

THE MARKETPLACE COMPANY LIMITED

Reporting entity

ON GAS LIMITED

Participant allegedly in breach

Breach notice 2009-82

**Record of settlement of an alleged breach of Rule 31.1 of the Gas (Downstream
Reconciliation) Rules 2008**

4 September 2009

Record of settlement of an alleged breach of Rule 31.1 of the Gas (Downstream Reconciliation) Rules 2008

Breach notice:

2009-82

Between:

Reporting entity: The Marketplace Company Ltd ("M-co")

Participant allegedly in breach: On Gas Limited ("On Gas")

Background:

- A. On 10 June 2009, M-co notified the Market Administrator of an alleged breach (2009-82) of Rule 31.1 of the Gas (Downstream Reconciliation) Rules 2008 (the "Rules") by On Gas, namely that On Gas had estimated TOU (time of use) gas consumption at gas gate DAN05001 (Dannevirke) in breach of that rule. 2009-82 was one of a number of breaches relating to estimation of consumption at DAN05001. In total, On Gas estimated data for four months at DAN05001.
- B. The Market Administrator referred 2009-82 to an investigator, Jacquie Kean, for investigation on 9 July 2009 (she extended the time for settlement of the alleged breach to 4 September 2009).
- C. As a result of the investigation, the following emerged (in summary):
 - a. On Gas had to estimate TOU gas consumption at DAN05001 for three months, initially because the meter was defective, and subsequently because of delays in repairing / replacing the defective meter.
 - b. The delays were not the fault of On Gas, as the meter owner was Contact Energy Ltd in its capacity as a meter owner ("Contact Metering"), and it was up to that company to repair / replace the meter.
- D. The parties have agreed to resolve 2009-82 as set out in this record of settlement.

Settlement:

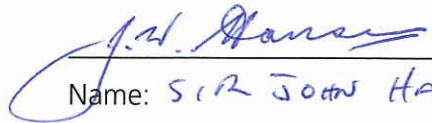
- 1) It has been agreed that 2009-82 should not be referred to the Rulings Panel for determination, for the following reasons:
 - a) On Gas took reasonable steps throughout the three month period during which it was aware of the issue to try to get Contact Metering to fix the problem;
 - b) Contact Metering accepts that it was at fault for the time taken to fix and ultimately replace the meter (albeit that the delays were caused by a combination of factors not necessarily caused by Contact Metering);
 - c) No other participant has indicated that there has been any material market impact as a result of the breaches;
 - d) It is unlikely that the consumer at DAN05001 was adversely affected, although this cannot be established for certain.
- 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 2009-82, on all participants, and on the Rulings Panel.

Acceptance of parties to settlement:

- M-co notified its acceptance of the terms of settlement in writing to the investigator on 2 September 2009.
- On Gas notified its acceptance of the terms of settlement in writing to the investigator on 4 September 2009.

Rulings Panel:

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


Name: SIR JOHN HAWSER KCMG
Date: 11.9.2009.

Jacquie Kean

From: Allocation Agent [alla@nzx.com]

Sent: Wednesday, 2 September 2009 10:51 a.m.

To: Jacquie Kean

Subject: Re: 2009-82 - On Gas - record of settlement_151135.1

Hi Jacquie,

I'm good thankyou.

Yes we agree with the terms of settlement.

Thanks,

Jo

Jacquie Kean

From: Anna Carrick [A.Carrick@vector.co.nz]
Sent: Friday, 4 September 2009 3:31 p.m.
To: Jacquie Kean; John Rampton
Cc: Graeme Stodart
Subject: RE: Breach notice 2009-82

Hi Jacquie,

On Gas Limited accepts the terms of the settlement on 2009-82

Kind Regards,
Anna