

VECTOR GAS LIMITED AS CRITICAL CONTINGENCY OPERATOR
Notifying participant

CONTACT ENERGY LIMITED
Participant allegedly in breach

NOVA GAS LIMITED
THE AUCKLAND GAS COMPANY LIMITED
BAY OF PLENTY ENERGY LIMITED
MAUI DEVELOPMENT LIMITED
Parties to breach notice

**Record of settlement of alleged breach of regulation 55(1) of the Gas Governance
(Critical Contingency Management) Regulations 2008**

**RECORD OF SETTLEMENT OF ALLEGED BREACH OF REGULATION 55(1) OF
THE GAS GOVERNANCE (CRITICAL CONTINGENCY MANAGEMENT)
REGULATIONS 2008**

Breach Notice: 2011-359

Between:

Notifying participant:	Vector Gas Limited as Critical Contingency Operator
Participant allegedly in breach:	Contact Energy Limited
Parties to alleged breach:	Nova Gas Limited, The Auckland Gas Company Limited, Bay of Plenty Energy Limited, Maui Development Limited

Background

1. Pursuant to regulations 18(3) and 23 of the Gas Governance (Compliance) Regulations 2008, the Market Administrator referred an alleged breach of regulation 55(1) of the Gas Governance (Critical Contingency Management) Regulations 2008 (“the Regulations”) by Contact Energy Limited (“Contact”) to an investigator, Jason McHerron, for investigation.
2. Regulation 55(1) provides:

55 Retailers and large consumers must follow directions

(1) Retailers and large consumers must, as soon as is reasonably practicable, comply with the directions of a transmission system owner given under these regulations during a critical contingency.
3. The alleged breach relates to the Maui Pipeline Outage critical contingency in October 2011, during which the Critical Contingency Operator (“CCO”) exercised powers under the Regulations to require the curtailment of demand for gas.
4. On Wednesday 26 October 2011, during the second day of the critical contingency, the CCO observed that line pack on the Vector pipeline had increased to the point where some of the curtailed demand could be restored if used sparingly.¹ Due to the potential impact of gas curtailment on essential service providers and the environmental concerns over the inability of dairy factories to receive and process raw milk, the CCO decided after consultation with industry to issue a revised curtailment direction to restore gas to band 5 consumers (ie, those designated under the Regulations as essential service providers), but with a condition that they use gas sparingly.²
5. Accordingly, at 09:43-09:44 on 26 October 2011, the CCO issued notices #11260/11261 implementing revised demand curtailment under reg 53(1)(d)(ii) in

¹ Critical Contingency Performance Report on the Maui Pipeline Outage of 25-30 October 2011 dated 21 December 2011, p 14.

² Ibid.

relation to band 5, namely that "Demand can now be restored but must be used sparingly in all circumstances".

6. At 10:19-10:21 on 26 October 2011, Vector Gas Limited (as transmission system owner) issued notices #11259/11264 under reg 54(b) indicating that the CCO had given a direction to implement revised demand curtailment under reg 53(1)(d)(ii) in relation to band 5, namely that "Demand can now be restored but must be used sparingly in all circumstances".
7. Contact operates a cogeneration facility at Te Rapa. That facility produces electricity and the waste heat from the gas turbine is utilised in a heat recovery steam generator ("HRSG"). The steam from the HRSG is then sold to the dairy factory operated by Fonterra at Te Rapa. There is also an auxiliary boiler that can be used to provide the steam for the dairy factory at times when the cogeneration facility is not operating. The auxiliary boiler has been classified as an essential service provider, in band 5.
8. Following receipt of the notices from Vector Gas Limited, Contact advised the Te Rapa Cogeneration Plant, and Fonterra, that it could re-start the auxiliary boiler but to use gas sparingly. The plant began firing up the boiler from 11:00 on 26 October.
9. In its notice of breach, the CCO has alleged that between 12:00 on 26 October 2011 and 10:00 on 27 October 2011 Contact consumed gas at its Te Rapa Cogeneration Plant in quantities far in excess of the designated band 5 level.
10. The CCO based its allegation on the annual consumption figure Contact had provided under reg 39(1)(a) of the Regulations. The CCO divided the annual consumption figure by 365 to model the auxiliary boiler's daily demand. Following the notice of direction to restore demand, the CCO observed gas consumption well in excess of modeled daily demand.
11. Contact had not received any request from the CCO to break down the information provided under reg 39 by month or day to ascertain running patterns or seasonal use.
12. In an early morning teleconference meeting on 26 October 2011,³ Contact confirmed with the CCO that the curtailment band 5 restoration would include the Te Rapa auxiliary boiler and some other dairy sites, as Contact understood this could result in a significant increase in demand on the system. The CCO assured Contact that the demand had been modeled and it was confident that the system could cope with the additional load.
13. At no time did the CCO quantify (or seek to quantify) the volume used for the auxiliary boiler in the demand modeling. Also, the notice for restoration of curtailment band 5 did not include any volume limitations except a requirement to use gas sparingly. There was no daily or hourly quantity restriction applicable to the Te Rapa auxiliary boiler curtailment band 5 designation.

³ Referred to as "consultation with the industry" in the Critical Contingency Performance Report on the Maui Pipeline Outage of 25-30 October 2011 dated 21 December 2011, p 14.

Agreed settlement

14. The CCO, after further consideration, agrees that Contact did not breach reg 55(1). The CCO also agrees that the Regulations do not envisage the determination of a “designated band 5 level” as is suggested by the notice of breach. Regulation 39 requires retailers to provide annual consumption figures which, by their very nature, do not reflect seasonal demand variations. The CCO accepts that, for the purpose of modeling gas loads, using the annual consumption volumes required to be provided to the CCO by retailers under the Regulations will create modeling inaccuracies when consumption is variable over time, including seasonal businesses. The CCO did not ask Contact to confirm whether the CCO’s modeled daily demand assumption was accurate. The CCO accepts that during the October 2011 critical contingency event Contact showed a clear willingness to work with the CCO and other retailers for the benefit of the network as a whole.
15. The CCO has acknowledged that there is a problem with the way that large consumers and retailers report their total annual consumption under the Regulations. In its Critical Contingency Performance Report, Vector Gas Limited has recommended that a thorough review of the curtailment bands and how individual consumers are classified is required to ensure that the system operates transparently and achieves the purposes of the Regulations.⁴ Specifically, Vector Gas Limited recommends consideration of “whether, and how, to include seasonal variations in usage or maximum daily quantity in place of the current approach of using annual consumption”.
16. Contact agrees to work with the CCO and the industry to clarify or improve the process for designating consumers and the appropriate information that should be provided so that demand management can be correctly modeled.

Acceptance of parties to settlement

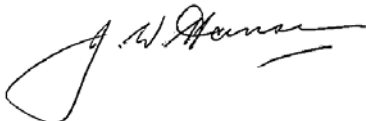
17. The Critical Contingency Operator notified its acceptance of the terms of settlement in writing to the investigator on 28 June 2012.
18. Contact Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 28 June 2012.
19. Nova Gas Limited notified its acceptance of the terms of settlement in writing to the investigator on 28 June 2012.
20. The Auckland Gas Company Limited notified its acceptance of the terms of settlement in writing to the investigator on 28 June 2012.
21. Bay of Plenty Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 28 June 2012.

⁴ Vector Gas Limited, Critical Contingency Performance Report on the Maui Pipeline Outage of 25-30 October 2011 dated 21 December 2011, recommendation 14, p 52.

22. Maui Development Limited notified its acceptance of the terms of settlement in writing to the investigator on 29 June 2012.

Rulings Panel

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

A handwritten signature in black ink, appearing to read 'John Hansen', written over a horizontal line.

Hon Sir John Hansen KNZM

Date: 29 June 2012