

## **Notice of the Authority's decision under regulation 29 of the Electricity Industry (Enforcement) Regulations 2010**

Under regulation 29(1) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations) the Electricity Authority (Authority) must publicise every decision made under regulation 23(3) of the Regulations, together with the reasons for the Authority's decision.

### **Investigation**

On 8 May 2019, the Authority appointed an investigator under regulation 12 of the Regulations to investigate the alleged breaches of clause 13.5A of the Electricity Industry Participation Code 2010 by Genesis Energy Limited (Genesis). On 16 March 2020 a replacement investigator was appointed by the Authority. The market administrator alleged the breaches. Haast Energy Trading Limited, Meridian Energy Limited, and Transpower New Zealand Limited as the system operator were joined as parties under regulation 17(3).

Genesis was alleged to have breached clause 13.5A when it raised its Tekapo A generating station's energy offer prices on several occasions during a period of islanded operation between 6 and 9 August 2018.

The investigator considered Genesis' trading behaviour did not represent a high standard of trading conduct because it used its pivotal supplier position to cause final prices to be well above the level prices would have been in a non-pivotal situation. Genesis was also not within the safe harbours under clause 13.5B(1) or (3).

Genesis denied the alleged breaches and considered its trading behaviour was of a high standard and met the safe harbour requirements.

The investigator was not able to achieve a settlement agreement because the parties were unable to agree settlement terms.

The market impact of the alleged breaches was assessed by the investigator as minimal and at most could be considered at \$20,237.

On 2 December 2020, the Authority received and considered a report and a recommendation from the investigator to lay a formal complaint with the Rulings Panel.

### **The Authority's decision**

On 2 December 2020, the Authority decided under regulation 23(3)(a) of the Regulations to discontinue the investigation.

### **Reasons for the Authority's decision**

The reasons for the Authority's decision to discontinue the investigation were that:

- The issues in this particular case were complex. Given this complexity, the Committee noted the cost of Rulings Panel proceedings could be expected to be high and so far outweigh the financial harm alleged to have been caused.
- The Committee considered whether, despite the low quantum of alleged financial harm there may be meaningful precedent value in laying a formal complaint with the Rulings Panel. The Committee determined that, given there was a well-advanced process underway which proposes substantive amendments to the relevant provisions, there was not a clear precedent value in laying a formal complaint with the Rulings Panel in this instance.