20 December 2024

Electricity Authority
PO Box 10041
Wellington 6143
By E- Mail: distribution.pricing@ea.govt.nz

Re: Submission on Targeted Information Disclosure Review (2024) – Electricity Distribution Businesses

Executive Summary

Counties Energy Limited welcomes the opportunity to comment on the Electricity Authority's Distribution connection pricing proposed Code amendment and to enable electrification. As recognised by the Electricity Authority (EA), distribution networks have a critical role to play in the electrification of New Zealand. As demand for electricity increases with our transition from fossil energy – and in particular from Internal Combustion Engine (ICE) vehicles, to electric vehicles (EVs) – our electricity networks must integrate more, and bigger, connections to accommodate this new demand. According to the Boston Consulting Group (BCG) new investment needed in New Zealand's electricity infrastructure will be significant – and, like the impact of new demand, will be concentrated on distribution networks. Indeed, the greatest share of investment will be needed in our electricity networks compared to any other part of the electricity supply chain – $22billion by 2030. The increase in electricity demand and the consequent increase in electricity infrastructure cost has been well signalled by both government institutions and a wide range of electricity sector participants. We look forward to continuing to work with our partners in government and industry to achieve solutions that can sustainably, efficiently, and fairly meet these costs in the best long-term interests of consumers and our national project of electrification.

We support many of the proposals put forward by the EA to achieve the objective of ensuring "that the regulations that underpin network connections – both pricing and processes – lead to efficient investment decisions by developers and distributors". We understand the urgency and importance of implementing changes which can enable electrification, and we support the implementation of a pioneer scheme and the proposed costing and allocation requirements for enhancements and network capacity (provided there are amendments to help mitigate the risk of asset stranding under the network

capacity cost allocation requirement proposed). We support in particular the pathway for flexible connection schemes as part of the proposed connection enhancement cost requirements.

However, some of the proposals will not improve efficient investment decisions to enable electrification – and will work against the proposed connection enhancement cost requirements and the proposed network capacity costing requirements in achieving efficient (and specifically, non-subsidised) connection prices. For example, imposing a set limit on the percentage of total growth capex that can be funded by connection charges (regardless of the true cost of new connections as a share of total growth costs) will distort efficient pricing and increase the cross-subsidisation of connection charges. This will in turn result in a wealth transfer from residential electricity consumers to industrial and commercial customers. The proposed reliance limits will also likely result in a funding shortfall for electrification in the medium-long term. Overall, we see the reliance limit as self-defeating in progressing the EA's work programme as a whole and of advancing the objective of improving new connection efficiency. In turn, we do not believe that the reliance limit proposals are well aligned with the higher-level policy goals of driving decarbonisation, productivity and resilience.

As we describe under '3. We recommend an amendment to the reliance limit proposal' below, the pace and extent to which these risks present will depend on network-specific factors which could be (and indeed are) true for both electricity distribution businesses whose revenue is regulated by the Commerce Commission and those who are exempt. We therefore recommend as a minimum mitigation to these risks, an amendment to empower the EA to take such factors into account in setting a higher upper bound to the reliance limit currently proposed for an electricity distribution business (EDB). We also recommend that large customer connections (of more than 5MW) are excluded from the calculation of new connection costs as a share of total growth capex for the proposed reliance limit. We offer some suggested drafting to the EA's proposed Code amendment as 'Annex 2: Proposed Code amendment to increase EA discretion to set a higher reliance limit' below and 'Annex 3: Proposed Code amendment to exclude large connections from the reliance limit'.

We want to work with the EA in addressing the challenges which have been experienced by some large-load connectors such as public EV charging providers. We believe that the immediate package of changes proposed by the EA as 'fast-track' measures will comprehensively address the challenges faced by large load connectors – without the inclusion of the reliance limit.

The risks of cross-subsidisation, inefficiency, and a funding short-fall for infrastructure are inherent in the reliance limit as proposed – but would be exacerbated significantly by the reduction in the share of new growth capex that can be funded by new connection costs, as is contemplated in the 'sinking lid' alternative mentioned in the EA's consultation.
We therefore recommend that the impact of other measures (with our recommended amendments) be given time to embed before such alternatives are contemplated further.
Counties Energy Limited's submission may be publicly disclosed and our contact person for the submission is:

Allen Sneddon
Commercial Manager

Response to proposals

1. **Counties Energy supports some of the EA's proposals in supporting the connection of large load to enable electrification**

   As we describe in more detail in *'Annex 1: Counties Energy Limited response to EA questions'*, we support a number of proposals in the *Distribution connection pricing proposed Code amendment.*

   For example, Counties Energy Limited (CEL) is in favour of the pioneer scheme and the connection enhancement cost requirements. These requirements align well with CEL's existing practices, and we are particularly supportive of the inclusion of the flexible scheme under this proposal. Such initiatives are designed to encourage more investment, innovation, and consumer choice in the electricity sector. This aligns with CEL's vision of promoting efficient and practical connections that support New Zealand's energy transition through greater electrification. This also aligns with CEL flexible connection initiatives that are currently underway.

   We also support the network capacity costing requirements which we believe will improve connection pricing efficiency for the majority of new connections further. As we discuss further in *'Annex 1: Counties Energy Limited's response to EA questions'* we believe that an exemption process should be added to the proposed network capacity costing requirements for cases where significant load is provisioned and there is uncertainty on the long-term viability of a connection at that particular location.

2. **However, we believe some of the proposals will have unintended consequences**

   In its analysis the EA has attributed increasing connection prices as a share of total growth capex, to the inefficient allocation of existing network costs to newcomers to the network. As we propose under 'c) Imposing an arbitrary (and/or sinking) cap on recoverable capital

for growth will result in a funding shortfall' this increase in price is likely to be attributable to an increase in cost. Indeed, increasing price with cost is exactly what the EA's principle of cost-reflective pricing should allow (if not require). By artificially capping the extent to which new connection cost can be recovered through capital contributions, the reliance limit would work against measures to increase efficiency in new connections (including those which are proposed in this same consultation by the EA). This reflects substantive misalignment between the reliance limit and greater connection efficiency – but also speaks to a lack of workability in the reliance limit overall.

As we discuss further under "3. We recommend an amendment to the reliance limit proposal to empower the EA to take network and customer specific factors into account in tailoring the reliance limit" the reliance limit would also work against the interests of large connecting customers in some cases, and their preferred cost allocation approach (which they can currently negotiate with CEL to best meet their business needs).

a) The reliance limit proposals will result in inequitable cross-subsidisation

As stated above, CEL supports the connection enhancement and network capacity costing requirements. However, implementing these requirements may not be possible in the context of the proposed reliance limit.

The Connection enhancement cost requirement stipulates that where the customer and EDB agree, they may opt-out of the requirement to determine and cost the minimum scheme and instead mutually agree to share the cost of an enhancement, which, as stated by the EA "may be beneficial where the enhancement provides a benefit to both parties, but neither party would build the enhancement if they were allocated the full cost". However, this option may not be available to an EDB under the proposed reliance limit. As is discussed further below, sometimes single new connections can constitute a significant share of total growth capex. Coming to an arrangement to recover more cost than is covered in the minimum scheme could tip an EDB's new connection cost recovery outside the reliance limit. The example of costing methodologies used in the United Kingdom and Australia – cited by the EA – includes scope for the cost of customer-selected enhancements (beyond the minimum scheme) to be fully allocated to the customer. This may not be possible in New Zealand if there were a reliance limit as proposed by the EA.

We also support the proposed network capacity costing requirements – which would standardise the allocation of costs relating to the capacity of the shared network upstream of a connection by requiring an EDB to price for such capacity costs using published rates. However, an EDB may be constrained in their ability to implement such capacity charges at all without going above the reliance limit.

Overall, we contend that the connection enhancement cost and capacity costing requirements will achieve efficient connection pricing by themselves, and the reliance limit would work against them. Because the reliance limit is not consistent with the principle of cost reflective pricing, its implementation is not workable in the context of initiatives which are.

b) The reliance limit proposals will result in inequitable cross-subsidisation and wealth transfer

A further perverse impact of the proposals as they stand is the wealth transfer from residential customers to commercial and industrial customers. Along with other EDBs, CEL's approach to connection charges for new homeowner and business owners is to ensure that nearly all new homeowners and new business owners do not pay the connection charge for power supply to their property because the developer pays the connection charge to the EDB for the power to the section. The developer then sells the section for the market value, not a cost-plus model. For residential properties they generally sell to builders who then sell a home-land package. Consequently, the EA proposal will result in lower reticulation charges to developers and high line prices to CEL's customers. This is effectively a wealth transfer that will mean lower socio-economic households, who are least likely to buy a new house, will be paying more to enable reduced connection charges to developers.

It should be noted that CEL's current policy of higher capital contribution charges to developers was designed to create a fairer landscape so that CEL's existing customer base isn't covering reticulation costs for the benefit of developers. Whilst the EA perceives that existing network costs are being subsidised by new connectors to the network, this is not the case, and the proposals as they stand would not reduce inefficient cross-subsidisation but rather would increase it at the expense of consumers. This proposal is not a correction – it is a re-allocation of costs from industrial and commercial customers to residential and would result in wealth transfer from residential customers to large industrial and commercial ones. We cannot reconcile this with the purpose of protecting the long-term interests of consumers.

We want to work with our partners in government and the sector to develop solutions to address the funding challenge of electrification. However, imposing a cap on the recoverable capital from connection costs (regardless of the growth pressure experienced by a particular EDB) will not address this challenge sustainably and will result in inequitable cross-subsidisation, and eventual funding constraints.

c) Imposing an arbitrary (or sinking) cap on recoverable capital for growth will result in a funding shortfall

We understand that the EA is concerned that higher connection charges reflect subsidisation of existing network costs by newcomers to the network. We agree that this would be inefficient. However, there is a simpler explanation as to why connection prices have increased as a share of total growth capex for many EDBs – and that is simply that the cost of new connections has increased as a share of total growth capex for many EDBs. Throughout the EA's consultation there appears to be an assumption that growth – and its cost – is static, and that it can be re-allocated through different methodologies to reduce cost to new connectors. However, growth is exponential, and its cost is dynamic – and the funding to meet it must come from somewhere.

High-growth EDBs require more capital contributions to fund their infrastructure compared to those with low growth. This is evident in CEL's territory with Auckland Council needing to invest $14B in infrastructure in the new Drury town development, which the Council is now seeking to recover through a residential per lot charge of approximately $78k. Overall the drivers of infrastructure costs are real and increasing. It would be unusual if electricity networks were exempt from these pressures in the context of electrification.

As demand for electricity increases in the medium-long term along with capital growth requirements, the reliance limit as proposed would become an impediment to electrification as prices rise for consumers driven by greater cross-subsidisation, and, as EDBs, largely funded by debt; already faced with growth pressure; and to varying degrees limited in their options to raise capital; will face the real possibility of being unable to meet the steep uplift in capital required for new connections through a greater reliance on the incremental recovery of asset costs through prices. This potential funding gap is true for both price-quality regulated and exempt EDBs. It is a cashflow challenge which stems from the time-lag between the capital required immediately to fund new connections, and the capital which becomes available through revenue generated by lines' charges. The timeframe for cost recovery of capital-intensive assets through such charges spans decades. The same would be true for new capital-intensive connections. Yet the funding needed to enable these connections (to meet the target of 10,000 EV charges in New Zealand by 2030, for example) is required immediately. As discussed further, there will be variation across EDBs around their ability to raise capital and meet these costs depending largely on the growth and pressure already experienced on their networks (and their consequent reliance on debt). However, we contend that it is likely a matter of when, and not if, more and more EDBs experience pressure from these cash-flow constraints as demand for new large-load connections increases with electrification.

There are entities which are better placed than EDBs to provide this capital to enable network growth. However, the reliance limits would effectively impose an artificial cap on the capital which could be invested by these entities into New Zealand's network infrastructure by way of funding for new connections. We don't believe this is consistent with the goal of enabling investment for decarbonisation or allowing flows of capital for wider economic growth.

Whilst the EA is considering the reliance limit to enable electrification, perversely it would work against it by not addressing the real driver of greater connection charges (resulting in a funding gap in the future) and by increasing the burden on electricity consumers.

In short, the proposal as it stands will reduce electricity affordability; artificially stymy the flow of capital towards electrification; and risk a funding shortfall for critical infrastructure

3. We recommend an amendment to the reliance limit proposal

The pace and extent to which these perverse impacts would occur depends on factors that are likely to be specific to particular networks. For example, the size of the existing customer base will impact the concentration of cross-subsidisation and the scale of inequity that it imposes. Similarly, the ability of an EDB to continue meeting the large up-front capital cost of new connections, when the amount of recoverable capital from such connections has been capped, will depend on how great these costs are (i.e., network growth pressure) alongside an EDB's ability to raise capital in other ways (depending on, for example, its debt level-to-ceiling ratio). We believe that any reliance limit ought to be able to be adjusted to reflect such growth pressure.

We do not believe that connection charges should be limitless – but that they should be sustainable and proportionate to cost. Just like finance ability, the drivers of cost differ on a case-by-case basis. The Authority has not provided evidence that either 47% (the average sector capital contribution reliance over the last four disclosure years) or a distributor's actual capital contribution reliance for disclosure year 2024 is an efficient upper bound on capital contribution reliance for load. That is, it is an arbitrary limit based on an average of past costs rather than true future costs. Furthermore, whilst the capital contribution reliance limit for load as proposed is intended to apply to "typical connection activity", what constitutes 'typical' vs 'atypical' connection activity is highly subjective.

We therefore recommend that the EA has scope to take these factors into account and to set a higher reliance limit for an EDB than that which is currently proposed. As we discuss further below under Section 4, we also recommend that the difference between a 'typical' vs 'atypical' connection be clarified through the introduction of a 5MW threshold for new connections which are to be included in the calculation of new connection costs as a share

of total growth capex. This would prevent the reliance limit being distorted by a small number of very large customers, would mitigate the extent of wealth transfer from residential customers to large industrial and commercial customers, and would retain scope for such connecting parties to negotiate an agreement with an EDB that best meets their commercial needs as is envisioned in the EA's network enhancement cost allocation requirements.

We recommend that this additional discretion is provided for in subclause 6B.7(2) of the Code per *Annex 2: Proposed Code amendment to increase EA discretion to set a higher reliance limit*.

a) This amendment should be additional to the existing exemption pathway in Section 11 of the Electricity Industry Act and should be available to both exempt and non-exempt networks

The EA acknowledges the financeability challenges the reliance limit could have by deferring to the option of applying for an exemption from Code compliance under Section 11 of the Electricity Industry Act 2010 (the Act). As an aside, in describing this exemption pathway the EA refers to price-quality EDBs specifically: "The exemption process provides the opportunity for price regulated distributors to work through the adequacy of their revenue allowances with the Commission". However, the underlying cash-flow constraints, investment requirements, and consumer impacts of greater cross-subsidisation are true for exempt distributors as well.

Empowering the Authority through a specific amendment to the proposed reliance limit in the Code is more appropriate than relying on the Authority's general Code exemption power under section 11 the Act for this type of discretion. In principle, the setting of an appropriate upper bound for a distributor's capital contribution reliance limit for load should not be viewed through the lens of non-compliance with the Code. The approach we recommend instead provides an opportunity to stipulate the factors for consideration in approving a higher upper reliance limit for an EDB. This contrasts with the high-level, statutory objective-linked criteria for an exemption in section 11(2) of the Act.

As such we recommend a pathway which can increase the EA's discretion in setting a tailored reliance limit which is distinct from the existing exemption pathway for Code compliance under Section 11 of the Electricity Industry Amendment Act.

b) There are precedents for the type of amendment sought

In the Code there are several cases where the Authority is empowered to approve something different to the standard Code requirement without going through the Code exemption process:

- Under clause 13.236C the Authority may approve a consolidated spot price risk disclosure where otherwise individual disclosures would be required.
- Under clause 14.8(2) the Authority may approve an alternative to the standard form of hedge settlement agreement in schedule 14.4.
- Under clause 14A.22 the Authority may approve a post-default exit period shorter than the default period.
- Under clauses 3(3), 4(2) and 5(2) of schedule 14A.1 the Authority may approve different terms for a guarantee, letter of credit or security bond than the default terms in Part 14A, or a different form of security altogether.
- Under clause 4A of schedule 15.3 the Authority may approve a profile different to the relevant seasonal adjustment shape.
- Under clause 8(5) of schedule 15.3 the Authority may approve a profile allowing for half hour submission information to be provided to the reconciliation manager where otherwise non-half hour submission information would be required.

We include proposed drafting to implement our recommended amendment in *Annex 2: Proposed Code amendment to increase EA discretion to set a higher reliance limit*.

4. We recommend excluding large connections from the reliance limit regime (≥ 5MW and ≥ $2.5 million)

As we have set out above, the reliance limits as proposed are not sustainable for some EDBs. We also think that there are some connecting customers for whom the reliance limits are not desirable. We recommend that customer connections that are at least 5MW and cost more than $2.5 million be excluded from the calculation of connection costs as a share of total growth capex for the implementation of any reliance limit.

This is because, on CEL's network, many larger scale customers prefer to pay higher up-front costs than higher ongoing lines charges. Lumping these customers into general connection costs for the purpose of calculating the reliance limit would either breach the limit (given the scale of these connections costs) or would force CEL to negotiate higher lines charges to reduce the capital contribution, even in cases where this isn't

what a connecting party wants. For example, CEL installed a 40MW 110/22kV transformer and 15km 18MW under-ground cable for Watercare's Waikato Water Treatment Plant. This was a bespoke project to strengthen the resilience of the plant by reducing its exposure to undervoltage events, which would switch the plant off. Restarting the plant takes 13 hours and Watercare cannot simply switch to another treated water supply source to supply Auckland's water. This resulted in a $12m capital cost to Watercare – compared with our annual capital contribution revenue of $15m per annum.

Connection costs could reach as high as $40m for customers looking for 100MW connections for data centres and grid scale batteries. For these customers the up-front capital cost is not a barrier – and yet the reliance limit would force its reduction, spreading these costs across smaller electricity consumers; resulting in a contract structure that was less desirable to the connecting party; or creating an inefficient distortion when compared to grid connections. This is because Transpower would currently charge the connecting party 100% of their connection costs. This could artificially incentivise or disincentivise network rather than grid connections or vice versa. Decisions to invest in infrastructure should be based on efficiency and reflect true infrastructure cost – rather than a distortion such as the reliance limit proposed, which could also increase the risk of stranded assets. While it doesn't eliminate these inefficiencies, excluding large connections does mitigate them.

The thresholds we have proposed for a "large connection" are based on the thresholds in the definition of "large connection contract" in the EDB Input Methodologies. It would not be appropriate to simply refer to that definition because it assumes the distributor is non-exempt (whereas our proposed definition of large connection would apply to all distributors). Our proposed exclusion of large connections would replace the Authority's concept of "typical connection activity", which, as drafted, is vague and subjective.

We include proposed drafting to implement our recommended amendment in '*Annex 3: Proposed Code amendment to exclude large connections from the reliance limit*'.

Yours sincerely,

Allen Sneddon.

Allen Sneddon
Commercial Manager

Annex 1: Counties Energy Limited response to EA questions

Questions	Comments
Q1. Do you agree with the assessment of the current situation and context for connection pricing? What if any other significant factors should the Authority be considering?	Counties Energy Limited (CEL) acknowledges that the energy system is evolving to meet demand and address the challenges of an increasingly electrified economy. However, we would like to emphasize that many of these changes and challenges have been present for the past decade. These include regulatory reforms (such as, but not limited to, TPM and distribution pricing reforms), system expansion to accommodate a substantial rise in new connections and upgrades, as well as challenges brought on by COVID-19, including cost increases and significant delays in delivery timelines. Additionally, there have been considerable upfront investments made to ensure CEL is well-prepared for the strategic shifts in the sector and to unlock new business opportunities. Notable investments include: • The development of CEL's Advanced Distribution Management System (ADMS), a platform designed to enhance the reliability, resilience, and flexibility of network assets. • Proactively securing land for six new substations, two of which are now operational, positioning CEL to effectively meet the growing load demands of both new and existing customers. While CEL supports the review of connection processes and pricing, we are concerned about the underlying motivations for these changes. We encourage the Electricity Authority (EA) to consider the reasons behind the way distributors calculate connection pricing. For context, CEL is one of the fastest-growing networks in the country, with a projected capital expenditure of $438 million over the next 10 years to accommodate new connections (with a further $450 million in the subsequent 10 years). These investments, totalling nearly $900 million, are expected to triple the value of our network within the next 15 to 20 years. To ensure that the costs of these developments are not unfairly placed on existing customers, CEL implemented an updated capital contribution policy. This policy ensures that future costs are principally funded through upfront connection charges and future revenue from new connections. The primary goal of this policy is to ensure that new connections do not negatively impact existing customers, either now or in the future. To reduce future line revenue charges, CEL has focused on attracting high-value connections like data centres to the network. Feedback from these operators indicates that their main concerns are not the up-front EDB connection charges, but rather the availability of industrial-zoned land (and the bureaucratic hurdles associated with rezoning

	land), the capacity of water infrastructure providers (including but not limited to, stormwater capacity), and the uncertainty surrounding the extent of future electricity price increases. CEL is concerned that reducing/minimising up-front connection charge revenue will result in a funding shortfall.
Q2. Do you agree with the problem statement for connection pricing?	CEL has recently experienced, and continues to see, substantial growth in residential, commercial, and industrial sectors, despite rising capital contribution prices. Feedback from consumers, major customers, and developers connected to the CEL network suggests that our connection pricing remains efficient and cost-effective, particularly when compared to other up-front costs they encounter, such as council development fees, which have increased from $22,564 to $74,142 per residential lot within the same period in the CEL area, as well as NZTA and water infrastructure charges. Given this, CEL disagrees with the notion that our connection charges are a barrier to new connections.
Q3. Do you have any comments on the Authority's proposed pathway to full reform?	While CEL in principle supports many of the rules and guidelines and recognises that this approach will lead to better outcomes for **most** access seekers, EDBs, and existing customers, we want to ensure that the EA understands that connection charges are not a "one size fits all" scenario.
Q4. Do you consider the proposed connection enhancement cost requirements would improve connection pricing efficiency and deliver a net benefit?	The proposed connection enhancement cost largely aligns with CEL's existing approach for most new connections to the network.
Q5. Are there variations to the proposed connection enhancement cost requirements you consider would materially improve the proposed Code amendment?	It is important to recognize that the primary connection applicant is often the developer, not the end user. Based on CEL's experience, developers may opt for the "relevant minimum scheme" or the lowest-cost option, even if it doesn't fully address the needs of either the initial or future users. When the "relevant minimum scheme" is selected by the developer or the initial user, CEL recommends that appropriate provisions be made in the Registry to ensure that the conditions of this choice are clearly documented and visible to all affected parties, both present and future.
Q6. Do you consider the proposed network capacity costing requirements would improve connection pricing efficiency and deliver a net benefit?	CEL considers the proposed network capacity requirements will improve connection pricing efficiency for the majority of new connections.
Q7. Are there variations to the proposed network capacity costing requirements you consider would materially improve the proposed Code amendment?	CEL propose appropriate exemption provisions should be made where significant load is provisioned and there is uncertainty on the long-term viability of a connection at that particular location.

	• Stranded assets risk related to substantial load in rural network areas, such as a large milk formula facility. • Significant load supplied to electric vehicle (EV) charging infrastructure, which is still in the experimental phase regarding the final positioning of their assets.
Q8. Do you consider the pioneer scheme pricing methodology would improve connection pricing efficiency and deliver a net benefit?	In principle, CEL support the pioneer scheme.
Q9. Are there variations to the proposed pioneer scheme pricing methodology you consider would materially improve the proposed Code amendment?	When a pioneer adds new capacity to a network in an area where it is expected to be quickly utilised, CEL currently provide a credit (betterment) to ensure the pioneer is not adversely affected. The proposed pioneer scheme approach is most suitable when there is a high likelihood that the new capacity will remain underutilised, which is most often the case in rural areas of the network.
Q10. Do you consider the cost reconciliation methodology would improve connection pricing efficiency and deliver a net benefit?	The reconciliation methodology will not improve pricing efficiency. Most new connections are within residential, commercial or industrial developments where the developer has paid for connection charge. As the developer has already purchased and rezoned the land before talking to utilities (e.g. telco, water, power), and because electricity reticulation costs are 1% of the final sale price, EDB connection charges are not a material consideration. Furthermore, developers would never sell sections on a cost-plus margin (like a plumber) pricing approach because section prices are determined by the market. A developer would develop a financial model for the development before purchasing the land that would make an assumption on the electricity reticulation cost (non-material assumption at 1% of cost), but this would be an assumption only because the actual cost would be subject to the final roading design. Where the end customer does pay connection charge, such as large industrials, while electricity is an essential utility for all businesses, the connection cost even for large industrial customers is less than 1% of the cost of a new industrial plant. These large industrials will negotiate connection charges along with power quality, reliability and resilience.
Q11. Are there variations to the proposed cost reconciliation methodology you consider would materially improve the proposed Code amendment?	The reconciliation cost needs to include a fair proportion of EDB overhead costs and as well as proportion of the infrastructure used and the maintenance and operation cost of this infrastructure. This is required because over the investment timeframes the EA is requiring for the reconciliation modelling (15 years for industrial, and 30 years for residential), EDB overhead and infrastructure

	costs will increase. This is especially true for growth companies like CEL. Taking a fair proportion of the overhead would be equivalent to basing costs of the long-run marginal cost as compared to the proposal which is the short-run marginal costs.
Q12. Do you consider the reliance limits would improve connection pricing efficiency and deliver a net benefit?	CEL is concerned that the proposed connection charge reliance limit as for load would have serious negative customer impacts in the short term and would compromise the ability to fund electrification in the medium-long term. We are also aware that there is a risk that these proposals cross the boundary of regulatory jurisdiction between the Electricity Authority (EA) and the Commerce Commission. While the EA contends that its proposal pertains to pricing methodologies, which the EA is permitted to regulate under section 32(4)(b) of the Electricity Industry Act, the proposal's broader implication extends beyond mere cost allocation and delves into EDBs' total recoverable revenue, which the EA is not permitted to regulate under 32(2)(b) of the Electricity Industry Act because the Commerce Commission's jurisdiction encompasses revenue regulation of non-exempt EDBs under Part 4 of the Commerce Act. The proposed capital contribution reliance limit for load, or a "sinking lid" alternative to it, transcends pricing methodologies. It involves both direct and indirect revenue regulation, which the EA acknowledges in its consultation paper, and which crosses the statutory boundary delineating regulatory responsibilities between the EA and Commerce Commission. In proposing to do so the EA undermines the integrity of the regulatory framework established by the Commerce Commission. This potential regulatory scope-creep signifies a wider problem with the proposal: the impact that it could have on the cash-flow of EDBs and their ability to fund electrification. This is true for both price-quality regulated networks and those who are exempt. Therefore, changing the proposed connection charge reliance limit for load so that it applies to exempt EDBs only would not solve this underlying challenge. This potential jurisdictional problem goes to an underlying challenge of financeability – and should be taken seriously.
Q13. Are there any variations to the proposed reliance limits you consider would materially improve the proposed Code amendment?	We recommend as a minimum mitigation to the unintended risks of the proposal, that a pathway is provided for EDBs to seek a higher upper limit to the reliance limits proposed by way of a Code Amendment. We do not believe that capital contributions should be limitless, and this amendment ensures that any limits which are imposed are responsive to the real drives of cost and can be sustained over time in the context of the funding challenge of electrification. For the reasons we have set out in the submission above, we believe that the existing exemption process for overall Code compliance set out in Section 11

	of the Electricity Industry Act is too broad in mitigating these risks.
Q14. Do you consider the exemption application process (together with guidelines) can be used to achieve the right balance between improving connection pricing efficiency and managing transitional impacts on non-exempt distributors?	As we have stated in our submission the cashflow implications, potential funding shortfall, and customer impacts could be true for EDBs under the reliance limit proposed whether or not their revenue is regulated by the Commerce Commission. In the case of either we do not consider that the existing exemption process provided for in Section 11 of the Act is the appropriate mechanism to mitigate these perverse impacts and recommend this is provided for in the Code per our recommendation in *Annex 2: Proposed Code amendment to increase EA discretion to set a higher reliance limit.*
Q15. Do you consider the dispute resolution arrangements proposed (for both participants and non-participants) will provide the right incentives on distributors and connection applicants to resolve disputes about the application of pricing methodologies to connection charges and improve connection pricing efficiency and deliver a net benefit?	CEL's experience with the Rulings Panel to date has shown that there is a considerable time gap between the initial complaint, the investigation, and the final decision. Given this, CEL is concerned that the dispute resolution process could lead to significant costs and delays, affecting not only the customer who filed the complaint but also others requesting additional load in the same network area.
Q16. Are there variations to the proposed dispute resolution arrangements you consider would materially improve the proposed Code amendment?	We believe that the UDL would operate a more efficient process when it comes to handling disputes.
Q17. Do you consider the alternative contractual terms option would be better than the approach in the proposed drafting attached to this paper? Please give reasons.	In principle, CEL would agree to this proposal. However, the devil would very much be in the detail. We look forward to investigating this option further with the EA.
Q18. Do you think a sinking lid approach to reliance limits would be preferable to the proposed static limits approach described in sections 7.80 – 7.105?	CEL opposes the sinking lid proposal, which would see CEL's recoverable connection charges falling from 79% on 1 April 2026 to 47% from 1 April 2030. CEL believes that this approach of 'one size fits all' does not consider the varying growth rates and corresponding infrastructure investment needs of different EDBs. High-growth EDBs require more connection charges to fund their infrastructure compared to those with low growth. If this proposal proceeds this would result in existing customers funding more of the infrastructure required to enable new connections as the connection charges reduced. This will mean higher line charges. While some of the growth would be funded by debt, loan covenant exist that limit the ability for EDBs to take on debt and, in turn the increased debt will result in higher interest costs being recovered from the customer base.

	The risks of the static reliance limit proposed are inherent in any arbitrary limit on the share of total growth capex that can be funded by connection charges (hence our proposed amendment to the fast-track proposal). However, these impacts are severely exacerbated by a radical reduction to these limits at the expense of consumers and the sector's ability to fund infrastructure for electrification in the medium-long-term. We consider that many of the proposals made by the EA would be sufficient in driving efficiency without needing to contemplate the sinking lid proposal.
Q19. Do you think any element of the fast-track package should be omitted, or should begin later than the rest of the package?	The connection charge reconciliation methodology should either be removed or deferred until there is clarity on all input parameters, such as balance point and bypass point calculations/formulas.
Q20. Are there other parameters you think the Authority should consider for the proposed connection pricing methodologies? If so, which ones and why?	CEL are of the opinion that the reliance limit is set arbitrarily and should be removed. If the EA insists on including a limit, it should consider implementing one over a specified period (e.g., five years, as per DPP4, or ten years) to prevent unintended consequences such as price volatility and inequities in connection pricing for access seekers striving to stay within the limit.
Q21. Do you agree pricing methodologies should apply to LCC contracts? If not, please explain your rationale.	CEL has established several LCC contracts, which were negotiated in good faith to meet the needs and priorities of both parties involved. The terms of these contracts are influenced by factors such as: • Available network capacity at the customer's preferred connection point • The risk of stranded assets • Whether the customer prefers to pay connection costs upfront or spread them over the contract's duration • The customer's ability or willingness to provide load availability during periods of network constraints It is important to note that EDBs are incentivised to compete regionally and globally to attract high-value customers to their networks including datacentres, hydrogen plants, grid scale batteries and large EV charging hubs. The proposed pricing methodology could introduce inflexibility, which would negatively impact all parties involved. If the proposal risks EDBs losing money this would have a negative impact on regional growth. Because before a major power user purchases land for a development, they will discuss their power supply requirements with the local EDB if they are connected to a distribution network. In these initial negotiations they require the EDB to determine network connection options,

	reliability, high level line pricing and connection charges. This occurs before they would engage an electricity retailer, with the EDB not the retailer being the customers primary account manager (as retailers change over time).
Q22. Do you agree the proposed requirements, other than reliance limits, can be applied satisfactorily to connections with vested assets? If not, please explain your rationale.	If there is a rise in vested assets, which CEL are concerned may negatively affect the reliability and visibility of EDB networks, CEL recognizes the benefits of implementing the proposed requirements, provided they are applied consistently across all EDBs.
Q23. Do you have any comments on the impact of reliance limits on incentives to increase prevalence of asset vesting?	CEL acknowledges the possibility of an increase in vested assets. However, considering the ongoing maintenance and depreciation costs/obligations tied to these assets, CEL questions the EA's conclusion that there is an incentive for EDBs to minimize the regulatory asset base.
Q24. Do you agree the proposed methodologies are compatible with contestable connection works? If not, please explain your rationale.	CEL ensure the reliability and quality of the network by limiting 3rd party contractors undertaking vital work on the network. In addition, CEL's previous experience is that the Health & Safety standards we mandate to our employees are not typically consistent with the standards exhibited from 3rd parties or independent contractors. With this in mind, CEL are concerned with the encouragement shown by the EA for an increase in vested assets on EDB's networks.
Q25. Do you agree that fast-track methodologies should not apply to embedded networks? If not, please explain your rationale.	Embedded networks should share the same rights, obligations and responsibilities applied to EDB's. It should be noted that most embedded networks build up over stages. Whilst they are unlikely to initially breach the 5GWh of electricity conveyed annually, it is likely that over time that many will.
Q26. Do you have any comments on the Authority's anticipated solution for longer-term reform?	CEL remains concerned that the EA has not fully considered the potential consequences of the proposed long-term reform. As electricity demand rises in the medium to long term, along with capital growth requirements, this is likely to become a barrier to electrification, with rising prices for consumers driven by increased cross-subsidization. EDBs, which are primarily funded by debt, are already under pressure from growth demands and, to varying extents, are limited in their ability to raise capital. They could face significant challenges in meeting the substantial capital needs for new connections, particularly if this relies more on incremental asset cost recovery through pricing. While the EA is introducing this proposal to support electrification, it is likely to hinder it by not addressing funding gaps and by increasing the financial burden on consumers. As the Interim Climate Change

	Commission warned back in 2019, "accelerated electrification will not happen if electricity is too expensive."
Q27. Are there other alternative means of achieving the objective you think the Authority should consider?	CEL is concerned that the proposals may negatively impact the decarbonisation of the economy through unexpected consequences. For instance, a survey undertaken by CEL found that over 90% of households with EVs charge their EV at home, with around only half sometimes using a public EV charger and less than 10% using mainly a public EV charger. Therefore, in allowing developers to reticulate power at the lowest possible cost would mean that they do not future proof a residential development to have sufficient power capacity to allow for households to have EV chargers. Currently CEL designs new residential subdivisions to an increased capacity per lot at only a marginal increase in cost but allows for households to charge EVs. Most of the public fast EV chargers in CEL's network are owned by CEL. CEL's experience of these chargers is that they are expensive to purchase, connect and maintain and they become obsolete quickly. This results in an EV owner paying twice the cost to charge at a public fast charger than at home. Long-term this will limit the number of public EV fast chargers, and they will be less common than petrol stations. Under the proposal if an EDBs did not recover the full cost of the public EV fast charger connection, then it would require guaranteed minimum line charges per month. This would likely result in public EV chargers being even more expensive than they already are. Consequently, if the government is targeting 10,000 public EV charges, then a more realistic option would be the installation of 14kW public AC chargers. These can be installed for as little as $2k, have little maintenance and most often can be supplied from a business or retail customer's existing low voltage power supply (e.g. they could be installed in supermarket and retail outlet carparks with no upgrade of involvement by the local EDB).

Annex 2: Proposed Code amendment to allow the EA to set a higher upper limit to the proposed reliance limits

The following changes are tracked against the Authority's proposed clause 6B.7. Some highlighted drafting notes are included.

6B.7 Capital contribution reliance limit for load methodology

(1) Each **distributor** must, in setting or amending its policy or methodology for determining capital contributions (or any standard schedule of capital contribution charges), make best endeavours to ensure the policy or methodology (or schedule) is unlikely to result in its **capital contribution reliance for load** exceeding its **capital contribution reliance limit for load** for the period to which the policy or methodology applies. *[The drafting should acknowledge there may be different reliance limits for different periods. See also subclause (3).]*

(2) Subject to subclause (~~3~~6), each **distributor** must determine its **capital contribution reliance limit for load** so that it is no higher than—

(a) its capital contribution reliance for the year ended 31 March 2024; or

(b) 47%; or

(c) subject to subclause (5), any other percentage approved by the **Authority** on application by the **distributor**.

(3) A **distributor** may determine different **capital contribution reliance limits for load** for different periods but must not do so retrospectively.

(4) In deciding whether to approve an application under paragraph (2)(c), and if so the approved percentage, the **Authority** must have regard to—

(a) the size and nature of the **distributor's** customer base; and

(b) the likely impact on that customer base if the **Authority** does not approve the **distributor's** application, including:

(i) the financial burden of **connection works costs** that are not paid by the customer requiring the relevant **connection** or upgrade; and

(ii) the financial burden of **network capacity costs** that are not paid by the customer causing the need for the relevant **network capacity upgrade**; and

(iii) the impact of those financial burdens on incentives for future customers to connect to the **distributor's distribution network** and for existing customers to stay connected to the **distributor's distribution network**; and

(c) if subclause (2)(a) would apply if the **Authority** does not approve the **distributor's** application, whether the **distributor's capital contribution reliance** for the year ended 31 March 2024 was an outlier in the context of the **distributor's capital contribution reliance** for years ended 31 March before or after 31 March 2024; and

(d) any other matter in the **distributor's** application.

(5) The **Authority** may approve a percentage under paragraph (2)(c) that is different to the percentage the **distributor** applied for, but must not approve a percentage that is less than the percentage that would apply to the **distributor** under subclause (2) if the **Authority** had not approved the **distributor's** application.

(~~3~~6) Subject to subclause (7), ~~I~~if a person acquires any **assets** that were a part (or the whole) of a **distribution network** ~~after 31 March 2024~~, the **capital contribution reliance limit for load** ~~requirements in subclause (2)~~ that applied to the previous owner in respect of the acquired ~~those~~ **assets** immediately before the acquisition apply to the person in respect of the acquired ~~those~~ **assets**. To avoid doubt, this subclause does not apply to any **network extension** that connects to the acquired **assets** and was not part of the acquired **assets.**

(7) The acquiring person referred to in subclause (6) may apply to the **Authority** for permission to redetermine the **capital contribution reliance limit for load** in respect of the acquired **assets**. In deciding whether to approve an application under this subclause, the **Authority** must have regard to the **distributor's** administrative burden, including workability, of having different **capital contribution reliance limits for load** in respect of different parts of its **distribution network**. To avoid doubt, subclause (2) applies to any permitted redetermination of the **capital contribution reliance limit for load** in respect of the acquired **assets**. *[It may be administratively cumbersome, even unworkable, for a distributor to have different reliance limits for different parts of its network.]*

Annex 3: Proposed Code amendment to exclude large connections from the reliance limit

The following changes are tracked against the Authority's proposed definitions. Some highlighted drafting notes are included.

capital contribution reliance for load means **capital contribution reliance** adjusted to remove capital contributions and expenditure relating to—

(a) **connections** for **distributed generation** ~~made under Part 6 of this Code~~; and *[All connections for distributed generation should be excluded, whether "made under Part 6" or otherwise.]*

(b) **large connections**

capital contribution reliance limit for load means, for a **distributor**, an upper limit on reasonably anticipated **capital contribution reliance for load**~~, assuming typical connection activity~~, determined in accordance with clause 6B.7 *[Atypical connection activity, or alternatively large connections, need to be excluded from the calculation of the capital contribution reliance for load rather than from the reliance limit. The reliance limit is just a number set under clause 6B.7, and as drafted is not based on any assumption about the type of activity/connection included or excluded.]*

large connection means a **connection**—

(a) for a **consumer** plant with a capacity of at least 5MW; and

(b) for which the capital cost is at least $2.5 million

~~**typical connection activity** means a level and mix of **connection** activity adjusted for **connections** that are outliers in terms of their **connection charge** outcome and have a material impact on overall **capital contribution reliance** in a year~~