

Notice of the Authority's decision under regulation 29 of the Electricity Industry (Enforcement) Regulations 2010

Under regulation 29(1) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations) the Electricity Authority (Authority) must publicise every decision made under regulation 23(3) of the Regulations, together with the reasons for the Authority's decision.

Investigation

On the evening of Monday 9 August 2021, New Zealand faced the largest demand peak on record in response to one of the coldest nights this year. At 5:10 pm the system operator declared a grid emergency. Approximately 34,000 customers across New Zealand experienced an electricity cut without warning. The biggest impact was felt in the Waikato region with over 17,000 customers disconnected.

On 13 August 2021, the system operator provided an interim breach report to the Authority, stating that it had potentially breached clause 7.1A(1) of the Code (reasonable and prudent system operator), clause 7A(7) of Technical Code B of Schedule 8.3 (equitable disconnection of demand), and clause 80.2 of the Policy Statement (demand allocation methodology) in relation to 9 August 2021.

On 14 October 2021, following the conclusion of its independent investigation into the events of 9 August ([PBA Consulting report](#)), the system operator provided an updated self-breach report to the Authority stating it had breached the three clauses mentioned above.

During initial fact finding, the Authority identified additional Code clauses that the system operator may have breached in relation to its management of the grid emergency.

On 2 November 2021, the Authority appointed an investigator under regulation 12 of the Regulations to investigate various alleged breaches of the Code.

In November 2021, Genesis Energy Limited, Haast Energy Trading Limited, Nova Energy Limited, Unison Networks Limited and WEL Networks Limited joined the investigation as affected parties. Nova accepted the terms of the system operator's settlement response. However, the four remaining parties to the investigation were not able to reach a settlement with the system operator.

The investigator formed the view that the system operator had likely breached the following provisions of the Code:

Table 1 Clauses the investigator considered may have been breached

Clause	Location	Topic
7.1A(1)	Code	Reasonable and prudent system operator
80	Policy Statement	Demand allocation methodology

3	Technical Code B of Schedule 8.3	Planning to minimise the impact of a grid emergency
5(1A)		Issue an ISS notice following electrical disconnection of demand

Of the other alleged breaches, the investigator formed the view that the following provisions of the Code had not been breached:

Table 2 Clauses the investigator considered were not breached

Clause	Location	Topic
4	Technical Code B of Schedule 8.3	Participants to undertake independent action
5(2)(c)		Content of a formal notice
7A(5)		Process for emergency load shedding by electrical disconnection
7A(6)		
7A(7)		Equitable allocation of demand electrically disconnected
78	Policy Statement	Not more than 25% shed per point of connection

The investigator considered the system operator's processes were inadequate when the power system was under stress, and poor planning, decision-making and communication contributed to the disconnection of consumers.

On 28 February 2022, the Authority's Compliance Committee received a report and approved recommendations from the investigator to:

1. **recommend to the Board that it lay a formal complaint** with the Rulings Panel under regulation 23(3)(b) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations) concerning the alleged breaches of the clauses listed in Table 1; and
2. **discontinue** the investigation of alleged breaches under regulation 23(3)(a) of the Regulations of the clauses listed in Table 2.

The Authority's decision

On 12 April 2022, the Authority decided to **lay a formal complaint** with the Rulings Panel against the system operator under regulation 23(3)(b) of the Regulations concerning the alleged breaches of the clauses listed in Table 1.

Reasons for the Authority's decision

The reasons for the Authority's decision to lay a formal complaint with the Rulings Panel were that:

- Participants need to have high trust and confidence in the system operator's ability to carry out its obligations and functions within the market.

- The circumstances surrounding this investigation are complex and have high public interest and are the subject of multiple reviews by various organisations.
- The alleged breaches had or have the potential to have market and operational impact.
- Given these circumstances, the alleged Code breaches would benefit from a decision by the Rulings Panel, along with the associated transparency that would provide.

In making its decision the Authority noted the progress the system operator has already made in addressing the recommendations in the various reviews that have been initiated since the events of 9 August 2021. The Authority will continue to work closely with the system operator to ensure all recommendations are addressed.

Table 3 provides a summary of why the Authority considered each of the clauses from Table 1 was breached.

Table 3 Reasoning for alleged breaches of the Code

Clause	Location	Reasoning for alleged breach
7.1A(1)	Code	<p>This clause requires the system operator to carry out its obligations to a reasonable and prudent standard.</p> <p>The Authority considered the actions of the system operator in planning for, and responding to, the grid emergency fell short of the reasonable and prudent standard. The alleged breaches of clause 7.1A(1) in this case overlap considerably with the other breaches identified below and also includes, amongst other things, the system operator's request to distributors to reduce demand further than was necessary to respond to the grid emergency, causing unnecessary consumer disconnections, and the errors made by the system operator when communicating with industry participants including distributors.</p>
80	Policy Statement	<p>This clause sets out different methodologies for re-allocating demand in response to an energy capacity constraint and a peak capacity constraint.</p> <p>The system operator's procedures for using its load shed and restore (LSR) tool did not comply with the specified methodology.</p>
3	Technical Code B of Schedule 8.3	<p>This clause provides that the system operator must plan, and act quickly and safely during a grid emergency, so that the actual and potential impacts of any grid emergency are minimised.</p> <p>The Authority considers it was likely to have been breached for multiple reasons including the system operator's LSR tool not being fit for purpose and inadequate procedures and training on how staff should use the LSR tool.</p>
5(1A)		<p>This clause requires an ISS Notice to be issued when the system operator requires island wide electrical disconnection of demand.</p> <p>The system operator only requested that industry participants reduce demand and did not require island wide electrical disconnection of demand, on 9 August 2021.</p>