

JADE SOFTWARE CORPORATION (NZ) LIMITED

Reporting entity

E-GAS 2000 LIMITED AND E-GAS LIMITED

Participants allegedly in breach

THE AUCKLAND GAS COMPANY LIMITED

Party to some of the alleged breaches

NOVA GAS LIMITED

Party to some of the alleged breaches

Breach notice 2009-65 (S-EGAS-05013 to 05022, and S-EGLT-05021 to 05044 and 05046 to 05058)

Record of partial settlement of alleged breaches of Rules 69.1, 69.2, 72.2 and 78.1 of the Gas (Switching Arrangements) Rules 2008

8 September 2009

Record of partial settlement of alleged breaches of Rules 69.1, 69.2, 72.2 and 78.1 of the Gas (Switching Arrangements) Rules 2008

Breach notice:

2009-65 (S-EGAS-05013 to 05022, and S-EGLT-05021 to 05044 and 05046 to 05058)

Between:

Reporting entity:	Jade Software Corporation (NZ) Limited ("Jade")
Participants allegedly in breach:	E-Gas 2000 Limited and E-Gas Limited (together, "E-Gas")
Party to some of the alleged breaches:	The Auckland Gas Company Limited ("Akld Gas")
Party to some of the alleged breaches:	Nova Gas Limited ("Nova")

Background:

- A. On 1 June 2009, Jade notified the Market Administrator of alleged breaches (contained in breach notice 2009-65) of Rules 69.1, 69.2, 72.2 and 78.1 of the Gas (Switching Arrangements) Rules 2008 (the "Switching Rules") by E-Gas, namely that E-Gas was not complying with various timeframes prescribed by the Switching Rules.
- B. The Market Administrator referred 2009-65 (S-EGAS-05013 to 05022, and S-EGLT-05021 to 05044 and 05046 to 05058) to an investigator, Jacquie Kean, for investigation, on 6 July 2009. The investigator extended the time for investigation to 8 September 2009.
- C. As a result of the investigation, the following emerged (in summary):
 - a. E-Gas is not in breach of Rule 69.1 as it filed its responses (namely, GNWs - gas switching withdrawal notices) to GNTs (gas switching notices) within 2 business days as required by the Switching Rules, and it also gave GANs (gas acceptance notices) within 2 business days of rejection of its GNWs;
 - b. E-Gas admits that it breached Rule 69.2 as alleged. In some cases, having given a GAN, it did not give a GTN (gas transfer notices) within 23 business days after receiving the GNT from the Registry (sometimes it did not do so for two months or so). In other cases, it engaged in a "ping-pong" of GNWs and GAWs (gas switching withdrawal responses) (a practice that appears to be in breach of Rule 78.5) for a prolonged period, frustrating switches for several months in some cases;
 - c. E-Gas admits that it breached Rule 72.2 as alleged in that it filed GTNs with switch dates that post-dated the requested switch dates.
 - d. E-Gas admits that it breached Rule 78.1 as alleged in that it did not give GAWs within 5 business days of receiving GNWs.
 - e. On 22 July 2009, E-Gas gave an undertaking to change its approach and comply (as it is obliged to by law) with the timeframes in the Switching Rules. The breaches in 2009-65 pre-date that undertaking.
- D. The parties have agreed to resolve 25 of the 47 alleged breaches as set out in this record of partial settlement. The following alleged breaches are the subject of this record of partial settlement:

- a. Alleged breaches of Rule 69.1: S-EGLT-05021 to 05024 – these were not in fact breaches of the Switching Rules;
 - b. Alleged breaches of Rule 69.2 to which Nova is a party: S-EGAS-05014 to 05016, and 05019, and S-EGLT-05026;
 - c. Other alleged breaches of Rule 69.2: S-EGLT-05028, 05032, 05034, 05043, and 05048;
 - d. An alleged breach of Rule 72.2 to which Nova is a party: S-EGAS-05021;
 - e. Alleged breaches of Rule 78.1 to which Akid Gas is a party: S-EGLT-05051, 05055 and 05056;
 - f. An alleged breach of Rule 78.1 to which Nova is a party: S-EGLT-05053;
 - g. Other alleged breaches of Rule 78.1: S-EGAS-05022, and S-EGLT-05050, 05052, 05054, 05057, and 05058.
- E. The following alleged breaches have not been settled and are not part of this partial settlement:
- a. Alleged breaches of Rule 69.2 to which Nova is a party, namely S-EGAS-05013, 05017, 05018, and 05020, and S-EGLT-05025, 05027, 05029 to 05031, 05032, 05035 to 05042, 05044, 05046 and 05047; and
 - b. An alleged breach of Rule 72.2 to which Nova is a party, namely S-EGLT-05049.

Settlement:

- 1) It has been agreed that the breaches outlined in paragraph D above should not be referred to the Rulings Panel for determination, for the following reasons:
 - a) E-Gas has taken steps to ensure compliance with the timeframes in the Switching Rules from 22 July 2009 on, namely a Chief Executive-driven undertaking (of that date) to comply with those timeframes, and the provision of one-on-one training for its staff on the regulatory requirements;
 - b) E-Gas has now resolved all the outstanding switches in breach notice 2009-65. There is currently no outstanding issue in relation to any of the breaches contained in 2009-65 (although it is acknowledged that in some cases customers may have decided not to proceed with the switch due to frustration with the delays).
- 2) This partial settlement of breach notice 2009-65 is subject to the approval of the Rulings Panel pursuant to regulation 34 of the Gas Governance (Compliance) Regulations 2008. If the Rulings Panel approves this settlement, this settlement will be final and binding on the parties to the breaches outlined above in paragraph D and contained in 2009-65, on all participants, and on the Rulings Panel.

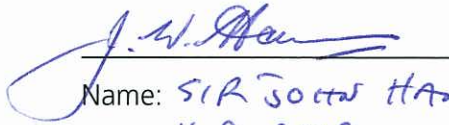
Acceptance of parties to settlement:

- Jade notified its acceptance of the terms of settlement in writing to the investigator on 4 September 2009.

- The E-Gas companies notified their acceptance of the terms of settlement in writing to the investigator on 8 September 2009.
- Akld Gas and Nova notified their acceptance of the terms of settlement in writing to the investigator on 8 September 2009.

Rulings Panel:

I approve this partial settlement pursuant to regulation 34 of the Gas Governance (Compliance) Regulations 2008.



Name: SIR JOSEPH HANSEN KNZM

Date: 11.9.2009

Jacquie Kean

From: Gas Registry Administrator [gas.registry@jadeworld.com]
Sent: Friday, 4 September 2009 9:50 a.m.
To: Jacquie Kean
Cc: 'Gas Registry Administrator'
Subject: RE: Breach notice 2009-65 - E-Gas

Hi Jacquie

I can confirm that Jade has no objection to the terms of settlement.

Thanks

Greg Hay
Gas Registry Administrator
JADE Software Corporation Limited

Gas Registry Helpdesk 0800 652266
www.jadeworld.com

From: Jacquie Kean [mailto:Jacquie.Kean@gasindustry.co.nz]
Sent: Friday, 4 September 2009 9:28 a.m.
To: Gas Registry Administrator
Subject: Breach notice 2009-65 - E-Gas

Dear Greg,

Would Jade have any objection to the terms of settlement contained in the attached draft record of (partial) settlement?

Many thanks
Jacquie

Jacquie Kean
Investigator
Gas Industry Company Limited

www.gasindustry.co.nz

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Jacquie Kean

From: Rodney Moore [rodneym@e-gas.co.nz]
Sent: Tuesday, 8 September 2009 5:00 p.m.
To: Jacquie Kean
Cc: Ron Rosenberg; Syd Hunt
Subject: RE:

Hi Jacquie

As per your request, E-Gas accepts the terms of the settlement for 2009-65.

Regards

Rodney Moore
Sales Support Manager

DDI: (04) 477 7389
Mob: 027 221 3432
Fax: (04) 499 4965
Freephone: 0800 432 876

From: Jacquie Kean [mailto:Jacquie.Kean@gasindustry.co.nz]
Sent: Tuesday, September 08, 2009 4:35 PM
To: Rodney Moore
Subject:

Dear Rodney,

I am attaching the final draft of the record of partial settlement in respect of 2009-65. Can you please advise whether E-Gas accepts the terms of settlement?

Regards
Jacquie

Jacquie Kean
Investigator
Gas Industry Company Limited

www.gasindustry.co.nz



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9/09/2009

Jacquie Kean

From: Charles Teichert [cteichert@novaenergy.co.nz]
Sent: Tuesday, 8 September 2009 4:12 p.m.
To: Jacquie Kean
Cc: John Palmer
Subject: RE: Breach notice 2009-65

Thanks Jacquie,

Nova and AGCL accept the terms of the settlement without prejudice to their rights regarding breaches of other rules by Egas in relation to the switching events that are the subject of this settlement and also without prejudice to their rights regarding any other or any future breaches by Egas.

Regards

Charles Teichert

From: Jacquie Kean [mailto:Jacquie.Kean@gasindustry.co.nz]
Sent: Tuesday, 8 September 2009 4:00 p.m.
To: Charles Teichert
Subject: Breach notice 2009-65

Dear Charles,

I am attaching the final draft of the record of partial settlement in respect of 2009-65. Can you please confirm that Nova and Akid Gas accept the terms of settlement?

Regards
Jacquie

Jacquie Kean
Investigator
Gas Industry Company Limited

www.gasindustry.co.nz

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9/09/2009