

<b>Policy title</b>	<b>Prosecution Policy</b>
Policy number	LE06
Policy overview	CAB Min (12) 26/6 required agencies with prosecution functions to develop a publicly available prosecution policy.
Owner	General Manager Legal, Monitoring and Compliance
Contact person	General Manager Legal, Monitoring and Compliance
Approval authority	Chief Executive (exercising delegation to approve minor changes to policies)
Date approved	8 January 2024
Replaces/updates	Replaced <i>Guidelines and Enforcement Criteria for Monitoring and Enforcing Compliance with the Act</i> – FileSite 665875_3; updated on 20 March 2017
Related policies	<i>Guidelines for the use of the Information Gathering Powers for Compliance Purposes</i> – FileSite 667402 1  <i>Enforcement Policy</i> – FileSite 1039834
FileSite reference	803976

## Version control

Version number	Date	Author	Description (including Board reference if relevant)
1.0	4/9/2013	J Murdoch/ R Hill	Board approval Previously the <i>Guidelines and Enforcement Criteria for Monitoring and Enforcing Compliance with the Act</i> – FileSite 665875_3
2.0	20/3/2017	J Murdoch/ R Hill	Updated (minor edits) following triennial review, and approved on 20-03-17 by Chief Executive exercising delegation to approve minor changes to policies.
3.0	8/01/24	S Mateparae/Ai rihi Mahuika	Updated (minor edits) including delegations from Compliance Committee to Authority staff, updated compliance monitoring framework, and move of certain provisions in Part 3 of the Act to Part 6A of the Code. Approved on 8 January 2024 by Chief Executive exercising delegation to approve minor changes to policies.

## Approvals

### CE / Board

Sarah Gillies, **Chief Executive**

Board Minutes WorkSite ref #  
or CE signature



Signature

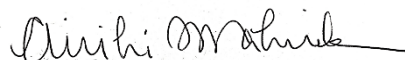
Board Meeting Date  
or date signed by CE

16 January 2024

Date

Airihi Mahuika, General Manager,  
Legal, Monitoring and Compliance

**Policy Owner**



Signature

16 January 2024

Date

Sara Mateparae

**Policy Author**



Signature

16 January 2024

Date

## Glossary of abbreviations and terms

<b>Act</b>	Electricity Industry Act 2010
<b>Alleged breach</b>	an alleged breach of the Electricity Industry Act 2010, the regulations made under that Act, or sections 103(1), 103(2) or 103(3) of the Commerce Act 1986
<b>Authority</b>	Electricity Authority Te Mana Hiko
<b>Board</b>	Electricity Authority Board
<b>Code</b>	Electricity Industry Participation Code 2010
<b>Commerce Act</b>	Commerce Act 1986
<b>Enforcement Regulations</b>	Electricity Industry (Enforcement) Regulations 2010
<b>Evidential Test</b>	the test under the <i>Solicitor-General's Prosecution Guidelines</i> for determining whether the evidence which can be adduced in court for an alleged breach is sufficient to provide a reasonable prospect of conviction
<b>LFC Regulations</b>	Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004
<b>Public Interest Test</b>	the test under the <i>Solicitor-General's Prosecution Guidelines</i> for determining whether prosecution of an alleged breach is required in the public interest
<b>Regulations</b>	Regulations made under the Electricity Industry Act 2010

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# 1. Introduction

- 1.1 The Electricity Authority Te Mana Hiko (Authority) is an independent Crown entity responsible for the regulation of New Zealand's electricity market.
- 1.2 Under section 16(1) of the Electricity Industry Act 2010 (Act), the Authority is responsible for monitoring, investigating, and enforcing compliance with parts of the Act, the regulations made under the Act (regulations), and the Electricity Industry Participation Code 2010 (Code).
- 1.3 This Prosecution Policy (Policy) sets out how the Authority will exercise its discretion in relation to monitoring, investigating and enforcing compliance with the Act and the regulations. The relevant offence provisions are listed in Appendix A of this document.
- 1.4 The Policy is subject to, and must be read in conjunction with, the *Solicitor-General's Prosecution Guidelines* available at: [Microsoft Word - 2162439\\_1 \(crownlaw.govt.nz\)](#)
- 1.5 The Authority's policies and procedures relating to breaches of the Code are not addressed in this Policy, but are set out in the Authority's *Enforcement Policy* available at: [https://www.ea.govt.nz/documents/888/Enforcement\\_policy.pdf](https://www.ea.govt.nz/documents/888/Enforcement_policy.pdf)

## 2. Authority's compliance philosophy

### Enforcement Policy

- 2.1 The *Enforcement Policy* sets out the Authority's compliance philosophy, which guides decision making at every stage of the monitoring, investigation, and enforcement process. The Authority's compliance philosophy is available at [https://www.ea.govt.nz/documents/888/Enforcement\\_policy.pdf](https://www.ea.govt.nz/documents/888/Enforcement_policy.pdf)

## 3. Monitoring compliance

- 3.1 Under section 16(1)(c) of the Act, the Authority must monitor compliance with the Act, the regulations and the Code, and also has the ability to exempt participants from the Code.
- 3.2 Under section 45(a)(i) of the Act the Authority can carry out monitoring of compliance with the Act, regulations and the Code. Under section 46, the

Authority may use its information gathering powers for a purpose under section 45.

- 3.3 Guidelines relating to the use of the Authority's information gathering powers are available at: [Microsoft Word - Guidelines for the use of Information Gathering Powers for Compliance Purposes.doc \(ea.govt.nz\)](#)

### **Compliance Monitoring Framework**

- 3.4 The *Compliance Monitoring Framework* (Framework) sets out how the Authority proactively monitors participants' compliance with the Act, regulations and the Code.
- 3.5 The Framework uses a risk-based framework to guide the Authority on where to prioritise the areas we monitor, based on the level of harm from non-compliance and likelihood of undetected non-compliance occurring. The Authority's Framework is available at: [Compliance monitoring framework \(ea.govt.nz\)](#)

## **4. Investigation of alleged breaches**

### **Alleged breaches**

- 4.1 If the Authority becomes aware of an alleged breach of the Act, sections 103(1), 103(2) or 103(3) of the Commerce Act 1986 (Commerce Act) or the regulations (alleged breach), the Authority will consider the alleged breach and decide whether it requires investigation.
- 4.2 Any person may allege a breach to the Authority by emailing the alleged breach to [compliance@ea.govt.nz](mailto:compliance@ea.govt.nz). Participants can also use the Compliance Database to report alleged breaches: <https://compliance.ea.govt.nz>

## **5. Initial fact finding**

- 5.1 On becoming aware of an alleged breach, the Authority will undertake an initial fact-finding exercise to determine whether further investigation or action is warranted. The Authority may decide to take no further action on an alleged breach in the case of any one or more of the following:
- (a) the alleged breach relates to a matter that has been, or that the Authority considers is more properly, dealt with by any other person
  - (b) the Authority does not consider that a prima facie case exists for the alleged breach
  - (c) the Authority decides that the alleged breach does not warrant any further action being taken. The factors that the Authority may take into account in coming to this view are set out in paragraph 8.2 below.
- 5.2 If the Authority decides not to take any further action, the Authority must inform the person who alleged the breach and the person allegedly in breach that the

Authority intends to take no further action in relation to the matter and provide the reasons for that decision.

## **6. Investigation**

- 6.1 The Authority will investigate an alleged breach if it involves any one or more of the following:
- (a) has significant, actual or potential impact (market/operational/security, and/or has affected a number of participants or consumers)
  - (b) is likely to recur (for example, if there have been previous breaches, no reasonable steps are in place to decrease the likelihood of future breaches, or if the alleged breach is denied)
  - (c) the alleged breach would best be resolved through the investigation process, for example, where the circumstances surrounding the alleged breach are complex.
- 6.2 The Authority will follow the process set out in regulations 12 to 15 of the Electricity Industry (Enforcement) Regulations 2010 (Enforcement Regulations) to appoint an investigator, as if the references to the Code were references to the Act, sections 103(1), 103(2) or 103(3) of the Commerce Act, or the regulations.
- 6.3 The investigator appointed to investigate an alleged breach must conduct an investigation of the facts surrounding the alleged breach. The Authority may use its information gathering powers to assist in the investigation of the alleged breach.
- 6.4 Following the investigation, the investigator must provide a report to the Authority that sets out to the extent that it is reasonably practicable and appropriate in the circumstances:
- (a) the provision of the Act, the Commerce Act or the regulations allegedly breached
  - (b) the person alleged to have breached the Act, sections 103(1), 103(2) or 103(3) of the Commerce Act, or the regulations
  - (c) the estimated time and date the breach allegedly occurred (if relevant)
  - (d) any relevant issues raised by the person alleged to be in breach in response to allegations of breach
  - (e) any relevant comments made to the investigator by any other person in response to issues raised by the industry participant alleged to be in breach
  - (f) the investigator's assessment of the impact of the conduct alleged to constitute the breach on other industry participants or consumers
  - (g) the investigator's assessment of the likelihood of the alleged breach recurring

- (h) whether remedial action has been taken
- (i) details of similar situations previously dealt with by the Authority or its predecessor
- (j) whether the allegation is admitted or denied
- (k) details of the evidence relating to the alleged breach
- (l) any other information that the investigator considers relevant to the Authority's decision to take any further action in relation to the alleged breach.

## **7. Consideration of alleged breaches**

7.1 Once the investigator has all necessary information in relation to the alleged breach, the Authority must:

- (a) receive the investigator's reports and recommendations on the alleged breach
- (b) decide if the alleged breach warrants any further action being taken
- (c) in cases where the Authority considers that further enforcement action is warranted, make recommendations to the Board whether the Board should take further enforcement action.

7.2 The Authority will use the enforcement criteria set out at paragraph 8.2 below to guide its decision.

## **8. Criteria for assessing seriousness and overall impact of an alleged breach**

8.1 The criteria below are not intended to prescribe or restrict the Authority's exercise of judgment and discretion. The criteria are for information purposes and do not replace the judgment that is needed to give effect to the Authority's compliance philosophy and statutory objective.

8.2 When deciding whether to take enforcement action, the Authority may consider the following criteria, to the extent they are appropriate in the circumstances, to assess the seriousness and overall impact of an alleged breach:

- (a) security impact
- (b) number of affected parties
- (c) operational impact
- (d) market impact
- (e) the nature of the conduct, for example, whether the conduct is inadvertent, careless, or deliberate



- (f) the nature of the alleged breach, for example, whether it is a one-off event or whether there have been previous occurrences
- (g) procedures that the relevant participant or person has in place to prevent future breaches
- (h) the relevant participant or person's understanding of the alleged breach and their obligations under the Act, the Commerce Act or the regulations
- (i) the probability of recurrence
- (j) the nature of the activity, for example, whether it is irregular, or continuous
- (k) the duration of the alleged breach, for example, whether the duration was short (minutes), medium (hours), or long (days/weeks/months).

## **9. Enforcement options**

9.1 The Authority will assess each alleged breach against the criteria set out in paragraph 8.2 above and then decide which category the alleged breach falls into, and how it will be dealt with.

9.2 The Authority has identified the following possible enforcement options in relation to alleged breaches:

- (a) no further action
- (b) compliance advice letter
- (c) warning letter
- (d) request remedial action be undertaken
- (e) prosecution; or
- (f) plea arrangements.

## **10. No further action**

10.1 The Authority may decide to take no further action regarding an alleged breach. While not an exhaustive list, the below factors may be taken into account by the Authority when determining whether it should take no further action:

- (a) there is no prima facie case (ie, the alleged breach is not established)
- (b) the alleged breach is minor and no further enforcement action is necessary; or
- (c) the Authority does not have jurisdiction to investigate or enforce the alleged breach.

10.2 The Authority may decide that the alleged breach is minor and no further enforcement action is necessary if the alleged breach is:

- (a) minor in nature

- (b) inadvertent
- (c) affects a limited number of people
- (d) has caused minimal (if any) financial, operational or security impact on the market, and has not had a direct financial impact on consumers and other parties
- (e) is not part of a systematic problem or deliberate intention to breach
- (f) the alleged breaching party rectified the alleged breach immediately upon becoming aware of it; or
- (g) the alleged breaching party has demonstrated that it has proper procedures in place to avoid repeating the alleged breach.

10.3 Where the Authority decides to take no further enforcement action, the Authority must inform the alleged breaching party (and, where applicable, the person who alleged the breach) of this decision, and the reasons for the decision.

## **11. Compliance advice letter**

11.1 The Authority may issue a compliance advice letter where there is an alleged breach that is not serious.

11.2 The purpose of a compliance advice letter is to inform the person in question that its behaviour is at risk of contravening the Act, sections 103(1), 103(2) or 103(3) of Commerce Act, or the regulations, and to deter future illegal behaviour. The letter may also set out corrective actions that the Authority considers the alleged breaching party should take to prevent future breaches.

## **12. Warning letter**

12.1 The Authority may issue a warning letter in relation to an alleged breach if it considers that the alleged breach does not warrant further action. Factors relevant to the Authority's discretion to issue a warning letter include (but are not limited to) whether:

- (a) the alleged breaching party has a pattern of non-compliance; or
- (b) the alleged breach has high actual or potential market, security or operational impact.

12.2 The warning letter warns the relevant party to stop the behaviour in question and is to deter the party from committing any further breaches.

## **13. Request to take remedial action**

13.1 The Authority may ask a participant or person to take remedial action where there is a likely breach that is acknowledged by the participant or person.

13.2 The purpose of this option is to modify the behaviour of the participant or person to prevent further breaches, to inform others and, where appropriate, to seek

redress for affected parties through agreed remedial actions. Example remedial actions include:

- (a) an independent audit of the alleged breaching party's practices and procedures
- (b) agreement to follow additional or more stringent reporting and monitoring requirements.

13.3 The Authority may decide to recommend to the Board that prosecution action should be taken if remedial actions are not followed or completed within a reasonable time.

## 14. Prosecution

### Overview

14.1 If the seriousness and overall impact of the alleged breach is high, the Compliance Committee may decide to recommend to the Board that prosecution action should be taken.

14.2 The aims of prosecution are to:

- (a) modify or stop the behaviour and penalise the participant or person
- (b) inform and modify the behaviour of others
- (c) where appropriate, seek redress for affected parties.

14.3 The Authority will take into account the *Solicitor-General's Prosecution Guidelines* when deciding whether to recommend to the Board that prosecution action should be taken.

### Deciding whether to prosecute

14.4 The Board will take into account the *Solicitor-General's Prosecution Guidelines* when deciding whether to prosecute.

14.5 In particular, the Board will only decide to commence a prosecution if it is satisfied:

- (a) the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction (Evidential Test)
- (b) prosecution is required in the public interest (Public Interest Test).

14.6 The elements that the Board will take into account in deciding whether the above tests are met are in the *Solicitor-General's Prosecution Guidelines* and are summarised below.

### Evidential Test

14.7 When deciding whether there is sufficient evidence to provide a reasonable prospect of conviction, the Board will consider whether the evidence gathered is

admissible and reliable, and will consider the factors outlined in the *Solicitor-General's Prosecution Guidelines*, including:

- (a) is the evidence credible (capable of belief)?
- (b) does the evidence support the charges such that the likelihood of conviction is beyond reasonable doubt?
- (c) is it likely that the evidence will be excluded at court, for example, because of how it was gathered? If so, is there sufficient other evidence for a realistic prospect of conviction?
- (d) what explanations has the defendant given? Is a court likely to find the explanations credible in light of the evidence as a whole?

14.8 If an alleged breach does not pass the Evidential Test, it will not proceed to prosecution, regardless of the public interest.

14.9 The Authority will continue to monitor whether the Evidential Test is met throughout the course of a prosecution. If, after laying charges, the Authority considers that:

- (a) another charge is more suitable, the Authority may seek the court's leave to amend the charge; or
- (b) the charge should be withdrawn, the Authority may seek the court's leave to withdraw the charge.

### **Public Interest Test**

14.10 When deciding whether a prosecution is required in the public interest, the Board will consider the factors outlined in the *Solicitor-General's Prosecution Guidelines* including (but not limited to) whether:

- (a) there is a likely and serious contravention of the Act or the regulations
- (b) the alleged breaching party does not agree to undertake remedial actions
- (c) the alleged breach results from a deliberate attempt to breach or avoid the effect of the Act or the regulations
- (d) the alleged breaching party failed to take appropriate action to rectify the alleged breach upon learning of it
- (e) the alleged breaching party obtained a significant benefit or advantage as a result of the alleged breach
- (f) the alleged breaching party has a pattern of repeated or ongoing non-compliance; or
- (g) there is no other person or agency who is more appropriate to commence proceedings.

14.11 When deciding whether a prosecution is not in the public interest, the Board will consider the factors outlined in the *Solicitor-General's Prosecution Guidelines* including (but not limited to) whether:

- (a) the court is likely to impose a very small or nominal penalty
- (b) the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by an error of judgment or a genuine mistake
- (c) the offence is not on any test of a serious nature, and is unlikely to be repeated
- (d) the proceeds of crime can more effectively be pursued by civil action; or
- (e) any proper alternatives to prosecution are reasonably available.

**Legal advice**

14.12 Before the Board decides to prosecute, the Board will obtain external legal advice

- (a) confirming that prosecution is appropriate in the circumstances
- (b) assessing the likely success of litigation
- (c) assessing the likely costs associated with litigation.

**Criminal disclosure**

14.13 In any prosecution, the Authority will meet its obligations under the Criminal Disclosure Act 2008 to ensure that relevant information is disclosed in a fair, effective, and efficient manner. The General Manager Legal, Monitoring and

Compliance is responsible for ensuring the Authority meets its obligations under the Criminal Disclosure Act 2008.

### **Appeals or judicial review proceedings**

- 14.14 In deciding whether to appeal or bring judicial review proceedings relating to a prosecution initiated by the Authority, the Authority will follow the relevant parts of the *Solicitor-General's Prosecution Guidelines*.

## **15. Plea arrangements**

- 15.1 The Authority may, before or after commencing a prosecution of a breach, discuss and agree plea arrangements with a participant or person in relation to the breach.
- 15.2 In deciding whether to discuss and agree plea arrangements, the Authority will follow the relevant parts of the *Solicitor-General's Prosecution Guidelines*.

## **16. Enforcement under Part 3 of the Act**

- 16.1 The Authority also has other enforcement options in relation to breaches of Part 3 of the Act. In particular, the Authority may apply to the High Court for:
- (a) under section 81 of the Act, an injunction if it appears that a person intends to engage, or is engaging, in conduct that constitutes or would constitute a breach of a provision of Part 3 of the Act. The Authority may seek an injunction to do any of the following:
    - i. restrain a person from engaging in conduct that constitutes or would constitute such a breach
    - ii. impose on any person obligations to be observed in the carrying on of any business or the safeguarding of any business or any assets of any business
    - iii. provide for the carrying on of any business or the safeguarding of any business or assets of any business, either by the appointment of a person to conduct or supervise the conduct of any business
  - (b) under section 83 of the Act, directions ordering a person allegedly in breach of Part 3 of the Act to renegotiate any agreement that contravenes, or gives rise to a breach of, a provision of Part 3.
- 16.2 Any application by the Authority to the High Court under Part 3 of the Act must be approved by the Board.
- 16.3 Under section 85 of the Act, the Authority has certain information gathering powers under Part 7 of the Commerce Act for the purpose of exercising the Authority's jurisdiction and powers under Part 3 of the Act. Appendix A lists the

offences associated with the Authority's information gathering powers under the Commerce Act.

## **17. Review**

17.1 This Policy will be reviewed at least triennially.

## References

A number of other references may be relevant in the context of prosecutions. These include

the following publications available on Crown Law's website:

- (a) [\*Victims of Crime—Guidance for Prosecutors\*](#)
- (b) [\*Statutory offences requiring the consent of the Attorney-General\*](#)
- (c) [\*Media protocol for prosecutors.\*](#)



# Appendices

**Appendix A      Offences under the Act, Commerce Act, and regulations**

## Appendix A Offences under the Act, Commerce Act, and regulations

### A.1 Offences under the Act

Section	Obligation	Offence provision
<i>Industry participants</i>		
9	Industry participants must register as industry participants by providing specified information to the Authority (unless exempt by the Authority or under regulations).	Under section 31(1), an industry participant that fails, without reasonable excuse, to register as an industry participant commits an offence and is liable on conviction to a fine not exceeding \$20,000.
29	Registered industry participants must supply updated information as soon as practicable if their name, contact details or business details change.	Under section 31(2), a registered industry participant commits an offence, and is liable on conviction to a fine not exceeding \$20,000, if it knows or ought to know that the information recorded for it on the register is wrong or incomplete and it fails to supply updated information as required by section 29(2).
57	Industry participants must comply with compliance orders and record-keeping orders of the Rulings Panel.	Under section 57, an industry participant that breaches a compliance order made under section 54(1)(f), or an order made under section 54(1)(c), commits an offence and is liable on conviction to a fine not exceeding \$20,000.
60	Industry participants must comply with suspension orders and termination orders of the Rulings Panel, and any direction or arrangement made by the Rulings Panel made under the regulations in relation to a suspension order or a termination order.	Under section 60, an industry participant commits an offence, and is liable on conviction to a fine not exceeding \$20,000, if it fails to comply with a suspension order or a termination order or with any direction or arrangement made by the Rulings Panel under the regulations in relation to a suspension order or a termination order.
<i>Dispute resolution scheme</i>		
96	Transpower (other than in its capacity as a system operator), and every distributor and retailer, must be a member of the dispute resolution scheme	Under section 96(2), a person commits an offence and is liable on conviction to a fine not exceeding \$100,000 if the person knowingly refuses or fails to

Section	Obligation	Offence provision
	(unless exempt under section 96(3)).	become a member of the dispute resolution scheme.
97	Members of the dispute resolution scheme must comply with the rules of the scheme.	<p>Under section 97(2), on the application of the person responsible for the dispute resolution scheme, a District Court may require a member to comply with the rules of the scheme and comply with a binding settlement determined by the scheme in response to a complaint.</p> <p>Under section 98, a member or former member of the dispute resolution scheme who, knowing that the member is subject to an order made under section 97, fails to comply with the order, or fails to comply with the order within the time or in the manner required by the order, commits an offence and is liable on conviction to a fine not exceeding \$100,000.</p>
<i>Customer and community trusts</i>		
104	Trustees of customer trusts and community trusts must comply with sections 99 to 103 of the Act.	Under section 104(2), every trustee commits an offence and is liable on conviction to a fine not exceeding \$200,000 who, without lawful justification or excuse, knowingly acts in breach of, or fails to comply in any respect with, any provision of sections 99 to 103.
<i>Continuance of supply obligation</i>		
105	Distributors to whom section 105 applies must, in relation to a particular place, supply line function services to the place so that the place is within the distributor's network or supply the place with electricity from an alternative source.	<p>Under section 105(4), a distributor who is obliged to supply line function services or electricity from an alternative source under section 105(2) commits an offence, and is liable on conviction to a fine not exceeding \$10,000 and to a further fine not exceeding \$1,000 for every day or part of a day during the offence continues, if the distributor:</p> <ul style="list-style-type: none"> <li>• having been made aware that supply to the place has ceased in the circumstances described in</li> </ul>

Section	Obligation	Offence provision
		<p>section 106(2)(a), fails to resume supply as soon as is reasonable in the circumstances; or</p> <ul style="list-style-type: none"> <li>knowingly ceases to supply line function services or electricity to the place, other than in circumstances described in section 106(2)(b) or (c).</li> </ul>

A.2 Offences under section 103 of the Commerce Act

Section	Obligation	Offence provision
<i>Part 7 Miscellaneous Provisions</i>		
103	<p>(1) No person shall—</p> <p>(i) without reasonable excuse, refuse or fail to comply with a notice under sections 53B(1)(c), 53N, 53ZD, and 98</p> <p>(ii) in purported compliance with such a notice, furnish information, or produce a document, or give evidence, knowing it to be false or misleading; or</p> <p>(iii) resist, obstruct, or delay an employee of the Commission acting pursuant to a warrant issued under section 98A.</p> <p>(2) No person shall attempt to deceive or knowingly mislead the Commission in relation to any matter before it.</p> <p>(3) No person, having been required to appear before the Commission pursuant to section 98(c), shall—</p>	<p>Under section 103(4), any person who contravenes subsection (1) or subsection (2) or subsection (3) commits an offence and is liable on conviction to a fine not exceeding \$10,000 in the case of an individual, or \$30,000 in the case of a body corporate.</p>

Section	Obligation	Offence provision
	<p>(i) without reasonable excuse, refuse or fail to appear before the Commission to give evidence</p> <p>(ii) refuse to take an oath or make an affirmation as a witness</p> <p>(iii) refuse to answer any question; or</p> <p>(iv) refuse to produce to the Commission any book or document that that person is required to produce.</p>	

A.3 Offences under the regulations

Regulation	Obligation	Offence provision
<i>Electricity Industry (Enforcement) Regulations 2010</i>		
7	Under regulation 7(1) of the Enforcement Regulations, if an industry participant believes on reasonable grounds that it or another industry participant has breached a provision of Part 7, 8, 9, or 13 of the Code that is about common quality or security, or any related provision in Part 17 of the Code, the industry participant must report the alleged breach to the Authority as soon as practicable after it becomes aware of the alleged breach.	Under regulation 7(4) of the Enforcement Regulations, an industry participant that fails to comply with this mandatory reporting requirement under regulation 7(1) commits an offence and is liable on conviction to a fine not exceeding \$20,000.
48	If the Rulings Panel makes a termination order or suspension order it must give directions to, or make arrangements for, other industry participants (either generally or specifically) to give effect to its order.	Under regulation 49 of the Enforcement Regulations, every industry participant that fails to comply with a direction or arrangement made by the Rulings Panel under regulation 48 of the Enforcement Regulations commits

<b>Regulation</b>	<b>Obligation</b>	<b>Offence provision</b>
		an offence and is liable on conviction to a fine not exceeding \$20,000.
<i>Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004</i>		
24(1)	Electricity retailers must not knowingly contravene regulations 5 to 7 (availability of low fixed charge tariff option) or 9 to 11 (regulation of charges and advertisement) of the LFC Regulations.	Under regulation 24(1), an electricity retailer that knowingly contravenes any of regulations 5 to 7 or 9 to 11 of the LFC Regulations commits an offence and is liable on conviction to a fine not exceeding \$20,000.
24(2)	Electricity distributors must not knowingly contravene regulations 14 to 16 (regulated distributor tariff option) of the LFC Regulations.	Under regulation 24(2), an electricity distributor that knowingly contravenes any of regulations 14 to 16 of the LFC Regulations commits an offence and is liable on conviction to a fine not exceeding \$20,000.
24(3)	Electricity distributors, electricity retailers, and other electricity providers must not knowingly contravene regulation 21 (restriction on charging by other parties) of the LFC Regulations.	Under regulation 24(3), an electricity distributor, electricity retailer, or other electricity provider that knowingly contravenes regulation 21 of the LFC Regulations commits an offence and is liable on conviction to a fine not exceeding \$10,000.
25	Electricity retailers and electricity distributors must not contravene regulation 22 (when information must be supplied) of the LFC Regulations without reasonable excuse.	Under regulation 25, an electricity retailer or electricity distributor that without reasonable excuse contravenes regulation 22 of the LFC Regulations commits an offence and is liable on conviction to a fine not exceeding \$5,000.