

**Electricity Industry Participation (Policy Statement and
Procurement Plan Review Process) Code Amendment 2012**

Pursuant to section 38 of the Electricity Industry Act 2010, I make
the following amendments to the Electricity Industry Participation
Code 2010.

At Wellington on the 11th day of December 2012



Dr Thomas Brent Layton
Chairperson
Electricity Authority

Certified in order for signature:



Barbara Sole
Senior Legal Counsel
Electricity Authority

6 December 2012



Tony Dellow
Partner
Buddle Findlay

6 December 2012

Contents

| | Page |
|--|------|
| 1 Title | 3 |
| 2 Commencement | 3 |
| 3 Code amended | 3 |
| 4 Clause 1.1 amended (Interpretation) | 3 |
| 5 Clause 7.3 amended (Functions of system operator in relation to security of supply and emergency management) | 3 |
| 6 Clause 8.9 revoked (Policy statement) | 3 |
| 7 Clause 8.10 amended (Incorporation of policy statement by reference) | 3 |
| 8 New clauses 8.10A to 8.10C inserted 8.10A Review of policy statement | 3 |

| | | | |
|----|-----------------------------|---|----|
| | 8.10B | System operator decides not to propose change to the policy statement | |
| | 8.10C | Authority may require system operator to reconsider | |
| 9 | Clause 8.11 | amended (Draft policy statement) | 4 |
| 10 | New clause 8.11A | inserted (Changes and variations) | 5 |
| 11 | Clause 8.12 | replaced (Consultation on draft policy statement) | 5 |
| 12 | New clauses 8.12A and 8.12B | inserted | 6 |
| | 8.12A | Technical and non-controversial changes | |
| | 8.12B | Authority adopts new policy statement | |
| 13 | Clause 8.13 | revoked (Changes and variations) | 7 |
| 14 | Clause 8.14 | amended (Departure from policy statement) | 7 |
| 15 | Clause 8.41 | revoked (Procurement plan) | 7 |
| 16 | Clause 8.42 | amended (Incorporation of procurement plan by reference) | 7 |
| 17 | New clauses 8.42A to 8.42C | inserted | 7 |
| | 8.42A | Review of procurement plan | |
| | 8.42B | System operator decides not to amend procurement plan | |
| | 8.42C | Authority may require system operator to reconsider | |
| 18 | Clause 8.43 | replaced (Content of draft procurement plan) | 9 |
| 19 | New clause 8.43A | inserted (Changes and variations) | 10 |
| 20 | Clause 8.44 | replaced (Consultation on draft procurement plan) | 10 |
| 21 | New clauses 8.44A and 8.44B | inserted | 11 |
| | 8.44A | Technical and non-controversial amendments | |
| | 8.44B | Authority adopts new policy statement | |
| 22 | New clause 8.45A | inserted (Methodology to assess net purchase quantity) | 12 |
| 23 | Clause 8.46 | revoked (Code changes and variations) | 12 |
| 24 | Clause 8.47 | amended (Departure from procurement plan) | 12 |

Amendment

- 1 **Title**
This is the Electricity Industry Participation (Policy Statement and Procurement Plan Review Process) Code Amendment 2012.
- 2 **Commencement**
This amendment comes into force on 10 January 2013.
- 3 **Code amended**
This amendment amends the Electricity Industry Participation Code 2010.
- 4 **Clause 1.1 amended (Interpretation)**
 - (1) In clause 1.1(1), definition of **draft policy statement**, replace "8.11(1)" with "8.10A(2), 8.11A(1), or 8.12A(1)".
 - (2) In clause 1.1(1), definition of **draft procurement plan**, replace "8.43(1)" with "8.42A(2), 8.43A(1), or 8.44A(1)".
- 5 **Clause 7.3 amended (Functions of the system operator in relation to security of supply and emergency management)**
In clause 7.3(4), delete "prepared under clause 8.9".
- 6 **Clause 8.9 revoked (Policy statement)**
Revoke clause 8.9.
- 7 **Clause 8.10 amended (Incorporation of policy statement by reference)**
In clause 8.10(1), delete "for the time being in effect".
- 8 **New clauses 8.10A to 8.10C inserted**
After clause 8.10, insert:

 "8.10A Review of policy statement"
 "(1) At least once every two 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 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 **publicise** 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).".

9 Clause 8.11 amended (Draft policy statement)
In clause 8.11—

- (a) replace the heading with "Content of draft policy statement"; and
- (b) revoke clause 8.11(1); and
- (c) revoke clause 8.11(2); and
- (d) in clause 8.11(3) delete "for the period that it addresses," and "for the following 12 months".

10 New clause 8.11A inserted (Changes and variations)

After clause 8.11, insert:

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

11 Clause 8.12 replaced (Consultation on draft policy statement)

Replace clause 8.12 with:

"8.12 Consultation on draft policy statement

- "(1) The **Authority** must **publicise** 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** **publicises** a **draft policy statement** and information under subclause (1), the **Authority** must advise **participants** of the date (which

must be not be earlier than 10 **business days** after the date that the **Authority** publicises 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 **publicise** 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 **publicise** 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."

12 New clauses 8.12A and 8.12B inserted

After clause 8.12, insert:

"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) **publicise** 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 **publicise** 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) **publicise** the new **policy statement** and the date on which it takes legal effect."

13 Clause 8.13 revoked (Changes and variations)

Revoke clause 8.13.

14 Clause 8.14 amended (Departure from policy statement)

Replace clause 8.14 (3) with:

- "(3) The **Authority** must **publicise** the report within a reasonable time after receiving it."

15 Clause 8.41 revoked (Procurement plan)

Revoke clause 8.41.

16 Clause 8.42 amended (Incorporation of procurement plan by reference)

In clause 8.42(1), delete "for the time being in effect".

17 New clauses 8.42A to 8.42C inserted

After clause 8.42, insert:

"8.42A Review of procurement plan

- "(1) At least once every two 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 **publicise** 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).".

18 Clause 8.43 replaced (Content of draft procurement plan)
Replace clause 8.43 with:

"8.43 Content of draft procurement plan

"(1) 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**".

19 New clause 8.43A inserted (Changes and variations)

After clause 8.43, insert:

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

20 Clause 8.44 replaced (Consultation on draft procurement plan)

Replace clause 8.44 with:

"8.44 Consultation on draft procurement plan

- "(1) The **Authority** must **publicise** 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 publicises 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 publicises 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 **publicise** 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 **publicise** 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."

21 New clauses 8.44A and 8.44B inserted

After clause 8.44, insert:

"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) **publicise** 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 **publicise** 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) **publicise** the new **procurement plan** and the date on which it takes legal effect."

22 New clause 8.45A inserted (Methodology to assess net purchase quantity)

After clause 8.45, insert:

"8.45A Methodology to assess net purchase quantity

The **system operator** must make the **net purchase quantity assessment** for each relevant **ancillary service** using the methodology in the **procurement plan** and **publish** the results of the assessment on its website as soon as practicable."

23 Clause 8.46 revoked (Code changes and variations)

Revoke clause 8.46.

24 Clause 8.47 amended (Departure from procurement plan)

- (a) In clause 8.42(2) delete "The **Authority** must ensure that the report is **published** within a reasonable time after the **Authority** receives it."
- (b) After clause 8.42(2) insert:

- "(3) The **Authority** must **publicise** the report within a reasonable time after receiving it."

Explanatory Note

This note is not part of the Code amendment, but is intended to indicate its general effect.

This amendment to the Electricity Industry Participation Code 2010 comes into effect on 10 January 2013. This amendment provides for a complete review of the policy statement and procurement plan at least every two years, allows changes to the policy statement and procurement plan to be made between reviews, modifies the process for consultation on changes to the policy statement and procurement plan, allows for a streamlined process for making technical and non-controversial changes to the policy statement or procurement plan, and modifies the requirements for the contents of a draft procurement plan.

Date of notification in the *Gazette*:

13 / 12 / 12