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.
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.

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.

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.

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
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(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

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

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
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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
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