

Notice 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 8 May 2019, the Authority appointed an investigator under regulation 12 of the Regulations to investigate the alleged breach by Genesis Energy Limited (Genesis) of clause 13.2A of the Electricity Industry Participation Code 2010 (Code). The breach was alleged by Haast Energy Trading Limited (Haast).

The investigation concerned whether Genesis should have disclosed to the market that Meridian Energy Limited (Meridian) had made a swaption call.

Meridian has a swaption arrangement with Genesis to provide electricity from the Huntly Rankine units. The structure of the contract allows for 100 MW to be available year-round, with an additional 50 MW block available from 1 April to 31 October in each year.

On 14 December 2018, Meridian disclosed to NZX Limited via its November monthly operating report that, "Meridian made calls on load under the Genesis swaption in early November 2018".

Haast believed that Genesis should have disclosed that it executed Meridian's swaption call. Haast believed that Meridian's swaption calls had a material impact on Genesis' contractual position and therefore influenced spot price formation causing the spot price to increase.

Genesis has denied the alleged breach. Genesis considered that the exercising a swaption is not disclosure information, primarily on the basis that it did not amount to a material change in contracting position and therefore is not required to be disclosed under the Code

Genesis also claimed that even if the swaption call would be considered as being disclosure information, specific exclusions under 13.2A(2) apply.

Haast as the reporting participant, Transpower New Zealand Limited as the system operator and Meridian Energy Limited as affected participants, were parties to the investigation.

The parties could not agree a settlement of the matter under investigation.

On 5 December 2019, the Authority received and considered a report and a recommendation from the investigator to discontinue the investigation.

The Authority's decision

On 5 December 2019, the Authority decided under regulation 23(3)(a) of the Regulations to discontinue the investigation.

Reasons for the Authority's decision

The reasons for the Authority's decision to discontinue the investigation were that:

- There was no evidence that in this case the swaption call or the execution of the swaption call met the requirements of disclosure information
- The Authority was not able to determine a material impact and considered that the swaption call amounts are likely to be too small to have a material impact
- The Authority concluded that the wholesale market information disclosure Code provisions, including the exceptions, need to be reviewed. The investigator had communicated the findings from the investigation to the Authority's Market Design team to be considered for their Code improvement work in this area.