

Electricity Governance Regulations (Exemption No. 82 (Bay of Plenty Energy Limited)) Exemption Notice 2008

Pursuant to Regulation 194(2) of the Electricity Governance Regulations 2003, the Electricity Commission ("Commission") gives the following notice.

Notice

1. Title and commencement—(1) This notice is the Electricity Governance Regulations (Exemption No. 82 (Bay of Plenty Energy Limited)) Exemption Notice 2008.

(2) This notice comes into force on 1 May 2008.

2. Exemption—Bay of Plenty Energy Limited ("Bay of Plenty Energy") is exempted from compliance with the requirement in Rule 2.4.3 of Part H of the Electricity Governance Rules 2003 ("Rules") that a third party guarantor maintains an acceptable credit rating as defined in Rule 2.5 of Part H of the Rules.

3. Conditions—This exemption is granted on the following conditions:

- (a) Bay of Plenty Energy must procure an unconditional third party guarantee, as required by Rule 2.4.3 of Part H of the Rules, from Todd Energy Limited ("Todd");
- (b) Todd must enter into a deed in favour of and enforceable by the clearing manager providing that the clearing manager may set-off any amount owing by Todd under that third party guarantee against any amount payable by the clearing manager to Todd as if Rule 9.4.3 of Part H of the Rules applied to that amount owed by Todd;
- (c) Todd must ensure that any acceptable security that it provides from time to time under Rule 2.2.2 of Part H of the Rules secures its obligations under the third party guarantee that it provides under paragraph (a) of this clause in addition to its own obligations; and
- (d) Todd must at all times maintain a minimum level of security under paragraph (c) of this clause that equals an amount that would be determined from time to time under Rule 3.1.1 of Part H of the Rules if Todd and Bay of Plenty Energy were a single participant.

4. Reasons for granting the exemption—The reasons for granting this exemption are:

- (a) The exemption is granted on the condition that Todd provides a level of security which covers both Todd's and Bay of Plenty Energy's prudential requirement under the Rules so that the overall market prudential requirements will remain the same;
- (b) the clearing manager reviewed the proposed exemption and advised that the exemption would be practicable and would not result in a reduction in present levels of security;
- (c) Todd and Bay of Plenty Energy have informed the Commission that the consequences of not granting the exemption would be that Bay of Plenty Energy would incur additional costs if it were required to provide any other form of security, for example the operational costs of setting up and managing a letter of credit and the financial costs of obtaining a letter of credit at less favourable rates than Todd; and

- (d) there will be little or no impact on other participants and service providers and the exemption will not affect any other rules.

5. Urgency—(1) This exemption is granted under urgency in reliance on Regulation 194(4).

(2) This exemption expires at the close of 31 July 2008, being the earliest date that will enable the Commission to have regard to the views of participants.

(3) Pursuant to Regulation 194(5)(c), the Commission will publicise the exemption on the Commission's website and will have regard to any views that participants make known to it by 5.00pm on Friday, 9 May 2008.

Dated at Wellington this 21st day of April 2008.

For and on behalf of the Electricity Commission:

DAVID CAYGILL, Chair.

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