

2 May 2022

Submissions
Electricity Authority
Wellington

By e-mail: UTS.2021@ea.govt.nz

Regulated price scarcity should not be applied to 9 August 2021

Electric Kiwi, Flick Electric, Haast Energy Trading (Haast), and Vocus (the independents) support the Electricity Authority's decision to consult on whether scarcity pricing should apply to trading periods 39 – 42 on 9 August 2021. The memorandum **enclosed**: "Claim on an undesirable trading situation on 9 August 2021", 2 May 2022, provides our full response to the question posed by the Authority in the supplementary consultation paper.

If the incorrectly issued ISS notice and Scarcity Pricing are allowed to stand, by the Electricity Authority's own estimates, purchasers will overpay by \$130m. The quantum of this overpayment due to an error is such that this will undermine confidence in the market. That plainly gives rise to an Undesirable Trading Situation (UTS).

Our submission of 3 February 2022, "Confidence in the market is threatened where supply does not meet demand, despite there being sufficient supply capacity", also discussed that regulated scarcity pricing should not apply and this should be treated as part of this submission.

Q1 Do you agree that it is appropriate for scarcity pricing to apply to trading periods 39 – 42 on 9 August 2021, notwithstanding that the ISS notice may not have been issued in accordance with the Code?

No. Scarcity pricing should not apply to trading periods 39 – 42 on 9 August 2021.

In summary, the Parties' position is that:

- (a) The Authority should find a UTS existed regarding the incorrectly issued ISS Notice and the subsequent declaration of scarcity pricing on 9 August 2021. The Authority should use its UTS powers to roll back scarcity pricing and instruct the Pricing Manager to set prices as if the ISS notice was never issued.
- (b) Relatedly, the Authority should also find that a Pricing Error has occurred because the incorrectly issued ISS Notice gave rise to an incorrect input being used in the calculation of interim prices and/or also gave rise to an incorrect process being followed in calculating interim prices.

For the avoidance of doubt, the Parties maintain that the imposition of scarcity pricing should be corrected, independently of whether the Authority determines there has, or has not been, an Undesirable Trading Situation. While the Authority may determine there has been a UTS and may, in that context, also revoke the imposition of scarcity pricing, they are independent issues. For example, determining there has been a UTS is not a necessary prerequisite for a finding that there has been a pricing error.

We agree with the Authority and the System Operator that the ISS notice was not issued in accordance with the Code. We agree with the System Operator that the ISS notice was void ab initio.¹ This means that scarcity pricing should not and cannot apply under the Code.

Yours sincerely,

<p>Luke Blincoe Chief Executive luke.blincoe@electrickiwi.co.nz</p> 	<p>Sunil Unka Interim Chief Executive sunil.unka@flickelectric.co.nz</p> 
<p>Phillip Anderson Managing Director phill@haastenergy.com</p> 	<p>Sean Campbell Head of Energy Compliance Sean.Campbell@vocusgroup.com</p> 

¹ Submissions made by the System Operator and Chapman Tripp on behalf of the System Operator regarding Code breaches on 9 August 2021, and emails between Haast and the System Operator which the Authority was CCed on.