

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

NO. CIV-2011-485-1371

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 **BAY OF PLENTY ENERGY LIMITED** a company duly registered under The Companies Act 1993 carrying on business as an electricity provider and having its registered offices at Level 15, The Todd Building, 95 Customhouse Quay, Wellington

First Appellant

AND **TODD ENERGY LIMITED** a company duly registered under The Companies Act 1993 carrying on business as an electricity provider and having its registered offices at Level 15, The Todd Building, 95 Customhouse Quay, Wellington

Second Appellant

**AMENDED NOTICE BY MIGHTY RIVER POWER LIMITED OF INTENTION TO
APPEAR & BE HEARD IN SUPPORT OF DECISION OF THE ELECTRICITY
AUTHORITY APPEALED AGAINST, INCLUDING ON OTHER GROUNDS**

Dated 8 August 2011

 **Simpson Grierson**
Barristers & Solicitors

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To: The Registrar of the High Court at Wellington

And to: The appellant and all other parties who have provided an address for service

This document notifies you that –

1. Mighty River Power Limited (**Mighty River Power**), a duly incorporated company having its registered offices at Level 14, ANZ Centre, 23-29 Albert Street, Auckland, gives notice that it intends to appear and be heard as a respondent in support of the final decision (**Decision**) of the Electricity Authority (**Authority**) on 15 June 2011 regarding the Undesirable Trading Situation (**UTS**) of 26 March 2011 under Part 5 of the Electricity Industry Participation Code 2010 (**Code**), insofar as the Decision is challenged by the appellants, Bay of Plenty Energy Limited and Todd Energy Limited, and by Contact Energy Limited and Genesis Power Limited (**Genesis**) in CIV-2011-485-1372 and CIV-2011-485-1373, and to oppose each such appeal, including on the additional grounds set out in para. 3 below.


2. Mighty River Power is:
 - (a) an industry participant under the Electricity Industry Act 2010;
 - (b) a party that made a claim to the Authority that a UTS under the Code existed on 26 March 2011 as a result of the offer behaviour of Genesis on that date;
 - (c) a party that was issued with statutory information requests by the Authority requiring it to provide information to the Authority for the purposes of the Authority's investigation of the UTS on 26 March 2011;
 - (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 UTS on 26 March 2011; and

- (e) a party affected by the Decision of the Authority released on 15 June 2011 in which the Authority found that a UTS occurred on 26 March 2011.
3. The additional grounds on which Mighty River Power intends to support the Authority's Decision and oppose the appeals are that the Authority could also have found that there was a UTS on the basis of manipulative or attempted manipulative trading activity under clause (c)(i) of the UTS definition as a result of the Authority's findings that:
- (a) Genesis squeezed the wholesale market for electricity (Decision, at paras. 132, 145, 156, 158); and
- (b) Genesis offered its Huntly units at exceptionally high prices for the period of the grid outage while it had transitory market power (Decision, at paras. 107-109).

This notice is given under Part 20 of the High Court Rules.

Date: 8 August 2011

Signature:



J.A Craig
Solicitor for Mighty River Power Limited

This document is filed by **JAMES ANDREW CRAIG** solicitor for Mighty River Power Limited of the firm of Simpson Grierson.

The address for service of Mighty River Power Limited is at the offices of Simpson Grierson, Level 27, 88 Shortland Street, Auckland.

Documents for service on Mighty River Power Limited may be left at that address for service or may be -

- (a) posted to the solicitor at Private Bag 92518, Auckland; or
- (b) transmitted to the solicitor by facsimile to +64-9-977 5046.
- (c) emailed to the solicitor at james.craig@simpsongrierson.com / glen.holm-hansen@simpsongrierson.com

Documents for service should be marked to the attention of James Craig / Glen Holm-Hansen