

15 March 2024

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Sent via email: infrastructure.regulation@comcom.govt.nz

Dear Ben

DPP4 reset: Financeability of electricity distribution services

1. This is a submission from the Major Electricity Users' Group (MEUG) on the Commerce Commission's (Commission) consultation paper "*DPP4 reset – Financeability of electricity distribution services in the default price-quality path*"¹ published for consultation on 22 February 2024.
2. MEUG members have been consulted on the approach to this submission. Members may lodge separate submissions. This submission does not contain any confidential information and can be published on the Commission's website unaltered.

Support Commission's proposed approach

3. MEUG supports the Commission's proposed approach of only undertaking a financeability "sense check" in the context of DPP4 for the 16 regulated electricity businesses (EDBs). MEUG believes that any specific issues with financeability should be dealt with outside of the DPP framework, through a CPP or reopener application, where greater scrutiny can be applied to understand the underlying drivers.
4. We recognise that financeability is an issue being raised by many EDBs. Aurora, Electricity Networks Aotearoa (ENA), Powerco, Vector, and Wellington Electricity all advocated for the introduction of a financeability test in the 2023 Input Methodologies (IMs) review, for example, "*to enable an EDB to finance obligations imposed under price-quality regulation and decarbonisation*."² Reference was also made to practices in other jurisdictions, such as that those set by Ofgem.

¹ https://comcom.govt.nz/_data/assets/pdf_file/0026/344168/DPP4-reset-Financeability-of-electricity-distribution-services-in-the-default-price-quality-issues-paper-22-February-2024.pdf

² Paragraph 3.523, *Financing and incentivising efficient expenditure during the energy transition topic paper: Part 4 Input Methodologies Review 2023 – Final decision*, Commerce Commission, 13 December 2023, https://comcom.govt.nz/_data/assets/pdf_file/0023/337613/Part-4-IM-Review-2023-Final-decision-Risks-and-Incentives-topic-paper-13-December-2023.pdf

5. However, MEUG continues to support Commission's IMs review decision not to adopt a financeability test in the IMs, as it considers "*that a financeability test IM would not better achieve [the Commission's] Framework's overarching objectives*".³
6. In the context of the DPP4 reset, MUEG agrees with the Commission's definition of "financeability" and that this issue must only be considered in the context of Part 4 – the long-term benefit of consumers. We strongly support the focus on solely the **provision of the regulated service** [emphasis added].⁴ The Commission is only responsible for the regulation of electricity transmission and distribution businesses because they are natural monopolies. The Commission is not responsible for the oversight of an EDB's wider business, which may include other related/unrelated, competitive services. The following extracts from the Commission's paper succinctly presents this issue:

*"....financing significant new capacity and new investment is the responsibility of the businesses through normal, efficient capital raising and management.....we would first expect suppliers to do what they can themselves to address financeability issues before we considered imposing higher near-term recovery from consumers."*⁵

*"It is possible for a supplier to make capital structure, dividend, or other investment decisions that ultimately compromise that supplier's ability to finance expenditure on the regulated service. It is not the regulator's role to resolve these issues for the entity.....intervening for one supplier in such circumstances could create a moral hazard issue for other suppliers that undermines the long-term benefit of consumers of the regulated service."*⁶

7. MEUG supports the Commission solely carrying out a financeability "sense check" to enable it to "*understand the extent to which financeability issues may be relevant to this reset*".⁷ This high-level approach is consistent with the parameters of the "low-cost" DPP framework, while drawing on the approaches used by regulators in other jurisdictions and credit rating agencies. Additional information requests to specific EDBs should only be high-level and only used when necessary (to reduce regulatory burden and avoid scrutiny at a level beyond a DPP). We encourage the Commission to provide more detail on its "sense check" approach once confirmed.
8. We do not consider that any further compensation or amendments are necessary in the DPP regime to deal with this issue. The Part 4 regime is designed to provide the expectation of a normal return for investors and any amendments on this matter could create distortions between regulated and exempt EDBs, in terms of managing cash-flow and financing.⁸ Given the expected uplift in revenue from DPP4, it is important that the Commission remain focused on managing price shocks on consumers.

Support the use of other mechanisms to address EDB concerns

9. MEUG believes that any specific issues with financeability should be dealt with outside of the DPP framework. EDBs now have a number of re-opener provisions available to them, to address a range of uncertainties facing the sector.⁹ Considerable time has been spent discussing and refining these options, to support EDBs through the energy transition.

³ Paragraph X35, IMs review 2023 – Final decision.

⁴ Paragraph X5.

⁵ Paragraphs X3 and X13.

⁶ Paragraphs 1.12 and 2.9.

⁷ Paragraph X9.

⁸ Who, to our knowledge, have not raised financeability issues.

⁹ Paragraphs 3.12 to 3.21, *Context and summary of Final decisions: Part 4 Input Methodologies Review 2023*, Commerce Commission, 13 December 2023, https://comcom.govt.nz/_data/assets/pdf_file/0033/337677/Part-4-IM-Review-2023-Final-decision-Context-26-summary-paper-13-December-2023.pdf

10. EDBs can also seek a Customised Price-Quality Path (CPP), where it would better suit the needs of a regulated EDB and its consumers. The Commission itself notes that “*since financeability issues are likely to be specific to individual suppliers, CPPs are our preferred mechanism for suppliers facing business-specific issues that are not catered for in the DPP.*”¹⁰ We encourage the Commission to ensure that it is adequately resourced to deal with any increase in re-opener applications or CPP applications. It is important that these are dealt with in a timely manner, with a robust and repeatable process.

Next steps

11. We look forward to engaging with the Commission, EDBs and other stakeholders during the cross-submission process. If you have any questions regarding our submission, please contact MEUG on 027 472 7798 or via email at karen@meug.co.nz.

Yours sincerely



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¹⁰ Paragraph 1.19.3.