

SUMMARY OF DRAFT DECISION

Note: This is a draft decision issued for the purpose of advancing the UTS Committee's decision on this matter. The conclusions reached in this draft decision are preliminary and take into account all relevant information provided to the Electricity Authority to date.

Draft decision pursuant to Part 5 of the Electricity Industry Participation Code 2010 regarding an alleged undesirable trading situation on 26 March 2011.

The Committee: Brent Layton, Chair
David Bull
Susan Paterson
Roger Sowry
Elena Trout

Summary of matter: Thirty five parties have alleged that the situation on 26 March 2011 that led to interim prices in the wholesale market for electricity exceeding \$19,000/MWh over several hours for Hamilton and regions north of Hamilton constitutes an undesirable trading situation (UTS).

The basis of the claims is that the situation on 26 March 2011 constitutes a contingency or event that threatens, or may threaten, trading on the wholesale market for electricity and that would, or would be likely to, preclude the maintenance of orderly trading or proper settlement of trades. The claims include that the conduct of Genesis Power Limited (Genesis) constitutes manipulative or attempted manipulative trading activity and conduct in relation to trading that is misleading or deceptive, and may be unlawful and otherwise threaten orderly trading or the proper settlement of trades.

Draft decision: The UTS Committee's preliminary view is that an undesirable trading situation developed on 26 March 2011 because:

- (a) the events on that day threaten, or may threaten, trading on the wholesale market for electricity and would, or would be likely to, preclude the maintenance of orderly trading or proper settlement of trades (in particular, the events involved the undesirable trading practice of squeezing a market and resulted in an exceptional and unforeseen circumstance that threatens, or may threaten, generally accepted principles of trading and the public interest); and
- (b) the event cannot satisfactorily be resolved by any other mechanism available under the Code.

The reasons for this view are:

- (a) Genesis' generation offers set the market prices for Hamilton and regions north of Hamilton during trading periods 22 to 35 (inclusive) on 26 March 2011 and parties exposed to prices in the wholesale market for electricity in those regions had good reason to believe the exceptionally high offer prices at Huntly for those trading periods would not translate into market prices, until it was too late for them to take actions to avoid incurring liability to pay the prices; and
- (b) the high interim prices on 26 March 2011, if they are allowed to become final prices, threaten to undermine confidence in the wholesale market for electricity, and threaten to damage the integrity and reputation of the wholesale market for electricity.

Claims not upheld: The UTS Committee's preliminary view is that Genesis' conduct is not unlawful, does not constitute manipulative or attempted manipulative trading activity, and does not amount to conduct in relation to trading that is misleading or deceptive, or likely to mislead or deceive.

The reasons for this view are:

- (a) there has not been any material breach of any law;
- (b) Genesis' offer strategy regarding its Tokaanu, Rangipo and Tuai power stations is consistent with managing its own risk position, and the analysis does not support the view that Genesis caused transmission constraints to bind or otherwise engaged in manipulative or attempted manipulative trading activity; and
- (c) the limited ability of Genesis to forewarn participants (due to the limited situations in which Genesis has previously been in a net pivotal position in the Auckland region),¹ coupled with the fact that Genesis has made offers at \$10,000/MWh over an extended period, do not support an allegation of misleading or deceptive conduct.

Proposed action: The UTS Committee proposes that interim prices for trading periods 1 to 21 and 36 to 48 on 26 March 2011 become the final prices for those trading periods. The UTS Committee proposes that final prices for trading periods 22 to 35 (inclusive) on 26 March 2011 be determined as follows:

- (a) the scheduling, pricing and dispatch (SPD) market-clearing software be re-run to calculate a new set of final prices with the following revisions made to the SPD inputs:
 - i. all Huntly offer tranches with prices exceeding a price of X during trading periods 22 to 35 (inclusive) on 26 March 2011 be priced at X; and

¹ A generator is net pivotal when the quantity of generation required from it to prevent non-supply of some load in a region is greater than the generator's own load commitment in the region.

- ii. offer prices and quantities for Tokaanu, Rangipo, Tuai, and Waikato generation be restored to the offer structure in the weekly dispatch schedule published at 09:00 hours on 25 March 2011 for trading periods 22 to 35 (inclusive) on 26 March 2011; and
 - iii. that X be set at a point in the range \$1,500/MWh to \$3,000/MWh.
- (b) calculation of constrained on amounts under Part 13 of the Code for trading periods 22 to 35 (inclusive) on 26 March 2011 be curtailed so that no constrained on compensation will be paid in respect of generation plant in the North Island.

Date: 6 May 2011