

ON GAS LIMITED
Participant allegedly in breach and notifying participant

MIGHTY RIVER POWER LIMITED trading as MERCURY ENERGY
THE AUCKLAND GAS COMPANY LIMITED
NOVA GAS LIMITED
BAY OF PLENTY ENERGY LIMITED
GENESIS POWER LIMITED
Parties to the breach notice

Breach Notice: 2010-362

**Record of settlement of alleged breach of rules 31.1, 32.1, 33.1 of the
Gas (Downstream Reconciliation) Rules 2008**

11 March 2011

Record of settlement of alleged breach of rules 31.1, 32.1, 33.1 of the Gas (Downstream Reconciliation) Rules 2008

Breach Notice: 2010-362

Between:

Participant allegedly in breach/notifying participant: On Gas Limited ("On Gas")
 Parties to alleged breach: Mighty River Power Limited trading
 as Mercury Energy ("Mercury")
 The Auckland Gas Company Limited
 ("Akl Gas")
 Nova Gas Limited ("Nova")
 Bay of Plenty Energy Limited
 ("BOPE")
 Genesis Power Limited ("Genesis")

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 On Gas of rules 31.1, 32.1, and 33.1 of the Gas (Downstream Reconciliation) Rules 2008 ("the Rules") to an investigator, Jason McHerron, for investigation.
2. The alleged breach referred for investigation was numbered 2010-362 and related to the unintentional failure by On Gas to provide correct consumption information to the allocation agent in respect of the consumer installation (ICP 0003065623NG1F5) at the Pukete Wastewater Treatment Plant in Hamilton for the period 1 December 2008 to 21 September 2010 inclusive.
3. On 23 November 2010, On Gas advised the market administrator that it had under-submitted actual daily energy quantities for that ICP by approximately half during that period. On 25 November 2010, On Gas formally notified the breach to the market administrator and provided a detailed explanation of how it arose.
4. The notice of breach indicates that the error arose due to inaccurate telemetry¹ data being provided to On Gas by the meter owner at this site. The under-submission occurred because the corrector² at the site, which had been installed on 4 December 2006, had been set to log consumption at 30 minute intervals. The telemetry unit itself however, which was installed on 1 December 2008, was recording consumption hourly. This discrepancy in recording intervals resulted in the telemetry unit only picking up the consumption from every second half-hour

¹ Telemetry is a means by which consumption information can be communicated remotely.

² A corrector is "a device that dynamically replaces any one or more of the fixed factors otherwise required to convert gas volume measured at ambient conditions to gas volume measured at standard conditions": r 5.2 of the Rules.

as logged by the corrector, thus explaining the under-submission of actual daily energy quantities for that ICP by approximately half. The fault was resolved on 21 September 2010.

5. Overall, as a result of this problem, On Gas has under-submitted 46,808 GJ of gas between 1 December 2008 and 21 September 2010 at GTH11301 – Greater Hamilton.
6. On Gas considers the likelihood of recurrence of a similar event at this ICP or a different one is extremely low. The problem might have been identified earlier by On Gas if it had followed its normal procedure of manually reading meters for all On Gas ICPs in allocation groups 1 and 2 to verify the TOU file downloaded for the corresponding ICP corrector. However, On Gas reports that this was the only one of its sites where a monthly manual verification read was not completed, due to biohazard and access issues. Lacking this means of manually verifying the data, On Gas had continued to rely on the erroneous data recorded by the telemetry unit. Since this incident, On Gas ensures that its standard practice of obtaining monthly meter reads for TOU ICPs is strictly followed in every case, including at this ICP, to allow verification of the TOU data files used for billing and allocations, and to ensure any discrepancies are noticed immediately. The meter owner has also stated that it will ensure that all of its TOU devices are set to log at 60 minute intervals.

Settlement

7. Each of the parties has agreed to resolve the alleged breach by way of a bilateral financial settlement with On Gas. The details of each settlement are contained in the investigator's report. Because the details of each settlement are commercially sensitive and confidential to the respective parties, they are not included in this record of settlement. In general terms, the settlements fully and finally compensate the parties for the impacts the breach caused them. These impacts relate to the over-allocation to them of gas quantities as a result of the breach, requiring them to purchase additional gas and pay additional transmission balancing charges.
8. 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 2010-362, 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

9. On Gas notified its acceptance of the terms of settlement in writing to the investigator on 11 March 2011.
10. Mercury notified its acceptance of the terms of settlement in writing to the investigator on 11 March 2011.
11. AKld Gas, Nova and BOPE notified their acceptance of the terms of settlement in writing to the investigator on 11 March 2011.

12. Genesis notified its acceptance of the terms of settlement in writing to the investigator on 10 March 2011.

Rulings Panel

13. 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.

Hon Sir John Hansen KNZM

Date: 11 March 2011