

VERITEK LIMITED
Notifying person

CONTACT ENERGY LIMITED
Participant allegedly in breach

Breach Notice 2010-316

**Record of settlement of alleged breach of rules 30, 31, 32, 33 of the
Gas (Downstream Reconciliation) Rules 2008**

11 March 2011

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Breach Notice: 2010-316

Between:

Notifying person: Veritek Limited (“Veritek”)
Participant allegedly in breach: Contact Energy Limited (“Contact”)

Background

1. On 17 January 2011, pursuant to regulations 18(3) and 23 of the Gas Governance (Compliance) Regulations 2008, the market administrator referred an alleged breach by Contact of rules 30, 31, 32, 33 Gas (Downstream Reconciliation) Rules 2008 to an investigator, Jason McHerron, for investigation.
2. The alleged breach referred for investigation was numbered 2010-316 and related to Contact’s failure systematically to provide the allocation agent with consumption information relating to a large number of active-vacant ICPs. “Active-vacant consumption” occurs when gas is still being consumed at an ICP after the customer contract at that ICP has been terminated and a final bill issued.
3. The alleged breach was identified in a 2010 performance audit arranged by the Gas Industry Company under r 65 of the Rules. The performance audit report noted that active-vacant consumption is not accounted for by Contact where no switch is involved or a consumer is not identified.
4. The performance auditor noted that this led to instances of non-compliance with the Rules. The auditor notified the market administrator of an alleged breach of the Rules on 11 October 2010.
5. On 5 November 2010, Contact wrote to the market administrator and indicated that it agreed that it has breached rr 31.4, 32.4 and 33.4 of the Rules, by failing to submit consumption information in relation to some active-vacant status ICPs where consumption has been recorded but there is no customer contract and therefore no customer to bill.
6. However, Contact disputes that it has breached rule 30 or the other parts of rr 31, 32, and 33. The relevant ICPs are mainly in allocation group 6, with some in allocation group 4.¹ The only applicable parts of those rules to those allocation groups are rr 31.4, 32.4 and 33.4. The investigator has indicated in his report that

¹ Rule 6.2 provides that allocation group 4 is assigned to ICPs where the daily gas quantities are determined by application of the gas gate residual profile to monthly gas quantities taken from register readings that are required under rule 29 to be recorded monthly. Allocation group 6 ICPS differ in that register readings are not required to be recorded monthly.

he agrees with Contact that the other provisions in those rules do not apply and that the facts do not appear to establish a breach of r 30.

7. Contact has ascertained that this problem affects 761 of its ICPs that have been vacant for more than 6 months. Contact calculates approximately 13,340.26 GJ unbilled and unreported consumption in respect of these ICPs. A further 636 ICPs with vacant consumption that have been vacant for less than 6 months are yet to be billed and consumption information provided to the allocation agent for inclusion in allocations yet to be processed. The estimated consumption associated with these ICPs is 5,353 GJ.
8. Contact accepts that this problem has been caused by a failure to bill vacant consumption on a timely basis where it has not identified and signed up the person responsible for the consumption. Because Contact relies on validation of meter reads through its billing process, this has resulted in some unreported vacant consumption.
9. The solution to the problem involves Contact ensuring that consumption information will be provided to the allocation agent in compliance with rr 31-33, whether or not there is an actively contracted consumer at the ICP where consumption is occurring.
10. Contact has focused initially on ICPs that have been vacant for more than 6 months. Contact has undertaken what it describes as “the clean up process” to ensure that as much as possible of the consumption information relating to those ICPs can be provided to the allocation agent within the 13 month period provided for in rule 33. Doing so allows such information to be included in the allocation agent’s final allocation for a particular consumption period.
11. Contact has stated to the investigator that it is “committed to reporting consumption for all consumer installations that [it is] responsible for, being consumer installations where the retailer code is CTCT and the status is either active-contracted or active-vacant in the registry.” On an ongoing basis Contact proposes to bill itself for vacant consumption when such consumption is detected.

Clean up process

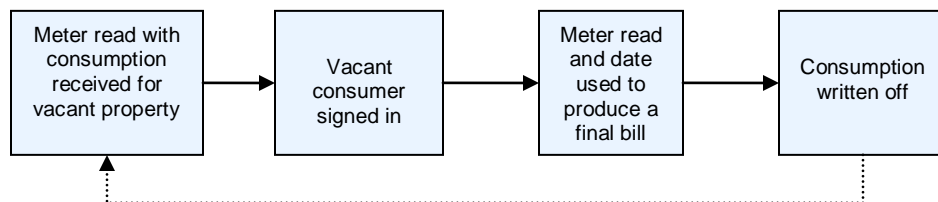
12. The clean up process has involved Contact individually reviewing the data associated with each of the ICPs that had been vacant for more than 6 months since final billing, but where vacant consumption was detected. The process began on 11 January 2011 and was completed on 11 February 2011. For each ICP, an account was opened and all vacant consumption was billed to Contact’s vacant consumption account. Then, the account was closed and the revenue written off. This process has allowed most of the vacant consumption associated with properties vacant for longer than 6 months to be provided to the allocation agent for the final allocation under r 33.4. In addition, in some cases, part or all of the vacant consumption associated with such sites will be provided to the allocation agent for the initial and interim allocations under rr 31.4 and 32.4 respectively.

13. Contact calculated that 731 GJ of the unbilled and unreported consumption was from pre-1 October 2008 and so is outside the scope of the compliance process altogether. A further 3,911.51 GJ of the unbilled and unreported consumption relates to the period between 1 October 2008 and 1 December 2009 and so is outside the 13 month “wash-up” period for which consumption information can be provided for final allocation under r 33. The remaining 8,698.45 GJ will be reported to the allocation agent for the final allocation under r 33.4.

Ongoing solution

14. A permanent solution to the problem of unreported vacant consumption will eventuate when Contact migrates to SAP, a new enterprise-wide computer system that will replace Contact’s existing financial, asset management and retail systems, including its billing and market submission tools. Once SAP is implemented, Contact indicates that it expects that register readings at vacant ICPs will be processed for inclusion in submissions to the allocation agent in the same timeframe as meter reads for active-contracted ICPs. However, SAP will not be introduced until 2012. In the meantime, manual changes to Contact’s existing processes are required.
15. For its ongoing solution until SAP is introduced, Contact will extend the method employed in the clean up process to ensure that it complies with the rules.
16. Contact has agreed to implement a solution that ensures consumption will be billed when it is discovered (i.e. when a vacant gas meter is read). Once vacant consumption is detected through a scheduled meter read, an account will be opened and the vacant consumption will be billed to Contact’s vacant consumption account. The account will then be closed and the revenue written off. The ongoing solution is depicted by the following diagram:

Diagram 1: Contact’s ongoing solution – bill and final on read



17. Importantly, the fact that the active vacant consumption is being billed will allow Contact to provide the consumption information obtained when the meter is read to the allocation agent at least for the interim and final allocations, and in some circumstances for the initial allocation,² under rr 31-33.

² As would be the case for any retailer with a 60-day read cycle.

18. Contact's analysis is that, of the 50 gas premises vacated each day (on average), 13% of them (6.5) will be still vacant and consuming the next time the meter is read. These are the premises that will be "final billed" in the ongoing solution process.
19. Contact expects that some of the active-vacant premises that are "final-billed" will subsequently have new customers signing in, with a backdated move-in date. Where this occurs, Contact will reverse the written-off vacant consumption and bill it instead to the new customer. Other things being equal, the consumption information provided to the allocation agent would remain the same, however.
20. Contact proposes to implement the bill and final on read solution in two streams of work. The first workstream involves implementing "bill and final on read" as a business as usual process for all new vacant consumption daily as it is discovered. Contact has advised the investigator that it will have implemented the first workstream by 11 April 2011. The second workstream involves a further clean up process in respect of vacant consumption within the last six months (not all of which was included in the initial clean up process). Contact has advised the investigator that it will complete the second workstream within a further 30 days (i.e. by 11 May 2011).
21. Contact has agreed to confirm to the investigator in writing as soon as it has completed the first workstream, and to provide further written confirmation when it has completed the second workstream. Contact will also notify the investigator if there are any delays (with reasons). The investigator will refer all such information to the Gas Industry Company for it to take any further action it sees fit.
22. The investigator has noted that the Gas Industry Company may also wish to consider arranging a further performance audit at an appropriate time to re-assess Contact's compliance with the Rules. Any such audit could be a narrowly focused performance audit solely to confirm the new process has been fully implemented, or it could form part of the next general performance audit of Contact. Any such audit will be a matter for the Gas Industry Company. The investigator has expressed confidence that Contact will fully implement the ongoing solution, and that the reference to further audits is not intended to imply otherwise.

Settlement

23. It has been agreed that alleged breach 2010-316 should be settled on the basis that Contact promptly (i.e. by 11 April 2011 for the first workstream and 11 May 2011 for the second workstream) implements the ongoing solution described above, to ensure that consumption information is provided to the allocation agent in accordance with the Rules. Contact will keep the investigator fully informed as to progress with implementation, as described in paragraph 21 above.
24. 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

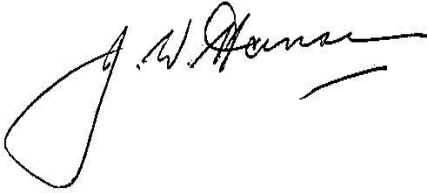
to 2010-316, all other participants, and the Rulings Panel, and no further action can be taken in respect of the alleged breach.

Acceptance of parties to settlement

25. Veritek notified its acceptance of the terms of settlement in writing to the investigator on 11 March 2011.
26. Contact notified its acceptance of the terms of settlement in writing to the investigator on 11 March 2011.

Rulings Panel

27. 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', written over a horizontal line.

Hon Sir John Hansen KNZM

Date: 11 March 2011