

MINUTES

Meeting number: 16

Venue: Electricity Authority, Meeting Room 1, Level 7, ASB Bank Tower, 2 Hunter Street, Wellington

Time and date: 9:25am to 12:43pm, Wednesday, 4 September 2019

Attendees

- Tony Baldwin (Chair)
- James Flannery [joined 9:41am]
- James Flexman
- Darren Gilchrist
- Rebecca Osborne [joined 10:28am]
- Bruce Rogers
- Matt Rowe
- Murray Henderson (Observer, Transpower)

Apologies

- Stu Innes

In attendance

- Tim Street (Manager Wholesale Markets, Electricity Authority)
- Alistair Dixon (Principal Adviser Market Design, Electricity Authority)
- Rachel Holden (Consultant, Concept Consulting)
- David Hunt (Director, Concept Consulting) [joined 10:59am, left 12:01pm]
- David Weaver (Consultant, Concept Consulting) [joined 10:59am, left 11:28am]

The meeting opened at 9:25am.

1 Meeting Administration

a) Apologies

Stu Innes.

b) Interests register

The members present had no changes to the interests register.

The Chair asked the Secretariat to check whether members not present at the time (James Flannery, Stu Innes, and Rebecca Osborne) had any changes to their interests.

| **Action 16.1:** Secretariat to ask James Flannery, Stu Innes, and Rebecca Osborne whether there has been any changes to their interests.

c) Minutes of previous meeting

The Group agreed to publish the minutes from the previous meeting.

e) Action list

The Group noted the action list.

g) Work plan update

The Group noted the work plan update.

d) Matters arising

Matt Rowe noted that he had not sought reappointment to MDAG so this would be his last MDAG meeting. The Chair thanked him for his contribution to the MDAG.

2 MDAG's operating procedures

The Group discussed the draft MDAG operating procedures document.

Members requested that a paragraph be added after paragraph 6.3 requiring the Chair to inform the Group at the next meeting if he or she makes a decision on whether a member can publish material.

Members requested some other minor changes to the MDAG operating procedures.

The Chair noted that the Group would come back to this discussion later in the meeting when James Flannery and Rebecca Osborne were present.

3 Trading conduct – Concept analysis

This item was moved until later in the meeting.

4 Trading conduct – draft discussion paper

The Chair noted that the Group's objective was to release a discussion paper that was detailed enough that the Authority would not be required to release a consultation paper and could move quickly to a Code amendment.

The Secretariat noted that it planned to circulate a near-full draft of the discussion paper on Friday.

The Chair noted that the proposal in the discussion paper provided a frame of reference for determining whether behaviour by a pivotal supplier was justified.

A member questioned whether the proposed frame of reference would allow a pivotal supplier to price up some its generation to just below the highest (non-dispatched) offer.

A member noted that it is often difficult for a generator to determine whether they're pivotal or not and that in reality a trader won't know who's priced above them.

A member asked whether it was possible to include a more complex, multi-node example in the discussion paper to address comments made at the briefing on 30 July 2019.

The Group's discussion of Agenda Item 4 paused at this point to move to Agenda Item 3.

3 Trading conduct – Concept analysis

The Chair noted that the aim of this agenda item was for MDAG to decide whether:

- to publish Concept's report and three sets of presentation slides on the Authority's website
- it agreed with the conclusions in Concept's report.

The Concept consultants noted that the conclusion of their analysis was that there were no changes in offers (that couldn't be explained by other factors such as hydrology and thermal conditions) that led to substantially higher spot prices following the Authority's letter to Meridian. It was noted that Concept's analysis didn't rule out that the Authority's letter lead to changes in offer behaviour, but that any changes in offer behaviour hadn't led to a change in spot prices.

The Group agreed that Concept's report could be published.

The Secretariat agreed to send the final versions of Concept's presentation slides to members before they are published on the Authority's website.

| **Action 16.2:** Secretariat to circulate final versions of Concept's presentation slides to members before they are published.

The Group agreed that the Secretariat should inform parties who are named in Concept's presentation slides and report before the documents are published.

| **Action 16.3:** Secretariat to inform parties named in Concept's presentation slides and report that these documents are getting published.

4 Trading conduct – draft discussion paper (cont.)

The Group continued its discussion of the draft discussion paper. The Chair asked David Hunt to sit in on the discussion and share his view.

David Hunt noted that there is substantial case law on what workable competition is. He thought that if, hypothetically, the Commerce Commission was to consider whether the offer behaviour of a pivotal supplier was consistent with workable competition that they would focus on the impact of the supplier's actions over time (not in just one trading period).

Overall, David Hunt thought the workable competition test had a lot going for it. He noted that workable competition was concerned with the impact of behaviour.

The Group discussed whether the proposed test needed to consider whether it was appropriate to use a pivotal position for hedging. The Chair noted that it was not the MDAG's place to answer that question, and that a pivotal supplier needed to think about what would happen in a situation when there was workable competition.

The Group discussed how to make the paper shorter and more readable but at the same time have enough detail so that the Authority wouldn't be required to release a consultation paper. The Chair suggested that the Secretariat focus on getting all the relevant material in the discussion paper first and then think about how the discussion paper could be improved to make it more readable.

The Group discussed some minor changes to the discussion paper.

The Group discussed the next steps for getting the discussion paper ready for publication. It was agreed that any further changes to the discussion paper would need to be considered by email and potentially a conference call.

It was agreed that the Secretariat would think about whether there was any way to socialise the discussion paper with the Board before the Board meeting.

- | **Action 16.4:** Secretariat to consider whether there is any way to socialise the discussion paper with the Board before the Board meeting.

2 MDAG's operating procedures (cont.)

The Group came back to its discussion on MDAG's operating procedures.

A member expressed concern that the draft operating procedures gave the Chair unilateral power to make a decision on whether a member could publish material or not. The Group agreed that the operating procedures should include a requirement in section 6 that the Chair must email members when he or she has made a decision and give members a timeframe to respond if they don't agree with the decision.

A member noted that section 4 of the operating procedures could be clearer that it was talking about topics considered by the MDAG.

- | **Action 16.5:** Secretariat to make requested changes to MDAG's draft operating procedures.

6 Publication of papers

The group decided to publish all meeting papers except that:

- the Group's requested changes to MDAG's operating procedures be made before it is published
- the draft trading conduct discussion paper not be published.

1 Meeting Administration

d) Matters arising (cont.)

A member noted that they wouldn't be able to make the next meeting on Tuesday 22 October. The Group discussed the potential of changing the meeting date and it was agreed that the Secretariat would consider whether the meeting date could be changed to Wednesday 30 October.

Action 16.6: Secretariat to determine whether the next MDAG meeting can be held on Wednesday 30 October 2019 instead of Tuesday 22 October 2019.

It was noted that it may also be Darren Gilchrist, Stu Innes, and Bruce Rogers' last MDAG meetings as their current membership terms end on 30 September 2019. The Chair thanked them for their service to the Group.

The meeting ended at 12:43pm.

I, Tony Baldwin (MDAG Chair), certify that the minutes recorded disclose all issues discussed at the meeting (date at the top), are recorded truthfully and without bias.

Signature: 

Date: Wednesday 30 October 2019 (30.10.2019)