

Appendix B: Comments on proposed Code amendments in Appendix C of the Electricity Authority's Consultation Paper on Scarcity pricing and related measures (13 July 2011)

Proposed Code amendment	Comments
Part 13: Subpart 4 - pricing	
Clause 13.135	<p>Clauses 13.135 directs how interim and final prices (among other prices) are calculated and this clause is referenced by those definitions. Accordingly, the new scarcity pricing process should be referred to here. For example:</p> <p>13.135 Methodology used to prepare provisional, interim, and final prices</p> <p><u>Subject to clause 13.135B, to calculate provisional prices, provisional reserve prices, interim prices, interim reserve prices, final prices and final reserve prices the pricing manager must use—</u></p> <p>(a) the input information in clause 13.141; and</p> <p>(b) the methodology in Schedule 13.3.</p>
Clauses 13.135A(1) and 13.144(1)	Is it necessary for the pricing manager to re-publish the notice of a shortage situation under clause 13.144(1)? Could 13.135A(1) just refer to the notice published by the system operator under clause 7(20F) of Technical Code B?
Clause 13.135B	Clause 13.167 should cross-reference this clause.
Clause 13.202(2)	The principle that the "constrained on" rules do not apply when a scarcity pricing situation occurs should (1) only apply to the island in question; and (2) not apply if the stop-loss mechanism has been triggered (ie if the stop-loss is triggered and the scarcity pricing rules no longer apply, then the market should return to normal principles).
Part 13: Subpart 5A - Risk disclosure	
General	<p>Query whether "Risk disclosure" is an accurate heading and whether "risk disclosure statement" is misleading given the very limited nature of the tests in question.</p> <p>Clause numbering could be 13.237, 13.238 ... rather than 13.236A, 13.236B ...</p>
Clause 13.236B(1)	The "base case" and "stress test" are only supposed to (i) apply for a quarter; and (ii) specify particular average spot prices for particular durations during that quarter. The proposed code amendments do not, however, place any limits on how the base case and stress test(s) are specified.
Clause 13.236B(2)	"to submit" should be " <u>to prepare or submit</u> " since these are separate obligations under clause 13.236A
Clause 13.236C(1)(a)	"stress test event" should be "stress test"
Clause 13.236C(1)(e)	As currently drafted it is unclear what information the disclosing participant is required to provide to its spot-exposed customers and

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	whether such advice must be given quarterly (once the particular stress tests are known) or whether it is one off advice. Meridian proposes that the obligation is removed. Alternatively, it should be limited to advising the customer that the EA publicises stress tests and the customer may wish to consider what its position would be if such events occurred.
Clause 13.236D	The Code cannot impose an obligation on a person who is not a participant (s 32(2) Electricity Industry Act 2011). Accordingly the Code cannot require a director of a disclosing participant to sign a risk disclosure statement.
Clause 13.236E(3)	Clause 13.236D(2) cannot apply to an updated risk disclosure statement.
Clause 13.236F	This clause gives the EA power to carry out an audit (at the participant's cost). Not clear what would occur if the auditor refused or if the participant and the auditor could not agree terms of engagement. This appears to be an attempt to extend the EA's information gathering and enforcement powers under s45 of the Act and would seem to be <i>ultra vires</i> .
Clause 13.236F(8)	Depending on the nature of information which is requested by the auditor, 5 working days may not be realistic (e.g. if the request is for information or documents which need to be compiled/prepared).
Clause 13.236G	Even on an aggregate and anonymous basis, publishing information derived from the stress testing regime is problematic as it is likely to give a misleading impression as to the state of risk in the market.