

# Electricity Industry Participation Code 2010

## Part 2 Availability of Code information

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*Power to request Code information*

### 2.1 Requests for Code information

- (1) A **participant** may request the **Authority** to make available to the **participant** (the requesting **participant**) any **Code information** held by the **Authority** or by any other **participant**.
- (2) The request must specify, with as much particularity as possible, the nature of the information sought and the name of the **participant** who is believed to hold the information.

Compare: SR 2003/374 r 15

*Information held by Authority*

### 2.2 Information held by Authority

If the **Authority** receives a request for the supply of **Code information** that the **Authority** holds, the **Authority** must—

- (a) consider and process the request in accordance with the Official Information Act 1982; and
- (b) if the **Authority** proposes to provide the information to the requester, give prior written notice to the **participant** that supplied the information to the **Authority**.

Compare: SR 2003/374 r 16  
Clause 2.2(b): replaced, on 5 October 2017, by clause 8 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

*Information held by other participants*

**2.3 Information not held by Authority**

The rest of this Part applies if the **Authority** receives a request for the supply of **Code information** that the **Authority** does not hold.

Compare: SR 2003/374 r 17

**2.4 Authority must contact participant believed to hold requested information**

The **Authority** must, as soon as practicable after receiving a request for **Code information** that it does not hold, send a written notice to the **participant** who the **Authority** believes holds the relevant **Code information**—

- (a) giving the **participant** written notice of the request made to the **Authority**, and the name and address of the requesting **participant**; and
- (b) requesting the **participant** to either—
  - (i) supply the information, together with a note of the **participant's** charges (if any) in relation to the supply of information; or
  - (ii) supply reasons for refusing to supply the information.

Compare: SR 2003/374 r 18

Clause 2.4: amended, on 5 October 2017, by clause 9(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 2.4(a): amended, on 5 October 2017, by clause 9(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

**2.5 Participant must consider request**

A **participant** who receives a request under clause 2.4(b) must consider that request in accordance with clauses 2.6 to 2.8.

Compare: SR 2003/374 r 19

**2.6 Code information should be made available to all participants unless good reason**

- (1) The general principle to be followed by **participants** in relation to **Code information** is that **Code information** should be made available to all **participants** unless there is good reason for refusing to supply it.
- (2) A **participant** has good reason for refusing to supply **Code information** if the supply of the information would be likely to—
  - (a) breach a legislative, regulatory, or other legal requirement; or
  - (b) prejudice the maintenance and supervision of this Code, including the prevention, investigation, and detection of Code breaches and the right to a fair hearing before the **Rulings Panel**; or
  - (c) result in a disclosing **participant** breaching an obligation of confidentiality; or
  - (d) interfere with the privacy of natural persons; or
  - (e) create an improper gain or improper advantage for the requesting **participant** or any other **participant** or person; or

- (f) commercially disadvantage the disclosing **participant** or any other **participant** or person, in a material manner; or
- (g) prejudice the future supply of information that is required by a **market operation service provider** to perform any obligation under this Code.

Compare: SR 2003/374 r 20

## 2.7 Other reasons

A **participant** may also refuse to supply **Code information** if—

- (a) the information requested is, or will soon be, made available to the public; or
- (b) the information requested does not exist or cannot be found; or
- (c) the information requested cannot be made available without substantial collation or research and the **Authority** agrees that it is unreasonable to undertake the collation or research; or
- (d) the request is frivolous or vexatious or the information requested is trivial.

Compare: SR 2003/374 r 21

Clause 2.7(a): amended, on 5 October 2017, by clause 10 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

## 2.8 Transfer of requests

(1) This clause applies if—

- (a) a notice is sent to a **participant** under clause 2.4(b); and
- (b) the information to which the request relates—
  - (i) is not held by the **participant** but is believed by the person dealing with the notice to be held by another **participant**; or
  - (ii) is believed by the person dealing with the notice to be more closely related to the activities of another **participant**.

(2) The **participant** to which the notice was sent must promptly, and in any case not later than 10 **business days** after the day on which the notice is received, transfer the notice to the other **participant**, and inform the **Authority** accordingly.

Compare: SR 2003/374 r 22

Clause 2.8(1)(b)(ii): amended, on 5 October 2017, by clause 11(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 2.8(2): amended, on 5 October 2017, by clause 11(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

## 2.9 Participants must not enter contracts that prejudice supply of Code information

A **participant** must, so far as is reasonably practicable without materially affecting its business or its ability to meet its obligations under this Code, avoid entering into an obligation with a person that would have the effect of prejudicing that **participant's** ability to comply freely with the provisions of this Part.

Compare: SR 2003/374 r 23

## 2.10 Decision about supplying information

A **participant** must, as soon as practicable after considering a request, inform the **Authority** and the requesting **participant** of whether it agrees or refuses to supply all or part of the **Code information** requested.

Compare: SR 2003/374 r 24

### 2.11 Process if participant agrees to supply information

- (1) If a **participant** agrees to supply all or part of the **Code information** requested, the **participant** must, as soon as practicable,—
  - (a) inform the **Authority** and the requesting **participant** of the information that will be supplied, and the amount of any charges to be paid for the supply of that information under clause 2.12; and
  - (b) supply that information, with any deletions authorised by clause 2.13, to the **Authority**.
- (2) The **Authority** must, as soon as practicable after receiving the information, and any charges required to be paid in respect of it by the requesting **participant**, send the information to the requesting **participant**.

Compare: SR 2003/374 r 25

### 2.12 Charges payable

- (1) A **participant** that supplies **Code information** may charge the requesting **participant** for—
  - (a) the reasonable cost of labour and materials involved in supplying the information to the requesting **participant**; and
  - (b) any additional costs incurred as a result of a request for urgent availability.
- (2) The **participant** that supplies the **Code information**, or the **Authority**, may require the whole or any part of the charge to be paid in advance by the requesting **participant**.

Compare: SR 2003/374 r 26

### 2.13 Documents may include deletions

If the **Code information** requested is contained in a **document**, and there are good reasons for refusing to supply some of the information contained in the **document**, the **participant** supplying the information may supply a copy of the **document** with any deletions or alterations that are necessary.

Compare: SR 2003/374 r 27

### 2.14 Process if participant refuses to supply information

- (1) If the **participant** refuses to supply all or any of the **Code information** requested, the **participant** must, as soon as practicable, give written notice to the **Authority** and the requesting **participant** of both the refusal and of the reasons for the refusal.
- (2) The **Authority** must, as soon as practicable after receiving the notice, advise the requesting **participant** of its rights to appeal under clause 2.15.

Compare: SR 2003/374 r 28

Clause 2.14(1): amended, on 5 October 2017, by clause 12(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 2.14(2): amended, on 5 October 2017, by clause 12(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

## 2.15 Appeal

A requesting **participant** who receives written notice under clause 2.14 that another **participant** refuses to supply any **Code information** may appeal that refusal by notice of appeal to the **Rulings Panel**.

Compare: SR 2003/374 r 29

Clause 2.15: amended, on 5 October 2017, by clause 13 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.