

Investigation of an alleged breach of the Electricity Industry Participation Code 2010 by Genesis Energy Limited

On 15 May 2019, Future Energy New Zealand Limited, trading as Energy Club (Energy Club) reported to the Electricity Authority (Authority) that it believed on reasonable grounds that Genesis Energy Limited (Genesis) had breached clause 11.15AB(4) of the Electricity Industry Participation Code 2010 (Code).

Energy Club is a save-protected trader under the switch saving provisions of the Code. Clause 11.15AB(4) prohibits a losing trader from initiating contact with a customer of a save-protected gaining trader during the save protection period to attempt to persuade the customer to terminate the arrangement with the gaining trader.

On 27 June 2019, the Authority appointed Peter Wakefield under regulation 12 of the Electricity Industry (Enforcement) Regulations 2010 (Regulations), as investigator to investigate the alleged breach.

Under regulation 16 of the Regulations, the investigator must promptly notify the industry participant alleged to have breached the Code of the allegations that are being investigated.

On 28 June 2019, the investigator notified Genesis of the investigation.

Under regulation 17 of the Regulations, at the same time as the investigator sends a notice under regulation 16, the investigator must publicise the information about the matter under investigation, including the content of the notice given under that regulation. This notice publicises the information about the matter under investigation, and a copy of the notice given under regulation 16 is attached.

Any participant who considers that it is affected by the matter being investigated, and who wishes to become a party to this investigation, should notify the investigator within 10 working days after the date on which this notice is published.

The investigator's contact details are:

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Senior Investigator
Electricity Authority
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NOTICE UNDER REGULATION 16 OF THE ELECTRICITY INDUSTRY (ENFORCEMENT) REGULATIONS 2010

Date:	28 June 2019
Addressee:	Genesis Energy Limited (Genesis)
Subject:	It is alleged that Genesis approached a customer during the switch save protection period in an attempt to persuade the customer to terminate their new arrangement with a switch save protected trader.
Investigator:	Peter Wakefield, Senior Investigator, peter.wakefield@ea.govt.nz (appointed investigator under regulation 12 of the Electricity Industry (Enforcement) Regulations 2010 (Regulations)).
Notifying industry participant:	Future Energy New Zealand Limited, trading as Energy Club (Energy Club)
Clause allegedly breached:	<p>11.15AB(4) of the Electricity Industry Participation Code 2010.</p> <p>Clause 11.15AB(4) prohibits a losing trader from initiating contact with a customer of a save-protected gaining trader during the save protection period to attempt to persuade the customer to terminate the arrangement with the gaining trader.</p>
Circumstances of alleged breach:	<p>Energy Club is a save-protected trader under the switch saving provisions of the Code.</p> <p>On 5 April 2019, Energy Club sent a notification of transfer (NT) to the registry to commence the electricity switch process for ICP [REDACTED] (ICP) with a proposed switch date of 11 April 2019.</p> <p>On 10 April 2019, Genesis sent Energy Club a switch withdrawal request for the ICP with the reason code CX, which indicates the customer had cancelled the switch. On 10 April 2019, Energy Club accepted the withdrawal.</p> <p>During the week from 29 April to 3 May 2019 Energy Club contacted the customer and in a recorded phone call, the customer stated that Genesis had contacted her and made her a better offer to remain with Genesis.</p>

Date of alleged breach:	<ul style="list-style-type: none">10 April 2019
<p><i>Please note, under regulation 16 of the Regulations, you are obliged to respond to this allegation, in writing, to the investigator within 10 working days of receipt of this notice (unless the investigator allows, in writing, a longer period).</i></p> <p><i>Please provide your response by return email to the investigator.</i></p>	

Include the following in your response:

Whether you believe you have breached the Code

Whether there is another provision you consider more accurately describes the nature of the event

A full explanation of the circumstances surrounding the alleged breach

Identification of any information provided in your response that you consider confidential and that should not be included in the investigator's report under regulation 19 of the Regulations (regulation 15(2) of the Regulations).