

CLAIM OF UNDESIRABLE TRADING SITUATION (UTS)

CONTACT DETAILS

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WHEN CLAIMED UTS OCCURRED

Date: 9 August 2021

Time: Trading periods 37-42

In addition to completing and emailing this form, **please also notify the Authority by telephone at 04 474 2260.**

BASIS OF CLAIM

Why is this event an “undesirable trading situation”?

Please specify why a UTS is claimed – refer to the definition of a UTS set out below:

**Clause 1.1(1) of the Electricity Industry Participation Code 2010 (Code)
- Meaning of undesirable trading situation**

undesirable trading situation means any situation—

- (a) that threatens, or may threaten, confidence in, or the integrity of, the **wholesale market**; and
- (b) that, in the reasonable opinion of the **Authority**, cannot satisfactorily be resolved by any other mechanism available under this Code (but for the purposes of this paragraph a proceeding for a breach of clause 13.5A is not to be regarded as another mechanism for satisfactory resolution of a situation).

Describe why in your view the claimed UTS is a situation that threatens, or may threaten, confidence in, or the integrity of, the wholesale market.

See UTS complaint letter “9 August Undesirable Trading Situation and Trading Conduct Code breach”, 12 August 2021.

AND describe why in your view the claimed UTS could not be satisfactorily resolved by any other mechanism available under the Code.

See UTS complaint letter “9 August Undesirable Trading Situation and Trading Conduct Code breach”, 12 August 2021.

We consider that the trading situation amounts to both an Undesirable Trading Situation and a breach of the trading conduct rules.

We note that the definition of a UTS specifies that “undesirable trading situation means any situation— (a) that threatens, or may threaten, confidence in, or the integrity of, the wholesale market; and (b) that, in the reasonable opinion of the Authority, cannot satisfactorily be resolved by any other mechanism available under this Code (but for the purposes of this paragraph a proceeding for a breach of clause 13.5A is not to be regarded as another mechanism for satisfactory resolution of a situation).” This means that a breach of the Trading Conduct Code provisions can also be a breach of the UTS provisions.

SOLUTION SOUGHT BY APPLICANT

Clause 5.2 of the Code

Describe how in your view the claimed UTS could be resolved by the Authority, bearing in mind that clause 5.2 of the Code enables the Authority to take one or more of the following actions, should it find that a UTS does exist (please refer to the full text of clause 5.2 of the Code on the following page for more information):

- directing that an activity be suspended, limited or stopped, either generally or for a specified period:
- directing that completion of trades be deferred for a specified period:
- directing that any trades be closed out or settled at a specified price:
- directing a participant to take any actions that will, in the Authority's opinion, correct or assist in overcoming the UTS.

See “UTS complaint letter “9 August Undesirable Trading Situation and Trading Conduct Code breach”, 12 August 2021”.

Firstly, the Authority should stop the Pricing Manager finalising prices for 9 August while it investigates. This would reduce the chance of having a split market by signalling to the ASX and others the potential for a price reset.

The scarcity pricing regime has been activated by the Pricing Manager, it will be a perverse outcome if the exercise of market power highlighted by this event is allowed to flow into higher realised and expected prices for consumers.

We believe the Authority should reset prices based on a model with TCC, HLY4 and South Island reserves offered in a way consistent with 13.5A, the manipulative Contact offers at CYD and ROX removed, and demand estimated a no curtailment level.

If the Authority can't do this in time for settlement of August contracts with the Clearing Manager on 20 September, it should instruct the Clearing Manager to update interim prices to a level reflective of where it expects to land in this process.

Please send the completed form to uts@ea.govt.nz

Clause 5.2 of the Code - Actions Authority may take to correct undesirable trading situation

- (1) If the **Authority** finds that an **undesirable trading situation** is developing or has developed, it may take any action that—
 - (a) the **Authority** considers is necessary to correct the **undesirable trading situation**; and
 - (b) relates to an aspect of the **electricity** industry that the **Authority** could regulate in this Code under section 32 of the **Act**.
- (2) The actions that the **Authority** may take under subclause (1) include any 1 or more of the following:
 - (a) directing that an activity be suspended, limited or stopped, either generally or for a specified period:
 - (b) directing that completion of trades be deferred for a specified period:
 - (c) directing that any trades be closed out or settled at a specified price:
 - (d) directing a **participant** to take any actions that will, in the **Authority's** opinion, correct or assist in overcoming the **undesirable trading situation**.
- (2A) A direction given to a **participant** under subclause (2)(d)—
 - (a) may be inconsistent with this Code; but
 - (b) must not be inconsistent with the **Act**, or any other law.
- (3) The **participant** must comply promptly with a direction given to it in writing.
- (4) A **participant** is not liable to any other **participant** in relation to the taking of an action, or an omission, that is reasonably necessary for compliance with an **Authority** direction under this clause.
- (5) A **participant** does not breach this Code if it acts in accordance with a direction given under subclause (2)(d).