

CLAIM OF UNDESIRABLE TRADING SITUATION (UTS)

CONTACT DETAILS

Reporting Participant: SmartPower on behalf of Juken NZ Ltd

Contact Name: Peter Alderdice (SmartPower) on behalf of Graham Maples (JNL)

E-mail: Peter.alderdice@smartpower.co.nz

Phone:

Mobile: 021 743 906

Fax:

BASIS OF CLAIM

Definition of “undesirable trading situation”, clause 1.1 of the Code

Specify relevant paragraphs under which Participant claims a UTS

We believe that the situation that arose on Saturday 26th of March meets the definition of an undesirable trading situation under Clause 1.1 of the code as follows;

- (b) (i) manipulative or attempted manipulative trading activity;
- (b) (iii) unwarranted speculation or an undesirable practice;
- (b) (v) any exceptional or unforeseen circumstance that is at variance with, or that threatens or may threaten, generally accepted principles of trading or the public interest.

Describe why in your view the claimed UTS is a contingency or event that threatens, or may threaten, trading on the wholesale market for electricity and that would, or would be likely to, preclude the maintenance of orderly trading or proper settlement of trades.

We believe the market events of 26 March 2011 have advantaged a generator at the disadvantage of ourselves and other consumers of spot electricity. The financial impact is significant for Juken NZ Ltd. We have calculated the cost to be around \$█ in excess of what we would normally have expected on a Saturday in March. This is calculated as an additional spot market cost of around \$█ mill less the expected hedge settlement of \$█ This type of event leads us to question future levels of spot exposure and hedging. Had we been aware of the possible level of prices we would have taken actions to reduce our usage. While we accept that the outage was known of in advance the level of prices could not have been predicted and is outside of any reasonable forecast. We were not therefore in a position to mitigate the costs and this creates an environment which deters consumers from assisting the market place by taking spot exposure with the objective of offering demand side management where available.

In addition we believe that it is likely that this type of pricing will have flow on effects to the

hedge and ultimately the fixed price market. In our view this is an example of monopoly pricing in the extreme and indicates a failure of the market.

Describe why, in your view, the claimed UTS could not be satisfactorily resolved by any other mechanism available under the Code.

1. We are not experts on the code but believe that there is no other mechanism under the code that can satisfactorily resolve this issue.

SOLUTION SOUGHT BY APPLICANT

Clause 5.2 of the Code

Describe how in your view the claimed UTS could be resolved by the Board, bearing in mind the following powers of the Board should it find that a UTS does exist

- suspending, or limiting or curtailing, an activity on the wholesale market for electricity, either generally or for a specified period:
- deferring completion of trades for a specified period:
- directing that any trades be closed out or settled at a specified price:
- giving directions to any participant to act in a manner (not inconsistent with the Code, any regulations, the Act, or any other law) that will, in the Board's opinion, correct or assist in overcoming the undesirable trading situation:

1. **If the Authority finds that a UTS exists, then the Authority could direct that interim prices do not stand as final prices and direct that any trades during the relevant periods be settled at specified final prices. Resulting in the effect that we would pay a reasonable amount for that period.**

WHEN CLAIMED UTS OCCURRED

Date: 26 March 2011

Time: 10:30 to 17:30

DESCRIPTION CIRCUMSTANCES AND IMPACT

Please provide description of the circumstances surrounding the claim and include a detailed description of the impact the notifying participant suffered as a result of the claimed UTS.

It is our understanding that maintenance to transmission circuits between Waikato and Auckland took place on March 26th, and may have created the opportunity for a single generator to control market prices. Prices on the 26th were significantly higher than the previous day when the maintenance was not taking place.

We don't yet know the full extent of the financial impact on our business of the event of the 26th, but estimate it to be around \$■.

In addition it undermines our confidence in using spot market purchases as part of our management of energy costs and we have concerns that it will flow through into hedge pricing and ultimately fixed prices.

We understand this submission will be published, please keep all financial information confidential

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Please send completed form to compliance@ea.govt.nz