

JADE SOFTWARE CORPORATION (NZ) LIMITED
Reporting entity

BAY OF PLENTY ENERGY LIMITED
Participant allegedly in breach

Breach notice 2009-31 (S-BOPE-03013)

**Record of settlement of an alleged breach of Rule 72.2 of the Gas (Switching
Arrangements) Rules 2008**

25 June 2009

Record of settlement of an alleged breach of Rule 72.2 of the Gas (Switching Arrangements) Rules 2008

Breach notice:

2009-31 (S-BOPE-03013) ("2009-31")

Between:

Reporting entity: Jade Software Corporation (NZ) Limited ("Jade")

Participant allegedly in breach: Bay of Plenty Energy Limited ("BOPE")

Background:

- A. On 1 April 2009, Jade notified the Market Administrator of an alleged breach (2009-31) of Rule 72.2 of the Gas (Switching Arrangements) Rules 2008 (the "Switching Rules") by BOPE, namely that BOPE had not processed a switch on the switch dates that had been requested by the new retailer, E-Gas Limited.
- B. The Market Administrator referred 2009-31 to an investigator, Jacque Kean, for investigation, on 12 May.
- C. As a result of the investigation, the following emerged (in summary):
 - a. E-Gas Limited may have breached the Switching Rules by requesting a switch date that was less than 7 business days after the date the gas switching notice was given to the Registry. This may have been the catalyst for subsequent possible errors in the switch process.
 - b. The Registry's records are not consistent with what BOPE says occurred, therefore it is not known for certain whether BOPE switched the consumer one business day before or 10 business days after the requested switch date; however, it is accepted that the switch did not occur on the requested switch date.
 - c. BOPE interprets Rule 72.2 to mean that a requested switch date is optional, and invokes the response from its related company, The Auckland Gas Company Limited ("Akld Gas"), in breach 2009-23, which has already been referred to the Rulings Panel for determination.
- D. The parties have agreed to resolve 2009-31 as set out in this record of settlement.

Settlement:

- 1) It has been agreed that this alleged breach should not be referred to the Rulings Panel, for the following reasons:
 - a) The alleged breach relates to BOPE's interpretation of Rule 72.2. That issue is already awaiting determination by the Rulings Panel in breach notice 2009-23, as outlined above;
 - b) There does not appear to have been any market impact as a result of the alleged breach;
 - a) The new retailer is also alleged to have breached the Switching Rules in relation to this switch as the requested switch date was not less than 7 business days after the date the gas switching notice was given to the Registry (as is required by Rule 67.3).

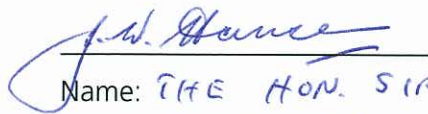
- 2) This settlement is subject to the approval of the Rulings Panel pursuant to regulation 34 of the Gas Governance (Compliance) Regulations 2008. If the Rulings Panel approves this settlement, this settlement will be final and binding on the parties to 2009-31, on all participants, and on the Rulings Panel.

Acceptance of parties to settlement:

- Jade notified its acceptance of the terms of settlement in writing to the investigator on 24 June 2009.
- BOPE notified its acceptance of the terms of settlement in writing to the investigator on 24 June 2009.

Rulings Panel:

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



Name: THE HON. SIR JOHN HANSEN KINZM

Date: 5-8-09.