

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 6 October 2021, the Authority appointed an investigator under regulation 12 of the Regulations to investigate the alleged breach of clause 13.5A of the Electricity Industry Participation Code 2010 by Genesis Energy Limited. The breach was alleged by Electric Kiwi Limited, Haast Energy Trading Limited, Flick Electric Limited and Switch Utilities Limited.

Genesis was alleged to have breached clause 13.5A by failing to offer generation for Huntly Unit 4 (HLY4) during trading periods 37 to 42 (6:00 pm to 9:00 pm) on 9 August 2021.

Contact Energy Limited, emhTrade Markets Limited, Meridian Energy Limited, Nova Energy Limited and Trustpower Limited joined the investigation as affected parties.

Genesis denied the alleged breach. It considered its behaviour was consistent with the standard required of generators by clause 13.5A. It also considered its behaviour was outside the scope of clause 13.5A because it did not submit or revise any offers for HLY4 within the relevant time period.

The investigator was not able to achieve a settlement between the parties to the investigation.

The investigation found no breach, concluding that Genesis' behaviour to not offer HLY4 for the evening of 9 August was within the realm of behaviours consistent with that of a rational generator which does not hold significant market power.

On 28 February 2022, the Authority received and considered a report and a recommendation from the investigator to discontinue the investigation.

The Authority's decision

On 28 February 2022, 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 it is plausible a rational generator may have acted in the same way, and Genesis did not have significant market power through HLY4.

A rational generator may have behaved in the same way

- The investigator modelled HLY4 turning on at different times on the morning of 9 August, allowing for scenarios where it was operating at its full capacity by 6:00 pm, and where it had only partially ramped up by this time. In this case, the timing of available information during the morning was a key factor.
- The modelling found, for HLY4 to be at full capacity by 6:00 pm, price signals did not merit offering HLY4 generation.
- There was a small window from approximately 10:45 am when Genesis could have made a decision to offer generation from HLY4 and been profitable. HLY4 is not a peaking unit and was cold on the morning of 9 August, meaning it would need around 9 hours to ramp up to generate at full capacity. Making a decision at this time would have enabled HLY4 to reach its minimum load by 6:51 pm, after the peak demand had passed.
- This would have involved various risks, such as forecast prices changing, the start-up taking longer than expected, and running the unit in a way that creates extra physical risks to the unit. The investigator considered a rational generator may have weighed up the potential expected profit against the risks of running, and come to the same decision as Genesis not to run the unit.

No significant market power

- The possible market power Genesis may have expected to have through HLY4 for the evening of 9 August was not assessed to be significant.

In making its decision the Authority noted:

- the investigator had assessed Genesis' actions using the information that was available to Genesis during the timing window when it would have been able to start HLY4 in time to generate at full or partial capacity for the evening peak. Later actions by other parties may have exacerbated the evening situation, but that was not relevant to Genesis' decision making earlier in the day; and
- Genesis in denying the alleged breach considered its behaviour was outside the scope of clause 13.5A because it did not submit or revise any offers within the relevant period. The investigator considered Genesis' conduct could fall within the ambit of clause 13.5A but did not address this matter given the findings in relation to Genesis' behaviour.