

Evaluation Panels to review the Market Development Advisory Groups recommendation on spot market trading conduct provisions

The Market Development Advisory Group

The Market Development Advisory Group (MDAG) was formed by the Electricity Authority (Authority) in October 2017. The MDAG provides independent advice to the Authority on the development of the Electricity Industry Participation Code 2010 and market facilitation measures. The MDAG focuses its advice on matters relating to the evolution of the 'machinery' of the electricity market. Specifically, under its terms of reference the MDAG can advise on:

- a) initiatives to promote efficient pricing in markets and for monopoly services
- b) initiatives to promote efficient management of capacity and energy risks
- c) any other policy matters that the Authority considers appropriate

Context

The trading conduct provisions came into effect in June 2014 and have been tested by various events in subsequent years. The aim of the project, Review of spot market trading conduct provisions, is to review the trading conduct provisions in light of those events, to ensure the provisions are effective in promoting outcomes consistent with workable competition.

The Authority, in November 2017, asked the MDAG to investigate this matter and provide recommendations on what might need to change. There are a broad range of trading conduct issues the provisions could cover, and MDAG is initially focussing on trading conduct when parties are pivotal – this means they do not face competition, usually in the short term, for some portion of their supply.

The MDAG has released a discussion paper with a proposal for new trading conduct provisions that would replace the existing provisions in the Electricity Industry Participation Code 2010 (Code). The proposal seeks to address trading conduct by generators and ancillary service agents when they face limited competition. The MDAG has recently received submissions and cross submissions on the paper. To assist the MDAG in developing recommendations to the Authority Board, the MDAG has decided the next step is to test the provisions with evaluation panels.

Purpose of Evaluation Panels

It is proposed there will be two evaluation panels. The purpose of these panels is to test how the proposed Code provision might be interpreted and applied in diverse real-life situations or market behaviours ('case studies') with expert panel(s) acting as proxies for the Rulings Panel and Courts. Each panel would also apply the existing high standard provisions to the same case studies.

The panel evaluation exercise would provide:

- insights:
 - on the range of likely interpretations and the degree to which unintended applications of the proposed Code are likely to occur; and
 - into how the proposed Code compares to the existing high standard Code in its application to the same fact situation; and
- information to draw on in formulating possible Guidelines to accompany the proposed Code.

Approach

Panel members are to discuss with other members, and decide whether, for each case study, the behaviour constitutes a breach of the proposed Code provision and/or the existing Code provision.

The specific tasks are to:

- read the attached supporting documents
- evaluate four case studies against the proposed and existing Code provisions. The case studies will cover different offer behaviours against which the proposed rule will be evaluated. These behaviours could include:
 - pivotal situations
 - islanded situations
 - situations where parties have some degree of market power
 - genuine scarcity situations.
- comment on how the proposed Code compares to the existing high standard Code in its application to the same fact situation
- identify useful information to draw on in formulating possible Guidelines to accompany the proposed Code
- offer an assessment on the range of likely interpretations and the degree to which unintended applications of the proposed Code are likely to occur
- decide whether, for each case study, the behaviour constitutes a breach of the proposed Code provision or the existing high standard of trading conduct Code and;
- deliver a report, in the form of PowerPoint slides drafted by the MDAG Secretariat, with an assessment on the case studies and how they would fair under the current and proposed provisions, learnings that would benefit the development of future Code provisions and any challenges posed by the application of the proposed Code.

Electricity Authority's role limited to facilitation

The evaluation panels are not being led or run by the Authority. The Authority's role with respect to the evaluation panels is limited to the appointment, funding of the independent panel members and providing Secretariat support.

Resources

The MDAG Secretariat will provide a pack that will contain:

- MDAG's 'Review of High Standard of Trading Conduct' consultation paper
- case studies
- relevant parts of the Authority's Code
- interpretation of the Authority's statutory objective
- decisions to date on existing Code
 - The Authority's decision on claim of an undesirable trading situation Electric Kiwi's claim in relation to trading periods 35-40 on 2 June 2016. Final decision – 6 July 2016
 - High Prices on 2 June 2016 Market performance review
 - Notification of the Authority's decision under regulation 29 of the Electricity Industry (Enforcement) Regulations 2010 (including a subsequent note on Meridian Energy's view on Authority's role)
- 2013 High Court UTS decision
- Electricity Authority's - preliminary decision paper 10 November 2019 UTS claim

The Secretariat will help you with:

- Administrative support
- Requests for information or details in relation to the case studies
- Drafting of the evaluation report

Timing

- There will be a pre meeting (6 – 10 July) to discuss process and expectations.
- You will be given one week for background reading.
- You will have two -three meetings between 13 – 31 July 2020

Remuneration

The remuneration as a panel member is outlined in the Consultancy Services Agreement