

Breach notice 2011-122
GENESIS POWER LIMITED
Notifying participant

GENESIS POWER LIMITED
Participant allegedly in breach

CONTACT ENERGY LIMITED
MERCURY ENERGY LIMITED
ON GAS LIMITED
Parties to breach notice

Breach notice 2011-138
TETENBURG & ASSOCIATES LIMITED
Notifying participant

GENESIS POWER LIMITED
Participant allegedly in breach

CONTACT ENERGY LIMITED
ON GAS LIMITED
Parties to breach notice

**Record of settlement of alleged breach of rule 26.2.1
of the Gas (Downstream Reconciliation) Rules 2008**

**Record of settlement of alleged breach of rule 26.2.1
of the Gas (Downstream Reconciliation) Rules 2008**

Breach Notice: 2011-122

Between:

Notifying participant:	Genesis Power Limited
Participant allegedly in breach:	Genesis Power Limited
Parties to alleged breach:	Contact Energy Limited, Mercury Energy Limited, On Gas Limited

Breach notice: 2011-138

Between:

Notifying participant:	Tetenburg & Associates Limited
Participant allegedly in breach:	Genesis Power Limited
Parties to alleged breach:	Contact Energy Limited, On Gas Limited

Background

1. Pursuant to regulations 18(3) and 23 of the Gas Governance (Compliance) Regulations 2008, the Market Administrator referred alleged breaches of rule 26.2.1 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) to an investigator, Jason McHerron, for investigation.
2. Rule 26 is in Part 2 of the Rules, which contains the rules relating to the allocation process. Rule 26 is headed “General obligations of allocation participants”. Rule 26.2.1 provides that every allocation participant must provide the information required under the Rules in a manner that is accurate and complete.
3. These alleged breaches both relate to the Palmerston North Gas Gate, PLN24201.

Breach notice 2011-122

4. In May 2011, Genesis Power Limited (“Genesis Energy”) notified details of a breach to the Market Administrator in relation to a single Group 4 ICP. At the time Genesis Energy acquired the ICP, in June 2003, it was supplied with information indicating the meter on the site had seven digits. The Genesis Energy billing platform reflected this information.
5. The meter readings that were subsequently supplied to Genesis Energy only contained six digits, however. This discrepancy triggered a billing validation process and led to the investigation of a possible error.
6. Information provided by the meter reading company and the meter owner added to the confusion, with the meter reader indicating there were six digits on the meter, and the meter owner indicating there were seven digits. A site visit was organised, after which the meter owner confirmed that the meter had six digits.

The metering configuration in Genesis Energy's billing platform was amended accordingly and billing continued based on six digits.

7. During the event audit of Palmerston North PLN24201 gas gate in May 2011 the auditor found that the register had six revolving digits and a seventh digit that took the form of a printed zero.¹ Accordingly, the meter was counting tens of cubic metres and the read out from the revolving digits should have been multiplied by 10 to obtain the correct reading. The misreading of the meter had led to under-submission of consumption information under the Rules in relation to this ICP.
8. Genesis Energy undertook to submit corrected consumption information for all allocations created from April 2011. For the months from April 2010 to March 2011 inclusive, Genesis Energy has been able to use the scheduled wash up allocations to correct the volumes. For the months prior to October 2008, when the Rules came into force, Genesis Energy undertook to address discrepancies directly with the incumbent retailer. In relation to the months from October 2008 until March 2010 inclusive, for which final allocations had already occurred, Genesis Energy proposed that it would enter into settlements with each affected retailer, including those that had not joined to the breach.

Breach notice 2011-138

9. Also in May 2011, Tetenburg & Associates Ltd notified details of alleged breaches to the Market Administrator in relation to two large ICPs. One of the ICPs was the same as that referred to in the description of alleged breach 2011-122 above. The other ICP was in Allocation Group 6 and had also been referred to in the event audit of Palmerston North PLN24201 gas gate in May 2011.² Again, the meter reader had not been recording the permanent zero on the meter and the customer was being under-billed by a factor of ten. As well, the auditor found that Genesis Energy had been using a fixed factor pressure of 3.5 kPa, when the meter owner records showed 35 kPa. This led to a further under-submission of gas.
10. In a letter to the Market Administrator dated 15 June 2011, Genesis Energy confirmed that, as for the ICP referred to in 2011-122, there had been a conflict between information provided by the meter reading company and the information Genesis Energy had in its records. In this instance, Genesis Energy's letter states, the meter owner confirmed the incorrect information and so Genesis Energy changed its records, which ended up perpetuating the error until it was discovered by the auditor. In relation to the incorrect meter pressure, Genesis Energy stated that was inherited data supplied by the previous retailer on the site, which Genesis Energy had no cause to question. Genesis Energy proposed the same settlement procedure as for 2011-122.

¹ See Final Audit Report: Event audit to identify sources of UFG in respect of Palmerston North gas gate for March 2009-February 2010, para 2.7.

² See Final Audit Report: Event audit to identify sources of UFG in respect of Palmerston North gas gate for March 2009-February 2010, para 2.8.

11. Gas Industry Co calculated the impact of the alleged breaches on other retailers, by re-running the allocations including the additional Genesis Energy consumption and applying the new, lower, monthly UFG factors to retailers' non-TOU submissions. The settlement sums were derived by multiplying the differences between the original and re-run allocations by an appropriate price per gigajoule. The price used was \$6.80, which was the weighted average of the Energy Data File prices published by the former Ministry of Economic Development for the affected period of October 2008 to March 2010. Finally, use of money interest has been applied.
12. The combined total settlement sums owed by Genesis Energy to each affected retailer in respect of 2011-122 and 2011-138, including interest but excluding GST, are as follows:

Auckland Gas Company Limited	\$3,774.50
Contact Energy Limited	\$21,622.51
Energy Direct NZ Limited	\$10,225.31
E-Gas Limited (in liq)	\$7,280.94
On Gas Limited	\$1,581.53
Nova Gas Limited	\$820.32
Mercury Energy Limited	\$475.99

The agreed settlement

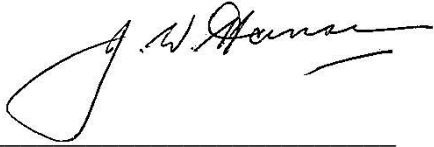
13. Genesis Power Limited admits that it unintentionally breached rule 26.2.1 of the Gas (Downstream Reconciliation) Rules 2008. Genesis Power Limited agrees to pay each affected retailer the sums referred to in paragraph 12 above.
14. This settlement is subject to the approval of the Rulings Panel pursuant 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, all other participants, and the Rulings Panel, and no further action can be taken in respect of the alleged breaches.

Acceptance of parties to settlement

15. Genesis Power Limited notified its acceptance of the terms of settlement in writing to the investigator on 9 May 2013.
16. Tetenburg & Associates Limited notified its acceptance of the terms of settlement in writing to the investigator on 17 May 2013.
17. Contact Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 13 May 2013.
18. Mercury Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 9 May 2013.
19. On Gas Limited notified its acceptance of the terms of settlement in writing to the investigator on 15 May 2013.

Rulings Panel

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: May 2013