

# Review of the consultation and feedback processes

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## Consultation paper

Submissions close: 5:00pm, 21 March 2023



## Executive summary

The Authority has reviewed its consultation charter as a result of the Electricity Industry Amendment Act 2022 and some of the recommendations from the Electricity Price Review. While the consultation charter was being reviewed, the Authority has also taken the opportunity to review and streamline the Code amendment request process, establish a new advisory group and consult on its planned membership, and review the amendment processes for the documents incorporated by reference.

As a result of this review, the Authority is proposing several changes and is seeking feedback. The changes aim to introduce the latest best practice in consultation and to make it easier to engage with the Authority. They also introduce an advisory group that will support the Authority's strategic work programme by providing technical expertise and represent the interests of consumers more easily.

The Authority is proposing changes to the consultation charter to significantly simplify the charter and make the charter more accessible, including to non-industry participants such as small businesses and especially domestic consumers. While streamlining the Code amendment request process the Authority has also recognised the unique position of Transpower in the industry and has developed a bespoke process for Transpower to propose Code amendments that affect the security and stability of the power system. The Authority is seeking feedback on these changes.

The industry has developed and matured with the assistance of the advisory groups. Over the coming years the industry needs to adapt and use current and future technology to help the country address climate change while ensuring an affordable, stable, and secure electricity supply for consumers. The Authority acknowledges the valuable work done by the advisory groups to date and needs to ensure that, going forward, the advisory group structure supports the Authority in meeting these needs.

The Authority has decided to establish a new advisory group, more widely representative of industry and consumers, to provide independent advice to the Authority on projects the Authority has in progress and is intending to develop. It is envisaged the new advisory group will assemble on an ad hoc basis to enable them to provide a broad range of industry and consumer views and advice. The group would be brought together to advice on specific challenges related to the Authority's strategic work programme.

Regarding the new advisory group, the Authority is seeking feedback on two proposals:

1. Preference for the membership structure of the new advisory group.
2. Proposed changes to the documents to provide for the new advisory group:
  - Consultation Charter.
  - Advisory Groups Terms of Reference
  - Terms of Reference for the Security and Reliability Council and other advisory groups.

The Authority is also consulting on Code changes relating to the documents incorporated by reference. The review found that each document has its own duplicate set of requirements for reviewing, consulting, and approving amendments that are similar but inconsistent. The Authority proposes creating a new single set of common and consistent requirements for the system operation documents incorporated by reference and revoking the duplicated clauses for each separate document. The proposal also includes inclusion of the Authority at the start of the

review process and reflects the changes made by the Legislation Act 2019. The Authority is consulting on these Code amendments.

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# 1 What you need to know to make a submission

## What this consultation paper is about

- 1.1 The purpose of this paper is to seek comments on the Authority's proposed amendments to the:
- (a) consultation charter;
  - (b) structure of the new advisory group;
  - (c) charter for Advisory Groups and Terms of reference for the Security and Reliability Council (SRC) and other advisory groups, which will inform the structure of the Authority's new advisory group;
  - (d) Code clauses that govern the review and consultation requirements for the documents incorporated into the Code by reference;
- from participants, consumers, and persons that the Authority thinks are representative of the interests of the persons likely to be affected by the amendments.
- 1.2 The reasoning for the proposed changes is contained in this consultation paper.
- 1.3 The proposed changes to the consultation charter are set out in Appendix A.
- 1.4 The proposed changes to the charter for advisory groups are set out in Appendix B.
- 1.5 The proposed changes to the terms of reference for the SRC and other advisory groups are set out in Appendix C.
- 1.6 The proposed changes to Parts 1, 7, 8, 9, 10, and 12 of the Code are set out in Appendix D.
- 1.7 The Authority wants to ensure that the way in which it engages with stakeholders, industry participants, consumers, and the general public is fit for purpose going forward.

## How to make a submission

- 1.8 The Authority's preference is to receive submissions in electronic format (Microsoft Word) in the format shown in Appendix A. Submissions in electronic form should be emailed to [policyconsult@ea.govt.nz](mailto:policyconsult@ea.govt.nz) with "Submission — Review of the consultation and feedback processes" in the subject line.
- 1.9 If you consider that the Authority should not publish any part of your submission, please:
- (a) indicate which part should not be published
  - (b) explain why you consider that part should not be published
  - (c) provide a version of your submission that can be published (if the Authority agrees not to publish your full submission).
- 1.10 If you indicate there is part of your submission that should not be published, staff will discuss with you before deciding whether to not publish that part of your submission.
- 1.11 However, please note that all submissions the Authority receives, including any parts that are not published, can be requested under the Official Information Act 1982. This means the Authority would be required to release material that it did not publish unless good reason existed under the Official Information Act to withhold it. The Authority would

normally consult with you before releasing any material that you said should not be published.

### **When to make a submission**

- 1.12 Please deliver your submissions by **5pm** on Tuesday **21 March 2023**
- 1.13 The Authority will acknowledge receipt of all submissions electronically. Please contact the Authority ([info@ea.govt.nz](mailto:info@ea.govt.nz)) if you do not receive electronic acknowledgement of your submission within two business days.

## 2 Introduction

- 2.1 The Electricity Industry Amendment Act 2022 (Amendment Act) has made changes to the Electricity Industry Act 2010. The primary change being the inclusion of an additional statutory objective for the Authority to protect the interests of household and small business consumers. The Electricity Price Review (EPR) also made recommendations on making the Authority's consultation processes more consumer accessible. These changes should be incorporated into the consultation charter.
- 2.2 This necessitated a review of the consultation charter. As part of that review, the Authority took the opportunity to review other parts of the consultation charter to ensure they remain fit for purpose as the industry has matured, and to adopt a best practice approach to consultation and engagement. The Authority is proposing to make changes to both the advisory groups charter and the Code amendment request (CAR) processes.
- 2.3 The Authority wants to update its processes to more appropriately serve the sector and community need and have flexibility, prioritising best benefit for consumers.
- 2.4 The Authority also proposes to establish a new advisory group – the Electricity Authority Advisory Group (EAAG). The EAAG will be primarily focused on providing input and refinement to current Authority work and facilitating greater accessibility for the benefit of consumers. This will assist the Authority in developing its work to serve the sector and responding to the challenges of the 100% renewable transition.
- 2.5 The Authority will make changes to the way stakeholders can suggest changes to the Code and the market. This will change the CAR process to make it more efficient for stakeholders (especially domestic and small business consumers) and the Authority, lowering the barrier for people to propose changes. The changes will also make it clearer the ways stakeholders can make suggestions on current projects and the market in general, to ensure there is a more efficient path for stakeholders' suggestions to be heard.
- 2.6 The Code contains several similar but differing processes for review, consultation, and approval of six of the “documents incorporated into the Code by reference”. These are documents prepared by the system operator and are technical and too long or impractical to publish as part of the Code.

## 3 This consultation paper has several discrete but related sections

- 3.1 As noted in the introduction, this consultation paper covers several related but separate subjects. Each subject is covered in separate sections of this paper.
- 3.2 Although each section covers matters related to consultation, feedback, advice and suggestions made to the Authority, each proposal is discrete and not interconnected. Each proposal can proceed, be altered or not proceed without affecting the other proposals.
- 3.3 The sections are:
  - (a) Section 4: Changes to the consultation charter to incorporate the Amendment Act and EPR recommendations

- (b) Section 5: Establishing a new advisory group and related changes to the advisory group charter and terms of reference
- (c) Section 6: Changes to the CAR process
- (d) Section 7: Proposed Code amendments relating to the system operation documents incorporated by reference.

## 4 Changes to the consultation charter

- 4.1 The Authority proposes updating the consultation charter to reflect the Authority's new consumer protection objective and function that was added by the Amendment Act, and to make it easier for consumers to engage with us, in response to a recommendation by the EPR.
- 4.2 The proposed charter has been significantly simplified, including to better reflect the Code amendment processes and consultation requirements in the Act. This should make the charter more accessible, especially to non-industry participants such as small businesses and domestic consumers. Changes include:
  - (a) Retaining the current Code amendment principles but simplifying them, making it easier for consumers to understand
  - (b) Noting the requirement to consult with the Commerce Commission
  - (c) Simplifying the discussion of what the Authority considers to be good practice consultation for consumer benefit
  - (d) Removing reference to advisory groups being the primary means of developing Code amendment options
  - (e) Removing prescribed Code amendment request process requirements in favour of a more streamlined process accommodating of consumers and industry.

### Code amendment principles

- 4.3 The Authority considers the Code amendment principles in the current charter to still be largely fit for purpose. However, these principles currently also include a complicated process for decision-making (involving several prescribed steps and tie-breaker mechanisms) that is overly prescriptive, inflexible, and inaccessible for consumers.
- 4.4 The Authority proposes removing the prescribed process and instead simply stating the principles (with simplified language), making it easier for consumers to understand the process. The principles of "lawfulness" and "risk reporting" (current principles 1 and 9) have also been removed. The Authority considers that it is self-evident that it must comply with the law when amending the Code (so no principle is needed to provide this). Risk reporting is a process requirement not a principle, and the process requirement as described is overly prescriptive and adds nothing to the Authority's general responsibility (including in accordance with the requirements of the Act) to explain its thinking when proposing any amendment to the Code.

### Consultation with the Commerce Commission

- 4.5 The proposed charter has been updated to explicitly reference the requirement to consult the Commerce Commission on certain Code amendment proposals.



- 4.6 It is a requirement under section 54V of the Commerce Act 1986 for the Authority to consult with the Commission on amendments that might affect the Commission in the performance of its functions or exercise of its powers under Part 4 of the Commerce Act.
- 4.7 The Amendment Act has increased the scope of what the Commission and Authority can both regulate (information and quality requirements for distributors). It is therefore now even more important that this requirement be noted to stakeholders.

### **Good practice consultation**

- 4.8 The current charter includes detailed discussion of what the Authority considers to be good practice consultation which it intends to adhere to, including by reference to case law.
- 4.9 The Authority considers it useful to make it clear to stakeholders that it will adhere to good practice, so has retained this discussion but has simplified it down to some clear and simple statements about what good practice means to the Authority and it intends to adopt when consulting, on top of the requirements specified in the Act and the Code.

### **Role of advisory groups**

- 4.10 The proposed charter removes reference to advisory groups being the primary means of developing Code amendment options, and more generally removes reference to the role of advisory groups in the consultation process.
- 4.11 These changes have been made to clearly reflect that it is the Authority that is responsible under the Act to propose, consult on, and make Code amendments. The Authority's intended plan for a new advisory group is discussed in section 5 below.

### **Code amendment request process**

- 4.12 The current charter contains a highly prescriptive process for stakeholders to submit, and for the Authority to process, Code amendment requests (CARs). The proposed charter removes this prescription, focusses the scope for CARs (including progressing amendments to the Code that fit within existing projects), and explains how CARs will be considered given this context. This is discussed in section 6 below.

## **5 Establishing a new advisory group**

### **The Authority will establish a new advisory group**

- 5.1 As the industry has matured, and the need to respond to the transition to 100% renewables as part of the Government's response to climate change has intensified, the Authority envisions the future direction of its prioritised initiatives will require a new advisory group.
- 5.2 The Authority is establishing the Electricity Authority Advisory Group (EAAG).
- 5.3 The purpose of the new advisory group is to provide advice on the Authority's prioritised initiatives as requested by the Authority. The current prioritised initiatives include the Wholesale Market review, Future Security and Resilience programme, and Updating the Regulatory Settings for Distribution Networks.

- 5.4 The Authority is consulting on the structure and membership makeup of the EAAG. Please see the subsection starting at paragraph 5.16 below.

### **The EAAG will have a different scope**

- 5.5 The membership of the EAAG is expected to include a range of members from small, medium, and large industry participants as well as members who can represent the interests of consumers and Māori. This will provide some varied perspectives from participants and consumers of all sizes. The Authority is consulting on proposed membership structures, see the subsection from paragraph 5.22.
- 5.6 The EAAG's purpose will be to provide advice on draft issues papers, option papers or other Code amendment papers. It will primarily be for the group to provide advice on Authority project work and consultation papers prior to public release and, as appropriate, to assist in considering and reconciling views presented in submissions.
- 5.7 The EAAG will also provide advice on the industry's ability to implement any changes being considered, to ensure this is accounted for in the final versions of papers being released. The EAAG may also be asked to develop implementable solutions to issues, including considering Code drafting (as provided by the Authority's legal drafters) and to specify market system changes, to the point of completeness that allows the Authority to consult.
- 5.8 The EAAG will meet on an ad hoc basis, and electronically, as the work is available. This enables the right mix of skills to be convened at a time to address a specific issue, challenge, or piece of work driven by the Authority.

### **The proposed group will align with the Authority's statutory objectives and its prioritised initiatives**

- 5.9 The Authority's statutory objectives are to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers, and to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers (in relation to their dealings with industry participants).
- 5.10 The Authority considers an advisory group containing a diverse set of members from consumers, across the industry, and wider stakeholder group will provide the advice the Authority needs as the industry continues to evolve.
- 5.11 The Authority considers that introducing a new advisory group structure will ensure it:
- (a) gets the best interactions from industry-representative parties that can assist it in supporting its statutory objective
  - (b) maximises the administering of its resources to its fullest effect
  - (c) ensures greater acknowledgement of consumer voices through greater inclusion with the Authority's advisory process
  - (d) listens to consumers' views and provides transparency on how those views are weighted in reaching decisions
  - (e) prioritises best benefits for consumers.

- 5.12 The EAAG will engage with and provide advice on the Authority's prioritised initiatives on an ad hoc basis but will not have a work programme of its own. It will have its work provided from the Authority's workstreams with the support of the Authority's staff as a secretariat.

### **The objective of the proposal is to better support the Authority's prioritised initiatives**

- 5.13 To date, much of the Authority's market development work has reflected the traditional demarcation between the retail market and the wholesale market. The Authority's prioritised initiatives have been broadly structured around these activities, as have the Innovation and Participation Advisory Group (IPAG) and Market Development Advisory Group (MDAG).
- 5.14 The EAAG will primarily be set up to directly support the Authority's prioritised initiatives, and to provide advice to ensure the Authority's work has accounted for industry and consumer views before being released for public consultation. The EAAGs input is intended to refine the consultation papers and is not a replacement for public consultation. EAAG members are free to make their own submissions on the consultation papers when they are released
- 5.15 The draft terms of reference for the new advisory group are provided for comment starting at section 14 of the Terms of reference for SRC and other advisory groups in Appendix C below.

### **The Authority is consulting on the membership and structure of the EAAG**

- 5.16 The Authority does not yet have a firm view on how the EAAG should operate, or on the structure and makeup of the group.

### **Operation of the EAAG**

- 5.17 The Authority has previously requested advisory groups establish their own procedures to some degree, as groups have generally operated through formal face-to-face meetings. However, the Authority envisions that the EAAG will be less rigidly structured than previous advisory groups.
- 5.18 Instead of monthly meetings like previous groups had, EAAG meetings would likely be held more infrequently, relative to when the Authority needs advice for its prioritised initiatives. It is also likely the EAAG will do much of its work electronically, only meeting in person to resolve and finalise its advice.
- 5.19 Instead of having its own work programme, EAAG would likely be updated on the Authority's work with members providing their own input through the lenses of industry participants of varying sizes with at least one member representing the interests of ground-level consumers and one member representing the interests of Māori.
- 5.20 The Authority envisions an expansive group of EAAG members, to provide advice on an ad hoc basis as and when their expertise or perspective(s) is required and when each members' expertise may pertain to the issue at hand or when they feel they can provide valuable input.

### **Potential advisory group models**

5.21 The Authority is interested in stakeholder views on how the membership make-up of the EAAG should be composed to best achieve its purpose. We have drafted three potential models for the group's structure; however, we acknowledge there are also other potential models, and feedback is welcome on any other models the Authority could consider.

5.22 The three potential models are:

(a) Option 1: A small core group that co-opts other expertise as needed:

- a small core group consisting of seven or eight members;
- one or two members representing the interests of small retailers/generators/distributors;
- one or two members representing the interests of medium/large retailers/generators/distributors;
- a member representing the interests of small and large consumers;
- a member representing the interests of Māori;
- the ability to co-opt other people on an ad hoc basis.

(b) Option 2: A full size group that can set up smaller working groups of interested members as needed:

- a larger group of about 12 to 15 members
- at least two members representing the interests of small retailers/generators/distributors;
- at least two members representing the interests of larger retailers/generators/distributors;
- at least two members representing the interests of small and large consumers
- at least two members representing the interests of Māori;
- the ability to co-opt other people in on an ad hoc basis;
- the ability to form smaller subgroups of members that are interested in the particular piece of work under consideration.

(c) Option 3: A large member pool with a stronger focus on breakout groups of members interested in individual subjects as needed:

- a large group of about 25-30 members
- at least three members representing the interests of small retailers/generators/distributors;
- at least three members representing the interests of larger retailers/generators/distributors;
- one or two members representing the interests of distributed energy resources (DER) participants;
- one or two members representing the interests of metering equipment providers;
- at least two members representing the interests of small and large consumers;

- at least two members representing the interests of Māori;
- the ability to co-opt other people in on an ad hoc basis;
- a strong focus on forming smaller subgroups of members that are interested in the particular piece of work under consideration.

If Option 3 is chosen, members of the EAAG will be able to advise their preferences for any work programmes they are interested in, with working groups ultimately being decided by the Chair and the secretariat. There is also a likely increase in costs for the Authority for managing appointments and other admin for a large working group.

5.23 The Authority invites submissions on suggestions for the membership make-up of the new advisory group.

**Q1. For your preferred option, do you prefer option 1, 2, or 3?**

**Q2. Are there any key stakeholders that have been left out of these proposed options?**

**Q3. Do you have any comments on the proposed membership?**

**Q4. Do you have an alternative suggestion? If so, please provide details.**

**The Authority will amend the advisory group charter and terms of reference to give effect to these changes**

5.24 There is a hierarchy of documents that govern the Authority's advisory groups:

- (a) **Electricity Industry Act 2010** requires the Authority to:
  - (i) Appoint a Security and Reliability Council (SRC) to provide it with advice on the performance of the electricity system and the system operator
  - (ii) Establish one or more additional advisory groups to provide independent advice to the Authority on the development of the Code and on market facilitation
  - (iii) Make, and make publicly available, a charter about advisory groups
- (b) **Charter for Advisory Groups** sets out, for both the SRC and other advisory groups:
  - (i) How the Authority will establish and interact with the SRC and advisory groups
  - (ii) When and how it will consult with the SRC and advisory groups on material changes to the Code
  - (iii) How the SRC and advisory groups must operate, including provisions concerning procedure.
- (c) **Terms of reference for the SRC and other advisory groups**, which outline their specific operational and governance matters, including the SRC and each advisory group's role and responsibilities.

5.25 To give effect to the above changes, the Authority will be amending the Charter for advisory groups and the Terms of reference for the SRC and other advisory groups. In preparing the changes the Authority has taken the opportunity to update and

streamline these documents to facilitate simpler engagement with consumers and industry.

- 5.26 Proposed changes are contained in draft documents in Appendices C and D respectively. The Authority notes these documents may need further changes to accommodate the final agreed structure for the new advisory group.
- 5.27 After the Authority has undergone the consultation and membership appointment process for the new advisory group, a review will be commissioned on the structure and continued purpose of the incumbent IPAG and MDAG.

<b>Q5. Do you have any comments on the proposed changes to the draft documents in Appendices C and D?</b>
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## 6 The Authority proposes updates to the Code amendment request process

- 6.1 The Authority proposes amending the procedure for submitting and assessing Code amendment requests (CARs)

### **The CAR purpose**

- 6.2 The CAR is a facility set up in the Authority's consultation charter to allow any person to propose any Code change (that complies with section 32 of the Act – Content of Code). There is no restriction on the scope of the request, which can range from minor typographical errors, through to major market policy changes.
- 6.3 When the Authority was new and developing, it benefited from input from the sector to help identify and prioritise areas for ongoing Code development. The CAR process enabled a vehicle for submission of proposals.

### **Current approach**

- 6.4 The consultation charter prescribes the process for submitting a CAR. The charter recommends that a range of useful analysis and information be provided along with the request but does not require this. Most requests do not include this, and Authority staff must do this work to flesh out the request for assessment.
- 6.5 The charter requires the Authority to formally assess every CAR, and to do so within three months of submission. The assessment is first for lawfulness (compliance with section 32 of the Act). The assessment then determines if the request should be placed in the Authority's prioritised initiatives (either as part of a current project, future approved project, or placed on a pending list). If not accepted, then the CAR is declined.
- 6.6 This assessment process is time consuming and takes resource away from other work. Once completed, the assessment also requires management review and approval. This is not efficient allocation of resource within the Authority.
- 6.7 For the proposer, this process is also inefficient. If the proposer does not provide the recommended information the Authority must deduce if from the information provided or contact the proposer for further detailed information that the proposer

may not have. This may lead to the Authority misconstruing the intentions of the proposer and can result in the CAR being declined. For CARs that are accepted, unless there is a related project under way or scheduled, the CAR is usually assigned to the 'pending' list and may stay on that list for several years, causing frustration for the proposer.

- 6.8 The Authority is proposing two main changes to the CAR process. Firstly, to introduce a limited scope for CARs, and secondly to change the assessment and project assignment process.

### **Proposed changes**

- 6.9 The scope of CARs will be limited to basic Code maintenance for existing Code clauses and associated operational policy. The purpose of these CARs must be to improve clarity, reduce ambiguity, or correct errors.
- 6.10 There is still a route for more complex or major policy proposals. If the proposal relates to a current work project, proposals can be made in the relevant consultations on that project. If the proposal is about new or future projects or broader regulatory change, the proposal can be captured in the usual Authority appropriations consultation that consults on the funding and work that will be funded in the coming financial years. Proposals made during this process will be assessed and prioritised along with the other future work the Authority is considering.
- 6.11 Incoming CARs will still be acknowledged so the proposer knows they have been received.
- 6.12 The initial assessment will be very basic – is the issue raised within scope and is it a valid issue and if not, the CAR will be declined, and the proposer notified along with the reasons. If the issue is valid, the CAR issue will be added to the candidate list for the regular Code Review Programme (CRP). The CRP is a generally annual or biennial project that deals with several minor Code changes in an omnibus style consultation. The main assessment of the CAR's objective, costs and benefits will be done as part of the CRP project.
- 6.13 If the issue raised is urgent, this will be assessed and prioritised as appropriate along with the Authority's current work.
- 6.14 It is not the Authority's intention to undermine general consumer and stakeholder engagement, as this continued dialogue is critical to the regular maintenance and operationalisation of the Authority's functions.
- 6.15 The reason for this change is the need to streamline the Authority's engagement process and strengthen the efficacy of these engagements with its stakeholders, facilitating an improved system for all parties involved.

### **Transpower's unique perspective**

- 6.16 Transpower is in a unique position in the industry. It interacts with most participants as part of its management of the power system and operation of the grid. Transpower is also contracted by the Authority to provide a secure and stable power supply to distributors and direct connected consumers. Transpower is able to continue to leverage its experience and knowledge of the industry, beyond maintenance of the current Code provisions.
- 6.17 To continue to ensure Transpower has input into the ongoing operation of the power system, the Authority proposes a bespoke process for Transpower to submit CARs.



This process will be an annual process to align with the Authority’s workplan and budget setting processes, so that Transpower’s suggestions can be given appropriate priority and resources.

- 6.18 To ensure Transpower’s suggestions are not delayed by limited Authority resources to assess the CARs, the bespoke Transpower process will require Transpower to complete much of the detailed assessments required for Code amendments to be consulted on. The Authority will still have some work to do to progress and finalise any Transpower proposal for consultation in accordance with the requirements of the Act.
- 6.19 The detailed changes to the consultation charter to accommodate the above proposal are in Appendix B, starting at section 5.

## 7 Changes to the process for consulting on Documents Incorporated into the Code by Reference

### There are documents incorporated into the Code by reference

- 7.1 The Legislation Act 2019 permits the Authority to incorporate documents into the Code by reference where the requirements of section 64(1) of that Act are met.<sup>1</sup> The Code currently includes references to Standards (NZ Standards as well as international Standards), system operation documents, and grid owner documents. The Authority can give legal effect to any amended or replaced material incorporated by reference by notice in the Gazette under section 131B of the Electricity Industry Act 2010.
- 7.2 The Authority currently has six system operation policy documents incorporated by reference into the Code. Each of these documents is governed under its own Code clauses. There are different processes for amending these documents and consulting with stakeholders on the amendments.
- 7.3 The system operation documents and governing Code clause(s) are:

Document Name	Code clause(s)
(a) Security of supply forecasting and information policy (SOSFIP)	7.3 - 7.6
(b) Emergency management policy (EMP)	7.3 - 7.6
(c) Policy statement	8.8 – 8.14
(d) Ancillary services procurement plan	8.40 – 8.47
(e) AUFLS technical requirements report	Schedule 8.6
(f) System operator rolling outage plan (SOROP)	9.2 – 9.5

- 7.4 There are two different consultation processes that currently apply to these documents. Either:

<sup>1</sup> Section 64(1) permits the incorporation by reference of materials such as certain standards, frameworks, and codes of practice, and other materials that are impractical to include in secondary legislation



- (a) The system operator consults with interested stakeholders, then submits a proposed amendment for the Authority's approval or rejection; or
  - (b) The system operator consults with interested stakeholders, then submits a proposed amendment, the Authority also consults, then makes a decision on approval or rejection.
- 7.5 The process requirements for review, participants suggesting amendments, and urgent amendments, are generally similar but have differences. There is no clear reason for these differences. Further, as the process is contained in different parts of the Code, the process for a particular document can be difficult to find for someone not familiar with the Code.
- 7.6 The Authority considers it would be more efficient to have a single section in the Code dealing with the administrative requirements for the system operation documents, and for these requirements to be common across all documents.
- 7.7 Suggestions for amendment can come from participants, the Authority, the system operator, or as a result of a Code mandated regular review by the system operator.
- 7.8 Regardless of the source of the amendment suggestion, the general process is for the system operator to generate the proposal and consult with participants. On occasion the Authority is involved at the start of the process, but generally the Authority becomes aware of any proposed changes when the system operator publicly consults or when the proposed amendment is submitted to the Authority for approval.
- 7.9 This process means the Authority is not meaningfully engaged in the development of amendments even though the final approved document is part of the Code, made and enforced by the Authority. It also causes confusion and duplication in the consultation process where the system operator and the Authority do not agree.
- 7.10 The Authority considers it would be more efficient if the system operator was required to engage with the Authority on the development of proposed amendments before the proposal is publicly consulted on. The Authority should be able to make suggestions for the system operator to consider during the development, and if required to achieve the Authority's regulatory and policy considerations, direct the system operator to make changes. These suggestions and directions would only be made at the start of the consultation process and, as the Authority does for its own Code change proposals, the system operator and the Authority would consider submissions and alter the proposal, if necessary, in response to submissions. This would help ensure alignment between the technical needs of the system operator and the policy and regulatory needs of the Authority. The proposed Code amendment would do this by making it easier for the system operator, the Authority and interested participants to understand and comply with the requirements for amending the documents incorporated by reference.
- 7.11 A similar approach is not needed for the grid owner documents, as the grid owner is acting as an asset owner and industry participant, and their documents are infrequently reviewed. The system operator is a market operations service provider, providing the system operations service on behalf of the Authority for the benefit of all participants and consumers. The Act requires Transpower to be the system operator and its obligations are specified in the Code and the system operator service provider agreement (SOSPA).

7.12 Additionally, all incorporation by reference clauses in the Code (both the system operation documents and grid owner documents) contain references to provisions that dealt with incorporation by reference before the Amendment Act came into force. These references are redundant, and we propose deleting them.<sup>2</sup> These amendments have not been discussed in the assessment and regulatory statement below as they are technical and non-controversial.

7.13 The proposal is to:

- (a) Create new clauses to govern the initiation of reviews, amendment, consultation, and approval processes of system operation documents incorporated by reference. The new clauses are proposed to be included in Part 7 – System operator.
- (b) Revoke the separate clauses governing the initiation of reviews, amendment, consultation, and approval processes of each of the system operation documents incorporated by reference in parts 7, 8, and 9 of the Code, as noted in paragraph 7.2 above
- (a) Amend existing clauses that refer to repealed provisions of the Act, including those clauses not related to system operation documents, as noted in paragraph 7.12 above.

7.14 The proposed Code amendment drafting is in Appendix E. Text that is underlined is proposed to be added. Text that is ~~strikethrough~~ is proposed to be deleted. All changes (additions and deletions) are in **red font**

7.15 The following is the assessment of the proposed Code amendment

Assessment of proposed Code amendment against the Authority's objective and section 32(1) of the Act	<p>The proposed Code amendment is consistent with the Authority's objective, and section 32(1)(c) of the Act, because it would contribute to the efficient operation of the electricity industry.</p> <p>The proposed amendment would do this by making it easier for the system operator, the Authority and interested participants to understand and comply with the requirements for amending the documents incorporated by reference</p> <p>The proposed amendment is expected to have no effect on reliability of supply or competition in the industry.</p>
Assessment against Code amendment principles	The Authority is satisfied the proposed Code amendment is consistent with the Code amendment principles, as described below.
Principle 1: Lawfulness.	The proposed Code amendment is consistent with the Act, as discussed above in relation to the Authority's statutory objective and the requirements set out in section 32(1) of the Act.
Principle 2: Clearly Identified Efficiency	The proposed Code amendment is consistent with principle 2 in that it addresses a problem created by the existing Code, which requires an amendment to resolve.

<sup>2</sup> The correct reference is to the provisions of the Legislation Act 2019 and section 131B of the Act, but there is no need to refer to these provisions in the Code as they apply in any case.

Gain or Market or Regulatory Failure	
Principle 3: Quantitative Assessment	It has not been practicable to quantify the costs or benefits of the proposed Code amendment. However, the Authority has undertaken a partial qualitative assessment of the proposed amendment's costs and benefits (see below).
Regulatory Statement	
Objectives of the proposed amendment	The objective of the proposed Code amendment is to make the process relating to the amendment of the system operation documents more efficient, increase consistency and remove duplication.
Evaluation of the costs and benefits of the proposed amendment	<p>The Authority considers the proposed Code amendment would have a positive net benefit, for the reasons set out below.</p> <p><b>Costs:</b></p> <p>The cost of implementing this Code amendment is negligible. Both the Authority and system operator may need to change process documentation to refer to the new Code clauses, and the timing of discussions about proposed amendments between the system operator and Authority.</p> <p><b>Benefits:</b></p> <p>The primary benefit of the proposed Code amendment is to improve the efficiency of the electricity market by reducing the risk of breaching the Code and ensuring the system operator and Authority are aligned on technical, policy and regulatory considerations before proposed amendments are published for consultation.</p> <p><b>Net benefit:</b></p> <p>Based on the above analysis, the Authority is satisfied the benefits of the proposed Code amendment would outweigh the costs.</p>
Evaluation of alternative means of achieving the objectives of the proposed amendment	The Authority has identified one alternative means of achieving the objectives of the proposal which is to retain the status quo of multiple clauses in the different Code parts and make minor changes in each part improve process efficiency and consistency. However, this alternative will duplicate the process across several Code parts.

**Q6. Do you agree with the overall assessment of the Code amendment proposal? If not, what alternative assessment would you make and why?**

## Appendix A Format for submissions

Submitter	
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Question	Comment
Q1 For your preferred option, do you prefer Option 1, Option 2, or Option 3?	
Q2 Are there any key stakeholders that have been left out of these preferred options?	
Q3 Do you have any comments on the proposed membership?	
Q4 Do you have an alternative suggestion? If so, please provide details.	

<p>Q5 Do you have any comments on the proposed changes to the draft documents in Appendices C and D?</p>	
<p>Q6 Do you agree with the overall assessment of the Code amendment proposal? If not, what alternative assessment would you make and why?</p>	

## Appendix B Proposed amendment to the consultation charter

# Consultation Charter

19 December 2012

# **Part 1 – Guidelines relating to the Processes for amending the Code and consulting on amendments**

## **1. Purpose of ~~Part 1 of~~ this Charter**

- 1.1. ~~This consultation charter (Charter) In accordance with section 41 of the Electricity Industry Act 2010 (Act), Part 1 of this consultation charter (Charter) sets out guidelines relating to the processes for amending the Electricity Industry Participation Code (Code) and consulting on amendments.<sup>1</sup>~~
- 1.2. ~~The Code is secondary legislation made and administered by the Electricity Authority (Authority) under the Electricity Industry Act 2010 (Act). Part 1 also provides guidance on preparing and submitting Code amendment proposals to the Electricity Authority (Authority).~~

## **2. The objectives of the Authority**

- 2.1. ~~The Authority is New Zealand’s electricity industry regulator. The Authority’s main objective is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.~~
- 2.2. ~~The Authority also has an additional objective: to protect the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers.~~<sup>2</sup>
- 2.3. ~~It is a function of the Authority to make and administer the Code.~~<sup>3</sup>

## **3. What the Code can contain**

- 3.1. ~~The Code may contain any provisions that are consistent with the objectives of the Authority and are 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 protection of the interests of domestic consumers and small business consumers in relation to the supply of electricity to those consumers:~~
  - ~~(e) the performance by the Authority of its functions:~~
  - ~~(f) any other matter specifically referred to in the Act as a matter for inclusion in the Code.~~<sup>4</sup> ~~Part 1 is structured as follows:~~

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<sup>1</sup> This Charter is made in compliance with section 41 of the Act.

<sup>2</sup> ~~This additional objective applies only to the Authority’s activities in relation to the dealings of industry participants with domestic consumers and small business consumers.~~

<sup>3</sup> Section 16(1)(b) of the Act.

<sup>4</sup> Section 32(1) of the Act.



## 4. Code amendment principles

- ~~1.3. As amendments to the Code can substantially affect industry participants, and unpredictable and ill-founded amendments can undermine investor confidence, the Authority considers there is value in stating principles that the Authority and its advisory groups must adhere to when considering Code amendment matters. The primary purpose of the principles is to provide industry participants with greater predictability about decision-making on likely amendments to the Code, to maximise investor certainty.~~
- ~~1.4.~~
- ~~1.5. The Code amendment principles are intended to provide guidance to interested parties, and industry participants in particular, about:~~
- ~~1.6. the potential scope of the Code with regard to achieving the Authority's statutory objective; and~~
- ~~1.7. how the Authority and its advisory groups will consider Code amendment matters, particularly in cases where cost-benefit analysis yields inconclusive results.~~
- ~~1.8. In general it may not be practicable to apply the Code amendment principles to minor or urgent Code amendment proposals. In both cases the Authority will notify industry participants the proposal is classified as minor or urgent and that the Code amendment principles may not be rigorously applied.~~

~~1.9.4.1. When considering whether to amend the Code, the Authority also has regard to the following principleshen considering amendments to the Code, the Authority and its advisory groups will have regard to the following Code amendment principles to the extent that the Authority and its advisory groups consider that they are applicable in each case:~~

~~*Principle 1 – Lawful:* 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).~~

~~*Principle 2.1 – Clear case for regulation:* Consistent with the Act's requirement that Code amendments be necessary or desirable to promote the matters set out in section 32(1) of the Act, Provides 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 will only consider amending the Code when there is a clear case to do so. :~~

- ~~• it can be demonstrated that amendments to the Code will improve the efficiency<sup>5</sup> of the electricity industry for the long-term benefit of consumers;~~
- ~~• market failure is clearly identified, such as may arise from market power, externalities, asymmetric information and prohibitive transaction costs; or~~
- ~~• 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.~~

~~*Principle 3.2 – Benefits are quantified*Net Benefits are Quantified: 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. Although not required under the Act, the Authority will provide quantitative analysis to support proposed amendments where it deems this to be possible, practical, and useful.~~

~~*Additional principles which the Authority might consider where there is no clear best option. Tie-breaker 1: Principles 4–8 apply when the cost-benefit analysis of Code amendment options demonstrates a positive net benefit relative to the counterfactual, but is inconclusive about which is the best option. The Authority will weight these principles in accordance with their relevance and significance for each proposal.*~~

~~*Principle 4.3 – Preference for Small-scale ‘Trial and Error’ Options: When considering possible amendments to the Code, the Authority and its advisory groups will give preference to prefer options that are initially small-scale, and flexible, scalable and relatively easily reversible with relatively low value transfers associated with doing so. In these circumstances the Authority will monitor the effects of the implemented option and reject, refine or expand that solution in accordance with the results from the monitoring.*~~

~~*Principle 5.4 – Preference for Greater Competition: The Authority and its advisory groups will give preference to Code amendment will prefer options that have larger pro-competition effects, because greater competition is likely to be positive for economic efficiency and reliability of supply.*~~

~~*Principle 6.5 – Preference for Market Solutions: The Authority and its advisory groups will give preference to Code amendment will prefer options that directly address the source of the market failure identified under Principle 2, so as to facilitate efficient market arrangements. The Authority and its advisory groups will discount options that subdue or displace efficient market structures.*~~

~~*Principle 7.6 – Preference for flexibility to allow innovation: The Authority and its advisory groups will give preference to Code amendment will prefer options that provide industry participants with greater freedom and lower compliance costs to adapt to the Code amendment as they see fit, unless more restrictive options are justified such as where it may be more efficient to use on the grounds of non-rivalry and/or non-excludability conditions.<sup>6</sup> In the case where both conditions hold perfectly it is generally efficient to adopt a ‘one size fits all’ approach, (for example, such as uniform standards), may be more efficient. Where these conditions do not hold it may be more efficient to utilise flexible mechanisms, such as incentives.*~~

~~*Principle 8.7 – Preference for Non-prescriptive Options: Wherever practicable, when the Authority and its advisory groups are considering standards, they will give preference to Code amendment The Authority will prefer options that specify the outcomes required of industry participants rather than prescribe what they must do and how they must do it. That is, outcome standards are preferred to input standards.*~~

wherever possible, unless the benefits of prescription outweigh an outcomes based approach.

~~*Tie-breaker 2: Principle 9 applies when the cost-benefit analysis of Code amendment options is inconclusive that a Code amendment would yield net benefits and there are no options that are small-scale, flexible, scalable and relatively easily reversible.*~~

~~*Principle 9—Risk Reporting: The Authority will publish a report:*~~

~~that assesses the risks of making and not making the Code amendment, taking into account Principles 5—8, and factoring in the option value associated with waiting longer before intervening; and~~

~~that identifies and assesses non-Code methods for mitigating or addressing the problem.~~

~~The Authority will consult interested parties on the risk report before making a final decision on whether or how to amend the Code.~~

## **5. How amendments are identified**

5.1. The Authority will identify any changes that it considers need to be made to the Code through the performance of its functions, which is based on the Authority's assessment of how to best meet its objectives, statement of intent, and current statement of performance expectations.

5.2. People are welcome to notify the Authority to any perceived issues with the Code or suggest where it might be improved. Any such notifications will be considered by the Authority at its discretion, in accordance with its objectives, functions, statement of intent, and current statement of performance expectations.

5.3. Generally, Code change suggestions will be treated as follows:

5.3.1. **Suggestions that fit into current Authority strategic projects:** People will be asked to make submissions when these projects publicly consult on any proposals to amend the Code;

5.3.2. **Minor or technical changes:** People are asked to make these suggestions using a form prescribed by the Authority and these will be considered as part of the Authority's omnibus Code change process (which will generally progress such amendments every year or two);

5.3.3. **Changes proposed by Transpower as grid owner or system operator:** Transpower in its capacity as grid owner and system operator has unique insight into the practical implementation of the Code. The Authority has a specific arrangement with Transpower to respond to any Code amendment suggestions made by Transpower;

5.3.4. **Urgent changes:** Any suggestions that require an urgent response will be prioritised;

5.3.5. **Suggestions for broader regulatory changes, including Code amendments:** The Authority's annual consultation on its appropriations and levy includes an opportunity for anybody to make suggestions for broader regulatory change or Code amendment suggestions that are outside the scope of current Authority strategic projects or the omnibus Code change process. These suggestions are appreciated and will be considered as part of the Authority's normal work prioritisation processes.

## **6. The process for amending the Code and consulting on amendments**

6.1. The Act sets out requirements relating to how Code amendments are made.

### Standard Code amendments

6.2. To amend the Code the Authority ordinarily needs to publicise a draft of the proposed amendment, prepare and publicise a regulatory statement, and consult on the proposed amendment and the regulatory statement.<sup>7</sup>

6.3. The regulatory statement required for a proposed amendment to the Code 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.

### Technical and non-controversial amendments or amendments that have widespread support or had adequate prior consultation

6.4. The Authority does not need to prepare or publicise a regulatory statement, or consult on a proposed amendment and regulatory statement, if it is satisfied on reasonable grounds that  
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- (a) the nature of the amendment is technical and non-controversial; or
- (b) there is widespread support for the amendment among the people likely to be affected by it; or
- (c) there has been adequate prior consultation so that all relevant views have been considered.

### Urgent amendments

6.5. The Authority also has the power to amend the Code urgently, without complying with any consultation requirements, where it considers that this is necessary or desirable in the public interest.

6.6. Urgent amendments of this kind expire 9 months after they come into force, unless the Authority in the interim makes those amendments permanent by using the standard Code amendment process including meeting the consultation requirements.

### Code consultation requirements

6.7. The Code may also contain consultation requirements that apply to making amendments relating to specific matters. Where this is the case, the Authority will ensure these requirements are met.

6.8. As well as meeting the requirements of the Act and the Code in respect of any consultation on proposed amendments, the Authority will ensure that any consultation adheres to good practice. This includes providing that:

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Section 32(1) of the Act.

<sup>7</sup> Section 39 of the Act.

(a) the right people will have an opportunity to be heard. This means that as well as publicly notifying any proposed amendment and the reasons for it on the Authority's website, the Authority may specifically reach out to those that are particularly affected by an amendment or who may have relevant expertise.

An opportunity to provide oral submissions may be provided in some cases, on top of the usual opportunity to provide written submissions.

People that will routinely be consulted on amendments include industry participants, domestic and small business consumers, groups representing consumers (including a Small Electricity Consumers Agency established under section 22A of the Act), Transpower (as grid owner and system operator), and the Commerce Commission. The Authority's advisory groups will also be consulted where appropriate.

(b) adequate information will be provided to allow people to understand the intended purpose of the amendment so that they may make meaningful submissions. This may include the Authority presenting information orally through forums or similar in order to explain amendments.

(c) people will be given sufficient time to submit on any proposed amendment. Consultation timeframes and deadlines will therefore be adapted to reflect the level of complexity of the proposed amendment

(d) any submissions on a proposed amendment will be properly and impartially assessed and any appropriate changes to a proposed amendment will be made.

(e) where a consultation results in substantial changes being made to a proposed amendment, these changes will be consulted on.

(f) where amendments are particularly complex the Authority may run multi-stage consultations that include opportunities for people to cross-submit on the submissions of others.

## **7. Consultation with the Commerce Commission**

7.1. The Authority and the Commerce Commission have overlapping jurisdictions to regulate the Electricity Industry. The Commerce Commission's jurisdiction is set out in Part 4 of the Commerce Act 1986. Part 4 provides for the regulation of the price and quality of goods or services in markets where there is little or no competition and little or no likelihood of a substantial increase in competition.<sup>8</sup>

7.2. Section 54V of the Commerce Act 1986 provides that the Authority must consult with the Commission before amending the Code in a manner that will, or is likely to, affect the Commission in the performance of its functions or exercise of its powers under Part 4.

## **8. Publishing submissions and confidential information**

8.1. Submissions on consultations will be published on the Authority's website. Where a person wants to submit confidential information, this may be arranged by agreement with the Authority.

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<sup>8</sup> Section 52 of the Commerce Act 1986.

8.2. Reliance the Authority places on any confidential information may also be diminished if the confidentiality affects the Authority's ability to verify or test the information. Where the Authority agrees to treat certain information as confidential, the submitter may be asked to provide a non-confidential summary for publication.

8.3. Note that the Authority is subject to the Official Information Act 1982 and other laws which may require the disclosure of confidential information.

## **9. Publishing the final decision**

9.1. Once the Authority has decided to amend the Code, the decision and the reasons for it will be published on the Authority's website along with a copy of the amendment.

9.2. The Authority maintains a consolidated version of the Code that includes all amendments. This is available on the Authority's website.

~~1.10.—~~

- ~~• the principles that the Authority and its advisory groups will adhere to when considering Code amendment matters;~~
- ~~• the role of advisory groups with regard to Code amendment matters;~~
- ~~• who can propose an amendment to the Code;~~
- ~~• how to submit a Code amendment proposal;~~
- ~~• the information that should be included in a Code amendment proposal;~~
- ~~• the Authority's criteria for prioritising Code amendment proposals;~~
- ~~• information about the register of Code amendment proposals;~~
- ~~• the Authority's role in the Code amendment process; and~~
- ~~• the process for notifying interested parties of an amendment.~~

## **2. Code amendment principles**

~~2.1.— Section 32(1) of the Act requires that any amendments to the Code must be consistent with the Authority's statutory objective, which is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers. In addition, any amendments to the Code must 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 under section 16 of the Act; and~~



~~(e) any other matter specifically referred to in the Act as a matter for inclusion in the Code.~~

~~2.2. As amendments to the Code can substantially affect industry participants, and unpredictable and ill-founded amendments can undermine investor confidence, the Authority considers there is value in stating principles that the Authority and its advisory groups must adhere to when considering Code amendment matters. The primary purpose of the principles is to provide industry participants with greater predictability about decision-making on likely amendments to the Code, to maximise investor certainty.~~

~~2.3. The Code amendment principles are intended to provide guidance to interested parties, and industry participants in particular, about:~~

- ~~• the potential scope of the Code with regard to achieving the Authority's statutory objective; and~~
- ~~• how the Authority and its advisory groups will consider Code amendment matters, particularly in cases where cost-benefit analysis yields inconclusive results.~~

~~2.4. In general it may not be practicable to apply the Code amendment principles to minor or urgent Code amendment proposals. In both cases the Authority will notify industry participants the proposal is classified as minor or urgent and that the Code amendment principles may not be rigorously applied.~~

~~2.5. When considering amendments to the Code, the Authority and its advisory groups will have regard to the following Code amendment principles to the extent that the Authority and its advisory groups consider that they are applicable in each case:~~

~~*Principle 1 – Lawful:* 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).~~

~~*Principle 2 – Provides 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:~~

- ~~• it can be demonstrated that amendments to the Code will improve the efficiency<sup>9</sup> of the electricity industry for the long-term benefit of consumers;~~
- ~~• market failure is clearly identified, such as may arise from market power, externalities, asymmetric information and prohibitive transaction costs; or~~
- ~~• 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.~~

~~*Principle 3 – Net Benefits are Quantified:* 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~~

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<sup>9</sup>—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.

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.

*Tie-breaker 1: Principles 4–8 apply when the cost-benefit analysis of Code amendment options demonstrates a positive net benefit relative to the counterfactual, but is inconclusive about which is the best option. The Authority will weight these principles in accordance with their relevance and significance for each proposal.*

*Principle 4—Preference for Small-Scale ‘Trial and Error’ Options:* When considering possible amendments to the Code, the Authority and its advisory groups will give preference to options that are initially small-scale, and flexible, scalable and relatively easily reversible with relatively low value transfers associated with doing so. In these circumstances the Authority will monitor the effects of the implemented option and reject, refine or expand that solution in accordance with the results from the monitoring.

*Principle 5—Preference for Greater Competition:* The Authority and its advisory groups will give preference to Code amendment options that have larger pro-competition effects, because greater competition is likely to be positive for economic efficiency and reliability of supply.

*Principle 6—Preference for Market Solutions:* The Authority and its advisory groups will give preference to Code amendment options that directly address the source of the market failure identified under Principle 2, so as to facilitate efficient market arrangements. The Authority and its advisory groups will discount options that subdue or displace efficient market structures.

*Principle 7—Preference for flexibility to allow innovation:* The Authority and its advisory groups will give preference to Code amendment options that provide industry participants with greater freedom and lower costs to adapt to the Code amendment as they see fit, unless more restrictive options are justified on the grounds of non-rivalry and/or non-excludability conditions.<sup>40</sup> In the case where both conditions hold perfectly it is generally efficient to adopt a ‘one size fits all’ approach, such as uniform standards. Where these conditions do not hold it may be more efficient to utilise flexible mechanisms, such as incentives.

*Principle 8—Preference for Non-Prescriptive Options:* Wherever practicable, when the Authority and its advisory groups are considering standards, they will give preference to Code amendment options that specify the outcomes required of industry participants rather than prescribe what they must do and how they must do it. That is, outcome standards are preferred to input standards, wherever possible.

*Tie-breaker 2: Principle 9 applies when the cost-benefit analysis of Code amendment options is inconclusive that a Code amendment would yield net benefits and there are no options that are small-scale, flexible, scalable and relatively easily reversible.*

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<sup>40</sup>—A good or service is *non-rival* when additional consumption by one party does not reduce the amount available for any other party to consume. For example, electricity consumption is rival but security of supply is non-rival. A good or service is *non-excludable* when it is not economically viable to exclude parties from consuming the good or service. For example, electricity consumption is excludable because retailers generally incur a relatively low economic cost to cut power supply to consumers that do not pay their electricity bills. On the other hand, market prices are non-excludable because it is too costly to prevent disclosure of prices to parties that do not contribute to the costs of operating the market.

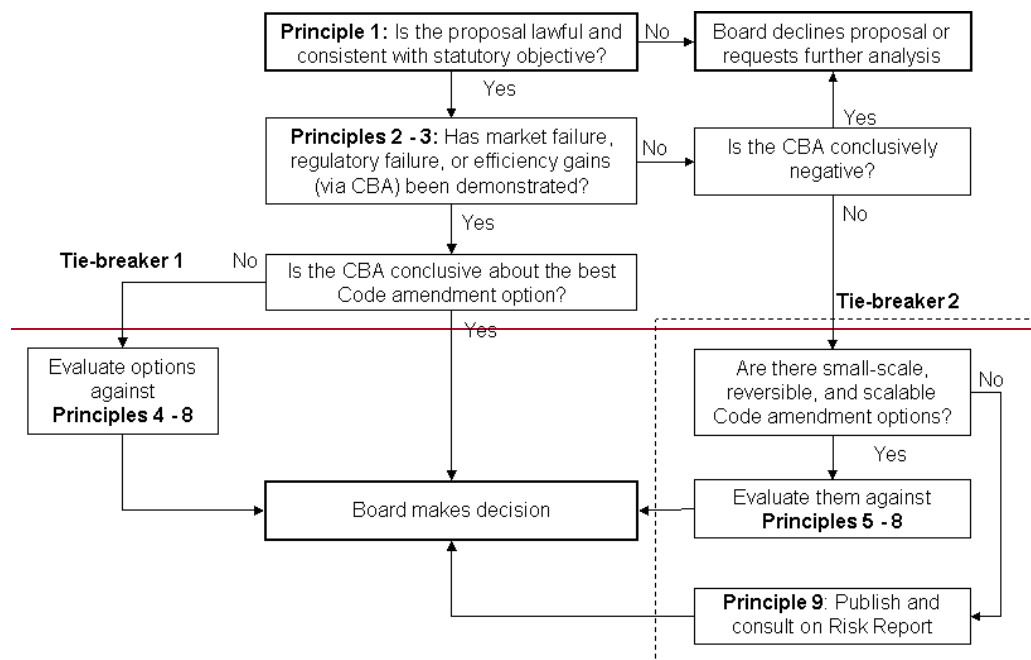


~~Principle 9—Risk Reporting: The Authority will publish a report:~~

- ~~that assesses the risks of making and not making the Code amendment, taking into account Principles 5—8, and factoring in the option value associated with waiting longer before intervening; and~~
- ~~that identifies and assesses non-Code methods for mitigating or addressing the problem.~~

~~The Authority will consult interested parties on the risk report before making a final decision on whether or how to amend the Code.~~

**Figure 1: Application of the Code amendment principles**



### 3. Role of advisory groups

~~3.1.— The Act requires the Authority to establish one or more advisory groups (in addition to the Security and Reliability Council) to provide independent advice to the Authority on the development of the Code and on market facilitation. Every advisory group must include people who the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues, but members need not be independent persons.~~

~~3.2.— The Authority intends advisory groups to be a primary means for developing Code amendment options for significant and non-urgent matters. The Authority has given advisory groups responsibility for (among other things):~~

- ~~making recommendations to the Board in regard to aspects of the Code and market-facilitation measures identified in their terms of reference and workplan;~~
- ~~deciding the extent and type of analysis and feedback they undertake to make recommendations to the Board; and~~

- ~~deciding the content of discussion papers on matters identified in their terms of reference and workplan (noting that the Authority is responsible under the Act for consulting with interested parties on Code amendment proposals in accordance with the consultation requirements of section 39 of the Act, and that any stakeholder feedback sought by advisory groups on discussion papers canvassing issues and options for developing the Code and/or market-facilitation measures is not consultation required under the Act (hence the deliberate use of ‘discussion papers’ as opposed to ‘consultation papers’)).~~

~~The Authority will require its advisory groups to adopt the general principles and processes described within this Charter having regard to the particular feedback sought and related factors.~~

- 3.3. ~~The Authority has prepared a separate charter about the Security and Reliability Council and other advisory groups.~~

#### **4. ~~Preparing and submitting Code amendment proposals~~**

##### ***~~Persons that can propose an amendment to the Code~~***

- 4.1. ~~Code amendment proposals may be submitted to the Authority by any person, regardless of whether they are an industry participant or not. The person can be an individual, a company, or any other type of legal entity.~~

##### ***~~Submission of a Code amendment proposal~~***

- 4.2. ~~The Authority prefers that Code amendment proposals are submitted using the electronic form available on the Authority’s website. The advantage of using this form is that it reduces the time taken to assess proposals because it clearly identifies proposals as Code amendment proposals requiring assessment, and prompts proposers to provide information that is required for assessment.~~
- 4.3. ~~Proposers who want to submit a Code amendment proposal but do not wish to use the electronic form on the Authority’s website should provide written proposals and should clearly identify the proposal as a Code amendment proposal to ensure it is treated as such.~~
- 4.4. ~~The Authority’s policy is to acknowledge receipt by writing to the proposer, within one week of receiving a Code amendment proposal.~~

##### ***~~Information to include in a Code amendment proposal~~***

- 4.5. ~~The Act sets out what may and may not be included in the Code (section 32). A Code amendment proposal must therefore relate to one of the matters that may be included in the Code.~~
- 4.6. ~~If a Code amendment proposal relates to an existing provision of the Code, a reference to the existing clause should be included in the proposal.~~
- 4.7. ~~If a Code amendment proposal relates to a new provision, the subject matter of the new provision should be stated in the proposal.~~

~~4.8. The Authority recommends that proposals include the following information to assist the Authority's consideration of the proposal:~~

- ~~• a description of the amendments that are proposed to be made to the Code;~~
- ~~• identification of whether and why the proposed Code amendment is:
  - ~~— urgent or non-urgent;~~
  - ~~— technical and non-controversial; or~~
  - ~~— has widespread support among the people likely to be affected by the amendment;~~~~
- ~~• identification of whether there has been prior consultation on the proposed Code amendment;~~
- ~~• a statement of the objectives of the proposed Code amendment;~~
- ~~• an evaluation of the costs and benefits of the proposed Code amendment, which is commensurate with the proposal, and which takes into account the ability of the proposer to resource the evaluation;~~
- ~~• an evaluation of alternative means for achieving the objectives of the proposed Code amendment;~~
- ~~• identification of anyone who is likely to be affected by the proposed Code amendment; and~~
- ~~• any other relevant information.~~

~~4.9. A Code amendment proposal may also include a draft of the proposed Code amendment to the Code. Drafts may help the Authority to understand the problem that a proposer seeks to address, or the extent to which the proposer considers the Code needs to be amended. Any drafts provided will be considered by the Authority but may not necessarily be reflected in the Authority's decisions. Proposers should refer to the Authority's Drafting Manual if submitting proposed drafting amendments.<sup>14</sup>~~

### ***Prioritisation and categorisation of Code amendment proposal***

~~4.10. The initial prioritisation and categorisation of each proposal will be based on the proposal's merits, as assessed against the Authority's statutory objective and functions, as well as the following non-exhaustive criteria:~~

- ~~• importance for consumers and the electricity industry;~~
- ~~• market impact;~~
- ~~• size of the analysis required;~~
- ~~• interrelation with other proposals and projects; and~~

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<sup>14</sup> ~~[www.ea.govt.nz/act-code-regs/code-regs/](http://www.ea.govt.nz/act-code-regs/code-regs/)~~

- ~~resources.~~

~~4.11. The Authority will process all Code amendment proposals in accordance with the provisions of the Act, and the Authority's policies. Not all proposals will proceed to consultation or be the subject of an amendment to the Code. The Authority exercises its discretion, within legal and regulatory requirements, to decide which Code amendment proposals will be the subject of a proposed amendment to the Code and which proposals will not.~~

### ***Code Amendment Proposal Register***

~~4.12. The Authority maintains a register of Code amendment proposals, which includes proposals made by participants. The Code Amendment Proposal Register is updated and published at regular intervals.~~

~~4.13. The main purposes of the Code Amendment Proposal Register are to:~~

- ~~provide a mechanism for the Authority to centrally record and monitor proposals for amendments to the Code; and~~
- ~~provide transparency to proposers of Code amendment proposals as to the status of their proposals.~~

~~4.14. The Code Amendment Proposal Register does not record all work being undertaken on the development of the Code by the Authority. The Authority's Workplan Register records this wider Code development work.~~

### ***Code amendment proposal process***

~~4.15. The Authority's role in the Code amendment process where a Code amendment proposal is received involves the following steps:~~

~~(a) initial assessment of the proposal:~~

- ~~the Authority receives and acknowledges proposals then completes a two part assessment:
  - ~~part 1: the proposal is assessed to determine whether it relates to a matter that may be included in the Code; and~~
  - ~~part 2: the proposal is categorised to identify when the Authority will progress the proposal.~~~~
- ~~if the proposal does not relate to a matter that may be included in the Code under section 32 of the Act, the Authority will advise the proposer that the proposal will not proceed and give reasons for that decision.~~
- ~~if the proposal relates to a matter that may be included in the Code under section 32 of the Act, the Authority will advise the proposer that the proposal has been categorised as:
  - *Current*: it has been included in the Authority's current financial year workplan; or~~

- ~~— *Future*: it is under consideration for the Authority's workplan for the next financial year, or for the subsequent financial year if the workplan for the next financial year is already set; or~~
- ~~— *Pending*: it is added to a list that will be reviewed annually for inclusion in the Current or Future categories; or~~
- ~~— *Declined*: the Authority has decided that the proposal will not proceed.~~
- ~~○ a decision by the Authority on the categorisation of a proposal will take into account the priority of the proposal with reference to the Authority's objective and functions under the Act, as weighed against the Authority's resources and workload.~~
- ~~○ the Authority will take a maximum of 3 months to complete this categorisation. The Authority will promptly advise proposers of the outcome of the categorisation.~~
- ~~(b) substantive analysis of the proposal and preparation of regulatory statement:~~
  - ~~○ if the proposal relates to a matter that may be included in the Code under section 32 of the Act, and fits within the Authority's current financial year workplan, the Authority must prepare a regulatory statement in accordance with section 39 of the Act.~~
  - ~~○ the length of time that will be required to prepare the regulatory statement will depend on the complexity and impact of the Code amendment proposal and on how the proposal has been prioritised within the Authority's workplan.~~
  - ~~○ the Authority will keep proposers informed of progress via its Workplan Updates.~~
- ~~(c) pre-consultation on the proposal:~~
  - ~~○ the Authority may refer the proposal to one or more advisory groups for advice prior to the Authority publicising the draft of the proposed Code amendment, the regulatory statement and the consultation paper.~~
- ~~(d) publication of a draft of the proposed Code amendment, the regulatory statement and a consultation paper (if required under the Act).~~
- ~~(e) consultation on the proposal: The Authority will consult on the proposal in accordance with the consultation standards and processes set out in Part 2 of this Charter.~~
- ~~(f) consideration of submissions received on the proposal.~~
- ~~(g) decision regarding whether it is appropriate to amend the Code.~~
- ~~(h) if appropriate, amending the Code.~~

### ***Publication and notice of amendment***

4.16. Under section 38(3) of the Act, an amendment to the Code is made by:

- publicising<sup>12</sup> the amendment; and
- giving notice in the Gazette of:
  - the date on which the amendment comes into force; and
  - a short summary of what the amendment contains or relates to.

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<sup>12</sup> Defined under the Act as requiring the Authority to make a document or information available free of charge:

- (a) on its website at all reasonable times (except to the extent that doing so would infringe copyright in the material or be inconsistent with any enactment or rule of law); and
- (b) in any other manner that the Authority may decide.

## **Part 2 – Processes for consulting on proposed amendments to the Code**

### **1. Introduction**

1.1. In accordance with section 41 of the Act, Part 2 of this Charter sets out guidelines relating to processes for consulting on proposed amendments to the Code.

1.2. Part 2 is structured as follows:

- **Section 2** sets out guidelines on the process for consulting on Code amendment proposals, including:
  - general consultation principles that the Authority will follow;
  - the statutory requirements with regard to amending the Code;
  - the Authority's process for consulting on Code amendment proposals, including when the Authority may vary from this process; and
  - guidance with regard to confidential information provided during consultation.
- **Section 3** provides guidance in regard to the approach that the Authority will adopt for other consultation.
- **Section 4** provides guidance with regard to the approach that the Authority will adopt for other matters on which the Authority will seek feedback from interested parties, but for which the Authority is not required to consult.

### **2. Process for consulting on Code amendment proposals**

#### ***General consultation principles***

2.1. When the Authority undertakes consultation on Code amendment proposals, it will design its process to comply with the basic standards for consultation established by case law – specifically the principles of consultation specified by the Court of Appeal in 1993.<sup>43</sup> The Authority interprets these principles as being as follows:

- (a) there are no universal requirements as to the form of consultation, and any type of interaction (whether oral or written) that allows adequate expression and consideration of views will be sufficient.
- (b) consultation must be allowed sufficient time, and genuine effort must be made.
- (c) consultation involves the statement of a proposal not yet finally decided on, listening to what others have to say, considering their responses, and then deciding what to do.

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<sup>43</sup> *Wellington International Airport Ltd v Air New Zealand* [1993] 1 NZLR 671.

- ~~(d) — for consultation to be meaningful, the Authority must make available sufficient information to enable parties who are consulted to be adequately informed to make “intelligent and useful” responses.~~
- ~~(e) — interested parties can not complain if they do not avail themselves of the opportunity to provide feedback.~~
- ~~(f) — the word “consultation” does not require agreement (although it does require more than mere telling, or presenting). The Authority recognises that this principle is particularly relevant in relation to its objective and functions. With regard to many of the issues that the Authority is required to deal with, industry stakeholders have widely divergent views and the issues may have been unresolved for many years. The Authority recognises that it is charged with breaking such deadlocks by making decisions in relation to those matters.~~
- ~~(g) — “consultation” cannot be equated with “negotiation”. Negotiation implies a process that has as its objective arriving at agreement (although in consultation the tendency is, at least, to seek consensus).~~
- ~~(h) — the Authority must approach the matter with an open mind, and must be prepared to change or even start a process afresh.~~

### **~~Consulting on Code amendment proposals~~**

~~2.2. — The Act provides that the Authority may amend the Code at any time, subject to the requirements in section 39 of the Act. Section 39 provides that, before amending the Code, the Authority must:~~

- ~~• — publicise a draft of the proposed amendment; and~~
- ~~• — prepare and publicise a regulatory statement; and~~
- ~~• — consult on the proposed amendment and the regulatory statement.~~

### ~~*Preparation and publication of regulatory statement*~~

~~2.3. — Under section 39(2) of the Act, the regulatory statement prepared and publicised by the Authority before amending the Code 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.~~

~~2.4. — After the Authority has publicised a draft of the proposed Code amendment and the regulatory statement, the Authority will:~~

- ~~• — provide an opportunity for persons that the Authority thinks are representative of the interests of persons likely to be affected by the proposed Code amendment to make submissions; and~~



- consider those submissions.

2.5. To undertake this consultation, the Authority will prepare a consultation document and publicise it on the Authority's website with the draft of the proposed Code amendment and the regulatory statement. The Authority will publish forecast dates at which future consultation and discussion papers are anticipated to be released.

2.6. The Authority will usually allocate six weeks for consultation. However, this may vary, depending on, for instance, the complexity of the issues being consulted on or the number of concurrent consultations with interested parties.

2.7. If an amendment to the Code will, or is likely to, affect the Commerce Commission in the performance of its functions or exercise of its powers under Part 4 of the Commerce Act 1986, the Authority must consult with the Commerce Commission before amending the Code (under section 54V of the Commerce Act).

2.8. Once submissions have been received and analysed, the submissions and a summary of the submissions will be published on the Authority's website. Submitters must clearly explain all aspects of their submission.

2.9. A second consultation round may occur if the issues identified during or before consultation mean that additional consultation is desirable.

2.10. Under section 39(3) of the Act, the Authority is not required to prepare and publicise a regulatory statement or consult on the proposed Code amendment and regulatory statement in certain circumstances. The consultation process outlined above may not apply where those circumstances apply. In particular, the consultation process may not apply if:

- the nature of the amendment is technical and non-controversial (for example, editorial and minor amendments to the Code that have no substantial effect on industry participants); or
- there is widespread support for the amendment among the people likely to be affected by it; or
- there has been adequate prior consultation (for instance, by or through an advisory group) so that all relevant views have been considered.

#### *Urgent amendments to the Code*

2.11. Section 40 of the Act states that the Authority is also not required to comply with the requirement to publicise a draft of the proposed Code amendment, or to prepare and publicise a regulatory statement, or to consult on the proposed Code amendment and the regulatory statement, before amending the Code if:

- the Authority considers that it is necessary or desirable in the public interest that the proposed Code amendment be made urgently; and
- along with the notice of the amendment that is published in the Gazette to make the amendment, the Authority publishes a statement of the reasons why the urgent amendment is needed.

~~2.12. An amendment made under section 40 of the Act expires on the date that is 9 months after the date on which it comes into force.~~

~~2.13. To avoid the need to repeat the urgent Code amendment, the Authority will exercise reasonable endeavours to consult on any further Code amendment required to replace the amendment made under urgency.~~

### ***Confidential information***

~~2.14. During consultation interested parties may wish to provide the Authority with confidential information and request that the Authority does not publish the information, due to commercial sensitivity or other valid reasons.~~

~~2.15. Whilst the Authority may agree to keep such information confidential (subject to the Authority's overriding obligations under the Official Information Act and other legislation), the reliance that the Authority will place on that information may be diminished, particularly when the Authority is not in a position to verify or test the information or where other affected parties are not in a position to challenge or otherwise comment on the information.~~

~~2.16. If the Authority decides to rely on any such confidential information, the Authority will request the party providing the information to provide a non-confidential summary of the information. To the extent practicable, the Authority will publish the non-confidential summary of the information and a statement as to whether the confidential information affected its decision.~~

### **3. Other consultations by the Authority**

~~3.1. In addition to matters related to the Code, the Authority will consult with interested parties on:~~

- ~~• the Authority's proposed appropriations,<sup>14</sup> which includes information on the Authority's work priorities;<sup>15</sup> and~~
- ~~• a draft of the Authority's charter about advisory groups.~~

~~3.2. For these particular consultations, the Authority will adopt the general consultation principles set out in paragraph 2.1.~~

### **4. Feedback sought when the Authority is not required to consult under the Act**

~~4.1. There are also other matters on which the Authority may seek feedback from interested parties, but for which the Authority is not required to consult under the Act. Examples~~

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<sup>14</sup> Before the Authority submits a request to the Minister of Energy and Resources seeking an appropriation of public money for the following year, the Authority must consult about that request with those industry participants who are liable to pay a levy and any other representatives of persons whom the Authority believes to be significantly affected by a levy (section 129 of the Act).

<sup>15</sup> The Authority uses this information on work priorities to prepare its Statement of Intent (SOI). Although there is no public consultation process associated with drafting the SOI, the Crown Entities Act 2004 requires the Authority to consult with the Minister of Energy and Resources on the draft SOI.

include discussion papers on issues and options for Code amendments and market-facilitation measures.<sup>16</sup>

4.2. In such instances, the Authority may adopt the general principles and processes described within this Charter having regard to the materiality of the matter being considered, the particular feedback sought and related factors. The Authority does not consider it appropriate to have a “one size fits all” approach to seeking feedback from interested parties.

4.3. Where, on written request by the Minister,<sup>17</sup> the Authority must review and report on any matter relating to the electricity industry that is specified by the Minister, the Authority may seek feedback from interested parties, having regard to matters including those set out in clause 4.2, the timing for the report specified by the Minister, any direction from the Minister about consultation, and any confidentiality issues surrounding the report.<sup>18</sup>

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<sup>16</sup> Market-facilitation measures are defined under the Act to include the provision of education, guidelines, information, and model arrangements.

<sup>17</sup> For the time being the Minister of Energy and Resources.

<sup>18</sup> Noting that the Minister may, in making publicly available a final report on a review conducted by the Authority under section 18 of the Act, omit any information that he or she would be likely to withhold if it were requested under the Official Information Act 1982.

## Appendix C Proposed amendment to the Advisory Groups Terms of Reference

# Charter about advisory groups

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# 1 Introduction

- 1.1 Section 19(1) of the Electricity Industry Act 2010 (Act) requires this charter ~~for~~ about advisory groups (charter) to set out:
- (a) how the Electricity Authority (Authority) will establish and interact with advisory groups appointed under sections 20 and 21 of the Act
  - (b) when and how the Authority will consult advisory groups on material changes to the Electricity Industry Participation Code 2010 (Code)
  - (c) how advisory groups must operate, including provisions concerning procedure.
- 1.2 The Security and Reliability Council (SRC) is a special type of advisory group appointed in accordance with section 20 of the Act. Accordingly, this charter has been divided into two parts:
- (a) part one applies to the SRC
  - (b) part two applies to advisory groups appointed under section 21 of the Act, that is all advisory groups other than the SRC ~~(advisory groups)~~.
- 1.3 In accordance with section 19(3) of the Act, the Authority, the SRC, and all appointed advisory groups must comply with this charter.
- 1.31.4 In addition to the requirements of this charter, the SRC and each advisory group is subject to its own terms of reference, as established by the Authority. Each terms of reference specifies the operational and governance matters for the SRC and each advisory group, and should be read in conjunction with this charter. If there is any inconsistency between the terms of reference and this charter, the charter will prevail.

# Part 1: Security and Reliability Council

## 2 Purpose of the SRC

- 2.1 Section 20(2) of the Act requires the Authority to appoint an SRC to provide independent advice to the Authority on:
- (a) the performance of the electricity system and the system operator
  - (b) reliability of supply issues.
- 2.2 The SRC's purpose is to provide the Authority with advice from parties directly affected by the system operator's decisions and actions. The SRC enables the Authority to draw on the wisdom and expertise of senior industry personnel.

## 3 Establishment of the SRC

- 3.1 The Authority will establish the SRC by appointing members, including an independent chair~~person~~, in accordance with the criteria and procedure set out in its terms of reference.
- 3.2 Under section 20 of the Act, the Authority—
- (a) must ensure that the members of the SRC have between them appropriate knowledge and experience of the electricity industry to provide advice to the Authority, but members need not be independent persons
  - (b) may not appoint a person as a member of the SRC unless the Authority has first publicised an invitation for nominations for membership and considered any nominations received.
- 3.3 Members are entitled to receive remuneration determined by the Minister, and reimbursement of actual and reasonable expenses, incurred in carrying out their office as a member, in accordance with the Government's fees framework (as defined in the Crown Entities Act 2004). This is provided for in section 22 of the Act, which also sets out other provisions of the Crown Entities Act 2004 that apply to members of advisory groups~~Subject to section 47(1) of the Crown Entities Act 2004, the practice followed by the Authority and accepted by the industry is that members who are public servants or salaried employees of larger electricity industry companies are not paid by the Authority or reimbursed for their expenses. The Authority typically pays a fee and any expenses only for members who are financially disadvantaged by their participation in the SRC.~~
- 3.4 The Authority may terminate any member's appointment to the SRC if the Authority considers that the member, by his or her conduct, is not contributing effectively to the SRC. The termination must be by written notice to the person concerned (with a copy to the SRC), stating the date on which the appointment ends.
- 3.5 SRC members may resign by giving written notice to the Authority (with a copy to the SRC Chair~~person~~). The notice must state the future effective date on which the resignation takes effect.
- ## 4 Interactions between the SRC and the Authority
- 4.1 The Authority will:
- (a) provide administrative and secretariat support to the SRC
  - (b) appoint an appropriate senior~~staff~~ member as the Authority's representative to assist the SRC.
- 4.2 The Authority's representative is not a member of the SRC.

- 4.3 Formal reporting to the Authority must be conducted by the SRC chairperson, unless otherwise agreed with the Authority's Chief Executive.
- 4.4 The SRC will meet with the Authority as and when necessary.
- 4.5 Authority staff will, where possible, undertake any required analysis. The Authority's representative has the discretion to engage any external expertise that may be needed to assist the SRC. However, the SRC may recommend external expertise to the Authority's representative that it considers necessary to perform its function.

## 5 Operation of the SRC

### General

- 5.1 The SRC will provide advice on any matters it considers relevant and necessary in order to fulfil its function under clause 2.1.
- 5.2 The Authority may, in its discretion:
  - (a) require the SRC to advise and/or assist the Authority on specific performance and reliability issues
  - (b) consult the SRC on Code amendment proposals.
- 5.3 When providing advice, the Authority expects the SRC to take a strategic view, utilising the knowledge and experience of its members.
- 5.4 The SRC must avoid duplicating the Authority's role in assessing the day-to-day performance of the electricity system and the system operator.

### Advice and recommendations to the Authority

- 5.5 The SRC is encouraged to provide a consensus position when providing advice to the Authority.
- 5.6 The SRC's function under the Act is to provide independent advice to the Authority. The SRC does not have the ability to amend the Code or make binding decisions. Similarly, the SRC does not have the ability to direct the system operator or other industry participants, or to take on responsibilities beyond that of advisor to the Authority.
- 5.7 The Authority recognises that any advice the SRC provides the Authority about the system operator is likely to also be of value to the system operator. Therefore, the Authority will pass on any relevant advice from the SRC to the system operator and/or any other parties involved, unless confidentiality considerations prevent this.



## Part 2: Advisory groups (other than the SRC)

### 6 Purpose of advisory groups

- 6.1 Section 21(1) of the Act requires the Authority to establish (in addition to the SRC) one or more advisory groups to provide independent advice to the Authority on the development of the Code and on market facilitation ~~measures~~.
- 6.2 The Authority ~~expects some advisory groups will be~~ may establish 'standing' advisory groups that advise the Authority on an ongoing basis, ad-hoc advisory groups that advise in a particular area of expertise or in respect of a particular project, or a combination of both.
- ~~6.3 The Authority may also establish ad-hoc advisory groups to provide specialist advice and recommendations for significant issues that go beyond the knowledge and experience of any standing advisory groups. The provisions in this charter will apply to such ad-hoc advisory groups.~~

### 7 Establishment (and disestablishment) of advisory groups

- 7.1 The Authority will establish advisory groups by appointing members, including an independent chair ~~person~~, in accordance with the criteria and procedure set out in the terms of reference for each advisory group.
- 7.2 Section 21(2) of the Act requires every advisory group to include members whom the Authority considers have appropriate knowledge of, and experience in, the electricity industry and consumer issues. Members do not need to be independent persons.
- 7.3 Members are entitled to receive remuneration determined by the Minister, and reimbursement of actual and reasonable expenses, incurred in carrying out their office as a member, in accordance with the Government's fees framework (as defined in the Crown Entities Act 2004). This is provided for in section 22 of the Electricity Industry Act 2010, which also sets out other provisions of the Crown Entities Act 2004 that apply to members of advisory groups. Subject to section 47(1) of the Crown Entities Act 2004, the practice followed by the Authority and accepted by the industry is that members who are public servants or salaried employees of larger electricity industry companies are not paid by the Authority or reimbursed for their expenses. The Authority typically pays a fee and any expenses only for members who are financially disadvantaged by their participation in an advisory group however will offer to pay fees and expense reimbursement to all members of an advisory group in accordance with the Crown Entities Act 2004.
- 7.4 The Authority may:
- Dis-establish, or temporarily suspend the operations of, an advisory group by formal resolution of the Board. However, in accordance with section 21(1) of the Act, there must always be at least one advisory group (either established or in the process of being established).
  - Terminate any member's appointment to an advisory group if the Authority considers that the member, by his or her conduct, is not contributing effectively to the advisory group. The termination must be by written notice to the person concerned (with a copy to the advisory group), stating the date on which the appointment ends.
- 7.5 Advisory group members may resign by giving written notice to the Authority (with a copy to the ~~appropriate~~ Chair ~~person~~). The notice must state the future effective date on which the

resignation takes effect.

## 8 Interactions between advisory groups and the Authority

8.1 The Authority will:

- (a) provide administrative and secretariat support to each advisory group
- (b) appoint an an appropriate senior staff member as the Authority's representative to assist each advisory group.

8.2 The Authority's representative is not a member of the advisory group.

8.3 The Authority's representative will be responsible for:

- (a) developing a work plan with for the relevant advisory group on behalf of the Authority
- (b) ensuring that meetings are held in accordance with the terms of reference for the advisory group
- (c) having regard to the resources available, ensuring that the advisory group receives a high standard of secretariat support, whether provided by Authority staff or by external advisers
- (d) conveying the relevant views, policies, and decisions of the Authority to the advisory group.

8.4 Formal reporting to the Authority by an advisory group must be conducted by its chairperson, unless otherwise agreed with the Authority's Chief Executive. However, an advisory group may nominate a member, in addition to the chairperson, to represent it when the Board considers its reports.

8.5 If the Authority's representative's view differs significantly from views presented by the Advisory Group, the Authority's representative should brief the Authority on this difference of opinion and the reasons for it.

8.6 Authority staff will, where possible, undertake any required analysis. The Authority's representative has the discretion to engage any external expertise that may be needed to assist the advisory group. However, an advisory group may recommend external expertise to Authority staff that it considers necessary to perform its function.

## 9 Operation of advisory groups

### General

9.1 Each advisory group will provide advice to the Authority on matters that:

- (a) are relevant to the scope of its role, as set out in its terms of reference
- (b) have been included in a work plan ~~as agreed by the Authority's representative and the advisory group.~~

9.2 At its discretion, the Authority may consult an advisory group on Code amendment proposals, issues and/or options papers, consultation papers or preliminary work to support the Authority's prioritised initiatives.

9.3 Advisory groups are expected to undertake appropriate investigation of issues in its work plan. They must make recommendations to the Authority on those matters in a manner that assists the Authority to meet its statutory objectives under section 15 of the Act.

9.4 Advisory groups are strongly encouraged to provide consensus recommendations to the Authority on the issues assigned to them, within agreed timelines.

- 9.5 If an advisory group is unable to reach consensus on a matter under consideration within an agreed timeframe, the advisory group may conclude its deliberations and report the differing views to the Authority for consideration. The report must address the views of the minority as well as those of the majority. The report must also explain how each view is consistent with clause 9.9 of this charter.
- 9.6 At any stage, the Authority may:
- (a) request progress updates from an advisory group
  - (b) provide guidance to an advisory group (provided that the guidance does not address the content of the advisory group's recommendations)
  - (c) request or procure additional analysis from an advisory group
  - (d) shift consideration of issues to other parties, including other advisory groups, Authority staff, or external experts.

### **Code amendment proposals and recommended market facilitation measures**

- 9.7 An advisory group may provide recommendations to the Authority about developing the Code and market facilitation measures if requested by the Authority.
- 9.8 Under section 16 of the Act, the Authority has statutory responsibility to make and administer the Code, and to undertake market-facilitation measures (and to monitor the operation and effectiveness of those measures). Accordingly, the Authority will make the final decision on any proposals to amend the Code and on any recommendations on market facilitation measures. The Authority will also decide whether to consult on these matters. The Authority's final decision on any matter will reflect the conclusions it reaches and may differ from the outcome preferred by a particular advisory group.
- 9.9 If an advisory group proposes Code amendments or recommends market facilitation measures, the advisory group must:
- (a) ensure that the proposal or recommendation is consistent with the Authority's statutory objectives
  - (b) have regard to any government policy statement or statement of government expectations in force at the time of the proposal or recommendation
  - (c) in respect of Code amendment proposals, ~~adhere to the Authority's Code amendment principles (contained~~ any applicable requirements in the Authority's consultation charter)
  - (d) in respect of Code amendment proposals, demonstrate how the proposed amendments are consistent with the requirements of section 32(1) of the Act.
- 9.10 Section 39 of the Act requires the Authority to consult on proposed Code amendments – it does this through consultation papers. If the Authority requests an advisory group to release its own paper for public, participant, or more targeted feedback, those ~~All advisory group~~ papers must be called 'discussion papers' rather than 'consultation papers' to avoid confusion with the consultation process as required by the Act.
- 9.11 The Authority may–
- (a) seek feedback from the advisory group on any submissions received for a proposed Code amendment
  - (b) request the advisory group to complete further work on a proposal or recommendation

- (c) establish a new advisory group to consider a proposal or recommendation
- (d) seek advice from any other party, including Authority staff and external experts.

9.12 The Authority will keep the relevant advisory group informed about its progress when considering the advisory group's recommendations on Code amendment proposals or market facilitation measures.

Appendix D Proposed amendments to the Terms of Reference for the Security and Reliability Council and other advisory groups

# Terms of Reference for the Security and Reliability Council and other advisory groups

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# 1 Introduction

- 1.1 This document specifies the operational and governance matters for all groups established under sections 20 and 21 of the Electricity Industry Act 2010 (Act).
- 1.2 All groups referenced in clause 1.1 are also subject to the Electricity Authority's (Authority) charter on advisory groups (charter), and the two documents should be read together. If there is any inconsistency between these terms of reference and the charter, the charter will prevail.
- 1.3 This document has been structured in five parts:
  - (a) provisions that are common to all groups subject to the charter
  - (b) provisions that are common to all advisory groups established under section 21 of the Act
  - (c) provisions that are specific to the Security and Reliability Council (SRC)
  - (d) provisions that are specific to ~~the Innovation and Participation Advisory Groups (IPAG)~~.
  - ~~(e) provisions that are specific to the Market Development Advisory Group (MDAG).~~
- 1.4 If there is any inconsistency between these sets of provisions, they will apply in the following order of priority:
  - (a) provisions described in clause 1.3(a)
  - (b) provisions described in clause 1.3(b) (where relevant)
  - (c) provisions relevant to the particular group concerned.

## Version control

Version number	Date	
2.0	14/01/2019	Review update
2.01	4/10/2022	Initial draft for advisory group review (change tracked)

# General provisions

## 2 Responsibilities of members

### General

2.1 Members of groups must:

- (a) comply with the requirements set out in the charter
- (b) comply with the requirements set out in these terms of reference
- (c) be available for all meetings unless granted leave by the chairperson
- (d) read all papers circulated to the group, and actively contribute to the group's discussions
- (e) inform the chairperson and the Authority's representative of any actual or potential conflicts of interest that may affect their ability to perform their functions as a member of the group in accordance with sections 62 to 72 of the Crown Entities Act 2004 and section 2 of these terms of reference
- (f) carry out the tasks that are assigned to the group arising from the agenda for each meeting.

### Attendance

2.2 Members are not entitled to send an alternate in their place if they cannot attend a meeting.

2.3 Any member who misses two consecutive meetings is deemed to have resigned from the group from the date of the second missed meeting unless:

- (a) they have been given leave from the chairperson, or in the case of the chairperson, from the Chief Executive; or
- (b) extenuating circumstances exist, as decided by the chairperson or the Chief Executive, as the case may be.

2.4 Despite clause 2.3(b), if the chairperson considers that the member's absence for more than two consecutive meetings is likely to disadvantage the group, a new member may be appointed to replace the member as if he or she had resigned. Any such appointment must be carried out in accordance with either clauses 8.1 to 8.4 or clauses 13.1 to 13.4 as appropriate.

### Media relations

2.5 Members have no media relations role and may not speak on behalf of the Authority or the group in regard to matters on which the group has advised, or is advising, the Authority. The Authority is solely responsible for all media relations.

## 3 Process for handling concerns about performance

### Member performance

3.1 Any person concerned about the performance of a member should discuss those concerns with both the chairperson and the Authority's representative.

3.2 If the Authority representative, in consultation with the chairperson, considers that action is warranted, he or she must:



- (a) discuss the matter with the member concerned and give the member an opportunity to state his or her view
- (b) if the discussion does not resolve the matter to Authority representative's satisfaction, provide written notice to the member stating the concerns and the desired corrective action
- (c) if the member is affiliated with an organisation, inform relevant people at the member's affiliated organisation of the matter, if appropriate, prior to sending the written notice
- (d) if the member fails to address the concerns specified in the written notice, provide the member with an opportunity to discuss the matter further and, if appropriate, discuss the matter with the affiliated organisation
- (e) if not satisfied after due consideration of the member's explanation, inform the member and the affiliated organisation, if appropriate, that they will recommend to the Chief Executive that the member's appointment be terminated.

3.3 Any discussions with a member's affiliated organisation under clause 3.2 must not compromise the ability of the member to act in his or her personal capacity in regard to the advice the member contributes to the group. The sole purpose of these discussions is to inform the affiliated organisation of the situation and to gather information about extenuating circumstances the chairperson and Authority representative may need to take into account in their handling of the situation.

3.4 The Chief Executive, on receiving a recommendation under clause 3.2(e), must be confident the processes in clause 3.2 have been satisfactorily complied with. If appropriate, the Chief Executive may also, notwithstanding clause 6.3, discuss the matter with the Chief Executive of the member's affiliated organisation.

3.5 If the Chief Executive agrees with a recommendation made under clause 3.2(e), the Chief Executive may recommend to the Authority that the member's appointment to the group be terminated.

3.6 In clauses 3.1 to 3.5, if the Authority's representative is the Chief Executive, all references to the Chief Executive should be read as the Authority's chairperson.

### **Chair performance**

3.7 Any person concerned about the performance of the chairperson should discuss those concerns with the Chief Executive.

3.8 If the Chief Executive believes that further action is warranted, the Chief Executive must discuss the matter with the Authority's chairperson.

3.9 If the Authority's chairperson agrees that further action is warranted, the Chief Executive must follow the process set out in clauses 3.2 and 3.3, as if references to:

- (a) the Authority representative were references to the Chief Executive
- (b) the member were references to the chairperson.

### **Authority (or other) staff performance**

3.10 Any person involved with the group who is concerned about the performance of an Authority staff member, in relation to the group, should discuss those concerns with the Chief Executive. The Chief Executive will determine the appropriate actions to be taken in response to such concerns.

- 3.11 Any person involved with the group who is concerned about the performance of a contractor or external consultant associated with an advisory group should discuss those concerns with the Authority's representative. The Authority's representative, in consultation with the Chief Executive, will determine the appropriate action in response to such concerns.

## 4 Confidentiality of reports

- 4.1 All reports submitted to the group (including reports or presentations submitted by members) are subject to the Official Information Act 1982 (OIA) and, in the normal course of events, will not be treated as confidential.
- 4.2 However, the Authority may withhold information contained in such reports or presentations if the Authority considers there are grounds for doing so under the OIA.
- 4.3 The chair~~person~~ must forward any requests for official information the group receives to the Authority immediately.

## 5 Conflicts of interest

- 5.1 Section 22(1) of the Act provides that the conflict of interest disclosure rules in sections 62 to 72 of the Crown Entities Act 2004 apply in respect of each member of the group as if the group were a statutory entity.
- 5.2 If a member of the group is required to make a disclosure under those sections, the member must make the disclosure to the Authority as well as to the group.

# Provisions for advisory groups (other than the SRC)

## 6 Functions and responsibilities

### Functions of the advisory group chairperson

6.1 The key functions of the advisory group chairperson include:

- (a) managing the group's activities to facilitate delivery of the group's work-plan
- (b) facilitating discussions between group members in a manner that will stimulate robust debate on issues and encourage effective contribution from members
- (c) guiding relevant and effective discussions while also ensuring genuine disagreements and conflicts are aired and, if possible, resolved
- (d) ensuring that the minutes of each group meeting are correct
- (e) ensuring that the views of the group are accurately represented in papers to the Authority
- (f) attending Authority Board meetings, as required, to present the group's advice
- ~~(g) approving annual reports to the Authority regarding the group's progress against its work plan~~
- ~~(h) regularly report to the Authority's Chief Executive (Chief Executive) on the group's progress against its work plan, including highlighting any concerns about progress~~
- ~~(i)(g) approving and signing on behalf of the group any other communications the group wishes to have with the Authority-or-other-parties.~~

6.2 When making representations to the Authority on any aspect of the group's work and recommendations, the chairperson must take care to provide a balanced representation of the views held by the members of the group.

6.3 If the chairperson has any significant concerns, including (for example) in relation to the operation of the group, these are to be raised with the Authority's representative to the group in the first instance. If the chairperson's concern is in regard to the Authority representative or deems the concern significant enough to warrant raising it with the Authority Chief Executive, the chairperson may raise such concerns with the Chief Executive.

### Responsibility of advisory group members

6.4 A key role of advisory groups is to use their collective knowledge and experience when considering the matters before them. An advisory group's advice to the Authority must be independent, considered, and supported by robust analysis. The quality of the advice must be sufficient to enable the Authority to make well-informed decisions.

6.5 In addition to the responsibilities under section 2, when carrying out their duties, members of advisory groups must keep in mind that:

- (a) They have been appointed for their knowledge and experience as well as their ability to participate constructively in group meetings.
- (b) They have been appointed to act in their personal capacity (not as representatives of organisations) and the Act requires them to provide independent advice as a group, even though they need not be independent persons individually.

- (c) The requirement in paragraph (b) means that members are expected to act in the best interests of all stakeholders irrespective of whether this aligns with the interests of any organisation he or she may be associated with.
- (d) The group is expected to reconcile divergent views and interests, both in the group and among wider stakeholders, in ways consistent with the Authority's statutory objective, the Authority's Code amendment principles contained within the Authority's consultation charter and in a manner that achieves wider stakeholder "buy in". This requires a serious commitment by all members to understand alternative views and find workable solutions.
- (e) Authority staff and external experts are free to form their own views on the matters considered by the group, and the Authority expects members to respect the different roles that Authority staff and external advisors play in assisting the group and advising the Authority.

## 7 Work plan

- 7.1 Advisory groups will operate to a work plan. Each group is expected to use their knowledge and expertise to investigate, analyse, and make recommendations to the Authority on matters included in its work plan as appropriate to the work plan item.
- 7.2 The work plan will be:
- (a) developed by the Authority in discussion with the group
  - (b) primarily developed for the group to provide advice on Authority project work and consultation papers prior to public release, and, as appropriate, to assist in considering and reconciling views presented in submissions presented to the group for its consideration and input before being finalised
  - (c) developed with regard to the Authority's limited budget
  - (d) ~~consistent with~~ part of the Authority's overall work programme, priorities and timeframes
  - (e) updated ~~regularly~~ to account for developments that occur in the course of the ~~group's investigation~~ Authority's overall work programme.
- 7.3 Members may suggest items to be included in the work plan, but those items will be included at the Authority's discretion, and subject to clause 7.2.
- ~~7.4 The Authority will actively engage with an advisory group when setting work plan priorities, and will seek to achieve "buy-in" to the priorities from a majority of the members.~~
- ~~7.5 The Authority may assign work plan items to other parties (such as Authority staff or external experts) if the group and the Authority are unable to agree on the group's work plan, including timeframes.~~
- ~~7.6~~ 7.4 If projects in the group's work plan overlap with projects being considered by other advisory or working groups, the Authority will:
- (a) make reasonable efforts to coordinate the advice from the other ~~advisory~~ groups
  - (b) interact with the relevant ~~advisory~~ groups on those projects (for example, by conducting joint meetings and workshops)
  - (c) facilitate timely updates to each relevant ~~advisory~~ group on the status of those projects.
- ~~7.7~~ 7.5 The Authority will hold the group accountable to its work plan by:

- (a) monitoring the performance of the group and its members
- ~~(b) requiring the chairperson of the group to submit annual reports to the Authority on the group's progress against its work plan~~
- ~~(c)~~(b) receiving feedback from the secretariat on the group's analysis and recommendations and its decision-making processes.

7.87.6 When undertaking its work ~~plan~~, the group ~~may decide~~:

- (a) may decide the extent and type of the analysis it undertakes. If the group believes it needs external (consultant) assistance, that request must be passed to the Authority representative. The Authority may approve the request, or modify the scope of the work plan item, as appropriate
- (b) may use knowledge and expertise from within each member's organisation, unless the Authority requires the work item to be kept confidential ~~the content of any discussion papers~~
- (c) must ensure all papers and discussion a member shares within its organisation for feedback is kept confidential within the organisation and is only used by the organisation for the purpose of providing feedback ~~the extent and type of the feedback it seeks, including how it will interact with interested parties to seek such feedback (such as by conducting workshops)~~
- ~~(d) how it will incorporate any feedback it receives into its analysis and its recommendations to the Authority.~~

## 8 Appointment

### Appointment of advisory group members

- 8.1 The Authority will appoint members after calling for nominations and considering nominees against the relevant criteria.
- 8.2 The Authority must appoint members by written notice. The notice must state the date the appointment takes effect and state the term of the appointment.

### Appointment of advisory group chairperson (including a temporary deputy chairperson)

- 8.3 The Authority will appoint a chairperson after calling for nominations and considering nominees against the relevant criteria.
- 8.4 The Authority may select a chairperson from among the existing members or may appoint someone from outside of the group. The Authority must appoint the chairperson by written notice to the relevant nominee, followed by written notice to the other members of the group.
- 8.5 The group may appoint a member to be a standing or temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if:
  - (a) the chairperson is unavailable; or
  - (b) the chairperson has a conflict of interest relating to the matter.

## 9 Working groups

### Purpose of working groups

- 9.1 References to working groups should be read as references to working groups, forums, workshops, or other types of groups (excluding ad hoc advisory groups).
- 9.2 The primary role of working groups is to provide technical and specialist input to the work of advisory groups. Working groups may also assist with an advisory group's workload, if directed by the Authority.
- 9.3 Working groups can be standing or ad hoc, and may be functional or project-specific, depending on the advisory group's requirements.

### Establishment of working groups

- 9.4 The chair~~person~~ for an advisory group and the relevant Authority representative will jointly recommend to the Authority whether a working group is required, and if that working group will be a subgroup of the Advisory group made up of members of the Advisory group, or be independent of the Advisory group made up of new appointees (which may include Advisory group members (if they meet the criteria)).
- 9.5 The Authority may establish a working group by:
- (a) calling for nominations by:
    - (i) determining the appropriate criteria against which to evaluate possible members of the working group, including candidates for the position of chair~~person~~
    - (ii) calling for nominations for members including a chair~~person~~
    - (iii) appointing members and a chair~~person~~ in accordance with the criteria established under paragraph (i)
    - (iv) determining appropriate terms of reference; or
  - (b) invitation to preferred potential members, including current Advisory group members on the Chair's recommendation; or
  - (c) another process (that is documented and followed) that is appropriate for the required purpose, work, and duration of the working group.
- 9.6 The Authority must have regard to the views of the relevant advisory group when establishing a working group.
- 9.7 When establishing a working group under clause ~~409~~.5 the Authority must evaluate potential members against the following criteria, in addition to any criteria that may also apply under clause 9.5(a)(i):
- (a) relevant knowledge and experience
  - (b) relevant strategic, commercial, and regulatory expertise
  - (c) an ability to represent alternative views in a balanced manner
  - (d) an ability to provide impartial, independent advice
  - (e) an ability to contribute constructively to the relevant tasks
  - (f) the ability of members to collectively represent the relevant key perspectives.
- 9.8 The Authority will determine on a case-by-case basis whether an advisory group member can become a member of a working group assisting their advisory group.

## Operation of working groups

- 9.9 Each working group will report its analysis and recommendations as advised by the Authority (normally to either the Authority or to the advisory group it was established to assist). A working group may nominate a member, in addition to its chairperson, to represent it when the advisory group considers its reports.
- 9.10 Each advisory group has the discretion to support any recommendation from a working group.
- 9.11 If a working group's task is a standalone one, the relevant advisory group is expected to forward the analysis and recommendations it receives from the working group on to the Authority.
- 9.12 If a working group's task is a component of a broader scope of work being undertaken by the relevant advisory group, the advisory group is expected to integrate the working group's analysis and recommendations into the advisory group's broader report to the Authority. If not integrated, the work and reason for not integrating it must be provided to the Authority representative.
- 9.13 ~~Whether the working group's task is standalone or a component of a broader scope of work, the relevant advisory group may, if it disagrees with the analysis and recommendations of a working group, ask the working group to undertake further work. An advisory group may also develop its own recommendations on the matter and present these to the Authority alongside the working group's recommendations.~~



# Provisions for the SRC

## 10 Function of role

- 10.1 Under section 20(2) of the Electricity Industry Act 2010 (Act), the function of the SRC is to provide independent advice to the Authority on:
- (a) the performance of the electricity system and the system operator; and
  - (b) reliability of supply issues.
- 10.2 The SRC fulfils its function by providing advice to the Authority on:
- (a) the system operator's performance including against its principal performance obligations, security of supply function and any other function of the system operator important to the performance of the electricity system and/or to reliability of supply
  - (b) system operations issues, including industry development needs and priorities relating to system operations
  - (c) security of supply issues, including system security assessments and security of supply forecasts
  - (d) reliability of supply issues, including planned and unplanned loss of supply and quality of supply issues
  - (e) any other matters that the Authority considers to be within the function of the SRC as set out in the Act.

## 11 Membership

- 11.1 The Authority will normally appoint nine members to the SRC, including an independent chairperson appointed by the Authority under clauses 13.3 to 13.4. However, the Authority may appoint more or less members.
- 11.2 The chairperson is a member. Accordingly, provisions in these terms of reference that apply to members also apply to the chairperson. However, provisions specific to the chairperson take precedence.
- 11.3 Between them, members will have appropriate knowledge and experience of the electricity industry, so that it can provide advice to the Authority that fulfils its function as described in clause 10.

### Criteria for membership

- 11.4 The Authority may appoint members to the SRC after considering nominees against the following criteria:
- (a) knowledge and experience of the electricity industry, in particular the matters specified in clause 10
  - (b) strategic, commercial, and regulatory expertise
  - (c) an ability to represent alternative views in a balanced manner
  - (d) an ability to provide impartial, independent advice
  - (e) a high level of integrity and credibility within a sector of the electricity industry or a related consumer sector
  - (f) an ability to contribute constructively to the SRC's tasks



- (g) an ability to contribute to a balance of knowledge in the SRC regarding the long-term interests of consumers, power systems engineering and analysis, and generation and demand-side management technologies.

11.5 To qualify as an independent chairperson, a nominee must meet the membership criteria specified in clause 11.4 and the following additional criteria:

- (a) the nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest
- (b) the nominee must have the skills and experience necessary to carry out the responsibilities of the chairperson and to perform the functions set out in clause 12.13.

### **Term of appointment**

11.6 Appointment to the SRC is ordinarily for a term of three years.

11.7 The maximum number of consecutive terms that a member may ordinarily be appointed is two.

11.8 Despite clause 11.6, the Authority may:

- (a) request that a member serve a term of more than three years
- (b) decide to appoint a member for a term of less than three years.

11.9 Despite clause 11.7, the Authority may appoint a member for more than two consecutive terms.

## **12 Procedures**

### **General**

12.1 The SRC may determine its own procedures, subject to the requirements of the Act, the Charter, and these terms of reference.

12.2 The SRC must conduct its business and activities in a manner that is as transparent as practicable.

### **Approach to meetings**

12.3 The SRC must meet as often as required to fulfil its function as described in clause 10.1, and in any event at least once every 6 months in accordance with section 20(3) of the Act.

12.4 The Authority anticipates that the SRC will meet three times a year, outside of extended emergencies such as an extended dry sequence or an extended period of capacity inadequacy.

12.5 A meeting of the SRC may be held by a quorum of its members assembled at the appointed time and place of the meeting. No business (including approving minutes) may be transacted at a meeting of the SRC if there is no quorum.

12.6 A quorum for a meeting of the SRC is a majority of its members.

12.7 The chairperson may invite non-members (in addition to Authority representatives) to attend a SRC meeting. In those circumstances, the invited party may participate in discussions at the discretion of the chairperson, but is not a member of the SRC and does not form part of the quorum.

- 12.8 As a general rule, meetings must be held in person. If this is not possible, meetings may be held using audio visual or electronic communication, provided all of the members who want to participate in the meeting have access to the technology and a quorum of members can communicate throughout the meeting.
- 12.9 Members will strive to attend meetings in person. If for valid reason(s) this is not possible, members may join the meeting by means of audio, audio and visual, or electronic communication.

### **Administration**

- 12.10 The Authority representative is accountable to the Authority for the successful and effective functioning of the SRC.
- 12.11 The Authority, in its capacity as the secretariat, will:
- (a) schedule meetings of the SRC in consultation with the chair~~person~~
  - (b) propose the agenda for each meeting for approval by the chair~~person~~
  - (c) give reasonable notice of meetings to each member, including details as to the time and venue of meetings
  - (d) if possible, arrange for meeting papers to be circulated to members at least five business days before a meeting to enable members to properly consider them
  - (e) ensure that non-confidential meeting materials are published on the Authority's website as soon as practicable after the relevant meeting
  - (f) ensure that minutes of meetings are published on the Authority's website as soon as practicable after their confirmation.
- 12.12 Any emails sent by a member of the SRC about any substantive aspects of the SRC's business should be copied to:
- (a) all the SRC members
  - (b) the Authority representative
  - (c) the Authority secretariat.

### **Functions of the chair~~person~~**

- 12.13 The key functions of the chair~~person~~ include:
- (a) managing the SRC's activities to facilitate delivery of its work
  - (b) facilitating discussions between SRC members in a manner that will stimulate robust debate on issues and encourage effective contribution from members
  - (c) guiding relevant and effective discussions while also ensuring genuine disagreements and conflicts are aired and, if possible, resolved
  - (d) ensuring that the minutes of each SRC meeting are correct
  - (e) ensuring that the views of the SRC are accurately represented in any correspondence to the Authority
  - (f) attending Authority Board meetings, as required, to present the SRC's advice.

# 13 Appointment

## **Appointment of members**

- 13.1 The Authority will appoint members after calling for nominations and considering nominees against the criteria specified in clause 11.4.
- 13.2 The Authority must appoint members by written notice to the relevant nominee. The notice must state the date the appointment takes effect and state the term of the appointment.

## **Appointment of chairperson (including a temporary deputy chairperson)**

- 13.3 The Authority will appoint an independent chairperson after calling for nominations and considering nominees against the criteria specified in clauses 11.4 and 11.5.
- 13.4 The Authority may select a chairperson from among the existing members of the SRC or may appoint someone from outside of the SRC. The Authority must appoint the chairperson by written notice to the relevant nominee, followed by written notice to the other members of the SRC.
- 13.5 The SRC may appoint a member of the SRC to be a standing or temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if:
  - (a) the chairperson is unavailable; or
  - (b) the chairperson has a conflict of interest relating to the matter.

# Provisions for ~~the IP~~Advisory Groups

## 14 Scope of role

14.1 The purpose of the Advisory Groups (AGs)~~IPAG~~ is to provide independent advice to the Authority on issues in the Authority prioritised initiatives~~work programme that relate to:~~

~~(a) —evolving technology and business models~~

~~(b) —competition and consumer choice.~~

14.2 In particular, the Authority may seek the ~~IPAG~~'s advice on:

(a) draft issues papers, option papers or other Code amendment papers, assessing whether: initiatives to improve the efficient development and use of evolving technologies and business models across the supply chain, including reducing inefficient barriers to:

(i) the content of these papers is feasible and viable, and if not, what any issues ~~are~~any consumers purchasing directly from the wholesale electricity market or directly from local generators

(ii) mass-market demand response, and aggregators of mass-market demand responsethe industry's ability to implement any changes being considered is documented and accounted for in the final versions of the paper being released

(b) ~~mass-market distributed energy resources, and aggregators of these resources, including distributed generation, batteries, micro-grids and 'prosumer' situations~~other initiatives to efficiently promote consumer participation through the whole supply chain, including:

(i) improving consumer awareness, understanding, motivation and action by mass-market, commercial or industrial consumers

(ii) ~~increasing choices available to mass-market consumers by further enhancing competition~~monitoring of existing obligations and changes being implemented

(c) any other policy, operational or strategy matters that the Authority considers appropriate.

## 15 Membership

15.1 The Authority will target appointing between ~~eight~~ (final number to be determined, depending on the outcome of consultation) members to the ~~IPeach~~ AG, including an independent chair~~person~~. However, the Authority may appoint more or less members.

15.2 The chair~~person~~ is a member. Accordingly, provisions in these terms of reference that apply to members also apply to the chair~~person~~. However, provisions specific to the chair~~person~~ take precedence.

### Criteria for membership

15.3 The Authority may appoint members to the ~~IP~~relevant AG after considering nominees against the following criteria:

(a) an ability to contribute to a balance of knowledge and experience relevant to the matters specified in clause 14

(b) an ability to represent alternative views in a balanced manner

- (c) an ability to provide impartial, independent advice
  - (d) a high level of integrity and credibility
  - (e) an ability to contribute constructively to the group's tasks.
- 15.4 To qualify as an independent chairperson, a nominee must meet the membership criteria specified in clause 15.3 and the following additional criteria:
- (a) the nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest
  - (b) the nominee must have the skills and experience necessary to carry out the responsibilities of the chairperson and to perform the functions set out in clauses 6.1 to 6.3.

### **Term of appointment**

- 15.5 Appointment to the ~~I~~Prelevant AG is ordinarily for a term of ~~three~~five years.
- 15.6 The maximum number of consecutive terms that a member may ordinarily be appointed is two.
- 15.7 Despite clause 15.5, the Authority may:
- (a) request that a member serve a term of more than ~~three~~five years
  - (b) decide to appoint a member for a term of less than ~~three~~five years.
- 15.8 Despite clause 15.6, the Authority may appoint a member for more than two consecutive terms.

## **16 Procedures**

### **General**

- 16.1 ~~The Each~~ IAG:
- (a) may determine its own procedures, subject to the requirements of the Act, the Charter, and these terms of reference
  - (b) must conduct its business and activities in a manner that is as transparent as practicable.

### **Approach to meetings**

- 16.2 ~~The I~~EAG will meet:
- (a) by any means that enables effective investigation of the matters included in the ~~I~~PAG's work plan
  - (b) as often as required, having regard to the Authority's planning cycle and the ~~I~~Prelevant AG's work plan.
- 16.3 A meeting of the ~~I~~Prelevant AG may be held by a quorum of its members. No business may be transacted at a meeting if there is no quorum.
- 16.4 A quorum for a meeting of the ~~I~~Prelevant AG comprises the minimum number of members necessary to ensure effective investigation of the matters included in the ~~I~~Prelevant AG's work plan, as determined by the Authority representative in consultation with the chairperson.

- 16.5 The chairperson of the IPrelevant AG may request any member or members of the IPAG to contribute on a project-specific basis.
- 16.6 The chairperson, with the agreement of the Authority's representative, may invite non-members (in addition to Authority ~~representatives~~staff) to attend ~~an IP~~the AG's meeting. In those circumstances, the invited party may participate in discussions at the discretion of the chairperson, but is not a member of the IPAG and does not form part of the quorum.

### **Administration**

- 16.7 The Authority's representative is accountable to the Authority for the successful and effective functioning of the IPrelevant AG.
- 16.8 The Authority, in its capacity as the secretariat, will:
- (a) make appropriate arrangements for any meetings of the group, in consultation with the chairperson
  - (b) give reasonable notice of meetings to each member, including details as to the time and venue of meetings
  - (c) if possible, arrange for any materials that will be discussed at group meetings to be circulated to members at least five business days before the meeting, to enable members to properly consider them
  - (d) ensure that non-confidential meeting materials are published on the Authority's website, however, ordinarily, draft Authority papers provided for the AGs consideration prior to public release are considered confidential until publicly released in accordance with procedures established by the IPAG
  - (e) attend all meetings, ensure that minutes of meetings are published on the Authority's website as soon as practicable after their confirmation.
- 16.9 Any emails sent by a member of the IPAG about any substantive aspects of the group's business should be copied to:
- (a) all the IPrelevant AG members
  - (b) the Authority representative
  - (c) the Authority secretariat.

# ~~Provisions for the MDAG~~

## ~~17 Scope of role~~

~~17.1 The purpose of the MDAG is to provide independent advice to the Authority on issues in the Authority work programme that primarily relate to:~~

- ~~(a) pricing and cost allocation~~
- ~~(b) risk and risk management~~
- ~~(c) operational efficiencies.~~

~~17.2 The Authority may seek the MDAG's advice on:~~

- ~~(a) initiatives to promote efficient pricing in markets and for monopoly services, including:
  - ~~(i) improving market pricing mechanisms such as real-time pricing, wind offers, and demand forecasting~~
  - ~~(ii) improving administered prices and cost-allocation methods such as distribution pricing, distributed generation pricing principles, cost-allocation of ancillary services~~~~
- ~~(b) initiatives to promote efficient management of capacity and energy risks, including:
  - ~~(i) improving management of capacity and real-time operational risks~~
  - ~~(ii) improving management of energy risks, such as dry year security of supply risks~~
  - ~~(iii) evolution of the hedge market~~~~
- ~~(c) any other policy matters that the Authority considers appropriate.~~

## ~~18 Membership~~

~~18.1 The Authority will target appointing between five and eight members to the MDAG, including an independent chairperson. However, the Authority may appoint more or less members.~~

~~18.2 The chairperson is a member. Accordingly, provisions in these terms of reference that apply to members also apply to the chairperson. However, provisions specific to the chairperson take precedence.~~

### ~~Criteria for membership~~

~~18.3 The Authority may appoint members to the MDAG after considering nominees against the following criteria:~~

- ~~(a) an ability to contribute to a balance of knowledge and experience relevant to the matters specified in clause 17~~
- ~~(b) strategic, commercial, and regulatory expertise~~
- ~~(c) an ability to represent alternative views in a balanced manner~~
- ~~(d) an ability to provide impartial, independent advice~~
- ~~(e) a high level of integrity and credibility within a sector of the electricity industry or a related consumer sector~~
- ~~(f) an ability to contribute constructively to the group's tasks.~~

- ~~18.4—To qualify as an independent chairperson, a nominee must meet the membership criteria specified in clause 18.3 and the following additional criteria:~~
- ~~(a)—the nominee must, in the opinion of the Authority, be demonstrably free of conflicts of interest~~
  - ~~(b)—the nominee must have the skills and experience necessary to carry out the responsibilities of the chairperson and to perform the functions set out in clauses 6.1 to 6.3.~~

### ~~Term of appointment~~

- ~~18.5—Appointment to the MDAG is ordinarily for a term of three years.~~
- ~~18.6—The maximum number of consecutive terms that a member may ordinarily be appointed is two.~~
- ~~18.7—Despite clause 18.5, the Authority may:~~
- ~~(a)—request that a member serve a term of more than three years~~
  - ~~(b)—decide to appoint a member for a term of less than three years.~~
- ~~18.8—Despite clause 18.6, the Authority may appoint a member for more than two consecutive terms.~~

## ~~19—Procedures~~

### ~~General~~

- ~~19.1—The MDAG:~~
- ~~(a)—may determine its own procedures, subject to the requirements of the Act, the Charter, and these terms of reference~~
  - ~~(b)—must conduct its business and activities in a manner that is as transparent as practicable.~~

### ~~Approach to meetings~~

- ~~19.2—The MDAG will meet as often as required, having regard to the Authority's planning cycle and the group's work plan.~~
- ~~19.3—Any meeting of the MDAG may be held by a quorum of its members assembled at the appointed time and place of the meeting. No business (including approving minutes) may be transacted at a meeting if there is no quorum.~~
- ~~19.4—A quorum for a meeting of the MDAG comprises:~~
- ~~(a)—half of its members if it has an even number of members~~
  - ~~(b)—a majority of its members if it has an odd number of members.~~
- ~~19.5—The chairperson may invite non-members (in addition to Authority representatives) to attend an MDAG meeting. In those circumstances, the invited party may participate in discussions at the discretion of the chairperson, but is not a member of the MDAG and does not form part of the quorum.~~
- ~~19.6—Meetings may be held:~~
- ~~(a)—in person; or~~



~~(b) by means of audio or visual, or electronic communication, provided that all of the members who wish to participate in the meeting have access to the technology needed to participate, and a quorum of members can simultaneously communicate with each other throughout the meeting.~~

~~19.7 Where meetings are held in person, members will strive to attend in person. If this is not possible for valid reason(s), members may join the meeting by means of audio, audio and visual, or electronic communication.~~

### **Administration**

~~19.8 The Authority's representative is accountable to the Authority for the successful and effective functioning of the MDAG.~~

~~19.9 The Authority, in its capacity as the secretariat, will:~~

~~(a) schedule meetings in consultation with the chairperson~~

~~(b) propose the agenda for each meeting for approval by the chairperson~~

~~(c) give reasonable notice of meetings to each member, including details as to the time and venue of meetings~~

~~(d) if possible, arrange for any materials that will be discussed at group meetings to be circulated to members at least five business days before the meeting, to enable members to properly consider them~~

~~(e) ensure that non-confidential meeting materials are published on the Authority's website in accordance with procedures established by the MDAG~~

~~(f) ensure that minutes of meetings are published on the Authority's website as soon as practicable after their confirmation.~~

~~19.10 Any emails sent by a member of the MDAG about any substantive aspects of the MDAG's business should be copied to:~~

~~(a) all the MDAG members~~

~~(b) the Authority representative~~

~~(c)(d) the Authority secretariat.~~

## Appendix E Proposed Code amendments

# Appendix E– Proposed Code amendments

## New clauses

### 1.1 Interpretation

...

**System operation document** means any of the following documents:

- (a) the security of supply forecasting and information policy incorporated under clause 7.4
- (b) the emergency management policy incorporated under clause 7.4
- (c) the policy statement incorporated under clause 8.10
- (d) the procurement plan incorporated under clause 8.42
- (e) the AUFLS technical requirements report incorporated under clause 2 of Schedule 8.6
- (f) the system operator rolling outage plan incorporated under clause 9.3

...

### *Amending or replacing system operation documents*

#### **7.13 Proposals to amend system operation documents**

- (1) A proposal to amend a system operation document is made by the system operator to the Authority.
- (2) The process for the system operator to develop a proposal may be initiated by—
  - (a) the Authority directing the system operator to consider a proposal to amend a system operation document; or
  - (b) the system operator agreeing under clause 7.14 to progress an amendment to a system operation document; or
  - (c) the system operator deciding to progress an amendment, either—
    - (i) at the conclusion of a review carried out under clause 7.15; or
    - (ii) at any other time.
- (3) Before providing a proposal to the Authority to amend a system operation document, the system operator must consult on the proposal where required by clause 7.20 after obtaining consent as required by clause 7.16.
- (4) For the purposes of clauses 7.13 to 7.22, a proposal to amend a system operation document includes a proposal to replace a system operation document.

#### **7.14 Process where participants request amendments**

- (1) If a participant requests an amendment to a system operation document to the system operator, the system operator must decide to—
  - (a) consider the amendment as part of the next review under clause 7.15; or
  - (b) consider the amendment outside of a review; or
  - (c) decline to consider the amendment.
- (2) The system operator must advise the Authority and the participant that requested the amendment of its decision, including its reasons, within 1 month of receiving the request.

#### **7.15 Review of system operation documents**

- (1) The system operator must review each system operation document at least once every 2 years to identify whether the document should be amended.
- (2) At the conclusion of the review the system operator must either—

- (a) propose an amendment to the **system operation document** to the **Authority** following consultation where required by clause 7.20, after obtaining consent as required by clause 7.16; or
- (b) advise the **Authority** that the **system operator** does not consider that the **system operation document** requires amendment and provide the **Authority** with a written report describing the process carried out for the review, the **system operator**'s decision, and the reasons for the decision.

#### **7.16 Authority must consent to consultation before system operator consults on proposal to amend system operation document**

- (1) The **system operator** must obtain the **Authority**'s consent before consulting on a proposal to amend a **system operation document**.
- (2) The purpose for the **Authority** consenting to consultation is to enable the **Authority** to identify to the **system operator** any issues with—
  - (a) the proposal that may cause the **Authority** to not issue a notice to adopt the amendment under section 131B(2) of the Act or to not progress the amendment as a Code amendment under section 38 of the Act, as the case may be; and
  - (b) the **system operator**'s proposed consultation process and the information to be provided with the proposal for consultation under subparagraph 7.18(2)(a).
- (3) When requesting the **Authority**'s consent, the **system operator** must provide the following information to the **Authority**:
  - (a) the consultation information in subparagraph 7.18(2)(a); and
  - (b) the proposed consultation period in subparagraph 7.18(2)(b); and
  - (c) the **system operator**'s proposed consultation process; and
  - (d) a list of the persons the **system operator** proposes to consult with.
- (4) The **Authority** must within a reasonable period time after receiving the **system operator**'s request for consent either:
  - (a) consent to the consultation and notify the **system operator** accordingly; or
  - (b) raise any issues it has identified under sub-clause (2) with the **system operator**

#### **7.17 Authority direction to system operator**

- (1) In addition to its powers under clause 7.16, the **Authority** may direct the **system operator** to make changes to any of the matters listed in clause 7.16(3), other than the proposed amendment itself.
- (2) The **Authority** may not give a direction under subclause (1) if the effect of the direction is that the proposal, if finally made, could not be considered to have made by the **system operator** for the purposes of section 131B(2) of the Act .

#### **7.18 Process if the Authority does not approve a proposal for consultation**

- (1) If the **Authority** identifies any issues or concerns under clause 7.16(2)(a), unless the **Authority** has given a direction under clause 7.17(1), the **system operator** must consider those issues and either:
  - (a) amend the proposal, proposed consultation process or the consultation information to be provided with the proposal and re-submit the information required under clause 7.16(3) to the **Authority** for approval;
  - (b) decide not to continue with the proposal; or
  - (c) continue with the proposal without making any amendment to it, the proposed consultation process or the information to be provided with the proposal.
- (2) If the Authority directs the **system operator** under subclause 7.17(1), the **system operator** must

- make the change and re-submit the information required under subclause 7.16(3) to the **Authority** for approval.
- (3) If the **system operator** re-submits the information required under subclause 7.16(3) to the **Authority**, the **Authority** must re-consider the information and decide either to:
- (a) consent to the consultation; or
  - (b) not consent to the consultation
- (4) If the **Authority** does not consent to a proposal for consultation under subclause (3), the **system operator** must decide either:
- (a) to not continue with the proposal; or
  - (b) to continue with the proposal.
- (5) The **system operator** and the **Authority** must give each other notice of their decisions under the above subclauses.

### **7.19 Effect of Authority's and system operator decisions under clauses 7.16 to 7.18**

- (1) The **Authority's** consent to consultation under subclause 7.16(5)(a) or 7.18(4)(a) or to direct the **system operator** under clause 7.17(1) does not affect the **Authority's** decision regarding approval of a **system operation document** under clause 7.20.
- (2) If the **system operator** continues with a proposal under subparagraphs 7.18(1)(c) or 7.18(4)(b), the **system operator**:
- (a) does so with the risk that the **Authority** may decide not to issue a notice to adopt the amendment under section 131B(2) of the Act or to not progress the amendment as a Code amendment under section 38 of the Act; and
  - (b) must advise the persons it consulted with under clause 7.19 that the **Authority** has not consented to the consultation under this clause and that that risk described in subparagraph (a) arises.
- (2) Subparagraph (2)(a) does not prevent the **Authority** from deciding to not issue a notice to adopt an amendment under section 131B(2) of the Act or to not progress the amendment as a Code amendment under section 38 of the Act

### **7.20 Consultation on proposed amendments**

- (1) The **system operator** must consult on any proposed amendment of a **system operation document** with persons that represent the interests of those persons likely to be affected by the proposed amendment.
- (2) The **system operator** must, at least, carry out the following steps as part of consultation on a proposed amendment:
- (a) make the following information available to the persons it is consulting with:
    - (i) a draft of the proposed amendment;
    - (ii) a statement of the objectives of the proposed amendment;
    - (iii) an evaluation of the costs and benefits of the proposed amendment;
    - (iv) an evaluation of alternative means of achieving the objectives of the proposed amendment (if any);
  - (b) provide a reasonable period of time to the persons it is consulting with to consider the information provided under paragraph (a) and to make submissions;
  - (c) consider any submissions.
- (3) The **system operator** must provide a copy of each submission received under subclause (2) to the **Authority**.

- (4) Despite subclause (1), consultation is not required if the **system operator** satisfies the **Authority**, on reasonable grounds, that—
- (a) the nature of the amendment is technical and non-controversial; or
  - (b) there is widespread support for the amendment among the persons likely to be affected by it;
- or
- (c) there has been adequate prior consultation so that all relevant views have been considered; or
  - (d) it is necessary or desirable in the public interest that the proposed amendment be made urgently.

### **7.21 Approval of system operation documents**

- (1) Following consultation, or if subclause 7.20(4) applies, the **system operator** must provide the **Authority** with a report that sets out the following:
- (a) the information required by paragraph 7.20(2)(a), regardless of whether or not consultation was carried out, but incorporating any changes made following consultation;
  - (b) a summary of any submissions received and the **system operator**'s response to each;
  - (c) a list of any changes made to the proposed amendments to the **system operation document** after consultation and the reasons for the changes;
  - (d) if subclause 7.18(4) applies, the reasons why the **system operator** considered that consultation was not required;
  - (e) a final draft of the proposed amendments to the **system operation document** (either as amendments to the **system operation document** or a replacement **system operation document**).
- (2) After receipt of the report, the **Authority** may—
- (a) approve the proposed amendments to the **system operation document**; or
  - (b) require the **system operator** to conduct further consultation before re-submitting the proposed amendments to the **system operation document** to the **Authority** for approval; or
  - (c) decline to approve the proposed amendments to the **system operation document**.
- (3) The approval by the **Authority** of proposed amendments to a **system operation document**—
- (a) does not remove the requirement for the **Authority** to comply with either section 38 or section 131B of the **Act** in order to give legal effect to the amendments as part of the Code; and
  - (b) does not affect, pre-determine or otherwise override any decision by the **Authority** under section 38 or section 131B of the **Act**.
- (4) To avoid doubt, an approved **system operation document** is not invalid only because the **Authority** and the **system operator** did all or any of the things referred to in clauses 7.16 to 7.20 before those clauses came into force.

### **7.22 Authority to prescribe timeframes**

From time to time the **Authority** may prescribe reasonable timeframes that the **system operator** must comply with in completing any steps in clauses 7.16 to 7.21.

Amendments to existing clauses

## **1.1 Interpretation**

...

~~draft policy statement means a document provided for in clause 8.10A(2), 8.11A(1), or 8.12A(1)~~

~~draft procurement plan means a document provided for in clause 8.42A(2), 8.43A(1), or 8.44A(1)~~

...

**submission expiry date means:**

- ~~(a) in the case of a submission on a **draft policy statement**, the date the **Authority** advises in accordance with clause 8.12(2); and~~
- ~~(b) in the case of a submission on a **draft procurement plan**, the date the **Authority** advises in accordance with clause 8.44(2); and~~

...

## **7.1 Contents of this Part**

This Part provides for—

- (aa) a reasonable and prudent **system operator** standard; and
- (a) high level, output focussed performance obligations of the **system operator** in relation to the real time co-ordination and delivery of **common quality** and **dispatch**; and
- (b) the functions of the **system operator** in relation to **demand** and supply forecasting, security of supply, and supply emergencies; and
- (c) review of the **system operator's** performance under the **Act**, this Code, and the relevant **market operation service provider agreement**; and
- (d) requirements for the amendment or replacement of **system operation documents**.

...

## **7.4 Incorporation of security of supply forecasting and information policy and emergency management policy by reference**

- (1) The **security of supply forecasting and information policy** and the **emergency management policy** are incorporated by reference in this Code ~~in accordance with section 32 of the **Act**.~~
- (2) Clauses 7.13 to 7.19 apply to any amendment or replacement of the **security of supply forecasting and information policy** or **emergency management policy**. Subclause (1) is subject to Schedule 4 of the **Act**, which includes a requirement that the **Authority** must give notice in the *Gazette* before an amended or substituted **security of supply forecasting and information policy** or **emergency management policy** becomes incorporated by reference in this Code.

## ~~**7.5 Approval of draft security of supply forecasting and information policy and emergency management policy**~~

- ~~(1) The **system operator** may submit to the **Authority** for approval a draft **security of supply forecasting and information policy** or a draft **emergency management policy** to replace an existing **security of supply forecasting and information policy** or **emergency management policy** as the case may be.~~
- ~~(2) [Revoked]~~
- ~~(3) In preparing the draft **security of supply forecasting and information policy** or the draft **emergency management policy**, the **system operator** must—~~
  - ~~(a) consult with persons that the **system operator** thinks are representative of the interests of persons likely to be substantially affected by the policies; and~~
  - ~~(b) consider submissions made on the policies.~~
- ~~(4) The **system operator** must provide a copy of each submission received under subclause (3) to the **Authority**.~~

- (5) ~~The Authority must, as soon as practicable after receiving the draft **security of supply forecasting and information policy** or the draft **emergency management policy**, by notice in writing to the **system operator**,—
  - (a) ~~approve the relevant policy; or~~
  - (b) ~~decline to approve the relevant policy.~~~~
- (6) ~~If the Authority declines to approve the draft **security of supply forecasting and information policy** or the draft **emergency management policy**, the Authority must **publish** the changes that the Authority wishes the **system operator** to make to the relevant draft policy.~~
- (7) ~~When the Authority **publishes** the changes that the Authority wishes the **system operator** to make to the relevant draft policy under subclause (6), the Authority must advise the **system operator** and interested parties of the date by which submissions on the changes must be received by the Authority.~~
- (8) ~~Each submission on the changes to the draft policy must be made in writing to the Authority and be received on or before the date the Authority advises under subclause (7). The Authority must provide a copy of each submission received to the **system operator** and must **publish** the submissions.~~
- (9) ~~The **system operator** may make its own submission on the changes to the draft policy and the submissions received in relation to the changes. The Authority must **publish** the **system operator's** submission when it is received.~~
- (10) ~~The Authority must consider the submissions made to it on the changes to the draft policy.~~
- (11) ~~Following the consultation required by subclauses (7) to (10), the Authority may approve the draft policy subject to the changes that the Authority considers appropriate being made by the **system operator**.~~

#### ~~7.6 Variations to **security of supply forecasting and information policy** and **emergency management policy**~~

- (1) ~~A **participant** or the Authority may submit a proposal for a variation to the **security of supply forecasting and information policy** or the **emergency management policy** to the **system operator**.~~
- (2) ~~The **system operator** must consider a proposed variation to the **security of supply forecasting and information policy** or the **emergency management policy** submitted under subclause (1).~~
- (3) ~~The **system operator** may submit a request for a variation to the **security of supply forecasting and information policy** or the **emergency management policy** to the Authority.~~
- (4) ~~Clause 7.5(3) to (11) apply to a request for a variation submitted under subclause (3) as if references to a draft policy were a reference to the requested variation.~~
- (5) ~~The Authority may approve a variation requested under subclause (3) without complying with subclause (4) if—
  - (a) ~~the Authority considers that it is necessary or desirable in the public interest that the requested variation be made urgently; and~~
  - (b) ~~the Authority **publishes** a notice of the variation and a statement of the reasons why the urgent variation is needed.~~~~
- (6) ~~Every variation made under subclause (5) expires on the date that is 9 months after the date on which the variation is made.~~

...



## 8.10 Incorporation of policy statement by reference

- (1) The **policy statement** is incorporated by reference in this Code ~~in accordance with section 32 of the Act.~~
- (2) Clauses 7.13 to 7.19 apply to any amendment or replacement of the **policy statement**.  
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 2 years the **system operator** must —~~
  - (a) ~~review the **policy statement**; and~~
  - (b) ~~as soon as practicable after completing a review, decide whether or not to propose a change to the **policy statement**; and~~
  - (c) ~~advise the **Authority** of its decision.~~
- (2) ~~If the **system operator** decides to propose a change to the **policy statement**, the **system operator** must submit 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 proposed change;~~
  - (b) ~~an evaluation of alternative means of achieving the objectives of the proposed change;~~
  - (c) ~~an evaluation of the costs and benefits of the proposed change;~~
  - (d) ~~a list of the persons consulted and a summary of the submissions received.~~
- (3) ~~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)(c) that the **system operator** does not intend to propose a change to the **policy statement** the **system operator** must provide the **Authority** with the following information:~~

- (a) ~~the findings of the review of the **policy statement** conducted by the **system operator**;~~
- (b) ~~details of any request to amend the **policy statement** received from a **participant** or the **Authority** since the last review;~~
- (c) ~~the **system operator**'s decision on each such request including, if the **system operator** declined a requested change, the reasons 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 to the **policy statement**.~~
- (2) ~~If the **Authority** requires the **system operator** to reconsider a decision made under subclause 8.10A(1)(b), 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 with 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 **publish** the advice received from the **system operator** under clause 8.10A(1)(c) and the advice given by the **Authority** to the **system operator** under subclause (2).~~

### 8.11 Content of ~~draft~~ policy statement

- (1) *[Revoked]*
- (2) *[Revoked]*
- (3) **A ~~The draft~~ policy statement** 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**; 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) a policy setting out how the **system operator** will manage 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 proposed change;~~
  - ~~(b) an evaluation of alternative means of achieving the proposed change;~~
  - ~~(c) an evaluation of the costs and benefits of the proposed change.~~~~
- ~~(2) The **Authority** or a **participant** may at any time request that the **system operator** 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.~~~~
- ~~(4) If the **system operator** declines a request under subclause (3), the **Authority** may require the **system operator** to reconsider its decision, giving reasons.~~

#### ~~8.12 Consultation on draft policy statement~~

- ~~(1) The **Authority** must **publish** the following information as soon as practicable after it receives it:
  - ~~(a) a **draft policy statement** submitted under clause 8.10A and the information required under clause 8.10A(2);~~
  - ~~(b) a **draft policy statement** submitted under clause 8.11A and the information required under clauses 8.11A(1)(a) to (c).~~~~
- ~~(2) When the **Authority** **publishes** a **draft policy statement** and information under subclause (1), the **Authority** must advise **participants** of the date (which must not be earlier than **10 business days** after the date that the **Authority** **publishes** 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 changes proposed in a **draft policy statement** must be made in writing to the **Authority** and received on or before the **submission expiry date**.~~
- ~~(4) 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** the submissions as soon as practicable.~~
- ~~(5) 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**.~~
- ~~(6) The **Authority** must **publish** the **system operator's** submission as soon as practicable after it is received.~~
- ~~(7) Following the consultation process required by subclauses (1) to (6), the **Authority** may approve the **draft policy statement** subject to the **system operator** making any changes that the **Authority** considers appropriate.~~

#### **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 change.~~
- ~~(2) If the **system operator** submits a **draft policy statement** under subclause (1) the **system operator** is not required to provide a statement of the objectives of the proposed change, an evaluation of alternative means of achieving the objectives of the proposed change or an evaluation of costs and benefits of the proposed change.~~
- ~~(3) The **Authority** must, as soon as practicable after receiving a **draft policy statement** and the information required under subclause (1), 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.~~~~
- ~~(4) If the **Authority** approves the **draft policy statement** it must as soon as practicable—
  - ~~(a) **publish** notice of its intention to incorporate the **draft policy statement** by reference into this Code; and~~
  - ~~(b) include in the notice the **Authority's** reasons for considering that the changes proposed in the **draft policy statement** are technical and non-controversial; and~~
  - ~~(c) invite comment from **participants** on the reasons given in the notice.~~~~
- ~~(5) After considering any comments made under subclause 4(c) the **Authority** must advise the **system operator** by notice in writing of its decision as to whether to confirm or revoke its approval of the **draft policy statement**, and give reasons for its decision.~~
- ~~(6) The **Authority** must **publish** its decision and reasons as soon as practicable.~~

#### **8.12B Authority adopts new policy statement**

If the **Authority** approves a **draft policy statement** under clause 8.12 or confirms its approval of a **draft policy statement** under clause 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) **publish** the new **policy statement** and the date on which it takes legal effect.~~

...

#### **8.42 Incorporation of procurement plan by reference**

- ~~(1) The **procurement plan** is incorporated by reference in this Code in accordance with section 32 of~~

the Act.

- (2) ~~Clauses 7.13 to 7.19 apply to any amendment or replacement of the **procurement plan**. 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.~~

#### **8.42A Review of procurement plan**

- (1) ~~At least once every 2 years the **system operator** must —~~
  - (a) ~~review the **procurement plan**; and~~
  - (b) ~~as soon as practicable after completing the review, decide whether or not to propose a change to the **procurement plan**; and~~
  - (c) ~~advise the **Authority** of its decision.~~
- (2) ~~If the **system operator** decides to propose a change to the **procurement plan**, the **system operator** must submit 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 proposed change;~~
  - (b) ~~an evaluation of the costs and benefits of the proposed change;~~
  - (c) ~~an evaluation of alternative means of achieving the objectives of the proposed change;~~
  - (d) ~~a list of the persons consulted and a summary of the submissions received.~~
- (3) ~~As part of a review conducted under this clause, the **system operator** must invite comments from **participants**.~~

#### **8.42B System operator decides not to amend the procurement plan**

~~If the **system operator** advises the **Authority** under clause 8.42A(1)(c) that the **system operator** does not intend to propose a change to the **procurement plan** the **system operator** must provide the **Authority** with the following information:~~

- (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;~~
- (c) ~~the **system operator**'s decision on each such request including, if the **system operator** declined a requested change, the reason for declining.~~

#### **8.42C Authority may require system operator to reconsider**

- (1) ~~The **Authority** may require the **system operator** to reconsider a decision made under clause 8.42A(1)(b) not to propose a change to the **procurement plan**.~~
- (2) ~~If the **Authority** requires the **system operator** to reconsider a decision made under subclause 8.42A(1)(b) 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 procurement plan**.~~
- (3) ~~The **Authority** must as soon as practicable **publish** the advice received from the **system operator** under clause 8.42A(1)(c) and the advice given by the **Authority** to the **system operator** under subclause (2).~~

### 8.43 Content of ~~draft~~ procurement plan

~~A~~ ~~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**, 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
- (b) contain a methodology for conducting a **net purchase quantity assessment** for each relevant **ancillary service**; and
- (c) outline the process that the **system operator** must use to procure that **ancillary service**, taking into account that the **system operator** must use—
  - (i) market mechanisms to procure **ancillary services** wherever technology and transaction costs make this practicable and efficient; and
  - (ii) 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
- (d) specify the **administrative costs** for that **ancillary service** as proposed in the ~~draft~~ **procurement plan**; and
- (e) outline the **system operator's** technical requirements and key contract terms to support the **procurement plan**; and
- (f) 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
- (g) 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 proposed change;~~
  - ~~(b) an evaluation of alternative means of achieving the objectives of the proposed change;~~
  - ~~(c) an evaluation of the costs and benefits of the proposed change.~~
- ~~(2) The **Authority** or a **participant** may at any time request that the **system operator** 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.~~

- (4) ~~If the **system operator** declines a request under subclause (3) the **Authority** may require the **system operator** to reconsider its decision, giving reasons.~~

#### **8.44 Consultation on draft procurement plan**

- (1) ~~The **Authority** must **publish** the following information as soon as practicable after it receives it:~~
- (a) ~~a **draft procurement plan** submitted under clause 8.42A and the information required under clause 8.42A(2);~~
  - (b) ~~a **draft procurement plan** submitted under clause 8.43A and the information required under clause 8.43A(1)(a) to (c).~~
- (2) ~~When the **Authority** publishes a **draft procurement plan** and information under subclause (1) the **Authority** must advise **participants** of the date (which must not be earlier than **10 business days** after the date that the **Authority** publishes the **draft procurement plan**) by which submissions on the changes proposed in the **draft procurement plan** must be received by the **Authority**.~~
- (3) ~~Each submission on changes proposed in a **draft procurement plan** must be made in writing to the **Authority** and received on or before the **submission expiry date**.~~
- (4) ~~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** the submissions as soon as practicable.~~
- (5) ~~The **system operator** may make its own submission on the **draft procurement plan** and the submissions received in relation to it no later than **10 business days** after the **submission expiry date**.~~
- (6) ~~The **Authority** must **publish** the **system operator**'s submission as soon as practicable after it is received.~~
- (7) ~~Following the consultation process required by subclauses (1) to (6), the **Authority** may approve the **draft procurement plan** subject to the **system operator** making any changes that the **Authority** considers appropriate.~~

#### **8.44A Technical and non-controversial amendments**

- (1) ~~The **system operator** may at any time propose a change 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 change.~~
- (2) ~~If the **system operator** submits a **draft procurement plan** under subclause (1) it is not required to provide a statement of the objectives of the proposed change, an evaluation of alternative means of achieving the objectives of the proposed change or an evaluation of the costs and benefits of the proposed change.~~
- (3) ~~The **Authority** must, as soon as practicable after receiving a **draft procurement plan** and the information required under subclause (1), 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.~~
- (4) ~~If the **Authority** approves the **draft procurement plan** it must as soon as practicable—~~
- (a) ~~**publish** notice of its intention to incorporate the **draft procurement plan** by reference into this Code; and~~
  - (b) ~~include in the notice the **Authority**'s reasons for considering that the changes proposed in the **draft procurement plan** are technical and non-controversial; and~~
  - (c) ~~invite comment from **participants** on the reasons given in the notice.~~
- (5) ~~After considering any comments made under subclause 4(c) the **Authority** must advise the **system**~~

~~operator by notice in writing of its decision as to whether to confirm or revoke its approval of the draft procurement plan, and give reasons for its decision.~~

~~(6) The Authority must publish its decision and reasons as soon as practicable.~~

#### ~~8.44B Authority adopts new procurement plan~~

~~If the Authority approves a draft procurement plan under clause 8.44 or confirms its approval of a draft procurement plan under clause 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) publish the new procurement plan and the date on which it takes legal effect.~~

...

Schedule 8.1

cls 8.29 and 8.33

### Approval of equivalence arrangement or grant of dispensation

#### 6 Special provisions relating to the grant of dispensations

- (1) Before granting a dispensation, the **system operator** must issue a draft decision on the application. The draft decision must be published on the **system operator register** and must include—
  - (a) an assessment by the **system operator** of the technical issues; and
  - (b) advice from the **system operator** about any changes required to **ancillary services** procurement as a result of the proposed **dispensation**.
- (2) If changes are required to the **procurement plan**, the draft decision must be conditional on the **procurement plan** being amended appropriately in accordance with clauses ~~s 7.13 to 7.18-8.44~~.

Schedule 8.6

cl 1.1

### ~~Consultation and approval requirements for the AUFLS technical requirements report~~ incorporated by reference

#### 1 ~~Contents of this Schedule~~

~~—This Schedule sets out the consultation and approval requirements that apply to the AUFLS technical requirements report.~~

#### 2 Incorporation of AUFLS technical requirements report by reference

- (1) The **AUFLS technical requirements report** is incorporated by reference in this Code ~~in accordance with section 32 of the Act.~~
- (2) Clauses 7.13 to 7.18 apply to any amendment or replacement of the AUFLS technical requirements report. ~~Subclause (1) is subject to Schedule 1 of the Act, which includes a requirement that the Authority must give notice in the Gazette before legal effect is given to an amendment to, or replacement of, a document incorporated by reference in this Code.~~

#### 3 ~~Changes and variation to AUFLS technical requirements report~~



- ~~(1) The **system operator** may at any time propose a change to the **AUFLS technical requirements report** by submitting a draft **AUFLS technical requirements report** to the **Authority** together with an explanation of the proposed change.~~
- ~~(2) The **Authority** must provide comments on the draft **AUFLS technical requirements report** to the **system operator** as soon as practicable after receiving it.~~
- ~~(3) The **system operator** must consider the **Authority's** comments.~~
- ~~(4) After the **system operator** has considered the **Authority's** comments, the **system operator** must —
  - ~~(a) consult with persons that the **system operator** thinks are representative of the interests of persons likely to be substantially affected by the draft **AUFLS technical requirements report**; and~~
  - ~~(b) consider submissions made on the draft **AUFLS technical requirements report**.~~~~
- ~~(5) The **system operator** must give a copy of each submission made to it and a copy of the draft **AUFLS technical requirements report** that the **system operator** proposes to publish to the **Authority**.~~
- ~~(6) The **Authority** must provide comments to the **system operator** on the draft **AUFLS technical requirements report** as soon as practicable after receiving it.~~
- ~~(7) The **system operator** must consider the **Authority's** comments.~~
- ~~(8) Following the consultation required by the clause, the **system operator** must finalise and publish the draft **AUFLS technical requirements report** and provide it to the **Authority**.~~
- ~~(9) Following the process required by subclauses (1) to (8), the **Authority** may approve the draft **AUFLS technical requirements report**.~~
- ~~(10) The **Authority** may choose to carry out consultation on the proposed changes before deciding whether or not to approve the draft **AUFLS technical requirements report**.~~

#### ~~4 — **Technical and non-controversial changes**~~

- ~~(1) The **system operator** may at any time propose a change to the **AUFLS technical requirements report** that it considers is technical and non-controversial by submitting a draft **AUFLS technical requirements report** to the **Authority** together with an explanation of the proposed change.~~
- ~~(2) If the **system operator** proposes a change to the **AUFLS technical requirements report** under subclause (1), the **system operator** is not required to comply with clause 3 of this Schedule.~~
- ~~(3) The **Authority** must, as soon as practicable after receiving a draft **AUFLS technical requirements report** and the information required under subclause 1, by notice in writing to the **system operator** —
  - ~~(a) approve the draft **AUFLS technical requirements report** to be incorporated by reference into this Code; or~~
  - ~~(b) decline to approve the draft **AUFLS technical requirements report**, giving reasons.~~~~
- ~~(4) If the **Authority** approves the draft **AUFLS technical requirements report** it must as soon as practicable —
  - ~~(a) **publish** notice of its intention to incorporate the draft **AUFLS technical requirements report** by reference into this Code; and~~
  - ~~(b) include in the notice the **Authority's** reasons for considering that the changes proposed in the draft **AUFLS technical requirements report** are technical and non-controversial; and~~
  - ~~(c) invite comment from **participants** on the reasons given in the notice.~~~~
- ~~(5) After considering any comments made under subclause 4(c) the **Authority** must advise the **system operator** by notice in writing of its decision as to whether to confirm or revoke its approval of the draft **AUFLS technical requirements report**, and give reasons for its decision.~~
- ~~(6) The **Authority** must **publish** its decision and reasons as soon as practicable.~~

#### ~~5 — **Authority adopts new AUFLS technical requirements report**~~



~~If the Authority approves a draft AUFLS technical requirements report under clause 3 of this Schedule or confirms its approval of a draft AUFLS technical requirements report under clause 4 of this Schedule it must —~~

- ~~(a) — incorporate the new AUFLS technical requirements report under clause 3 of this Schedule or confirms its approval of a draft AUFLS technical requirements report by reference into this Code in accordance with Schedule 1 of the Act; and~~
- ~~(b) — publish the new AUFLS technical requirements report and the date on which it takes legal effect.~~

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### *System operator rolling outage plan*

## **9.2 System operator must prepare and publish system operator rolling outage plan**

- (1) The system operator must prepare and publish a system operator rolling outage plan.
- ~~(2) — Before publishing a system operator rolling outage plan the system operator must submit to the Authority for approval a draft system operator rolling outage plan.~~
- ~~(3) — Clause 7.5(3) to (11) applies to the approval of the system operator rolling outage plan by the Authority as if references to the security of supply forecasting and information policy and the emergency management policy were a reference to the system operator rolling outage plan.~~

## **9.3 Incorporation of system operator rolling outage plan by reference**

- (1) The system operator rolling outage plan is incorporated by reference in this Code ~~in accordance with section 32 of the Act.~~
- ~~(2) Clauses 7.13 to 7.19 apply to any amendment or replacement of the system operator rolling outage plan. 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 system operator rolling outage plan becomes incorporated by reference in this Code.~~

...

## ~~**9.5 — Amendments and substitutions of system operator rolling outage plans**~~

- ~~(1) — The system operator may —~~
  - ~~(a) — amend a system operator rolling outage plan; or~~
  - ~~(b) — revoke a system operator rolling outage plan and substitute a new plan.~~
- ~~(2) — This subpart applies to an amendment to a plan or a substitute plan —~~
  - ~~(a) — as if the amendment or substitute plan were the original plan; and~~
  - ~~(b) — with other necessary modifications.~~
- ~~(3) — The system operator must not submit an amended or new system operator rolling outage plan to the Authority under clause 9.2(2) unless the system operator has —~~
  - ~~(a) — consulted with persons that the system operator thinks are representative of the interests of persons likely to be substantially affected by the amended or new plan; and~~
  - ~~(b) — considered submissions made on the amended or new plan.~~
- ~~(4) — Subclause (3) does not apply if the system operator considers that it is necessary or desirable in the public interest that the proposed system operator rolling outage plan be published urgently, and, in this case, the system operator rolling outage plan must state that the plan is published in reliance on this subclause and then, within 6 months of the plan being published, the system operator must —~~
  - ~~(a) — comply with subclause (3); and~~

- ~~(b) — decide whether or not the plan should be amended or revoked and a new plan substituted; and~~
- ~~(c) — no later than 10 **business days** after making that decision, **publish** the decision; and~~
- ~~(d) — if the **system operator** decides that the plan should be amended or revoked and a new plan substituted, comply with this clause in relation to the proposed amendment or revocation and substitution.~~
- ~~(5) — To avoid doubt, a **system operator rolling outage plan** is not invalid only because the **system operator** did all or any of the things referred to in subclause (3) before this clause came into force.~~

...

## Part 10

### 10.10 Standards used

- (1) In this Part a reference to compliance with a standard, including an AS/NZS or IEC standard, is a reference to—
  - (a) the version of the standard existing as at 29 August 2013; or
  - (b) any amendment to or replacement of the standard incorporated by the **Authority** in accordance with section ~~32~~ 131B of the **Act**; ~~or~~
  - (c) any equivalent standard incorporated by the **Authority** ~~in accordance with section 32 of the Act.~~

### 10.15 Security of metering data

- (1) This clause applies to—
  - (a) a **participant** who has the right to collect, obtain, use, or store **metering data**; and Electricity Industry Participation Code 2010 Part 10 11 20 December 2021
  - (b) the Authority.
- (2) A person to whom this clause applies must take security measures, as are reasonable in the circumstances, to protect metering data against loss or unauthorised access, use, modification, or disclosure.
- (3) Subclause (2) is subject to—
  - (a) the person's obligations under any other enactment; and
  - (b) the person being otherwise compelled by law; and
  - (c) any applicable material that the Authority incorporates into this Code ~~under section 32(3) of the Act.~~

## Part 10 Schedule 10.3

### 4A Incorporation of AS/NZS ISO 9001:2008 and AS/NZS ISO 9001:2016 by reference

- (1) The New Zealand Standards AS/NZS ISO 9001:2008 and AS/NZS ISO 9001:2016 are 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 AS/NZS ISO 9001:2008 or AS/NZS ISO 9001:2016 becomes incorporated by reference in this Code.~~
- ~~(3) Clause 10.10 does not apply in relation to the incorporation by reference of AS/NZS ISO 9001:2008 or AS/NZS ISO 9001:2016.~~

...

## Part 12

### 12.25 Decision on Connection Code

- (1) When the Authority has completed its consultation on the proposed Connection Code it must consider whether to incorporate the Connection Code by reference in this Code.
- (2) If the Authority decides to incorporate the Connection Code by reference in this Code, the Authority must determine a date on which the incorporation by reference takes effect. ~~and comply with Schedule 1 of the Act in relation to it.~~

### 12.26 Incorporation of Connection Code by reference

- (1) The Connection Code 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 Connection Code becomes incorporated by reference in this Code~~

### 12.33 Decision on benchmark agreement

- (1) Within 20 **business days** after the **submission expiry date** (or such longer period as the **Authority** may allow), the **Authority** must complete its consideration of all submissions it receives on the draft **benchmark agreement** and consider whether to **incorporate** the draft **benchmark agreement** by reference as the **benchmark agreement**.
- (2) If the **Authority** decides to incorporate the **benchmark agreement** by reference in this Code, the **Authority** must determine a date on which the incorporation by reference takes effect ~~and comply with Schedule 1 of the Act in relation to it.~~

### 12.34 Incorporation of benchmark agreement by reference

- (1) The **benchmark agreement** 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 **benchmark agreement** becomes incorporated by reference in this Code.~~

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### 12.109 Decision on interconnection asset capacity and grid configuration

- (1) When the **Authority** has completed its consultation on the proposed interconnection asset capacity and grid configuration, it must consider whether to incorporate the proposed interconnection asset capacity and grid configuration by reference in this Code.
- (2) If the **Authority** decides to incorporate the interconnection asset capacity and grid configuration by reference in this Code, the **Authority** must determine a date on which the incorporation by reference takes effect ~~and comply with Schedule 1 of the Act in relation to it.~~

### 12.110 Incorporation of interconnection asset capacity and grid configuration by reference

- (1) The interconnection asset capacity and grid configuration 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 interconnection asset capacity and grid configuration becomes incorporated by reference in this Code.~~

...

### 12.149 Decision on Outage Protocol

- (1) When the **Authority** has completed its consultation on the proposed **Outage Protocol**, it must consider whether to incorporate the proposed **Outage Protocol** by reference as the **Outage Protocol**.
- (2) If the **Authority** decides to incorporate the **Outage Protocol** by reference in this Code, the Authority must determine a date on which the incorporation by reference takes effect. ~~and comply with Schedule 1 of the Act in relation to it.~~

### 12.150 Incorporation of Outage Protocol by reference

- (1) The **Outage Protocol** 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 amendment or substituted **Outage Protocol** becomes incorporated by reference in this Code.~~

## Part 16A

### 16A.21 Incorporation of NZ/AS ISO 17025 by reference

- (1) The New Zealand Standard NZ/AS ISO 17025 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 NZ/AS ISO 17025 becomes incorporated by reference in this Code.~~

### 12.118 Transpower to provide and publish annual report on interconnection asset capacity and grid configuration

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- (3) The Authority may incorporate by reference in this Code the updated interconnection asset capacity and grid configuration referred to in subclause (1)(i) in accordance with clause 12.110. The Authority may consult with any person the Authority considers is likely to be materially affected by the proposed amendments to the interconnection asset capacity and grid configuration, as it sees

fit. Transpower must comply with the interconnection asset capacity and grid configuration incorporated by reference in this Code in accordance with clause 12.110.

## Glossary of abbreviations and terms

<b>Authority</b>	Electricity Authority
<b>Act</b>	Electricity Industry Act 2010
<b>Code</b>	Electricity Industry Participation Code 2010