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By email to [submissions@ea.govt.nz](mailto:submissions@ea.govt.nz)

Consultation Paper — Draft Decision regarding alleged UTS on 26 march 2011

Thank you for the opportunity to provide comments on the Consultation Paper — *Draft Decision regarding alleged UTS on 26 march 2011* published by the Electricity Authority on May 5th 2011.

We find the draft decision and the reasons given for it rather inconsistent with other policy changes that the Authority is recommending. For instance the Authority claims in its scarcity pricing proposal that it is concerned about the missing money problem, and advocates floor prices of up to \$10,000/MWh to negate demand reduction leading to price suppression – with the purpose being jacking prices up so that thermal operators have sufficient revenue to meet the fixed costs of stand-by generation. Here, on the 26<sup>th</sup> march we have a generator with the same motivation (presumably) as the Authority – except that the price established was the result of supply meeting demand. That the Authority considers this unacceptable is very inconsistent with its own scarcity pricing proposal. Therefore, we expect that the Authority will abandon the scarcity pricing proposal in its entirety – and establish a cap on offers instead. Not that we support an offer cap, but we are merely pointing out that the Authority obviously does and we expect the Authority to at least be consistent in its policy making.

Similarly the Authority has announced that it will reverse its draft proposal to offer the Whirinaki Power Station at SRMC and will instead offer it at \$5000/MWh. The reason given is to prevent stand-by generation from being shut down. This is also inconsistent with the draft UTS decision. At the very least the Authority should have ordered Huntly's offer to be \$4999.99/MWh – rather than \$1500/MWh or \$3000/MWh.

The Authority argues that consumers were not well enough prepared to respond to the high prices of 26<sup>th</sup> March 2011, and this justifies a UTS. We are quite perplexed about this conclusion – given that we saw the prices coming and took action to avoid them. Our view is that the electricity market is at times completely unpredictable and one should “expect it when you least expect it”. Regardless of what our contract position is our operations staff have strict guidelines concerning action to take when prices reach certain thresholds. Our strategy is very simple and we do not understand why other parties could not adopt something similar. Our view is that parties exposed to the spot market should have strategies in place to deal with unexpected spikes. This includes:

1. Notification in real time (Comit has a text message notification service and retailers can easily replicate it and/or customise to suit).
2. Load shedding procedures
3. Cap contracts if load can not be easily or reliably shed

Given that we did respond to the price signals on 26<sup>th</sup> March and reduced production, the draft decision will penalise us. This seems manifestly unjust. We request that the Authority rule that constrained-off payments at the interim prices be paid to us, and other consumers that responded to the price signals.

We note that a significant factor in the hit and miss price forecasts leading up to the 26<sup>th</sup> March was the forecast of demand. We note that the Authority has decided to abandon demand bids from all parties other than industrial consumers and rely on the System Operator's forecast of demand. Thus we expect that the Authority will hold the System Operator accountable for drastically flawed demand forecasts, such as occurred on March 25<sup>th</sup>.

We also request that the Authority provide guidance to consumers so that we know when we should respond to price signals in the future, and when not to – given the precedent for intervention that the draft UTS decision has set. In short we need to know when the price is the price, and when it is the little boy crying wolf.

We wish to point out to the Authority that FTRs would only have helped alleviate the situation on March 26<sup>th</sup> if parties other than Genesis and Contact held them. Yet Genesis and Contact, due to their ability to exercise market power, can afford to pay more than any other party in the FTR auction. We refer the Authority to our submission on FTRs of this week.

Finally we imagine that the Authority can expect an increased frequency of claims for UTS now that a precedent has been set, and we expect the Authority to be consistent in its future determinations.

Questions:

*1. Has the Authority accurately recorded and interpreted all of the salient facts in regard to this matter? If not, please detail the inaccuracies.*

The Authority has failed to observe that some consumers responded to the price signals on March 26<sup>th</sup> and has failed to recognise the productive inefficiency that results from the administration of lower prices.

*2. Do you agree with the Authority's draft decision that the situation existing on 26 March 2011 constitutes a UTS? Please give reasons for your answer.*

No. In general we are opposed to intervention in the electricity market, and we see declaration of a UTS as another intervention. Whilst we don't think Genesis's offer strategy on March 26<sup>th</sup> was cricket we do not think that the poor risk management choices of some retailers and consumers should be rewarded by a decision to declare a UTS and administer prices.

*3. Do you agree with the draft remedial actions that the Authority intends to take to correct the UTS? Please give reasons for your answer.*

No. The choice of Huntly offer price of \$1500/MWh or \$3000/MWh is at odds with the Authority's decision to offer Whirinaki at \$5000/MWh and its proposal to set floor prices of \$500/MWh, \$3000/MWh and \$10,000/MWh at various times. The Authority needs to sort out this confusion and at the very least establish a consistent pattern of decision making.

*4. Are there any other remedial actions that the Authority should take to correct the UTS? If so, please detail the other actions and give reasons for your answer.*

Yes the Authority should order constrained-off payments to be made at the interim prices to parties that reduced demand in response to the price signals on March 26<sup>th</sup>.

Yours sincerely,

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