

27 April 2021

Submissions  
Electricity Authority  
P O Box 10041  
Wellington 6143

By email: [uts@ea.govt.nz](mailto:uts@ea.govt.nz)

Dear UTS team,

**Re: Proposed Actions to Correct 2019 UTS—Submission**

Pioneer Energy (Pioneer) welcomes the opportunity to submit on the Electricity Authority's (Authority's) proposed actions to correct the 2019 UTS.

Pioneer acknowledges the extensive work the Authority has completed to get to this stage of proposing actions to correct the undesirable trading situation (including undesirable behaviour) that occurred on 3-27 December 2019.

Pioneer hopes that the Authority's analysis, description of the analysis and conclusions provides participants with sufficient transparency and clarity about how the Code will be enforced and the consequences of breaches to influence and guide participants' future behaviour.

This submission focuses on the Authority's proposal to exclude the derivatives market from its price reset – which Pioneer **does not support**.

Part 1 of the Electricity Industry Participation Code 2010 (Code) defines a UTS as any situation that threatens, or may threaten, confidence in, or the integrity of, the wholesale market.

Part 1 of the Code defines the wholesale market as the spot market for electricity and the hedge market for electricity, including FTRs.

The Authority is proposing to reset spot prices and FTRs but not to reset the derivatives subset of the wholesale market.

Pioneer believes the approach to actions to correct the UTS should be principles based. The Authority's proposal to exclude derivatives is not consistent with a principles-based approach.

It is particularly clear the Authority has not applied a principles-based approach when the reason given for not including derivatives is "practical impediments":

*“... the Authority considers practical impediments mean it would be infeasible to use Part 5 of the Code to correct all hedge transactions, both during and in some cases before the UTS.”* (pg iv of Executive Summary) [emphasis added]

The Authority's actions to correct paper acknowledges prices in the derivatives market do and should reflect prices in the spot market:

*“If the wholesale market were operating normally, the derivatives market would also embody the prices that reflect normal competitive pressure.” ... “Arguably a return to ‘normal’ market operation would require derivatives to incorporate the correction to the UTS, at least to the extent that derivatives contracts provide for this possibility.”* (para 5.6)

Pioneer submits it is not ‘arguable’ that a return to normal or workably competitive wholesale market requires derivatives to incorporate the proposed correction to spot prices – it is imperative that derivatives incorporate the correction to the spot market.

Not to do so would leave prices in one part of the wholesale market determined by a situation where there was reduced competition and trading behaviour which has been determined has negatively impacted the integrity of the market.

To say participants in the derivatives market at the time did transactions with full information is not a valid excuse. The Authority has since proven the wholesale market, including the derivatives market, was subject to reduced competition or not ‘normally’ competitive at that time.

The Code obliges the Authority to attempt to correct an Undesirable Trading Situation. Pioneer does not believe that participants can have confidence in the entire wholesale market when ‘practical impediments’ mean a large part of the market is not subject to correction when it has been determined a UTS occurred.

Financial derivatives are settled against spot prices. Under clause 5.2(1) Pioneer recommends the Authority should require:

- financial derivatives settled using the high prices created by the UTS to be resettled using the reset final spot prices; and
- margin calls paid using the high prices created by the UTS to be resettled using the reset final spot prices.

The Authority's remedy must be balanced / equitable. It is not appropriate for a participant to incur lower revenue on spot sales due to the rest but benefit from settlement of derivatives at the escalated prices that the Authority has proven to have caused a UTS (ie consistent with market power and reduced competition in generation).

The Authority is responsible and must take actions to ensure confidence in and the integrity of the entire (spot and derivatives) wholesale market.

We would welcome the opportunity to discuss this submission with you in more detail.

Yours truly



Fraser Jonker  
**Chief Executive**