



# Rulings Panel Annual Report

2021/2022

# Annual Report - 1 July 2021 to 30 June 2022

Presented to the Electricity Authority pursuant to Regulation 115 of the Electricity Industry (Enforcement) Regulations 2010.

## Contents

Introduction .....	2
Members.....	3
Summary of decisions made .....	4
Summary of matters before the Rulings Panel.....	4
Summary of performance against budget.....	5
Summary of performance against performance objectives .....	5
Performance objectives for 2021 to 2022 financial year.....	6
Comments on regulations or Code changes.....	6
Appendix 1 - Summary of performance against performance objectives.....	7
Appendix 2 - Performance objectives for 2022 to 2023 financial year .....	10

## Introduction

The Rulings Panel is established under the Electricity Industry Act 2010. It has a role in the enforcement of the Electricity Industry Participation Code 2010 (the Code) by dealing with complaints about breaches of the Code, appeals against certain decisions made under the Code and resolving certain disputes relating to the Code.

The Panel has received three new complaints in the past year. No matters have been decided. There are no appeals or disputes before the Panel.

## Members

### **Mel Orange** (Chair)

Mel Orange is a barrister and business consultant from Christchurch. He has worked in the energy and construction industries for 25 years, including being a past Board Member of MARIA. Mel is the Presiding Member (Chair) of the Electrical Workers Registration Board and the Deputy Chair of the Building Practitioners Board. Mel is appointed through to 1 March 2022. His appointment continues pending reappointment or replacement.

### **Geraldine Baumann** (Deputy Chair)

Geraldine Baumann has 30 years of experience in the electricity sector. She was General Counsel at the Electricity Corporation of NZ from 1987 to 1999 and then CEO of ECNZ - Residual for a year. Since that time, she has been on the Board of EECA (from 2001 to 2007, including a period as Deputy Chair), the Board of Genesis Energy (2002 to 2008), and a member of the Board of Inquiry to consider the National Policy Statement for Renewable Energy (2008-2009). Geraldine is appointed through to 28 August 2021. Her appointment continues pending reappointment or replacement.

### **Lee Wilson**

Lee Wilson is an electricity market specialist with over 35 years of experience with electricity companies and providing consulting services to the energy sector. He was a founding director of Concept Consulting Group and, during his 18 years consulting, led a wide range of assignments for government agencies and energy companies, with a focus on energy policy and market design. His senior executive roles included Establishment CEO for Genesis Energy, CEO for the Electricity Reform Transition Unit, Market Development Director at Contact Energy, and Corporate Development Manager at the Electricity Corporation of New Zealand. He was a member of the Electricity Price Review, which provided its recommendations to the Minister in May 2019. Lee is appointed through to 1 March 2022. His appointment continues pending reappointment or replacement.

## Denis O'Rourke

Denis O'Rourke practised in Christchurch and Invercargill as a barrister and solicitor for over 30 years and has served as a Disputes Tribunal Referee and as a member of the Legal Aid Review Panel. He was a Christchurch City Councillor for 15 years and a member of parliament for six years. He has served on the boards of many companies and authorities and is currently Chairman of Central Plains Water Trust and a member of the board of Maritime New Zealand. Denis was appointed through to 1 March 2022. His appointment came to an end on 1 March 2022. The Panel thanks him for his contribution during his appointment term.

## Recruitment

The Ministry of Business Innovation and Employment is, on behalf of the Minister for Energy, seeking expressions of interest for new member of the Panel.

## Summary of decisions made

No decisions have been made during the reporting period.

## Summary of matters before the Rulings Panel

There are three matters before the Rulings Panel. They are:

### ***Electricity Authority v Transpower New Zealand Limited (C-2021-001)***

Filed:	8 November 2021
Alleged Breach:	A complaint made of a breach of Clause 13.141(2) of the Electricity Industry Participation Code 2010.
Status:	Complaint has filed submissions on remedial orders. Response and reply submissions are due early in the 2022-2023 reporting year. The parties have not sought a hearing.

***Electricity Authority v Transpower New Zealand Limited (C-2022-001).***

Filed: 9 February 2021

Alleged Breach: A complaint made of a breach of clause 4(4)(a) of Technical Code A of schedule 8.3 of the Electricity Industry Participation Code 2010.

Status: Submissions have been filed and the matter is set down for a hearing on the appropriate remedial orders to be made on 1 July 2022.

***Electricity Authority v Transpower New Zealand Limited (C-2022-002).***

Filed: 19 April 2022

Alleged Breach: A complaint made of breaches of Clause 3 of Technical Code B of the Code, Clause 80 of the System Operator’s Policy Statement, Clause 5(1A) of Technical Code B of the Code, and Clause 7.1A(1) of the Code.

Status: Directions issued. Parties to file a joint memorandum by 8 August 2022.

## Summary of performance against budget

Actual 2020/21	Description	Actual 2021/22	Budget 2021/22
\$000		\$000	\$000
81	Rulings Panel Fees	56	120
2	Domestic Travel	0	6
10	Training	3	0
2	External Events & Publications	0	2
0	Administrative Costs	0	0
<b>95</b>	<b>Total</b>	<b>59</b>	<b>128</b>

## Summary of performance against performance objectives

A summary of the Panel's performance against stated objectives is contained in Appendix 1.

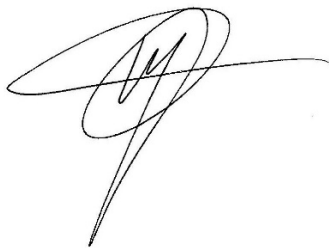
## Performance objectives for 2021 to 2022 financial year

The Ruling Panel's performance objectives for the financial year from 1 July 2020 to 30 June 2020 is contained in Appendix 2.

## Comments on regulations or Code changes

As no matters have been decided, no recommendations have been made.

Dated this 23<sup>rd</sup> day of July 2022

A handwritten signature in black ink, consisting of a large, stylized 'M' or similar character with a long horizontal stroke extending to the right and a vertical stroke extending downwards.

Rulings Panel Chair

## Appendix 1 - Summary of performance against performance objectives

No.	Objective	Performance Measure	Target	Progress
1	Independence and Impartiality	<ul style="list-style-type: none"> <li>• The Rulings Panel is independent and without the potential for bias, perceived or actual.</li> <li>• Hearings are conducted in public and decisions published, unless there is good reason not to.</li> </ul>	<ul style="list-style-type: none"> <li>• All conflicts of interest are disclosed.</li> <li>• Interests register is maintained by Rulings Panel members.</li> <li>• Open access to hearings is provided.</li> <li>• Decisions are published in a timely manner.</li> </ul>	<ul style="list-style-type: none"> <li>• No conflicts declared</li> <li>• Interest register up to date</li> <li>• All matters dealt with on the papers</li> <li>• Met</li> </ul>
2	Fair treatment	<ul style="list-style-type: none"> <li>• Each party is given the opportunity to put their case and be heard.</li> <li>• Matters are determined impartially and according to the law.</li> <li>• Rules of evidence are observed as modified by regulation 39.</li> </ul>	<ul style="list-style-type: none"> <li>• Requirements of the Electricity Act 2010 and the Electricity Industry (Enforcement) Regulations 2010 are observed.</li> <li>• Rulings Panel Procedures are published, observed and regularly reviewed.</li> <li>• Rules of natural justice observed.</li> </ul>	<ul style="list-style-type: none"> <li>• Met</li> <li>• New procedures adopted as of 25 January 2021. A summary of the procedures has been published.</li> <li>• Met</li> </ul>
3	Accessibility	<ul style="list-style-type: none"> <li>• Information about the existence of the Rulings Panel, its jurisdiction and what is involved for users is readily accessible.</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain an independent website.</li> <li>• Publish procedures, decisions and related materials.</li> <li>• Promote an understanding of the Rulings Panel's jurisdiction and functions.</li> </ul>	<ul style="list-style-type: none"> <li>• Met</li> <li>• Met</li> <li>• Article in Market Brief about Procedures Summary</li> </ul>

No.	Objective	Performance Measure	Target	Progress
		<ul style="list-style-type: none"> <li>• Access to the Rulings Panel is available without undue administrative burden.</li> <li>• Costs to the user do not impose an undue barrier to access.</li> </ul>	<ul style="list-style-type: none"> <li>• No costs imposed to file matters with the Rulings Panel.</li> <li>• Rulings Panel costs are imposed on an equitable basis and in accordance with regulation 90.</li> <li>• Innovative and cost-effective means to hear matters are developed and implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Met</li> <li>• No costs ordered</li> <li>• New procedures allow for videoconference hearings. Teams account established</li> </ul>
4	Professionalism and Integrity	<ul style="list-style-type: none"> <li>• Respect for the law.</li> <li>• Rulings Panel Members are competent in the performance of their functions.</li> <li>• Decide cases fairly and free from influence.</li> </ul>	<ul style="list-style-type: none"> <li>• Rulings Panel Members have the knowledge and technical skills together with the communication and decision-making skills to make robust decisions.</li> <li>• Rulings Panel engages experts as and when required to assist the Panel in its deliberations and maintains a register of appropriate persons.</li> <li>• Rulings Panel membership of the Coalition of Australasian Tribunals (COAT).</li> <li>• Members undertake training and maintain awareness of industry matters.</li> </ul>	<ul style="list-style-type: none"> <li>• Panel is now at a quorum, recruitment is underway</li> <li>• No experts engaged</li> <li>• Membership maintained</li> <li>• Members attended Downstream</li> </ul>



No.	Objective	Performance Measure	Target	Progress
			<ul style="list-style-type: none"> <li>• Members meet no less than three times a year to review cases, decisions and procedures.</li> </ul>	<ul style="list-style-type: none"> <li>• No meetings held due to there being no cases and Covid</li> </ul>
5	Accountability	<ul style="list-style-type: none"> <li>• Rulings Panel meets its statutory objectives:               <ul style="list-style-type: none"> <li>○ reasonable endeavours are used to decide matters within 40 days of a hearing or receiving final submissions;</li> <li>○ decisions published with 10 working days; and</li> <li>○ reporting completed in accordance with regulations 113 to 114.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Performance results are regularly published.</li> <li>• Improvement action is taken when objectives are not met.</li> <li>• Quarterly and annual reporting completed in a timely manner.</li> <li>• Promote an understanding of the Rulings Panel’s jurisdiction and functions.</li> <li>• Rulings Panel maintains an industry profile through attendance at industry events and undertaking speaking opportunities.</li> </ul>	<ul style="list-style-type: none"> <li>• Met</li> <li>• No action required</li> <li>• Met</li> <li>• Limited exposure through Market Brief</li> <li>• Attended Downstream</li> </ul>
6	Efficiency	<ul style="list-style-type: none"> <li>• Decisions are made in a timely manner.</li> <li>• Ruling Panel costs proportionate to the matter being considered are incurred.</li> <li>• Innovative and flexible approaches are adopted.</li> </ul>	<ul style="list-style-type: none"> <li>• 80% of cases are decided within 40 days of a hearing or receiving final submissions.</li> <li>• Use of draft decisions, where appropriate.</li> <li>• Rulings Panel engages experts as and when required to assist the Panel in its deliberations and</li> </ul>	<ul style="list-style-type: none"> <li>• No cases for decision were before the Panel in the reporting period</li> <li>• No cases decided</li> <li>• No matters before the Panel requiring expert assistance</li> </ul>

No.	Objective	Performance Measure	Target	Progress
			<p>maintains a register of appropriate persons.</p> <ul style="list-style-type: none"> <li>• Use of external administrative bureau services if required.</li> </ul>	<ul style="list-style-type: none"> <li>• No requirement to date.</li> </ul>

## Appendix 2 - Performance objectives for 2022 to 2023 financial year

No.	Objective	Performance Measure	Target
1	Independence and Impartiality	<ul style="list-style-type: none"> <li>• The Rulings Panel is independent and without the potential for bias, perceived or actual.</li> <li>• Hearings are conducted in public and decisions published, unless there is good reason not to.</li> </ul>	<ul style="list-style-type: none"> <li>• All conflicts of interest are disclosed.</li> <li>• Interests register is maintained by Rulings Panel members.</li> <li>• Open access to hearings is provided.</li> <li>• Decisions are published in a timely manner.</li> </ul>
2	Fair treatment	<ul style="list-style-type: none"> <li>• Each party is given the opportunity to put their case and be heard.</li> <li>• Matters are determined impartially and according to the law.</li> <li>• Rules of evidence are observed as modified by regulation 39.</li> </ul>	<ul style="list-style-type: none"> <li>• Requirements of the Electricity Act 2010 and the Electricity Industry (Enforcement) Regulations 2010 are observed.</li> <li>• Rulings Panel Procedures are published, observed and regularly reviewed.</li> <li>• Rules of natural justice observed.</li> </ul>
3	Accessibility	<ul style="list-style-type: none"> <li>• Information about the existence of the Rulings Panel, its jurisdiction and what is involved for users is readily accessible.</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain an independent website.</li> <li>• Publish procedures, decisions and related materials.</li> <li>• Promote an understanding of the Rulings Panel’s jurisdiction and functions.</li> </ul>

No.	Objective	Performance Measure	Target
		<ul style="list-style-type: none"> <li>• Access to the Rulings Panel is available without undue administrative burden.</li> <li>• Costs to the user do not impose an undue barrier to access.</li> </ul>	<ul style="list-style-type: none"> <li>• No costs imposed to file matters with the Rulings Panel.</li> <li>• Rulings Panel costs are imposed on an equitable basis and in accordance with regulation 90.</li> <li>• Innovative and cost-effective means to hear matters are developed and implemented.</li> </ul>
4	Professionalism and Integrity	<ul style="list-style-type: none"> <li>• Respect for the law.</li> <li>• Rulings Panel Members are competent in the performance of their functions.</li> <li>• Decide cases fairly and free from influence.</li> </ul>	<ul style="list-style-type: none"> <li>• Rulings Panel Members have the knowledge and technical skills together with the communication and decision-making skills to make robust decisions.</li> <li>• Rulings Panel engages experts as and when required to assist the Panel in its deliberations and maintains a register of appropriate persons.</li> <li>• Rulings Panel membership of the Coalition of Australasian Tribunals (COAT).</li> <li>• Members undertake training and maintain awareness of industry matters.</li> <li>• Members meet no less than three times a year to review cases, decisions and procedures.</li> </ul>
5	Accountability	<ul style="list-style-type: none"> <li>• Rulings Panel meets its statutory objectives:               <ul style="list-style-type: none"> <li>○ reasonable endeavours are used to decide matters within 40 days of a hearing or receiving final submissions;</li> <li>○ decisions published with 10 working days; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Performance results are regularly published.</li> <li>• Improvement action is taken when objectives are not met.</li> <li>• Quarterly and annual reporting completed in a timely manner.</li> <li>• Promote an understanding of the Rulings Panel’s jurisdiction and functions.</li> </ul>

No.	Objective	Performance Measure	Target
		<ul style="list-style-type: none"> <li>○ reporting completed in accordance with regulations 113 to 114.</li> </ul>	<ul style="list-style-type: none"> <li>● Rulings Panel maintains an industry profile through attendance at industry events and undertaking speaking opportunities.</li> </ul>
6	Efficiency	<ul style="list-style-type: none"> <li>● Decisions are made in a timely manner.</li> <li>● Ruling Panel costs proportionate to the matter being considered are incurred.</li> <li>● Innovative and flexible approaches are adopted.</li> </ul>	<ul style="list-style-type: none"> <li>● 80% of cases are decided within 40 days of a hearing or receiving final submissions.</li> <li>● Use of draft decisions, where appropriate.</li> <li>● Rulings Panel engages experts as and when required to assist the Panel in its deliberations and maintains a register of appropriate persons.</li> <li>● Use of external administrative bureau services if required.</li> </ul>