



6 November 2014

Richard Rowell  
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Dear Richard,

## Variation to the FTR Allocation Plan 2014

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Genesis Energy Limited welcomes the opportunity to provide a submission to the FTR Manager on the consultation paper "Variation to the FTR Allocation Plan 2014" dated 30 September 2014.

The Financial Market Conducts Act 2013 ("FMCA") impacts the FTR market. Therefore, we agree that the FTR Manager must ensure the Allocation Plan is consistent with any new requirements under that Act.

Our responses to your specific questions are set out in Appendix A. More generally, if you have not already done so, we also suggest you talk to the Financial Markets Authority on any interpretation issues relating to the FMCA.

If you would like to discuss any of these matters further, please contact me on 04 830 0013.

Yours sincerely

A handwritten signature in blue ink, appearing to be "R. Plachecki".

Rebekah Plachecki  
Regulatory Advisor

## Appendix A: Responses to Consultation Questions

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QUESTION	COMMENT
<p>Q1: Have we reflected the legal requirement of the FMCA accurately in our proposed variations to the FTR Allocation Plan?</p>	<p>We agree that restricting participation in the FTR market to “wholesale investors”, as defined under the FMCA, will allow the FTR Manager to continue to offer FTRs after 1 December 2014 without the need to comply with product disclosure and other FMCA requirements. This approach is consistent with the rationale for limiting FTRs to wholesale investors. However, we note that the FTR Manager has chosen to make self-certification by participants as a condition of participation in the FTR market from 1 December 2014, to allow it the benefit of the “safe harbour” provisions in clause 44 of Schedule 1.</p>
<p>Q2: Does the language we are proposing for variation to the FTR Allocation Plan describe the legal requirements clearly and unambiguously, for existing and potential market participants alike?</p>	<p>Clause 41 of the FMCA refers to clause 43. Therefore the reference “together with a written confirmation of the certification in accordance with clause 43 of schedule 1 of the FMCA” in the variation is unnecessary, and should be deleted.</p>

QUESTION	COMMENT
<p>Q3: Does the form of FTR Self Certification meet participant requirements to be signed by your organisation, and submitted by the required due date?</p>	<p>Yes. Genesis Energy is a 'large' investor for the purposes of the FMCA, so the eligible investor certificate requirements are not relevant to us.</p> <p>However, we suggest that the certificate for wholesale investors in Appendix A should be amended to:</p> <ul style="list-style-type: none"> <li>• delete the words "in particular" in paragraph 1; and</li> <li>• allow the certification of the other wholesale investor categories (other than eligible investors). This may be achieved by a more 'generic' certificate aimed at wholesale investors (excluding eligible investors) as opposed to specifically 'large wholesale investors' (subject to the FTR Manager ensuring that regulatory requirements are the same for these additional categories under the FMCA and any regulations).</li> </ul> <p>Investors who fall within these other categories are by definition wholesale investors, and there is no reason for excluding them from the FTR market. This would also avoid the FTR Manager having to subsequently consult with the industry, and therefore the costs to the parties that flow from each consultation.</p>

QUESTION	COMMENT
<p>Q4: Is it sufficient to provide forms of self-certification for eligible investors and wholesale investors who are 'large' only, or is it also important to provide a form for other categories of wholesale investor (investment businesses, investment activity and government agencies)?</p>	<p>Please see our response to Question 3 above.</p>