

CLAIM OF UNDESIRABLE TRADING SITUATION (UTS)

CONTACT DETAILS

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BASIS OF CLAIM

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

Specify relevant paragraphs under which Participant claims a UTS - refer to the full definition set out below

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.

1. TUMG is representing a number of our clients who were adversely impacted by the events of 26 March. These Auckland-based customers included two hospitals, two high schools and four large industrial sites.
2. In some cases, the customers in question were impacted directly by the massive hike in spot energy rates as they are on hedge contracts. In other cases, the customers are covered by fixed price variable volume contracts that include exposure to ACLF costs.
3. Based on various comments made, it would seem that action was taken in a manipulative/premeditated way to exploit a commercial opportunity presented by a serious projected shortfall in upper North Island energy generation.
4. To cut to the chase, customers exposed to spot energy rates and those exposed to ACLF were penalised unfairly. If available generation had been increased in response to market signals, the damaging effects to the affected parties could have been mitigated.
5. Another direct consequence of the above is that it threatens the ongoing viability of smaller generator/retailers in the energy markets.
6. It is also damaging to the NZ economy where we are all grappling with the worst recession in 75 years.
7. Finally, behaviour of this nature is not a good 'look' for the industry as a whole.

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

8. The code has no other apparent provisions to tackle the short-term problem and hence resolve the related longer-term issue i.e. anti-competitive behaviour that has the potential to undermine the competitive energy markets in NZ.

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. **Investigation required into the events of 26 March focusing on what happened, why it happened, what should with the advantage of hindsight have happened + lessons for the future.**
2. **Given 1 above, amend the code with a view to a) improving cooperation between TransPower and the energy generator/retailers & b) getting all applicable parties to work together in situations of this nature in the national interest.**
3. **Reverse the spot energy price spike on 26 March.**

WHEN CLAIMED UTS OCCURRED

Date: 26 March 2011

Time: 10.30 am to 5.40 pm

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.

Following four examples indicate the harsh commercial impact of the 26 March spot price spike:

- 1. Hospital 1 – ACLF cost \$■■■ (January), \$■■■ (February) & \$■■■ (March).*
- 2. Industrial site 1 – Overall electricity costs (i.e. energy + lines) increased by \$38.5k (63%) between February and March.*
- 3. Industrial site 2 – Overall electricity costs (i.e. energy + lines) increased by \$34.3k (32%) between February and March.*
- 4. High school 1 – ACLF charges increased from \$206 (in January) to \$5812 (in March). What compounds the problem for government schools is that they are now operating under much tighter budget constraints from the Ministry of Education.*

Another weakness in the 'system' highlighted by this issue is the fact that our two hospital clients both have back-up generators but no-one warned them of the projected energy shortfall on 26 March. Hence both hospitals ended up paying up to +/- \$20/kWh during the period in question, when they could have run their in-house generators (one uses 170 litres/hour and the other 230 litres/hour). Clearly going down this route would have drastically reduced their electricity costs.

In terms of applying lessons learnt from this saga, it would be prudent to improve industry communications in future with both independent generators and with major electricity users who can reduce their usage at short notice.

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