

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

Under regulation 29(1) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations) the Electricity Authority (Authority) must publicise every decision made under regulation 21(2) of the Regulations, together with the reasons for the Authority's decision.

Investigation

On 22 January 2025, the Authority appointed an investigator under regulation 12 of the Regulations to investigate the alleged breaches of clause 16A.13(1) and 15.38(1) of the Electricity Industry Participation Code 2010 (Code) by Stack Power Limited (Stack Power).

The Authority alleged Stack Power failed to submit its reconciliation participant audit and performed prescribed reconciliation participant functions without holding certification.

Stack Power's reconciliation participant audit was not provided by the 8 May 2024 deadline and had not been subsequently received by the Authority.

Certification is tied to the submission of an audit report. The certification expiry date is two months after the audit due date, as per clauses 4 and 5 of Schedule 15.1 of the Code.

On 9 July 2024 Stack Power's certification expired. Certification under clause 15.38(1) of the Code is required for a participant to perform certain reconciliation functions.

Stack Power continued to perform reconciliation functions allegedly in breach of clause 15.38(1) of the Code, for which it was previously certified.

Stack Power did not respond to the notice of investigation issued under regulation 16(1) (regulation 16 notice) and no participants joined the investigation as affected parties.

Regulation 21 provides for when a participant does not respond to the investigator within the time allowed after receiving a regulation 16 notice. In such cases the investigator must conduct an investigation of the facts surrounding the alleged breaches and the investigator's report must include a recommendation on whether a formal complaint should be laid with the Rulings Panel.

The investigator noted that under clause 15.37C(1) of the Code the Authority can appoint an auditor to carry out an audit of a participant relating to its obligations under Part 15 – Reconciliation. The investigator considered an audit under 15.37C(1) has a similar effect to a Rulings Panel compliance order to undertake an audit to restore compliance with respect to the audit. The audit would enable the Authority to consider renewal of Stack Power's reconciliation participant certification and review Stack Power's progress against any previous audit findings.

The costs of an Authority initiated audit are covered by clause 16A.16 of the Code. If the audit establishes that Stack Power has breached the Code the cost of the audit is to be paid in proportions determined by the Authority. If the audit determines Stack Power has not breached the Code, the cost is met by the Authority.

On 27 June 2025, the Authority received and considered the investigator's report and a recommendation to discontinue the investigation.

The Authority's decision

On 27 June 2025, the Authority decided under regulation 21(2)(a) of the Regulations to discontinue the investigation.

Reason for the Authority's decision

The reason for the Authority's decision to discontinue the investigation was that:

- The Authority would commission an auditor to undertake an audit of Stack Power, pursuant to the Authority's power under clause 15.37C of the Code. This audit will review any previous audit findings and Stack Power's progress against them to understand its current level of Code compliance.