

Electricity Industry Participation Code 2010

Part 4

Force majeure provisions relating to ancillary service agents

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4.1 Relief of obligation because of force majeure

- (1) An **ancillary service agent** is relieved of an obligation under this Code and under the Electricity Industry (Enforcement) Regulations 2010 to the extent that, and for so long as, it is unable to perform the obligation as a result of a **force majeure event**.
- (2) Subclause (1) applies only—
 - (a) if the **ancillary service agent** advises the **system operator**, immediately after becoming aware of the existence of a **force majeure event**, of—
 - (i) the details of the **force majeure event**; and
 - (ii) the obligation that cannot be performed; and
 - (iii) the likely duration of the inability to perform the obligation; and
 - (b) for so long as the **ancillary service agent** uses its reasonable endeavours to overcome the inability to perform the obligation from which it seeks relief and to remove or mitigate the effect of the **force majeure event**; and
 - (c) if the **ancillary service agent** provides the **Authority** with reports in accordance with subclauses (4) and (5).
- (3) To avoid doubt, the relief in subclause (1) applies only if an **ancillary service agent** is acting in its capacity as an **ancillary service agent** under an **ancillary service arrangement**.
- (4) As soon as practicable, but in any event no later than by the end of the month following the month in which the **ancillary service agent** advises the **system operator** of a **force majeure event** under subclause (2)(a), the **ancillary service agent** must provide the **Authority** with a written report that sets out—
 - (a) the full details of the **force majeure event**; and
 - (b) the actions the **ancillary service agent** is taking or intends to take to comply with subclause (2)(b); and
 - (c) the proposed timeline for completing the actions.
- (5) By the end of each following month (unless the **Authority** advises that reports may be provided less frequently or are not required) the **ancillary service agent** must provide the **Authority** with a written report that updates the information previously provided and includes any other matters related to the **force majeure event** that the **Authority** requests.
- (6) The **Authority** must **publish** the information provided under subclause (2)(a) and the reports provided under subclauses (4) and (5) as soon as practicable after

receiving the information.

- (7) Despite subclause (6), the **Authority** must not **publish** or otherwise make available to the public any information or any part of a report if the **ancillary service agent** advises the **Authority** (with reasons) that the **ancillary service agent** considers that it would have good reason to refuse to supply the information or the part under clause 2.6 or clause 2.7.

Compare: SR 2003/374 r 53B

Clause 4.1: substituted, on 1 November 2012, by clause 8 of the Electricity Industry Participation (Force Majeure) Code Amendment 2012.

Clause 4.1(6): amended, on 5 October 2017, by clause 25(1) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

Clause 4.1(7): amended, on 5 October 2017, by clause 25(2) of the Electricity Industry Participation Code Amendment (Code Review Programme) 2017.

4.2 Effect of relief

If an **ancillary service agent** is relieved of an obligation under clause 4.1,—

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

Compare: SR 2003/374 r 53C

Clause 4.2(a): amended, on 21 September 2012, by clause 5 of the Electricity Industry Participation (Minor Amendments) Code Amendment 2012.

Clause 4.2(a): amended, on 1 November 2012, by clause 9 of the Electricity Industry Participation (Force Majeure) Code Amendment 2012.