and avoidable consumer cost.

Apply detailed assessment at the appropriate decision level

The type of assessments described in the guidance are most appropriate for system-level, programme-level or overall funding decisions. The guidance itself recognises that infrastructure investment should be based on a wider system view rather than individual projects. We agree. However, many of the examples and evidence expectations appear more suited to project-level assessments than system-level resilience planning. The supporting material referenced in the ResOrgs report also predominantly relates to system-level studies. Applying the full depth of analysis to each asset investment would be disproportionate and would materially increase the cost and time required to make decisions. Several of the frameworks referenced require specialist capability, significant cost and access to datasets that may not be available to many infrastructure providers. The guidance should clearly distinguish between examples of good practice and minimum expected practice.

The guidance should distinguish between decisions about overall resilience strategy, funding and programme prioritisation and the subsequent selection of individual projects or asset interventions. System-level analysis can establish the relevant hazards, service outcomes, risk tolerances, interdependencies and investment priorities. Individual asset decisions can then apply a proportionate business-case assessment within that established context, rather than repeating the full framework for each project.

The guidance correctly distinguishes resilience from reliability and recognises prevention, absorption, recovery, adaptation and transformation. However, some examples and evidence expectations appear to gravitate toward asset criticality, protection, hardening and interruption reduction. These may be appropriate responses, but they should not become the default. For some infrastructure, improved situational awareness, emergency response, contingency arrangements, recovery capability or consequence mitigation may deliver a more cost-effective resilience outcome than preventing the initiating event by hardening the asset with capital-intensive investment. The guidance should require a proportionate options analysis considering the full resilience cycle.

Recognise differences between regulated sectors

The multi-sector intent of the guidance is sensible, but the final framework must accommodate material differences between infrastructure sectors. The nature of hazards, network configuration, customer consequences and willingness-to-pay (which will vary by customer, by location and over time), service alternatives, investment horizons, available evidence and efficient resilience responses vary significantly. A common set of principles should not imply a uniform risk tolerance, resilience target or evidentiary threshold.

This is particularly important for gas pipeline businesses. Total gas supply has halved since 2014, forecasts show further production decline, gas prices have risen substantially for customers and both gas production and demand face high levels of government policy risk. Gas pipelines, like other networked infrastructure, enjoy economies of scale while growing but (necessarily) diseconomies of scale when in decline. In this context, gas pipeline owners have already pared back on additional long-lived investment, sought opportunities that favour operational expenditure over capital expenditure and are increasingly likely to face costs to decommission assets. In that context, the appropriate response may involve accepting a different level of residual risk, strengthening response and recovery capability, or using non-asset solutions rather than increasing expenditure on asset hardening. For any sector facing uncertain demand trajectories, resilience investment cannot be considered independently of asset utilisation, affordability and financial capital maintenance. The ResOrgs report recognises that changing conditions may require risk tolerance to be reconsidered, but the guidance does not clearly explain how that broader context should influence application of the principles. The Commission should clarify how sector circumstances and transition uncertainty will be reflected in its assessment.

Conclusion

We support a principles-based approach that improves the quality, consistency and transparency of resilience investment decisions. Before finalising its guidance, the Commission should define the outcomes and service expectations the framework is intended to support, clarify how the principles will be applied in regulatory decisions, establish proportionate expectations for different decision levels, coordinate common information inputs, and explicitly accommodate sector-specific circumstances. These changes would preserve the benefits of a common framework while maintaining flexibility for infrastructure providers to apply the guidance proportionately and in alignment with long-term consumer benefit.

Yours sincerely



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