

RULINGS PANEL PROCEDURES 2021

Pursuant to the Electricity Industry Act 2010, the Electricity Industry (Enforcement) Regulations 2010, and a resolution of the Rulings Panel, the procedures for matters before the Rulings Panel are set out below ("the Procedures").

NOTES:

- A.** *These Procedures include procedural provisions prescribed by the Electricity Industry Act 2010, the Electricity Industry (Enforcement) Regulations 2010 and the Electricity Industry Participation Code 2010. These prescribed provisions are indicated by a reference underneath the provision that notes the relevant provision of the Act, Regulations, or Code.*
- B.** *The Rulings Panel Procedures 2021 replace earlier versions of the Procedures.*
- C.** *If any of the prescribed provisions are changed in the future, the Rulings Panel will similarly change these Procedures.*
- D.** *If there is no reference note under a provision of these Procedures, the provision has been prescribed by the Rulings Panel under section 53(2) of the Act.*

Table of Contents

General Provisions	4
Preliminary.....	4
1.1 Title	4
1.2 Commencement	4
1.3 Application of this Section	4
1.4 Interpretation	4
Commencement of matters before the Rulings Panel.....	5
1.5 Commencing matters before the Rulings Panel	5
Application of Procedures in particular cases.....	6
1.6 Rulings Panel may vary these Procedures	6
Directions and directions conferences	6
1.7 Procedural directions	6
1.8 Directions conferences	6
Hearings	7
1.9 Rulings Panel Members	7
Decision on whether hearing to be held.....	7
1.10 Decisions without hearings	7
1.11 Hearing to be in public unless Rulings Panel otherwise directs	8
1.12 Rights of parties and Authority at hearings	8
1.13 Admissible evidence	8

1.14 Rulings Panel may adjourn hearing or consideration of a matter	9
1.15 Powers of Rulings Panel generally	9
Miscellaneous	9
1.16 Rulings Panel to keep information confidential	10
1.17 Rulings Panel may prohibit publication of information	10
1.18 Draft decision by Rulings Panel	11
1.19 Rulings Panel may seek advice	11
1.20 Reconsideration of matters referred by the High Court	11
Complaints of breach of the Code	11
2.1 Application of this Section	11
2.2 Notification of complaint	11
2.3 Notice of hearing and provision of materials	12
2.4 Hearings	13
2.5 Submissions and evidence	13
2.6 Rulings Panel may request further information	13
2.7 Timing of decision	14
2.8 Rulings Panel decisions	14
2.9 Orders	14
2.10 Rulings Panel may make a termination or suspension order	15
2.11 Process requirements for termination and suspension orders	16
2.12 Rulings Panel to make directions or arrangements	16
2.13 Submissions on orders	16
2.14 Decision of Rulings Panel on orders	17
2.15 Orders generally	17
Information disclosure appeals	17
3.1 Application of this Section	17
3.2 Right of appeal	17
3.3 Notification by Rulings Panel	17
3.4 Submissions and evidence	18
3.5 Responses to submissions	18
3.6 Hearings	18
3.7 Rulings Panel decisions	18
Disputes under Part 6 of the Code	18
4.1 Application of this Section	18
4.2 Complaint of disputes to be treated as complaints under Section 2 of these Procedures	19
4.3 Application of pricing principles to disputes	19
4.4 Orders the Rulings Panel can make	20
Appeals under Part 8	20
5.1 Application of this Section	20

5.2	Right of appeal	20
5.3	Notice of appeal	20
5.4	Appeal must be publicised and affected parties may join as parties to appeal	21
5.5	Notification by Rulings Panel	21
5.6	Submissions and evidence	21
5.7	Responses to submissions	21
5.8	Hearings	21
5.9	Timing of decision	22
5.10	Rulings Panel decisions	22
5.11	Status of decisions pending an appeal	22
5.12	No precedent	22
5.13	Disputes regarding system operator determinations	22
Disputes arising from the negotiation of transmission agreements		23
6.1	Disputes may be referred to Rulings Panel	23
6.2	Dispute must be publicised and designated transmission customers may join as parties to a dispute	23
6.3	Notification by Rulings Panel	24
6.4	Submissions and evidence	24
6.6	Hearings	24
6.7	Rulings Panel has discretion to determine dispute	24
6.8	Determinations by Rulings Panel	25
6.9	Rulings Panel to give written notice of determinations	25
Default distributor agreement appeals		25
7.1	Application of this Section	25
7.2	Appeals may be made to Rulings Panel	25
7.3	Notification by Rulings Panel	26
7.4	Rulings Panel appeal process	26
7.5	Submissions and evidence	27
7.6	Responses to submissions	27
7.7	Hearings	27
8.1	Application of this Section	27
8.2	Disputes referred to Rulings Panel	27
8.3	Notification by Rulings Panel	28
8.4	Submissions and evidence	28
8.5	Responses to submissions and evidence	28
8.6	Hearings	28
8.7	Rulings Panel to make decision	28
Prudential requirements disputes		29
9.1	Application of this Section	29
9.2	Disputes referred to Rulings Panel	29

9.3	Notification by Rulings Panel	29
9.4	Submissions and evidence	29
9.5	Responses to submissions and evidence	29
9.6	Hearings	29
9.7	Rulings Panel to make decisions	30
	Reconciliation and ancillary services disputes.....	30
10.1	Application of this Section	30
10.2	Parties may apply to Rulings Panel to resolve dispute	30
10.3	Selection of process	31
10.4	Rulings Panel must notify when dispute resolution will take place	31
10.5	Rulings Panel may do what is necessary to resolve a dispute	31
10.6	Meetings and documents	31
10.7	Completion of process	31
10.8	Orders and appeals	31
10.9	Breaches to be referred to Authority	32
10.10	Money payable under the Code	32
10.11	Costs	32

General Provisions

Preliminary

1.1 Title

1.1.1 These Procedures are the Rulings Panel Procedures 2021.

1.2 Commencement

1.2.1 These Procedures come into force on 25 January 2021.

1.2.2 These Procedures replace the Electricity Rulings Panel Procedures 2017, which are revoked.

1.3 Application of this Section

1.3.1 Unless otherwise indicated, this Section applies to the performance of the Rulings Panel's functions set out in Sections 2 to 10 of these Procedures.

1.4 Interpretation

1.4.1 In these Procedures, unless the context otherwise requires,—

Act means the Electricity Industry Act 2010;

Authority means the Electricity Authority established under section 12 of the *Act*;

Code means the Electricity Industry Participation Code 2010;

Procedures means the Rulings Panel Procedures;

Regulations means the Electricity Industry (Enforcement) Regulations 2010; and

Section means a section or part of these Procedures.

- 1.4.2 A term that—
- (a) is defined in the Code and used, but not defined, in these Procedures has the same meaning as in the Code;
 - (b) is defined in the Regulations and used in these Procedures, but not defined in these Procedures or the Code, has the same meaning as in the Regulations;
 - (c) is defined in the Act and used in these Procedures, but not defined in these Procedures or the Code or the Regulations, has the same meaning as in the Act; and
 - (d) is defined in the Interpretation Act 1999 and used in these Procedures, but not defined in these Procedures or the Code or the Regulations or the Act, has the same meaning as in the Interpretation Act 1999.

1.4.3 If there is a conflict between these Procedures and the Act, the Regulations, or the Code (as the case may be), the Act, Regulations, or the Code (as the case may be) prevails.

Commencement of matters before the Rulings Panel

1.5 Commencing matters before the Rulings Panel

- 1.5.1 A matter before the Rulings Panel shall be commenced by filing a Notice of Commencement and relevant documents with the Rulings Panel by email, at the email address published on the Rulings Panel pages of the Electricity Authority website.
- 1.5.2 There is no required format for a Notice of Commencement, but it shall contain the following information:
- (a) the name of the Act, Regulation, Code or other legislative provision under which the matter is commenced;
 - (b) the names, addresses and contact person (if available) of all parties actually or reasonably expected to be involved in the resolution of the matter including parties that have been involved in any related proceedings under the Act, Regulations, Code or other legislative provision;
 - (c) an outline of the essential facts of the matter including a brief explanation of each party's role in the matter and any alleged breach of the Act, Regulations or Code; and
 - (d) the relief sought from the Rulings Panel.
- 1.5.3 Where practicable, documents relevant to the matter shall be filed and served with the Notice of Commencement. If it is not practicable to file and serve relevant documents with the Notice of Commencement, this should be recorded in the Notice. If necessary, the Rulings Panel will issue directions regarding the management of relevant documentation.
- 1.5.4 The party commencing the matter shall serve a copy of the Notice of Commencement and any relevant documents filed with the Rulings Panel on the Electricity Authority and on the relevant parties identified in the Notice pursuant to 1.5.2 above, by email unless email service is impracticable, on the same day as

the filing of the Notice.

Application of Procedures in particular cases

1.6 Rulings Panel may vary these Procedures

- 1.6.1 Subject to 1.6.3 and the requirements of natural justice, the Rulings Panel may vary these Procedures (including by adding new procedural requirements) in respect of any particular case or class of cases.
- 1.6.2 The Rulings Panel must publicise any variation of these Procedures under 1.6.1 and the reasons for the variation.
- 1.6.3 The Rulings Panel may not vary any provision of these Procedures that is a restatement of a provision in the Act, the Regulations, or the Code.

Directions and directions conferences

1.7 Procedural directions

- 1.7.1 The Rulings Panel may, at any time, give directions to the parties to a particular case as to the procedures to be followed in respect of the case.
- 1.7.2 A direction given under 1.7.1 must not be inconsistent with these Procedures (or these Procedures as varied in accordance with clause 1.6 in respect of that case), or with the requirements of natural justice.
- 1.7.3 The Rulings Panel may vary a direction.
- 1.7.4 Clauses 1.7.1 and 1.7.2 apply to a variation as if the variation was a direction.

1.8 Directions conferences

- 1.8.1 Subject to 1.8.5, the Rulings Panel may, at any time, hold a directions conference of the parties to a particular case and such other persons as it thinks fit to determine variations of these Procedures to be made under clause 1.6 or directions to be given under clause 1.7.
- 1.8.2 A directions conference may address any matters that the Rulings Panel considers appropriate, including but not limited to the following (if applicable):
 - (a) the date, place, and time of the hearing;
 - (b) whether a statement of issues of fact and law is required;
 - (c) whether there is any reason to rebut the presumption of a public hearing;
 - (d) whether any confidentiality issues arise;
 - (e) whether the subject matter of the hearing is such that an urgent hearing is justified;
 - (f) the number of witnesses;
 - (g) the mode of giving evidence, including whether written submissions and evidence are to be provided in advance and, if so, a timetable for that, and whether such evidence is to be on oath, by way of brief or by affidavit;
 - (h) the mode of recording evidence and representations;
 - (i) whether further information is required from the investigator;

- (j) engagement of industry experts by the Panel;
 - (k) whether documents additional to those included in the investigator's report are required, and, if so, who is to be responsible for the preparation of the documents; and
 - (l) any other matters including any matters submitted for consideration by a party that the Panel deems relevant.
- 1.8.3 The Rulings Panel must advise all parties and any other persons it thinks fit of the date, time, and location of a directions conference.
- 1.8.4 A directions conference may be held by meeting or by video or telephone conference, and the procedures for the conference will be determined by the Rulings Panel.
- 1.8.5 The Rulings Panel may not hold a directions conference in respect of a dispute to which Section 10 of these Procedures applies.

Hearings

1.9 Rulings Panel Members

- 1.9.1 Every complaint, appeal, or dispute before the Rulings Panel must be dealt with by a panel of 3 Members, one of whom must be the chairperson (except when the deputy chairperson acts on his or her behalf).

Note: See section 53(1) of the Act

Decision on whether hearing to be held

- 1.9.2 The Rulings Panel must hold a hearing into a complaint if, by the deadline for submissions—
- (a) any party requests, in writing, a hearing into the complaint; or
 - (b) the Rulings Panel considers that a hearing should be held in order to give the Authority or an industry participant the opportunity to be heard.

Note: See regulation 34(1) of the Regulations

- 1.9.3 If a hearing is to be held, the Rulings Panel must set a date and time for the hearing that is as soon as practicable, and determine where the hearing will be held.

Note: See regulation 34(2) of the Regulations

- 1.9.4 The Rulings Panel may, with the consent of the parties, conduct a hearing by audio or visual link. If an audio or visual link is used, then the guidelines in Appendix 1 will apply.
- 1.9.5 This clause does not apply in respect of a dispute to which Section 10 of these Procedures applies.

1.10 Decisions without hearings

- 1.10.1 If a complaint is not set down for a hearing, the Rulings Panel must consider and decide the matter on the basis of the written submissions and evidence that it has received by the deadline for submissions.

Note: See regulation 38(1) of the Regulations

1.11 Hearing to be in public unless Rulings Panel otherwise directs

1.11.1 Hearings must be in public unless the Rulings Panel directs otherwise.

Note: See regulation 36(1) of the Regulations

1.11.2 If the Rulings Panel considers that a hearing should be private, it must notify all industry participants and the Authority of its decision and the grounds for that decision.

Note: See regulation 36(2) of the Regulations

1.11.3 If an industry participant or the Authority disagrees with the Rulings Panel's decision, it may make a written submission to the Rulings Panel setting out the reasons for its disagreement, within 5 working days after receiving the notification referred to in 1.11.2.

Note: See regulation 36(3) of the Regulations

1.11.4 The Rulings Panel must consider the submission and then notify all industry participants and the Authority of its decision and the grounds for that decision.

Note: See regulation 36(4) of the Regulations

1.11.5 This clause does not apply in respect of a dispute to which Section 10 of these Procedures applies.

1.12 Rights of parties and Authority at hearings

1.12.1 At a hearing into a formal complaint, every party to the complaint—

- (a) is entitled to be present at the hearing; and
- (b) is entitled to be represented; and
- (c) must be given a reasonable opportunity to make written and oral representations; and
- (d) is entitled to call witnesses and to cross-examine any witness called against it; and
- (e) is entitled to make a plea to the Rulings Panel in mitigation of penalties; and
- (f) is entitled to have any other person present to give evidence.

Note: See regulation 37 of the Regulations

1.12.2 Clause 1.12.1 applies in respect of any person who is entitled to be heard at any hearing or any resolution of a dispute of the Rulings Panel under Sections 2 to 7 of these Procedures, except to the extent that the Rulings Panel directs otherwise.

1.12.3 Clause 1.12.1 does not apply in respect of a dispute to which Section 10 applies.

1.12.4 Any party to a dispute under Section 10 may be represented before the Rulings Panel by legal counsel if it wishes.

Note: See regulation 85 of the Regulations

1.13 Admissible evidence

1.13.1 Subject to 1.13.3, the Rulings Panel may, in carrying out a resolution of a dispute under Section 10 of these Procedures, receive in evidence any statement, document, or information that would not be otherwise admissible as evidence that may, in its opinion, assist it to deal effectively with the matter.

Note: See regulation 83 of the Regulations

- 1.13.2 Subject to 1.13.3, when considering a complaint to which 1.13.1 does not apply, whether at a hearing or otherwise, the Rulings Panel may receive in evidence any statement, document, or information that would not be otherwise admissible as evidence that may, in its opinion, assist it to deal effectively with the complaint.

Note: See regulation 39 of the Regulations

- 1.13.3 An industry participant, or an officer or employee of the industry participant, is not excused from answering a question or giving any information or document on the ground that to do so may incriminate or tend to incriminate the industry participant or the officer or employee. However, a self-incriminating statement or document made or given by an officer or employee, or an industry participant that is an individual, is not admissible as evidence in any criminal or civil proceedings against that person.

Note: See section 48(3) of the Act

1.14 Rulings Panel may adjourn hearing or consideration of a matter

- 1.14.1 The Rulings Panel may, at any time, adjourn the hearing of a matter or, if there is no hearing, the consideration of the matter by the Rulings Panel.
- 1.14.2 The Rulings Panel must give notice of an adjournment under 1.14.1 to all persons entitled to be heard at the hearing as it thinks fit.

1.15 Powers of Rulings Panel generally

- 1.15.1 The Rulings Panel may determine appeals against decisions made under the Code, and resolve disputes between industry participants that relate to the Code, that are of a kind that are identified in the Regulations or the Code.

Note: See section 50(4) of the Act

- 1.15.2 If the regulations or the Code prescribe practices and procedures in relation to any kind of such appeal or dispute, the Rulings Panel must apply those practices and procedures when dealing with the appeal or dispute.

Note: See section 50(5) of the Act

- 1.15.3 The Rulings Panel has all the powers necessary to perform its functions in accordance with this Act, the regulations, and the Code.

Note: See section 53(3) of the Act

- 1.15.4 The Rulings Panel may make any determination, order, or direction that it thinks fit, subject to any general provisions of the Regulations relating to appeals and disputes, or any specific provisions in the regulations or the Code relating to the appeal or dispute.

Note: See section 61 of the Act

- 1.15.5 Other than in a matter to which Regulation 90 applies, the Rulings Panel may make an order as to costs against any party to a proceeding after any hearing conducted according to these procedures, and including where any hearing has been set down, but the matter has settled prior to a hearing being conducted.

Note: See section 61 of the Act

Miscellaneous

1.16 Rulings Panel to keep information confidential

1.16.1 The Rulings Panel must keep confidential all information provided or disclosed to it under the Regulations or the Code except to the extent that disclosure—

- (a) is required to enable the Rulings Panel to carry out its obligations and duties under the Regulations or the Code; or
- (b) is otherwise compelled by a law other than the Regulations or the Code.

Note: See regulation 116(1) of the Regulations

1.16.2 A member of the Rulings Panel who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of or act on that information, except—

- (a) for the purposes of the Rulings Panel; or
- (b) as required or permitted by law; or
- (c) in complying with regulations 102 and 103, which relate to the disclosure of member interests.

Note: See regulation 116(2) of the Regulations

1.17 Rulings Panel may prohibit publication of information

1.17.1 The Rulings Panel may prohibit the publication or communication of any information or document—

- (a) that is, or is intended to be, supplied or given or tendered to, or obtained by, the Rulings Panel under the Regulations or the Code; or
- (b) in connection with any notification, investigation, report, or procedure under Parts 2 or 3 of the Regulations.

Note: See regulation 117(1) of the Regulations

1.17.2 The Rulings Panel may make the prohibition only after it has had regard to the following factors:

- (a) whether the information or document is confidential, commercially sensitive, or otherwise unsuited to publication or communication; and
- (b) whether the publication or communication is required to enable the Rulings Panel to carry out its obligations under the Regulations or the Code; and
- (c) whether the publication or communication is compelled by a law other than the Regulations or the Code; and
- (d) the rules of natural justice.

Note: See regulation 117(2) of the Regulations

1.17.3 The Rulings Panel may make the prohibition—

- (a) on the application of any participant or the Authority or on its own application; but
- (b) only after notifying each industry participant that the Rulings Panel considers would be affected by the publication, communication, or

prohibition; and

- (c) only after having regard to any views that the industry participant may make known to the Rulings Panel within the time specified by the Panel.

Note: See regulation 117(3) of the Regulations

1.18 Draft decision by Rulings Panel

- 1.18.1 In any proceedings before it, the Rulings Panel may, if it thinks fit, prepare a draft decision, determination, order, penalty, or award, and give a copy of that draft to such persons as it thinks fit.
- 1.18.2 Any person to whom a copy of a draft decision, determination, order, penalty, or award is given under 1.18.1 may comment in writing on the draft to the Rulings Panel within a period specified by the Rulings Panel for this purpose.
- 1.18.3 In any proceedings before it, the Rulings Panel may, if it thinks fit, provide copies of any comments it receives to all other parties to the proceedings in issue, and the Rulings Panel may give a copy of any comments it receives on the draft decision, determination, order, penalty, or award to such other persons as it thinks fit.
- 1.18.4 The Rulings Panel may, if it thinks fit, give the parties and any persons to whom a copy of the comments is given under 1.18.3 an opportunity to provide further comment on the draft decision. Further comments must be made within a period specified by the Rulings Panel for this purpose.

1.19 Rulings Panel may seek advice

- 1.19.1 In carrying out its functions, the Rulings Panel may employ or otherwise seek advice or assistance from any external auditor, technical expert, or any other person that the Rulings Panel sees fit.

Note: See regulation 41 of the Regulations

1.20 Reconsideration of matters referred by the High Court

- 1.20.1 If the High Court directs the Rulings Panel to consider any aspect of a Rulings Panel decision, the Rulings Panel must, in reconsidering the matter, have regard to the Court's reasons for giving the direction and the Court's directions.

Note: See section 68(3) of the Act

Complaints of breach of the Code

2.1 Application of this Section

- 2.1.1 This Section applies to formal complaints of breaches of the Code laid under regulation 30 or 31.

2.2 Notification of complaint

- 2.2.1 On receiving a formal complaint, the Rulings Panel must give written notice of it to every party to the complaint.

Note: See regulation 33(1) of the Regulations

- 2.2.2 The notice must include —

- (a) the text of the formal complaint; and

- (b) a statement that any party may make written submissions to the Rulings Panel before the deadline for submissions, which must be at least 20 working days after the date of the notice; and
- (c) a statement that any party may request a hearing to consider the complaint, by notice in writing to the Rulings Panel received before the deadline for submissions; and
- (d) a statement that, if a hearing is not held, the complaint will be considered on the papers as soon as practicable after the deadline for submissions; and
- (e) a statement that if the Rulings Panel extends the deadline for submissions, it will notify all parties of the new deadline.

Note: See regulations 33(2) of the Regulations

2.2.3 The parties to a complaint considered by the Rulings Panel are—

- (a) the industry participant allegedly in breach; and
- (b) the complainant, being the industry participant that originally reported the breach; and
- (c) the Authority; and
- (d) any other industry participant that was a party to the investigation (as determined by regulation 18).

Note: See regulation 32 of the Regulations

2.2.4 Regulation 17, which provides that affected parties may join as parties to an investigation, does not apply to complaints that relate to disputes under Part 6 of the Code referred to the Rulings Panel in accordance with Section 4 of these Procedures.

Note: See clause 3(2) of Schedule 6.3 of the Code

2.2.5 On receiving a formal complaint, the Rulings Panel must decide whether a hearing will be held in relation to the complaint, and whether the hearing is to be in public, in accordance with clauses 1.10 to 1.12.

Note: See regulations 34 and 36 of the Regulations

2.2.6 The Rulings Panel may, at any time, alter any decision made by it under 2.2.1 or 2.2.2, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

2.3 Notice of hearing and provision of materials

2.3.1 If a complaint is set down for a hearing, the Rulings Panel must give or send all parties to the complaint—

- (a) a notice of the date and time when, and the place where, the hearing will be held; and
- (b) a copy of all relevant material collected or prepared during the course of the investigation.

Note: See regulation 35(1) of the Regulations

2.3.2 The Rulings Panel must comply with 2.3.1—

- (a) not less than 10 working days before the hearing; or
- (b) if the Rulings Panel, in its discretion, decides that an urgent hearing is desirable, as soon as practicable.

Note: See regulation 35(2) of the Regulations

2.3.3 If a complaint is not set down for a hearing, 2.3.1 and 2.3.2 apply as if references in 2.3.2 to a hearing were references to the date on which the Rulings Panel considers the complaint.

2.4 Hearings

2.4.1 Every party to the complaint is entitled to be present at the hearing of the complaint.

Note: See regulation 37(a) of the Regulations

2.4.2 Clauses 1.9 to 1.15 of these Procedures apply to hearings of formal complaints.

2.5 Submissions and evidence

2.5.1 Every party to the complaint is entitled to provide written submissions and evidence on the complaint, whether or not the complaint has been set down for a hearing.

Note: See regulation 38(2) of the Regulations

2.5.2 Any person who provides written submissions and evidence under 2.5.1 must give copies of those submissions and evidence to each of the other parties to the complaint and the Rulings Panel by the date specified by the Rulings Panel, which must be no later than 5 working days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the formal complaint).

2.5.3 Any party to the complaint may respond to a submission or evidence provided under 2.5.1 by giving written notice of its response to each of the other parties to the complaint and the Rulings Panel by the date specified by the Rulings Panel, which must be no later than 2 working days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the complaint).

2.6 Rulings Panel may request further information

2.6.1 The Rulings Panel may request an investigator to obtain any further information that the Rulings Panel requests if the Rulings Panel considers that, in relation to any matter before it, the Rulings Panel does not have sufficient information for it to determine what remedial order to make under section 54 of the Act.

Note: See regulation 40(1) of the Regulations

2.6.2 The Rulings Panel may make the request of its own initiative or following an application by any party to the complaint.

Note: See regulation 40(2) of the Regulations

2.6.3 Industry participants must provide any information reasonably requested by the Rulings Panel or the investigator under this clause, subject to 2.6.4.

Note: See regulation 40(3) and (4) of the Regulations

- 2.6.4 An industry participant, or an officer or employee of the industry participant, is not excused from answering a question or giving any information or document on the ground that to do so may incriminate or tend to incriminate the industry participant or the officer or employee. However, a self-incriminating statement or document made or given by an officer or employee, or an industry participant that is an individual, is not admissible as evidence in any criminal or civil proceedings against that person.

Note: See section 48 of the Act

2.7 Timing of decision

- 2.7.1 The Rulings Panel must use reasonable endeavours to make its decision on a complaint under its consideration within 40 working days after the date on which it receives all written and oral submissions on the matter.

Note: See regulation 43(1) of the Regulations

2.8 Rulings Panel decisions

- 2.8.1 The Rulings Panel must give its decision, in writing and together with the reasons for the decision, to the parties to the complaint.

Note: See regulation 43(2) of the Regulations

- 2.8.2 The Rulings Panel must notify the decision to the Authority as soon as practicable after it has made a final decision.

- 2.8.3 The Authority must publicise the terms of every decision made by the Rulings Panel under this Section, together with the reasons for the Panel's decision, within 10 working days of receiving the decision from the Rulings Panel.

Note: See regulation 44(1) of the Regulations

- 2.8.4 However, the Authority must not publicise any part, or all, of any particular decision if the Rulings Panel advises the Authority that there are special circumstances that justify the non-publication.

Note: See regulation 44(2) of the Regulations

2.9 Orders

- 2.9.1 The Rulings Panel may make any order specified in section 54(1) of the Act in relation to a complaint or matter referred to it under clause 2.2.

Note: See section 54 of the Act

- 2.9.2 If the Rulings Panel is considering requiring an industry participant to pay a pecuniary penalty under section 54(1)(d) of the Act, it may do so only on an application by the Authority, and the Rulings Panel must consider the seriousness of the breach of the Code, having regard to the following:

- (a) the severity of the breach;
- (b) the impact of the breach on other industry participants;
- (c) the extent to which the breach was inadvertent, negligent, deliberate or otherwise;
- (d) the circumstances in which the breach occurred;
- (e) any previous breach of the Code by the industry participant;

- (f) whether the industry participant disclosed the matter to the Authority;
- (g) the length of time the breach remained unresolved;
- (h) the participant's actions on learning of the breach;
- (i) any benefit that the participant obtained or expected to obtain as a result of the breach; and
- (j) any other matters that the Rulings Panel thinks fit.

Note: See section 56 of the Act

- 2.9.3 In making any decision under 2.9.1, the Rulings Panel must take into account its own previous decisions in respect of any similar situations previously dealt with by the Authority or any predecessor of the Authority.

Note: See section 54(2) of the Act

- 2.9.4 The Rulings Panel may not require a grid owner to pay a civil pecuniary penalty for a breach of an obligation that relates to metering standards, or to the provision of metering information.

Note: See regulation 51 of the Regulations

- 2.9.5 Regulations 51 to 75 which relate to limits on liability, apply only to decisions of the Rulings Panel made under section 54 of the Act.

Note: See regulation 50 of the Regulations

2.10 Rulings Panel may make a termination or suspension order

- 2.10.1 The Rulings Panel may make a suspension order or a termination order against an industry participant if—

- (a) the industry participant has failed to comply with an order of the Rulings Panel, and the failure has seriously prejudiced the operational or financial security of the wholesale market or transmission system for electricity; or
- (b) the Authority has suspended trading in a generator or purchaser under section 49 of the Act and applies to the Rulings Panel for a termination order.

Note: See section 58 of the Act

- 2.10.2 A suspension order suspends all or specified rights under the Code of the industry participant against whom it is made, subject to any conditions set out in the order, and for the period specified in the order.

Note: See section 59(1) of the Act

- 2.10.3 A termination order terminates all or specified rights under the Code of the industry participant against whom it is made.

Note: See section 59(2) of the Act

- 2.10.4 An industry participant commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000 if it fails to comply with—

- (a) a suspension order or a termination order; or
- (b) any direction or arrangement made by the Rulings Panel under the

Regulations in relation to a suspension order or a termination order.

Note: See section 60 of the Act

- 2.10.5 The Rulings Panel may, on review, exercise the Authority's powers to suspend a generator's or purchaser's rights to make bids or offers under the Code under section 49(3) of the Act, and exercise the Authority's powers to order that any rights suspended be reinstated under section 49(5)(a).

Note: See section 49(5)(c) of the Act

2.11 Process requirements for termination and suspension orders

- 2.11.1 Before the Rulings Panel makes a termination order, or a suspension order, or extends, suspends, or modifies a condition of a suspension order, or revokes a termination order or a suspension order, the Rulings Panel must—

- (a) give notice to the industry participant to which the order relates, or may relate, in accordance with 2.11.2; and
- (b) publicise the proposed order or change in accordance with 2.11.3.

Note: See regulation 47(1) to (3) of the Regulations

- 2.11.2 A notice given under 2.11.1(a) to the industry participant must—

- (a) state the reasons for making the order or change; and
- (b) state that the order or change will be made unless, by the date specified in the notice, the industry participant satisfies the Rulings Panel by notice in writing that the order or change should not be made.

Note: See regulation 47(4) of the Regulations

- 2.11.3 A notice that is publicised under 2.11.1(b) must specify—

- (a) the name of the industry participant to which the order relates or may relate;
- (b) the reasons for the order or change; and
- (c) the date by which any submission must be delivered to the Rulings Panel, which must be not less than 20 working days after the date of the notice.

Note: See regulation 47(5) and (6) of the Regulations

- 2.11.4 However, the time limit specified in 2.11.3(c) does not apply if the Rulings Panel, in its discretion, decides that a suspension order may need to be made urgently.

Note: See regulation 47(7) of the Regulations

2.12 Rulings Panel to make directions or arrangements

- 2.12.1 If the Rulings Panel makes a termination order or suspension order under clause 2.10, it must give directions to, or make arrangements for, other industry participants (either generally or specifically) to give effect to its order.

Note: See regulation 48(1) of the Regulations

2.13 Submissions on orders

- 2.13.1 Any party to a complaint may make written submissions to the Rulings Panel on the subject of any order that the Rulings Panel may make in relation to that

matter.

Note: See regulation 42(1) of the Regulations

2.13.2 A submission under 2.13.1 must be made before any deadline for those submissions set by the Rulings Panel.

Note: See regulation 42(2) of the Regulations

2.13.3 The Rulings Panel may, if it thinks fit, hold a hearing in relation to any order, and any person who has made a submission on that order under 2.13.1 must be given a reasonable opportunity to make oral representations at that hearing.

2.14 Decision of Rulings Panel on orders

2.14.1 The Rulings Panel must as soon as practicable give its decision on any order, in writing, to the parties to the complaint.

2.15 Orders generally

2.15.1 Every remedial, suspension, or termination order made by the Rulings Panel must be in writing, is subject to subpart 4 of Part 2 of the Act and the Regulations, and may be amended or revoked at any time by the Rulings Panel.

Note: See section 62 of the Act

Information disclosure appeals

3.1 Application of this Section

3.1.1 This Section applies to refusals by participants to supply Code information under Part 2 of the Code.

3.2 Right of appeal

3.2.1 A requesting participant who is notified under clause 2.14 of the Code that another participant refuses to supply any Code information may appeal that refusal by notice of appeal to the Rulings Panel.

Note: See clause 2.15 of the Code

3.2.2 The notice under 3.2.1 must specify the Code information requested and the reasons given by the refusing participant for refusing to supply the information (if any).

3.2.3 The requesting participant must, within 10 working days of being advised of the refusal, give a copy of the notice under 3.2.1 to the refusing participant and the Authority.

3.3 Notification by Rulings Panel

3.3.1 On receiving a notice under clause 3.2, the Rulings Panel must—

- (a) set a date for considering the appeal; and
- (b) decide whether a hearing will be held in relation to the appeal, whether to make the hearing private, in accordance with clauses 1.9 and 1.11; and
- (c) give to the requesting participant, the refusing participant, and the Authority at least 20 business days written notice of the place, date, and

time at which the Rulings Panel will consider the appeal and, if a hearing is to be held, the place, date, and time of the hearing.

- 3.3.2 The Rulings Panel may at any time alter any decision made by it under 3.3.1, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

3.4 Submissions and evidence

- 3.4.1 Each of the persons referred to in clause 3.3.1(c) is entitled to provide written submissions and evidence on the refusal.

- 3.4.2 Any person who provides written submissions and evidence under 3.4.1 must give copies of those submissions and evidence to each of the other persons referred to in clause 3.3.1(c) and the Rulings Panel no later than 5 working days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

3.5 Responses to submissions

- 3.5.1 Any person referred to in clause 3.3.1(c) may respond to a submission or evidence provided under clause 3.4 by giving written notice of its response to each of the other persons referred to in clause 3.3.1(c) and the Rulings Panel no later than 2 working days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

3.6 Hearings

- 3.6.1 Each of the persons referred to in clause 3.3.1(c) is entitled to be heard at a hearing of an appeal.

- 3.6.2 Clauses 1.8 to 1.15 of these Procedures apply to information disclosure appeals under this Section of the Procedures.

3.7 Rulings Panel decisions

- 3.7.1 The Rulings Panel must decide whether the refusal by the participant to supply the Code information was consistent with clauses 2.6 and 2.7 of the Code.

- 3.7.2 The Rulings Panel must as soon as practicable give its decision, in writing and together with the reasons for the decision, to the persons referred to in clause 3.3.1(c).

Disputes under Part 6 of the Code

4.1 Application of this Section

- 4.1.1 Subject to 4.1.2 and 4.2.3, this Section applies to:

- (a) disputes between a distributed generator and a distributor arising from an allegation that a party has breached any of the regulated terms that apply under clause 6.6(2) of the Code;
- (b) an allegation that conditions that apply to the approved distributed generation specified by the distributor under clause 18 of Schedule 6.1 of the Code are not reasonably required;
- (c) an allegation that a party has not attempted to negotiate a connection contract in good faith under clause 6 or clause 21 of Schedule 6.1 of the

Code; and

- (d) any other dispute between a distributor and a distributed generator about an alleged breach of any of the provisions of Part 6 of the Code.

Note: See clause 6.8(1) of the Code

4.1.2 This Section does not apply to disputes between a distributed generator and a distributor—

- (a) arising from an allegation that a party has breached any of the terms of a connection contract outside the regulated terms; or
- (b) arising from an allegation that a party has breached any of the extra terms referred to in clause 6.7(1) of the Code; or
- (c) that the distributed generator and the distributor have agreed should be determined by any other agreed method (for example, under any dispute resolution scheme under section 95 of the Act).

Note: See clause 6.8(2) of the Code

4.2 Complaint of disputes to be treated as complaints under Section 2 of these Procedures

4.2.1 If the parties to a dispute are unable to resolve the dispute, either party may complain in writing to the Authority.

Note: See clause 2(3) of Schedule 6.3 of the Code

4.2.2 A complaint made under 4.2.1 must be treated as if it were notification given under the Regulations, and may be referred to the Rulings Panel as a formal complaint under regulation 30 or 31 as set out in Section 2 of these Procedures.

Note: See clause 3(1) of Schedule 6.3 of the Code

4.2.3 Subject to clauses 2.2.4 and 2.9.5, Section 2 of these Procedures applies to disputes to which this Section applies that are the subject of a complaint, in the same way as those provisions apply to a notification of an alleged breach of the Code, and as if references to a participant in those provisions were references to a party under Part 6 of the Code.

Note: See clause 3(3)(a) and (b) of Schedule 6.3 of the Code

4.2.4 The Rulings Panel may make any further modifications to the procedures in Section 2 that are necessary or desirable for the purpose of applying those procedures to the complaint.

Note: See clause 3(3)(c) of Schedule 6.3 of the Code

4.3 Application of pricing principles to disputes

4.3.1 The Authority and the Rulings Panel must apply the pricing principles set out in Schedule 6.4 of the Code to determine any connection charges payable.

Note: See clause 4(1) of Schedule 6.3 of the Code

4.3.2 Subclause 4.3.1 applies if—

- (a) there is a dispute under Part 6 of the Code; and
- (b) in the opinion of the Authority or the Rulings Panel it is necessary or

desirable to apply 4.3.1 in order to resolve the dispute.

Note: See clause 4(2) of Schedule 6.3 of the Code

4.4 Orders the Rulings Panel can make

4.4.1 If a complaint is referred to it, the Rulings Panel may make any order, or take any action, that it is able to make or take in accordance with section 54 of the Act.

Note: See clause 5 of Schedule 6.3 of the Code

Appeals under Part 8

5.1 Application of this Section

5.1.1 Clauses 5.2 to 5.12 of this Section apply to decisions of the system operator in relation to:

- (a) an application for dispensation or equivalence arrangements; or
- (b) an alternative ancillary service arrangement.

5.1.2 Clause 5.13 of this Section applies to disputes regarding system operator under-frequency event determinations.

5.2 Right of appeal

5.2.1 A participant may appeal a decision to which clause 5.1.1(a) applies on the grounds that—

- (a) the system operator made an error of fact or failed to take into account all relevant information or took into account irrelevant information and such error, failure or irrelevancy was material to the decision; or
- (b) the conditions imposed on the dispensation or equivalence arrangement are unjustifiably onerous, unnecessary or impose extra costs if appropriate alternatives exist.

Note: See clause 8.36(1) and (3) of the Code

5.2.2 An applicant may appeal any decision to which clause 5.1.1(b) applies.

Note: See clause 8.53(1) of the Code

5.2.3 A participant may appeal any decision to which clause 5.1.1(b) applies on the grounds that—

- (a) the system operator made an error of fact or failed to take properly into account all relevant information or took into account irrelevant information and such error, failure or irrelevancy was material to the decision; or
- (b) the conditions imposed on the alternative ancillary service arrangement are onerous, unnecessary or impose extra costs if appropriate alternatives exist.

Note: See clauses 8.53(2) and (4) of the Code

5.3 Notice of appeal

5.3.1 An appeal under clause 5.2 must be made to the Rulings Panel by giving written notice to the Authority specifying the grounds of appeal.

- 5.3.2 Each notice must be given within 10 business days after publication of the relevant decision in the system operator register under clause 8 of schedule 8.1 or clause 4 of schedule 8.2, as the case may be.

Note: See clauses 8.36(2) and 8.53(3) of the Code

5.4 Appeal must be publicised and affected parties may join as parties to appeal

- 5.4.1 As soon as practicable after receiving a notice under clause 5.3, the Authority must send a copy of the notice to the Rulings Panel and the system operator and publicise the appeal.

- 5.4.2 Within 10 business days after the Authority publicises the appeal under 5.4.1, a participant may notify the Rulings Panel in writing that it considers that it is affected by the subject of the appeal and wishes to become a party to the appeal. The Rulings Panel may, if it thinks fit, permit that participant to become a party to the appeal.

5.5 Notification by Rulings Panel

- 5.5.1 On receiving a notice of appeal under clause 5.3, the Rulings Panel must—

- (a) set a date for considering the appeal; and
- (b) decide whether a hearing will be held and whether to make that hearing private, in accordance with clauses 1.10 and 1.12; and
- (c) give to the appellant, the system operator, a participant that has become a party to the appeal under clause 3.4, and the Authority at least 20 business days written notice of the place, date, and time at which the Rulings Panel will consider the appeal, and whether a hearing will be held.

- 5.5.2 The Rulings Panel may, at any time, alter any decision made by it under 5.5.1, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

5.6 Submissions and evidence

- 5.6.1 Each of the persons referred to in clause 5.5.1(c) is entitled to provide written submissions and evidence on an appeal.

- 5.6.2 Any person who provides written submissions and evidence under 5.6.1 must give copies of those submissions and evidence to each of the other persons referred to in clause 5.5.1(c) and the Rulings Panel no later than 5 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

5.7 Responses to submissions

- 5.7.1 Any person referred to in clause 5.5.1(c) may respond to a submission or evidence provided under clause 5.6 by giving written notice of its response to each of the other persons referred to in clause 5.5.1(c) and the Rulings Panel no later than 2 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

5.8 Hearings

- 5.8.1 Each of the persons referred to in clause 5.5.1(c) is entitled to be heard at a hearing of an appeal.

5.8.2 Clauses 1.9 to 1.15 of these Procedures apply to appeal hearings under this Section.

5.9 Timing of decision

5.9.1 The Rulings Panel must use reasonable endeavours to make its final decision on an appeal as soon as practicable after the date that it has received all written and oral submissions on the matter.

5.10 Rulings Panel decisions

5.10.1 The Rulings Panel, in determining an appeal, must approve the decision of the system operator or direct the system operator to reconsider the decision in full or by reference to specified matters.

Note: See clauses 8.36(4) and 8.53(5) of the Code

5.11 Status of decisions pending an appeal

5.11.1 Pending the outcome of an appeal, the decision of the system operator in relation to the grant of a dispensation or approval of an equivalence arrangement or authorisation of an alternative ancillary service arrangement, as the case may be, remains valid and may be relied upon by the relevant asset owner.

Note: See clauses 8.36(5) and 8.53(6) of the Code

5.12 No precedent

5.12.1 Equivalence arrangements and dispensations are specific to asset owners, and no approval of an equivalence arrangement or granting of a dispensation creates a precedent for the approval of other equivalence arrangements or dispensations.

Note: See clause 8.37(2) of the Code

5.13 Disputes regarding system operator determinations

5.13.1 The Authority or a participant who is substantially affected by a system operator determination as to whether an under-frequency event has been caused by a generator or grid owner may dispute the determination by referring the matter to the Rulings Panel.

Note: See clause 8.62(1) of the Code

5.13.2 A dispute is commenced by giving written notice to the Rulings Panel specifying the grounds of the dispute, which must be given within 10 business days after the determination is published.

Note: See clauses 8.62(2) and (3) of the Code

5.13.3 If a dispute is referred to the Rulings Panel, the system operator must provide the Rulings Panel with all information considered by the system operator in making the determination.

Note: See clause 8.62(6) of the Code

5.13.4 The Rulings Panel may confirm or amend the determination, substitute its own determination, or refer the decision back to the system operator with directions as to the particular matters that require reconsideration or amendment.

Note: See clause 8.63(1) of the Code

- 5.13.5 The Rulings Panel must give a copy of its decision to the system operator as soon as reasonably practicable.

Note: See clause 8.63(3) of the Code

Disputes arising from the negotiation of transmission agreements

6.1 Disputes may be referred to Rulings Panel

- 6.1.1 Except as provided in 6.1.2, if a dispute between Transpower and a designated transmission customer concerning any of the following is not resolved within a reasonable time, either party may refer the matter to the Rulings Panel for determination:

- (a) the customer specific terms of a transmission agreement being negotiated between those parties;
- (b) a requested variation of any of the terms of a default transmission agreement (other than a variation under clause 12.12 of the Code) that applies between Transpower and the designated transmission customer in accordance with clauses 12.10 to 12.13 of the Code (including a requested variation from the services described in the default transmission agreement);
- (c) the schedules proposed by Transpower under clause 12.10(b)(v) to (viii) of the Code for a default transmission agreement;
- (d) any revision to Schedule 4 or Schedule 5 of a default transmission agreement proposed by Transpower under clause 12.12 of the Code; or
- (e) the schedules proposed by Transpower under clause 12.13(l)(b)(v) to (viii) of the Code on the expiry or termination of a transmission agreement.

Note: See clause 12.45 of the Code

- 6.1.2 The Rulings Panel must not determine disputes relating to the interpretation or enforcement of a transmission agreement, including a benchmark agreement.

Note: See clause 12.47(2) of the Code

- 6.1.3 A party may refer a dispute to the Rulings Panel under 6.1.1 by giving a written notice to the Rulings Panel and the other party which specifies the dispute, the party's position in relation to the dispute, and its reasons for that position.

6.2 Dispute must be publicised and designated transmission customers may join as parties to a dispute

- 6.2.1 As soon as practicable after receiving a notice under clause 6.1.3, the Rulings Panel must request the Authority to publicise the dispute, unless the Rulings Panel has decided under clause 6.7 not to undertake the determination of the dispute.

- 6.2.2 Within 10 business days after the Authority publicises the dispute under 6.2.1, any designated transmission customer may notify the Rulings Panel in writing that it considers that it is affected by the subject of the dispute and wishes to become a party to the dispute. The Rulings Panel may, if it thinks fit, permit the

designated transmission customer to become a party to the dispute.

6.3 Notification by Rulings Panel

6.3.1 On receiving a notice under clause 6.1.3, the Rulings Panel must, unless it has decided under clause 6.7 not to undertake the determination of the dispute—

- (a) set a date for considering the dispute; and
- (b) decide whether a hearing will be held in relation to the dispute and whether to make that hearing private, in accordance with clauses 1.8 and 1.10; and
- (c) give to each party to the dispute, including any designated transmission customer that has become a party to the dispute under clause 4.2, and the Authority at least 20 business days written notice of the place, date, and time at which the Rulings Panel will consider the dispute and, if a hearing is to be held, the place, date, and time of the hearing.

6.3.2 The Rulings Panel may at any time alter any decision made by it under 6.3.1, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

6.4 Submissions and evidence

6.4.1 Each of the persons referred to in clause 6.3.1(c) is entitled to provide written submissions and evidence on the dispute.

6.4.2 Any person who provides written submissions and evidence under 6.4.1 must give copies of those submissions and evidence to each of the other persons referred to in clause 6.3.1(c) and the Rulings Panel no later than 5 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

6.5 Responses to submissions and evidence

6.5.1 Any person referred to in clause 6.3.1(c) may respond to a submission or evidence provided under clause 6.4 by giving written notice of its response to each of the other persons referred to in clause 6.3.1(c) and the Rulings Panel no later than 2 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

6.6 Hearings

6.6.1 Each of the persons referred to in clause 6.3.1(c) is entitled to be heard at a hearing of the dispute.

6.6.2 Clauses 1.8 to 1.15 of these Procedures apply to dispute hearings under this Section.

6.7 Rulings Panel has discretion to determine dispute

6.7.1 The Rulings Panel may, in its discretion, decide whether or not to undertake the determination of a dispute referred to it under clause 6.1.

Note: See clause 12.46(1) of the Code

6.7.2 If the Rulings Panel decides not to undertake the determination of a dispute, the Rulings Panel must inform Transpower or the designated transmission customer—

- (a) that the Rulings Panel intends to do no more in relation to the matter; and
- (b) of the reasons for that intention.

Note: See clause 12.46(2) of the Code

6.8 Determinations by Rulings Panel

6.8.1 In determining a dispute referred to it under clause 6.1, the Rulings Panel must take into account—

- (a) the principles for benchmark agreements in clause 12.30 of the Code; and
- (b) the desirability of consistent treatment of designated transmission customers except where special circumstances justify a departure; and
- (c) the potential impact of a decision on the contents of other transmission agreements or existing agreements as described in clauses 12.49 and 12.50 of the Code.

Note: See clause 12.47(1) of the Code

6.9 Rulings Panel to give written notice of determinations

6.9.1 The Rulings Panel must give notice to the parties of its determination, as soon as reasonably practicable.

Note: See clause 12.47(3) of the Code

6.10 The Rulings Panel must give notice of its determination to any designated transmission customer that has become a party to the dispute under clause 6.2, as soon as reasonably practicable.

6.11 Status of default transmission agreement while Rulings Panel determining dispute

6.11.1 Nothing in this Section overrides the application of a benchmark agreement as a default transmission agreement under clause 12.10 of the Code, pending a determination of the Rulings Panel.

Note: See clause 12.48 of the Code

Default distributor agreement appeals

7.1 Application of this Section

7.1.1 This Section applies to an appeal by a participant regarding operational terms in default distributor agreements under Part 12A of the Code.

Note: See Schedule 12A.4 clause 7(1)

7.2 Appeals may be made to Rulings Panel

7.2.1 A participant that participated in consultation under Schedule 12A.4 clause 6(2) in respect of a default distributor agreement may appeal to the Rulings Panel against the inclusion of 1 or more operational terms in the default distributor agreement by giving notice to the Rulings Panel and the relevant distributor.

7.2.2 *Note: See Schedule 12A.4 clause 7(1)* The participant must give the notice no later than 40 business days after the distributor gives notice that its default distributor agreement is available on its website.

Note: See Schedule 12A.4 clause 7(2)

7.3 Notification by Rulings Panel

7.3.1 On receiving a notice under clause 7.3, the Rulings Panel must—

- (a) set a date for considering the appeal; and
- (b) decide whether a hearing will be held in relation to the appeal and whether to make that hearing private, in accordance with clauses 1.8 and 1.10; and
- (c) give to each party to the appeal and the Authority at least 20 business days written notice of the place, date, and time at which the Rulings Panel will consider the appeal and, if a hearing is to be held, the place, date, and time of the hearing.

7.3.2 The Rulings Panel may at any time alter any decision made by it under 7.4.1, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

7.4 Rulings Panel appeal process

7.4.1 If the Rulings Panel receives a notice from a participant before the end of the period specified in clause 7, the Rulings Panel must, no later than 10 business days after receiving the notice, advise the participant that the Rulings Panel will—

- (a) review 1 or more of the operational terms to which the notice relates; or
- (b) decline to review 1 or more of any such terms, giving reasons.

Note: See Schedule 12A.4 clause 8(1)

7.4.2 In reviewing an operational term in a default distributor agreement, the Rulings Panel must apply the principles set out in Schedule 12A.4 clause 4(2) which are that a distributor's operational terms must—

- (a) be consistent with the Authority's objective set out in section 15 of the Act; and
- (b) reflect a fair and reasonable balance between the legitimate interests of the distributor and the requirements of the participant trading on, connected to, or using the distributor's network or equipment connected to the distributor's network; and
- (c) reflect the interests of consumers on the distributor's network; and
- (d) reflect the reasonable requirements of all participants trading on, connected to, or using the distributor's network or equipment connected to the distributor's network, and the ability of the distributor to meet those requirements.

Note: See Schedule 12A.4 clause 8(2)

7.4.3 If the Rulings Panel reviews an operational term, the Rulings Panel must, no later than 20 business days after advising the participant under subclause (1),—

- (a) confirm the operational term; or
- (b) amend the operational term, in which case clauses 9 and 10 apply; or

- (c) direct the distributor to reconsider, either generally or in respect of any specified matter, the operational term, within such time as the Rulings Panel must specify, and give the distributor any such directions as the Rulings Panel thinks fit concerning the reconsideration of the operational term, in which case clause 11 applies.

Note: See Schedule 12A.4 clause 8(3)

- 7.4.4 If requested by the participant who gave notice under Schedule 12A.4 clause 7(1) or the relevant distributor, the Rulings Panel may make an order as to the operational terms that apply on an interim basis until the Rulings Panel makes a decision under Schedule 12A.4 clause 7(3).

Note: See Schedule 12A.4 clause 8(4)

- 7.4.5 The Rulings Panel may not amend an amount that is charged by the distributor to the participant party to the default distributor agreement.

Note: See Schedule 12A.4 clause 8(5)

7.5 Submissions and evidence

- 7.5.1 Each of the parties to the appeal is entitled to provide written submissions and evidence on an appeal.
- 7.5.2 Any person who provides written submissions and evidence must give copies of those submissions and evidence to the other parties and the Rulings Panel no later than 5 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

7.6 Responses to submissions

- 7.6.1 Any party to the appeal may respond to a submission or evidence provided by giving written notice of its response to each of the other parties to the appeal and the Rulings Panel no later than 2 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the appeal).

7.7 Hearings

- 7.7.1 Each of the parties to an appeal is entitled to be heard at a hearing of an appeal.
- 7.7.2 Clauses 1.9 to 1.15 of these Procedures apply to appeal hearings under this Section.

Invoice disputes

8.1 Application of this Section

- 8.1.1 This Section applies to disputes between payers or payees and the clearing manager regarding decisions of the clearing manager made under clauses 14.2 to 14.28 of the Code.

8.2 Disputes referred to Rulings Panel

- 8.2.1 If a dispute between a payee or a payer and the clearing manager concerning an invoice issued under clauses 14.2 to 14.28 of the Code that does not relate to the submission of information provided for the purpose of reconciliation under the Code (which must be dealt with in accordance with Section 10 of these

Procedures) is not resolved within 15 business days after the date on which the dispute was notified to the clearing manager, the disputing payee or payer or the clearing manager may refer the matter to the Rulings Panel for resolution.

Note: See clause 14.27(1) of the Code

8.3 Notification by Rulings Panel

8.3.1 On receiving a notice under clause 8.1, the Rulings Panel must—

- (a) set a date for considering the dispute; and
- (b) decide whether a hearing will be held in relation to the dispute and whether to make that hearing private, in accordance with clauses 1.10 and 1.12; and
- (c) give to the participant, the Authority, and the clearing manager at least 20 business days written notice of the place, date, and time at which the Rulings Panel will consider the dispute and, if a hearing is to be held, the place, date, and time of the hearing.

8.3.2 The Rulings Panel may, at any time, alter any decision made by it under 8.3.1, and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

8.4 Submissions and evidence

8.4.1 Each of the persons referred to in clause 8.3.1(c) is entitled to provide written submissions and evidence on the dispute.

8.4.2 Any person who provides written submissions and evidence under 8.4.1 must give copies of those submissions and evidence to each of the other persons referred to in clause 8.3.1(c) and the Rulings Panel no later than 5 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

8.5 Responses to submissions and evidence

8.5.1 Any person referred to in clause 8.3.1(c) may respond to a submission or evidence provided under clause 8.4 by giving written notice of its response to each of the other persons referred to in clause 8.3.1(c) and the Rulings Panel no later than 2 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

8.6 Hearings

8.6.1 Each of the persons referred to in clause 8.3.1(c) may be heard at a hearing of a dispute.

8.6.2 Clauses 1.9 to 1.15 of these Procedures apply to dispute hearings under this Section.

8.7 Rulings Panel to make decision

8.7.1 The Rulings Panel may make such determinations on a dispute referred to it under clause 8.2 as it thinks fit, and must give written notice of its determination to the parties to the dispute and affected participants.

Note: See clause 14.27(2) and (3) of the Code

- 8.7.2 The Rulings Panel must use reasonable endeavours to make a final determination on an invoice dispute as soon as is reasonably practicable.

Prudential requirements disputes

9.1 Application of this Section

- 9.1.1 This Section applies if a participant disputes a decision of the clearing manager regarding the imposition of prudential requirements on a participant under Part 14A of the Code.

9.2 Disputes referred to Rulings Panel

- 9.2.1 A participant that disputes a decision of the clearing manager under Part 14A of the Code may refer the dispute to the Rulings Panel.

Note: see clause 14A.23(1) of the Code

- 9.2.2 If a participant refers a dispute to the Rulings Panel in accordance with clause 9.2.1, the participant must comply with the decision of the clearing manager until such time as the Rulings Panel makes a decision on the dispute.

Note: see clause 14A.23(2) of the Code

9.3 Notification by Rulings Panel

- 9.3.1 On receiving a notice under clause 9.2.1, the Rulings Panel must—

- (a) set a date for considering the dispute; and
- (b) decide whether a hearing will be held in relation to the dispute and whether to make that hearing private, in accordance with clauses 1.8 and 1.10; and
- (c) give to the participant, the Authority, and the clearing manager at least 20 business days written notice of the place, date, and time at which the Rulings Panel will consider the dispute and, if a hearing is to be held, the place, date, and time of the hearing.

9.4 Submissions and evidence

- 9.4.1 Each of the persons referred to in clause 9.3.1(c) is entitled to provide written submissions and evidence on the dispute.

- 9.4.2 Any person who provides written submissions and evidence under 9.4.1 must give copies of those submissions and evidence to each of the other persons referred to in clause 9.3.1(c) and the Rulings Panel no later than 5 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

9.5 Responses to submissions and evidence

- 9.5.1 Any person referred to in clause 9.3.1(c) may respond to a submission or evidence provided under clause 8.4 by giving written notice of its response to each of the other persons referred to in clause 9.3.1(c) and the Rulings Panel no later than 2 business days before the date of the hearing (or, if there is no hearing, the date on which the Rulings Panel will consider the dispute).

9.6 Hearings

- 9.6.1 Each of the persons referred to in clause 9.3.1(c) may be heard at a hearing of a

dispute.

- 9.6.2 Clauses 1.9 to 1.15 of these Procedures apply to dispute hearings under this Section.

9.7 Rulings Panel to make decisions

- 9.7.1 If a participant refers a dispute to the Rulings Panel in accordance with clause 9.2.1, the Rulings Panel must, after hearing from the participant and the clearing manager, make a decision in accordance with Part 14A of the Code.

Note: see clause 14A.23(3) of the Code

- 9.7.2 The Rulings Panel must use reasonable endeavours to make a final determination on a dispute regarding prudential requirements as soon as is reasonably practicable.

Reconciliation and ancillary services disputes

10.1 Application of this Section

- 10.1.1 This Section applies to:

- (a) a dispute in relation to the submission of information provided for the purposes of reconciliation under Part 15 of the Code; and
- (b) a dispute in relation to a contract for the procurement of ancillary services (but not an appeal against a system operator decision in respect of an ancillary service).

Note: See regulation 78 and clause 15.29 of the Code

10.2 Parties may apply to Rulings Panel to resolve dispute

- 10.2.1 The parties to a dispute to which this Section applies may, by agreement, apply to the Rulings Panel to determine a dispute for them.

Note: See regulation 80(1) of the Regulations

- 10.2.2 If a dispute relating to volume information is not resolved 15 business days after the date on which the dispute was notified to the reconciliation manager under clause 15.29(1) of the Code, the disputing reconciliation participant or the reconciliation manager may refer the dispute to the Rulings Panel for resolution.

Note: See clause 15.29(9) of the Code

- 10.2.3 The application must be in writing, setting out the nature of the dispute, and be signed by all the parties to the dispute.

Note: See regulation 80(2) of the Regulations

- 10.2.4 The Rulings Panel may, in its discretion, decide whether or not to undertake the determination of the dispute.

Note: See regulation 80(3) of the Regulations

- 10.2.5 The Rulings Panel must give written notice to the parties of the decision as soon as practicable, and in the case of a dispute relating to volume information referred to the Rulings Panel in accordance with clause 10.2.2 above, to all affected participants.

Note: See regulation 80(4) of the Regulations

10.3 Selection of process

- 10.3.1 (1) The parties to the dispute must agree to the form of dispute resolution to be utilised or, in the absence of agreement, the Rulings Panel must determine the form of dispute resolution.

Note: See regulation 81 of the Regulations

10.4 Rulings Panel must notify when dispute resolution will take place

- 10.4.1 The Rulings Panel must notify the parties to the dispute of the dates, times, and places at which the dispute resolution process will take place, having regard to the urgency of the matter and the form of dispute resolution process selected under clause 8.3.

Note: See regulation 82 of the Regulations

10.5 Rulings Panel may do what is necessary to resolve a dispute

- 10.5.1 The Rulings Panel may do whatever is reasonably necessary and permitted by law to enable the fair, effective, and expeditious resolution of any matter before it.

Note: See regulation 83(3) of the Regulations

10.6 Meetings and documents

- 10.6.1 The Rulings Panel may meet separately or jointly, or both, with the parties to any dispute.

Note: See regulation 84(1) of the Regulations

- 10.6.2 The Rulings Panel may require parties to exchange submissions, documents, and information.

Note: See regulation 84(2) of the Regulations

10.7 Completion of process

- 10.7.1 The Rulings Panel must complete the dispute resolution process that it selects as soon as practicable.

Note: See regulation 86 of the Regulations

10.8 Orders and appeals

- 10.8.1 The Rulings Panel may make any order in respect of a dispute that it considers is just and reasonable in the circumstances, including—

- (a) an order that 1 or more parties to the dispute take any action, including the payment of money to any other party, or refrain from taking any action that the Rulings Panel prescribes; and
- (b) assessing damages against any party and awarding compensation to be paid to any party; and
- (c) making any other determination it thinks fit.

Note: See regulation 87(1) of the Regulations

- 10.8.2 An order made under 10.8.1 may be appealed to the High Court under section 67 of the Act.

Note: See regulation 87(2) of the Regulations

- 10.8.3 In relation to a dispute referred to the Rulings Panel under paragraph 10.2.2 above, if the Rulings Panel determines that the volume information is incorrect, the reconciliation manager must provide the corrected information to the clearing manager in accordance with clause 15.29(12) of the Code.

Note: see clause 15.29(12) and (13) of the Code

10.9 Breaches to be referred to Authority

- 10.9.1 The Rulings Panel must report to the Authority if the Rulings Panel finds, during the course of any dispute resolution process, that there has been a breach of the Act or the Code.

Note: See regulation 88 of the Regulations

10.10 Money payable under the Code

- 10.10.1 If the Rulings Panel finds, or the parties agree, during the course of any dispute resolution process, that money is due and payable under the Code, that finding or agreement creates an obligation to pay the amount agreed or determined.

Note: See regulation 89(1) of the Regulations

- 10.10.2 That amount is a debt due by the industry participant and is recoverable as such in a court of competent jurisdiction.

Note: See regulation 89(2) of the Regulations

10.11 Costs

- 10.11.1 Each party to a dispute is responsible for its own costs and legal expenses.

Note: See regulation 90(1) of the Regulations

- 10.11.2 The parties must share equally all other costs and expenses associated with the dispute resolution process, including the costs of the Rulings Panel unless an allocation is made under 10.11.3.

Note: See regulation 90(2) of the Regulations

- 10.11.3 The Rulings Panel may allocate the costs referred to in 10.11.2 for payment by one or more parties as the Rulings Panel determines it is just and reasonable to do so.

Note: See regulation 90(3) of the Regulations

- 10.11.4 Before making an allocation of costs under 10.11.3 the Rulings Panel may request written or oral submissions on the matter from such persons as it thinks fit.