

# ELECTRICITY RULINGS PANEL PROCEDURES 2009

## SUMMARY OF THE PROCEDURES AND RELATED ENACTMENTS

### **Introduction**

1. *This summary is to be read subject to the Procedures should there be any inconsistency.*
2. The Electricity Rulings Panel Procedures 2009 (“the Procedures”) attached to this summary set out the relevant procedures of the Rulings Panel contained in the following enactments:
  - Electricity Act 1992 (“the Act”);
  - Electricity Governance Regulations 2003 (“the Regulations”);
  - Electricity Governance (Connection of Distributed Generation) Regulations 2007 (“the Connection of Distributed Generation Regulations”);
  - Electricity Governance (Security of Supply) Regulations 2008 (“Security of Supply Regulations”); and
  - Electricity Governance Rules (“the Rules”).
3. The Procedures also include additional procedural provisions (“clauses”) made by the Rulings Panel under regulation 96, regulation 151, and regulation 171A of the Regulations.
4. The following paragraphs summarise the Procedures and related enactments, in compliance with regulation 96(2) of the Regulations.

### **Application of the Procedures**

5. The Procedures apply to the following functions of the Rulings Panel:
  - deciding complaints that an electricity distributor, generator, retailer, line owner, or other participant has breached the Regulations or the Rules (Part 2 of the Procedures);
  - hearing appeals under part C of the Rules, being appeals against system operator decisions in relation to dispensations, equivalence arrangements, or alternative ancillary service arrangements (Part 3 of the Procedures);
  - determining disputes arising from negotiation of transmission agreements under part F of the Rules (Part 4 of the Procedures);
  - determining disputes relating to prudential requirements and invoices under part H of the Rules (Part 5 of the Procedures);
  - hearing information disclosure appeals under regulation 29 of the Regulations (Part 6 of the Procedures);
  - determining disputes under Part 7 of the Regulations, which relates to reconciliation disputes and disputes on ancillary service procurement contracts (Part 7 of the Procedures);
  - deciding complaints relating to disputes under the Connection of Distributed Generation Regulations (Part 8 of the Procedures): and

- deciding complaints that a participant has breached the Security of Supply Regulations (Part 9 of the Procedures).

## **Part 1 of the Procedures – General provisions**

### Commencement

6. The Procedures come into force on 8 July 2009 (clause 1.2(1)).
7. The Procedures replace the Electricity Rulings Panel Procedures 2005, which are revoked (clause 1.2(2)).

### Application

8. Unless otherwise indicated, Part 1 of the Procedures applies to all functions of the Rulings Panel set out in Parts 2 to 9 of the Procedures (clause 1.3).

### Rulings Panel may vary Procedures

9. Subject to the requirements of natural justice, the Rulings Panel may vary the Procedures (other than the parts of the Procedures prescribed by the Act, Regulations, Connection of Distributed Generation Regulations, Security of Supply Regulations, or Rules) in respect of any particular case or class of cases, and must publicise any such variation (clause 1.5).

### Directions and directions conferences

10. The Rulings Panel may give procedural directions in respect of a particular case, but no such directions may be inconsistent with the Procedures, or the Procedures as varied, in any particular case (clause 1.6).
11. The Rulings Panel may hold a directions conference at any time (clause 1.7).

### Hearings

12. The Rulings Panel must set a matter that is being considered by the Rulings Panel down for a hearing if the Rulings Panel considers that it is appropriate for the Commission or any participant to be given an opportunity to be heard, or if any participant or the Commission requests a hearing in respect of the matter. Hearings must be held as soon as practicable (clause 1.8 and regulations 97(1) and 97(2A)).
13. If a matter 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 (clause 1.9 and regulation 97(3)).
14. Hearings must be in public unless the Rulings Panel otherwise directs. The Rulings Panel may decide that a hearing should be private only after considering any submissions on such a direction from a participant or the Commission (clause 1.10 and regulations 97(2) and 99).
15. Any person that is entitled to be heard at any hearing is, subject to some exceptions, entitled to be represented, must be given a reasonable opportunity to make representations, and is entitled to call and cross examine witnesses, make a plea in

mitigation of penalties, and have any other person present to give evidence (clause 1.11 and regulations 102 and 154).

16. The Rulings Panel may, in carrying out any hearing or considering any appeal or other matter, receive in evidence any statement, document, or information that would not be otherwise admissible. A person must answer questions or give information even if doing so may incriminate that person, but some self-incriminating evidence cannot be used in Rulings Panel proceedings (clause 1.12, section 172KC, and regulations 101 and 152(1)).
17. The Rulings Panel may adjourn any hearing or consideration of a matter (clause 1.13).

#### Rulings Panel to keep certain information confidential

18. The Rulings Panel, and members of the Rulings Panel, must keep confidential all information disclosed to the Rulings Panel, unless disclosure is required to enable the Rulings Panel to carry out its obligations or duties, or by law (clause 1.14 and regulation 178).

#### Prohibition of publication of information

19. The Rulings Panel may, in certain circumstances, prohibit the publication of certain information (clause 1.15 and regulation 179).

#### Draft decisions

20. The Rulings Panel may prepare a draft decision or determination and give it to such persons as it thinks fit for comment (clause 1.16(1) and (2)).
21. The Rulings Panel may, if it thinks fit, give a copy of any comments it receives on a draft decision or determination to such persons as it thinks fit, and may give those persons an opportunity to provide further comment (clause 1.16(3) and (4)).

#### Rulings Panel may seek advice

22. In carrying out its functions, the Rulings Panel may seek advice or assistance from any person (clause 1.17 and regulation 104).

### **Part 2 of the Procedures - Complaints of breach of Regulations or Rules**

23. The Act, Regulations, Rules, and the Procedures together provide as follows:
24. On receiving a formal complaint under Part 4 of the Regulations, the Rulings Panel must set a date for considering the complaint, and give notice to the parties of the place, date, and time at which the Rulings Panel will consider the complaint (clause 2.2 and regulation 95(1)).
25. The parties to a formal complaint are the notifying participant, the complainant, the Commission, the participant allegedly in breach, and any party that has joined under regulation 75 (clause 2.2 and regulation 95(2)).

#### Pre-consideration statements and material

26. The Rulings Panel must ensure that each of the parties to the complaint have been provided with a statement of the matter under consideration, and a copy of all relevant material collected during the investigation (clause 2.3 and regulation 98).

#### Hearings, submissions and evidence

27. Each of the parties to the complaint is entitled to be heard at a hearing of a formal complaint, and to provide written submissions and evidence whether or not there is a hearing, and respond to submissions or evidence provided by other persons (clauses 2.4(1) and 2.5, and regulation 95(2));
28. The procedures set out in paragraphs 11 to 16 of this summary apply to hearings of formal complaints under Part 2 of the Procedures (clause 2.4(2)).
29. The Rulings Panel may request the investigator to obtain further information and, subject to section 172KC of the Act, participants must provide any information reasonably requested (clause 2.6 and regulation 103).

#### Decisions of Rulings Panel

30. The orders and penalties that the Rulings Panel may make, and the matters the Rulings Panel must take into account when making orders and penalties, are set out in section 172KE of the Act and regulations 109 and 110 (clause 2.9).
31. The Rulings Panel must use reasonable endeavours to make its final decision within 40 working days of the date that it has received all written and oral submissions on the matter (clause 2.7 and regulation 134(1)).
32. Any party may make written submissions to the Rulings Panel on the subject of any penalty or order that the Rulings Panel may make in relation to the matter (clause 2.10 and regulation 105).
33. The Rulings Panel must give its final decision, and its decision on any penalty or order, in writing and together with reasons, to all parties (clauses 2.8 and 2.11 and regulation 134(2)).
34. The Rulings Panel must notify the decision to the Commission as soon as practicable after it has made a final decision (clause 2.8 and regulation 134(3)).
35. The Rulings Panel must advise the Commission if there are special circumstances that justify the non-publication of a decision made by the Rulings Panel (clause 2.8(3) and regulation 135).

#### Rulings Panel may make a termination or suspension order

36. The Rulings Panel may, in certain circumstances, terminate or suspend a participant's rights under the Rules by making a termination order or suspension order (regulations 138 to 146).

### **Part 3 of the Procedures - Appeals against system operator decisions in relation to dispensations, equivalence arrangements, or alternative ancillary service arrangements**

37. The Regulations, Rules, and the Procedures together provide as follows:

## Right of appeal

38. Any participant or applicant can appeal a decision of the system operator made in relation to an application for dispensation or equivalence arrangements, or an alternative ancillary service arrangement, on the grounds that the system operator made a material error of fact or failed to take properly into account all relevant information or the conditions imposed on the dispensation or arrangement are onerous, unnecessary or impose extra costs (clause 3.2, rules 8.4.1.1 and 8.4.1.3 of section III of part C, and rules 9.8.1, 9.8.2 and 9.8.4 of section IV of part C).
39. An appeal may be made to the Rulings Panel by giving written notice to the Commission specifying the grounds of appeal (clause 3.3, rule 8.4.1.2 of section III of part C and rule 9.8.3 of section IV of part C).

## Notification of appeal

40. The Commission must publish notice of an appeal, and affected parties may join as parties to the appeal (clause 3.4).
41. On receiving an appeal, the Rulings Panel must set a date for considering it, decide whether a hearing will be held, and give notice to the appellant, the system operator, the Commission, and any participant that has joined as a party (“the parties”) (clause 3.5).

## Submissions and evidence

42. Each of the parties is entitled to provide submissions and evidence in relation to the matter being appealed, and to respond to submissions and evidence provided by other persons (clauses 3.6 and 3.7).

## Hearings

43. Each of the parties is entitled to be heard at a hearing of an appeal (clause 3.8(1)).
44. The procedures set out in paragraphs 11 to 16 of this summary apply to appeals under Part 3 of the Procedures (clause 3.8(2)).

## Decisions of Rulings Panel

45. The Rulings Panel must use reasonable endeavours to make its final decision as soon as practicable after the date that it has received all written and oral submissions on the matter (clause 3.9).
46. The Rulings Panel, in determining any appeal, shall either approve the decision of the system operator or direct the system operator to reconsider the decision in full or by reference to specified matters (clause 3.10, rule 8.4.1.4 of section III of part C, and rule 9.8.5 of section IV of part C).
47. Pending the outcome of any 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, will be valid and may be acted upon by the relevant asset owner (clause 3.11, rule 8.4.2 of section III of part C, and rule 9.8.6 of section IV of part C).
48. 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 (rule 9.2 of section III of part C).

#### **Part 4 of the Procedures - Disputes arising from negotiation of a transmission agreement**

49. The Rules and the Procedures together provide as follows:

##### Disputes may be referred to Rulings Panel

50. If a dispute between Transpower and a designated transmission customer relating to transmission agreements is not resolved within a reasonable time, either party may refer the matter to the Rulings Panel for determination (clause 4.1(1) and rule 6.1 of section II of part F).
51. However, the Rulings Panel must not determine disputes relating to the interpretation or enforcement of any transmission agreement including a benchmark agreement (clause 4.1(2) and rule 6.3.2 of part F of section II).
52. A party may refer a dispute to the Rulings Panel by giving a written notice to it and to the other party which specifies the dispute, the party's position in relation to the dispute, and its reasons for that position (clause 4.1(3)).
53. The Commission must publicise the fact of the referral, the parties to the dispute, and the subject matter of the dispute, and affected designated transmission customers may join as parties to the dispute if the Rulings Panel thinks fit (clause 4.2).

##### Notification by Rulings Panel

54. On receiving notice of a dispute, unless it has decided not to undertake the determination of the dispute (as referred to in paragraph 39 of this summary), the Rulings Panel must set a date for considering it, decide whether a hearing will be held, and give notice of those matters to each party to the dispute (clause 4.3 and rule 6.2 of section II of part F).

##### Submissions and evidence

55. Each of the parties to a dispute is entitled to provide submissions and evidence on the dispute, and to respond to submissions or evidence provided by the other parties (clauses 4.4 and 4.5).

##### Hearings

56. Each of the parties to a dispute is entitled to be heard at a hearing of the dispute (clause 4.6(1)).
57. The procedures set out in paragraphs 11 to 16 of this summary apply to disputes heard under Part 4 of the Procedures (clause 4.6(2)).

##### Determinations of Rulings Panel

58. The Rulings Panel may, in its discretion, decide whether or not to undertake the determination of the dispute and, if it decides not to do so, must inform Transpower and the designated transmission customer of that decision (clause 4.7 and rule 6.2 of section II of part F).

59. In determining a dispute, the Rulings Panel must take into account the principles for benchmark agreements in rule 4.2, the desirability of consistent treatment of designated transmission customers except where special circumstances justify a departure, and the potential impact of any decision on the contents of other transmission agreements (clause 4.8 and rule 6.3.1 of section II of part F).
60. The Rulings Panel must give notice to the parties of its determination as soon as reasonably practicable (clause 4.9 and rule 6.4 of section II of part F).

#### Status of default transmission agreements while Rulings Panel determining dispute

61. Nothing in Part 4 of the Procedures overrides the application of a benchmark agreement as a default transmission agreement under rule 3.1 of section II of part F pending a determination of the Rulings Panel (clause 4.10 and rule 6.5 of section II of part F).

### **Part 5 of the Procedures - Prudential requirement and invoice disputes**

62. The Regulations, Rules, and the Procedures together provide as follows:

#### Disputes may be referred to Rulings Panel

63. If any participant disputes a decision of the clearing manager in relation to a prudential requirement under rules 2 to 4 of part H, the participant may refer the matter to the Rulings Panel (clauses 5.1 and 5.2(1), and rule 5.1 of part H).
64. The participant must, within 10 business days of being advised of the decision, give a written notice to the Rulings Panel, the Commission, and the clearing manager that specifies the disputed decision and the participant's reasons for disputing it (clause 5.2(2)).
65. If a dispute between a payee or a payer and the clearing manager concerning an invoice issued by the clearing manager is not resolved within 15 days of the dispute being notified to the clearing manager, the clearing manager will refer the matter to the Rulings Panel (clause 5.2(3) and rule 10.5 of part H).

#### Notification by Rulings Panel

66. On receiving notice of a dispute, the Rulings Panel must set a date for considering it, decide whether a hearing will be held, and give notice to the participant, the Commission, and the clearing manager ("the parties") (clause 5.3).

#### Submissions and evidence

67. Each of the parties is entitled to provide submissions and evidence on a dispute, and to respond to submissions or evidence provided by other persons (clauses 5.4 and 5.5).

#### Hearings

68. Each of the parties is entitled to be heard at a hearing of a dispute (clause 5.6(1)).
69. The procedures set out in paragraphs 11 to 16 of this summary apply to all disputes under Part 5 of the Procedures (clause 5.6(2)).

#### Decisions of Rulings Panel

70. In respect of disputes regarding prudential requirements, the Rulings Panel will, after hearing from the participant and the clearing manager, make its own decision on the dispute in accordance with rules 2 to 4 of part H (clause 5.8 and rule 5.3 of part H).
71. Until such time as the Rulings Panel makes a decision on a dispute regarding prudential requirements, all payers will comply with the decisions of the clearing manager (clause 5.7 and rule 5.2 of part H).
72. The Rulings Panel must make a determination on an invoice dispute as soon as reasonably practicable, and give written notice of its determination to the parties (clause 5.9).

#### **Part 6 of the Procedures - Information disclosure appeals**

73. The Regulations, Rules, and the Procedures together provide as follows:

##### Right of appeal

74. A participant may, by notice to the Rulings Panel, appeal a refusal by another participant to supply any rulebook information. The notice must specify the information requested and the reasons for the refusal (clauses 6.1 and 6.2 and regulation 29).
75. The participant must, within 10 working days of being advised of the refusal, give a copy of the notice of appeal to the refusing participant and the Commission (clause 6.2).

##### Notification of appeal

76. On receiving notice of an appeal, the Rulings Panel must set a date for considering it, decide whether a hearing will be held, and give notice to the participants involved and the Commission (clause 6.3).

##### Submissions and evidence

77. Each of the parties is entitled to provide submissions and evidence on an appeal, and to respond to submissions or evidence provided by other persons (clauses 6.4 and 6.5).

##### Hearings

78. Each of the parties is entitled to be heard at a hearing of an appeal (clause 6.6(1)).
79. The procedures set out in paragraphs 11 to 16 of this summary apply to information disclosure appeals (clause 6.6(2)).

#### Decisions of Rulings Panel

80. The Rulings Panel must decide whether the refusal to supply the rulebook information was consistent with regulations 20 and 21 (clause 6.7(1)).
81. The Rulings Panel must as soon as practicable give its decision, in writing and together with its reasons, to the parties (clause 6.7(2)).

## **Part 7 of the Procedures - Reconciliation and ancillary services disputes**

82. The Regulations, Rules, and the Procedures together provide as follows:

Parties may apply to Rulings Panel to resolve dispute

83. The parties to a dispute in relation to reconciliation carried out under part J of the Rules, or in relation to a contract for the procurement of ancillary services, may, by agreement, apply to the Rulings Panel to determine the dispute for them. The Rulings Panel may, in its discretion, decide whether or not to undertake the determination of the dispute (clauses 7.1 and 7.2, rule 12 of part J, and regulations 147 and 148).

Process

84. The parties to the dispute must agree as to the form of dispute resolution or, in the absence of agreement, the Rulings Panel must determine the form of dispute resolution (clause 7.3 and regulation 149).

85. The Rulings Panel must notify the parties when the dispute resolution will take place (clause 7.4 and regulation 150).

86. The Rulings Panel may do whatever is necessary to enable the fair and expeditious resolution of any matter before it (clause 7.5 and regulation 152(3)).

87. The Rulings Panel may meet separately or jointly with the parties, and may require parties to exchange submissions, documents, and information (clause 7.6 and regulation 153).

88. The Rulings Panel must complete the dispute resolution process as soon as practicable (clause 7.7 and regulation 155).

Determinations

89. The Rulings Panel may make any determination or award in respect of a dispute that the Rulings Panel determines is just and reasonable in the circumstances (clause 7.8 and regulation 156).

90. Each party to a dispute is responsible for its own costs and legal expenses. The parties must share equally all other costs and expenses unless an allocation is made by the Rulings Panel (clause 7.10 and regulation 159).

91. The Rulings Panel must report to the Commission if the Rulings Panel finds, during the course of any dispute resolution process, that there has been a breach of the Regulations or the rules (clause 7.9 and regulation 157).

92. 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 Rules, that finding or agreement creates an obligation to pay the amount agreed or determined. That amount is a debt due by the participant and is recoverable as such in court, and bears interest at the prescribed rate (regulation 158).

## **Part 8 of the Procedures – Disputes under the Connection of Distributed Generation Regulations**

93. Generators and distributors that are unable to resolve a dispute relating to an allegation that a party has breached the regulated terms in schedule 2 of the Connection of

Distributed Generation Regulations, or any other provisions of those Regulations, may refer the complaint to the Commission (clause 8.1 and regulation 11 and clauses 2 and 3 of schedule 3 of the Connection of Distributed Generation Regulations).

94. Notice of a complaint must be treated as notification of a formal complaint under the Regulations and may be referred to the Rulings Panel (clause 8.2 and clauses 2 and 3 of schedule 3 of the Connection of Distributed Generation Regulations).
95. Subject to some exceptions, Part 2 of the Procedures applies to complaints referred to the Rulings Panel in the same way as those provisions apply to an alleged Regulation or Rule breach, with any modifications the Rulings Panel considers necessary or desirable (clause 8.2 and clause 3 of schedule 3 of the Connection of Distributed Generation Regulations).
96. The Rulings Panel must apply the pricing principles in schedule 4 of the Connection of Distributed Generation Regulations if necessary to resolve a dispute (clause 8.3 and clause 4 of schedule 3 of the Connection of Distributed Generation Regulations).

### **Part 9 of the Procedures – Complaints of breach of the Security of Supply Regulations**

97. Part 2 of the Procedures applies to complaints that a participant has breached the Security of Supply Regulations referred to the Rulings Panel in the same way as those provisions apply to an alleged Regulation or Rule breach, with any modifications the Rulings Panel considers necessary or desirable (clause 9.2 and regulation 16 of the Security of Supply Regulations).

# ELECTRICITY RULINGS PANEL PROCEDURES 2009

Pursuant to the Electricity Governance Regulations 2003 and a resolution of the Rulings Panel established by regulation 160 of those Regulations, the procedures for matters before the Rulings Panel are set out below.

***NOTE: These Procedures include procedural provisions prescribed by the Electricity Act 1992, the Electricity Governance Regulations 2003, the Electricity Governance (Connection of Distributed) Regulations 2007, the Electricity Governance (Security of Supply) Regulations 2008 and the Electricity Governance Rules. These prescribed provisions are indicated by a note underneath them referring to the relevant provision of the Act, Regulations, or Rules.***

***If any of these prescribed provisions are changed in the future, the Rulings Panel will similarly change these Procedures. Where there is no note under a subclause of these Procedures, the subclause has been prescribed by the Rulings Panel under regulations 96, 151 and 171A.***

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# 1. Part 1

## General Provisions

### 1.1 Title

These Procedures are the Electricity Rulings Panel Procedures 2009.

### 1.2 Commencement

- (1) These Procedures come into force on 8 July 2009.
- (2) These Procedures replace the Electricity Rulings Panel Procedures 2005, which are revoked.

### 1.3 Application of this Part

Unless otherwise indicated, this Part applies to the performance of the Rulings Panel's functions set out in Parts 2 to 9 of these Procedures.

### 1.4 Interpretation

- (1) In these Procedures, unless the context otherwise requires,—

*Act* means the Electricity Act 1992

*clause* means one of the clauses of these Procedures, and subclause means a subclause of such a clause

*Commission* means the Electricity Commission continued under section 172M of the Act

*Connection of Distributed Generation Regulations* means the Electricity Governance (Connection of Distributed Generation) Regulations 2007

*Regulations* means the Electricity Governance Regulations 2003, and *regulation* means one of those regulations, unless otherwise stated

*Rules* means the Electricity Governance Rules notified in the *New Zealand Gazette* on 18 December 2003

*Security of Supply Regulations* means the Electricity Governance (Security of Supply) Regulations 2008

- (2) Any term that—

- (a) is defined in the Rules and used, but not defined, in these Procedures has the same meaning as in the Rules:
- (b) is defined in the Regulations and used in these Procedures, but not defined in these Procedures or the Rules, has the same meaning as in the Regulations or the Connection of Distributed Generation Regulations or the Security of Supply Regulations as applicable:
- (c) is defined in the Act and used in these Procedures, but not defined in these Procedures or the Rules or the Regulations, has the same meaning as in the Act:

- (d) is defined in the Interpretation Act 1999 and used in these Procedures, but not defined in these Procedures or the Rules or the Regulations or the Act, has the same meaning as in the Interpretation Act 1999.
- (3) In the event of any conflict between these Procedures and the Act, Regulations, Connection of Distributed Generation Regulations, Connection of Distributed Generation Regulations, Security of Supply Regulations, Security of Supply Regulations or Rules (as the case may be), the Act, Regulations, Connection of Distributed Generation Regulations, Security of Supply Regulations, or Rules prevail.

### *Application of Procedures in particular cases*

#### **1.5 Rulings Panel may vary these Procedures**

- (1) Subject to subclause (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.
- (2) The Rulings Panel must publicise any variation of these Procedures under subclause (1) and the reasons for the variation.
- (3) The Rulings Panel may not vary any provision of these Procedures that is a restatement of part of the Act, the Regulations, the Connection of Distributed Generation Regulations, the Security of Supply Regulations or the Rules.

#### **1.6 Procedural directions**

The Rulings Panel may, at any time, give directions to the parties to a particular case as to the procedures, or any part of the procedures, to be followed in that case, but no such direction may be inconsistent with these Procedures (or these Procedures as varied in accordance with clause 1.4 in respect of that case) or with the requirements of natural justice.

#### **1.7 Directions conferences**

- (1) The Rulings Panel may, at any time, hold a conference of such persons as it thinks fit to determine variations of these Procedures to be made under clause 1.5 or directions to be given under clause 1.6.
- (2) A conference under subclause (1) may be held by meeting or by video or telephone conference, and the procedure for such a conference shall be determined by the Rulings Panel.

### *Hearings*

#### **1.8 Decision on whether hearing to be held**

- (1) The Rulings Panel must set a matter that is being considered by the Rulings Panel down for a hearing—
  - (a) if the Rulings Panel considers that it is appropriate for the Commission or any participant to be given an opportunity to be heard; or
  - (b) if any participant or the Commission requests a hearing in respect of the matter.

*Note: See regulation 97(1)*

- (2) Hearings must be held as soon as practicable.

*Note: See regulation 97(2A)*

- (3) This clause does not apply in respect of a dispute to which Part 7 of these Procedures applies.

### **1.9 Decisions without hearings**

If a matter 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.

*Note: See regulation 97(3)*

### **1.10 Hearing to be in public unless Rulings Panel otherwise directs**

- (1) Hearings must be in public, unless the Rulings Panel directs otherwise.

*Note: See regulation 97(2)*

- (2) If the Rulings Panel considers that a hearing should be private—
  - (a) it must notify all registered participants and the Commission of its decision and the grounds for that decision; and
  - (b) if a participant or the Commission 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 of receiving the notification referred to in paragraph (a); and
  - (c) the Rulings Panel must consider the submission and then notify all registered participants and the Commission of its decision and the grounds for that decision.

*Note: See regulation 99*

- (3) This clause does not apply in respect of a dispute to which Part 7 of these Procedures applies.

### **1.11 Rights of persons entitled to be heard**

- (1) Subject to clauses 1.8(1), 1.9, 1.10(1) and (2), and 2.3(1) and (2), any person that is entitled to be heard at any hearing of the Rulings Panel under Part 2 of these Procedures—
  - (a) is entitled to be represented; and
  - (b) must be given a reasonable opportunity to make written and oral representations; and
  - (c) is entitled to call witnesses and to cross-examine any witness called against it; and
  - (d) is entitled to make a plea to the Rulings Panel in mitigation of penalties; and
  - (e) is entitled to have any other person present to give evidence.

*Note: See regulation 102*

- (2) Subclause (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 Parts 3 to 6 of these Procedures, except to the extent that the Rulings Panel directs otherwise.
- (3) Subclause (1) does not apply in respect of a dispute to which Part 7 applies.
- (4) Any party to a dispute under Part 7 may be represented before the Rulings Panel by legal counsel if it wishes.

*Note: See regulation 154*

#### **1.12 Admissible evidence**

- (1) Subject to subclause (3), the Rulings Panel may, in carrying out any hearing or any resolution of any dispute under Part 7 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 152(1)*

- (2) Subject to subclause (3), the Rulings Panel, in considering any dispute, appeal, or other matter to which subclause (1) does not apply, 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 matter.

*Note: See regulation 101*

- (3) A person 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 that person. However, a self-incriminating statement or document made or given may not be used against the person in any proceedings before the Rulings Panel, except for information provided under any self-reporting obligation under the Regulations.

*Note: See section 172KC of the Act and regulations 101(2) and 152(2)*

#### **1.13 Rulings Panel may adjourn hearing or consideration of a matter**

- (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.
- (2) The Rulings Panel must give notice of an adjournment under subclause (1) to all persons entitled to be heard at the hearing as it thinks fit.

### *Miscellaneous*

#### **1.14 Rulings Panel to keep information confidential**

- (1) The Rulings Panel must keep confidential all information provided or disclosed to it under the Regulations or Rules except to the extent the disclosure-
  - (a) is required to enable the Rulings Panel to carry out its obligations and duties under the Regulations or Rules; or
  - (b) is otherwise compelled by a law other than the Regulations or Rules.

- (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 170 and 170A of the Regulations, which relate to the disclosure of member interests.

*Note: See regulation 178*

### **1.15 Rulings Panel may prohibit publication of information**

- (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 Rules; or
  - (b) in connection with any notification, investigation, report, or procedure under Part 4 or Part 5 of the Regulations.

*Note: See regulation 179(1)*

- (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 Rules; and
  - (c) whether the publication or communication is compelled by a law other than the Regulations or the Rules; and
  - (d) the rules of natural justice.

*Note: See regulation 179(2)*

- (3) The Rulings Panel may make the prohibition—
  - (a) on the application of any participant or the Commission or on its own application; but
  - (b) only after notifying each 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 participant may make known to the Rulings Panel within the time specified by the Rulings Panel.

*Note: See regulation 179(3)*

### **1.16 Draft decision by Rulings Panel**

- (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.

- (2) Any person to whom a copy of a draft decision, determination, order, penalty, or award is given under subclause (1) may comment in writing on the draft to the Rulings Panel within a period specified by the Rulings Panel for this purpose.
- (3) The Rulings Panel may give a copy of any comments it receives on the draft decision, determination, order, penalty, or award to such persons as it thinks fit.
- (4) The Rulings Panel may, if it thinks fit, give the persons to whom a copy of the comments is given under subclause (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.

### **1.17 Rulings Panel may seek advice**

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

*Note: See regulation 104*

## **2. Part 2**

### **Complaints of breach of Regulations or Rules**

#### **2.1 Application of this Part**

This Part applies to formal complaints of breaches of the Regulations or Rules laid under regulation 93 or 94.

#### **2.2 Notification of complaint**

- (1) Subject to subclause (2), on receiving a complaint under regulation 93(2) or 94(2), the Rulings Panel must—
  - (a) set a date for considering the formal complaint; and
  - (b) give to the notifying participant, the complainant, the Commission, the participant allegedly in breach, and any party that has joined under regulation 75 at least 20 working days written notice of the place, date, and time at which the Rulings Panel will consider the formal complaint.

*Note: See regulations 95(1) and 95(2)*

- (2) Regulation 75, which provides that affected parties may join as parties to an investigation, does not apply to complaints that relate to disputes under the Connection of Distributed Generation Regulations referred to the Rulings Panel in accordance with Part 8 of these Procedures.

*Note: See clause 3(2) of schedule 3 of the Connection of Distributed Generation Regulations*

- (3) On receiving a complaint under regulation 93(2) or 94(2), 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 1.8 and 1.10.

*Note: See regulations 97 and 99*

- (4) The Rulings Panel may, at any time, alter any decision made by it under subclause (1) or (2), and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

### **2.3 Pre-consideration statements and materials**

- (1) If a formal complaint is set down for a hearing, the Rulings Panel must ensure that each of the persons referred to in clause 2.2(1)(b) has been provided with—
  - (a) a statement of the matter under consideration; and
  - (b) a copy of all relevant material collected or prepared during the course of the investigation of the matter up to the time the statement is provided.

*Note: See regulation 98(1)*

- (2) The Rulings Panel must comply with subclause (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 98(2)*

- (3) If a formal complaint is not set down for a hearing, subclauses (1) and (2) apply as if references in subclause (2) to a hearing were references to the date on which the Rulings Panel considers the formal complaint.

### **2.4 Hearings**

- (1) Each of the persons referred to in clause 2.2(1)(b), is entitled to be heard at a hearing of a formal complaint.

*Note: See regulation 95(2)*

- (2) Clauses 1.8 to 1.13 of these Procedures apply to hearings of formal complaints.

### **2.5 Submissions and evidence**

- (1) Each of the persons referred to in clause 2.2(1)(b) 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 95(2)*

- (2) Any person who provides written submissions and evidence under subclause (1) must give copies of those submissions and evidence to each of the other persons referred to in clause 2.2(1)(b) 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).
- (3) Any person referred to in clause 2.2(1)(b) may respond to a submission or evidence provided under that subclause by giving written notice of its response to each of the other persons referred to in that subclause 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 formal complaint).

## **2.6 Rulings Panel may request further information**

- (1) The Rulings Panel may request the 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 action to take under section 172KE of the Act.
- (2) The Rulings Panel may make the request of its own initiative or following an application by any person referred to in clause 2.2(1)(b).
- (3) Participants must provide any information reasonably requested by the investigator pursuant to a request from the Rulings Panel under this clause. A person 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 that person. However, a self-incriminating statement or document made or given may not be used against the person in any proceedings before the Rulings Panel, except for information provided under any self-reporting obligation under the Regulations.

*Note: See section 172KC of the Act and regulation 103*

## **2.7 Timing of decision**

The Rulings Panel must use reasonable endeavours to make its final decision on each matter under its consideration within 40 working days of the date that it has received all written and oral submissions on the matter.

*Note: See regulation 134(1)*

## **2.8 Decision of Rulings Panel**

- (1) The Rulings Panel must give its final decision, in writing and together with the reasons for the decision, to the persons referred to in clause 2.2(1)(b).

*Note: See regulation 134(2)*

- (2) The Rulings Panel must notify the decision to the Commission as soon as practicable after it has made a final decision.

*Note: See regulation 134(3)*

- (3) The Commission must publicise the terms of every decision made by the Rulings Panel, together with the reasons for the Rulings Panel's decision, within 10 working days of receiving the decision from the Rulings Panel. However, the Commission must not publicise any part, or all, of any particular decision if the Rulings Panel advises the Commission that there are special circumstances that justify the non-publication.

*Note: See regulation 135*

## **2.9 Orders and penalties**

- (1) The Rulings Panel may make any order specified in section 172KE(1) in relation to a complaint or matter referred to it under clause 2.2.

- (2) If the Rulings Panel is considering requiring a participant to pay a civil pecuniary penalty under section 172KE(1)(e) of the Act, the Rulings Panel must, subject to subclauses (3), (4), and (5) and Part 6 of the Regulations:
  - (a) seek to order payment of a civil pecuniary penalty that is commensurate with the seriousness of the breach; and
  - (b) have regard to the matters specified in regulation 109(3).

*Note: See regulation 109*

- (3) In making any decision under subclause (1), the Rulings Panel must take into account its previous decisions in respect of any similar situations previously dealt with by the Commission or the Rulings Panel.

*Note: See section 172KE(2) of the Act and regulation 109(4)*

- (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 the provision of metering information.

*Note: See regulation 110*

- (5) Regulations 111 to 132 apply to decisions of the Rulings Panel, except any decisions relating to disputes under the Connection of Distributed Generation Regulations that are referred to the Rulings Panel under Part 8 of these Procedures.

## **2.10 Submissions on orders or penalties**

- (1) Any person referred to in clause 2.2(1)(b) may make written submissions to the Rulings Panel on the subject of any penalty or order that the Rulings Panel may make in relation to that matter.

*Note: See regulation 105(1)*

- (2) Any submission under subclause (1) must be made by the date set by the Rulings Panel as the closing date for submissions.

*Note: See regulation 105(2)*

- (3) The Rulings Panel may, if it thinks fit, hold a hearing in relation to any penalty or order, and any person who has made a submission on that penalty or order under subclause (1) must be given a reasonable opportunity to make oral representations at that hearing.

## **2.11 Decision of Rulings Panel on orders or penalties**

The Rulings Panel must as soon as practicable give its decision on any penalty or order, in writing, to the persons referred to in clause 2.2(1)(b).

# **3. Part 3**

## **Appeals against system operator decisions in relation to dispensations, equivalence arrangements, or alternative ancillary service arrangements**

### **3.1 Application of this Part**

This Part applies to decisions of the system operator in relation to:

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

### **3.2 Right of appeal**

- (1) Any participant can appeal any decision to which clause 3.1(a) 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 dispensation or equivalence arrangement are unjustifiably onerous, unnecessary or impose extra costs where appropriate alternatives exist.

*Note: See rules 8.4.1.1 and 8.4.1.3 of section III of part C*

- (2) Any applicant can appeal any decision to which clause 3.1(b) applies.

*Note: See rule 9.8.1 of section IV of part C*

- (3) Any participant can appeal any decision to which clause 3.1(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 where appropriate alternatives exist.

*Note: See rules 9.8.2 and 9.8.4 of section IV of part C*

### **3.3 Notice of appeal**

- (1) Every appeal under clause 3.2 shall be made to the Rulings Panel by giving written notice to the Commission specifying the grounds of appeal.
- (2) Every such notice must be given within 10 business days of publication of the relevant decision in the system operator register under rule 8 of schedule C1 or rule 1.6 of schedule C2, as the case may be.

*Note: See rule 8.4.1.2 of section III of part C and rule 9.8.3 of section IV of part C*

### **3.4 Appeal must be publicised and affected parties may join as parties to appeal**

- (1) As soon as practicable after receiving a notice under clause 3.3, the Commission must send a copy of the notice to the Rulings Panel and the system operator and publicise the appeal.
- (2) Within 10 business days after the Commission publicises the appeal under subclause (1), any participant may become a party to the appeal by notifying 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.

### **3.5 Notification by Rulings Panel**

- (1) On receiving a notice of appeal under clause 3.3, 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 1.8 and 1.10; and
  - (c) give to the appellant, the system operator, any participant that has become a party to the appeal under clause 3.4, and the Commission 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.
- (2) The Rulings Panel may, at any time, alter any decision made by it under subclause (1), and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

### **3.6 Submissions and evidence**

- (1) Each of the persons referred to in clause 3.5(1)(c) is entitled to provide written submissions and evidence on an appeal.
- (2) Any person who provides written submissions and evidence under subclause (1) must give copies of those submissions and evidence to each of the other persons referred to in clause 3.5(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).

### **3.7 Responses to submissions**

Any person referred to in clause 3.5(1)(c) may respond to a submission or evidence provided under clause 3.6 by giving written notice of its response to each of the other persons referred to in clause 3.5(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).

### **3.8 Hearings**

- (1) Each of the persons referred to in clause 3.5(1)(c) is entitled to be heard at a hearing of an appeal.
- (2) Clauses 1.8 to 1.13 of these Procedures apply to appeal hearings under this Part.

### **3.9 Timing of decision**

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.

### **3.10 Decision of Rulings Panel**

The Rulings Panel, in determining any appeal, shall either 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 rule 8.4.1.4 of section III of part C and rule 9.8.5 of section IV of part C*

### **3.11 Status of decisions pending any appeal**

Pending the outcome of any 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, will be valid and may be acted upon by the relevant asset owner.

*Note: See rule 8.4.2 of section III of part C and rule 9.8.6 of section IV of part C*

## **4. Part 4**

### **Disputes arising from the negotiation of transmission agreements**

#### **4.1 Disputes may be referred to Rulings Panel**

- (1) Except as provided in subclause (2), if a dispute between Transpower and a designated transmission customer concerning:
  - (a) the customer specific terms of a transmission agreement being negotiated between the parties; or
  - (b) a requested variation of any of the terms of a default transmission agreement (other than a variation under rule 3.1.5 of section II of part F of the Rules) that applies between Transpower and a designated transmission customer;
  - (c) the schedules proposed by Transpower under sub-paragraphs (5) to (8) of rule 3.1.3.2(b) of section II of part F of the Rules for a default transmission agreement;
  - (d) any revision to clause 37 or Schedule 4 or Schedule 5 of a default transmission agreement proposed by Transpower under rules 3.1.5 or 3.1.7 of section II of part F of the Rules; or
  - (e) the schedules proposed by Transpower under sub-paragraphs (e) to (h) of rule 3.1.6.2 of section II of part F of the Rules on the expiry or termination of a transmission agreement;

is not resolved within a reasonable time, either party may refer the matter to the Rulings Panel for determination.

*Note: See rule 6.1 of section II of part F*

- (2) The Rulings Panel must not determine disputes relating to the interpretation or enforcement of any transmission agreement including a benchmark agreement.

*Note: See rule 6.3.2 of section II of part F*

- (3) A party may refer a dispute to the Rulings Panel under subclause (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.

#### **4.2 Dispute must be publicised and designated transmission customers may join as parties to a dispute**

- (1) As soon as practicable after receiving a notice under clause 4.1(3), the Rulings Panel must request the Commission to publicise the dispute, unless the Rulings Panel has decided under clause 4.7 not to undertake the determination of the dispute.
- (2) Within 10 business days after the Commission publicises the dispute under subclause (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.

#### **4.3 Notification by Rulings Panel**

- (1) On receiving a notice under clause 4.1(3), the Rulings Panel must, unless it has decided under clause 4.7 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 Commission 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.
- (2) The Rulings Panel may at any time alter any decision made by it under subclause (1), and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

#### **4.4 Submissions and evidence**

- (1) Each of the persons referred to in clause 4.3(1)(c) is entitled to provide written submissions and evidence on the dispute.
- (2) Any person who provides written submissions and evidence under subclause (1) must give copies of those submissions and evidence to each of the other persons referred to in clause 4.3(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).

#### **4.5 Responses to submissions and evidence**

Any person referred to in clause 4.3(1)(c) may respond to a submission or evidence provided under clause 4.4 by giving written notice of its response to each of the other persons referred to in clause 4.3(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).

#### **4.6 Hearings**

- (1) Each of the persons referred to in clause 4.3(1)(c) is entitled to be heard at a hearing of the dispute.
- (2) Clauses 1.8 to 1.13 of these Procedures apply to dispute hearings under this Part.

#### **4.7 Rulings Panel has discretion to determine dispute**

- (1) The Rulings Panel may, in its discretion, decide whether or not to undertake the determination of a dispute referred to it under clause 4.1.

*Note: See rule 6.2.1 of section II of part F*

- (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 rule 6.2.2 of section II of part F*

#### **4.8 Determinations by Rulings Panel**

In determining a dispute referred to it under clause 4.1, the Rulings Panel must take into account—

- (a) the principles for benchmark agreements in rule 4.2 of section II of part F; and
- (b) the desirability of consistent treatment of designated transmission customers except where special circumstances justify a departure; and
- (c) the potential impact of any decision on the contents of other transmission agreements or existing agreements as described in rule 8 of section II of part F.

*Note: See rule 6.3.1 of section II of part F*

#### **4.9 Rulings Panel to give written notice of determinations**

- (1) The Rulings Panel must give notice to the parties of its determination, as soon as reasonably practicable.

*Note: See rule 6.4 of section II of part F*

- (2) The Rulings Panel must give notice of its determination to any designated transmission customer that has become a party to the dispute under clause 4.2, as soon as reasonably practicable.

#### **4.10 Status of default transmission agreement while Rulings Panel determining dispute**

Nothing in this Part overrides the application of a benchmark agreement as a default transmission agreement under rule 3.1 of section II of part F pending a determination of the Rulings Panel.

*Note: See rule 6.5 of section II of part F*

### **5. Part 5**

#### **Prudential requirements and invoice disputes**

##### **5.1 Application of this Part**

This Part applies to decisions of the clearing manager made under rules 2 to 4 of part H, and disputes between payers or payees and the clearing manager under rule 10.5 of part H.

## 5.2 Disputes referred to Rulings Panel

- (1) If any participant disputes a decision made under rules 2 to 4 of part H, it may refer the matter to the Rulings Panel.

*Note: See rule 5.1 of part H*

- (2) The participant must, within 10 business days of being advised of the decision, give a written notice to the Rulings Panel, the Commission, and the clearing manager that specifies the disputed decision and the participant's reasons for disputing it.
- (3) If any dispute between a payee or a payer and the clearing manager concerning any invoice issued pursuant to rules 7.1, 7.3 and 8.1 is not resolved within 15 business days of the date that the dispute was first notified to the clearing manager, the clearing manager will refer the matter to the Rulings Panel.

*Note: See rule 10.5 of part H*

## 5.3 Notification by Rulings Panel

- (1) On receiving a notice under clause 5.2, 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 Commission, 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.
- (2) The Rulings Panel may, at any time, alter any decision made by it under subclause (1), and this clause applies to the altered decision to the same extent as if the altered decision were the original decision.

## 5.4 Submissions and evidence

- (1) Each of the persons referred to in clause 5.3(1)(c) is entitled to provide written submissions and evidence on the dispute.
- (2) Any person who provides written submissions and evidence under subclause (1) must give copies of those submissions and evidence to each of the other persons referred to in clause 5.3(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).

## 5.5 Responses to submissions and evidence

Any person referred to in clause 5.3(1)(c) may respond to a submission or evidence provided under clause 5.4 by giving written notice of its response to each of the other persons referred to in clause 5.3(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).

## 5.6 Hearings

- (1) Each of the persons referred to in clause 5.3(1)(c) may be heard at a hearing of a dispute.
- (2) Clauses 1.8 to 1.13 of these Procedures apply to dispute hearings under this Part.

### **5.7 Payers to comply with clearing manager's decision**

Until such time as the Rulings Panel makes a decision on a dispute regarding prudential requirements, all payers will comply with the decisions of the clearing manager.

*Note: See rule 5.2 of part H*

### **5.8 Rulings Panel to make own decision on disputes regarding prudential requirements**

- (1) Where any dispute is referred to it under clause 5.2(1), the Rulings Panel will, after hearing from the participant that disputed the clearing manager's decision and from the clearing manager, make its own decision in accordance with rules 2 to 4 of part H.

*Note: See rule 5.3 of part H*

- (2) The Rulings Panel must make its decision under subclause (1) as soon as practicable.

### **5.9 Invoice dispute decisions**

- (1) The Rulings Panel must make a determination on a dispute referred to it under clause 5.2(3), and must give written notice of its determination to the parties.
- (2) The Rulings Panel must use reasonable endeavours to make a final determination on any invoice dispute as soon as practicable.

## **6. Part 6**

### **Information disclosure appeals**

#### **6.1 Application of this Part**

This Part applies to refusals by participants to supply rulebook information under Subpart 2 of Part 1 of the Regulations.

#### **6.2 Right of appeal**

- (1) A requesting participant who is notified under regulation 28 that another participant refuses to supply any rulebook information may appeal that refusal by notice of appeal to the Rulings Panel.

*Note: See regulation 29*

- (2) The notice under subclause (1) must specify the rulebook information requested and the reasons given by the refusing participant for refusing to supply the information (if any).

- (3) The requesting participant must, within 10 working days of being advised of the refusal, give a copy of the notice under subclause (1) to the refusing participant and the Commission.

### **6.3 Notification by Rulings Panel**

- (1) On receiving a notice under clause 6.2, 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 and whether to make that hearing private, in accordance with clauses 1.8 and 1.10; and
  - (c) give to the requesting participant, the refusing participant, and the Commission 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.
- (2) The Rulings Panel may at any time alter any decision made by it under subclause (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**

- (1) Each of the persons referred to in clause 6.3(1)(c) is entitled to provide written submissions and evidence on the refusal.
- (2) Any person who provides written submissions and evidence under subclause (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 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).

### **6.5 Responses to submissions**

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 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).

### **6.6 Hearings**

- (1) Each of the persons referred to in clause 6.3(1)(c) is entitled to be heard at a hearing of an appeal.
- (2) Clauses 1.8 to 1.13 of these Procedures apply to information disclosure appeals under this Part.

### **6.7 Decision of Rulings Panel**

- (1) The Rulings Panel must decide whether the refusal by the Participant to supply the rulebook information was consistent with regulations 20 and 21.

- (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 6.3(1)(c).

## **7. Part 7**

### **Reconciliation and ancillary services disputes**

#### **7.1 Application of this Part**

This Part applies to:

- (a) a dispute in relation to reconciliation under rule 12 of part J of the Rules:
- (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 147*

#### **7.2 Parties may apply to Rulings Panel to resolve dispute**

- (1) The parties to a dispute to which this Part applies may, by agreement, apply to the Rulings Panel to determine a dispute for them.

*Note: See regulation 148(1)*

- (2) 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 148(2)*

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

*Note: See regulation 148(3)*

- (4) The Rulings Panel must give written notice to the parties of the decision as soon as practicable.

*Note: See regulation 148(4)*

#### **7.3 Selection of process**

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 149*

#### **7.4 Rulings Panel must notify when dispute resolution will take place**

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 7.3.

*Note: See regulation 150*

#### **7.5 Rulings Panel may do what is necessary to resolve dispute**

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 152(3)*

## **7.6 Meetings and documents**

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

*Note: See regulation 153(1)*

- (2) The Rulings Panel may require parties to exchange submissions, documents, and information.

*Note: See regulation 153(2)*

## **7.7 Completion of process**

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

*Note: See regulation 155*

## **7.8 Determinations Rulings Panel may make**

The Rulings Panel may make any determination or award in respect of a dispute that the Rulings Panel determines is just and reasonable in the circumstances, including—

- (a) a direction 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 156*

## **7.9 Breaches to be referred to Commission**

The Rulings Panel must report to the Commission if the Rulings Panel finds, during the course of any dispute resolution process, that there has been a breach of the Regulations or the Rules.

*Note: See regulation 157*

## **7.10 Costs**

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

*Note: See regulation 159(1)*

- (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 subclause (3).

*Note: See regulation 159(2)*

- (3) The Rulings Panel may allocate the costs referred to in subclause (2) for payment by 1 or more parties as the Rulings Panel determines is just and reasonable.

*Note: See regulation 159(3)*

- (4) Before making an allocation of costs under subclause (3) the Rulings Panel may request written or oral submissions on the matter from such persons as it thinks fit.

## **8. Part 8**

### **Disputes under the Connection of Distributed Generation Regulations**

#### **8.1 Application of this Part**

- (1) Subject to subclauses (2) and (3), this Part applies to:
  - (a) disputes between generators and distributors arising from an allegation that a party has breached any of the regulated terms set out in schedule 2 of the Connection of Distributed Generation Regulations;
  - (b) any other disputes between distributors and generators about an alleged breach of the Connection of Distributed Generation Regulations.

*Note: See regulation 11(1) of the Connection of Distributed Generation Regulations*

- (2) For the avoidance of doubt, disputes between generators and distributors described in subclause (1) include disputes about—
  - (a) the conditions specified by a distributor under clause 18 of schedule 1 of the Connection of Distributed Generation Regulations; and
  - (b) whether a party is attempting to negotiate in good faith under clause 6 or 21 of schedule 1 of the Connection of Distributed Generation Regulations.

*Note: See clause 1(2) of schedule 3 of the Connection of Distributed Generation Regulations*

- (3) This Part does not apply to disputes between a generator and distributor—
  - (a) arising from an allegation that a party has breach any of the terms of a connection contract entered into outside the regulated terms;
  - (b) arising from an allegation that a party has breached any of the extra terms referred to in clause 10(1) of the Connection of Distributed Generation Regulations; or
  - (c) that the generator and distributor had agreed should be determined by any other agreed method.

*Note: See regulation 11(2) of the Connection of Distributed Generation Regulations*

#### **8.2 Complaint of disputes to be treated as complaints under Part 2 of these Procedures**

- (1) If a generator and distributor are unable to resolve a dispute to which this Part applies with each other, either party may complain in writing to the Commission. Such a complaint must be treated as if it were notification of a breach of the Regulations or Rules, and may be referred to the Rulings Panel as a formal complaint under regulation 93(2) or 94(2) as set out in Part 2 of these Procedures.

*Note: See clauses 2(3), 3(1) and 3(2) of schedule 3 of the Connection of Distributed Generation Regulations*

- (2) Subject to subclause (4), Part 2 of these Procedures applies to disputes to which this Part applies that are the subject of a complaint that is received by the Rulings Panel, in the same way as those provisions apply to a notification of an alleged breach of the Regulations or Rules, and as if references to a participant in those provisions were references to a party under the Connection of Distributed Generation Regulations.

*Note: See clauses 3(3)(a) and (b) of schedule 3 of the Connection of Distributed Generation Regulations*

- (3) The Rulings Panel may make any further modifications to the procedures in Part 2 that are necessary or desirable for the purpose of applying those procedures to the complaint.

*Note: See clauses 3(3)(c) of schedule 3 of the Connection of Distributed Generation Regulations*

- (4) The following provisions of Part 2 do not apply to complaints referred to Rulings Panel under this Part:

- (a) the reference to any party that has been joined to the complaint under regulation 75 in clause 2.2(1)(b):
- (b) clause 2.9(3), which provides that regulations 110 to 132 apply to any decision of the Rulings Panel.

*Note: See clause 3(2) of schedule 3 of the Connection of Distributed Generation Regulations*

### **8.3 Application of pricing principles to disputes**

- (1) In resolving complaints of disputes to which this Part applies, the Rulings Panel must apply the pricing principles set out in schedule 4 of the Connection of Distributed Generation Regulations to determine any connection charges payable.

*Note: See clause 4(1) of schedule 3 of the Connection of Distributed Generation Regulations*

- (2) Subclause (1) applies to all disputes under the connection of Distributed Generation Regulations that the Rulings Panel considers is necessary or desirable to apply subclause (1) to resolve the dispute.

*Note: See clause 4(2) of schedule 3 of the Connection of Distributed Generation Regulations*

### **8.4 Orders the Rulings Panel can make**

For the avoidance of doubt, 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 172KE of the Act.

*Note: See clause 5 of schedule 3 of the Connection of Distributed Generation Regulations*

## **9. Part 9**

### **Complaint of breach of Security of Supply Regulations**

#### **9.1 Application of this Part**

This Part applies to any alleged breach of the Security of Supply Regulations by a participant, except an alleged breach of regulation 15 of those regulations.

*Note: See regulations 14, 15 and 16 of the Security of Supply Regulations*

#### **9.2 Complaint of breach of Security of Supply Regulations to be treated as a complaint under Part 2 of these Procedures**

- (1) Part 2 of these Procedures applies to the complaints that are received by the Rulings Panel, in the same way as those provisions apply to a notification of an alleged breach of the Regulations or Rules.
- (2) The provisions of Part 2 of these Procedures apply as if references in those provisions to an alleged breach of the Regulations were references to an alleged breach of the Security of Supply Regulations, and with all necessary modifications.

*Note: See regulation 16 of the Security of Supply Regulations*