

JADE SOFTWARE CORPORATION (NZ) LIMITED
Reporting entity

NOVA GAS LIMITED
Participant allegedly in breach

Breach notice 2009-53 (S-GNVG-04012 and 04042)

**Record of settlement of an alleged breach of Rule 69.2 and of Rule 78.1 of the
Gas (Switching Arrangements) Rules 2008**

5 August 2009

Record of settlement of an alleged breach of Rule 69.2 and of Rule 78.1 of the Gas (Switching Arrangements) Rules 2008

Breach notice:

2009-53 (S-GNVG-04012 and 04042)

Between:

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

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

Background:

- A. On 1 May 2009, Jade notified the Market Administrator of an alleged breach (2009-53) of Rule 69.2 and of Rule 78.1 of the Gas (Switching Arrangements) Rules 2008 (the "Switching Rules") by Nova, namely that Nova had not completed certain steps in two switches within the timeframes prescribed by the Switching Rules.
- B. The Market Administrator referred 2009-53 (S-GNVG-04012 and 04042) to an investigator, Jacquie Kean, for investigation, on 19 June 2009.
- C. As a result of the investigation, the following emerged (in summary):
 - a. Nova admits that it breached Rules 69.2 and 78.1 of the Switching Rules.
 - b. The breaches were caused by various factors such as manual processing carried out by temporary staff who may not (then) have had adequate training, diminished numbers of staff due to flu, and "teething" issues with the (then) new Switching Rules.
 - c. In the case of S-GNVG-04012, there was an additional complication caused by the consumers' New Zealand management providing different instructions from those given by its Australian management.
- D. The parties have agreed to resolve 2009-53 as set out in this record of settlement.

Settlement:

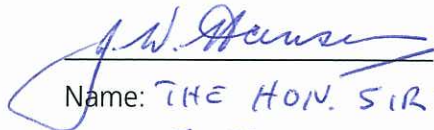
- 1) It has been agreed that 2009-53 should not be referred to the Rulings Panel, for the following reasons:
 - a) Nova has taken steps to minimise non-compliance with timeframes in the Switching Rules, including the development of an automated system for processing (scheduled for installation on 1 October 2009) and increased staff training in the meantime;
 - b) There does not appear to have been any material market impact as a result of the breaches;
 - c) At least one of the new retailers also appears to have breached the Switching Rules in relation to one of the switches and its breaches contributed to the delays.
- 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 2009-53, 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 31 July 2009.
- Nova notified its acceptance of the terms of settlement in writing to the investigator on 5 August 2009.

Rulings Panel:

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



Name: THE HON. SIR JOHN HANSEN KNZM

Date: 5.8.09.