

ALLOCATION AGENT

Notifying participant

AUCKLAND GAS COMPANY LIMITED

NOVA GAS LIMITED

BAY OF PLENTY ENERGY LIMITED

CONTACT ENERGY LIMITED

ENERGY DIRECT NZ LIMITED

E-GAS 2000 LIMITED (NOW JOHNSONVILLE 2000 LIMITED)

E-GAS LIMITED (NOW JOHNSONVILLE LIMITED)

GENESIS POWER LIMITED

ENERGY ONLINE LIMITED

ON GAS LIMITED

MIGHTY RIVER POWER LIMITED

Participants allegedly in breach

AUCKLAND GAS COMPANY LIMITED

NOVA GAS LIMITED

BAY OF PLENTY ENERGY LIMITED

ON GAS LIMITED

Parties to breach notices

**Record of settlement of alleged breach of rule 37.2
Gas (Downstream Reconciliation) Rules 2008**

Record of settlement of alleged breach of rule 37.2 Gas (Downstream Reconciliation) Rules 2008

Breach Notices: Listed in Appendix 1

Between:

| | |
|-----------------------------------|--|
| Notifying participant: | Allocation Agent |
| Participants allegedly in breach: | Auckland Gas Company Limited Nova Gas Limited Bay of Plenty Energy Limited Contact Energy Limited Energy Direct NZ Limited E-Gas 2000 Limited (now Johnsonville 2000 Limited) E-Gas Limited (now Johnsonville Limited) Genesis Power Limited Energy Online Limited On Gas Limited Mighty River Power Limited |
| Parties to breach notices: | Auckland Gas Company Limited Nova Gas Limited Bay of Plenty Energy Limited On Gas Limited |

Background

1. On 4 May and 25 June 2012, pursuant to regulations 18(3) and 23 of the Gas Governance (Compliance) Regulations 2008, the market administrator referred alleged breaches by Auckland Gas Company Limited (“AGCL”), Nova Gas Limited (“Nova”), Bay of Plenty Energy Limited (“BOPE”), Contact Energy Limited (“Contact”), Energy Direct NZ Limited, E-Gas 2000 Limited (now Johnsonville 2000 Limited), E-Gas Limited (now Johnsonville Ltd), Genesis Power Limited (“Genesis”), Energy Online Limited, On Gas Limited and Mighty River Power Limited of rule 37.2 Gas (Downstream Reconciliation) Rules 2008 to an investigator, Jason McHerron, for investigation.
2. The alleged breaches referred for investigation involve the failure by the participants allegedly in breach to provide accurate consumption information to the allocation agent for initial allocation, as required by rule 37.2.¹ The alleged breaches occurred from December 2009 to March 2011 inclusive.
3. Under/over-submission of consumption information by a retailer causes positive/negative UFG (unaccounted-for-gas) that affects other retailers at the gas gate. Thus, it is reasonable for retailers who trade at a gas gate where a breach occurred to assume that they may have been affected.

¹ Rule 48.1 provides that an initial allocation is the allocation of gas quantities in accordance with rule 45 in the month immediately after the relevant consumption period.

4. The allocation of gas to each retailer is used as the basis for a number of charges in the gas industry. These include wholesale gas, transmission throughput and overrun charges, and distribution charges. To the extent that balancing costs are on-charged to Vector, the allocation results also form the basis for Vector to recover those costs from the retailers who use its systems, on the basis of retailers' own imbalance positions. Related charges are incentives pool debits charges and peaking charges, which are similarly passed on by Vector to retailers. Together, these charges are referred to as BPP² charges.
5. The majority of charges are washed-up with subsequent allocation stages (interim and final). Accordingly, for these charges, a breach of rule 37.2 does not cause losses to be borne by other participants. The exception is BPP charges, which are not washed-up with subsequent allocation stages. If the BPP charges were washed-up by Vector Transmission (using the interim and final allocation results) then it is likely that the market administrator would have concluded that, apart from the time value of money, no harm relating to the breaches remained. A wash-up of BPP charges would require a change to be made to the Vector Transmission Code, which would have to be initiated by the parties, and it would not address the existing backlog of breaches. Thus, the situation that currently exists is that breaching parties' under/over submission of consumption volumes has led to over/under allocation of volumes to other parties, which in turn has contributed to positive/negative balancing cash-outs, incentives pool debits (IPD) and peaking charges.

The agreed settlement

6. The parties have agreed to adopt a simple and cost-effective calculation methodology that has been developed by Gas Industry Co, using a spreadsheet-based algorithm to simulate allocation calculations on a monthly basis. In lieu of BPP wash-ups, invoiced BPP charges are used as the basis for calculating compensation. This methodology was the same that was applied in respect of the alleged breaches that were the subject of a settlement approved by the Rulings Panel on 22 September 2011. The Liquidators of the E-Gas companies (discussed further at paragraph 8 below) did not actively participate in discussions regarding the formulation of the settlement methodology, but assented to its adoption on the basis that the other parties had done so.
7. Gas Industry Co has used the agreed settlement methodology to make calculations of the principal sums payable or claimable by each of the parties. To these sums will be added interest, calculated according to the prevailing 90 day bank bill rate.

The position of E-Gas

8. Two of the alleged breaching parties, E-Gas Ltd and E-Gas 2000 Ltd are in liquidation. E-Gas Ltd has been renamed Johnsonville Ltd and E-Gas 2000 Ltd has been renamed Johnsonville 2000 Ltd. These companies went into liquidation on 18 October 2010 with Jeff Hart (BDO Wellington), Brian Mayo-Smith (BDO Auckland) and Stephen Tubbs (BDO Christchurch) appointed as

² Balancing and Peaking Pool.

Liquidators. The Liquidators have agreed to the settlement pursuant to their powers under section 260 and Schedule 6 of the Companies Act 1993. In relation to the E-Gas companies, interest is calculated up to the date of the commencement of the liquidation, 18 October 2010.³ Amounts determined under the basis of the settlement as being payable by the E-Gas companies will be accepted as claims in the liquidation as pre-liquidation debts of the relevant company or companies as the case may be to be dealt with pari passu with other unsecured pre-liquidation debts of the relevant company. To avoid doubt, the Liquidators emphasise that this agreement, and the payments or credits that may be made in relation to the E-Gas companies, are subject to the Liquidators' rights and obligations under relevant Companies legislation and the Liquidators' normal adjudication processes.

Payments to be made under the settlement

9. Including interest as at 18 October 2010, the amounts to be paid or credited to each party from the E-Gas companies, Johnsonville Ltd and Johnsonville 2000 Ltd as pre-liquidation debts in all respects are as follows, and the parties will be eligible to claim as unsecured creditors in the liquidation of those companies accordingly:

- Contact \$6,295.75
- Energy Direct NZ Ltd \$4,389.31
- Mighty River Power Ltd \$5,720.93
- On Gas Ltd \$8,027.88

10. Including interest up to 19 August 2012, AGCL/BOPE/Nova agree to make the following payments by 20 September 2012:

- Contact \$434.84
- Energy Direct NZ Ltd \$303.16
- Mighty River Power Ltd \$395.14
- On Gas Ltd \$554.48

11. Including interest up to 19 August 2012, Genesis agrees to make the following payments by 20 September 2012:

- Contact \$9,406.70

³ Section 306(1) of the Companies Act 1993 requires creditors' claims to be ascertained as at the date and time of commencement of the liquidation. Whether any interest is ultimately payable in relation to claims against the E-Gas companies will be subject to the Liquidators' usual adjudication processes and obligations under the Companies Act 1993 and the Companies Act 1993 Liquidation Regulations 1994 and this agreement does not predicate a particular position in that regard.

- Energy Direct NZ Ltd \$6,558.21
 - Mighty River Power Ltd \$8,547.83
 - On Gas Ltd \$11,994.73
12. 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, it will be final and binding on the parties, all other participants, and the Rulings Panel, and no further action can be taken in respect of the alleged breaches.

Acceptance of parties to settlement

13. The Allocation Agent notified its acceptance of the terms of settlement in writing to the investigator on 4 September 2012.
14. Auckland Gas Company Limited, Nova Gas Limited and Bay Of Plenty Energy Limited notified their acceptance of the terms of settlement in writing to the investigator on 4 September 2012.
15. Contact Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 4 September 2012.
16. Energy Direct NZ Limited notified its acceptance of the terms of settlement in writing to the investigator on 5 September 2012.
17. E-Gas Limited (now Johnsonville Limited) and E-Gas 2000 Limited (now Johnsonville 2000 Limited) notified their acceptance of the terms of settlement in writing to the investigator on 5 September 2012. The Liquidators have agreed to the settlement in their personal capacities only for the purpose of receiving the benefit of clauses 6, 7, 13 to 16 (inclusive) and 18 to 20 (inclusive) and the exclusions, limitations, undertakings, covenants and indemnities in their favour contained elsewhere in this record of settlement. The notifying participant and all other participants allegedly in breach and the other parties to the breach notices have acknowledged and agreed that in the negotiation and the completion of the settlement the Liquidators are acting only as agents for and on behalf of the E-Gas Companies and without any personal liability whatsoever. It has been expressly agreed that neither the Liquidators nor their firm, partners, employees, agents, advisers or representatives shall have any personal liability under or in connection with the settlement.
18. Genesis Power Limited and Energy Online Limited notified their acceptance of the terms of settlement in writing to the investigator on 5 September 2012.
19. On Gas Limited notified its acceptance of the terms of settlement in writing to the investigator on 4 September 2012.
20. Mighty River Power Limited notified its acceptance of the terms of settlement in writing to the investigator on 5 September 2012.

Rulings Panel

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

A handwritten signature in black ink, appearing to read 'J. W. Hansen', with a horizontal line underneath it.

Hon Sir John Hansen KNZM
Date: 5 September 2012

APPENDIX 1 – List of breach notices

Auckland Gas Company Limited

| | |
|--------------------------|-------------------------------|
| 2011-037(09/12/BEL24510) | 2012-005(10/11/GTH11301) |
| 2011-037(09/12/GTW06910) | 2012-005(10/11/WHG07501) |
| 2011-037(09/12/ROT08101) | 2012-033(10/12/GTW06910) |
| 2011-037(09/12/TWA35610) | 2012-033(10/12/PLN24201) |
| 2011-063(10/1/NPL12101) | 2012-033(10/12/PUK04201) |
| 2011-265(10/7/HST05210) | 2012-033(10/12/TWA35610) |
| 2011-265(10/7/KKI23701) | 2012-050(11/1/GTW33901(NGCD)) |
| 2011-297(10/8/GMM08001) | 2012-050(11/1/GTW33901(UNLG)) |
| 2011-365(10/10/BEL24510) | |

Bay of Plenty Energy Limited

| | |
|-------------------------|--------------------------|
| 2011-182(10/5/GTT07701) | 2011-366(10/10/NPL12101) |
| 2011-182(10/5/NPL12101) | 2011-366(10/10/ROT08101) |
| 2011-182(10/5/ROT08101) | 2012-006(10/11/GTT07701) |
| 2011-228(10/6/GMM08001) | 2012-006(10/11/NPL12101) |
| 2011-228(10/6/GTT07701) | 2012-006(10/11/ROT08101) |
| 2011-228(10/6/NPL12101) | 2012-034(10/12/NPL12101) |
| 2011-228(10/6/ROT08101) | 2012-051(11/1/NPL12101) |
| | 2012-075(11/2/NPL12101) |

Nova Gas Limited

| | |
|--------------------------|--------------------------|
| 2011-029(09/12/BEL24510) | 2012-014(10/11/WHG07501) |
| 2011-059(10/1/BEL24510) | 2012-014(10/11/PAU20101) |
| 2011-091(10/2/BEL24510) | 2012-040(10/12/BEL24510) |
| 2011-117(10/3/BEL24510) | 2012-040(10/12/GTH11301) |
| 2011-160(10/4/GTA03610) | 2012-040(10/12/GTW06910) |
| 2011-160(10/4/HST05210) | 2012-040(10/12/HST05210) |
| 2011-272(10/7/GTW06910) | 2012-040(10/12/NPL12101) |
| 2011-374(10/10/BEL24510) | 2012-040(10/12/OTO14101) |
| 2012-014(10/11/BEL24510) | 2012-040(10/12/PAU20101) |
| 2012-014(10/11/HST05210) | 2012-040(10/12/TWA35610) |
| 2012-014(10/11/TWA35610) | 2012-040(10/12/WHG07501) |
| | 2012-082(11/2/GTK19101) |
| | 2012-116(11/3/DRU15102) |
| | 2012-116(11/3/GIS07810) |

Contact Energy Limited

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|--------------------------------|--------------------------|
| 2011-035(09/12/HST05210) | 2011-367(10/10/HWA20801) |
| 2011-035(09/12/OKA13201) | 2011-367(10/10/LVN24401) |
| 2011-061(10/1/BEL24510) | 2011-367(10/10/NPL12101) |
| 2011-061(10/1/OKA13201) | 2011-367(10/10/ROT08101) |
| 2011-061(10/1/TWA35610) | 2011-367(10/10/WAG21501) |
| 2011-082(10/2/OKA13201) | 2012-007(10/11/BEL24510) |
| 2011-110(10/3/OKA13201) | 2012-007(10/11/GTW06910) |
| 2011-153(10/4/GTH11301) | 2012-007(10/11/LVN24401) |
| 2011-180(10/5/GTH11301) | 2012-007(10/11/NPL12101) |
| 2011-180(10/5/LVN24401) | 2012-007(10/11/PAU20101) |
| 2011-229(10/6/GTH11301) | 2012-007(10/11/PLN24201) |
| 2011-264(10/7/GTH11301) | 2012-007(10/11/TWA35610) |
| 2011-264(10/7/PUK04201) | 2012-035(10/12/BEL24510) |
| 2011-298(10/8/GTW33901(UNLG)) | 2012-035(10/12/GTH11301) |
| 2011-337(10/9/GTH11301) | 2012-035(10/12/LVN24401) |
| 2011-367(10/10/BEL24510) | 2012-035(10/12/PLN24201) |
| 2011-367(10/10/FLD03001) | 2012-035(10/12/TWA35610) |
| 2011-367(10/10/GTH11301) | 2012-052(11/1/GIS07810) |
| 2011-367(10/10/GTW33901(UNLG)) | 2012-076(11/2/GIS07810) |
| | 2012-111(11/3/BEL24510) |
| | 2012-111(11/3/GIS07810) |
| | 2012-111(11/3/GTW06910) |
| | 2012-111(11/3/LVN24401) |
| | 2012-111(11/3/PLN24201) |

Energy Direct NZ Limited

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|-------------------------|--------------------------|
| 2011-083(10/2/NPL12101) | 2011-267(10/7/PLN24201) |
| 2011-111(10/3/NPL12101) | 2011-368(10/10/LAB20201) |
| 2011-154(10/4/WAG21501) | 2012-008(10/11/WAG21501) |
| 2011-267(10/7/BEL24510) | 2012-112(11/3/NPL12101) |

E-Gas 2000 Limited

2011-231(10/6/BEL24510)

E-Gas Limited

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|--------------------------|--------------------------|
| 2011-033(09/12/BEL24510) | 2011-033(09/12/WHG07501) |
| 2011-033(09/12/GIS07810) | 2011-033(09/12/WHK32101) |
| 2011-033(09/12/GMM08001) | 2011-065(10/1/GMM08001) |
| 2011-033(09/12/GTH11301) | 2011-065(10/1/WHK32101) |
| 2011-033(09/12/GTT07701) | 2011-113(10/3/BEL24510) |
| 2011-033(09/12/HST05210) | 2011-113(10/3/OPO32001) |
| 2011-033(09/12/LVN24401) | 2011-113(10/3/WHK32101) |
| 2011-033(09/12/NPL12101) | 2011-156(10/4/WHG07501) |
| 2011-033(09/12/PAU20101) | 2011-156(10/4/WHK32101) |
| 2011-033(09/12/PLN24201) | 2011-184(10/5/TKR19701) |
| 2011-033(09/12/ROT08101) | 2011-269(10/7/GTT07701) |
| 2011-033(09/12/TAU07001) | 2011-370(10/10/DRU15102) |
| 2011-033(09/12/WAG21501) | |

Genesis Power Limited

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| 2011-032(09/12/FLD03001) | 2011-270(10/7/HST05210) |
| 2011-032(09/12/GIS07810) | 2011-270(10/7/OTA22601) |
| 2011-032(09/12/KPA12401) | 2011-270(10/7/TKR19701) |
| 2011-032(09/12/PLN24201) | 2011-270(10/7/TUK06501) |
| 2011-032(09/12/ROT08101) | 2011-270(10/7/TWA35610) |
| 2011-032(09/12/STR10201) | 2011-270(10/7/WAK22801) |
| 2011-032(09/12/TAU07001) | 2011-270(10/7/WRK18901) |
| 2011-032(09/12/TKN17001) | 2011-270(10/7/WTA16501) |
| 2011-032(09/12/TWA35610) | 2011-302(10/8/CAM17201) |
| 2011-032(09/12/WAK22801) | 2011-302(10/8/GTK19101) |
| 2011-032(09/12/WHG07501) | 2011-302(10/8/GTW33901(NGCD)) |
| 2011-062(10/1/CAM17201) | 2011-302(10/8/HST05210) |
| 2011-062(10/1/GIS07810) | 2011-302(10/8/HTL16601) |
| 2011-062(10/1/PLN24201) | 2011-302(10/8/TUK06501) |
| 2011-062(10/1/TPK33301) | 2011-302(10/8/WRK18901) |
| 2011-062(10/1/WHK32101) | 2011-341(10/9/CAM17201) |
| 2011-086(10/2/CAM17201) | 2011-341(10/9/HST05210) |
| 2011-086(10/2/GIS07810) | 2011-341(10/9/IGW11901) |
| 2011-086(10/2/GTH11301) | 2011-341(10/9/NPL12101) |
| 2011-086(10/2/GTK19101) | 2011-341(10/9/WHG07501) |
| 2011-086(10/2/GTW33901(NGCD)) | 2011-341(10/9/WRK18901) |
| 2011-086(10/2/HWA20801) | 2011-371(10/10/BEL24510) |
| 2011-086(10/2/NPL12101) | 2011-371(10/10/FLD03001) |
| 2011-086(10/2/TKR19701) | 2011-371(10/10/GIS07810) |
| 2011-086(10/2/WAG21501) | 2011-371(10/10/GTA03610) |
| 2011-086(10/2/WHK32101) | 2011-371(10/10/GTH11301) |
| 2011-114(10/3/CAM17201) | 2011-371(10/10/GTK19101) |
| 2011-114(10/3/ELM12301) | 2011-371(10/10/GTT07701) |
| 2011-114(10/3/TPK33301) | 2011-371(10/10/HST05210) |
| 2011-157(10/4/CAM17201) | 2011-371(10/10/HWA20801) |
| 2011-157(10/4/ROT08101) | 2011-371(10/10/LVN24401) |
| 2011-157(10/4/TAU07001) | 2011-371(10/10/NPL12101) |
| 2011-157(10/4/TKR19701) | 2011-371(10/10/PAU20101) |
| 2011-157(10/4/WAG21501) | 2011-371(10/10/PLN24201) |
| 2011-157(10/4/WAK22801) | 2011-371(10/10/ROT08101) |
| 2011-157(10/4/WHK32101) | 2011-371(10/10/STR10201) |
| 2011-185(10/5/CAM17201) | 2011-371(10/10/TAU07001) |
| 2011-185(10/5/ELM12301) | 2011-371(10/10/TKR19701) |
| 2011-185(10/5/FLD03001) | 2011-371(10/10/TKS17401) |

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| 2011-185(10/5/GIS07810) | 2011-371(10/10/TWA35610) |
| 2011-185(10/5/GMM08001) | 2011-371(10/10/WAK22801) |
| 2011-185(10/5/GTA03610) | 2011-371(10/10/WHG07501) |
| 2011-185(10/5/GTH11301) | 2011-371(10/10/WRK18901) |
| 2011-185(10/5/GTK19101) | 2011-371(10/10/WTR12001) |
| 2011-185(10/5/GTT07701) | 2012-011(10/11/BEL24510) |
| 2011-185(10/5/GTW06910) | 2012-011(10/11/GIS07810) |
| 2011-185(10/5/GTW33901(NGCD)) | 2012-011(10/11/GTH11301) |
| 2011-185(10/5/HWA20801) | 2012-011(10/11/GTK19101) |
| 2011-185(10/5/IGW11901) | 2012-011(10/11/HST05210) |
| 2011-185(10/5/MRV16302) | 2012-011(10/11/HWA20801) |
| 2011-185(10/5/NPL12101) | 2012-011(10/11/PAU20101) |
| 2011-185(10/5/PAU20101) | 2012-011(10/11/PLN24201) |
| 2011-185(10/5/ROT08101) | 2012-011(10/11/ROT08101) |
| 2011-185(10/5/STR10201) | 2012-011(10/11/STR10201) |
| 2011-185(10/5/TAU07001) | 2012-011(10/11/TAU07001) |
| 2011-185(10/5/TUK06501) | 2012-011(10/11/TKN17001) |
| 2011-185(10/5/WAG21501) | 2012-011(10/11/TKR19701) |
| 2011-185(10/5/WAK22801) | 2012-011(10/11/TWA35610) |
| 2011-185(10/5/WTR12001) | 2012-011(10/11/WAG21501) |
| 2011-233(10/6/CAM17201) | 2012-011(10/11/WHG07501) |
| 2011-233(10/6/DRU15102) | 2012-011(10/11/WRK18901) |
| 2011-233(10/6/FLD03001) | 2012-011(10/11/WTR12001) |
| 2011-233(10/6/GIS07810) | 2012-037(10/12/BEL24510) |
| 2011-233(10/6/GTA03610) | 2012-037(10/12/GIS07810) |
| 2011-233(10/6/GTH11301) | 2012-037(10/12/GMM08001) |
| 2011-233(10/6/GTK19101) | 2012-037(10/12/GTW33901(NGCD)) |
| 2011-233(10/6/GTT07701) | 2012-037(10/12/HST05210) |
| 2011-233(10/6/GTW33901(NGCD)) | 2012-037(10/12/MRV16302) |
| 2011-233(10/6/LNB24301) | 2012-037(10/12/PAU20101) |
| 2011-233(10/6/MRV16302) | 2012-037(10/12/ROT08101) |
| 2011-233(10/6/NPL12101) | 2012-037(10/12/STR10201) |
| 2011-233(10/6/PAU20101) | 2012-037(10/12/TAU07001) |
| 2011-233(10/6/ROT08101) | 2012-054(11/1/BEL24510) |
| 2011-233(10/6/TAU07001) | 2012-054(11/1/GIS07810) |
| 2011-233(10/6/WAG21501) | 2012-054(11/1/GTW33901(NGCD)) |
| 2011-233(10/6/WHK32101) | 2012-054(11/1/HST05210) |
| 2011-270(10/7/BEL24510) | 2012-054(11/1/PAU20101) |
| 2011-270(10/7/DRU15102) | 2012-054(11/1/TWA35610) |
| 2011-270(10/7/ELM12301) | 2012-054(11/1/WAG21501) |
| 2011-270(10/7/GTK19101) | 2012-078(11/2/GIS07810) |
| | 2012-078(11/2/GTH11301) |
| | 2012-078(11/2/GTK19101) |
| | 2012-078(11/2/GTW33901(NGCD)) |
| | 2012-078(11/2/ROT08101) |
| | 2012-113(11/3/ELM12301) |
| | 2012-113(11/3/GTW33901(NGCD)) |
| | 2012-113(11/3/TAU07001) |

Energy Online Limited

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|--------------------------|--------------------------|
| 2011-271(10/7/HST05210) | 2012-012(10/11/HST05210) |
| 2011-303(10/8/HST05210) | 2012-038(10/12/HST05210) |
| 2011-342(10/9/HST05210) | 2012-055(11/1/HST05210) |
| 2011-372(10/10/HST05210) | |

On Gas Limited

2011-116(10/3/BEL24510)
2012-056(11/1/GTT07701)

Mighty River Power Limited

2012-015(10/11/BEL24510)
2012-015(10/11/GTH11301)

2012-015(10/11/TWA35610)
2012-041(10/12/TWA35610)