

13 July 2011

PARTNERS

PATRICK BOWLER
DEREK NOLAN
JEFF MORRISON
DEREK JOHNSTON
GREG THOMPSON
GRAEME QUIGLEY
ALAN PATERSON
FREDERICK WARD
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MATTHEW KERSEY
JAMES GARDNER-HOPKINS
DAVID BUTLER
CRAIG SHRIVE
JOHN-PAUL RICE
GRANT KEMBLE

CONSULTANTS

GEOFFREY RICKETTS
ALAN A'COURT
FRUDENCE FLACKS
NICOLA PURVIS
DOUG BAILEY
PROF. PHILIP JOSEPH

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

By hand

**GENESIS POWER LIMITED: APPEAL OF ELECTRICITY AUTHORITY'S
DECISION THAT A UTS DEVELOPED ON 26 MARCH 2011**

1. We act for Genesis Power Limited ("**Genesis Energy**"). We enclose, by way of service:
 - (a) a notice of appeal under section 64 of the Electricity Industry Act 2010 in respect of the Final Decision of the Electricity Authority ("**Authority**") that an undesirable trading situation ("**UTS**") developed on 26 March 2011; and
 - (b) a copy of Genesis Energy's memorandum of counsel.

Proper respondent to the appeal

2. High Court Rule 20.9 provides that the Authority must not be named as a respondent to the appeal. However, in this case it appears that the Authority is the natural respondent to the appeal and, as such, may wish to apply to be joined to the proceeding as a respondent.

Service

3. The High Court Rules also require that Genesis Energy serve copies of the notices of appeal on every other party "directly affected by the appeal". The **enclosed** memorandum of counsel sets out the relevant parties identified by Genesis Energy and the steps it has taken to ensure that those parties are either served, or otherwise notified, of the appeal.
4. Genesis Energy believes it has taken all necessary steps to ensure that it has complied with its service obligations however, in recognising the Authority's role as industry regulator, Genesis Energy welcomes any comment the Authority might have as to whether there are any additional parties which, in the Authority's opinion, are "directly affected by the appeal" and therefore may also require to be served.
5. Please feel free to contact us should you wish to discuss this matter further.

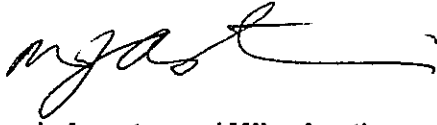
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PHONE 64 9 367 8000 FAX 64 9 367 8163 DX CX10085

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2294887 v1

Yours faithfully
RUSSELL McVEAGH



Sarah Armstrong / Mika Austin
Partner / Associate

Direct phone: 09 367 8379 / 09 367 8294
Direct fax: 09 367 8592 / 09 367 8592
Email: sarah.armstrong@russellmcveagh.com
mika.austin@russellmcveagh.com

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2011-485 - 1373

UNDER THE

ELECTRICITY INDUSTRY ACT 2010

IN THE MATTER

of an appeal under section 64 of the Electricity Industry Act 2010 in respect of a Final Decision of the Electricity Authority that an Undesirable Trading Situation developed on 26 March 2011

IN RE

GENESIS POWER LIMITED, a duly incorporated company, trading as Genesis Energy and having its registered office at Level 3, The Genesis Building, 602 Great South Road, Greenlane, Auckland

Appellant

NOTICE OF APPEAL
13 JULY 2011

RUSSELL McVEAGH

Counsel:
J A Farmer QC
Phone 09 358 7090
Fax 09 358 7091
PO Box 1800
Shortland Street
Auckland 1010

A M Peterson/S A
Armstrong
Phone 64 9 367 8000
Fax 64 9 367 8163
PO Box 8
DX CX10085
Auckland

NOTICE OF APPEAL

Genesis Power Limited ("**Genesis Energy**"), the appellant, gives notice that it appeals against those parts of the final decision of the Electricity Authority ("**Authority**") under Part 5 of the Electricity Industry Participation Code 2010 ("**Code**") regarding an alleged Undesirable Trading Situation ("**UTS**") on 26 March 2011 ("**Decision**") that are referred to in paragraphs 1 and 2 below. The Decision was delivered in Wellington on 15 June 2011. A second decision on the actions to correct that situation was delivered on 4 July 2011 and a consolidated version of both decisions was published on 4 July 2011. Copies of the Decision and the consolidated version are attached to this Notice.

1. The Authority's findings (at [152] to [159]) that the events on 26 March 2011 that led to interim prices in the wholesale market for electricity exceeding \$19,000 per megawatt hour over several hours for Hamilton, and regions north of Hamilton, satisfy the definition of a UTS under the Code; and
2. The Authority's findings (at [160] to [164] and [183] to [185]) that it had the power to correct the UTS on 26 March 2011 by a regulatory intervention directed at revising (downwards) the prices in the wholesale market for electricity.

UPON THE GROUNDS:

3. Genesis Energy is an industry participant under the Electricity Industry Act 2010 ("**Act**"). It provided electricity to the wholesale market during the relevant trading periods on 26 March 2011 and the determination by the Authority to take corrective action as a result of its final decision that a UTS occurred directly affects the final prices achieved by Genesis Energy for the electricity it supplied during those trading periods.
4. The Authority erred in law by applying a wrong legal test and/or misdirecting itself as to the correct legal test in determining that a UTS developed on 26 March 2011. In particular, the Authority:
 - (a) failed to identify the contingency or event that it used to determine that a UTS had occurred;

- (b) applied too low a threshold for determining what is outside the normal operation of the market;
- (c) wrongly found a UTS where:
 - (i) trading on the market *may* be threatened because the reputation of the wholesale market for electricity *may* be damaged; and
 - (ii) the adverse financial impact on some parties *may* preclude the maintenance of orderly trading or the proper settlement of trades (at [152]);

and in particular was wrong to find the events concerned would, or would be likely to, preclude the maintenance of orderly trading or proper settlement of trades given previous practice and decisions of what constitutes a UTS by predecessors to the Authority when applying the same test;

- (d) wrongly concluded that the alleged contingency or event could not satisfactorily be resolved by any other mechanism under the Code (at [158(b)]); and
- (e) having found that an "exceptional and unforeseen circumstance occurred during trading periods 22 to 35 on 26 March 2011", failed to establish that this circumstance constituted an undesirable trading situation, as defined in the Code and properly interpreted and applied (at [153]).

5. The Authority 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. In particular:

- (a) The Authority made the following findings in relation to events of 26 March 2011:
 - (i) there is no price cap on offers made in the market (at [105] and [126]);

- (ii) Contact Energy Limited's decision to withdraw capacity had created the circumstances where prices became exceptional (at [89]);
- (iii) there had been errors in demand forecasts which contributed to the situation and which Mighty River Power Limited's actions and revisions to the constraint limit by the system operator had obscured (at [90] and [108]);
- (iv) high prices are not to be regarded per se as a UTS (at [127]);
- (v) using publicly available data, an analysis of Genesis Energy's previous high-priced offers would have identified many thousands of offers of generation plant at \$10,000/MWh in the previous year "and this could be construed as a fair warning of what might occur under a net pivotal situation" (at [114]);
- (vi) the exceptionally high priced offers from Genesis Energy for Huntly were provided in the forecast schedules 24 hours before those prices were in fact offered on 26 March 2011 – those forecasts led to action by Mighty River Power Limited which had the effect of reducing the forecasts (at [136] and [137]);
- (vii) Genesis Energy's offers on 26 March 2011 were in accordance with its internal procedures (at [122]) and Genesis Energy's offer strategy for its Tokaanu, Rangipo and Tuai power stations was consistent with managing its own risk position (at [103]);
- (viii) Genesis Energy had offered Mighty River Power Limited and Meridian Energy Limited hedge cover at prices substantially below those that were the subject of the complaints (at [124] and [125]);
- (ix) the external events (over which Genesis Energy had no control and for which it was not responsible) that

had put its power station at Huntly in a net pivotal position were Transpower's planned transmission outage (which had been announced several weeks before) and Contact Energy Limited's withdrawal of capacity from Stratford on the previous day (at [130]);

- (x) Genesis Energy had not manipulated or attempted to manipulate trading activity in the market, had not been guilty of misleading or deceptive conduct and had not materially breached any law which constitutes an undesirable trading situation under the Code (at [82], [106] and [117]).
- (b) Having made the findings listed in 5(a)(i) to (x) above, no reasonable decision maker could have found (at [153] to [156]) that:
- (i) an "exceptional and unforeseen circumstance occurred during trading periods 22 to 35 on 26 March 2011"; and
 - (ii) the market was not forewarned of the high offer prices; and
 - (iii) demand forecast errors prevented parties in the wholesale market from responding to forecast high prices; and
 - (iv) Genesis squeezed the wholesale market for electricity and that the exceptionally high prices were the result of the claimed squeeze.
- (c) Having made the findings listed in 5(a)(i) to (x) above, no reasonable decision maker could have arrived at the findings that:
- (i) The exceptionally high interim prices on 26 March 2011 were not the result of an underlying supply-demand imbalance and bore no resemblance to any underlying or unavoidable cost (at [147]).

- (ii) The circumstances of the trading on 26 March 2011 would generate loss of confidence in the integrity of the market arrangements and the incentive structures surrounding the wholesale market for electricity might be greatly damaged (at [147]).
 - (iii) It was likely that the consequences and effects on the market listed in paragraphs [148] to [152] of the Final Decision would occur as a result of the trading on 26 March 2011.
 - (iv) Counterparties trading in the relevant regions had good reason to believe until it was too late for them to take actions to avoid incurring liability to pay the prices that the prices offered by Genesis Energy at Huntly would not translate into market prices (at [153]).
 - (v) The high prices on 26 March 2011 were the result of a market squeeze and that in this case the prices were an undesirable trading practice rather than an underlying supply-demand imbalance (at [155]).
 - (vi) The events of 26 March 2011, if allowed to become final prices, threatened to undermine confidence in the wholesale market for electricity and threatened to damage the integrity and reputation of the wholesale market and further may have threatened trading on that market and would be likely to have precluded the maintenance of orderly trading (at [155]).
6. The Authority erred in law by taking into account matters which it should not have taken into account including whether the finding of a UTS and/or the issuing of draft final prices would provide incentives to enhance future hedge market activity (at [185]).
7. The Authority erred in law by failing to take into account matters which it should have taken into account including:

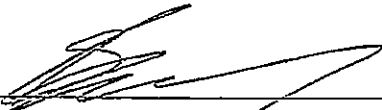
- (a) By failing to consider, or give sufficient consideration to, the fact that a number of market participants appropriately managed their risk in advance of the events on 26 March 2011; and
 - (b) By failing to consider, or give sufficient consideration to, the fact that trading and settlement has continued since the events on 26 March 2011 (including when similar market conditions existed through the following weekend) and in circumstances where subsequent trading and settlement has been a relevant consideration for predecessors to the Authority.
8. The Authority erred in law by misinterpreting the proper scope of its powers to take steps to correct the UTS. In particular, the Authority:
- (a) Erred in law when it directed that trades that occurred during trading periods 22 to 35 on 26 March 2011 should be closed out at a reduced price as the means of achieving changes in the manner in which the wholesale electricity market and hedge markets operate.
 - (b) Erred in law by creating an implicit (and artificial) price cap in circumstances where there is no price cap on offers made in the wholesale market for electricity.

RELIEF SOUGHT

9. Genesis seeks:
- (a) a declaration that the Authority's findings that (1) a UTS developed on 26 March 2011 and (2) that it had the power to correct the UTS on 26 March 2011 are null and void or should be set aside; and
 - (b) such other consequential orders as the Court thinks just to ensure that the trades for trading periods 22 to 35 on 26 March 2011 are settled as though no UTS occurred.

This application is made in reliance on sections 7, 64, and 66 of the Act and Part 20 of the High Court Rules.

Dated 13 July 2011


A M Peterson/S A Armstrong
Solicitors for the appellant

TO: The Registrar of the High Court at Wellington
AND TO: The Electricity Authority
AND TO: Contact Energy Limited
AND TO: Fletcher Building Limited (including on behalf of Golden Bay
Cement)
AND TO: King Country Energy Limited
AND TO: Meridian Energy Limited
AND TO: Mighty River Power Limited
AND TO: New Zealand Steel Limited
AND TO: NZX Limited
AND TO: Norske Skog Tasman Limited
AND TO: Powershop New Zealand Limited
AND TO: Prime Energy Limited
AND TO: Switch Utilities Limited
AND TO: Todd Energy Limited
AND TO: Transpower New Zealand Limited
AND TO: Trustpower Limited
AND TO: Vector Limited

This document is filed by **SARAH ANNE ARMSTRONG**, solicitor for the Appellant, of Russell McVeagh. The address for service of the Appellant is Level 30, Vero Centre, 48 Shortland Street, Auckland 1010.

Documents for service may be left at that address or may be:

- (a) posted to the solicitor at PO Box 8, Auckland 1140; or
- (b) left for the solicitor at a document exchange for direction to DX CX10085.

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2011- 485 - 1373

UNDER THE

ELECTRICITY INDUSTRY ACT 2010

IN THE MATTER

of an appeal under section 64 of the Electricity Industry Act 2010 in respect of a Final Decision of the Electricity Authority that an Undesirable Trading Situation developed on 26 March 2011

IN RE

GENESIS POWER LIMITED, a duly incorporated company, trading as Genesis Energy and having its registered office at Level 3, The Genesis Building, 602 Great South Road, Greenlane, Auckland

Appellant

MEMORANDUM OF COUNSEL OF APPELLANT
AS TO NOTICE OF APPEAL
13 JULY 2011

RUSSELL McVEAGH

Counsel:
J Farmer QC
Phone 09 358 7090
Fax 09 358 7091
PO Box 1800
Shortland Street
Auckland

A Peterson / S Armstrong
Phone 64 9 367 8000
Fax 64 9 367 8163
PO Box 8
DX CX10085
Auckland

MAY IT PLEASE THE COURT:

1. The appellant, Genesis Power Limited trading as Genesis Energy, has filed a notice of appeal today pursuant to section 64 of the Electricity Industry Act 2010 ("Act") and in accordance with Part 20 of the High Court Rules ("Rules").
2. Pursuant to Part 5 of the Electricity Industry Participation Code 2010 ("Code"), the Electricity Authority ("Authority") conducted an investigation regarding an alleged Undesirable Trading Situation ("UTS") on 26 March 2011 ("Decision"). It then issued:
 - (a) a draft decision dated 6 May 2011;
 - (b) a final decision that a UTS occurred on 26 March 2011 and proposing actions to correct the alleged UTS, dated 15 June 2011; and
 - (c) a further decision on 4 July 2011 that repeated the finding that there had been a UTS on 26 March 2011 and made a final decision ordering action.
3. It is from the 15 June 2011 Decision that the appellant now wishes to appeal.
4. Section 64 of the Act confers a right of appeal to the High Court, on a question of law only, against any decision of the Authority or the Rulings Panel. In accordance with section 66 of the Act, and subject to any order of the Court, any appeal is required to be brought by giving notice within 20 working days after the date of the decision or order appealed against. Accordingly, the appellant is required to bring its appeal by no later than Wednesday 13 July 2011.
5. Counsel understands that similar appeals in relation to the UTS Decision will be filed today by Bay of Plenty Energy Limited, Todd Energy Limited and Contact Energy Limited. Counsel therefore apprehends that for the convenience of both the parties and the Court, it would be sensible to have these appeals case managed together.
6. This memorandum of counsel addresses three issues, namely:

- (a) the form of intitlement for the appeal;
- (a) the question of which parties need to be served with a copy of the notice of appeal; and
- (b) urgency.

Form of intitlement

7. There is some uncertainty in the Rules about who should be a respondent when the "natural opposer" is also the decision maker.
8. Rule 20.9 requires that the notice of appeal must not name the decision maker (in this case, the Authority) as a respondent to the appeal. This approach has been confirmed by the High Court in *Yash v Legal Aid Review Panel* (2006) 18 PRNZ 238 and *Moonen v Broadcasting Standards Authority* (1995) 8 PRNZ 335, in which McGechan J held that it was not correct to name the decision maker as respondent to the appeal (in that case, the decision maker being the Broadcasting Standards Authority).
9. Instead, McGechan J concluded that:

the interpretation of [the predecessor provision to Part 20] taken as a whole does point, on balance, towards the Authority (and other decision making bodies) not being parties in the first instance; as opposed to being served and having the right to come in and be heard 'as if' a respondent party if so desiring, subject to the Court's overall control.
10. In *Canterbury Development Corp Trust v Charities Commission* [2010] 2 NZLR 707, Young J, recognising Rule 20.9, suggested that the intitlement for that proceeding ought to have been "In re Canterbury Development Corporation Trust". However, McGechan on Procedure notes in the commentary to Rule 20.9 that:

...the situation is no different from appeals against the Securities Commission or the Registrar of Companies where the Commission or Registrar has generally been named as the respondent. Rule 20.9(3) requires amendment to reflect the reality of these situations.
11. In the present circumstances, counsel's view is that the Authority is the natural respondent to this appeal. The appeal relates to a regulatory decision by the Authority and it is the Authority that would need to be

bound by the outcome of the appeal. However, as the Rules prevent the Authority being named as a respondent, counsel have adopted the intitlement proposed by Young J and served a copy of this appeal on the Authority in accordance with Rules 20.6(1)(b) and (c) and 20.9(2), along with an invitation to the Authority to consider whether it wishes to apply to be joined to the proceeding as respondent. A copy of the cover letter accompanying the notice of appeal filed with the Authority is attached to this memorandum and marked "A".

Service

12. Rule 20.6 requires that the appellant must serve a copy of the appeal on "every other party directly affected by the appeal".
13. Based on the information set out in the Authority's Decision, it appears that:
 - (a) 35 parties lodged claims with the Authority that a UTS developed on 26 March 2011. Of those 35 parties, some were Registered Industry Participants in the electricity industry (as defined in sections 7 and 9 of the Act);
 - (b) 11 further parties (excluding Genesis Energy) did not lodge UTS claims, but otherwise made submissions in the investigation undertaken by the Authority (again, some of these parties were Registered Industry Participants, and some were not); and
 - (c) 17 further parties responded to statutory information requests in relation to the investigation, at the request of the Authority.
14. From these three groups, there appear to be two categories of potentially interested parties (identified in the schedule attached to this memorandum (marked "B")):
 - (a) Registered Industry Participants who filed claims and/or made submissions to the Authority in respect of the alleged UTS (a total of 15 parties, excluding Genesis Energy, identified as "Group A" in the attached table); and
 - (b) parties who:

- (i) filed claims and/or made submissions to the Authority in respect of the alleged UTS, but who are not Registered Industry Participants; or
 - (ii) did not lodge a claim with, or make submissions to, the Authority, but which were required to respond to statutory information requests issued by the Authority (a total of 48 parties listed in "Groups B and C" in the attached table).
- 15. In addition, there are 149 companies currently listed as Registered Industry Participants under the Act (some of which are already captured in the categories identified in paragraphs 13 and 14 above), and which may or may not have an interest in the appellant's appeal of the Decision.
- 16. To the extent that there are registered industry participants which opted not to participate in the Authority's investigation, the appellant has taken the view that they are unlikely to be directly affected by the appeal and, therefore, the appellant has not taken steps to provide those further parties with copies of the notices of appeal. However, the appellant has invited the Authority to comment as to whether there are any other parties that the Authority is aware of who ought to be served or sent a copy of the notice of appeal.
- 17. Taking into account the various categories of potentially interest parties identified above, and bearing in mind the requirements of Rule 20.6, the appellant will:
 - (a) serve the notice of appeal on the 15 Registered Industry Participants which were actively involved in the investigation that led to the Authority's UTS Decision, whether by lodging a claim or by making submissions (eg. Group A in the attached table); and
 - (b) provide copies of the notice of appeal to those parties identified in Group B, using the email address provided to the Authority by the relevant party during the course of the Authority's investigation.

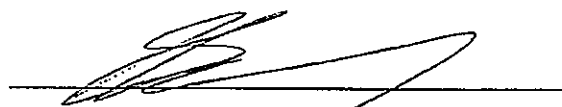
Directions hearing sought

18. The appellant seeks a directions hearing to address any issue as to whether this Court or the Authority requires any further parties to be served or sent a copy of the notice of appeal.
19. Under section 66 of the Act, the Court may allow additional time for service or under Rule 20.7 dispense with service on a party of a notice of appeal on any terms the Court thinks just. Should any issues arise as to the form of service of this notice of appeal a dispensation under the Act or the Rules may need to be sought.

Urgency

20. While the decision which is the subject of this appeal stands, it creates uncertainty in the market as to what should properly be considered by the Authority as a UTS. It is therefore anticipated that at the first case management conference the appellant will seek orders for urgency and an expedited hearing in light of this market uncertainty.

Dated 13 July 2011



J A Farmer QC / S A Armstrong
Counsel for the Appellant

TO: The Registrar of the High Court at Auckland
AND TO: The Electricity Authority

13 July 2011

PARTNERS

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5. Please feel free to contact us should you wish to discuss this matter further.

VERO CENTRE 48 SHORTLAND STREET PO BOX 8 AUCKLAND 1140 NEW ZEALAND
 PHONE 64 9 367 8000 FAX 64 9 367 8163 DX CX10085

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Yours faithfully
RUSSELL McVEAGH

Sarah Armstrong / Mika Austin
Partner / Associate

Direct phone: 09 367 8379 / 09 367 8294
Direct fax: 09 367 8592 / 09 367 8592
Email: sarah.armstrong@russellmcveagh.com
mika.austin@russellmcveagh.com

"B"

SERVICE DETAILS

| GROUP A: PARTIES TO BE FORMALLY SERVED AT ADDRESS FOR SERVICE | | |
|---|-----------------------------------|--|
| | Parties | Address for Service |
| 1. | Contact Energy Limited | Level 1, Harbour City Tower, 29 Brandon Street, Wellington , New Zealand |
| 2. | Meridian Energy Limited | 33 Customhouse Quay, Queens Wharf, Wellington , New Zealand |
| 3. | NZX Limited (Clearing Manager) | Level 2, NZX Centre, 11 Cable Street, Wellington, 6140 , New Zealand |
| 4. | Powershop New Zealand Limited | Level 6, 56 Victoria Street, Wellington , New Zealand |
| 5. | Todd Energy Limited | Level 15, The Todd Building, 95 Customhouse Quay, Wellington , New Zealand |
| 6. | Transpower New Zealand Limited | Level 7, Transpower House, 96 The Terrace, Wellington , New Zealand |
| 7. | Fletcher Building Limited | 810 Great South Road, Penrose, Auckland, 1061 , New Zealand |
| 8. | Mighty River Power Limited | L14, ANZ Centre, 23-29 Albert Street, Auckland , New Zealand |
| 9. | New Zealand Steel Limited | 131 Mission Bush Road, Glenbrook, South Auckland , New Zealand |
| 10. | Prime Energy Limited | Level 5, 8 Commerce Street, Auckland City, Auckland 1143 , New Zealand |
| 11. | Switch Utilities Limited | 33 Waiake Street, Torbay, Auckland , New Zealand |
| 12. | Vector Limited | Level 4 101 Carlton Gore Road, Newmarket, Auckland , New Zealand |
| 13. | Genesis Power Limited | Level 3, The Genesis Building, 602 Great South Road, Greenlane, Auckland , New Zealand |
| 14. | King Country Energy Limited | King Country Energy Building, Cnr Miriama & Manuaute Streets, Taumaranui , New Zealand |
| 15. | Norske Skog Tasman Limited | C/- Norske Skog Tasman Limited, Fletcher Avenue, Kawerau, New Zealand |
| 16. | Trustpower Limited | Truman Lane, Rd 5, Tauranga, 3143 , New Zealand |

| GROUP B: PARTIES TO BE NOTIFIED BY EMAIL | | | |
|---|--|--|--|
| | Parties | Email | Contact |
| 1. | Abe's Real Bagels Limited | brent@abesrealbagels.com | Brent Milburn |
| 2. | Air New Zealand Limited | Mandy.varney@airnz.co.nz | Mandy Varney |
| 3. | ASB Bank Limited | perry.waldman@asb.co.nz | Perry Waldman |
| 4. | Auckland War Memorial Museum | jglen@aucklandmuseum.com | John Glen |
| 5. | Bryan Leyland | bryanleyland@mac.com | Bryan Leyland |
| 6. | Bupa Care Services NZ Limited | Allan.Cawood@bupa.co.nz | Allan Cawood |
| 7. | Chris Brady | power.brokers@slingshot.co.nz | Chris Brady |
| 8. | Convex Plastics Limited | tony.l@convex.co.nz | Tony Letcher |
| 9. | Cynotech Holdings Limited | brett@cynotech.co.nz | Brett Tawse |
| 10. | Employers & Manufacturers Association | ema@ema.co.nz and bruce.goldsworthy@ema.co.nz | Bruce Goldsworthy |
| 11. | Goodwood Industries Limited | charlesblack@goodwood.co.nz | Charles Black |
| 12. | (SmartPower on behalf of) Juken New Zealand Limited | Peter.alderdice@smartpower.co.nz | Peter Alderdice (SmartPower) on behalf of Graham Maples (JNL) |
| 13. | Masterton District Council | davidp@mstn.govt.nz | David Paris |
| 14. | Major Electricity Users' Group | info@meug.co.nz (sourced from website as no email address given with submission) | Ralph Matthes |
| 15. | Mercy Ascot Hospitals | clive.rous@mercyascot.co.nz | Clive Rous |
| 16. | Nufarm NZ Limited | Brendan.redmond@nz.nufarm.com | Brendan Redmond |
| 17. | New Zealand Sugar Company Limited | adobbie@nzsugar.co.nz | Allan Dobbie |
| 18. | Open Country Dairy Limited | wayne.leach@opencountry.co.nz | Wayne Leach |
| 19. | PMP Print Limited | Kathy.voss@pmpprint.co.nz | Kathy Voss |
| 20. | Smart Power Limited | anne@smartpower.co.nz | Anne Herrington |

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| 21. | Southern Cross Hospitals Limited | glenn.beaman@southerncrosshospitals.co.nz | Glenn Beaman |
| 22. | Southern Spars | david.glen@southernspars.com | David Glen |
| 23. | Telecom NZ Limited (via Chorus) | Rebecca.McKenzie@chorus.co.nz | Rebecca McKenzie |
| 24. | Television New Zealand Limited | Gary.Watkins@tvnz.co.nz | Gary Watkins |
| 25. | The New Zealand Refining Company Limited | david.martin@nzrc.co.nz | David Martin, |
| 26. | Total Utilities Management Group Limited | richard@tumg.co.nz | Richard Gardiner |
| 27. | Vital Healthcare Property Trust | dwoods@vhpt.co.nz | Drugh Woods |
| 28. | Vodafone New Zealand Limited | marka.jones@vodafone.com | Mark Jones |
| 29. | Wallace Corporation Limited | neville.cross@wallace.co.nz | Neville Cross |
| 30. | Waratah Farms Limited | martin@waratahfarms.co.nz | Martin Ellis |
| 31. | Westpac New Zealand Limited | Dean_adams@westpac.co.nz | Dean Adams |
| 32. | Alinta ENZ Limited | John.simmons@bbpower.com Dan.jury@bbpower.com | John Simmons Dan Jury |
| 33. | Bay of Plenty Energy Limited | cpower@bopelec.co.nz | |
| 34. | Bosco Connect Limited | Bryan.dobson@bosco.co.nz | Bryan Dobson |
| 35. | Carter Holt Harvey Pulp & Paper Limited | Christopher.brown@cch.co.nz Rodney.horn@cch.co.nz | Christopher Brown Rodney Horn |
| 36. | Energy Direct Limited | Michael.ram@energydirectnz.co.nz | Michael Ram |
| 37. | Energy Online Ltd | Dean.carroll@genesisenergy.co.nz Peter.mccomish@genesisenergy.co.nz | Dean Carroll Peter McComish |
| 38. | Fonterra Co-operative Group | Roger.keedwell@fonterra.com Doug.watson@fonterra.com | Roder Keedwell Doug Watson |
| 39. | Methanex New Zealand Ltd | Lodea@methanex.com I.Jamieson@methanex.com | Louise Odea Ian Jamieson |
| 40. | Opunake Hydro Ltd | Simon.young@thekarogroup.net | Simon Young |
| 41. | Pan Pac Forest Products Limited | Fred.staples@panpac.co.nz Gerald.cowan@panpac.co.nz Roger.jones@panpac.co.nz | Fred Staples Gerald Cowan Roger Jones |
| 42. | Pulse Utilities New Zealand Limited | Dene.biddlecombe@punz.co.nz | Dene Biddlecombe |

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| 43. | Simply Energy Limited | info@simplyenergy.co.nz operations@simplyenergy.co.nz | Stephen Peterson Stephen Kemp |
| 44. | Southpark Utilities | gary@southparkcorp.co.nz property@southparkcorp.co.nz | Gary Wang Peter Saunders |
| 45. | Winstone Pulp International | Paul.saunders@wpi-international.co.nz | Paul Saunders |

GROUP C: TO BE NOTIFIED BY ALTERNATIVE MEANS

| | Parties | Proposal for notification |
|-----|--|---|
| 46. | Mercury Energy Limited | We have been unable to obtain an email address for Mercury Energy Limited. Accordingly, we propose to notify Mercury Energy Limited by providing a hard copy of the notice of appeal to its registered address, being L14, ANZ Centre, 23-29 Albert Street, Auckland |
| 47. | New Zealand Railways Corporation (trading as Kiwirail) | We have been unable to obtain an email address for New Zealand Railways Corporation. Accordingly, we propose to notify New Zealand Railways Corporation by providing a hard copy of the notice to the address given on its website, being Level 4, Wellington Railway Station, Bunny Street, Wellington 6011, New Zealand |
| 48. | Pacific Steel | Internet searches show that Pacific Steel is a division of Fletcher Building Limited. As Fletcher Building Limited is to be served with the notice of appeal there is no need to separately notify Pacific Steel as a separate entity. |



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

Genesis Power Limited
Registered Office at Level 3, The Genesis Building
602 Great South Road, Greenlane
Auckland

DATE: 13 July 2011 **TRACK:** Swift HC - Appeals
REFERENCE NO: CIV-2011-485-001373
CASE NAME: Genesis Power 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: Sarah Anne Armstrong

High Court

2 Molesworth Street, Wellington 6011, Box 1091, Wellington 6140, New Zealand
Telephone: (04) 914 3600 Fax: (04) 914 3603

CI0231_Notice_of_Date_of_Case_Management_Conference_for_Appeal (In Person)

- (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.