

Hearing of TTP2470 and TTP2471
Directions letter issued via email on 15 July 2024

Dear all,

Further to the above dispute reference, please see below directions from the Hearing Chair. I also acknowledge receipt of emails from the Parties confirming the two disputes can be heard together.

In terms of NR's objection to the progression of the disputes, the Hearing Chair advises that unfortunately there is no time to determine it as a standalone preliminary issue. Accordingly, if NR wishes to pursue the point, it will be heard at the commencement of the hearing on 23 July 2024. NR will need to identify which provision of D5 and the ADRR that it relies upon to support its right to bring the objection.

Direction to HEOC

1. If HEOC proposes to allege that any of the disputed decisions were:
 - 1.1 Not made in good faith, i.e were made in bad faith;
 - 1.2 Irrational;
 - 1.3 Capricious; and/or
 - 1.4 Inconsistent with the contractual purpose.

Then in its Sole Reference Document (SRD) it shall, in relation to each disputed decision, set out all facts, matters and documents it relies upon in support of each allegation.

2. In relation to paragraph 1 of HEOC's Notice of Dispute in relation to consultation, HEOC shall in its SRD clarify whether it had intended to cite Network Code D3.4.8 rather than D3.4.7. If not it shall identify the condition in the Code it relies upon to support its submission of failure to consult. In its SRD HEOC shall set out whether it asserts there was no consultation at all in relation to the outcome of the capacity study. If HEOC alleges there was some, but insufficient, consultation it shall set out by way of a chronology what consultation did take place and the reasons why it contends that that consultation was insufficient. In this connection, and in case it may be of assistance, attention is drawn to Appendix A to NR's SRD in TTP2453 et al a copy of which is attached for ease of reference.

3. Given the determination in TTP2453 et al, particularly with regard to the Principal Decision and having regard to ADRR A7(a) HEOC shall in its SRD set out the basis on which it asserts that it is appropriate to re-open the background to the making of the Principal Decision in the hearing of TTP2470 and TTP2471.

4. In relation to each decision in dispute, HEOC shall attach to its SRD the document(s) from NR which sets out the decision complained of.

If anyone has any questions, please do not hesitate to contact me.

Kind regards,

Secretary
Access Disputes Committee