

Electricity Industry Participation Code 2010

Part 3 Market operation service providers

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3.1 Appointment of market operation service providers

- (1) The **Authority** must appoint a person or persons to perform each of the following **market operation service provider** roles:
 - (a) **registry manager:**
 - (b) **reconciliation manager:**
 - (c) **pricing manager:**
 - (d) **clearing manager:**
 - (e) **FTR manager:**
 - (f) **WITS manager:**
 - (g) **extended reserve manager:**

- (h) any other role identified in regulations as a **market operation service provider** role and for which market operation services are provided under this Code.
- (2) *[Revoked]*.
- (3) The **system operator** is also a **market operation service provider**, but clauses 3.3, 3.10 and 3.15 do not apply to the **system operator**.
- (4) The **Authority** may also appoint a person or persons to act as an industry service provider in providing any service under this Code.

Compare: SR 2003/374 r 30

Clause 3.1(3): amended, on 19 May 2016, by clause 5 of the Electricity Industry Participation Code Amendment (System Operator and Alignment with Statutory Objective) 2016.

Clause 3.1(1): substituted, on 5 October 2017, by clause 14(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 3.1(2): revoked, on 5 October 2017, by clause 14(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.2 Functions, rights, powers, and obligations of market operation service providers

A **market operation service provider** has the functions, rights, powers, and obligations set out in relation to that **market operation service provider** under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**.

Compare: SR 2003/374 r 31

Clause 3.2: amended, on 5 October 2017, by clause 15 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.2A Market operation service providers to assist Authority to give effect to Authority's statutory objective

- (1) Each **market operation service provider** must perform its obligations under this Code in a way that assists the **Authority** to give effect to the **Authority's** statutory objective.
- (2) The **system operator** must progressively increase the extent to which it assists the **Authority** to give effect to the **Authority's** statutory objective.
- (3) The **system operator** is not required to comply with subclause (1) when exercising discretion in real time in performing its functions.
- (4) This clause does not permit a **market operation service provider** to contravene any other provision of this Code.

Clause 3.2A: inserted, on 19 May 2016, by clause 6 of the Electricity Industry Participation Code Amendment (System Operator and Alignment with Statutory Objective) 2016.

3.3 Term of appointment of market operation service provider

- (1) A **market operation service provider's** term of appointment, and the date on which the term begins, is as agreed between the **Authority** and the **market operation service provider**.
- (2) The **Authority** may at any time terminate, re-appoint, or change the appointment of a person as a **market operation service provider**, subject to the terms of any agreement between that **market operation service provider** and the **Authority**.

Compare: SR 2003/374 r 32(1) and (2)

3.4 Terms of market operation service provider agreements

- (1) The remuneration of a **market operation service provider** is as agreed between the **Authority** and the **market operation service provider**.
- (2) The **Authority** and the **market operation service provider** may agree on any other terms and conditions, not inconsistent with the functions, rights, powers, and obligations of that **market operation service provider** under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**.

Compare: SR 2003/374 r 33

Clause 3.4(2): amended, on 19 December 2014, by clause 5 of the Electricity Industry Participation Code Amendment (Minor Code Amendments) (No 3) 2014.

Clause 3.4(2): amended, on 5 October 2017, by clause 16 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.5 Publication of market operation service provider agreements

The **Authority** must **publish** each **market operation service provider agreement**.

Compare: SR 2003/374 r 34

Clause 3.5: amended, on 5 October 2017, by clause 17 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.6 Insurance cover

Each **market operation service provider** must at all times maintain any insurance cover that is required by the **Authority**, on terms and in respect of risks approved by the **Authority**, with an insurer approved by the **Authority**.

Compare: SR 2003/374 r 36

Force majeure provisions relating to market operation service providers

3.7 Relief of obligation because of force majeure

- (1) A **market operation service provider** is relieved of an obligation under this Code and under the Electricity Industry (Enforcement) Regulations 2010 to the extent that, and for so long as, it is unable to perform the obligation as a result of a **force majeure event**.
- (2) Subclause (1) applies only—
 - (a) if the **market operation service provider** promptly advises the **Authority** of—
 - (i) the details of the **force majeure event**; and
 - (ii) the obligation that cannot be performed; and
 - (iii) the likely duration of the inability to perform the obligation; and
 - (b) for so long as the **market operation service provider** uses its reasonable endeavours to overcome the inability to perform the obligation from which it seeks relief and to remove or mitigate the effect of the **force majeure event**; and
 - (c) if the **market operation service provider** provides the **Authority** with reports in accordance with subclauses (3) and (4).
- (3) As soon as practicable, but in any event no later than by the end of the month following the month in which the **market operation service provider** advises the **Authority** of a **force majeure event** under subclause (2)(a), the **market operation service provider** must provide the **Authority** with a written report that sets out—
 - (a) the full details of the **force majeure event**; and

- (b) the actions the **market operation service provider** is taking or intends to take to comply with subclause (2)(b); and
- (c) the proposed timeline for completing the actions.
- (4) By the end of each following month (unless the **Authority** advises that reports may be provided less frequently or are not required) the **market operation service provider** must provide the **Authority** with a written report that updates the information previously provided and includes any other matters related to the **force majeure event** that the **Authority** requests.
- (5) The **Authority** must **publish** the information provided under subclause (2)(a) and the reports provided under subclauses (3) and (4) as soon as practicable after receiving the information.
- (6) Despite subclause (5), the **Authority** must not **publish** or otherwise make available to the public any information or any part of a report if the **market operation service provider** advises the **Authority** (with reasons) that the **market operation service provider** considers that it would have good reason to refuse to supply the information or the part under clause 2.6 or clause 2.7.

Compare: SR 2003/374 r 38

Clause 3.7: substituted, on 1 November 2012, by clause 5 of the Electricity Industry Participation (Force Majeure) Code Amendment 2012.

Clause 3.7(5): amended, on 5 October 2017, by clause 18(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 3.7(6): amended, on 5 October 2017, by clause 18(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.8 Effect of relief

If a **market operation service provider** is relieved of an obligation under clause 3.7,—

- (a) the **market operation service provider** is not liable for a breach of this Code or with the Electricity Industry (Enforcement) Regulations 2010 in respect of that obligation during the period for which the relief applies under that clause; and
- (b) any costs arising from the relief from the obligation lie where they fall, except that the **Authority** and the **market operation service provider** may agree to adjust the remuneration of the **market operation service provider**.

Compare: SR 2003/374 r 39

Clause 3.8(a): amended, on 1 November 2012, by clause 6 of the Electricity Industry Participation (Force Majeure) Code Amendment 2012.

3.9 Authority may contract elsewhere during force majeure event

For the duration of a **force majeure event**, the **Authority** may contract with others for the performance of an obligation that the **market operation service provider** fails to perform in accordance with this Code or with the Electricity Industry (Enforcement) Regulations 2010, or the relevant **market operation service provider agreement**.

Compare: SR 2003/374 r 40

Clause 3.9: amended, on 1 November 2012, by clause 7 of the Electricity Industry Participation (Force Majeure) Code Amendment 2012.

3.10 Authority may terminate market operation service provider agreements

If a **force majeure event** results in a **market operation service provider** being relieved of a material obligation for more than 30 continuous days, the **Authority** may terminate

the relevant **market operation service provider agreement** by written notice with immediate effect.

Compare: SR 2003/374 r 41(1)

Disclosure to Authority

3.11 Disclosure to Authority

Each **market operation service provider** is entitled to disclose to the **Authority** all information received by it from any person as part of its provision of services under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**.

Compare: SR 2003/374 r 42

Clause 3.11: amended, on 5 October 2017, by clause 19 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Performance standards

3.12 Performance standards to be agreed

The **Authority** and the relevant **market operation service provider** must, at the beginning of each year ending 30 June, seek to agree on a set of performance standards against which the **market operation service provider's** actual performance must be reported and measured at the end of the **financial year**.

Compare: SR 2003/374 r 43

Clause 3.12: amended, on 5 October 2017, by clause 20 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Accountability of market operation service providers via self-review

3.13 Self-review must be carried out by market operation service providers

- (1) Each **market operation service provider** must conduct, on a monthly basis, a self-review of its performance.
- (2) The review must concentrate on the **market operation service provider's** compliance with—
 - (a) its obligations under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**; and
 - (b) the operation of this Code and Part 2 and Subpart 1 of Part 4 of the **Act**; and
 - (c) any performance standards agreed between the **market operation service provider** and the **Authority**; and
 - (d) the provisions of the **market operation service provider agreement**.

Compare: SR 2003/374 r 44

Clause 3.13(2)(a) and (b): amended, on 5 October 2017, by clause 21 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.14 Market operation service providers must report to Authority

- (1) Each **market operation service provider** must prepare a written report for the **Authority** on the results of the review carried out under clause 3.13.
- (1A) A **market operation service provider** must provide the report prepared under subclause (1) to the **Authority**—

- (a) within 10 **business days** after the end of each calendar month except after the month of December:
- (b) within 20 **business days** after the end of the month of December.
- (2) The report must contain details of—
 - (a) any circumstances identified by the **market operation service provider** in which it has failed, or may have failed, to comply with its obligations under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**; and
 - (b) any event or series of events that, in the **market operation service provider's** view, highlight an area where a change to this Code may need to be considered; and
 - (c) any other matters that the **Authority**, in its reasonable discretion, considers appropriate and asks the **market operation service provider**, in writing within a reasonable time before the report is provided, to report on.

Compare: SR 2003/374 r 45

Clause 3.14(1): replaced, on 5 October 2017, by clause 22(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 3.14(1A): inserted, on 5 October 2017, by clause 22(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 3.14(2)(a): amended, on 5 October 2017, by clause 22(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.14A Market operation service providers to self-report breaches to Authority

- (1) If a **market operation service provider** believes on reasonable grounds that it has breached a provision of this Code, the **market operation service provider** must report the alleged breach to the **Authority** in writing as soon as practicable after the **market operation service provider** becomes aware of the alleged breach.
- (2) The written report must specify—
 - (a) the provision of this Code allegedly breached; and
 - (b) the date and time the alleged breach occurred; and
 - (c) the circumstances relating to the alleged breach, including any **participants** the **market operation service provider** believes the alleged breach may have affected.

Clause 3.14A: inserted, on 1 November 2018, by clause 5 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2018.

Review of market operation service providers by Authority

3.15 Review of market operation service providers

- (1) At the end of each year ending 30 June, the **Authority** may review the manner in which each **market operation service provider** has performed its duties and obligations under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**.
- (2) The review must concentrate on the **market operation service provider's** compliance with—
 - (a) its obligations under this Code and Part 2 and Subpart 1 of Part 4 of the **Act**; and
 - (b) the operation of this Code and Part 2 and Subpart 1 of Part 4 of the **Act**; and
 - (c) any performance standards agreed between the **market operation service provider** and the **Authority**; and
 - (d) the provisions of the **market operation service provider agreement**.

Compare: SR 2003/374 r 46
Clause 3.15: amended, on 5 October 2017, by clause 23 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Market operation service provider software

3.16 Software specifications for market operation service providers

- (1) This clause and clauses 3.17 and 3.18, apply only to **software** that the **market operation service provider agreement** requires the **market operation service provider** to use.
- (2) Unless otherwise agreed by the **Authority** in writing, the **software specification** for all **software** to be used by a **market operation service provider** must be set out or described in the **market operation service provider agreement** for that **market operation service provider**.
- (3) Each **market operation service provider** must ensure that its **software** performs in accordance with the relevant **software specification** and this Code.

Compare: SR 2003/374 r 51(1AA) to (2)

3.17 Market operation service provider must arrange audit of software

- (1) Unless otherwise agreed by the **Authority** in writing, each **market operation service provider** must arrange and pay for a suitably qualified independent person approved by the **Authority** to carry out—
 - (a) before any **software** is first used by the **market operation service provider** in relation to this Code and Part 2 and Subpart 1 of Part 4 of the **Act**, an **audit** of all **software** and **software specifications** to be used by the **market operation service provider**; and
 - (b) an annual **audit** of all **software** used by the **market operation service provider**, within 1 month after 1 March in each year; and
 - (c) an **audit** of any changes to the **software** or the **software specification**, before it is used by the **market operation service provider**.
- (2) A **market operation service provider** must ensure that the person carrying out an **audit** under subclause (1) provides a report to the **Authority** as to—
 - (a) the performance (including likely future performance) of all of the **software** in accordance with the relevant **software specification**; and
 - (b) any other matters that the **Authority** requires.

Compare: SR 2003/374 r 52

Clause 3.17(2): amended, on 1 February 2016, by clause 6 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2015.

Clause 3.17(1)(a): amended, on 5 October 2017, by clause 24 of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

3.18 Requirements for using software

A **market operation service provider** may not use any **software** unless—

- (a) the **market operation service provider** has provided to the **Authority**, in respect of that **software**, an **auditor's** report issued in accordance with clause 3.17(2); or
- (b) the **Authority** has agreed that no **audit** is required under clause 3.17(1).

Compare: SR 2003/374 r 53