

Nathan Gedye
Barrister

Level 10, Forsyth Barr Tower
55 Shortland Street
AUCKLAND 1140

PO Box 2097
Shortland Street
AUCKLAND 1140

Telephone: (64 9) 358 3848
Facsimile: (64 9) 358 3626
Email: nathan.gedye@xtra.co.nz

8 August 2011

The Registrar
High Court
P O Box 1091
Wellington 6140

Re: CIV 2011-485-1371 Bay of Plenty Energy Ltd and others Electricity Authority Appeals

Enclosed for filing in your Court is a memorandum on behalf of Air New Zealand Ltd

Yours faithfully

Nathan Gedye
Barrister



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

**NO. CIV-2011-485-1371
NO. CIV-2011-485-1372
NO. 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

NO. CIV-2011-485-1371

IN RE **BAY OF PLENTY ENERGY LIMITED**

First Appellant

TODD ENERGY LIMITED

Second Appellant

NO. CIV-2011-485-1372

IN RE **CONTACT ENERGY LIMITED**

Appellant

NO. CIV-2011-485-1373

IN RE **GENESIS POWER LIMITED**

Appellant

MEMORANDUM ON BEHALF OF Air New Zealand Ltd

Dated 8 August 2011

Counsel acting:
Nathan Gedye
Shortland Street
Auckland

Tel: 09 358 3848
Fax: 09 358 3626
Email: nathan.gedye@xtra.co.nz

Solicitor acting:
James Radcliffe
Air New Zealand Limited
Private Bag 92007, Auckland

Tel: 09 336 2672
Fax: 09 336 2667
Email: james.radcliffe@airnz.co.nz

MAY IT PLEASE THE COURT:

1. In para [4] of the Court's Minute dated 25 July 2011, a direction was given that any entities wishing to be heard file a notice of intention to appear by 8 August 2011. This memorandum is in response to that direction.
2. Air New Zealand Ltd wishes to place on record that it supports the Final Decision of the Electricity Authority dated 4 July 2011. However, it does not wish to appear and be heard by the Court, or to be added as a respondent.
3. Air New Zealand Ltd filed a complaint with the Authority in relation to the 26 March 2011 UTS. On 7 June 2011 it filed a further submission in relation to the proposed actions to be taken. It is therefore an interested entity which is affected by the Final Decision and appeals from it.
4. Air New Zealand Ltd wishes to record its view that the conduct of Genesis Power Ltd on 26 March 2011 did threaten trading on the wholesale market for electricity and that the Authority's decision is correct. Air New Zealand's support for the Authority's decision is based on the following views held by it (which were covered in its submissions to the Authority):
 - a) Genesis Energy's actions on March 26 of raising offer prices to an unprecedented extreme level undermine confidence in the wholesale electricity market and constitute an exercise of market power that has the potential to negatively impact on consumers into the future. Failure to address this situation will effectively endorse the exercise of market power and lead to more occurrences of this type of manipulation
 - b) Pricing in the market is intended to serve as a signal for the need for new investment in generation. However, Genesis took advantage of a planned maintenance event to exploit its

temporary market power to the disadvantage of other market participants and consumers. If this pricing is allowed to stand, it will inevitably impact on the overall market, resulting in future pricing for all consumers being higher than necessary. This is clearly not in the public interest.

- c) Air New Zealand estimates a cost increase for the month of March across the entire network to be approximately 3.4%, with affected sites experiencing up to 126% increases for the month.
5. While it does not seek to appear and be heard, Air New Zealand Ltd would be pleased to provide any further information or assistance which the Court may direct or request.

Date: 8 August 2011


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N S Gedye
Counsel for Air New Zealand Ltd