

Policy Statement and Procurement Plan amendment processes

Consultation Paper

Submissions close: 5-00pm, 24 October 2012

11 September 2012



Executive summary

The system operator's policy statement and procurement plan are incorporated into the Electricity Industry Participation Code 2010 (Code) by reference. Clause 8.11 and clause 8.43 of the Code set out the requirements for these documents, including an annual review which may result in the documents being amended.

After completing the 2011 annual review of the documents the Authority and the system operator considered that there were opportunities to improve the current arrangements.

The Authority has developed a more flexible review process, which the Authority considers would deliver lower transaction costs for the Authority, system operator and participants over time, and greater efficiency overall. The amended process provides for:

- (a) a full review by the system operator at least every two years, including opportunity for comment by participants; and
- (b) the ability for the system operator, Authority or participants to seek changes at any time between reviews; and
- (c) a short-cut process for simple technical changes.

The purpose of this paper is to consult with interested parties on the proposed amendments to the provisions relating to the policy statement and procurement plan in the Code. The paper provides a background to these provisions, explains the rationale for the proposed amendments to them, and assesses the costs and benefits associated with the proposed amendments.

Glossary of abbreviations and terms

Act	Electricity Industry Act 2010
AOPOs	Asset Owner Performance Obligations under part 8 of the Code
Authority	Electricity Authority
Code	Electricity Industry Participation Code 2010
Commission	Electricity Commission
GSC	Grid Security Committee
MACQS	The Multilateral Agreement on Common Quality Standards
PPOs	Principal Performance Obligations of the system operator under part 7 of the Code
Regulations	Electricity Industry (Enforcement) Regulations 2010
RPO	Reasonable and Prudent Operator Obligation of the system operator
Rules	Electricity Governance Rules 2003
SOSPA	System Operator Service Provider Agreement
The documents	Policy Statement and Procurement Plan
The 1992 Act	Electricity Act 1992

Contents

Executive summary	A
Glossary of abbreviations and terms	C
1. Introduction and purpose of this paper	1
1.1 Introduction	1
1.2 Purpose of this paper	1
1.3 Submissions	2
2. Background	3
2.1 The current arrangements	3
2.2 How the policy statement and procurement plan were developed	6
2.3 Issues with current arrangements	7
3. Regulatory Statement	9
3.1 Authority's proposal	9
3.2 Statement of the objectives of the proposed amendment	13
3.3 Evaluation of the costs and benefits of the proposed amendment	13
3.4 Evaluation of alternative means of achieving the objectives of the proposed amendment	15
3.5 Assessment under section 32(1)	16
3.6 Assessment against the code amendment principles	17
3.7 Conclusion	18
Appendix A Format for submissions	21
Appendix B Assessment under section 32(1) of the Act	22
Appendix C Proposed amendment	23

1. Introduction and purpose of this paper

1.1 Introduction

- 1.1.1 The system operator's policy statement and procurement plan (the documents) are key documents in the set of clauses and contracts that collectively deliver the arrangements for common quality and system operation/dispatch. Clause 8.11 and clause 8.43 of the Electricity Industry Participation Code 2010 (Code) currently requires each of these documents to be reviewed annually by the system operator and the Authority, through a multi-stage consultative process.
- 1.1.2 After completing the 2011 annual review of these documents – the first since the Authority was formed – it was thought timely to reconsider these arrangements to ensure they operate efficiently. Both the Authority and system operator considered that there were opportunities to improve the current arrangements.
- 1.1.3 The Authority has developed a more flexible review process, which the Authority considers would deliver lower transaction costs for the Authority, system operator and participants over time, and greater efficiency overall. The amended process it now proposes was developed with input from the system operator. As the existing review process is prescribed in section 8 of the Code, implementing a new process will require a Code amendment.

1.2 Purpose of this paper

- 1.2.1 The purpose of this paper is to consult with participants and persons that the Authority thinks are representative of the interests of persons likely to be affected by the proposal to amend the Code to deliver a more flexible and efficient review process for the policy statement and procurement plan.
- 1.2.2 Section 39(1)(c) of the Act requires the Authority to consult on any proposed amendment to the Code and the regulatory statement. Section 39(2) provides that the regulatory statement must include a statement of the objectives of the proposed amendment, an evaluation of the costs and benefits of the proposed amendment, and an evaluation of alternative means of achieving the objectives of the proposed amendment. The regulatory statement is set out in part 3 of this paper. The proposed amendment is attached as Appendix C.
- 1.2.3 The Authority invites submissions on the regulatory statement and the proposed amendment, including drafting comments.

1.3 Submissions

The Authority's preference is to receive submissions in electronic format (Microsoft Word). It is not necessary to send hard copies of submissions to the Authority, unless it is not possible to do so electronically. Submissions in electronic form should be emailed to submissions@ea.govt.nz with Consultation Paper—Policy Statement and Procurement Plan amendment processes in the subject line.

If submitters do not wish to send their submission electronically, they should post one hard copy of their submission to either of the addresses provided below.

Submissions
Electricity Authority
PO Box 10041
Wellington 6143

Submissions
Electricity Authority
Level 7, ASB Bank Tower
2 Hunter Street
Wellington

Tel: 0-4-460 8860

Fax: 0-4-460 8879

- 1.3.1 Submissions should be received by 5-00pm on 24 October 2012. Please note that late submissions are unlikely to be considered.
- 1.3.2 The Authority will acknowledge receipt of all submissions electronically. Please contact the Submissions' Administrator if you do not receive electronic acknowledgement of your submission within two business days.
- 1.3.3 If possible, submissions should be provided in the format shown in Appendix A. Your submission is likely to be made available to the general public on the Authority's website. Submitters should indicate any documents attached, in support of the submission, in a covering letter and clearly indicate any information that is provided to the Authority on a confidential basis. However, all information provided to the Authority is subject to the Official Information Act 1982.

2. Background

2.1 The current arrangements

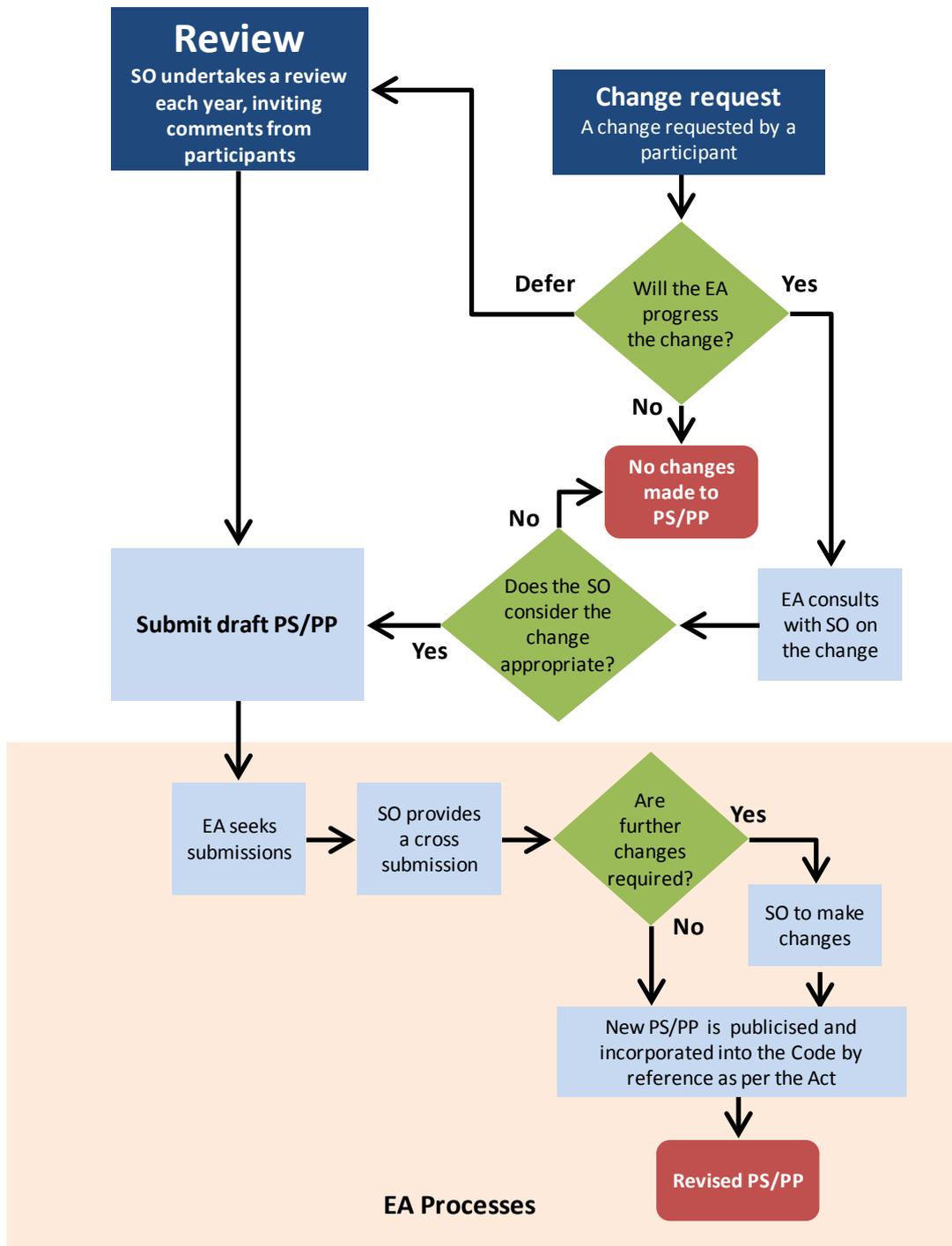
- 2.1.1 Parts 7 and 8 of the Code set out the arrangements for common quality and aspects of system operation and dispatch. The system operator's policy statement and procurement plan documents are key components of those arrangements:
- the policy statement details the requirements, guidelines, and contractual arrangements used by the system operator to manage the operation of the power system so as to comply with the Principal Performance Obligations (the PPOs).
 - the procurement plan sets out how the system operator intends to procure each ancillary service, as well as the specification and key contract terms for each. The procurement plan also describes the principles that the system operator will apply, and the process it will follow, in making an assessment of the quantity of each ancillary service to be purchased. As the name suggests, it is a plan, and the system operator is required by the Code to make reasonable endeavours to implement the plan by entering contracts with ancillary service providers.
- 2.1.2 Both the policy statement and procurement plan confer obligations on the system operator and the system operator is subject to the compliance regime in relation to these obligations. Neither document is intended to confer obligations on other parties.
- 2.1.3 Other key components of the common quality regime include: the system operator PPOs and Reasonable and Prudent Operator obligation (RPO); asset owner performance obligations (AOPOs); ancillary service contracts and cost allocations; and the system operator service provider agreement (SOSPA).
- 2.1.4 The policy statement and procurement plan are incorporated in the Code by reference. Part 8 of the Code prescribes the purpose and content of the documents, and the multi-stage consultative process by which these two documents are reviewed. In particular:
- the system operator must review the policy statement and the procurement plan at least annually;
 - the system operator must seek comments from participants in preparing the draft policy statement and draft procurement plan prepared as part of the review process;
 - each year the system operator must submit a draft policy statement to the Authority by 31 March, and a draft procurement plan by 1 June;

- the Authority must consult on the draft policy statement and draft procurement plan submitted to it by the system operator, consider submissions received including a cross submission from the system operator, then decide whether to adopt the proposed draft; and
- the system operator or a participant can propose a change at any time. The Authority determines whether or not to progress the proposed change at that time. If it is to be progressed then the system operator produces a draft which is consulted on in the same way as the annual review consultation.

2.1.5 The existing policy statement / procurement plan remain effective unless or until replaced by the Authority adopting a new policy statement / procurement plan. As the documents are incorporated by reference, this is affected by the Authority following the process prescribed in Schedule 1 of the Act.

2.1.6 The key aspects of the current review process are illustrated in Figure 1. The process is prescribed in detail in the Code in clauses 8.9 to 8.13 for the policy statement, and clauses 8.40 to 8.46 for the procurement plan.

Figure 1: Overview of current review process



notes: SO is system operator
EA is Electricity Authority

PS is policy statement
PP is procurement plan

2.2 How the policy statement and procurement plan were developed

- 2.2.1 The common quality regime was designed as a voluntary multilateral agreement (MACQS, the Multilateral Agreement on Common Quality Standards) under the governance of an industry-appointed Grid Security Committee (GSC). The policy statement and procurement plan were intended to be “relational documents” agreed between the system operator and the GSC, in consultation with common quality stakeholders. The annual review process for the documents was designed in this context. The first policy statement and procurement plan were crafted by the system operator in liaison with the GSC and its industry working groups, and the approach adopted was to document policies and practices existing at that time.
- 2.2.2 In the transition from self-governance to a regulatory regime under the Electricity Commission (Commission), the annual review process was prescribed in part C of the Electricity Governance Rules 2003 (Rules), and the documents themselves included as schedules to part C. This gave the newly created documents the same status as Rules, and they were subject to the same rigours as other Rules in terms of the compliance framework and the rule change process. In particular, any changes to the documents could only be made by the Minister, and the process for considering changes and making such recommendations was set out in the 1992 Act. The Commission and system operator were also bound by the specific provisions in the Rules prescribing the annual review process for the documents and therefore had to complete this process prior to making a recommendation to the Minister to amend one or other of the documents.
- 2.2.3 With the passage of the Electricity Industry Act 2010 (Act) and establishment of the Electricity Authority, the status of the documents was again reviewed when the Code was being developed. It was decided that the documents should remain within the ambit of the Code, in particular the compliance regime, but that they should be incorporated by reference. The practical effect is that amending the documents amounts to a Code amendment, but the usual Code amendment provisions of the Act do not apply. Instead, Schedule 1 of the Act applies which requires the Authority to publish a Gazette Notice to adopt the new policy statement or procurement plan into the Code. The annual review process from part C of the Rules was retained and became clauses in section 8 of the Code.
- 2.2.4 It is against this background that the Authority, in discussion with the system operator, considered the policy statement and procurement plan arrangements and developed this Code amendment proposal aimed at providing a more flexible and efficient review process.

2.3 Issues with current arrangements

2.3.1 In its review of the current arrangements, the Authority identified the following issues with the existing review process for the policy statement and procurement plan prescribed in the Code:

- (a) while there is value in having a positive obligation on the system operator to review the policy statement/procurement plan regularly in order to identify opportunities for enhancement and efficiencies, the system operator may not identify any issues significant enough to warrant the transaction costs of proceeding with the amendment and consultation process;
- (b) the exemption provisions under section 11 of the Act do not provide a suitable route for waiving the annual review if no material changes are required¹;
- (c) the frequency of the full review process (annual) may be too high relative to extent of changes at times, particularly for Procurement Plan where ancillary service contracts are increasingly multi-year;
- (d) the rigid timeframes prescribed in the Code for the system operator to submit a draft policy statement (31 March) and draft procurement plan (1 June) can constrain the ability of the system operator and/or the Authority to progress their respective development programmes in a timely and efficient manner, particularly where changes to one or both documents are required to implement a common quality development matter;
- (e) the Authority does not have the ability to itself propose a change to the policy statement/procurement plan, and must therefore rely on the system operator or another participant doing so (e.g. to implement a development matter);
- (f) Schedule 1 of the Act does not require the Authority to consult on amendments to documents incorporated by reference, thus affected parties may consider that it is important to retain a positive obligation in the Code for the Authority to consult on material policy statement / procurement plan changes, given the subject matter of the documents, the implications for cost/quality trade-offs and total annual procurement costs²;
- (g) existing Code provisions require the Authority to consult on ALL changes to policy statement and procurement plan, even if minor, technical or non-

¹ The system operator has in the past sought and been granted an exemption from undertaking the annual review where it did not consider material changes were required, however that was under a different regulatory regime.

² For instance, the total cost of ancillary services procured in 2009/10 was over \$78m. These costs are passed on in full to market participants and ultimately paid for by consumers.

controversial, yet the Act may not require such consultation for amendments to the Code itself³; and

- (h) amendments to the policy statement and procurement plan are developed by the system operator, thus it is the system operator not the Authority that is best placed to undertake a cost-benefit evaluation of material amendments proposed; however, the Code requires the Authority to consult on the proposed amendments, and the Authority's Consultation Charter sets out certain requirements for assessment.

2.3.2 It is against this background that the Authority, in discussions with the system operator, has developed the new review process it now proposes.

³ In the 2011 review of the procurement plan the only amendments identified were technical changes such as updating dates. If these were Code amendments rather than amendments to a document incorporated by reference, the Act would have provided for the Authority to adopt the changes without further consultation, however the Code requirement for draft procurement plan consultation meant that the Authority had no choice but to publish the draft and invite submissions. The system operator, Authority and participants incurred unnecessary costs as a result.

3. Regulatory Statement

3.1 Authority's proposal

3.1.1 The Authority proposes to amend:

- (a) clauses 8.9 to 8.13 of the Code relating to the process by which the policy statement is reviewed; and
- (b) clauses 8.40 to 8.47 of the Code relating to the process by which the procurement plan is reviewed, as well as certain aspects of the content of the procurement plan.

3.1.2 In essence, the Authority proposes to replace the requirement for an annual preparation of, and consultation on, a draft policy statement or procurement plan with a set of provisions that provide for:

- (a) a full review by the system operator at least every two years, including comment by participants; and
- (b) the ability for the system operator, Authority or participants to seek changes at any time between reviews; and
- (c) a short-cut process for simple technical changes.

3.1.3 These are explained in more detail as follows⁴:

- (a) **two-yearly review** - the system operator is required to review the policy statement at least every two years, inviting comments from participants as input to the review; the system operator then decides, based on the outcome of its review, whether or not to amend the policy statement and advises the Authority of its decision;
 - (i) if the system operator decides to amend the policy statement it must submit a draft policy statement and specified supporting material to the Authority, including an explanation of the proposed amendments, a statement of the objectives, an evaluation of the costs and benefits, a list of persons consulted and a summary of submissions received, and details of any request to amend the policy statement received since the last review date (including the system operator's decisions on those requests);
 - (ii) if the system operator advises the Authority that it does not propose to amend the policy statement, then it must also advise the results of the review, details of any request to amend the policy statement it has

⁴ The proposal for the procurement plan review process is essentially the same as that proposed for the policy statement.

received since the last review, its decision on the request and its reasons for not pursuing the request further, and its reasons for deciding not to amend the policy statement; the Authority may require the system operator to reconsider its decision not to propose to amend the policy statement, giving its reasons and a date by which the system operator must either confirm its decision or submit a draft policy statement; the Authority publicises the advice received from, and given to, the system operator;

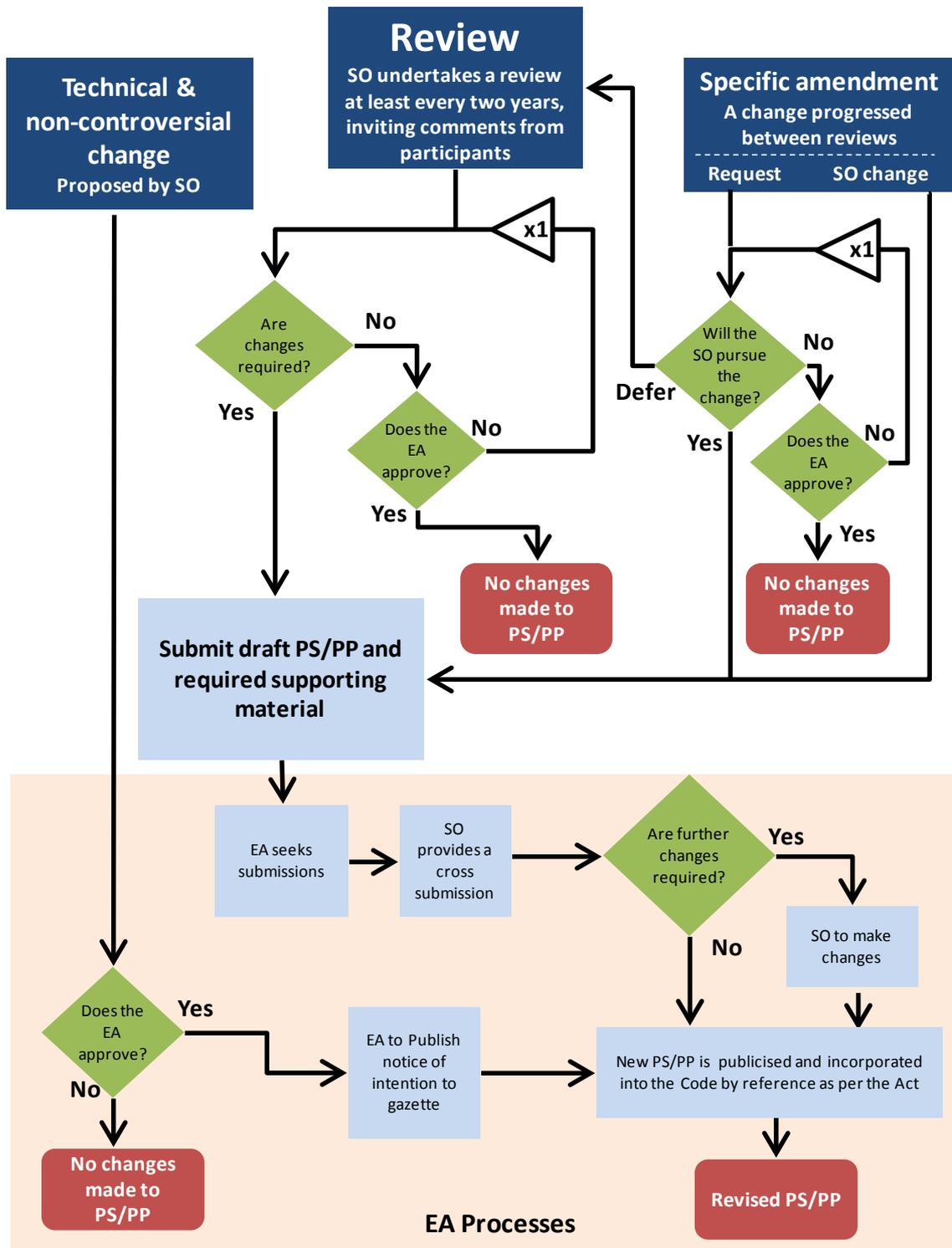
- (b) **changes between reviews** - between reviews, the Authority or a participant may at any time ask the system operator to amend the policy statement, or the system operator itself may request an amendment; the system operator must publish the request on its website; it must then decide whether to decline the request⁵, or defer the request until the next review; it must publish its decision on its website with its reasons; if it decides to pursue the request it must develop and submit a draft policy statement to the Authority;
- (c) **technical changes** - the system operator may at any time propose an amendment to the policy statement that it considers is technical and non-controversial. It must be accompanied by suitable supporting material. The Authority either:
 - (i) confirms the proposed amendment is technical and non-controversial and agrees with the amendment as proposed, in which case it publishes a notice of intent to gazette a revised policy statement; or
 - (ii) declines the system operator's proposal stating its reasons⁶;
- (d) as soon as practical after receiving a draft policy statement and explanatory material the Authority must publicise these and advise participants of the deadline for submissions, which must be at least 10 business days. The Authority gives copies of all submissions received to the system operator, and the system operator has 10 business days to make its own submission. The Authority publishes and considers all submissions including the system operator's cross-submission; the Authority may approve the draft policy statement subject to the system operator making any changes that the Authority considers are necessary or appropriate; and

⁵ The system operator could also determine that the amendment is technical or non-controversial in which case it could decline the request on that basis and instead progress the amendment itself under the specific process for such amendments.

⁶ In this event, the system operator could then decide whether to abandon the proposal, hold it over to the next review or propose an amendment between reviews.

- (e) if the Authority approves a draft policy statement, it must incorporate the new policy statement by reference into the Code in accordance with Schedule 1 of the Act.
- 3.1.4 The key aspects of the proposed review process are illustrated in Figure 2 below. The proposed Code amendments are set out in Appendix C of this paper.
- 3.1.5 It should also be noted that, as under the existing arrangements, in the event that the Authority and the system operator are unable to reach agreement on changes to the policy statement or procurement plan:
- (a) the Authority is able to adopt just the subset of changes where agreement has been reached, with the remaining (disputed) aspects unchanged;
 - (b) the Authority is able to propose an amendment to the Code itself (rather than to the policy statement/procurement plan) relating to the disputed aspects, in which case the system operator is able to make a submission alongside other affected parties and the Authority is required to follow the Code amendment process set out in the Act.
- 3.1.6 The system operator has also proposed amendments to certain aspects of the required contents of a procurement plan to better align these with current practice and to assist with the efficiency of the review process. The Authority supports these proposed amendments, and has included them as part of this Code amendment proposal in the interests of efficiency. In particular:
- (a) the requirement to include in the procurement plan a net purchase quantity assessment for each ancillary service for the following 12 months has been replaced with an obligation to undertake the assessment and publish the outcome on the system operator’s website; and
 - (b) the requirement to include an assessment by the system operator of competitive cost pressures and degree of innovation involved in the procurement process has been removed, as the transparency of the procurement process enables stakeholders to form their own views and make their own submissions.
- 3.1.7 The Authority has taken this opportunity to also make minor amendments for clarity and to improve alignment with the Authority’s Code Drafting Manual. These include, for instance:
- (a) replacing the term “publish” with “publicise” in certain circumstances for consistency with other relevant provisions;
 - (b) reordering some clauses for logic and clarity;
 - (c) removing duplication; and
 - (d) making minor changes to achieve consistency between parallel provisions.

Figure 2: Overview of proposed review process



notes: SO is system operator PS is policy statement
EA is Electricity Authority PP is procurement plan

3.2 Statement of the objectives of the proposed amendment

3.2.1 The objectives of the proposed amendment are to:

- (a) provide a review process for each of the policy statement and procurement plan that is more flexible and efficient;
- (b) ensure that the review process for each of the policy statement and procurement plan places appropriate accountabilities on the system operator and the Authority given their respective roles in the regulatory framework;
- (c) improve the alignment between certain aspects of the required contents of a procurement plan with current practice;
- (d) improve the clarity of the drafting; and
- (e) to improve alignment with the Authority's Code Drafting Manual.

3.3 Evaluation of the costs and benefits of the proposed amendment

3.3.1 The Authority considers that a quantitative analysis of the costs and benefits of the proposal is not practical in this case⁷. A qualitative analysis has therefore been used to assess the merits of this proposal (the proposed review process) relative to the existing review process (the status quo).

3.3.2 The majority of the benefits associated with the proposed amendment derive from replacing the requirement for an automatic annual review of both the policy statement and the procurement plan with a process that is more flexible and is able to be tailored to the circumstances. The Authority considers that the proposed review process gives rise to the following key benefits, relative to the status quo:

- (a) the amended process would result in less frequent full reviews, thereby lowering the total costs over time involved in the review process; this will have benefits for the system operator in particular, and to a lesser extent the Authority and affected parties;
- (b) the amended process can be more easily aligned to the respective work programmes of the system operator and Authority, as it is not tied to

⁷ A quantitative assessment would involve, amongst other things, making assumptions about the likely percentage net increase or decrease in market efficiency of the proposal relative to the status quo. The error associated with estimating the quantities involved is likely to exceed the margin between the options.

specific dates every year for submitting a draft policy statement (31 March) and procurement plan (1 June);

- (c) under the amended process, a draft policy statement or procurement plan is only published for consultation if amendments are warranted (as determined by the system operator with input from the Authority); this further reduces the costs that would otherwise be incurred by the system operator, the Authority and affected parties in making and considering submissions;
- (d) under its Consultation Charter the Authority is required to publish certain supporting material when seeking submissions, however it is not always well-placed to do so for proposed amendments to the policy statement and procurement plan as these are developed by the system operator; the amended process requires the system operator to prepare and submit suitable supporting material⁸ for the Authority to then publish, thus improving the efficiency of the process and reducing duplication of effort;
- (e) the amended process provides a more streamlined approach to considering amendments proposed between reviews enabling just the proposed amendment to be considered, rather than triggering a review of the entire document; where the specific amendment is part of a wider package of Code amendments relating to a development initiative, it is likely that there has already been extensive consultation on the wider package; the streamlined approach proposed would reduce the costs incurred in processing the proposed amendment; it may also increase the likelihood that such amendments are proposed and the speed with which they are able to be introduced; on the assumption that an amendment is only made if there is a net benefit, then that benefit would accrue earlier under the amended process; and
- (f) the amended process also enables minor amendments to move straight through to the Gazetting phase if the Authority agrees that they are technical or non-controversial; the cost reduction associated with this aspect of the amended process could be significant.

3.3.3 The Authority estimates that moving to the more flexible and efficient review process could, over time, reduce the total costs involved in reviewing, consulting on and amending both the policy statement and procurement plan by around 50%. This is based on the reasonable assumption that the documents will no longer be subject to a full review every year, and that some amendments will be progressed between reviews via the less-resource-intensive alternative processes available. Given the level of system operator, Authority and

⁸ Over recent years the system operator has prepared supporting material on a voluntary basis, however the proposed amendment is more specific about the requirements, and makes the obligation definitive.

participant involvement in the review process, this is a significant saving. The checks and balances included in the proposed review process (notably the increased transparency and the ability for the Authority to require the system operator to reconsider its decisions) mean that these benefits are not diminished by poorer outcomes.

3.3.4 There are other benefits associated with the proposed review process relative to the status quo:

- (a) the amended process better reflects the respective roles of the Authority and the system operator under the Act and the Code,
- (b) the enhanced transparency throughout the various aspects of the amended process will enable more informed participation when amendments are considered and likely lead to enhanced confidence in the arrangements overall;
- (c) the system operator's proposed amendments to certain aspects of the required contents of a procurement plan will better align the contents with current practice and assist with the efficiency of the review process; and
- (d) the minor drafting amendments proposed will improve clarity and alignment with the Authority's Code Drafting Manual.

3.3.5 The Authority does not consider that there are any material costs associated with the amendment process relative to the status quo. It notes:

- (a) dropping an annual full review could mean there is a theoretical cost associated with potential improvements not being identified earlier, however, the enhanced transparency and the streamlined ability to propose amendments between reviews mitigates this; and
- (b) although the amended process requires the system operator to prepare and provide supporting material when submitting a draft policy statement and procurement plan to the Authority, this is done voluntarily by the system operator under the current regime, and accordingly there is no material increase in costs associated with codifying this obligation.

3.3.6 Accordingly the Authority considers that there is a material net benefit associated with the amended process relative to the status quo.

3.4 Evaluation of alternative means of achieving the objectives of the proposed amendment

3.4.1 In developing the amended process proposed here the Authority considered other possible means of achieving the objectives set out in paragraph 3.2 above. It did not identify any materially different means of achieving the objectives. In particular:

- (a) the Authority considered whether it should grant an exemption to the system operator under section 11 of the Act from the requirement to undertake a full review if it did not consider one was warranted in any particular year. The Authority rejected this approach as it considered that requiring the system operator to apply for an exemption whenever it considered that a review was not required would not give the system operator sufficient certainty year by year, and this could create difficulties in the system operator's planning process. It also considered that even if exemptions were granted this would not result in the level of flexibility that could be delivered by a better design of the process overall.
- (b) the Authority considered a variety of alternatives where the obligations to undertake certain aspects of the process were allocated to a different party, but rejected all of these as they did not meet the second objective (i.e. ensuring appropriate accountabilities for the system operator and the Authority given their respective roles in the regulatory framework); examples considered but rejected include:
 - (i) the system operator, rather than the Authority, conducting the consultation on the draft policy statement and draft procurement plan;
 - (ii) the Authority, rather than the system operator, preparing the supporting material for consulting on a draft policy statement or draft procurement plan;
 - (iii) the Authority not having a right to ask the system operator to reconsider a decision not to pursue any amendments following a review; and
 - (iv) the Authority having ultimate say on the final form of the policy statement or procurement plan to be gazetted.
- (c) the Authority considered prescribing aspects of the process more fully, particularly where a proposed amendment is rejected in the process; these were rejected as the Authority considers it unnecessary to codify the options available in such circumstances, leaving affected parties to make their own decisions and take their own actions.

3.5 Assessment under section 32(1)

3.5.1 Section 32(1) of the Act provides that Code provisions must be consistent with the Authority's objective and be necessary or desirable to promote any or all of the following:

- (a) competition in the electricity industry;
- (b) the reliable supply of electricity to consumers;

- (c) the efficient operation of the electricity industry;
- (d) the performance by the Authority of its functions;
- (e) any other matters specifically referred to in this Act as a matter for inclusion in the Code.

3.5.2 Appendix B contains a table setting out an assessment of the proposed amendment against the requirements of section 32(1) of the Act.

3.6 Assessment against the code amendment principles

3.6.1 When considering amendments to the Code, the Authority is required by its Consultation Charter to have regard to the following Code amendment principles, to the extent that the Authority considers that they are applicable.

3.6.2 *Principle 1 – Lawfulness:* The Authority and its advisory groups will only consider amendments to the Code that are lawful and that are consistent with the Act (and therefore consistent with the Authority’s statutory objective and its obligations under the Act).

3.6.3 The proposed amendment is lawful and consistent with the Act.

3.6.4 *Principle 2 – Clearly Identified Efficiency Gain or Market or Regulatory Failure:* Within the legal framework specified in Principle 1, the Authority and its advisory groups will only consider using the Code to regulate market activity when:

- (a) it can be demonstrated that amendments to the Code will improve the efficiency of the electricity⁹ industry for the long-term benefit of consumers;
- (b) market failure is clearly identified, such as may arise from market power, externalities, asymmetric information and prohibitive transaction costs; or
- (c) a problem is created by the existing Code, which either requires an amendment to the Code, or an amendment to the way in which the Code is applied.

3.6.5 Drawing on the discussion in section 3.3 above, the Authority considers that the proposed amendment meets the requirements of (a) and (c) in Principle 2, as follows:

- (a) the more streamlined and flexible process will likely deliver a material reduction in transaction costs incurred by the system operator, Authority and affected parties through less frequent and less resource-intensive

⁹ Where efficiency refers to allocative, productive and dynamic efficiency, and improvements to efficiency include, for example, a reduction in transaction costs or a reduction in the scope for disputes between industry participants.

reviews and consultation processes, for the long term benefit of consumers (principle 2 (a));

- (b) as it is not tied to specific dates every year, the amended process can be more easily aligned to the respective work programmes of the system operator and Authority, thereby enabling both parties to undertake their respective functions more efficiently (principle 2 (a));
- (c) aspects of the existing process prescribed in the Code, while workable, are not well-suited to the new regulatory environment under the Act and the respective roles of the Authority and system operator, particularly for documents incorporated by reference (principle 2 (c));
- (d) the proposal includes a number of minor amendments for clarity and to improve alignment with the Authority's Code Drafting Manual (principle 2 (c)); and
- (e) the amended requirements for procurement plan content is a better reflection of current practice (principle 2 (c)).

3.6.6 *Principle 3 – Quantitative Assessment:* When considering possible amendments to the Code, the Authority and its advisory groups will ensure disclosure of key assumptions and sensitivities, and use quantitative cost-benefit analysis to assess long-term net benefits for consumers, although the Authority recognises that quantitative analysis will not always be possible. This approach means that competition and reliability are assessed solely in regard to their economic efficiency effects. Particular care will be taken to include dynamic efficiency effects in the assessment, and the assessment will include sensitivity analysis when there is uncertainty about key parameters.

3.6.7 As set out in section 3.3 above, the Authority has undertaken a qualitative assessment of the proposed amendment, relative to the status quo, and considers that there is a positive net benefit. This is largely due to the material reduction in transaction costs incurred by the system operator, Authority and affected parties arising from less frequent and less resource-intensive reviews and amendments.

3.7 Conclusion

3.7.1 The Authority considers that:

- (a) the proposal meets the objectives of the amendment;
- (b) there are no materially different options that meet the objectives of the amendment;
- (c) the proposal has a positive net benefit relative to the status quo;

- (d) the proposal meets Principles 1, 2 and 3 of the Authority's Code amendment principles, and that the ties breaker principles are not applicable.

Appendix A Format for submissions

Submitters' response to questions

	Question	Response
(a)	Do you agree with the Authority's evaluation of the proposed changes? If not, what alternative evaluation would you make, and why?	
(b)	Is there an alternative that you consider better meets the objectives of the proposal? If so, please describe the alternative and why you prefer it.	
(c)	What comment do you have on the proposed drafting to give effect to the changes proposed by the system operator? Please provide alternative drafting you consider more appropriate (using the table below).	

Specific drafting comments

Clause	Comment	Proposed alternative drafting

Appendix B Assessment under section 32(1) of the Act

Section 32(1) requirements:	Response
The proposed amendment is consistent with the Authority's objective under section 15 of the Act, which is as follows:	
(a) to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers	The more streamlined and flexible process will likely result, over time, in a material reduction in transaction costs incurred by the system operator, Authority and affected parties arising from less frequent and less resource-intensive reviews and amendments, thereby enhancing the efficient operation of the electricity industry for the long-term benefit of consumers.
The proposed amendment is necessary or desirable to promote any or all of the following:	
(a) competition in the electricity industry;	Not applicable
(b) the reliable supply of electricity to consumers;	Not applicable
(c) the efficient operation of the electricity industry;	The more streamlined and flexible process will likely result, over time, in a material reduction in transaction costs incurred by the system operator, Authority and affected parties arising from less frequent and less resource-intensive reviews and amendments, thereby enhancing the efficient operation of the electricity industry for the long-term benefit of consumers.
(d) the performance by the Authority of its functions;	The amendment delivers a more appropriate allocation of certain accountabilities for the system operator and the Authority within the review process. Furthermore, as it is not tied to specific dates every year, the amended process can be more easily aligned to the respective work programmes of the system operator and Authority, thereby enhancing the ability of both parties to perform their respective functions.
(e) any other matter specifically referred to in this Act as a matter for inclusion in the Code.	Not applicable

Appendix C Proposed amendment

Electricity Industry Participation Code 2010

Part 8 Common Quality

Subpart 1 – Performance obligations of the system operator

Policy statement

8.8 Purpose of policy statement

- (1) The **policy statement** sets out policies and means that are considered appropriate during the term of the **policy statement** for the **system operator** to observe in complying with the **principal performance obligations**.
- (2) Subclause (1) is subject to the obligation of the **system operator** to act as a **reasonable and prudent system operator** and to therefore depart from the **policy statement** if required.
- (3) The **policy statement** allows the **system operator** to use its discretion in operational matters in accordance with clause 8.14.

~~8.9 Policy statement~~

- ~~(1) The **Authority** must **publish** **publicise** a **policy statement** in accordance with this subpart.~~
- ~~(2) The **policy statement** must state the date on which the **policy statement** takes effect.~~
- ~~(3) The **Authority** must use reasonable endeavours to ensure that the **policy statement** takes effect no later than 1 September in the year in which the **draft policy statement** is submitted to the **Authority** under clause 8.11.~~

8.10 Incorporation of policy statement by reference

- (1) The **policy statement** ~~for the time being in effect~~ is incorporated by reference in this Code in accordance with section 32 of the **Act**.
- (2) Subclause (1) is subject to Schedule 1 of the **Act**, which includes a requirement that the **Authority** must give notice in the *Gazette* before an amended or substituted **policy statement** becomes incorporated by reference in this Code.

8.10A Review of policy statement

- (1) At least once every two years the **system operator** must—
 - (a) review the **policy statement**;
 - (b) as soon as practicable after completing a review, decide whether or not to propose a change to the **policy statement** and advise the **Authority** of its decision;
 - (c) if it decides to propose a change to the **policy statement** submit a **draft policy statement** to the **Authority** together with the following information—
 - (i) an explanation of the proposed changes and a statement of the objectives of the changes;
 - (ii) an evaluation of the costs and benefits of the proposed changes; and

(iii) a list of the persons consulted and a summary of the submissions received.

(2) As part of a review conducted under this clause the **system operator** must invite comments from **participants**.

8.10B System operator decides not to propose change to the policy statement

If the **system operator** advises the **Authority** under clause 8.10A(1)(b) that the **system operator** does not intend to propose a change to the **policy statement** the **system operator** must also advise—

- (a) the findings of the review of the **policy statement** conducted by the **system operator**;
- (b) details of any request to change the **policy statement** received from a **participant** or the **Authority** since the last review; and
- (c) the **system operator**'s decision on each such request including, if the **system operator** declined a requested change, the reason for declining.

8.10C Authority may require system operator to reconsider

- (1) The **Authority** may require the **system operator** to reconsider a decision made under clause 8.10A(1)(b) not to propose a change the **policy statement**.
- (2) If the **Authority** requires the **system operator** to reconsider a decision the **Authority** must advise the **system operator** of—
 - (a) the **Authority**'s reasons for requiring the **system operator** to reconsider; and
 - (b) the date, determined after consulting the **system operator**, by which the **system operator** must either confirm its decision or submit a **draft policy statement**.
- (3) The **Authority** must as soon as practicable **publicise** the advice received from the **system operator** under clause 8.10A(1)(b) and the advice given by the **Authority** under subclause (2).

8.11 Content of ~~D~~raft policy statement

- ~~(1) No later than 31 March in each year, the **system operator** must submit to the **Authority** a **draft policy statement** for the 12 month period commencing on 1 September of that year.~~
- ~~(2) In preparing the **draft policy statement**, the **system operator** must invite comments from **registered participants** on its content. The **Authority** must review the **draft policy statement** in accordance with clause 8.12.~~
- ~~(3) The **draft policy statement** must address the matters in, and must be prepared on the basis of, clause 8.8 for the period that it addresses, and must include—~~
 - ~~(a) the policies and means that the **system operator** considers appropriate for the **system operator** to observe in complying with its **principal performance obligations** for the following 12 months; and~~
 - ~~(b) the policies and means by which scheduling and **dispatch** are adjusted to meet the **dispatch objective**, and must include the provision of a **dispatch process statement**. The **dispatch process statement** must contain the details of the processes that enable the **system operator** to meet the **dispatch objective**, including the methodologies to be used by the **system operator** for planning to meet the **dispatch objective** during the period leading up to real time and meeting the **dispatch objective** in real time; and~~
 - ~~(c) the policies and means by which the **system operator** intends to address any~~

- conflict of interest that arises in the performance of its obligations under this Code; and
- (d) a statement of the reasons for adopting the policies and means set out in the **policy statement** (which statement must be regarded as an explanatory note only and does not form part of the policies itself); and
- (e) a statement of how future policies and means might be formulated and implemented.

8.11A Changes and variations

- (1) The **system operator** may at any time propose a change to the **policy statement** by submitting a **draft policy statement** to the **Authority** together with the following information—
 - (a) an explanation of the proposed change and a statement of the objectives of the change; and
 - (b) an evaluation of the costs and benefits of the proposed change.
- (2) The **Authority** or a **participant** may at any time request the **system operator** to propose a change to the **policy statement** under subclause (1).
- (3) If the **system operator** receives a request under subclause (2), it must as soon as practicable—
 - (a) decide whether to decline the request, defer the request until the next **review date**, or submit a **draft policy statement** to the **Authority**; and
 - (b) **publish** the decision on its website.
- (4) If the **system operator** declines a request the **Authority** may require the **system operator** to reconsider its decision, giving reasons.

8.12 Consultation on draft policy statement ~~Process for policy statement review~~

- (1) ~~No later than 20 business days~~ As soon as practicable after receiving a **draft policy statement** and accompanying information under clause 8.10A or 8.11A, the **Authority** must ~~publish~~ **publicise** the **draft policy statement** and the information.
- (2) When the **Authority** ~~publishes~~ **publicises** the **draft policy statement** and information under subclause (1), the **Authority** must ~~notify~~ advise ~~registered~~ **participants** of the date (which must be ~~at least not be earlier than~~ 10 business days after the date of ~~publication of that it~~ **publicises** the **draft policy statement**) by which submissions on the changes proposed in the **draft policy statement** must be received by the **Authority**.
- (3) Each submission on the changes proposed in a **draft policy statement** must be made in writing to the **Authority** and received on or before the **submission expiry date**. The **Authority** must provide a copy of each submission received to the **system operator** at the close of business on the **submission expiry date** and must ~~publish~~ **publicise** the submissions.
- (4) The **system operator** may make its own submission on the **draft policy statement** and the submissions received in relation to it no later than 10 **business days** after the **submission expiry date**. The **Authority** must ~~publish~~ **publicise** the **system operator**'s submission when it is received.
- (4A) Following the consultation process required by subclauses (1) to (4), the **Authority** may approve the **draft policy statement** subject to any changes that the **Authority** considers appropriate being made by the **system operator**.
- (5) ~~Before publishing the new policy statement the **Authority** must consider the submissions made to it on the **draft policy statement**.~~

8.12A Technical and non-controversial changes

- (1) The **system operator** may at any time propose a change to the **policy statement** that it considers is technical and non-controversial by submitting a **draft policy statement** to the **Authority** together with an explanation of the proposed changes.
- (2) The **Authority** must as soon as practicable after receiving a **draft policy statement** by notice in writing to the **system operator**—
 - (a) approve the **draft policy statement** to be incorporated by reference into this Code; or
 - (b) decline to approve the **draft policy statement**, giving reasons.
- (3) If the **Authority** approves the **draft policy statement** it must as soon as practicable **publicise** notice of its intention to incorporate the **draft policy statement** by reference into this Code.
- (4) For the avoidance of doubt when the **system operator** submits a **draft policy statement** under this clause 8.12A it is not required to provide a statement of the objectives of the proposed change or an evaluation of costs and benefits.

8.12B Authority adopts new policy statement

If the **Authority** approves a **draft policy statement** under clause 8.12 or 8.12A it must—

- (a) incorporate the new **policy statement** by reference into this Code in accordance with Schedule 1 of the **Act**; and
- (b) **publicise** the new **policy statement** and the date on which it takes legal effect.

8.13 Changes and variations

- ~~(1) If the **Authority** is considering a proposal to change this Code or the **technical codes** (other than a change to the **policy statement** under clause 8.12), the **Authority** must, as part of the **Authority's** consultation processes, consult with the **system operator** about the impact of the proposed change on the **policy statement**.~~
- ~~(2) At any time during the term of a current **policy statement** a **participant** (including the **system operator**) may submit a request for a variation to the current **policy statement** to the **Authority**.~~
- ~~(3) On receiving a request for a variation to a **policy statement**, the **Authority** must decide whether or not to hold the request over until the next **draft policy statement** process under clause 8.11, or to decline the request, or to pursue the request.~~
- ~~(4) If the **Authority** decides to pursue a request the **Authority** must (except in the case of a request from the **system operator**) consult with the **system operator** as to the appropriateness of the requested variation.~~
- ~~(5) If the **system operator** considers, as a **reasonable and prudent system operator**, that the variation is appropriate, the **Authority** may require the **system operator** to draft an amended **policy statement** and submit it to the **Authority**.~~
- ~~(6) The **Authority** must review the **draft policy statement** in accordance with clause 8.12.~~

8.14 Departure from policy statement

- (1) The **system operator** may depart from the policies set out in a **policy statement** when a **system security situation** arises and such departure is required in terms of

the **system operator** acting as a **reasonable and prudent system operator**.

- (2) If the **system operator** departs from a **policy statement** under subclause (1) because of a **system security situation**, the **system operator** must provide a report to the **Authority** setting out the circumstances of the **system security situation** and the actions taken to deal with it.
- (3) The **Authority** must ensure the report is ~~published~~ **publicised** within a reasonable time of its receipt.

Electricity Industry Participation Code 2010

Part 8 Common Quality

Subpart 3 - Arrangements concerning ancillary services

Procurement plan

~~8.40 System operator to use reasonable endeavours to implement and comply with procurement plan~~

~~The system operator must use reasonable endeavours to both implement and comply with the procurement plan.~~

~~8.41 Procurement plan~~

- ~~(1) The Authority must publish a procurement plan in accordance with this subpart.~~
- ~~(2) The procurement plan must state the date on which the procurement plan takes effect.~~
- ~~(3) The Authority must use reasonable endeavours to ensure that the procurement plan takes effect no later than 1 December in the year in which the draft procurement plan is submitted to the Authority under clause 8.43(1).~~

8.42 Incorporation of procurement plan by reference

- (1) The procurement plan for the time being in effect is incorporated by reference in this Code in accordance with section 32 of the Act.
- (2) Subclause (1) is subject to Schedule 1 of the Act, which includes a requirement that the Authority must give notice in the *Gazette* before an amended or substituted procurement plan becomes incorporated by reference in this Code.
- (3) The system operator must use reasonable endeavours to both implement and comply with the procurement plan.

8.42A Contracts with ancillary service agents

- (1) The system operator must use reasonable endeavours to implement the procurement plan for each ancillary service by entering into contracts with the ancillary service agents in the manner specified in the procurement plan.
- (2) The system operator is the principal in any contract it enters into with an ancillary service agent.
- (3) If the system operator has entered into a contract, the system operator must use reasonable endeavours to ensure that the ancillary service agent complies with its contractual obligations, but the system operator is not otherwise liable in respect of any failure by an ancillary service agent to comply with such obligations.

8.42B Methodology to assess net purchase quantity

The system operator must assess the net purchase quantity for each relevant ancillary service using the methodology in the procurement plan and publish the results of the assessment on its website as soon as practicable.

8.42C Departure from procurement plan

- (1) The **system operator** may depart from the processes and arrangements set out in the **procurement plan** if the **system operator** reasonably considers it necessary to do so to comply with the **principal performance obligations**.
- (2) When the **system operator** makes a departure under subclause (1), the **system operator** must provide a report to the **Authority** setting out the circumstances of the departure and the actions taken to deal with it. ~~The **Authority** must ensure that the report is **published** within a reasonable time after the **Authority** receives it.~~
- (3) The **Authority** must ensure that the report is **publicised** within a reasonable time of its receipt.

8.42D Review of procurement plan

- (1) At least once every two years the **system operator** must—
 - (a) review the **procurement plan**;
 - (b) as soon as practicable after completing the review, decide whether or not to propose a change to the **procurement plan** and advise the **Authority** of its decision; and
 - (c) if it decides to propose a change to the **procurement plan**, submit a **draft procurement plan** to the **Authority** together with the following information—
 - (i) an explanation of the proposed changes and a statement of the objectives of the changes;
 - (ii) an evaluation of the costs and benefits of the proposed changes; and
 - (iii) a list of the persons consulted and a summary of the submissions received.
- (2) As part of a review conducted under this clause the **system operator** must invite comments from **participants**.

8.42E System operator decides not to amend the procurement plan

If the **system operator** advises the **Authority** under clause 8.42D(1)(b) that the **system operator** does not propose to propose a change to the **procurement plan** the **system operator** must also advise—

- (a) the findings of the review of the procurement plan conducted by the system operator;
- (b) details of any request to amend the **procurement plan** received from a **participant** or the **Authority** since the last review; and
- (c) the **system operator's** decision on each such request including, if the **system operator** declined a requested change, the reason for declining.

8.42F Authority may require system operator to reconsider

- (1) The **Authority** may require the **system operator** to reconsider a decision made under clause 8.42D(1)(b) not to propose a change to the **procurement plan**.
- (2) If the **Authority** requires the **system operator** to reconsider a decision the **Authority** must advise the **system operator** of—
 - (a) the **Authority's** reasons for requiring the **system operator** to reconsider; and
 - (b) the date by which the **system operator** must either confirm its decision or submit a **draft procurement plan**.
- (3) The **Authority** must as soon as practicable **publicise** the advice received from the **system operator** under clause 8.42D(1)(b) and the advice given by the **Authority** to the **system operator** under subclause (2).

8.43 ~~Process for procuring ancillary services~~ Content of draft procurement plan

- ~~(1) No later than 1 June in each year, the system operator must submit to the Authority a draft procurement plan for the 12 month period commencing on 1 December of that year.~~
- ~~(2) In preparing a draft procurement plan, the system operator must invite comments from participants as to its content.~~
- (3) The **draft procurement plan** must, for each **ancillary service**,—
 - ~~(a) specify the principles that the system operator must apply in making a net purchase quantity assessment; and~~
 - (b) specify the principles ~~outline the process~~ that the system operator must apply in making a **net purchase quantity assessment**, which must include—
 - (i) determining the requirements for complying with the **principal performance obligations**; and
 - (ii) determining the requirements for achieving the **dispatch objective**; and
 - (iii) assessing the contribution that compliance by **asset owners** with the **asset owner performance obligations** will make towards the **system operator's** compliance with the **principal performance obligations**; and
 - (iv) assessing the impact that **dispensations** and **alternative ancillary services arrangements** held by **asset owners** will have on the quantity of **ancillary services** required to enable the **system operator** to comply with the **principal performance obligations**; and
 - (c) contain a methodology for conducting a net purchase quantity assessment for each relevant **ancillary service** for the 12 months following the expiry of the term of the ~~current procurement plan~~ (if any); and
 - (d) outline the process that the **system operator** must use to procure that **ancillary service**, taking into account that the system operator must use—
 - ~~(i) the system operator must use~~ market mechanisms to procure **ancillary services** wherever technology and transaction costs make this practicable and efficient; and
 - (ii) ~~until such time as markets are developed, the system operator must use~~ transparent processes that encourage all potential providers to compete to supply **ancillary services** required to meet **common quality** standards at the best economic cost; and
 - (e) specify the **administrative costs** for that **ancillary service** as proposed in the **draft procurement plan**; and
 - (f) outline the **system operator's** technical requirements and key contract terms to support the ~~draft procurement plan~~; and
 - (g) outline the rights and obligations of the **system operator** in relation to procurement of that **ancillary service** in circumstances not anticipated by the ~~draft procurement plan~~, and if the assumptions made by the **system operator** in the **procurement plan** cannot be met; and
 - ~~(h) include an assessment by the system operator of competitive cost pressures and the degree of innovation it believes are involved in the procurement process that it is proposing for that ancillary service; and~~
 - (i) outline how the **system operator** will report on progress in implementing the **procurement plan**.

8.43A Changes and variations

- (1) The system operator may at any time propose a change to the procurement plan by submitting a draft procurement plan to the authority together with the following information—
 - (a) an explanation of the proposed change and a statement of the objectives of the change;

and

- (b) an evaluation of the costs and benefits of the proposed change.
- (2) The **Authority** or a **participant** may at any time request the **system operator** to propose a change to the **procurement plan** under subclause (1).
- (3) If the **system operator** receives a request under subclause (2), it must as soon as practicable—
 - (a) decide whether to decline the request, defer the request until the next **review date**, or submit a **draft procurement plan** to the **Authority**; and
 - (b) **publish** the decision on its website.
- (4) If the **system operator** declines a request the **Authority** may require the **system operator** to reconsider its decision, giving reasons.

8.44 ~~Process for procurement plan review~~ Consultation on draft procurement plan

- (1) No later than ~~20 business days~~ **As soon as practicable** after receiving a **draft procurement plan** and information under clause 8.42D or 8.43A, the **Authority** must ~~publish~~ **publicise** the **draft procurement plan** and the information.
- (2) When the **Authority** ~~publicises~~ **publishes** the a **draft procurement plan** and information under subclause (1) the **Authority** must ~~advise~~ **notify registered participants** of the date (which must not be earlier than 10 **business days** after the date of ~~publication of that it~~ **publicises** the **draft procurement plan**) by which submissions on the amendments proposed in the **draft procurement plan** must be received by the **Authority**.
- (3) Each submission on the amendments proposed in the **draft procurement plan** must be made in writing to the **Authority** and received on or before the **submission expiry date**. The **Authority** must provide a copy of each submission received to the **system operator** at the close of business on the **submission expiry date** and must ~~publish~~ **publicise** the submissions as soon as practicable.
- (4) The **system operator** may make its own submission on the **draft procurement plan** and on the submissions received in relation to it no later than 10 **business days** after the **submission expiry date**. The **Authority** must ~~publish~~ **publicise** the **system operator**'s submission when as soon as practicable after it is received.
- (4A) Following the consultation process required by subclauses (1) to (4), the **Authority** may approve the **draft procurement plan** subject to any changes that the **Authority** considers appropriate being made by the **system operator**.
- (5) ~~Before publishing the new **procurement plan** the **Authority** must consider the submissions it receives on the **draft procurement plan**.~~

8.44A Technical and non-controversial amendments

- (1) The **system operator** may at any time propose an amendment to the **procurement plan** that it considers is technical and non-controversial by submitting a **draft procurement plan** to the **Authority** together with an explanation of the proposed changes.
- (2) The **Authority** must as soon as practicable after receiving a **draft procurement plan** by notice in writing to the **system operator**—
 - (a) approve the **draft procurement plan** to be incorporated by reference into this Code; or
 - (b) decline to approve the **draft procurement plan**, giving reasons.
- (3) If the **Authority** approves the **draft procurement plan** it must as soon as practicable **publicise** notice of its intention to incorporate the **draft procurement plan** by reference into this Code.
- (4) For the avoidance of doubt when the **system operator** submits a **draft procurement plan**

under this clause 8.44A it is not required to provide a statement of the objectives of the proposed change or an evaluation of costs and benefits,

8.44B Authority adopts new policy statement

If the **Authority** approves a **draft procurement plan** under clause 8.44 or 8.44A it must—

- (a) incorporate the new **procurement plan** by reference into this Code in accordance with Schedule 1 of the Act; and
- (b) publicise the new **procurement plan** and the date on which it takes legal effect.

~~8.45 Contracts with ancillary service agents~~

- ~~(1) The **system operator** must use reasonable endeavours to implement the **procurement plan** for each **ancillary service** by entering into contracts with the **ancillary service agents** in the manner specified in the **procurement plan**.~~
- ~~(2) The **system operator** is the principal in any contract it enters into with an **ancillary service agent**.~~
- ~~(3) If the **system operator** has entered into a contract, the **system operator** must use reasonable endeavours to ensure that the **ancillary service agent** complies with its contractual obligations, but the **system operator** is not otherwise liable in respect of any failure by an **ancillary service agent** to comply with such obligations.~~

~~8.46 Code changes and variations~~

- ~~(1) If the **Authority** is considering changing this Code, including the **technical codes** (other than a change to the **procurement plan** under clause 8.43), then, as part of the **Authority's** consultation processes, the **Authority** must consult with the **system operator** about the impact of the proposed changes on the **procurement plan**.~~
- ~~(2) At any time during the term of a current **procurement plan** any **participant** (including the **system operator**) may submit a request for a variation to the current **procurement plan**.~~
- ~~(3) On receiving a request for a variation to a **procurement plan** under subclause(2)(a), the **Authority** must decide whether or not to hold the request over until the next **draft procurement plan** process under clause 8.43, or to decline the request or to pursue the request.~~
- ~~(4) If the **Authority** decides to pursue a request the **Authority** must (except in the case of a request from the **system operator**) consult with the **system operator** as to the appropriateness of the requested variation.~~
- ~~(5) If the **system operator** considers, as a **reasonable and prudent system operator**, that the variation is appropriate, the **Authority** may require a **system operator** to draft an **procurement plan** and submit it to the **Authority**.~~
- ~~(6) The **Authority** must review the amended **procurement plan** in accordance with clause 8.44~~

8.47 Departure from procurement plan

- (1) The **system operator** may depart from the processes and arrangements set out in the **procurement plan** if the **system operator** reasonably considers it necessary to do so to comply with the **principal performance obligations**.
- (2) When the **system operator** makes a departure under subclause (1), the **system operator** must provide a report to the **Authority** setting out the circumstances of the departure and the actions taken to deal with it. The **Authority** must ensure that the report is **published** within a reasonable time after the **Authority** receives it.