

23 March 2012

John Groot
Chief Advisor
Regulation Branch
Commerce Commission
By email to regulation.branch@comcom.govt.nz

Dear John

## Cross submission on draft Information Disclosure Requirements for EDB and GPB

1. This is a cross submission by the Major Electricity Users' Group (MEUG) on the submissions of other parties that closed 9<sup>th</sup> March on the Commerce Commission Draft Commerce Act (Electricity Distribution Services Information Disclosure) Determination 2012 and Draft Reasons Paper "Information Disclosure Requirements for Electricity Distribution Businesses and Gas Pipeline Businesses" dated 16 January 2012<sup>1</sup>.

## Orion

2. Orion submitted (paragraph 20):

"We do not believe that it is appropriate for the Commission to require EDBs to disclose the mid point estimate of the 25 and 75 percentile of both the post tax WACC and the vanilla WACC. This information is calculated, supplied and publicly disclosed by the Commission. We assume that the inclusion is to allow interested parties to compare an EDB"s ROI with the various WACC values. We consider that if the Commission wishes to include this information then the appropriate place would be in the summary and analysis of information that the Commission is required to produce. This approach would also provide the Commission with the opportunity to explain the relevance of any differences between the various values."

3. MEUG does not support Orion's view. The Commission publishes many cost of capital for different purposes. Even experienced commentators can have difficulty tracking which cost of capital is appropriate. We therefore agree with the proposal by the Commission requiring disclosing parties to publish cost of capital.

<sup>&</sup>lt;sup>1</sup> http://www.comcom.govt.nz/part-4-review-of-electricity-information-disclosure-requirements/

- 4. Neither does MEUG accept the alternative proposed by Orion for the Commission to publish ROI and cost of capital and for the Commission to explain differences. For one thing the Commission summary analysis could be several months later. More importantly EDB and GPB need to be accountable for explaining differences. This leads onto a new point by MEUG.
- 5. The materiality of a difference between an ex ante cost of capital and actual post disclosure year ROI isn't evident when described in absolute percentage terms. In order that customers are informed and understand the materiality, the absolute percentage difference needs to be converted to a monetary value by multiplying by the appropriate regulatory asset base. Once again most end customers will be confused and find difficulty in extracting from the disclosures the appropriate asset base. MEUG therefore recommend the disclosures require publication of:
  - (a) Actual ROI (percentage);
  - (b) Appropriate midpoint, 25<sup>th</sup> and 75<sup>th</sup> percentile cost of capital (all percentages) for comparison with ROI;
  - (c) The absolute percentage differences between (a) and (b) above;
  - (d) The appropriate regulatory asset base (in dollars) to be used in calculating economic profit;
  - (e) The economic profit or loss (in dollars) calculated as the product of the absolute percentage differences from (c) and the regulatory asset base from (d) above. These values are in effect the calculations of "excessive profits" mentioned in s.52A(1)(d) and therefore should be considered an essential component of information disclosure; and
  - (f) An optional field for EDB (and GPB) to provide commentary on the reported economic profit or loss.
- 6. MEUG notes that in workably competitive markets economic profit would be assessed at the midpoint or 50<sup>th</sup> percentile. The economic profit between the 50<sup>th</sup> and 75<sup>th</sup> percentile is the premium the Commission has gifted EDB and GPB to meet the Part 4 purpose statement requirement to have incentives to invest. Consumers are very interested in the quantum of that premium to assess the effectiveness of the overall regime to promote outcomes that are consistent with outcomes produced in competitive markets.

## **Meridian Energy**

7. MEUG agrees with Meridian that EDB (and GPB) disclosures on different web sites in different formats and styles are a barrier to interested parties accessing information. We therefore support Meridian's proposal as follows:

"Meridian notes that access to disclosed information could be facilitated further if distributors adopted a standardised website structure to house this information. Variations in where information is located across the 29 EDBs can result in significant search times to find all required data. Alternatively, Meridian would support the Commission acting as a central repository for disclosed EDB data, so all relevant disclosures are located in one place."

Rhoth

Yours sincerely

Ralph Matthes Executive Director