

27 November 2024

s9(2)(a) [Redacted]

Tēnā koe s9(2)(a) [Redacted]

Your request

Thank you for your request, received on 31 October 2024, under the Official Information Act 1982 (the Act). Your request, which was subsequently narrowed and clarified via a telephone call with Authority staff on 31 October 2024, was for the following information:

1. *The factors and criteria that constitute an undesirable trading situation*
2. *Our trading conduct monitoring – and how this ensures that generators are complying*
3. *What are the Methods or / and Measures that have been or will be undertaken by NZ Electricity Authority*
 - *To have a level playing field for industry*
 - *That consumers are being treated fairly*
4. *Have these or will these Methods or and Measures achieve a level playing field for Industry and for the consumers to be treated fairly?*
5. *What action has NZ Electricity Authority undertaken under Part 5.1 (3)?*

Undesirable trading situations

The Electricity Authority Te Mana Hiko (Authority) investigates claims that an undesirable trading situation (UTS) is developing or has developed. We also can identify UTSs through our market monitoring. A UTS is any situation that threatens, or may threaten, confidence in, or the integrity of, the electricity wholesale market that in the Authority's reasonable opinion cannot be satisfactorily resolved under the Electricity Industry Participation Code 2010 (the Code).

UTSs can harm the electricity wholesale market because they can deter trading and participation.

We investigate all UTS claims lodged with us. We then decide if a UTS has occurred and what action to take. The Code requires us to attempt to correct such situations and restore the electricity wholesale market to normal operation as soon as possible.

Anybody may report the development, or possible development, of a UTS. The person or organisation does not need to be an electricity industry participant.

The Authority cannot begin an investigation if more than 10 business days have passed since the situation, which the Authority suspects or anticipates may be a UTS, has occurred (Code clause 5.1A). Swift notification to us of a suspected UTS is therefore imperative.

If you are in doubt about this time limit or whether another party has already claimed the UTS, please contact uts@ea.govt.nz or 04 474 2260 immediately.

If a UTS has occurred, we may take any action to correct the situation that we consider appropriate (Code clause 5.2(1)). For example, suspending Code requirements or imposing new requirements on industry participants.

I have **attached** our guidelines for UTS that provide further detail on the process for considering a UTS.

Trading conduct monitoring

On 30 June 2021, we implemented new obligations in the Code to ensure appropriate behaviour in the electricity wholesale market. This was brought in because New Zealand's system occasionally relies heavily on one or a small number of generators to meet demand. The trading conduct rules intend to prevent generators taking advantage of such situations.

The rules set out the expected behaviour, while still allowing prices to signal genuine scarcity of supply.

We actively monitor the trading conduct rule as part of our monitoring, enforcement and compliance regime.

I have **attached** our Information paper that describes our approach to monitoring the trading conduct rule.

We publish weekly Market Monitoring reports. These reports analyse various factors to ensure participants' behaviour complies with the Code.

We also publish quarterly reports on the performance of New Zealand's energy market. This report provides visibility of market monitoring we complete across each quarter.

I have **attached** a copy of a recent weekly and quarterly report for your information.

Responses to your specific questions

Responses to the specific questions you asked, as clarified on 31 October 2024, are also set out in the table below.

Question	Response
What are the Methods or / and Measures that have been or will be	The Authority undertakes a wide range of policy, monitoring and compliance interventions to ensure all participants can compete on a level playing field. An example is the 'saves and win backs' rule that prohibits a retailer from inciting a

<p>undertaken by NZ Electricity Authority</p> <ol style="list-style-type: none"> 1. To have a level playing field for industry 2. That consumers are being treated fairly 	<p>consumer to come back to it, after the consumer has decided to switch to another retailer.</p> <p>Another example is the recent changes to the transmission pricing methodology to create a more level playing field for emerging energy technologies, like grid-scale batteries, connecting to the grid.</p> <p>The Authority and Commerce Commission have recently established the Energy Competition Task Force (Task Force) to investigate ways to improve the performance of the electricity market. This includes considering work relevant to your question.</p> <p>The Task Force’s work programme focuses on two overarching outcomes:</p> <ul style="list-style-type: none"> • enabling new generators and independent retailers to enter, and better compete in the market • providing more options for end-users of electricity. <p>One of the initiatives supporting that first outcome is <i>investigating level playing field measures such as non-discrimination rules</i>. Specifically, the Task Force will investigate the pros and cons of various measures to ensure a level playing field between generator-retailers and independent retailers. That work will help the Task Force to understand what measures would be appropriate, the risks and possible triggers, and inform the development of a stronger regulatory response if other measures in this Task Force work package aren’t creating the change needed. Possible measures that will be investigated include non-discrimination rules, which would require generators to treat the retail arm of their operations the same as they treat other retailers.</p> <p>We expect to publish an options paper setting out this work in February.</p> <p>You can access more information about the Task Force’s work programme at Energy Competition Task Force Our projects Electricity Authority.</p> <p>There are four other Task Force initiatives that aim to give consumers more options in how they manage their electricity use and costs. To achieve this, we are investigating incentives and rewards for consumers who positively contribute to the electricity system – for example through exporting energy from rooftop solar to the network.</p> <p>The four initiatives the Task Force is considering:</p> <ol style="list-style-type: none"> 1. Requiring lines companies to pay a rebate when consumers export electricity (such as excess rooftop solar) at peak times. 2. Requiring retailers to offer time-of-use pricing. 3. Requiring retailers to better reward consumers for supplying power at peak times. 4. Rewarding industrial consumers for shifting their energy use away from peak times, when needed. <p>While these initiatives better reward consumers who have invested in technologies like rooftop solar and batteries, the benefits would flow through to all consumers – leading to lower prices in the long term and a more secure and resilient electricity system.</p> <p>As a generator, the first and third initiative listed above will likely be of interest to you as we will be proposing new rules for lines companies and retailers to better reward their customers who export electricity into the network, particularly at</p>
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	<p>peak times when electricity prices are high. Pricing plans providing injecting customers like yourself with higher feed-in pricing when electricity prices are high are already available from some (but not all) retailers. Our initiative would make such plans more widely available.</p> <p>As a consumer, you may also be interested in the Task Force initiative that aims to increase the availability of time-of-use pricing plans. These are already available from some, but not all retailers. Time-of-use pricing allows consumers to take advantage of cheaper off-peak electricity prices.</p> <p>We encourage you to look out for our consultation papers expected early next year. You can follow us on LinkedIn to find out more when these consultations open or sign up to our weekly Market Brief e-newsletter here.</p> <p>In relation to the treatment of consumers, the Authority has also been working towards mandating the Consumer Care Guidelines (Guidelines) since announcing its decision to do so in February 2024.</p> <p>The Guidelines will be included into the Code as Consumer Care Obligations (Obligations) and will provide a set of minimum standards that all retailers must comply with if they sell electricity to residential consumers.</p> <p>We intend to publish the Code amendment to mandate the Obligations in early December 2024. Protections will begin to come into effect from 1 January 2025, with all protections under the Obligations enforceable from 1 April 2025.</p> <p>From 1 January 2025, two key protections will apply, requiring retailers to ensure:</p> <ol style="list-style-type: none"> 1. they do not disconnect a customer who has a known medically dependent consumer living in their household, and 2. any fees they charge are reasonable and reflect actual cost. <p>Fees do not include the price charged for electricity supply.</p> <p>The remaining protections will be in effective from 1 April, to ensure they are in place ahead of winter and so retailers have time to make the operational changes necessary to comply with the new requirements.</p>
<p>Have these or will these Methods or and Measures achieve a level playing field for Industry and for the consumers to be treated fairly?</p>	<p>For us to be able to monitor the effectiveness of our interventions, we are improving our monitoring of the retail electricity market. In addition, the Task Force is facilitating the development of standardised flexibility products through the establishment of an industry co-design group. This work actions two recommendations from the Market Development Advisory Group.</p> <p>Flexibility contracts are a form of insurance product and provide the buyer with protection against high spot prices at specific times. They are important for retailers and are expected to become more important as the proportion of intermittent generation, such as wind and solar, increases. Standardised flexibility products will provide the sector with more information about future electricity prices, which will support risk management and investment decisions. Ultimately, consumers will benefit from more efficient competition, which will put downwards pressure on pricing, and facilitate a level playing field for industry with flow-on benefits to consumers.</p> <p>Increased visibility of the retail market will enable us to develop insights, identify potential issues, and make well-informed policy decisions that benefit consumers.</p>

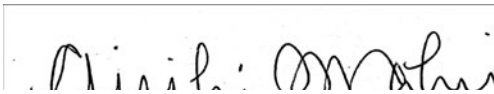
	<p>Active market monitoring ensures retailers are accountable for their compliance with the Code, and publishing data and insights will inform new ideas and innovations that help shape the future of the sector. We want to ensure that the initiatives being investigated by the Task Force (if implemented) will provide consumer benefits. Regular and active market monitoring will ensure that these initiatives are leading to the realisation of these benefits.</p>								
<p>What action has NZ Electricity Authority undertaken under Part 5.1 (3)?</p>	<p>We have published the actions the Authority has taken in relation to undesirable trading situations (UTS) on our website. A summary is presented below:</p> <table border="1" data-bbox="486 560 1444 1108"> <tr> <td data-bbox="486 560 758 649">16 February 2024</td> <td data-bbox="758 560 1444 649">Possible UTS following 16 February High Court decision</td> </tr> <tr> <td data-bbox="486 649 758 761">9 August 2021</td> <td data-bbox="758 649 1444 761">Haast Energy Trading and Electric Kiwi UTS claim for 9 August 2021.</td> </tr> <tr> <td data-bbox="486 761 758 952">10 November 2019</td> <td data-bbox="758 761 1444 952">Haast Energy Trading, Ecotricity, Electric Kiwi, Flick Electric, Oji Fibre, Pulse Energy Alliance and Vocus claimed a UTS began on 10 November 2019 and continued at 12 December 2019.</td> </tr> <tr> <td data-bbox="486 952 758 1108">15 September 2018</td> <td data-bbox="758 952 1444 1108">Electric Kiwi, Flick Energy, Pulse Energy, Switch Utilities (Vocus) and Vector UTS claimed a UTS began on 15 September 2018 and continued at 8 November 2018.</td> </tr> </table> <p>I have attached a copy of the final UTS decisions on the above.</p>	16 February 2024	Possible UTS following 16 February High Court decision	9 August 2021	Haast Energy Trading and Electric Kiwi UTS claim for 9 August 2021.	10 November 2019	Haast Energy Trading, Ecotricity, Electric Kiwi, Flick Electric, Oji Fibre, Pulse Energy Alliance and Vocus claimed a UTS began on 10 November 2019 and continued at 12 December 2019.	15 September 2018	Electric Kiwi, Flick Energy, Pulse Energy, Switch Utilities (Vocus) and Vector UTS claimed a UTS began on 15 September 2018 and continued at 8 November 2018.
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Review of this response

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact us by emailing oa@ea.govt.nz.

Nāku noa, nā,



Airihi Mahuika
GM Legal, Monitoring and Compliance

Encl:

- [Guidelines for participants on UTS.pdf](#)
- [The Authority’s approach to monitoring the new trading conduct rule](#)
- [Trading conduct report 27 October- 2 November 2024](#)
- [Market performance quarterly review](#)

[Authority's final decision on whether an undesirable trading situation occurred following 16 February 2024](#)

[The Authority's final decision on claim of an undesirable trading situation - Claim submitted 12 August 2021](#)

[Final Decision – Actions to Correct Undesirable Trading Situation December 2019](#)

[The Authority's decision on claim of an undesirable trading situation - Claim submitted 8 November 2018](#)