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Richard Fletcher
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Submissions Administrator
Electricity Commission
PO Box 10041
Wellington 6143

Dear Sir/Madam

Re: Review of the UTS Provisions

This is Transpower New Zealand Limited's submission on the Electricity Commission's consultation paper *Review of the UTS Provisions*.

As a service provider, unaffected directly by settlement, Transpower as System Operator is neutral on the final price that is calculated. We are, however, an integral part of re-calculating any price and have concerns about the process implications of re-publishing final prices, especially as the urgency of this type of request could require the System Operator to give price recalculation highest priority at the expense of other key business as usual tasks.

Directing a participant to act in a manner not consistent with the rules would provide the Commission with wide-reaching and non-specific means by which to remedy a UTS. Transpower is concerned about the extent to which these may be operational level remedies. Our preference is for the Commission to grant exemptions or dispensations as required, and under urgency if necessary. Each situation should be reviewed on its own merits.

Ultimately, we take comfort from the fact that there are legal checks and balances under administrative law which would apply to Commission decisions taken in relation to a UTS.

Yours sincerely

Richard Fletcher
Regulatory Strategy Manager

Responses to the consultation questions

	Question	Transpower's response
1	<p>Do you support the Commission's proposed approach to addressing the apparent tension between the Regulations and the Rules regarding republication of final prices as a remedy for a UTS?</p> <p>If not, what alternative approach do you propose and why?</p>	<p>As a service provider, unaffected directly by settlement, Transpower as System Operator is neutral on the final price that is calculated.</p> <p>The regulations identify that one step that the Commission may take in a UTS is "directing that any trades be closed out or settled at a specified price". The way in which this price is determined is not prescribed.</p> <p>In the event that the specified price is arrived at by recalculating the final prices, Transpower has concerns about the demands on resources that may be incurred as a result of the additional work required, especially as the urgency of this type of request could require final price recalculation to be given highest priority at the expense of other key business as usual tasks. The Commission would also need to take responsibility for the inputs into any final price calculation.</p>
2	<p>What comment do you have on the Commission's Statement of Proposal (Appendix 4) proposing a rule change now to clarify that the Commission does have the power to republish final prices, in order to resolve the inconsistency prior to the initial Code?</p> <p>In particular, what comments do you have on the Commission's assessment of the costs and benefits of the options, and the extent to which each meets the objective of the proposal?</p>	<p>A number of the benefits identified by the paper will be realised as a result of implementing the Interim Pricing Period (IPP). The IPP should deter pricing process errors from being claimed under the UTS provisions.</p> <p>The costs relate to the removal of certainty from final pricing. This has traditionally had the greatest impact on participants with hedges. The extent to which the benefits may outweigh these costs can only be determined by those participants themselves.</p>
3	<p>What comments do you have on the proposed amended drafting of rule 3.27 of section II of part G clarifying the Commission's authority to order republication of final prices to remedy a UTS?</p>	<p>If the decision is made to allow republication of final pricing to correct a UTS when directed to do so by the Commission, then the rule drafting seems appropriate.</p>

4	<p>Do you support the Commission's proposed approach to clarifying its ability to direct a participant to act in a way that is inconsistent with (or may possibly be considered to be a breach of) the Rules?</p> <p>If not, what alternative approach do you propose and why?</p>	<p>Directing a participant to act in a manner not consistent with the rules provides the Commission with wide-reaching and non-specific means by which to remedy a UTS. Transpower is concerned about the extent to which these may be operational level remedies. Our preference is for the Commission to give effect to granting exemptions or dispensations as required, and under urgency if necessary. Each situation should be reviewed on its own merits.</p> <p>As a point to note, the suggested regulation change achieves its objective by omitting "the rules" from the current drafting, but leaving in "these regulations" as part of the list of laws. If the Electricity Industry Bill is passed in its current form, and consequential textual amendments are made to ensure coherence, "these regulations" will be replaced by "the Code". As the Code also contains the existing rules, the proposed regulation change would not achieve the desired aim post 1 October, as the rules would once again form part of the list of laws.</p>
5	<p>What priority do you consider should be attached to addressing each of these two UTS issues?</p>	<p>With respect to the two UTS issues:</p> <ol style="list-style-type: none">(1) clarification of the perceived inconsistency between the regulations and the rules, regarding the republication of final prices, should be undertaken prior to the Code coming into force;(2) the ability of the Commission to direct participants in a manner that could be inconsistent with the rules can currently be addressed by way of an exemption or dispensation. Therefore, although the stance should be clarified, doing so is not a priority at this time.
6	<p>Are there any other UTS issues that you consider should be addressed as a matter of priority?</p>	<p>No.</p>