

## **Electricity and Gas (Customised Paths) Input Methodology Amendments Determination 2015**

### **[2015] NZCC 28**

Amendments made under s 52Y of the Commerce Act 1986 to input methodologies applicable to customised price-quality paths for electricity distribution businesses and gas pipeline businesses contained in Decisions [2012] NZCC 26, [2012] NZCC 27, [2012] NZCC 28

**The Commission:**

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S Begg  
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**Date of determination:** 12 November 2015

### Associated documents

Publication date	Determination number	Determination title
28 September 2012	ISBN 978-1-869452-16-2	Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26
28 September 2012	ISBN 978-1-869452-17-9	Gas Distribution Services Input Methodologies Determination 2012 [2012] NZCC 27
28 September 2012	ISBN 978-1-869452-17-9	Gas Transmission Services Input Methodologies Determination 2012 [2012] NZCC 28

Commerce Commission  
Wellington, New Zealand

Pursuant to Part 4 of the Commerce Act 1986 (the Act) the Commerce Commission makes the following determination:

## 1. Short title

This determination is the Electricity and Gas (Customised Paths) Input Methodology Amendments Determination 2015.

## 2. Determinations amended

This determination amends the following determinations:

- (a) *Electricity Distribution Services Input Methodologies Determination 2012* [2012] NZCC 26 (the **EDB IM Determination**);
- (b) *Gas Distribution Services Input Methodologies Determination 2012* [2012] NZCC 27 (the **GDB IM Determination**); and
- (c) *Gas Transmission Services Input Methodologies Determination 2012* [2012] NZCC 28 (the **GTB IM Determination**).

## 3. Commencement

This determination comes into force on the date on which notice of the determination is given in the *New Zealand Gazette*.

## 4. Interpretation

### 4.1 In this determination:

- (a) Terms in bold type have the meaning given to those terms in the applicable determination.
- (b) Terms in bold type used in this determination that are defined in the Act, but not this determination, have the same meaning as in the Act.

### 4.2 Nothing in this determination limits the **Commission's** authority to amend any Determination in accordance with the Act.

## 5. EDB IM Amendments

### *Exemptions and modifications to CPP process and content requirements*

### 5.1 In the **EDB IM Determination**, insert the following in Subpart 1 of Part 5:

#### "5.1.6 Modification or exemption of CPP application requirements

"(1) The **Commission** may approve a modification to, or exemption from, any requirement set out in—

- "(a) this subpart;
- "(b) Subpart 4;

- "(c) Subpart 5; or
  - "(d) schedules relating to subparts identified in paragraphs (a) to (c) above.
- "(2) A modification or exemption may be approved where, in the **Commission's** opinion, the modification or exemption will not detract, to an extent that is more than minor, from—
- "(a) the **Commission's** evaluation of the **CPP proposal**;
  - "(b) the **Commission's** determination of a **CPP**; and
  - "(c) the ability of interested persons to consider and provide their views on the **CPP proposal**.
- "(3) A modification or exemption will only apply for the purposes of assessing compliance of a **CPP application** under s 53S(1) of the **Act**—
- "(a) if the **Commission** has previously approved a request by a **CPP applicant** for the modification or exemption in accordance with clause 5.1.7;
  - "(b) in respect of the **CPP applicant** and the **CPP application** identified in the **Commission's** approval; and
  - "(c) if the **CPP applicant** elects to apply the modification or exemption by:
    - "(i) meeting all conditions and requirements specified in the approval that relates to the modification or exemption; and
    - "(ii) providing the relevant information specified in clause 5.1.8 as part of its **CPP application**.

"5.1.7 Process for obtaining a modification or exemption

- "(1) At any time prior to providing the **Commission** with a **CPP application**, a **CPP applicant** may request modifications or exemptions to the requirements listed in clause 5.1.6(1) as alternatives to those requirements.
- "(2) A request by a **CPP applicant** must—
- "(a) be in writing;
  - "(b) include the following information:
    - "(i) the **CPP applicant's** name and contact details;
    - "(ii) a brief description of the key features of its intended **CPP proposal**;
    - "(iii) the date that the **CPP applicant** intends to submit the **CPP application** for which a modification or exemption is sought;
    - "(iv) a list of the specific modifications or exemptions sought;
    - "(v) an explanation of why the **CPP applicant** considers the requirements in clause 5.1.6(2) are met;
    - "(vi) evidence in support of the explanation provided under subparagraph (v); and

"(vii) identification of any information that is commercially sensitive.

"(3) Subparagraph (2)(b)(vi) may be satisfied by submitting a certificate, signed by a senior manager of the **CPP applicant**, setting out the factual basis on which he or she believes the requirements in subclause 5.1.6(2) are met.

"(4) In considering whether to approve a request for modification or exemptions, the **Commission** may seek, and have regard to—

"(a) views of interested persons within any time frames and processes set by the **Commission**; and

"(b) views of any person the **Commission** considers has expertise on a relevant matter.

"(5) As soon as reasonably practicable after receipt of a request for modifications or exemptions the **Commission** will, by notice in writing, advise the **CPP applicant** as to whether:

"(a) any of the modifications or exemptions are approved; and

"(b) the approval of any modification or exemption is subject to conditions or requirements that must be met by the **CPP applicant**.

#### "5.1.8 Information on modification or exemption of information requirements

"Where a **CPP applicant** elects to apply a modification or exemption approved by the **Commission** in accordance with clause 5.1.7, it must include as part of its **CPP application**—

"(a) a copy of the **Commission's** approval;

"(b) a list of the approved modifications or exemptions which the **CPP applicant** has elected to apply in its **CPP application**;

"(c) evidence that any conditions or requirements of the approval have been met; and

"(d) an indication, at the relevant locations within the document or documents comprising the **CPP application**, as to where the modifications or exemptions have been applied."

#### *Alternative methodologies with equivalent effect*

5.2 In the **EDB IM Determination**, insert the following in Subpart 3 of Part 5:

#### **"Section 5 Alternative methodologies with equivalent effect**

##### **"5.3.33 Alternative methodologies with equivalent effect**

"(1) A **CPP applicant**, in making a **CPP application**, may apply an alternative methodology to that specified for—

"(a) cost allocation and asset valuation in Section 2;

"(b) treatment of taxation in Section 3; or

"(c) the estimation of **term credit spread differentials** in Section 4.

- "(2) The **Commission**, in evaluating a **CPP proposal** and in determining a **CPP** for an **EDB**, may apply the alternative methodology elected by the **CPP applicant**.
- "(3) An alternative methodology applied by either an **EDB** or the **Commission** in accordance with this clause must:
  - "(a) produce an equivalent effect within the **CPP regulatory period** to the methodology that would otherwise apply; and
  - "(b) not detract from the promotion of the purpose of Part 4 of the **Act**."

5.3 In the **EDB IM Determination**, insert the following in Subpart 4 of Part 5:

**"Section 10 Information relevant to alternative methodologies**

**"5.4.34 Demonstration that alternative methodologies have equivalent effect**

- "(1) Where a **CPP applicant** applies alternative methodologies in accordance with clause 5.3.33, it must provide:
  - "(a) a list and description of each alternative methodology applied;
  - "(b) an indication, at the relevant locations within the **CPP application**, as to where the alternative methodologies have been applied;
  - "(c) reasons why each of the alternative methodologies have been applied; and
  - "(d) evidence demonstrating that each alternative methodology complies with clause 5.3.33(3).
- "(2) Paragraph (1)(d) may be satisfied by submitting a certificate signed by an senior manager of the **CPP applicant** setting out the factual basis on which he or she believes each alternative methodology complies with clause 5.3.33(3)."

*CPP proposals must be complete in all material respects*

5.4 In the **EDB IM Determination**, replace clause 5.1.1(2) with:

- "(2) **CPP application** means an application containing, in all material respects, the information specified in-
  - "(a) this subpart; and
  - "(b) Subpart 4."

5.5 In the **EDB IM Determination**, replace clause 5.4.1(1) with:

- "(1) Subject to subclause (2), a **CPP proposal** must contain, in all material respects, the information specified in this subpart."

## 6. GDB IM Amendments

### *Exemptions and modifications to CPP process and content requirements*

6.1 In the **GDB IM Determination**, insert the following in Subpart 1 of Part 5:

#### "5.1.6 Modification or exemption of CPP application requirements

- "(1) The **Commission** may approve a modification to, or exemption from, any requirement set out in—
- "(a) this subpart;
  - "(b) Subpart 5;
  - "(c) Subpart 6; or
  - "(d) schedules relating to subparts identified in paragraphs (a) to (c) above.
- "(2) A modification or exemption may be approved where, in the **Commission's** opinion, the modification or exemption will not detract, to an extent that is more than minor, from—
- "(a) the **Commission's** evaluation of the **CPP proposal**;
  - "(b) the **Commission's** determination of a **CPP**; and
  - "(c) the ability of interested persons to consider and provide their views on the **CPP proposal**.
- "(3) A modification or exemption will only apply for the purposes of assessing compliance of a **CPP application** under s 53S(1) of the **Act**—
- "(a) if the **Commission** has previously approved a request by a **CPP applicant** for the modification or exemption in accordance with clause 5.1.7;
  - "(b) in respect of the **CPP applicant** and the **CPP application** identified in the **Commission's** approval; and
  - "(c) if the **CPP applicant** elects to apply the modification or exemption by:
    - "(i) meeting all conditions and requirements specified in the approval that relates to the modification or exemption; and
    - "(ii) providing the relevant information specified in clause 5.1.8 as part of its **CPP application**.

#### "5.1.7 Process for obtaining a modification or exemption

- "(1) At any time prior to providing the **Commission** with a **CPP application**, a **CPP applicant** may request modifications or exemptions to the requirements listed in clause 5.1.6(1) as alternatives to those requirements.
- "(2) A request by a **CPP applicant** must—
- "(a) be in writing;
  - "(b) include the following information:

- "(i) the **CPP applicant's** name and contact details;
  - "(ii) a brief description of the key features of its intended **CPP proposal**;
  - "(iii) the date that the **CPP applicant** intends to submit the **CPP application** for which a modification or exemption is sought;
  - "(iv) a list of the specific modifications or exemptions sought;
  - "(v) an explanation of why the **CPP applicant** considers the requirements in clause 5.1.6(2) are met;
  - "(vi) evidence in support of the explanation provided under subparagraph (v); and
  - "(vii) identification of any information that is commercially sensitive.
- "(3) Subparagraph (2)(b)(vi) may be satisfied by submitting a certificate, signed by a senior manager of the **CPP applicant**, setting out the factual basis on which he or she believes the requirements in subclause 5.1.6(2) are met.
- "(4) In considering whether to approve a request for modification or exemptions, the **Commission** may seek, and have regard to—
- "(a) views of interested persons within any time frames and processes set by the **Commission**; and
  - "(b) views of any person the **Commission** considers has expertise on a relevant matter.
- "(5) As soon as reasonably practicable after receipt of a request for modifications or exemptions the **Commission** will, by notice in writing, advise the **CPP applicant** as to whether:
- "(a) any of the modifications or exemptions are approved; and
  - "(b) the approval of any modification or exemption is subject to conditions or requirements that must be met by the **CPP applicant**.

"5.1.8 Information on modification or exemption of information requirements

"Where a **CPP applicant** elects to apply a modification or exemption approved by the **Commission** in accordance with clause 5.1.7, it must include as part of its **CPP application**—

- "(a) a copy of the **Commission's** approval;
- "(b) a list of the approved modifications or exemptions which the **CPP applicant** has elected to apply in its **CPP application**;
- "(c) evidence that any conditions or requirements of the approval have been met; and
- "(d) an indication, at the relevant locations within the document or documents comprising the **CPP application**, as to where the modifications or exemptions have been applied."



*Alternative methodologies with equivalent effect*

6.2 In the **GDB IM Determination**, insert the following in Subpart 3 of Part 5:

**“Section 5 Alternative methodologies with equivalent effect**

**“5.3.33 Alternative methodologies with equivalent effect**

- "(1) A **CPP applicant**, in making a **CPP application**, may apply an alternative methodology to that specified for—
- "(a) cost allocation and asset valuation in Section 2;
  - "(b) treatment of taxation in Section 3;
  - "(c) the estimation of **term credit spread differentials** in Section 4; or
  - "(d) pricing methodologies in Subpart 4.
- "(2) The **Commission**, in evaluating a **CPP proposal** and in determining a **CPP** for a **GDB**, may apply the alternative methodology elected by the **CPP applicant**.
- "(3) An alternative methodology applied by either a **GDB** or the **Commission** in accordance with this clause must:
- "(a) produce an equivalent effect within the **CPP regulatory period** to the methodology that would otherwise apply; and
  - "(b) not detract from the promotion of the purpose of Part 4 of the **Act**."

6.3 In the **GDB IM Determination**, insert the following in Subpart 5 of Part 5:

**“Section 10 Information relevant to alternative methodologies**

**“5.5.33 Demonstration that alternative methodologies have equivalent effect**

- "(1) Where a **CPP applicant** applies alternative methodologies in accordance with clause 5.3.33, it must provide:
- "(a) a list and description of each alternative methodology applied;
  - "(b) an indication, at the relevant locations within the **CPP application**, as to where the alternative methodologies have been applied;
  - "(c) reasons why each of the alternative methodologies have been applied; and
  - "(d) evidence demonstrating that each alternative methodology complies with clause 5.3.33(3).
- "(2) Paragraph (1)(d) may be satisfied by submitting a certificate signed by an senior manager of the **CPP applicant** setting out the factual basis on which he or she believes each alternative methodology complies with clause 5.3.33(3)."

*CPP proposals must be complete in all material respects*

6.4 In the **GDB IM Determination**, replace clause 5.1.1(2) with:

- “(2) CPP application** means an application containing, in all material respects, the information specified in-

- "(a) this subpart; and
- "(b) Subpart 5."

6.5 In the **GDB IM Determination**, replace clause 5.5.1(1) with:

"(1) Subject to subclause (2), a **CPP proposal** must contain, in all material respects, the information specified in this subpart."

## 7. GTB IM Amendments

### *Exemptions and modifications to CPP process and content requirements*

7.1 In the **GTB IM Determination**, insert the following in Subpart 1 of Part 5:

#### "5.1.6 Modification or exemption of CPP application requirements

"(1) The **Commission** may approve a modification to, or exemption from, any requirement set out in—

- "(a) this subpart;
- "(b) Subpart 5;
- "(c) Subpart 6; or
- "(d) schedules relating to subparts identified in paragraphs (a) to (c) above.

"(2) A modification or exemption may be approved where, in the **Commission's** opinion, the modification or exemption will not detract, to an extent that is more than minor, from—

- "(a) the **Commission's** evaluation of the **CPP proposal**;
- "(b) the **Commission's** determination of a **CPP**; and
- "(c) the ability of interested persons to consider and provide their views on the **CPP proposal**.

"(3) A modification or exemption will only apply for the purposes of assessing compliance of a **CPP application** under s 53S(1) of the **Act**—

- "(a) if the **Commission** has previously approved a request by a **CPP applicant** for the modification or exemption in accordance with clause 5.1.7;
- "(b) in respect of the **CPP applicant** and the **CPP application** identified in the **Commission's** approval; and
- "(c) if the **CPP applicant** elects to apply the modification or exemption by:
  - "(i) meeting all conditions and requirements specified in the approval that relates to the modification or exemption; and
  - "(ii) providing the relevant information specified in clause 5.1.8 as part of its **CPP application**.

"5.1.7 Process for obtaining a modification or exemption

- "(1) At any time prior to providing the **Commission** with a **CPP application**, a **CPP applicant** may request modifications or exemptions to the requirements listed in clause 5.1.6(1) as alternatives to those requirements.
- "(2) A request by a **CPP applicant** must—
  - "(a) be in writing;
  - "(b) include the following information:
    - "(i) the **CPP applicant's** name and contact details;
    - "(ii) a brief description of the key features of its intended **CPP proposal**;
    - "(iii) the date that the **CPP applicant** intends to submit the **CPP application** for which a modification or exemption is sought;
    - "(iv) a list of the specific modifications or exemptions sought;
    - "(v) an explanation of why the **CPP applicant** considers the requirements in clause 5.1.6(2) are met;
    - "(vi) evidence in support of the explanation provided under subparagraph (v); and
    - "(vii) identification of any information that is commercially sensitive.
- "(3) Subparagraph (2)(b)(vi) may be satisfied by submitting a certificate, signed by a senior manager of the **CPP applicant**, setting out the factual basis on which he or she believes the requirements in subclause 5.1.6(2) are met.
- "(4) In considering whether to approve a request for modification or exemptions, the **Commission** may seek, and have regard to—
  - "(a) views of interested persons within any time frames and processes set by the **Commission**; and
  - "(b) views of any person the **Commission** considers has expertise on a relevant matter.
- "(5) As soon as reasonably practicable after receipt of a request for modifications or exemptions the **Commission** will, by notice in writing, advise the **CPP applicant** as to whether:
  - "(a) any of the modifications or exemptions are approved; and
  - "(b) the approval of any modification or exemption is subject to conditions or requirements that must be met by the **CPP applicant**.

"5.1.8 Information on modification or exemption of information requirements

"Where a **CPP applicant** elects to apply a modification or exemption approved by the **Commission** in accordance with clause 5.1.7, it must include as part of its **CPP application**—

- "(a) a copy of the **Commission's** approval;

- "(b) a list of the approved modifications or exemptions which the **CPP applicant** has elected to apply in its **CPP application**;
- "(c) evidence that any conditions or requirements of the approval have been met; and
- "(d) an indication, at the relevant locations within the document or documents comprising the **CPP application**, as to where the modifications or exemptions have been applied."

*Alternative methodologies with equivalent effect*

7.2 In the **GTB IM Determination**, insert the following in Subpart 3 of Part 5:

**"Section 5 Alternative methodologies with equivalent effect**

**"5.3.29 Alternative methodologies with equivalent effect**

- "(1) A **CPP applicant**, in making a **CPP application**, may apply an alternative methodology to that specified for—
  - "(a) cost allocation and asset valuation in Section 2;
  - "(b) treatment of taxation in Section 3;
  - "(c) the estimation of **term credit spread differentials** in Section 4; or
  - "(d) pricing methodologies in Subpart 4.
- "(2) The **Commission**, in evaluating a **CPP proposal** and in determining a **CPP** for a **GTB**, may apply the alternative methodology elected by the **CPP applicant**.
- "(3) An alternative methodology applied by either a **GTB** or the **Commission** in accordance with this clause must:
  - "(a) produce an equivalent effect within the **CPP regulatory period** to the methodology that would otherwise apply; and
  - "(b) not detract from the promotion of the purpose of Part 4 of the **Act**."

7.3 In the **GTB IM Determination**, insert the following in Subpart 5 of Part 5:

**"Section 10 Information relevant to alternative methodologies**

**"5.5.30 Demonstration that alternative methodologies have equivalent effect**

- "(1) Where a **CPP applicant** applies alternative methodologies in accordance with clause 5.3.29, it must provide:
  - "(a) a list and description of each alternative methodology applied;
  - "(b) an indication, at the relevant locations within the **CPP application**, as to where the alternative methodologies have been applied;
  - "(c) reasons why each of the alternative methodologies have been applied; and
  - "(d) evidence demonstrating that each alternative methodology complies with clause 5.3.29(3).

"(2) Paragraph (1)(d) may be satisfied by submitting a certificate signed by an senior manager of the **CPP applicant** setting out the factual basis on which he or she believes each alternative methodology complies with clause 5.3.29(3)."

*CPP proposals must be complete in all material respects*

7.4 In the **GTB IM Determination**, replace clause 5.1.1(2) with:

"(2) **CPP application** means an application containing, in all material respects, the information specified in-

"(a) this subpart; and

"(b) Subpart 5."

7.5 In the **GTB IM Determination**, replace clause 5.5.1(1) with:

"(1) Subject to subclause (2), a **CPP proposal** must contain, in all material respects, the information specified in this subpart."

Sue Begg,  
*Deputy Chair*

Dated at Wellington this 12th day of November 2015.

Commerce Commission