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This is Firstlight Network Limited's (Firstlight's) submission on the Commerce Commission's draft decision to reopen our DPP3 price path and allow for recovery of \$1.372 million in additional net costs. We appreciate the active and constructive engagement we have had with the Commission throughout the catastrophic event reopener process.

We acknowledge the Commission's recognition that the impacts of Cyclone Gabrielle meet the threshold of a catastrophic event.

In this submission, we discuss three key points:

- (1) The importance of the reopener mechanism in ensuring financial capital maintenance (FCM)
- (2) Proportionate scrutiny relative to the value of the reopener application and forward guidance, and
- (3) The treatment of sub-transmission tower works, and clarification of costs deferred to DPP4.

1. Importance of the Reopener Mechanism in Ensuring Financial Capital Maintenance (FCM)

We appreciate the Commission's efforts in developing and applying the catastrophic event reopener framework. Having a workable reopener mechanism is essential for electricity distribution businesses (EDBs) to maintain financial capital maintenance (FCM) and respond to extreme events beyond our control. Events like cyclone Gabrielle, and other natural disasters can impose large, sudden costs on EDBs and if these cannot be recovered under the DPP, then EDBs will suffer losses that would undermine the principle of FCM.

The reopener process allows networks to:

- take timely action to restore service and safety, and
- ensure prudently incurred costs are recoverable.

We understand that the overall intent of the Catastrophic Event Allowance is to ensure that suppliers like Firstlight remain financially whole for prudent responses to a catastrophic event. This is consistent with the purpose of Part 4 in promoting regulated investment, maintaining service levels, and recovering efficiently incurred expenditure.

In this context, we seek further assurance that the allowance granted in the draft decision achieves this objective; that is, it enables Firstlight to truly remain whole. We note that the roll-over adjustment term in the IRIS model has been set to \$0, and this appears to result in an opex incentive adjustment (IRIS penalty) that is significantly larger than would otherwise be expected.

We ask the Commission to clarify how FCM is assured and to confirm whether any offsetting adjustments will be applied in DPP5 to neutralise any penalty that might arise from temporary overspending during Cyclone Gabrielle response efforts.

Given that Firstlight responded prudently and in good faith to an unforeseen catastrophic event, we believe it is important that the IRIS mechanism does not result in an inadvertent penalty for efficient expenditure during an event that falls outside the normal planning and control horizon.

2. Proportionate Scrutiny and Forward Guidance

The principle of proportionate scrutiny is important for the efficient operation of the regulatory regime. While we understand the need for careful assessment, we consider that the level of scrutiny applied in this case was quite high relative to the value of the allowance sought. We encourage the Commission to provide clear guidance and (where possible) practical examples to help EDBs understand what level of documentation and evidence is needed for current and future reopener applications of varying sizes.

Given the limited number of reopener precedents to date, we encourage the Commission to continue its open dialogue with regulated businesses and consumers, allowing EDBs to test expectations early in the process and prepare supporting material accordingly which will reduce application processing time.

While we appreciate the Commission's efforts in response to our application, it took nine months from the submission of our application (on 2 August 2024) to reach a draft decision, despite a non-complex application and the relatively modest value involved in the reopener. The process in this case involved several months before receiving follow-up information requests, which required time to respond to. Earlier engagement around the Commission's expectations and

evidence requirements may have allowed for a more efficient process and could have supported faster application processing.

We would also highlight that this was the first application of its kind under the catastrophic event reopener framework, meaning there were no established precedents to guide us. We believe a clearer understanding from the outset of the evidence needed to support the level of scrutiny would have improved the efficiency and timeliness of the application process.

3. Updated Remediation Cost and Sub-transmission Towers – Clarification

The remediation costs in our application were updated later. Our application was based on the best available information and our forecast costs accurately reflected our workplan, at that time. The shift in timing of certain projects was not foreseeable. While some projects could not be completed within DPP3, they remain necessary and will now be delivered in DPP4.

The Commission states in the draft decision that:

"Our assessment raised some questions on work undertaken on sub-transmission towers that was planned for RY25, and the temporary nature of work undertaken to secure the towers during the event. We are satisfied that the work undertaken during the event was of a permanent nature and forecasted work is no longer required and been adjusted accordingly by Firstlight."

We would like to clarify that this is true for two sub-transmission towers, where the forecasted work of \$223k was no longer required. However, for the remaining towers in our workplan, approximately \$1.3 million in planned remediation work has been deferred into DPP4, due to timing and procurement constraints arising during the DPP3 period.

This means that while the physical workplan remains broadly consistent with what was presented in our application, some activities have had to be rescheduled into the next regulatory period (DPP4) due to project delays.

If you require any further information or clarification please contact us at

[REDACTED] or [REDACTED].

Yours sincerely



Saba Malik