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Submissions
Electricity Authority
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Todd Energy Cross Submission on Draft decision regarding alleged UTS on 26 March 2011

Todd Energy has reviewed the submissions of other parties regarding the consultation paper issued by the Electricity Authority with respect to the alleged Undesirable Trading Situation (UTS) on 26 March 2011.

The submissions by Genesis, Norkse Skog, and King Country Energy (a generator, a large industrial user with spot price exposure and a net retailer) reflect our own views on the issues under consideration.

Counter to the submissions made by parties endorsing the initial findings of the Authority:

- there was no "market squeeze" situation given the presence of another generator (Contact) who had the ability to compete with Genesis;
- retailers and spot price exposed consumers (who are not necessarily Participants as defined in the Code) had available to them the means to mitigate exposure either during the pricing event or before the pricing event. Failure to adopt appropriate risk mitigation measures such as price information or fixed price contracts/hedges is not a sound or appropriate basis for a UTS claim;
- the affects of the high prices on 26 March are overstated given that:
  - most of New Zealand's 1.5 million consumers managed their risk by contracting at fixed prices and only a handful of consumers were affected; and
  - those users that were affected have failed to take into account the significant benefits that they have received from low spot prices (relative to fixed price contract prices) over the last two years and that have continued to be low since 26 March and are likely to remain low for the rest of 2011.

- The wholesale spot market has continued to operate and function as intended subsequent to 26 March in an orderly fashion and in fact will continue to operate in an orderly fashion if the interim spot prices are finalised.

- If the Authority acts in accordance with its initial views, perverse and unintended consequences will include:

    - Reduction of incentives for parties to appropriately manage spot price and locational price risk and invites imprudent or inappropriate risk management behaviour;

    - Reduce incentives for new generation plant development and in particular peaking plant necessary to ensure future security of supply;

    - Hastening decisions by some participants to decommission generation plant that they view as not commercially viable in the long term;

    - Reduce incentives for parties that elect to take spot price exposure to manage that exposure appropriately through demand management;

  Ultimately these factors will lead to a lower standard of security of supply situation contrary to the objectives of many of the initiatives such as scarcity pricing, location price risk management and demand management contained in the Electricity Industry Act 2010.

Short Run Marginal Cost as a basis for repricing Genesis offers

Suggestions by some parties that Genesis should be allowed to only receive their short run marginal cost of operation is irrational and would likely hasten a decision by Genesis to decommission some Huntly generation plant.

In addition, application of this suggestion more widely implies that hydro and wind generation should only receive their short run marginal cost of close to $0/MWH. It therefore appears somewhat farcical for Meridian in particular to advocate such an approach given their portfolio of plant. This highlights the self serving nature of their submission in this regard given that Meridian relies heavily on being able to price their water resource at a price far in excess of the short run marginal cost and the value that they do subscribe to their hydro resource is based on an opportunity cost pricing model as opposed to actual short run marginal cost.

We note also that generally commercial and industrial users of electricity themselves do not expect to receive only short run marginal cost for the product that they produce so to suggest that a supplier to their process should only ever receive prices based on short run marginal cost we believe is an unreasonable proposition.

Competition issues

We note that Mighty River Power in their submission advocate rules for “predictability” of generator offers which we believe would constitute a price fixing arrangement and would be a breach of the Commerce Act.

With respect to allegations by some submitters regarding anti-competitive conduct by Genesis and the Authorities initial views on Genesis conduct in that regard, participants feeling strongly about this issue can of course make complaints to the Commerce Commission or take direct legal action if they wish and the views of the Authority or the provisions of the Code do not inhibit their ability to take such action.

We note that some submitters refer to the inadequacy of hedge markets in general and have formed the view that prices are "too high". Such matters are outside the scope of this matter and in any case are not necessarily consistent with the views of others regarding wholesale hedge market pricing.

Todd Energy is available to discuss any issues raised in the consultation paper, submissions or cross submissions if required.

Yours sincerely

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