

<b>NOTICE OF DETERMINATION OF MARKET ADMINISTRATOR</b>	
<b>Dated:</b>	22 October 2009
<b>Breach notice identifying number:</b>	2009-135 (2009-135A to 2009-135C)
<b>Date of receipt:</b>	18 August 2009
<b>Name of reporting entity:</b>	E-Gas 2000 Limited (EGAS) or E-Gas Limited (EGLT)
<b>Name of participant that is alleged to have breached the Rules:</b>	The Auckland Gas Company Limited (AGCL)
<b>Name/s of other parties to breach notice:</b>	
<b>Rule/s allegedly breached:</b>	Gas (Switching Arrangements) Rules 2008 Rule 65.2.1 Rule 65.2.2(a) Rule 78.2.2
<b>Determination made by market administrator under regulation 18:</b>	<p>In the market administrator's opinion, the alleged breaches do not raise material issues and the market administrator has decided to take no action on the alleged breaches.</p> <p>The market administrator placed particular weight on the following criteria in making its determination:</p> <p><u>In relation to 2009-135 A and B:</u></p> <ul style="list-style-type: none"> <li>• regulation 19(1)(b) – the alleged breaches did not have a material impact on the operation of the market</li> <li>• regulation 19(1)(c) – the alleged breaches were not deliberate and resulted from a data entry processing error by Auckland based staff that process Auckland Gas and Nova Gas switches</li> <li>• regulation 19(1)(d) – remedial action was taken</li> <li>• regulation 19(1)(g) – the alleged breaches are admitted</li> </ul>

In relation to 2009-135 C:

- regulation 19(1)(a) – the alleged breach was not severe
- regulation 19(1)(c) – Auckland Gas did not deliberately breach its obligations, instead it had signed confirmation from the customer that the customer intended to honour its contract with Nova Gas
- regulation 19(1)(d) – remedial action was taken
- regulation 19(1)(e) – the alleged breach did not have an anti-competitive effect
- regulation 19(1)(g) – the alleged breach is denied
- regulation 19(1)(o) – Auckland Gas considers the rules do not allow second and subsequent GNWs to be issued ahead of a GTN being submitted and that it may reject all such GNWs. This may raise an issue in relation to any future alleged breaches where a second or subsequent GNW is supported by different information than the first GNW
- regulation 19(1)(o) – the market administrator notes that the factor 19(1)(c) above refers to both Nova Gas and Auckland Gas. Due to a data entry processing error by Auckland based staff that process Auckland Gas and Nova Gas switches, the switch was incorrectly requested by Auckland Gas rather than by Nova Gas. After the GTN from E-Gas was provided, a switch from Auckland Gas to Nova Gas occurred to rectify this error. See notice of breach 2009-127