

BELL GULLY

By delivery

Electricity Authority

Level 7
ASB Bank Tower
2 Hunter Street
Wellington 6143

FROM **Jenny Stevens / David Blacktop**
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MATTER NO. 01-352-2784
DATE 13 July 2011

Appeal of Electricity Authority's decision that a UTS developed on 26 March 2011: Contact Energy Limited

Contact Energy Limited (**Contact Energy**) has today filed in the High Court at Wellington a notice of appeal under section 64 of the Electricity Industry Act 2010 appealing the Electricity Authority's decision that an undesirable trading situation developed on 26 March 2011 (the **UTS Decision**).

Under High Court Rule 20.6(1)(b) Contact Energy is required to file a copy of the notice of appeal in the administrative office of the Authority. A copy of the notice of appeal is therefore **enclosed** in accordance with that Rule.

The High Court Rules also require Contact Energy to serve a copy of the notice of appeal on every other party "directly affected" by the appeal. Also **enclosed** is a copy of a memorandum of counsel for Contact Energy to the High Court which sets out the steps Contact Energy is taking to ensure relevant parties are notified of the fact of the appeal and receive a copy of the notice of appeal.

Given its position and role both in relation to UTS Decision itself, and in overseeing the industry, Contact Energy would welcome the Authority's input as to whether there are other parties the Authority considers should receive a copy of the notice appeal and/or if there are further steps Contact Energy should be taking to ensure relevant parties are sufficiently notified. It may be that the Authority itself could assist in ensuring the notice is adequately brought to relevant parties' attention.

Please direct any comments in this regard either to counsel for Contact Energy (as set out in this letter) or via the filing of a memorandum with the High Court.

Yours faithfully
Bell Gully



Jenny Stevens / David Blacktop
Partner / Senior Associate

Enc.



**NOTICE OF DATE OF CASE MANAGEMENT CONFERENCE FOR APPEAL
(IN PERSON)**

Jenny Helen Stevens
Bell Gully - Auckland
P O BOX 4199
DX CP20509
AUCKLAND 1015

DATE: 13 July 2011 **TRACK:** Swift HC - Appeals
REFERENCE NO: CIV-2011-485-001372
CASE NAME: Contact Energy Limited

Take notice that a Case Management Conference will be held on this appeal as follows:

Date: Monday 25th day of July 2011 at 10.00 AM
Place: High Court, Wellington HC, Courtroom 8

Please note the **list of standard directions** for appeals and the other information and requirements set out on the back of this notice.

Notification to other parties

You must give notice of the date and time of this conference to everyone who has been, or is to be, served with a copy of the notice of appeal or originating application. You should ensure that the appeal is served without delay, and in good time before the conference.

Conference memorandum

Unless excused by the Court, you must, not later than 2 working days before the case management conference being the 21st of July 2011 file and serve a joint memorandum or your own memorandum (see reverse for details). Please note the standard directions require that proposed timetables run forwards from the conference date, and not backwards from the date of hearing (whether fixed or prospective).

Cancellation of conference

The Court may cancel the case management conference if, after reading memoranda, the Court is satisfied that all orders sought can be made by consent, and the attendance of counsel is not required. You are required to attend unless notified by the Court that the conference is cancelled.

If you have any queries please contact Julie Pereira, (04) 914 3604, Julie.Pereira@justice.govt.nz.


Julie Pereira
Deputy Registrar

Copy to: Contact Energy Limited

CONFERENCE INFORMATION AND REQUIREMENTS

ATTENDANCE

The attendance of counsel instructed to appear in the case, or of the solicitor responsible for the case, is required. The parties may attend the conference but are not required to do so unless unrepresented by counsel.

In Courts other Auckland, Wellington and Christchurch, it may be necessary for the case management conference to be conducted by telephone. If this is the case, you will be advised. In such case, please ensure that you notify the Court of your appropriate contact details.

CONFERENCE MEMORANDUM – r.7.5 (3) - (5)

Unless excused by the Court, you must, not later than 2 working days before the case management conference file a joint memorandum or your own memorandum. Any memorandum must –

- (a) estimate the time required for the hearing; and
- (b) suggest the costs category for the appeal for the purpose of rule 14.3 and, where applicable, for the purpose of rule 20.13; and
- (c) advise if any party has been granted legal aid under the Legal Services Act 2000 or has applied for legal aid and is awaiting a decision; and
- (d) if a full Court is sought, set out the reasons for that; and
- (e) in the case of an appeal under Part 20, specify any directions in Schedule 6 (see below) that should be deleted or modified, and why; and
- (f) in the case of an appeal under Part 26, specify any directions in Schedule 6 that would be appropriate for the appeal, and
- (g) set out any additional directions sought, and why.

You may file this memorandum by facsimile.

Schedule 6 - Standard directions for appeals

- 1 The appeal will be heard (*at [time] on [date]*) [*or*] (*at a time and date to be allocated by the Registrar*).
- 2 The time for the hearing is estimated to be [half days or days].
- 3 The appeal is categorised as a category [type] proceeding for the purposes of rule 14.3.
- 4 The appellant must pay security in the sum of amount (\$) not later than 10 working days after the conference.
- 5 Unless detailed and specific points on appeal have been included in the notice of appeal, the appellant must file and serve, not later than 10 working days after the conference, points on appeal that clearly state the issues on appeal.
- 6 If the appeal involves a significant issue under the New Zealand Bill of Rights Act 1990, or an issue affecting New Zealand's international obligations or the Crown's obligations under the Treaty of Waitangi, or an issue arising in the appeal is otherwise of significant public interest, the Judge may direct that the Solicitor General be served with the notice of appeal, and with documents subsequently filed in the appeal.
- 7 The appellant must file and serve, not later than 20 working days after the conference, a common bundle of paginated and indexed copies of all relevant documents, including, if applicable,—
 - (a) the reasons for the decision; and
 - (b) the sealed order or judgment appealed from; and
 - (c) the pleadings; and
 - (d) the statements of evidence or affidavits; and
 - (e) the exhibits; and
 - (f) the notes of evidence, to the extent that they are relevant to the issues on appeal.
- 8 If a party insists on including a document in the common bundle even though another party objects to its inclusion on the ground that it is unnecessary or irrelevant, the objection must be recorded for the purpose of any award of costs relating to the inclusion of the document.
- 9 The appellant must file and serve, no later than 25 working days after the conference,—
 - (a) the appellant's submissions; and
 - (b) chronology (if relevant).
- 10 The appellant's submissions must contain—
 - (a) references to any specific passages in the evidence that the appellant will refer to at the hearing; and

- (b) a list of the names and correct citations of any authorities mentioned.
- 11 The respondent must file and serve, not later than 30 working days after the conference,—
- (a) submissions that meet the requirements set out in clause 10; and
- (b) if the respondent disagrees with the appellant's chronology, a separate chronology noting areas of disagreement.
- 12 The appellant must prepare a bundle of any authorities referred to in the submissions provided in accordance with clauses 9 and 11 that the appellant or the respondent considers ought to be produced to the court. The bundle may be produced at the hearing of the appeal or filed before the appeal is heard.
- 13 If the appeal is to be heard by a single Judge, 1 copy of each document must be filed.
- 14 If the appeal is to be heard by a full court, 2 copies of each document must be filed.

**In the High Court of New Zealand
Wellington Registry**

CIV

Under the Electricity Industry Act 2010

In the matter of an appeal under section 64 of the Electricity Industry Act 2010
against a decision of the Electricity Authority that an undesirable trading situation
developed on 26 March 2011

In Re Contact Energy Limited, a duly incorporated company having its
registered office at Level 1, Harbour City Tower, Brandon Street, Wellington
Appellant

**Memorandum of counsel for appellant as to notice of
appeal**

13 July 2011

BELL GULLY
BARRISTERS AND SOLICITORS

J H STEVENS/D A K BLACKTOP
WELLINGTON LEVEL 21, 171 FEATHERSTON STREET
PO BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810 EMAIL JENNY.STEVENS@BELLGULLY.COM

May it please the Court:

1. Contact Energy Limited (**Contact Energy**) has today filed with this Court a notice of appeal under section 64 of the Electricity Industry Act 2010 (the **Act**) and in accordance with Part 20 of the High Court Rules.
2. The appeal is brought in respect of a part of a decision of the Electricity Authority which concluded that an undesirable trading situation developed on 26 March 2011 (the **UTS Decision**). The UTS Decision was published initially on 15 June 2011 and again on 4 July 2011. A copy of both decisions is attached to the notice of appeal.

Filing and service

3. As required by High Court Rule 20.6, in addition to filing its notice of appeal with this Court, Contact Energy will also today be filing a copy of the notice of appeal in the administrative office of the Electricity Authority located in Wellington. A copy of a letter accompanying the filing of the notice of appeal with the Electricity Authority is attached to this memorandum (**marked A**).
4. High Court Rule 20.6(1)(c) also requires Contact Energy to serve a copy of the notice of appeal on “every other party directly affected by the appeal”.
5. Set out as a schedule to this memorandum is a list of parties that had some involvement in the Electricity Authority’s investigation leading up to the UTS Decision. In summary, from the content of the UTS Decision, it appears that:
 - (a) 35 parties made claims with the Electricity Authority that a UTS developed on 26 March 2011 (**UTS Claim**). Some of these 35 parties are registered industry participants pursuant to section 7 of the Act and some are not;
 - (b) 11 further parties (excluding Contact Energy) did not specifically make a UTS Claim but otherwise made submissions in the investigation undertaken by the Electricity Authority. Again, some of these 11 further parties are registered industry participants and some are not;

- (c) 17 further parties were required by the Electricity Authority to respond to statutory information requests in relation to the investigation.
- 6. The UTS Decision is made pursuant to the Electricity Industry Participation Code 2010 (**Code**). All registered industry participants under the Act are required to comply with the Code and therefore may be, or are, affected by decisions made under the Code.
- 7. There are, therefore, a large number of parties who may be impacted by the UTS Decision and, thus, by this appeal.
- 8. Contact Energy has taken a cautious approach as to whom this Court may consider needs to be served under Rule 20.6(1)(c). It is today:
 - (a) serving a copy of the notice of appeal on all parties who are registered industry participants and who either made: a UTS Claim (category 5(a) above), or submissions (category 5(b) above). These registered industry participants are highlighted in the attached schedule. There are 15 parties in this category (excluding Contact Energy);
 - (b) notifying all other parties to the UTS investigation (i.e., those who made UTS Claims (category 5(a) above) or submissions (category 5(b) above) but are not registered industry participants, or were recipients of an information request by the Electricity Authority (category 5(c) above)) of the fact of this appeal. This will be done by providing a copy of the notice of appeal by email. There are a further 48 parties in this category. These parties have been invited to indicate if they also require a hard copy of the appeal document and, if so, that will then be arranged.
- 9. Contact Energy has also invited the Electricity Authority (see letter attached and marked A) to indicate its views on the appropriate parties to be notified of the appeal and any steps the Electricity Authority considers it can take to assist further in ensuring all potentially affected parties are sufficiently notified of the bringing of this appeal.

Directions hearing sought

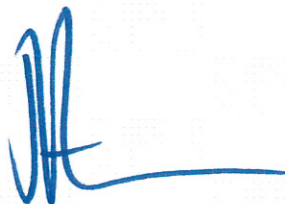
10. Contact Energy seeks a directions hearing within the next 7 days as to whether this Court requires any further parties to be served and any other service requirements. It is noted that under High Court Rule 20.7 this Court may dispense with service on a party of a notice of appeal on any terms the court thinks just. If any issues arise as to the adequacy of the notice and service steps Contact Energy is currently undertaking, a dispensation under this Rule may be sought at the directions hearing.

Form of intitlement

11. High Court Rule 20.9(2) prohibits the decision maker being named as the respondent to an appeal, albeit that the Electricity Authority appears to be the natural respondent in this instance.
12. Accordingly, the Court will note that Contact Energy has adopted the formulation suggested by His Honour Justice Young in *Canterbury Development Corp Trust v Charities Commission* [2010] 2 NZLR 707 of entitling this appeal document as "In Re Contact Energy Limited".
13. If any further directions are required in this regard, this can also be addressed at the directions hearing sought in paragraph 10 above.

Other similar appeals

14. Finally, Contact Energy understands that similar appeals in relation to the UTS Decision are also being brought by Genesis Power Limited and Bay of Plenty Electricity Limited / Todd Energy Limited in this Court. Should such appeals be lodged by these (or any other) parties, it will likely be desirable to have those appeals case managed together in the first instance.



J H Stevens / D A K Blacktop
Counsel for the appellant

13 July 2011

Schedule of parties involved in UTS Decision

*RP = Registered Industry Participant

Parties who made a UTS claim (see para 5(a))			
	Party	RP*	Email Address / Address for Service
1.	ABE'S Real Bagels Limited		Brent Milburn brent@abesrealbagels.com
2.	Air New Zealand Limited		Mandy Varney Mandy.varney@airnz.co.nz
3.	ASB Bank Limited		Perry Waldman perry.waldman@asb.co.nz
4.	Auckland War Memorial Museum		John Glen jglen@aucklandmuseum.com
5.	Chris Brady		Chris Brady power.brokers@slingshot.co.nz
6.	Bupa Care Services		Allan Cawood Allan.Cawood@bupa.co.nz
7.	Convex Plastics Limited		Tony Letcher tony.l@convex.co.nz
8.	Cynotech Holdings Limited, and subsidiaries		Brett Tawse brett@cynotech.co.nz
9.	Fletcher Building Limited (including on behalf of Golden Bay Cement)	✓	810 Great South Road, Penrose, Auckland, 1061, New Zealand
10.	Goodwood Industries Limited		Charles Black charlesblack@goodwood.co.nz
11.	(SmartPower on behalf of) Juken NZ Ltd		Peter Alderdice (SmartPower) on behalf of Graham Maples (JNL) Peter.alderdice@smartpower.co.nz
12.	Masterton District Council		David Paris davidp@mstn.govt.nz
13.	MercyAscot Hospitals		Clive Rous clive.rous@mercyascot.co.nz
14.	Meridian Energy Limited	✓	33 Customhouse Quay, Queens Wharf, Wellington, New Zealand
15.	Mighty River Power Limited	✓	L14, ANZ Centre, 23-29 Albert Street, Auckland, New Zealand

Parties who made a UTS claim (see para 5(a))			
	Party	RP*	Email Address / Address for Service
16.	New Zealand Steel Limited	✓	131 Mission Bush Road, Glenbrook, South Auckland, New Zealand
17.	Nufarm NZ Limited		Brendan Redmond Brendan.redmond@nz.nufarm.com
18.	NZ Sugar Company Limited		Allan Dobbie adobbie@nzsugar.co.nz
19.	Open Country Dairy Limited		Wayne Leach wayne.leach@opencountry.co.nz
20.	PMP Print Limited		Kathy Voss Kathy.voss@pmpprint.co.nz
21.	Powershop New Zealand Limited	✓	Level 6, 56 Victoria Street, Wellington, New Zealand
22.	Prime Energy Limited	✓	Level 5, 8 Commerce Street, Auckland City, Auckland 1143, New Zealand
23.	Smart Power Limited		Anne Herrington anne@smartpower.co.nz
24.	Southern Cross Hospitals Limited		Glenn Beaman glenn.beaman@southerncrosshospitals.co.nz
25.	Southern Spars		David Glen david.glen@southernspars.com
26.	Switch Utilities Limited	✓	33 Waiake Street, Torbay, Auckland, New Zealand
27.	Telecom NZ Limited (via Chorus)		Rebecca McKenzie Rebecca.McKenzie@chorus.co.nz
28.	Television New Zealand Limited		Gary Watkins Gary.Watkins@tvnz.co.nz
29.	The New Zealand Refining Company Limited		David Martin david.martin@nzrc.co.nz
30.	Total Utilities Management Group Limited		Richard Gardiner richard@tumg.co.nz
31.	Vital Healthcare Property Trust		Drugh Woods dwoods@vhpt.co.nz
32.	Vodafone NZ Ltd		Mark Jones mark.jones@vodafone.com

Parties who made a UTS claim (see para 5(a))			
	Party	RP*	Email Address / Address for Service
33.	Wallace Corporation Limited		Neville Cross neville.cross@wallace.co.nz
34.	Waratah Farms Limited		Martin Ellis martin@waratahfarms.co.nz
35.	Westpac (NZ) Limited		Dean Adams dean_adams@westpac.co.nz

Additional parties who made submissions in the Electricity Authority's UTS investigation (see para 5(b))			
	Party	RP*	Email Address / Address for Service
1.	Brian Leyland		bryanleyland@mac.com
2.	Employers & Manufacturers Association (Northern) Inc.		ema@ema.co.nz Bruce Goldsworthy (Acting Chief Executive) bruce.goldsworthy@ema.co.nz
3.	Genesis Power Limited (trading as Genesis Energy)	✓	Level 3, The Genesis Building, 602 Great South Road, Greenlane, Auckland, New Zealand
4.	King Country Energy Limited	✓	King Country Energy Building, Cnr Miriama & Manuaute Streets, Taumarunui, New Zealand
5.	Major Electricity Users' Group		Ralph Matthes info@meug.co.nz
6.	Norske Skog Tasman Limited	✓	C/- Norske Skog Tasman Limited, Fletcher Avenue, Kawerau, New Zealand
7.	NZX Limited	✓	Level 2, NZX Centre, 11 Cable Street, Wellington, 6140, New Zealand
8.	Todd Energy Limited	✓	Level 15, The Todd Building, 95 Customhouse Quay, Wellington, New Zealand
9.	Transpower New Zealand Limited	✓	Level 7, Transpower House, 96 The Terrace, Wellington, New Zealand
10.	Trustpower Limited	✓	Truman Lane, Rd 5, Tauranga, 3143, New Zealand
11.	Vector Limited	✓	Level 4, 101 Carlton Gore Road, Newmarket, Auckland, New Zealand

Additional parties who responded to information requests from the Electricity Authority in UTS investigation (see para 5(c))			
	Party	RP*	Email Address
1.	Alinta ENZ Limited	✓	John Simmons john.simmons@bbpower.com Dan Jury dan.jury@bbpower.com
2.	Bay of Plenty Energy Limited	✓	cpower@bopelec.co.nz
3.	Bosco Connect Limited	✓	Bryan Dobson bryan.dobson@bosco.co.nz
4.	Carter Holt Harvey Pulp & Paper Limited	✓	Christopher Brown christopher.brown@cch.co.nz Rodney Horn rodney.horn@cch.co.nz
5.	Energy Direct Limited	✓	Michael Ram michael.ram@energydirectnz.co.nz
6.	Energy Online Limited	✓	Dean Carroll dean.carroll@genesisenergy.co.nz Peter McComish Peter.Mccomish@genesisenergy.co.nz
7.	Fonterra Co-operative Group Limited	✓	Rodger Keedwell roger.keedwell@fonterra.com Doug Watson doug.watson@fonterra.com
8.	Mercury Energy Limited		TBA
9.	Methanex New Zealand Limited	✓	Louise Odea lodea@methanex.com Ian Jamieson I.Jamieson@methanex.com
10.	New Zealand Railways Corporation trading as KiwiRail Limited		TBA
11.	Opunake Hydro Limited	✓	Simon Young simon.young@thekarogroup.net
12.	Pacific Steel Limited		TBA
13.	Pan Pac Forest Products Limited	✓	Fred Staples fred.staples@panpac.co.nz

Additional parties who responded to information requests from the Electricity Authority in UTS investigation (see para 5(c))			
	Party	RP*	Email Address
			Gerald Cowan gerald.cowan@panpac.co.nz Roger Jones roger.jones@panpac.co.nz
14.	Pulse Utilities New Zealand Limited	✓	Dene Biddlecombe dene.biddlecombe@punz.co.nz
15.	Simply Energy Limited	✓	Stephen Peterson info@simplyenergy.co.nz Stephen Kemp operations@simplyenergy.co.nz
16.	Southpark Utilities Limited	✓	Gary Wang gary@southparkcorp.co.nz Peter Saunders property@southparkcorp.co.nz
17.	Winstone Pulp International Limited	✓	Paul Saunders paul.saunders@wpi-international.co.nz

"A"

BELL GULLY

By delivery

Electricity Authority
Level 7
ASB Bank Tower
2 Hunter Street
Wellington 6143

FROM **Jenny Stevens / David Blacktop**
DDI 64 4 915 6849 / 64 4 915 6531
MOBILE 64 21 190 2973 / 64 21 663 059
EMAIL jenny.stevens@bellgully.com
EMAIL david.blacktop@bellgully.com
MATTER NO. 01-352-2784
DATE 13 July 2011

Appeal of Electricity Authority's decision that a UTS developed on 26 March 2011: Contact Energy Limited

Contact Energy Limited (**Contact Energy**) has today filed in the High Court at Wellington a notice of appeal under section 64 of the Electricity Industry Act 2010 appealing the Electricity Authority's decision that an undesirable trading situation developed on 26 March 2011 (the **UTS Decision**).

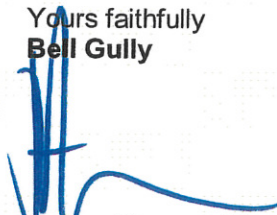
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The High Court Rules also require Contact Energy to serve a copy of the notice of appeal on every other party "directly affected" by the appeal. Also **enclosed** is a copy of a memorandum of counsel for Contact Energy to the High Court which sets out the steps Contact Energy is taking to ensure relevant parties are notified of the fact of the appeal and receive a copy of the notice of appeal.

Given its position and role both in relation to UTS Decision itself, and in overseeing the industry, Contact Energy would welcome the Authority's input as to whether there are other parties the Authority considers should receive a copy of the notice appeal and/or if there are further steps Contact Energy should be taking to ensure relevant parties are sufficiently notified. It may be that the Authority itself could assist in ensuring the notice is adequately brought to relevant parties' attention.

Please direct any comments in this regard either to counsel for Contact Energy (as set out in this letter) or via the filing of a memorandum with the High Court.

Yours faithfully
Bell Gully



Jenny Stevens / David Blacktop
Partner / Senior Associate

Enc.

**In the High Court of New Zealand
Wellington Registry**

CIV

Under the Electricity Industry Act 2010

In the matter of an appeal under section 64 of the Electricity Industry Act 2010
against a decision of the Electricity Authority that an undesirable trading situation
developed on 26 March 2011

In Re Contact Energy Limited, a duly incorporated company having its
registered office at Level 1, Harbour City Tower, Brandon Street, Wellington

Appellant

Notice of appeal

13 July 2011

BELL GULLY

BARRISTERS AND SOLICITORS

J H STEVENS/D A K BLACKTOP
WELLINGTON LEVEL 21, 171 FEATHERSTON STREET
PO BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810 EMAIL JENNY.STEVENS@BELLGULLY.COM

Take notice that the appellant, Contact Energy Limited, appeals those parts of a decision of the Electricity Authority (the **Authority**) released on 15 June 2011 and/or those parts of a further decision of the Authority released on 4 July 2011, in which the Authority found that an undesirable trading situation (**UTS**) under Part 5 of the Electricity Industry Participation Code 2010 (the **Code**) developed on 26 March 2011 (the **UTS Decision**). Copies of the 15 June 2011 and 4 July 2011 decisions are **attached** to this notice. In particular, the appellant appeals the parts of the UTS Decision in which the Authority found that the events of 26 March 2011 satisfied the definition of a UTS under the Code and that it was necessary to correct the alleged UTS by way of a price adjustment.

Grounds of appeal

The grounds of appeal are that:

1. The appellant is:
 - (a) an industry participant under the Electricity Industry Act 2010;
 - (b) required to comply with the Code;
 - (c) a party affected by the UTS Decision;
 - (d) a party that was invited to, and that did, make written submissions and cross submissions to the Authority in relation to the Authority's investigation of the alleged UTS on 26 March 2011; and
 - (e) a party that was issued with a statutory notice by the Authority requiring it to provide information to the Authority for the purposes of the Authority's investigation of the alleged UTS on 26 March 2011.
2. The Authority's investigation was conducted by, and the UTS Decision was made by, the UTS Committee purportedly on behalf of the Authority and purportedly pursuant to Part 5 of the Code.
3. The Authority/UTS Committee erred in law by applying a wrong legal test and/or misdirecting itself as to the correct legal test in deciding that

a UTS developed on 26 March 2011. In particular the Authority/UTS Committee:

- (a) erred in law in failing to identify, or failing to adequately identify, the “contingency or event” said to comprise the UTS;
 - (b) erred in law in applying too low a threshold for determining what is outside the normal operation of the wholesale electricity market;
 - (c) erred in law in finding that the alleged contingency or event threatened or may threaten trading on the wholesale market for electricity;
 - (d) erred in law in finding that the alleged contingency or event would, or would be likely to, preclude the maintenance of orderly trading or proper settlement of trades;
 - (e) erred in law in finding that the alleged contingency or event included an undesirable situation and resulted in an exceptional or unforeseen circumstance that threatened, or may have threatened, generally accepted principles of trading and the public interest; and
 - (f) erred in law in finding that the alleged contingency or event could not satisfactorily be resolved by any other mechanism available under the Code.
4. The Authority/UTS Committee erred in law by reaching a decision that no reasonable decision maker could have arrived at in determining that a UTS developed on 26 March 2011 including by:
- (a) erring in the manner described in paragraph 3 above;
 - (b) taking into account matters which it should not have taken into account; and/or
 - (c) failing to take into account, or adequately taking into account, matters which it should have taken into account.

5. The Authority/UTS Committee erred at law by misinterpreting the proper scope of its powers to correct the alleged UTS by way of a price adjustment including by failing to advance its statutory objective, set out in section 15 of the Electricity Industry Act 2010, to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the benefit of long-term benefit of consumers.

Relief sought

6. The relief sought by the appellant is:
- (a) a declaration that the UTS Decision is null and void; and
 - (b) such other consequential relief or orders as the Court directs.

This notice is given under sections 7, 64 and 66 of the Electricity Industry Act 2011, and Part 20 of the High Court Rules.

Dated: 13 July 2011



Jennifer Helen Stevens
Solicitor for the appellant

To: The Registrar of the High Court at Wellington

And to: The Electricity Authority

And to: Genesis Power Limited
Fletcher Building Limited (including on behalf of Golden Bay Cement)
King Country Energy
Meridian Energy Limited
Mighty River Power Limited
New Zealand Steel Limited
NZX Limited
Norske Skog Tasman Limited
Powershop New Zealand Limited
Prime Energy Limited
Switch Utilities Limited
Todd Energy Limited

Transpower New Zealand Limited
Trustpower Limited
Vector Limited

This document is filed by Jennifer Helen Stevens, of Bell Gully, solicitor for the appellant. The address for service of the appellant is Level 21, 171 Featherston Street, Wellington.

Documents for service on the appellant may be left at that address or may be:

- (a) posted to the solicitor at PO Box 1291, Wellington;
- (b) left for the solicitor at the document exchange for direction to DX SX11164, Wellington;
- (c) transmitted to the solicitor by facsimile at 04 915 6810;
- (d) emailed to the solicitor at jenny.stevens@bellgully.com.

Documents served on the appellant should be marked for the attention of J H Stevens / D A K Blacktop.