

**IN THE MATTER of the
Electricity Act 1992**

AND

**IN THE MATTER of the
Electricity Governance
Regulations 2003**

**DECISION OF THE ELECTRICITY COMMISSION PURSUANT TO PART 3 OF THE
ELECTRICITY GOVERNANCE REGULATIONS 2003 REGARDING AN ALLEGED
UNDESIRABLE TRADING SITUATION ON 24 JUNE 2008**

Decision dated 2 July 2008

Decision of the Electricity Commission pursuant to Part 3 of the Electricity Governance Regulations 2003 regarding an alleged undesirable trading situation on 24 June 2008

Introduction

1. Under Part 3 of the Electricity Governance Regulations 2003 (the regulations), the Electricity Commission (Commission) is responsible for investigating undesirable trading situations (UTS) and, if the Commission finds that a UTS is developing or has developed, it may take steps in relation to that UTS.
2. This document sets out the reasons for a decision by the Commission, that the circumstances existing in respect of prices for trading periods 36 to 38 on 24 June 2008 do not constitute a UTS.
3. The decision was made by the Undesirable Trading Situation Committee (the Committee), being the committee of the Commission to which decision-making under Part 3 of the regulations has been delegated. The membership of that Committee comprises all members of the Board of the Commission.

Background – Claim of Undesirable Trading Situation by Genesis

4. On Wednesday 25 June 2008 Genesis Energy Ltd (Genesis) claimed the existence of a UTS in respect of prices for trading periods 36 to 38 on Tuesday 24 June 2008.
5. Genesis requested that as final prices had not yet been published for trading periods 36 to 38 on 24 June 2008, the Commission should delay the publication of final prices until the UTS claim by Genesis could be considered.
6. Genesis claimed that it may have been in a position to assist with mitigating a grid emergency declared between 18:00 until 18:40 on 24 June 2008 but was denied the opportunity to do so because Genesis did not become aware of the grid emergency until 23:25 hours on 24 June 2008. As a result, Genesis considers that orderly trading on the wholesale market for electricity may have been threatened.

Commission investigation

7. Upon receipt of the UTS claim, the Commission began preliminary investigations into the circumstances, including discussions with and seeking further information from Genesis, pricing manager, clearing manager and system operator.
8. The Commission notified market participants on 26 June 2008 that it would exercise its power under rule 3.28 of section V of part G of the Electricity Governance Rules 2003 (the rules) to delay publication of final prices for trading periods 36 to 38 on 24 June 2008 pending consideration of the UTS claim.

Events and pricing information relevant to the UTS claim

9. A grid emergency was declared by the system operator due to a concurrent unplanned outage of the Arapuni-Bombay 1 circuit and an extended planned outage of Huntly-Otahuhu 1 circuit.
10. The system operator has advised the Commission that the grid emergency was declared because for the loss of the Huntly Otahuhu 2 circuit the Bombay Hamilton 2 circuit would exceed its advised rating.
11. The events that gave rise to this grid emergency also caused a high spring washer pricing event. The calculated prices for trading periods 36 (17:30 – 17:59), 37 (18:00 – 18:29) and 38 (18:30 – 18:59) for Tuesday 24 June 2008 contain high prices (approximately \$3,000/MWh) and low prices (approximately - \$6/Mwh).
12. The high spring washer event was classified as a provisional pricing situation. For this reason, provisional prices were published on 25 June 2008 for 24 June 2008. Since that time the pricing manager received from the system operator the information required to produce a pricing solution that could have been used to publish final prices.
13. The pricing manager has informed the Commission that the resolution of the high spring washer event would result in prices, if published as final, very close to those published as provisional.
14. Genesis alleges that being excluded from the grid emergency advice ultimately caused the spring washer pricing effect between the Waikato and Auckland areas. This created an exposure for Genesis as it was expected to earn income at the lower priced Huntly node but purchase a large proportion of its electricity at the higher priced Auckland nodes.
15. Consequently, Genesis alleges that it suffered unexpected financial losses in the order of \$612,000 based on provisional prices and forecast volumes. Genesis also claimed an assessed loss of \$1,497,000 based on 5-minute prices.
16. Genesis contends that in situations such as grid emergencies, timely information must be given to participants to allow them to attempt to alleviate constraints, and react in a way to allow them to mitigate their spot price exposures. Genesis contends that the real-time dispatch of plant and demand over the periods in question was sub-optimal to all participants.
17. Genesis considers that the ideal system operator intervention at the time would have been to invite Genesis to respond to the grid emergency by reoffering Huntly station output.
18. Genesis claims this would have allowed for an orderly traded solution to the grid emergency, rather than a discretionary intervention of load curtailment.

Is there an undesirable trading situation?

19. The definition of undesirable trading situation is set out in regulation 55(1) of the regulations which states:
- “(1) An undesirable trading situation means any contingency or event—*
- (a) 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 the trade; and*
 - (b) that, in the reasonable opinion of the Board, cannot satisfactorily be resolved by any other mechanism available under the rules.”*
20. Regulation 55(2) provides examples (without limitation) of the types of circumstances that may constitute an undesirable trading situation. It is not necessary that the contingency or event falls into one of the categories listed in regulation 55(2). Regulation 55(2) merely suggests the types of situations in which an undesirable trading situation may be considered to have occurred.
21. Regulation 55(2) states:
- “(2) Without limiting subclause (1), an “undesirable trading situation” includes—*
- (a) manipulative or attempted manipulative trading activity;*
 - (b) conduct in relation to trading that is misleading or deceptive, or likely to mislead or deceive;*
 - (c) unwarranted speculation or an undesirable practice;*
 - (d) material breach of any law;*
 - (e) any exceptional or unforeseen circumstance that is at variance with, or that threatens or may threaten, generally accepted principles of trading or the public interest.”*
22. The Commission does not consider that the circumstances giving rise to the UTS claim by Genesis fall within any of the specific situations described in paragraphs (a) to (e) of regulation 55(2).
23. In particular, with regard to paragraph (e), the Commission does not consider that a grid emergency or any unusually high prices that may arise from it can of themselves be considered to be at variance with, or threatening to, generally accepted principles of trading or the public interest.
24. Accordingly, the Commission turns to consider whether the test in regulation 55(1) has been satisfied. Here the Commission is required to first consider whether the

circumstances giving rise to the UTS claim threaten, or may threaten, trading on the wholesale market for electricity.

25. The regulations do not set out what is meant by “threatening” trading on the wholesale market. The Commission considers that, for an event to be considered as threatening (or possibly threatening) trading on the wholesale market, the event must be such that participants’ confidence in the market is significantly affected, that daily trading is affected by withdrawal (or likely withdrawal) of participants, or similar.
26. The rules require the system operator to issue a grid emergency notice either orally or in writing to relevant participants when the achievement of the system operator’s principle performance obligations (PPOs) is at risk, public safety is at risk, when there is a risk of significant damage to grid assets or where independent action has been taken to restore the system operator’s PPOs.
27. The rules provide the system operator with a range of actions it may decide to take in a grid emergency, where practicable. These options include (depending on the nature of the emergency) request generators to vary their offer, request relevant purchaser or distributor to reduce their demand, require the grid owner to reconfigure the grid and require the disconnection of demand.
28. Although the rules provide that the system operator shall have regard to the priority order in which those actions are set out (as above), the system operator has discretion as to what steps it decides to take, having regard to all the factors that are prevailing in real time. On this occasion the system owner decided to request two distributors to reduce demand.
29. There is no evidence at this time to suggest that the system operator was acting otherwise than in accordance with the rules or acting anything other than appropriately in all the circumstance when it declared the grid emergency and notified selected participants.
30. Trading in the relevant trading periods carried on in accordance with the rules and there is no evidence that trading was threatened by the events that took place. Similarly, neither orderly trading, nor the proper settlement of trade was precluded, even if it can be said that prices faced by Genesis were high. The Commission notes that the clearing manager has assessed the actual loss suffered by Genesis to have been approximately \$279,000.
31. The Commission considers that the criteria set out in regulation 55(1)(a) have not been met in relation to the UTS claim by Genesis.
32. Accordingly because the first limb of regulation 55(1) has not been met the Commission does not need to consider whether the second limb of regulation 55(1) (that the case cannot be satisfactorily resolved by any other mechanism under the rules) has been met.

33. No rule breach has been alleged, but if a breach is reported or alleged the Commission will look into it in the usual manner.
34. Independently of the events giving rise to this UTS claim, work has already commenced on reviewing the adequacy and appropriateness of the grid emergency notice requirements and processes set out under the rules.

Conclusion

35. The decision of the Commission is that the circumstances giving rise to the UTS claim by Genesis do not constitute an undesirable trading situation.

**Electricity Commission
Wellington
2 July 2008
UTS Decision 6, 2008**

