

## **Rulings Panel Procedures**

The Rulings Panel is an independent body that assists in enforcing the Electricity Industry Participation Code by hearing complaints about breaches of the Code, appeals from certain decisions made under the Code, resolving disputes between industry participants that relate to the Code and by reviewing trading suspension.

When matters are filed the Rulings Panel can adopt its own procedures. Those procedures must comply with the provisions of the Act and the Regulations. The Panel has published Procedures and they are available on its website.: [www.electricityrulingspanel.govt.nz](http://www.electricityrulingspanel.govt.nz)

The general procedure the Panel uses, for all matters that come before it, is for the complaint, appeal, or dispute to be filed, in writing, by email at [registrar@electricityrulingspanel.nz](mailto:registrar@electricityrulingspanel.nz). The Procedures set out the specific requirements for commencement documents.

## **Complaints**

When a complaint is made, the Electricity Authority decides whether to appoint an investigator and, if it does, the investigator must endeavour to affect a settlement in relation to it. If a settlement is not reached, or if the Authority rejects a settlement, then the Authority may lay a formal complaint with the Rulings Panel. Alternatively, if the Authority decides not to lay a formal complaint, then an industry participant that was a party to the investigation and that has suffered loss as a result of the alleged breach, may independently lay a formal complaint with the Rulings Panel. The following is a summary of the Panel's procedure if a complaint is filed:

- The complaint is filed (there is no cost to file a complaint, but the Panel can award costs as part of any decision when the Panel has determined the Code was breached);
- The parties to the complaint are notified by the Panel (the parties include any industry participant that was a party to the investigation);
- The parties are informed that they may make written submissions and may request that a hearing be held (if a hearing is not requested the matter can be dealt with on the papers);
- The Rulings Panel Chair normally calls a Directions Conference to discuss how the matter will proceed (at a hearing or on the papers) and to issue directions on procedural matters such as filing of further evidence, submissions and cross submissions (the Panel can receive any evidence that, in its opinion, assist it to deal effectively with the complaint);
- Hearings are held in public unless the Panel orders otherwise, and the parties are entitled to be represented;
- The Panel has powers to prohibit publication of information;
- The Panel can seek advice prior to it making a decision;
- Rulings Panel decisions are made by a panel of three members;
- Decisions have to be in writing and the Panel is required to use its best endeavours to make a decision within 40 working days of receiving all submissions;
- Decisions must be published by the Authority;
- The Panel must take into account its own previous decisions when deciding matters;
- Decisions are binding on the parties;
- The Panel has a wide range of orders that it can make as part of a decision (refer section 54 of the Electricity Industry Act); and
- Panel decisions can be appealed to the High Court.

## Appeals

There are three areas where the Code provides for appeals to the Rulings Panel. They are in respect to Information Disclosure (Part 2, clause 2.15), Common Quality (Part 8, clauses 8.36 and 8.53) and Distributor Agreements and Arrangements (Schedule 12A.4, clause 7). The following is a summary of the Panel's general procedures for an appeal:

- An appeal is filed (there is no cost to file);
- The parties to the appeal are notified of the appeal;
- Appeals under Part 8 are notified so that affected parties may join;
- The parties are informed that they may make written submissions and may request that a hearing be held (as opposed to the matter being dealt with on the papers);
- The Rulings Panel Chair, normally calls a Directions Conference to discuss how the matter will proceed (hearing or on the papers) and to issue directions on matters such as the filing of further evidence and submissions and cross submissions;
- The Panel can receive any evidence that, in its opinion, assist it to deal effectively with the appeal;
- Hearings are held in public unless the Panel orders otherwise and the parties are entitled to be represented;
- The Panel has powers to prohibit publication of information;
- Rulings Panel decisions are made by a panel of three members;
- Decisions have to be in writing and the Panel is required to use its best endeavours to make a decision within 40 working days of receiving all submissions;
- Decisions must be published;
- The Panel must take into account its own previous decisions;
- Decisions are binding on the parties;
- The Panel can, in making a decision, make any determination, order, or direction that it thinks fit, subject to any specific provisions in the regulations or the Code; and
- Panel decisions can be appealed to the High Court.

## Disputes

There are two types of disputes that the Rulings Panel may resolve:

- Disputes that are identified in regulation 78 (disputes in relation to the submission of information provided for the purposes of reconciliation under Part 15 of the Code, and disputes that relate to a contract for the procurement of ancillary services); and
- Disputes that are, by agreement, referred to the Rulings Panel for determination (note: the Panel has a discretion to decline to undertake the determination of disputes that are referred to it).

The Code identifies the following types of disputes: Part 8 – Allocating costs for ancillary services and extended reserve (clauses 8.62 and 8.63), Part 14 – Clearing and Settlement – Disputes about amounts (clause 14.27), Part 14A – Prudential requirements (clause 14A.23) and Part 15 – Reconciliation – Revisions (clause 15.29).

The following is a summary of the Panel's general procedures for a dispute where it agrees to determine the matter:

- A dispute is filed (there is no cost to file, but the parties must jointly bear the costs of the process unless the Panel orders otherwise);
- The parties to the dispute must agree to the form of dispute resolution to be utilised or, in the absence of agreement, the Panel determines the form of dispute resolution;
- Transmission agreement disputes are notified so that other designated transmission customers may join;
- The Panel advises parties when the dispute resolution will take place;
- The Panel may meet separately or jointly with the parties to any dispute and may require parties to exchange submissions, documents, and information;
- The Panel can receive any evidence that, in its opinion, will assist it to deal effectively with the dispute;
- Parties can be represented by legal counsel;
- The dispute resolution process is dealt with by three members and has to be completed as soon as practicable;
- Specific provisions apply to disputes arising from the negotiation of transmission agreements and to the Panel's determination of those disputes;
- The Panel can make any determination, order, or direction that it thinks fit, subject to any specific provisions in the regulations or the Code;
- The Panel must report to the Authority if it finds that there has been a breach of the Act, the Regulations, or the Code; and
- A Panel order can be appealed to the High Court.