

Terms of Reference of the Code of practice D5 Review Panel v2¹

1. Background

The COP D5 Review Panel (Panel) has been established in accordance with the Electricity Governance Rules 2003 (Rules).

2. Terms of Reference

The role of the Panel is to undertake tasks under the Rules as follows:

Code of Practice D3

- a. Work in Progress (WIP) – (Rule 7.4 of code of practice D3 of schedule D1 of part D)

When a metering installation is inspected by a test house for the purpose of a change of retailer, and the meter is found to be non-compliant and it is not practicable to remedy the defects immediately, the test house can issue the winning retailer with a 3 month WIP certificate which gives the retailer three months to have the meter fixed and certified. A copy of the WIP certificate must be provided to the market administrator².

The Electricity Commission (Commission) may pass the WIP certificate to the Panel.

The Panel should:

- Record the WIP certificate and details in the meter database.
- Prepare a letter for Commission signoff to the test house asking that they provide copies of meter certificates to the Panel confirming that full certification has taken place within the three months.
- If either inadequate or no certification is received within 3 months, and no suitable explanation is provided to the Panel, notify a potential breach to the Commission.

¹ These terms of reference was agreed by the Commission Board during its meeting of 24/25/26 October 2006 and supersedes the previous 6 September 2004 terms of reference.

² The 'Market Administrator' role is the responsibility of the Electricity Commission, but may be contracted out to a service provider.

- b. Departure from Requirements (rule 4.3 of code of practice D3 of schedule D1 of part D)

Test houses can certify metering installations despite any variance against any engineering requirements in the Rules. Information about such certification must be provided to the market administrator for audit, and for follow up and publishing where the market administrator has concerns or considers they may be useful as a case study. The Commission will pass these departure notices to the Panel. The Panel should:

- *Audit the departure;*
- *Record the departure in the meter database;*
- *Establish if it is appropriate for the Commission to publish it as a case study; and/or*
- *If the Panel has concerns that acceptance of the variance from requirements was inappropriate it may recommend further action, including recommending that the Commission reverse the decision by the approved test house.*

Code of Practice D5

- c. Variation of Requirements - Consumer Metering installations (rule 2.1 of code of practice D5 of part D).

Variations to an existing metering installation can be agreed between the consumer, distributor, and retailers involved in a consumer's metering installation, but copies of the agreement must be provided to all affected parties and the Board. The Commission will pass these to the Panel.

The Panel should:

- Consider agreements to vary consumer metering installations that have been provided to the Board as per rule 2.1 of code of practice D5 including ensuring that agreements to vary consumer metering installations are consistent with rules 2.1.1 to 2.1.3 of code of practice D5;
- Record variation in the meter database
- Prepare a letter for Commission signoff to the responsible party asking that they provide confirmation when the variation is no longer necessary, or that the party notifies the Panel if the agreement is terminated by the party prior to the previously agreed expiry date (as provided for in rule 5.1 of code of practice D5); and
- If no confirmation is received before the variation has expired, or no suitable explanation is provided to the Panel, notify a potential breach to the Commission.
- Non-compliant meter or data loggers - under rule 2.1.3 the Panel can consider approving applications where the meter or data logger does not comply fully with the requirements of COPD3 or COPD4.

d. Variation of Requirements - Point of connection and generator metering installations (rules 2.2 and 3 of code of practice D5 of part D).

This is the rule under which the Panel is established. This rule requires that where a variation to a metering installation is required at a grid exit point or generator metering installation, an applicant must apply to the Panel for that variation.

The Panel must:

- Ensure applications for variations to grid exit points and generator metering installations are consistent with rules 2.2.1 and 2.2.3 of code of practice D5;
- Consider any objections to any application as per rule 2.2.5 of code of practice D5;
- Specify a date from which the variation will take effect as per rule 3 of code of practice D5;
- Ensure that all applications are considered and notified within 20 business days of being received by the Panel;
- Provide a notice to the Commission for publishing on the Commission's website in order to advise all other participants of the Panel's decision;
- Record in the meter database
- Prepare a letter for Commission signoff to the applicant asking that they provide confirmation that the issue has been resolved within any timeframe notified on the variation; and
- If no confirmation is received before the variation has expired, or no suitable explanation is provided to the Panel, notify a potential breach to the Commission.

e. Expiry of variation – Grid exit point and generator metering installations (rules 5.2 of code of practice D5 of part D)

This rule requires that where the original applicants for a variation wish to terminate that variation prior to any expiry date which may have been agreed or imposed by the Panel, the applicants will apply to the Panel to have the variation terminated. On receipt of such an application the Panel must:

- Ensure applications to terminate variations under code of practice D5 are consistent with rule 5.2 of code of practice D5;
- Ensure that all applications for terminations are considered;
- Notify (via the Commission) the original participants of its decision;
- Provide a notice to the Commission for publishing on the Commission's website in order to advise all other participants of the Panel's decision; and
- Record termination of variation in the meter database;

In addition, if as a result of a review or for any other reason, the Panel wishes to terminate any variation the Panel must:

- Advise the original applicants;
- Consider any further responses from the original applicants, and
- Approve, amend or terminate the variation:
- Notify (via the Commission) the original applicants of the decision;
- Provide a notice to the Commission for publishing on the Commission's website in order to advise all other participants of the Panel's decision; and
- Record termination of variation in the meter database;

f. Other assistance to be provided to the Commission as required:

- Advise the Commission on issues relating to variations to codes of practice;
- Assist the Commission on proposed rule changes requiring input from the Panel;
- Submit the meter database to the Commission and Reconciliation Manager on a monthly basis;
- Notify any potential breaches of the Rules that have come to the Panel's attention, where the Panel has reason to believe that in doing so it will help to improve the electricity market; and
- Assist the Commission as requested, in ensuring that market participants are aware of all their obligations under the Rules in regards to metering.

3. Objectives and Principles

The Panel must provide advice and report the extent to which its advice meets or is consistent with the:

- Rules;
- Electricity Act;
- Government Policy Statement; and
- Commission's principal objectives.

4. Membership

The Panel consists of five members, one of which will be appointed Chair by the Commission. In addition, the Commission's Senior Adviser Retail works with and supports the Panel.

The Commission will provide secretarial and technical support as required.

5. Tenures

Each member is appointed for a term of two years and can be reappointed at the discretion of the Commission.

6. Role of the Electricity Commission's Senior Adviser Retail

The Senior Adviser will be accountable to the Commission for:

- the resourcing, support and output of the Panel; and
- conveying the relevant Commission policies to the Panel.

7. Responsibility of Members

Members of the Panel are selected for their particular expertise and accordingly:

- must act in the interests of all stakeholders;
- have a duty to prepare for meetings;
- do not represent their own organisations (although the range of commercial and technical experience inevitably adds diversity to the Panel's capabilities); and
- any views expressed by members are not to be taken as being those of their employer or nominating organisation.

8. Nature of Deliverables

The Panel delivers reports, advice and comments on the matters referred to it in terms of the Rules or as requested by the Commission.

9. Authority

The Senior Adviser Retail is responsible for ensuring that the Panel is resourced to meet its work plan. Requests for additional resources, such as consultants, will require the approval of the Commission.

10. Administration

Panel activities are to be as transparent as practical and, unless specifically agreed otherwise,:

- the Panel will generally use electronic means to process information;
- papers are to be circulated a minimum of 3 business days in advance of meetings;
- where appropriate, papers are to be published on the Commission's website as soon as practical after each meeting; and
- minutes are to be published once confirmed at the subsequent meeting.

11. Notice of meeting must be given

Reasonable notice of any meetings must be given to every member, including details of the time and venue.

12. Quorum of three members

A quorum for Panel meetings will be three or more members.

No business may be transacted at a meeting of the Panel while a quorum is not present.

Members of the Panel are not entitled to send an alternate in their place if they cannot attend a meeting.

13. Minutes are to be kept

The Chair must ensure that minutes or notes are kept of all proceedings of the Panel and are made available to all members within five business days.

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