ISBN 978-1-99-133249-3
Project no.14.07/46648
Public version

[Draft] Reconsideration of DPP3 default price-quality path for Firstlight Network Limited – Cyclone Gabrielle catastrophic event

Draft decision

Date: 1 May 2025

Overview of Firstlight's application and our draft decision

1 This paper sets out our draft decision under Section 52Q of the Commerce Act 1986 (Act) on Firstlight Network Limited's (Firstlight) application to reopen its default price-quality path (DPP3) in response to Cyclone Gabrielle.

1.1 Cyclone Gabrielle was a severe weather event which struck the upper North Island in mid-February 2023 causing extensive damage.

1.2 Firstlight is the electricity distribution business (EDB) serving about 26,000 customer connections in the Tairāwhiti and Wairoa regions of the East Coast impacted by the cyclone.

1.3 Firstlight has applied to recover from its consumers an additional $1.4 million related to the costs of the cyclone.

1.4 We are seeking views on our draft decision by 15 May 2025.

Cyclone Gabrielle and Firstlight's catastrophic event reopener application

2 Cyclone Gabrielle brought sustained high winds and rainfall over about a week, leading to flooding, toppled trees and land subsidence. This resulted in extensive damage to electricity network infrastructure as well as roads and bridges which hampered remediation. A national state of emergency declared on 14 February 2023 remained in place for a month.

3 Under the provisions of the DPP3 that we set, EDBs can apply for additional revenues in relation to catastrophic events, called a 'catastrophic event reopener'.

4 Firstlight applied to us for a catastrophic event reopener on 30 July 2024 seeking an additional $1.4 million due to the impacts of the cyclone on its network and service.[1] If accepted this would amend Firstlight's DPP3 price path,[2] and allow it to recover the additional revenues from its consumers.

---

[1] Firstlight Network, Application for Catastrophic Event Reopener and Allowance, 30 July 2024

[2] Firstlight's price-quality path under DPP3, for the period 1 April 2020 – 31 March 2025, was set under the name of Eastland Network per the Electricity Distribution Services Default Price-Quality Path Determination 2020 [2019] NZCC. Eastland was bought and renamed to Firstlight Network effective 31 March 2023.

5 Firstlight presented actual opex and capex event remediation costs for regulatory years (RY)23 and RY24, and forecast costs for RY25. It sought $1.357 million in additional net costs assessed as the price path impact of this expenditure.[3] It also sought $28,000 for the impact of the cyclone on its quality incentive adjustment.[4] There were no insurance proceeds to consider.

6 In support of its application, Firstlight submitted a confidential report from an external review of its application, a redacted version of which we have published.[5]

Our draft decision is to reopen Firstlight's DPP3 price path and determine a catastrophic event allowance of $1.372 million

7 Our draft decision is:

7.1 that the impact of Cyclone Gabrielle on Firstlight's network qualifies as a catastrophic event;

7.2 to accept most but not all of the event remediation costs presented by Firstlight, approving in nominal terms $4.924 million capex, associated $4.591 million value of commissioned assets (VCA), and $668,000 opex;[6]

7.3 to reopen Firstlight's DPP3 price path and determine a catastrophic event allowance of $1.372 million (present value 31 March 2025). This is for additional net costs associated with the accepted event remediation costs, determined as the amounts not recovered through opex IRIS and capex retention and assessed as 23.5% of accepted event opex and VCA;[7]

7.4 that the cyclone had no impact on Firstlight's quality incentive adjustment (QIA) amount and to decline Firstlight's claim for such costs ($28,000);

7.5 this is a recoverable allowance for RY25 which Firstlight may recover through consumer pricing from RY27.[8]

---

3 Firstlight applied for $1.357 million additional net costs, calculated as the building blocks allowable revenue (BBAR) impact of its presented event remediation costs. As set out in Attachment D, our interpretation of additional net costs is different but when assessed on our accepted event remediation costs, it does however result in a very similar amount.

4 By EDB IMs clause 1.1.4(2), a catastrophic event allowance can include the impact of the event on an EDB's quality incentive adjustment (QIA). The QIA is an incentive if an EDB exceeds quality targets, and a penalty if it falls short.

5 MW Consultants, 'Independent Review of Catastrophic event Remediation Expenditures' (Redacted Version), July 2024.

6 Our draft decision is to decline the forecast RY25 opex item 'Out of zone tree clearance' for $150,000. There is no clear evidence that this forecast activity and amount is a consequence of the cyclone. See Attachment C for more discussion.

7 That is, the value of the allowance is related to 'additional net costs' and not simply the value of accepted event costs, but is derived from them. See Attachment D for discussion of additional net costs.

8 While transitional wash-up balances are now available for drawdown from year one of the following regulatory period (ie, RY26) under the IMs, the practical timing of this decision means the adjustment to the wash-up account will occur after Firstlight have already set pricing for RY26.

8 Averaged over the approximately 26,000 consumer connections (ICPs) in Firstlight's network, this allowance is about $53 each. If Firstlight recovers the allowance over one year, it equates to an average one-off increase of about $4 per month per ICP over that year. Firstlight may choose to recover the allowance over a longer time period, with a lower average monthly impact.

9 We have made this draft decision because we are satisfied that reopening the price path in these circumstances is in the long-term interests of consumers and would promote the s 52A purpose of Part 4 of the Act. Allowing Firstlight to recover costs prudently incurred in remediating cyclone damage promotes network investment to meet consumer needs.

Our assessment of Firstlight's application

10 Our assessment of Firstlight's application and our draft decision have been made in accordance with the Electricity Distribution Business Input Methodologies (EDB IMs) in effect at the time of the cyclone.[9]

11 We have sought to be proportionate in our assessment focussing on where our scrutiny can add value for consumers, and recognising the materiality of the application and role of reopeners within the regime.

12 Details of the regulatory framework, interpretations and assessments underpinning our draft decision are presented in the following attachments:

12.1 *Attachment A – Reconsideration framework* presents the regulatory framework for assessing Firstlight's application.

12.2 *Attachment B – Assessment of catastrophic event criteria* presents our assessment of Firstlight's application against the catastrophic event criteria.

12.3 *Attachment C – Assessment of event remediation costs* sets out our assessment of event remediation costs presented by Firstlight.

12.4 *Attachment D – Reopening Firstlight's price path* sets out our draft decision to reopen Firstlight's DPP3 price, ie, whether to, how, and by how much.

12.5 *Attachment E – Impact on quality incentive adjustment* assesses the cyclone's impact on Firstlight's quality incentive adjustment.

---

[9] That is the Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26 (as amended). For convenience, we recommend referring to the consolidated version of the IMs: Commerce Commission, Electricity Distribution Services Input Methodologies Determination 2012 – consolidated as of 23 April 2024.

Table 1. Summary of Firstlight's application and our draft decision.

Applicant	Firstlight Network Limited
Reopener type	Catastrophic Event (DPP3).
Application link	Firstlight catastrophic event application (Cyclone Gabrielle)
Catastrophic event	The impact of Cyclone Gabrielle on Firstlight's network (12-16 February 2023) qualifies as a catastrophic event.
Materiality threshold	The materiality threshold has been met. As set out in Attachment B, the DPP3 price path impact is $1.363 million > 1% aggregate forecast net allowable revenue (FNAR) $765,000 for the DPP3 years in which event remediation costs were or will be incurred.
Draft outcome	Reopening Firstlight's DPP3 price path and determining a catastrophic event reopener allowance of $1.372 m, as a recoverable cost for RY25. Effective date 31 March 2025, the last day of the DPP3 period.
Estimated consumer bill impact	Total (non-recurring) impact of $1.372 million. This is about 0.6% of Firstlight's maximum allowable revenue (MAR) for DPP4, the period in which the allowance becomes recoverable. For Firstlight's about 26,000 ICPs, this averages to about $53 per ICP. If recovered in one year this is an average increase of $4.40 per ICP per month for that year.
Specific consultation questions	We have not included specific consultation questions. We welcome views on all aspects of the draft decision.

Submissions on this paper

13 We seek your views on the matters discussed in this paper and the proposed drafting of the amended Firstlight Network Default Price-Quality Path Determination (DPP3) by 5pm, Thursday 15 May 2025.

14 Please address your submission to Ben Woodham c/o infrastructure.regulation@comcom.govt.nz with 'Firstlight catastrophic event reconsideration consultation' in the subject line of your email.

15 We prefer submissions in both a format suitable for word processing (such as a Microsoft Word document), as well as a 'locked' format (such as a PDF) for publication on our website.

Confidential submissions

16 While we encourage public submissions so that all information can be tested in an open and transparent manner, we recognise that there may be cases where parties that make submissions wish to provide information in confidence. We offer the following guidance:

16.1 If it is necessary to include confidential material in a submission, the information should be clearly marked, with reasons why that information is considered to be confidential.

16.2 Where commercial sensitivity is asserted, submitters must explain why publication of the information would be likely to unreasonably prejudice their commercial position or that of another person who is the subject of the information.

16.3 Both confidential and public versions of the submission should be provided.

16.4 The responsibility for ensuring that confidential information is not included in a public version of a submission rests entirely with the party making the submission.

17 Please note that all submissions we receive, including any parts that we do not publish, can be requested under the Official Information Act 1982. This means we would be required to release material that we do not publish unless good reasons exist under the Official Information Act 1982 to withhold it. We would normally consult with the party that has provided the information before any disclosure is made.

18 We request that you provide multiple versions of your submission if it contains confidential information or if you wish for the published electronic copies to be ‘locked’. This is because we intend to publish all submissions on our website. Where relevant, please provide both an ‘unlocked’ electronic copy of your submission, and a clearly labelled ‘public’ version.

Attachment A Reconsideration framework

A1 This attachment presents the regulatory framework for assessing Firstlight's application to us to reconsider and amend its DPP3 price path using a catastrophic event reopener for the impacts of Cyclone Gabrielle on its network and service.

The DPP price path and quality standards may only be reconsidered in limited circumstances

A2 Firstlight is a non-exempt EDB subject to price-quality regulation by the Commission under Part 4 of the Commerce Act 1986 (Act). The revenues it may recover from its consumers for the period in which the cyclone occurred were determined in the default price-quality path DPP3.[10]

A3 We determined the DPP3 price path under the EDB Input Methodologies (EDB IMs) on a forecast, *ex-ante* basis to cover the regulatory period 1 April 2020 to 31 March 2025. Once determined, the DPP3 price path and quality standards may not be reconsidered (or reopened) except in limited circumstances.[11] Under s 52T(1)(c)(ii) of the Act, these circumstances include those specified in Subpart 5 of Part 4 of the EDB IMs.

A4 The wording of s 52T(1)(c) indicates that reopeners are limited to within the DPP regulatory period. We cannot reopen a different regulatory period to the one in which the reopener event occurred.

A5 We can only undertake a reopener in accordance with the EDB IMs. The EDB IMs applicable to this application are those which were in effect at the time of the cyclone.[12] We refer to these as the 'DPP3 IMs' to be clear that subsequent amendments, including those related to reopeners published in March 2025, do not apply here.[13]

A6 Under clause 4.5.6(1)(a)(vi) of the DPP3 IMs, one of the specified circumstances where we may reconsider the DPP3 price path is if an EDB applies to the Commission and satisfies us that a 'catastrophic event' has occurred under clause 4.5.1.

---

10 Commerce Commission, Electricity Distribution Services Default Price-Quality Path Determination 2020 [2019] NZCC 21, (27 November 2019)

11 Sections 52T(1)(c)(ii) and 53ZB of the Act.

12 That is the Electricity Distribution Services Input Methodologies Determination 2012 [2012] NZCC 26 (as amended). For convenience, we recommend referring to the consolidated version of the IMs: Commerce Commission, Electricity Distribution Services Input Methodologies Determination 2012 – consolidated as of 23 April 2024.

13 Commerce Commission, Amendments to input methodologies for electricity distribution businesses and Transpower (Reopeners and other matters), 27 March 2025

A catastrophic event reopener enables an EDB to remediate the impacts of an event beyond its control on its network and on its service to consumers

A7 The aim of catastrophic event reopeners is to allow, where possible, that distributors are able and incentivised to rectify the adverse consequences of the catastrophic event and restore service to consumers. [14]

Reopener criteria under clause 4.5.1 of the EDB IMs

A8 To qualify as a catastrophic event, the event must meet the criteria below from clause 4.5.1 of the DPP3 IMs. The event must be:

> *(a) beyond the reasonable control of the EDB;*
>
> *(b) in relation to which expenditure is not explicitly or implicitly provided for in the* ***DPP****;*
>
> *(c) that could not have been reasonably foreseen at the time the* ***DPP*** *was determined; and*
>
> *(d) in respect of which –*
>
> > *(i) action required to rectify its adverse consequences cannot be delayed until a future* ***regulatory period*** *without quality standards being breached;*
> >
> > *(ii) remediation requires either or both of* ***capital expenditure*** *or* ***operating expenditure*** *during the* ***regulatory period****;*
> >
> > *(iii) the full remediation costs are not provided for in the* ***DPP****; and*
> >
> > *(iv) in respect of an* ***EDB*** *subject to a* ***DPP****, the cost of remediation net of any insurance or compensatory entitlements has had or will have an impact on the price path over the* ***disclosure years*** *of the* ***DPP*** *remaining on and after the first date at which a remediation cost is proposed to be or has been incurred, by an amount equivalent to at least 1% of the aggregated* ***FNAR*** *for the* ***disclosure years*** *of the* ***DPP*** *in which the cost was or will be incurred.*

A9 Clause 4.5.6(2) of the DPP3 IMs also states that where the costs to rectify the adverse consequences of the catastrophic event are fully covered by either the DPP (e.g. through an operational expenditure allowance for self-insurance); or commercial insurance held by the EDB, then the Commission will only reconsider the quality standards of the DPP.

Materiality threshold and interpretation of costs incurred

A10 The catastrophic event 'materiality threshold' under the DPP3 IMs is set out in clause 4.5.1(d)(iv) above.[15]

---

[14] Commerce Commission, DPP3 Final decision reasons paper, 27 November 2019, paragraph X.91.

[15] As part of the 2023 IMs review, this materiality threshold was changed from a 'revenue test' (ie, price path impact) to a 'cost test', but that does not apply here.

A11 The terms 'cost' and 'incurred' here are not defined in the IMs, and require interpretation. The timing of when costs are incurred is important because it determines FNAR from which years is included in the 1% of aggregate FNAR threshold.

A12 For assessing clause 4.5.1(d)(iv), operating expenditure (opex) is uncontroversially a cost incurred in the year of spend. Our interpretation is that capital expenditure (capex) is likewise a cost incurred in the year of spend.[16]

A13 Hence if event remediation opex and capex are incurred in a single year, with no further expenditure, then the 1% of FNAR calculation is confined to that single year. The materiality threshold calculation should ignore the commissioning date of the same capex if it occurs in a later year. If opex and capex are incurred in additional years then those additional years should also be included in the 1% of aggregate FNAR calculation.

Our discretion to reopen and amend the DPP3 price-quality path

A14 Our decision making to reopen and amend a price-quality path is a two-step process:

A14.1 first, we assess whether the event meets the criteria for a 'catastrophic event' under clause 4.5.1 of the DPP3 IMs;

A14.2 then, if we decide the event does meet the clause 4.5.1 criteria, under clauses 4.5.6(1)(a)(i) and 4.5.6(2) of the DPP3 IMs, we exercise our discretion on whether and how to reopen and amend the DPP3 price-quality path.

A15 Our discretion on whether to reopen the price-quality path is guided by the extent to which reopening the price path in these circumstances would promote the s 52A purpose of Part 4 of the Act.

A16 Under clause 4.5.7(1), where we have determined that the DPP should be amended, we may amend either or both of the price path or the quality standards and quality measures specified in the DPP determination. Firstlight has not applied for any reconsideration of its quality standards or measures, and we have limited our reconsideration to its price path.

A17 If we decide to reopen the price path under clause 4.5.6(1), then under clause 4.5.7(2), we cannot amend the price path more than is necessary to mitigate the effect of the catastrophic event on price.

[16] This supersedes any previous views, including that capital costs (ie, the return on and of capital) on assets commissioned in event remediation are the costs relevant to capital works when assessing this threshold.

Reopening the DPP3 price path could involve one or both of a catastrophic event reopener allowance and an amendment to price path allowed revenues

A18 Under the DPP3 IMs, if we reopen the DPP3 price path, we may amend the price path to mitigate the catastrophic event with one or both of two mechanisms:

A18.1 a catastrophic event allowance in relation to costs incurred between the date of the event and the effective date of our decision, applied as a recoverable cost to the DPP3 price path; and/ or

A18.2 a forward-looking price path amendment, in which we may update the FNAR and forecast aggregate value of commissioned asset (FAVCA) for relevant years in the DPP3 regulatory period.

A19 Each option allows us to apply a quality incentive scheme adjustment caused by the impact of the catastrophic event.

A20 Catastrophic event allowance is defined in the DPP3 IMs in clause 1.1.4(2) as:

… the amount determined by the Commission for–

(a) additional net costs (over and above those provided for in a DPP determination or CPP determination) prudently incurred by an EDB in responding to a catastrophic event, other than costs that are foregone revenue;

(b) recoverable costs and passthrough costs the EDB was permitted to recover under the applicable DPP determination or CPP determination through prices, but did not recover due to a catastrophic event; and

(c) the impact of a catastrophic event on any quality incentive adjustment, incurred in or relating to the period between a catastrophic event and the effective date of an amendment to the DPP or CPP following reconsideration of the price-quality path under clause 4.5.6(1)(a)(i) or clause 5.6.7(2)(a).

Additional net costs

A21 Additional net costs is not a defined term in the DPP3 IMs. It has been defined in subsequent IM Amendments, which do not apply to this decision.[17] For discussion of our interpretation of additional net costs in the present case, see Attachment D.

[17] Commerce Commission, Amendments to input methodologies for electricity distribution businesses and Transpower (Reopeners and other matters), 27 March 2025, paragraph 2.73

Attachment B Assessment of catastrophic event criteria

B1 This attachment presents our assessment of Firstlight's application against the catastrophic event criteria.

Assessment of catastrophic event criteria

B2 Table B1 below sets out the catastrophic event criteria in the DPP3 IMs, Firstlight's views and supporting evidence on meeting them, and our assessment of that evidence for the purpose of our draft decision.

B3 In summary, we are satisfied that the impacts of Cyclone Gabrielle on its network was an event beyond Firstlight's control, could not have been foreseen when the DPP was set, and that significant expenditure not provided in the DPP3 price path was required to remedy the adverse consequences.

B4 We interpret the materiality threshold here as a gate through which an application must pass for further assessment. To increase certainty to applicants, our view is that it is preferable to assess the materiality threshold on the basis of reasonable costs presented in an application.[18] The alternative is to base it on accepted event remediation costs, only available after engagement and assessment of the application and costs presented.

B5 Also see Attachment A, section *materiality threshold and interpretation of costs incurred* for interpretations relevant to assessing the materiality threshold.

[18] In exercising our discretion to reconsider the price path, we reserve the right to reject applications where our scrutiny of the accepted costs demonstrates that an objective assessment of the costs presented would not have met the materiality threshold.

COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

Table B1 *Assessment of Firstlight's Gabrielle application against the DPP3 IMs catastrophic event criteria*

Criteria	Firstlight's view and evidence[19]	Our assessment
DPP3 EDB IMs, clause 4.5.1 – Catastrophic Event means an event -		
(a) beyond the reasonable control of the **EDB**;	Cyclone Gabrielle was an unforeseeable natural disaster which incurred significant damage to the Te Tairāwhiti and Wairoa regions. The damage was significant and beyond our reasonable control.	Criterion has been met. We accept that Cyclone Gabrielle was an unforeseeable natural disaster which incurred significant damage to the Te Tairāwhiti and Wairoa regions. During the event, rainfall totals reached nearly 450 mm, which is roughly a quarter of the usual amount in an entire year. Rainfall intensity peaked at nearly 40 mm per hour in some places. NIWA analysed that pre-Cyclone Gabrielle, the probability of a flood this size occurring in a given year, known as an Annual Recurrence Interval (ARI), was as high as a one in 1,000-year event at one river site.[20] The occurrence of the cyclone was clearly beyond Firstlight's control. We have also considered the extent to which Firstlight could have prevented or substantially mitigated the impact of the event through undertaking probabilistic risk assessment on high impact low probability events and implementing mitigations. We consider undertaking assessments against a 1/500 year return period is an industry practice. We expect EDBs to undertake risk assessments on high Impact low probability events,

19 Per summary table in Firstlight's cyclone Gabrielle application, Appendix A.

20 https://www.hbrc.govt.nz/assets/Document-Library/Reports/External-Reports/NIWA-letterreport-230224.pdf, page 12

Criteria	Firstlight's view and evidence[19]	Our assessment
		standards that have been mentioned by EDBs in asset management plans (AMPs) is assessing the impact to assets using a 1/500 year ARI.[21] The ARI of Cyclone Gabrielle has been assessed as greater than the frequency / return period used.
(b) in relation to which expenditure is not explicitly or implicitly provided for in the **DPP**;	DPP3 did not provide for expenditure pertinent to the natural disaster.	Criterion has been met. The DPP reflects the typical costs of running each EDB, which includes some budget towards responding to weather events as these would have been included in the historic data set used for setting capex and opex forecasts. However, Cyclone Gabrielle was an extreme weather event for which a comparable event doesn't exist in the EDB historic datasets nor was additional expenditure for responding to catastrophic events either explicitly or implicitly provided for when DPP3 was set. Significant storm events may have occurred on Firstlight network in the reference period, but none were declared as a state of emergency.[22] So it could be argued that events of this magnitude were not provided explicitly or implicitly in the DPP.
(c) that could not have been reasonably foreseen at the time the **DPP** was determined and;	The DPP3 determination did not anticipate the natural disaster.	Criterion has been met.

21 IAENGG, prepared for the Commerce Commission, NZ EDB 2023 AMP REVIEW Resilience Assessment Report, page 5.

22 https://www.civildefence.govt.nz/resources/previous-emergencies/declared-states-of-emergency/

Criteria	Firstlight's view and evidence[19]	Our assessment
		An event of this magnitude could not have been reasonably foreseen to occur specifically within the DPP3 period at the time DPP3 was determined. Rare weather events, such as Cyclone Gabrielle and the extensive impacts which these would have on a network, could not have been predicted at the time of setting the DPP. While we would expect some storm event preparation, and potential forecasting of high impact low probability (HILP) events, we would not expect these events to be "reasonably foreseen", or the consequences allowed for in setting a DPP. In general, we would expect to see in AMPs the event and parameters used to assess the impact to assets and consumers. EDBs should also be re- considering the ARI with climate changes creating more extreme weather events.
(d) in respect of which- (i) action required to rectify its adverse consequences cannot be delayed until a future **regulatory period** without quality standards being breached;	The natural disaster occurred in February 2023, over 2 years before the start of the next DPP. The actions taken were of urgency to resolve the 4,500 ICPs that had experienced an outage, as detailed in Appendix C [of Firstlight's application].	Criterion has been met. The natural disaster occurred in February 2023, over 2 years before the start of the next DPP. The actions taken were of urgency to resolve the 4,500 ICPs that had experienced an outage. Based on its actual quality metrics and interruptions attributed to the cyclone, Firstlight would have breached RY23 quality standards even had the cyclone not occurred. As such, it was not possible for Firstlight to defer the works until DPP4 without *further* breaching the relevant quality standards.

Criteria	Firstlight's view and evidence[19]	Our assessment
(ii) remediation requires either or both of **capital expenditure** or **operating expenditure** during the **regulatory period**;	Necessary capital and operating expenditure is detailed in Appendix B [of Firstlight's application]. And assessed in the confidential independent engineers report. [The redacted version of which we have published.[23]]	Criterion has been met. We are satisfied that cyclone remediation required both capital expenditure and operating expenditure. From Firstlight's application, we have accepted a total of $668,000 opex and $4.924 million capex related to the cyclone and incurred in the DPP3 regulatory period.
(iii) the full remediation costs are not provided for in the **DPP**; and	Full remediation costs were unforeseen and were not provided for in the DPP.	Criterion has been met. DPP3 opex forecasts were set based upon a base-step-trend methodology, with 2019 actual opex setting the base level. Firstlight's base level network opex did include System Interruption and Emergency (SIE) from 2019 actual opex, but not at the level required to respond to an event of this magnitude. Firstlight's 2019 AMP forecasts SIE between FY20 and FY29 to be $1.4 - 1.6 million pa, significantly lower than the actual 2023 SIE opex in Firstlight's ID reporting ($3.0 million) No relevant remediation costs were provided for within either of the opex "step" or "trend" assessments either. So Firstlight's DPP3 opex allowance did not provide for full remediation costs. No relevant costs were provided in Firstlight' DPP3 capex allowance, set in relation to its 2019 AMP.

[23] MW Consultants, 'Independent Review of Catastrophic event Remediation Expenditures' (Redacted Version), July 2024.

Criteria	Firstlight's view and evidence[19]	Our assessment
(iv) in respect of an **EDB** subject to a **DPP** the cost of remediation net of any insurance or compensatory entitlements has had or will have an impact on the price path over the **disclosure years** of the **DPP** remaining on and after the first date at which a remediation cost in proposed to be or has been incurred, by an amounts equivalent to at least 1% of the aggregated **FNAR** for the for the **disclosure years** of the DPP in which the cost was or will be incurred.	Firstlight does not hold insurance to cover the remedial works applicable to Cyclone Gabrielle. The materiality threshold to satisfy clause 4.5.1(d)(iv) is shown in application Table 3 [of Firstlight's application].	Criterion has been met. The price path impact is $1.363 million which exceeds the materiality threshold $765,000. Costs were incurred in RY23, RY24 and RY25. The nominal FNAR values for these years in the DPP3 determination are: $24.993 million, $25.493 million, and $26.003 million respectively. Aggregated and multiplied by 1% gives $765,000. The price path impact is $1.363 million. This is the total after smoothing of the increase in MAR over RY23, RY24 and RY25 from increasing the opex and VCA allowances in the DPP3 financial model by the amounts presented in Firstlight's application. Firstlight's application says it does not hold insurance to cover the remedial works applicable to Cyclone Gabrielle, and there are no insurance or compensatory entitlements to be considered.

Attachment C Assessment of event remediation costs

C1 This attachment sets out our assessment and acceptance of event remediation costs presented in Firstlight's application.

We have assessed and accepted most of Firstlight's event remediation costs presented

C2 We have assessed the event remediation costs presented by Firstlight against the requirements to be prudent, efficient and related to the cyclone.

C3 These requirements relate to:

C3.1 clause 4.5.7(2) of the DPP3 IMs requiring that price path amendments can be no more than is reasonably necessary to mitigate the effect of the catastrophic event; and

C3.2 the clause 1.1.4(2) definition of catastrophic event allowance as including additional net costs 'prudently incurred by an EDB in responding to a catastrophic event'.

C4 We have reviewed the nature of the works for which costs have been presented as well as the ways (eg, contractual terms) in which the level of those costs have been established. In doing so, we are satisfied that our draft decision complies with clauses 1.1.4(2) and 4.5.7(2).

C5 Our approach was based on the descriptions and supporting information in Firstlight's application, the independent external report, and Firstlight's response to follow-up questions from us on the nature, timing and costing of some items.

C6 Firstlight engaged MW Consultants for an external review of the event remediation works, and their costs, included in its application and set out in its Appendix B. The scope of that review was: assessment of all of these items as reasonably necessary to mitigate the effects of the cyclone, how this was determined, the reasonability of any particular judgements made by Firstlight staff when including or excluding an item or its value, and any other matters arising.

C7 A confidential report from this review was submitted with Firstlight's application and facilitated our assessment of the application. We have published a redacted version of this report.[24]

C8 Key points from the report's conclusions are:

C8.1 All event remediation items applied for were necessary to reasonably mitigate the effects of Cyclone Gabrielle as a catastrophic event. A list of exceptions identified ahead of submission lead to all of the items considered

---

[24] MW Consultants, 'Independent Review of Catastrophic event Remediation Expenditures' (Redacted Version), July 2024.

as inapplicable being removed from Firstlight's application (eg, for being not related to the cyclone or for including betterment).

C8.2 After considering a range of factors including the contractual arrangements, nature of the response environment, and record keeping through the emergency response phase, the costs were reasonable and "*the response and remediation work was delivered as efficiently as it could have been given the circumstances*".

C9 We are satisfied that the contractual terms under which works were completed and costs incurred reasonably met the requirement to be efficient. Firstlight undertook benchmarking and used contracted rates for scheduled and unscheduled work. Contracted rates have been benchmarked through tendering processes to ensure market rates are being paid for services.

C10 Our assessment raised some questions on work undertaken on sub-transmission towers that was planned for RY25 and the temporary nature of work undertake to secure the towers during the event. We are satisfied that the work undertaken during the event was of a permanent nature and forecasted worked is no longer required and been adjusted accordingly by Firstlight.

We have assessed the value of commissioned assets profiles as well as capex presented

C11 In addition to opex and capex, we assessed the profile of the VCA resulting from event remediation capex presented.

C12 This is because our interpretation is that additional net costs are assessed as the IRIS and capex retention penalties on accepted event remediation, and capex retention is assessed against VCA (not capex).[25] One consequence of this is that assets commissioned after the end of DPP3 here cannot be accounted for in a DPP3 allowance, even if some or all of the related capex fell inside the DPP3 period.

Forecast costs for FY25 were from Firstlight's 2024 AMP and updated February 2025

C13 In addition to actual costs for RY23 and RY24, Firstlight's application includes forecast costs for RY25.[26] We have applied additional scrutiny to these forecasts costs ahead of including them in the CE allowance.

[25] At DPP resets, we set the VCA profile to be the same as the forecast capex allowances by year. This is a simplification in the absence of commissioning plans, addressed later with the actual VCA profiles subject to a capex wash-up. In the present case, it is appropriate to use actual commissioning timelines.

[26] Firstlight's application notes that these forecasts were accepted by the Firstlight Board in March 2024 as schedules 11a and 11b of its 2024 AMP.

C14 In response to follow-up questions from us, Firstlight in February 2025 updated its forecast FY25 capex level and VCA profile. The original and updated values are shown in Table C1 below. Our draft decision is to accept the updated capex and VCA amounts, and to decline only one opex item: $150,000 forecast for RY25 for 'Out of zone tree clearance'.

C15 Our assessment of RY25 forecast opex identified that this item was expenditure allocated for additional forecasted vegetation clearing to accommodate restoration and where future geotechnical work identifies vegetation management. The vegetation area had not been identified and was therefore not demonstrably a result of Cyclone Gabrielle.

C16 The cyclone clearly altered the surrounding landscape causing slips and creating new water paths. And as a result of these changes, it is expected that Firstlight will need to review maintenance and inspections plans on access tracks and vegetation into the future as part of normal maintenance strategies review cycles. However, there is no clear evidence that a review of maintenance schedules had been undertaken or that the $150,000 opex item is a consequence of the cyclone.

C17 Our draft decision includes accepting Firstlight's event remediation costs presented at the levels in Table C1 below, specifically:

C17.1 accepting all of the updated event remediation capex and associated VCA presented, being $4.924 million capex and $4.591 million VCA;

C17.2 accepting $668,000 of the $818,000 event remediation opex presented; and

C17.3 declining the forecast RY25 opex item 'Out of zone tree clearance' for $150,000. There is no clear evidence that this forecast activity and amount is a consequence of the cyclone.

Table C1. Firstlight event remediation costs presented in its application, updated later, and accepted in our draft decision. All amounts are nominal ($000).

Category	Regulatory Year	Event remediation costs in Application July 2024	Updated values February 2025	Accepted in our draft decision
Opex	RY23	$581	No change	$581
	RY24	$87	No change	$87
	RY25	$150	No change	$0
	Total	**$818**	**No change**	**$668**
Capex	RY23	$2,185	No change	$2,185
	RY24	$1,790	No change	$1,790
	RY25	$2,863	$949	$949
	Total	**$6,838**	**$4,924**	**$4,924**
VCA	RY23	$2,185	$2,144	$2,144
	RY24	$1,790	$1,433	$1,433
	RY25	$2,863	$1,014	$1,014
	Total	**$6,838**	**$4,591**	**$4,591**

Attachment D Reopening Firstlight's price path

D1 This attachment sets out our draft decision to reopen Firstlight's DPP3 price path and determine a catastrophic event allowance, and how we have calculated the value of this allowance.

Our draft decision is to reopen Firstlight's DPP3 price path

D2 Our draft decision is to reopen Firstlight's DPP3 price path. We have assessed the impact of Cyclone Gabrielle on the Firstlight's network between 12-16 February 2023 as having met the catastrophic event criteria to qualify as a catastrophic event. In addition, we are satisfied that the majority of event remediation costs presented by Firstlight meet the requirements to be prudent, efficient and related to Cyclone Gabrielle.[27]

D3 We are satisfied that reopening Firstlight's DPP3 price path in these circumstances promotes the Part 4 purpose, in particular the s 52A(1)(a) and (b) limbs. It does so by enabling Firstlight to recover, without undue delay, revenue for remediation costs prudently incurred in responding to the cyclone and not fully provided for in DPP3. This in turn maintains Firstlight's incentives to invest, including in replacement assets and to provide and to restore services in a timely manner at a quality that reflects consumer demands.

D4 Furthermore, our scrutiny of Firstlight's application against the criteria in the DPP3 IMs provides a check on the costs sought, with the Commission assessing the expenditure to be in the long-term benefit of consumers. This limits Firstlight's ability to extract excessive profits in these circumstances, promoting the outcome in s 52A(1)(d).

How and by how much to amend Firstlight's price path

D5 As set out in Attachment A, the DPP3 IMs provide two mechanisms for reopening the DPP3 price path in response to a catastrophic event:

D5.1 a CE allowance in relation to costs incurred between the date of the event and the effective date of our decision, applied as a recoverable cost to the DPP3 price path; and/ or

D5.2 a forward-looking price path amendment, in which we may update the FNAR and FAVCA for relevant years in the DPP3 regulatory period.

[27] Catastrophic event allowance definition part (a) in IMs clause 1.1.4(2) refers to costs "prudently incurred by an EDB in responding to a catastrophic event".

D6 Our draft decision is to determine a CE allowance for RY25 in respect of the total accepted event remediation costs, across RY23 and RY24 actual costs and RY25 forecast costs.

D7 With our final decision to be published after the end of the DPP3 period, this allowance-only approach avoids practical difficulties posed by the alternative – an allowance for RY23 and RY24 costs and adjusting RY25 allowable revenues after the end of the period for RY25 forecast costs.

D8 Including forecast costs in an allowance is available for this DPP3 reopener but will not be available for a similar reopener in DPP4. Following recent IM Amendments, a reopener event allowance is available for recovery of costs incurred as a result of a responsive reopener event, from the event date to the application date.[28]

We have assessed additional net costs as the incentive penalties on accepted event costs

D9 As set out in clause 1.1.4(2) of the DPP3 IMs, a CE allowance may include 3 types of cost: (a) additional net costs prudently incurred in relation to the event; (b) recoverable and passthrough costs not recovered due to the event; and (c) the impact of the event of any quality incentive adjustment.

D10 Additional net costs is not defined in the DPP3 IMs. Our interpretation here is that additional net costs here are the costs not recovered through the opex IRIS and capex retention adjustment. This view is consistent with the definition of additional net costs included in recent IM Amendments applicable for DPP4, which includes IRIS costs among other costs.[29]

---

28 Commerce Commission, Amendments to input methodologies for electricity distribution business and Transpower (reopeners and other matters) - Final decision and reasons paper, (27 March 2025), p.11

29 *Ibid*, p. 25

D11 Firstlight applied for $1.357 million additional net costs, calculated as the price path or building blocks allowed revenue (BBAR) impact of event remediation costs. A BBAR approach is not appropriate here. Under the DPP3 IMs the catastrophic event materiality threshold is indeed specified in terms of the price path impact of incurred costs (since changed in the 2023 IMs Review).[30] This is consistent with amending the forward-looking price path where forecast additional expenditure can be provided for by an uplift in expenditure allowances (including the mitigation of the IRIS impact of additional forecast expenditure). A CE allowance on the other hand applies primarily to *ex-post* expenditure from the date of the event, including expenditure up to the effective date of the decision. A CE allowance is therefore expressed in terms of additional net costs, which reflect the value of impacts including IRIS impacts of expenditure already incurred, and for which compensation is provided by a single recoverable cost amount.

D12 Our intention here is to compensate Firstlight in a present-value-neutral way for the IRIS incentive impacts of responding to the cyclone, in a way that is consistent with the DPP3 IMs. However, in the absence of perfect *ex-post* information on what those IRIS impacts will be when they are calculated in the next regulatory period, we have estimated an appropriate allowance using the applicable incentive rates to mitigate the effect of the catastrophic event on Firstlight. We consider this approach is appropriate in light of the timing and quantum of the application with respect to our overall DPP regime.

D13 We have calculated additional net costs here as the accepted value of assets commissioned within the DPP3 regulatory period in relation to the event (accepted event VCA) multiplied by the DPP3 capex retention factor (23.5%), plus accepted event opex incurred in the DPP3 period multiplied by the same rate.

D14 The capex retention factor here is specified as 23.5% in the DPP3 determination to closely match the effective opex retention rate that results from applying the DPP3 WACC 4.57% in all years of the opex IRIS calculation. Our draft approach retains the equality between opex and capex incentive rates that arises from the actual calculations.

D15 Table D1 below sets out these amounts, using the DPP3 WACC (4.57%) as the discount factor to cast all amounts to ‘end of RY25’ terms (ie, PV 31 March 2025).

[30] Commerce Commission, Electricity Distribution Services Input Methodologies (IM Review 2023) Amendment Determination 2023, (13 December 2023), p. 142

Table D1. Additional net costs for Firstlight's CE allowance, expressed on an end of RY25 basis. All amounts ($000).

Quantity All ($000)	Reg. Year	Accepted (nominal)	ANC - IRIS retention factor	ANC – IRIS retention amount	Escalator (DPP3 WACC 4.57%)	ANC end of RY25 (PV 31 March 2025)
Opex	RY23	581	23.5%	137	1.1435	156
	RY24	87	23.5%	20	1.0935	22
	RY25	-	23.5%	-	1.0457	-
VCA	RY23	2,144	23.5%	504	1.1435	576
	RY24	1,433	23.5%	337	1.0935	368
	RY25	1,014	23.5%	238	1.0457	249
Total ANC, end RY25 (PV 31 March 2025)						$1,372

D16 This approach considers penalties from opex IRIS and capex retention but not 'capital costs' ie, the regulated return and depreciation on the accepted event remediation VCA. This exclusion avoids the double recovery of these capital costs, an issue under the DPP3 IMs which is identified and remediated in the recent IM Amendments (which do not apply to this decision).[31] Capital costs related to Firstlight's actual VCA will be recovered in the capex wash up in the second year of DPP4.

D17 Any underspend due to deferring planned work has not been considered in calculating additional net costs and the catastrophic event allowance.

The catastrophic event allowance is a recoverable cost for RY25

D18 The catastrophic event allowance resulting from the above approach is an un-forecasted recoverable cost for RY25. This would result in a wash up accrual amount available to be drawn down by Firstlight for recovery in consumer prices from RY27.[32]

---

31 Under the recent IM amendments, a "reopener evet allowance (REA) including capital costs up to the application date accepted by the Commission could lead to double recovery of those costs for that period. This is because the EDB would recover those costs (including IRIS penalties on additional capex) through the REA, and in the next regulatory period would recover the capital costs through the calculation of the capex wash-up. The solution proposed is "to amend the capex wash-up provisions in the EDB IMs and the Transpower IPP determination to require the deduction of any capital costs already included in an REA". Commerce Commission, Amendments to input methodologies for electricity distribution businesses and Transpower (reopeners and other matters), (27 March 2025), p. 25

32 While transitional wash-up balances are now available for drawdown from year one of the following regulatory period under the IMs, the practical timing of this decision means the adjustment to the wash-up account will occur after Firstlight have already set pricing for RY26.

Attachment E Impact on quality incentive adjustment

E1 This attachment assesses Firstlight's claim for the cyclone's impact on its QIA and shows there was no such impact.

E2 Firstlight applied for $28,000 as the impact of the cyclone on its QIA, calculated as the normalised unplanned SAIDI minutes associated with the cyclone (10.0294) multiplied by its incentive rate ($2797).

E3 A CE allowance may include the impact of the event on an EDBs QIA. We interpret this as the difference between the actual QIA (which includes the effect of the event) and the counterfactual case had the event not occurred.

The quality incentive adjustment method of calculation and parameters are in the DPP3 determination

E4 The DPP3 determination sets out in Section 4, paragraph 5 how to calculate the QIA:

> *(5) The quality incentive adjustment is –*
>
> *(a) the lessor of:*
>
> *(i) the sum of:*
>
> *A.* $(SAIDI_{unplanned,\ target} - SAIDI_{unplanned,\ assessed}) \times IR$*;*
>
> *and*
>
> *B.* $(SAIDI_{planned,\ target} - SAIDI_{planned,\ assessed}) \times IR$*;*
>
> *and*
>
> *(ii) the **revenue at risk**;*
>
> *and*
>
> *(b) after calculating the sum in paragraph (a), that sum is adjusted for the time value of money by multiplying the sum in accordance with the following formula 1+**67th percentile estimate of post-tax WACC**)*^{2}

E5 This calculation has 'caps' of two types:

E5.1 the maximum **revenue at risk** which is 2% x ANAR; and

E5.2 the SAIDI assessed amounts in A. and B. above involve caps, whose values are specified in the DPP3 determination, and application in Schedule 4 paragraph 6. For example, paragraph 6(c) specifies:

> *Where* $SAIDI_{unplanned,\ assessed}$ *is greater than the **SAIDI unplanned interruption cap** specified for the **non-exempt EDB** for the **assessment period** set out in Table 4.1 of Schedule 4,* $SAIDI_{unplanned,\ assessed}$ *equals the **SAIDI unplanned interruption cap** specified for the **non-exempt EDB** for the **assessment period** …*

E6 Applying this method, Table E1 below shows the calculation of Firstlight's QIA for RY23 using the parameters from the DPP3 determination, CPI-adjusted ANAR from Firstlight's RY23 Compliance Statement, and actual SAIDI values.[33]

E7 Table E1 shows that the actual RY23 (including the impacts of the cyclone) *SAIDI unplanned, assessed* is capped at the *SAIDI unplanned interruption cap* (219.46). This same outcome occurs here whether we use the actual RY23 (with cyclone) *SAIDI unplanned, assessed* value of 295.44 or the without cyclone scenario value of 285.41

E8 The QIA value had the cyclone not occurred would have been the same as the actual value calculated for RY23 after the cyclone had occurred, negative $172 k. On this basis we conclude that the cyclone had no impact on Firstlight's QIA. Therefore, we have assessed that Firstlight is not eligible for QIA costs in its CE allowance

Table E1. Firstlight Quality Incentive Adjustment for RY23, with and without the cyclone.

Firstlight's RY23 QIA reproduced from its RY23 Compliance Statement. Unplanned SAIDI is 295.44, which is capped at 219.46. The Total Incentive A+B is -$158k which is below the 2% ANAR revenue at risk. Applying the time value of money adjustment, QIA is -$172k. The without cyclone case (highlighted grey) would have unplanned SAIDI = 285.41 and no change to planned SAIDI. In this case, there is no change to Incentive amount B – PLANNED, and the SAIDI unplanned cap would still bind at 219.26. The same overall QIA value then follows.

Parameters

ANAR 2023	$ 24,979 k
ANAR with CPI adjustment per RY23 Compliance Statement	$ 27,097 k
Revenue at Risk (2% x ANAR)	$542 k
Incentive Rate IR	$ 2,797
DPP3 67th percentile post tax WACC	4.23%

Methodology

A = (SAIDI(unplanned, target) - SAIDI(unplanned, assessed))x IR
B = (SAIDI(planned, target) - SAIDI(planned, assessed)) x IR x 0.5
QIA = min(Rev at Risk or A+B) x (1+ 67th percentile post-tax WACC)^2

1. Incentive amounts from SAIDI quantities	B – PLANNED	A - UNPLANNED	A* - UNPLANNED (without cyclone)
Target	86.05	173.85	173.85
Cap	258.14	219.46	219.46
assessed	108.10	295.44	285.41
assessed_capped	108.10	219.46	219.46
target - assessed_capped	-22.05	-45.61	-45.61
Multiplier	0.5	1	1
Incentive amount B – PLANNED	-$ 30,837		
Incentive amount A – UNPLANNED		- $ 127,571	-$127,571
Total incentive A+B		-$ 158,408	-$ 158,408

2. QIA calculation with and without cyclone	Actual with Cyclone	Without Cyclone
Lessor value of (Rev at Risk, Total incentive A+B)	-$ 158,408	-$ 158,408
WACC uplift amount	-$ 13,685	-$ 13,685
Quality Incentive adjustment	**-$ 172,093**	**-$ 172,093**

[33] Firstlight, Annual Compliance Statement for the period 1 April 2022 to 31 March 2023, p 12.