



New Zealand Sugar Company Limited

13 May 2011

UTS Committee
Electricity Authority
Level 7, 2 Hunter Street
Wellington

By email: submissions@ea.govt.nz

Re: Draft decision of the Electricity Authority (EA) under Part 5 of the Electricity Industry Participation Code regarding an alleged UTS on 26 March 2011

New Zealand Sugar Company Limited (NZ Sugar) agrees with the finding that the 26 March 2011 situation constituted an Undesirable Trading Situation (UTS).

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

NZ Sugar is not in a position to comment on the key events as summarized by the Authority in paragraphs 73.

Question 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.

NZ Sugar agrees with the Authority's finding that the 26 March 2011 constituted a UTS.

The inflated prices of 26 March were not the result of an underlying supply-demand imbalance resulting from transmission constraints or generation capacity. Allowing the original prices to stand would undermine confidence in the integrity of the electricity market as the prices were not reflective of an underlying cost or supply demand constraint.

NZ Sugar does not have any legal expertise in the relevant code, however from its understanding there is no other suitable mechanism by which to rectify this issue

Question 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.

NZ Sugar agrees that the offer prices for the relevant periods on March 26 should be revised down.

However, NZ Sugar understands that no supply demand imbalance occurred (section 135 of the draft decision) and thus is of the opinion that the proposed revised process of \$1500 to \$3000 does not reflect the trading situation in that those prices are excessive. NZ Sugar is concerned that setting this high level would be seen as a pricing cap for future spot market events where squeezes are applied.

NZ Sugar believe the prices should be reset to a level that more closely reflect the true market conditions with no supply demand constraint. The price of \$3000 at Albany whilst \$0 at Whakamaru remains excessive and by default sets dangerous precedent for future squeezes that Genesis, or other generators, may seek to exploit. Although the EA considers this a rare and unusual event this should not mean that revised prices are set at abnormal levels to the market norm. By utilizing the modelling and establishing a price

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based on long run marginal cost, Genesis receives no penalty for unacceptable market behaviour. NZ Sugar believes this sends the wrong signals to market participants.

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

NZ Sugar proposes that the Authority should set final prices for trading periods 22 to 35 inclusive on 26 March 2011 based on rerunning the scheduling, pricing and dispatch software with Genesis offer tranches reflecting an estimate of 'short run marginal cost', consistent with trading periods where Genesis' offers are subject to competition.

NZ Sugar believe setting final prices on this basis will:

- Provide for the maintenance of orderly trading and proper settlement of trades;
- Restore the integrity and reputation of the wholesale market for electricity;
- Restore confidence in the wholesale market for electricity, and of demand side participants to continue to provide flexible demand side response.

NZ Sugar believes that the behaviour exhibited by Genesis with the pricing of 26 March did in fact constitute an abuse of market position. We do not know whether Genesis manipulated events to create the situation of 26 March, However, Genesis clearly recognized the monopoly position they had as a result of those events and deliberately sought to extract windfall, monopolistic profits through what can only be described as extreme price gouging.

By not taking Genesis to task over this uncompetitive monopolistic behaviour, the EA is, by default, endorsing the actions of Genesis and encouraging all generators to do likewise whenever circumstances permit. NZ Sugar does not understand why the Commerce Commission has not been asked to investigate this behaviour

The EA should send a strong message to Genesis and to the electricity market as a whole, that anti-competitive, predatory pricing behaviour is not acceptable commercial behaviour, and that such practices will be met with full and appropriate legal and Government response.

If you have any questions regarding this submission please contact;

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Yours sincerely

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