

## **Notification of the Authority's decision under regulation 29 of the Electricity Industry (Enforcement) Regulations 2010**

Under regulation 29(1) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations), the Electricity Authority (Authority) must publicise every decision made under regulation 23(3) of the Regulations, together with the reasons for the Authority's decision.

### **Investigation**

On 15 December 2016, the Authority appointed an investigator to investigate an alleged breach of clause 13.5A(1) of the Electricity Industry Participation Code 2010 (Code), by Meridian Energy Limited (Meridian). The alleged breach was reported by Electric Kiwi Limited (Electric Kiwi).

Electric Kiwi alleged that Meridian's offer strategy for trading periods 35-40 on 2 June 2016 breached the high standard of trading conduct requirement under clause 13.5A(1) of the Code.

Meridian denied the alleged breach, claiming that its trading conduct was of a high standard and within the safe harbour provisions of clause 13.5B(1).

On 2 June 2016, the North Island generation capacity was tight and the potential for significant price separation between the South and North Islands was signalled in the market schedules early in the day.

Meridian realised that there could be price separation between the North and South Island for the evening peak with high prices in the North Island, which would have exposed Meridian's retail position in the North Island. To manage this financial risk, Meridian changed its energy offers for the evening peak by shifting lower priced offers into a higher price band.

Electric Kiwi believed Meridian manipulated South Island prices on the evening of 2 June 2016 by repricing around 350 MW of low priced generation into bands offered at around \$5,000 per MWh. Meridian was pivotal at the time and Electric Kiwi believed that Meridian was outside the safe harbour provisions, and its conduct was not consistent with a high standard of trading conduct.

Final prices for trading periods 36 and 38 in the South Island on 2 June 2016 were significantly higher than the final prices for the periods immediately before and immediately after those trading periods.

Transpower New Zealand Limited as the system operator, EMH Trade Limited, Smartwin Energy Trading Limited, Ecotricity Limited and EnerNoc New Zealand Limited joined the investigation as affected parties. During the settlement process, the parties agreed they were not able to reach a settlement agreement.

### **The Authority's decision**

On 4 May 2017, the Authority considered the investigator's report on the investigation. The Authority decided under regulation 23(3)(a) of the Regulations to discontinue the investigation. The Authority also decided to issue a warning letter to Meridian.

### **Reason for the Authority's decision**

The Authority decided Meridian's trading conduct on 2 June 2016 was not of a high standard and, therefore, breached clause 13.5A(1). The Authority also concluded that Meridian's trading conduct for trading periods 36 and 38 on 2 June was outside of the safe harbour provisions under clause 13.5B(1).

Meridian was outside the safe harbour provisions under clause 13.5B(1)(c) for trading periods 36 and 38 of 2 June 2016 because:

- In terms of clause 13.5B(1)(c)(i), there were offers Meridian could have made that would have resulted in the prices being lower
- clause 13.5B(1)(c)(ii) did not apply
- Meridian benefited financially from an increase in the final prices - clause 13.5B(1)(c)(iii).

Meridian used its pivotal position to cover its unhedged North Island risk on 2 June 2016, which essentially resulted in the cost of the risk being met by other parties. The high standard of trading conduct provisions were introduced to improve the efficiency of prices in pivotal supplier situations and the Authority would have expected Meridian to have covered its risk using other available risk management products or if it chose not to do that then bear the cost of the risk if it eventuates.

However, the Authority also noted that:

- 2 June 2016 represented the first serious test of the high standard of trading conduct provisions
- the disparate opinions on what is a high standard of trading conduct and on the application of the safe harbours
- the Code provisions may require further refinement and clarification to assist market participants.

In all the circumstances of the matter, the Authority decided not to lay a formal complaint with the Rulings Panel but warned that it expects Meridian to meet a high standard of trading conduct in the future.