

30 August 2023

[REDACTED]
[REDACTED]
Alpine Energy Limited
24 Elginshire Street
Washdyke
Timaru 7910

By e-mail only: [REDACTED]

Tēnā koe [REDACTED],

Request for exemption from current deadline for financial disclosures under the Electricity Distribution Information Disclosure Determination 2012

1. We write in response to Alpine Energy Limited's (**Alpine**) letter dated 8 August 2023 that requested the Commerce Commission (the **Commission**) provide it with an exemption to the current deadlines to disclose financial information required under section 2.3 of the Electricity Distribution Information Disclosure Determination 2012 (the **ID Determination**).^{1,2,3}
2. Due to material errors identified in its historic disclosures for disclosure years 2014 to 2022, Alpine has requested a deadline extension to 30 November 2023 (ie, a three-month extension to the current public disclosure deadline) for its disclosure year 2023 financial information. Alpine considers that it would be inappropriate and misleading to consumers and other parties if it discloses its disclosure year 2023 financial information without correcting the errors for the previous nine disclosure years, as the errors have an impact on opening balances for disclosure year 2023 financial information.

¹ EDB ID Determination 2012, amended 28 June 2023. The consolidated determination dated 6 July 2023 can be found [here](#) on our website.

² Alpine Energy Limited, *Alpine Energy Limited's application for an extension to the deadline to publicly disclose and provide the Commerce Commission the financial information for the disclosure year ended 31 March 2023*, dated 8 August 2023.

³ The current deadlines are 31 August 2023 and 5 working days later. EDBs must publicly disclose certain financial information within 5 months after the end of each disclosure year, and within a further 5 working days, must also disclose certain financial information to the Commission.

Background

3. Under Part 4 of the Commerce Act 1986 (the **Act**), Electricity Distribution Businesses (**EDBs**) are subject to information disclosure (**ID**) regulation. Section 2.3 of the ID Determination requires EDBs to disclose financial information after the end of each disclosure year.
4. EDBs must procure an assurance report if they are required by the ID Determination to publicly disclose any “audited disclosure information,” which means information required to be disclosed under certain clauses including:^{4,5}
 - 4.1 clauses 2.3.1 and 2.3.2;
 - 4.2 the SAIDI and SAIFI information disclosed under clause 2.5.1;
 - 4.3 the related party transactions (**RPTs**) information disclosed under clauses 2.3.8, 2.3.10 – 2.3.12; and
 - 4.4 explanatory notes disclosed in boxes 1 to 11 of Schedule 14 under clause 2.7.
5. EDBs must disclose other information under section 2.3 of the ID Determination that does not require them to procure an assurance report, including the requirement under clause 2.3.13 to publicly disclose a map of anticipated network expenditure and network constraints.
6. For disclosure year 2023, EDBs must publicly disclose the relevant information above by 31 August 2023. Aside from the information required by clauses 2.3.2 and 2.3.11 of the ID Determination which must be disclosed to the Commission, EDBs must publicly disclose the information in paragraph 4 within five months of the end of the disclosure year.⁶

Exemption request

7. Alpine has requested a three-month extension to the existing deadline of 31 August 2023 for financial information required by section 2.3 of the ID Determination with respect to the disclosure year ending 31 March 2023 (ie, disclosure year 2023).
8. Alpine identified material errors in its historic financial information which impacts some aspects of the disclosure year 2023 financial information. According to Alpine’s request, the material errors:^{7,8}

⁴ Clause 1.4.3, ID Determination.

⁵ The definition of “audited disclosure information” also includes some information required by Attachment C of the ID Determination, which only applies to Aurora Energy Limited.

⁶ The disclosure year for EDBs is the 12-month period ending on 31 March each year.

⁷ Alpine is still working through the impact of the material errors and was not yet able to share specific details of the error.

⁸ *Alpine Energy exemption application*, above n 2, at paragraphs [2], [4] and [6].

- 8.1 are in relation to the calculation of depreciation as disclosed in Schedule 4, for disclosure years 2014 to 2022. As a result, the revaluations and opening and closing values of the regulatory asset base (**RAB**) for these disclosure years were also incorrect;
 - 8.2 have a flow-on impact on Schedules 1, 2, 3, 5a, 5e, and 14; and
 - 8.3 impact opening balances for disclosure year 2023 financial information.
9. Without correcting the errors for the previous nine disclosure years, Alpine considers that:
- 9.1 it will be impracticable to accurately complete the disclosure year 2023 financial information; and
 - 9.2 it would be inappropriate and misleading to consumers and other parties if it discloses its disclosure year 2023 financial information.
10. Alpine has provided us with the following additional details to support its request:⁹
- 10.1 Alpine identified the material errors on 4 August 2023;
 - 10.2 the main reason for the material errors is the historic calculation of depreciation, which resulted in depreciation being overstated and closing RAB being understated. The draft and unaudited difference in closing RAB for 2014 was [REDACTED] and grew to [REDACTED] in 2022;
 - 10.3 Alpine intended to include Schedule 10, which must be audited, within its request; and
 - 10.4 Alpine feels it would be misleading to stakeholders (other than the Commission) if it were to publicly disclose its disclosure year 2023 Schedules in part. Alpine would prefer to not publicly disclose the Schedules that do not require audit and are unaffected by the material errors (ie, Schedules 8, 9a – 9e, aspects of Schedule 14) and notes that those Schedules still require director certification.
11. If the exemption is granted, Alpine intends to have the corrected information for disclosure years 2014 to 2023 audited (as applicable) and disclosed by 30 November 2023.¹⁰

⁹ Correspondence between Alpine and Commission staff, *RE: Alpine Energy Limited - Information Disclosure Extension Request*, dated 15 August and 23 August 2023.

¹⁰ Clause 2.12.1 of the ID Determination requires EDBs to publicly disclose certain information within 7 months of identifying a material error, including materially correct revised data or statements affected by the error and where applicable, an assurance report in accordance with clause 2.8.6 of the ID Determination.

Legal framework

12. Clause 2.11.1(1) of the ID Determination allows the Commission to, by written notice to an EDB, grant an exemption from any requirement of the ID Determination, for a period and on such terms and conditions as the Commission specifies in that notice. Furthermore, clause 2.11.1(2) gives the Commission the power to amend or revoke any such exemption.

Exemption granted

13. By this notice, using the exemption powers under clause 2.11.1(1) of the ID determination, the Commission grants Alpine an exemption from disclosing certain disclosure year 2023 information to the public by 31 August 2023 and to the Commission 5 working days later, subject to the conditions outlined at paragraph 14. More specifically, this exemption is limited to the following disclosures and their corresponding clauses under the ID Determination:
- 13.1 Schedules 1 – 7 (excluding 5f and 5g) required by clause 2.3.1;
 - 13.2 Schedules 5f and 5g required by clause 2.3.2;
 - 13.3 Schedule 8 required by clause 2.4.21;
 - 13.4 Schedules 9 – 10 required by clause 2.5.1;
 - 13.5 Schedule 14 required by clause 2.7.1; and
 - 13.6 audited RPTs information required by clauses 2.3.8, 2.3.10 – 2.3.12; and
 - 13.7 RPTs information (that may rely on audited information) required by clause 2.3.13.
14. This exemption is granted on the following conditions:
- 14.1 Alpine discloses the information specified in paragraph 13 by **30 November 2023**;¹¹ and
 - 14.2 Alpine provides the Commission with a copy of:
 - 14.2.1 the draft and unaudited Schedules for disclosure year 2023 that are unaffected by the material errors (financial and non-financial) by **5 September 2023**; and
 - 14.2.2 the corrected draft and unaudited Schedules affected by the material error, both historic and current, as soon as reasonably practicable.¹²

¹¹ Disclosed publicly and to the Commission as applicable.

¹² Alpine staff indicated that they expect the corrected Schedules to be ready for audit and director sign-off by the end of September.

15. We consider it is reasonable to grant this exemption because:
- 15.1 due to Alpine only recently identifying the material errors and the volume of historic information impacted by the errors, we recognise that it will take time to carefully work through the historic information to ensure that the affected disclosure year 2023 financial information is accurate before procuring an assurance report;
 - 15.2 the exemption only alters the timing of the financial information and does not alter the volume or category of information required to be publicly disclosed. Therefore, granting this exemption will not change the amount of information in the public domain;
 - 15.3 publicly disclosing financial information that is, in part, knowingly inaccurate may be misleading for an interested persons' assessment of the purpose of Part 4 of the Act; and
 - 15.4 we have made it a condition for Alpine to provide us with draft copies of the Schedules which will allow us, to a certain extent, to continue with our planned programme of work (including published summary and analysis work) until the audited Schedules are available.
16. Aside from the information specified in paragraph 13, we expect Alpine to disclose any information that is not subject to assurance report obligations by the deadlines required by the ID Determination. We have granted an exemption for the disclosure year 2023 year-end Schedules not subject to an assurance report (ie, Schedules 8 and 9a – 9e) as we recognise there is some benefit for interested persons if the year-end Schedules are all available at the same time (eg, so asset data can be easily analysed against financial data).
17. We have added a condition for Alpine to share its draft Schedules affected by the material errors as soon as reasonably practicable prior to them being audited, as this information is important to our ongoing programme of work and as an input into the DPP4 reset.¹³
18. We intend to assess the impacts of the material errors in Alpine's historic disclosures after the corrected information is publicly disclosed in accordance with clause 2.12.1 of the ID Determination.¹⁴
19. We have considered the impact of the exemption on the purpose of information disclosure under section 53A of the Act and have concluded that the purpose will still be met if this exemption is granted.

¹³ Alpine offered to share with us by 31 August 2023 its draft Schedules that are unaffected by the material errors.

¹⁴ Information about our Enforcement Criteria can be found [here](#) on our website.

Further information

20. This exemption may be revoked or amended by the Commission at any time in accordance with clause 2.11.1(2) of the ID Determination.
21. A copy of this exemption response letter will be published on the Commission's website.
22. If you have any questions regarding this matter, please contact Rhys Williams at infrastructure.regulation@comcom.govt.nz.

Ngā mihi nui,



Andy Burgess
General Manager, Infrastructure Regulation