



MAJOR ELECTRICITY USERS' GROUP

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Ross Hill
General Manager Legal & Compliance
Electricity Authority
By email to submissions@ea.govt.nz

Dear Ross

Consultation Paper – Review of the Undesirable Trading Situation provisions in the Code

This is a submission by the Major Electricity Users' Group (MEUG) on the Electricity Authority consultation paper¹ "Review of the Undesirable Trading Situation (UTS) provisions in the Code" dated 18th March 2013.

The evaluation of the costs and benefits of the proposed amendments includes an assessment against the UTS provisions in the prior voluntary New Zealand Electricity Market (NZEM) Rules. The NZEM UTS provisions are claimed to be² "a useful reference point because they were the outcome of a multilateral negotiation among industry participants at the time". There is some value using the NZEM UTS provisions as a comparator but there are important factors that undermine that value. For example the NZEM was a voluntary agreement that no large end users' participated in and UTS decisions were not subject to judicial review. The paper mentions the latter difference³ but not the former.

Responses to the questions in the paper follow:

Question	MEUG response
<p>1. Do you agree with the proposal that the current definition of "wholesale market" should be clarified as including the spot market for electricity, the ancillary services markets and the hedge market, and that clause 9.14(2)(a) of the Code should be amended accordingly?</p> <p>If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's</p>	<p>No. The UTS provisions should clearly apply for those processes that the Code governs for price discovery, ie spot, ancillary services and FTR.</p> <p>The Authority has no governance role in how prices are discovered in all other financial derivative contracts other than FTR and therefore should have no residual UTS powers in those markets.</p>

¹ <http://www.ea.govt.nz/dmsdocument/14533>

² Refer consultation paper, paragraph 3.3.13. See also opening page of the Executive Summary.

³ Ibid, Executive Summary paragraph 2 and paragraph 3.3.13

Question	MEUG response
<p>statutory objective in section 15 of the Act.</p>	<p>Accordingly MEUG suggests the following change to the definition of wholesale market in Part 1 for subsections (b) and (c) follow:</p> <ul style="list-style-type: none"> (a) the spot market for electricity, <u>including and primarily the process for setting discovering ...</u> (b) markets for ancillary services <u>and primarily the process for discovering ancillary services prices.</u> (c) the hedge market for electricity <u>in so far as it relates to (a) and (b) above and primarily discovery of electricity prices and ancillary services prices,</u> and including the market for FTRs <u>and primarily the process for discovering FTR prices</u>
<p>2. Do you agree with the proposed changes to Part 1 of the Code to clarify the definition of a UTS?</p> <p>If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>
<p>3. Do you agree that the examples in paragraph (c) of the current definition of UTS should be retained in the Code, and moved to Part 5?</p> <p>If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>
<p>4. Do you agree with the proposed changes to clause 13.255 of the Code to align it with the suggested changes to UTS provisions?</p> <p>If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>
<p>5. Do you agree with the proposal that there should be a restriction on the Authority initiating a UTS investigation for situations earlier than a defined time limit in the past? If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>

Question	MEUG response
<p>6. Do you agree with the proposal that the time limit should be no more than 10 business days, and apply between the commencement of the alleged UTS and the date the Authority initiates an investigation?</p> <p>If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Ten business days should commence from the date that affected parties could reasonably have known an alleged situation had commenced. This would allow, for example, payers of frequency keeping services who will not know a potential situation had occurred the prior month until receipt of invoices part way through the following month.</p>
<p>7. Do you agree with the proposal that there should be no time limit on republication of final prices per se? If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>
<p>8. Do you agree with the proposal that the Authority should be able to take any action to remedy a UTS, provided the action relates to an aspect of the electricity industry that the Authority could regulate in the Code under section 32 of the Act? If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>
<p>9. Do you agree with the proposal that industry participants following directions from the Authority do not face the risk of breaching the Code as a consequence of doing so? If you agree/disagree, please explain why, including why in your view the proposal is consistent/inconsistent with achieving the Authority's statutory objective in section 15 of the Act.</p>	<p>Agree.</p>

This submission is not confidential.

Yours sincerely



Ralph Matthes
Executive Director