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Submissions
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TRUSTPOWER SUBMISSION: REVIEW OF SPOT MARKET TRADING CONDUCT PROVISIONS

Introduction

- 1.1.1 Trustpower Limited (**Trustpower**) welcomes the opportunity to provide a submission to the Electricity Authority (**Authority**) on its Wholesale Markets Trading Conduct consultation paper (**the Consultation Paper**).
- 1.1.2 The Authority's consultation paper proposes revisions to the trading conduct rules, based on the Market Development Advisory Group (**MDAG's**) recommendations following its recent review of current High Standard of Trading Conduct Rule.
- 1.1.3 The Authority's proposal fully adopts the MDAG's suggested new rule on the basis that it will:
 - a) resolve a lack of clarity with the current provisions;
 - b) ensure that economic efficiency is better promoted; and
 - c) address gross pivotal behaviour.

Process

- 2.1.1 Trustpower is pleased that the Authority has determined to hold its own consultation process on the proposed revised trading conduct provisions, rather than relying on the MDAG's consultation processes under section 39(3)(c) of the Act. Changes of this significance are best developed through a combination of consultation with working groups and the Authority.
- 2.1.2 The initial development of the new trading conduct provisions via a working group process, including the various points of consultation with industry and expert panels, has helped refine the proposal and improve participants' understanding of the new intended arrangements.
- 2.1.3 There are still however some uncertainties associated with moving to the new arrangements which this consultation process provides an opportunity to address.

Scope of this submission

- 3.1.1 Trustpower has previously shared its views that the problem definition was insufficiently established before MDAG's attention shifted to drafting matters. We remain of this view.

- 3.1.2 However, recognising that events have moved on, the remainder of our submission does not comment on the relative merits of the proposal, but instead:
- a) focuses on the need for further consideration of appropriate transition arrangements; and
 - b) suggests drafting improvements for the new rule.

The need for appropriate transitional arrangements

- 4.1.1 There still remains some uncertainty as to how the new trading conduct provisions will apply from a trading desk perspective. The existing trading conduct provisions are generally well understood by traders - moving to the new trading conduct provisions will require significant learning and/or adaptation.
- 4.1.2 We continue to consider that the publication of case studies would help provide clarity as to what would constitute a breach of the new trading rule and assist with addressing these identified uncertainties.
- 4.1.3 We see case studies as analogous to driving speed advisory limits which would give traders guidance of behaviour, which is acceptable subject, of course, to the prevailing conditions.
- 4.1.4 Given the persistent uncertainties and need for learning and/or adaptation, Trustpower strongly supports the Authority further considering the associated transitional arrangements, including:
- a) Providing further education to the market around how the new arrangements are intended to operate (similar to the training sessions currently being provided for the new real time pricing arrangements), along with enabling broader opportunities for participants to directly engage with Authority staff to ensure that their understanding of the new trading conduct provisions is well aligned with the Authority's expectations;
 - b) Providing for a period of compliance leniency once the new rules come into force (where appropriate). We note the Authority's recognition that there may be a temporary increase in the number of alleged breaches and investigations during the initial "bedding in" period. During this period, we support the Authority working directly with participants to improve understanding of the new arrangements in the first instance, rather than immediately moving to enforcement actions where a compliance breach has been identified.
- 4.1.5 The Authority has not outlined a potential commencement date for the new provisions should they be adopted. We suggest that in determining an appropriate commencement date, time will be required to allow for market participants to seek expert advice on this new rule to ensure they follow it appropriately. At a minimum, three months will be required to enable this advice to be procured and adapted into internal guidelines/processes.

Drafting Concerns

- 5.1.1 Trustpower has taken advice on the drafting of the new rule and that advice has pointed out that the drafting is unusual as:
- a) The word "Accordingly" only applies to clause 1(b), and yet the sentence structure might suggest it applies to both clause 1(a) and 1(b); and
 - b) It is possible that there are other sections of the Code which also rely on the assumption in 1(a) and we are not sure if its express inclusion here will have implications for the future interpretation of those other sections. We strongly recommend that the Authority checks this point.

- 5.1.2 To address the matter raised in clause 5.1.1 (a) above, Trustpower submits that clause 1 and 2 need to be reworded as follows:
1. This clause applies where **offers** and **reserve offers** are not subject to competitive disciplines because there may be locations or periods when one or more generators or ancillary agents, as the case may be, have significant market power.
 2. In circumstances when this clause applies:
 - (a) Where a **generator** submits or revises an **offer** ... (as per existing)
 - (b) Where an **ancillary services agent** submits or revises an offer ... (as per existing)
- 5.1.3 This might seem like a minor change but it is an important distinction to provide clarity, because costly additional scrutiny must be placed on offers where there is suspected market power and it is important that the Code is clear whether this additional scrutiny is required at all times (which is not our understanding of the intent) or just when there is a prospect of market power.
- 5.1.4 Our understanding is that these changes are in keeping with current drafting practice of Parliamentary Counsel's Office.
- 5.1.5 For any questions relating to the material in this submission, please contact Peter Calderwood, General Manager Strategy and Growth at 021 953 104

Regards,



Peter Calderwood
General Manager Strategy and Growth