

ALLOCATION AGENT

Notifying participant

NOVA GAS LIMITED
BAY OF PLENTY ENERGY LIMITED
CONTACT ENERGY LIMITED
ENERGY DIRECT NZ LIMITED
GENESIS POWER LIMITED
ENERGY ONLINE LIMITED
ON GAS LIMITED
MERCURY ENERGY LIMITED
Participants allegedly in breach

AUCKLAND GAS COMPANY LIMITED
NOVA GAS LIMITED
BAY OF PLENTY ENERGY LIMITED
ON GAS LIMITED
Parties to breach notices

Record of settlement of alleged breach of rule 37.2
Gas (Downstream Reconciliation) Rules 2008

Record of settlement of alleged breach of rule 37.2 Gas (Downstream Reconciliation) Rules 2008

Breach Notices: Listed in Appendix 1

Between:

Notifying participant:	Allocation Agent
Participants allegedly in breach:	Nova Gas Limited Bay of Plenty Energy Limited Contact Energy Limited Energy Direct NZ Limited Genesis Power Limited Energy Online Limited On Gas Limited Mercury Energy Limited
Parties to breach notices:	Auckland Gas Company Limited Nova Gas Limited Bay of Plenty Energy Limited On Gas Limited

Background

1. On 24 June 2013, pursuant to regulations 18(3) and 23 of the Gas Governance (Compliance) Regulations 2008, the market administrator referred alleged breaches by Nova Gas Limited, Bay of Plenty Energy Limited, Contact Energy Limited, Energy Direct NZ Limited, Genesis Power Limited, Energy Online Limited, On Gas Limited and Mercury Energy Limited of rule 37.2 Gas (Downstream Reconciliation) Rules 2008 to an investigator, Jason McHerron, for investigation.
2. The alleged breaches referred for investigation involve the failure by the participants allegedly in breach to provide accurate consumption information to the allocation agent for initial allocation, as required by rule 37.2.¹ The alleged breaches occurred from April 2011 to March 2012 inclusive.
3. Under/over-submission of consumption information by a retailer causes positive/negative UFG (unaccounted-for-gas) that affects other retailers at the gas gate. Thus, it is reasonable for retailers who trade at a gas gate where a breach occurred to assume that they may have been affected.
4. The allocation of gas to each retailer is used as the basis for a number of charges in the gas industry. These include wholesale gas, transmission throughput and overrun charges, and distribution charges. To the extent that balancing costs are on-charged to Vector, the allocation results also form the basis for Vector to recover those costs from the retailers who use its systems, on

¹ Rule 48.1 provides that an initial allocation is the allocation of gas quantities in accordance with rule 45 in the month immediately after the relevant consumption period.

the basis of retailers' own imbalance positions. Related charges are incentives pool debits charges and peaking charges, which are similarly passed on by Vector to retailers. Together, these charges are referred to as BPP² charges.

5. The majority of charges are washed-up with subsequent allocation stages (interim and final). Accordingly, for these charges, a breach of rule 37.2 does not cause losses to be borne by other participants. The exception is BPP charges, which are not washed-up with subsequent allocation stages. If the BPP charges were washed-up by Vector Transmission (using the interim and final allocation results) then it is likely that the market administrator would have concluded that, apart from the time value of money, no harm relating to the breaches remained. A wash-up of BPP charges would require a change to be made to the Vector Transmission Code, which would have to be initiated by the parties, and it would not address the existing backlog of breaches. Thus, the situation that currently exists is that breaching parties' under/over submission of consumption volumes has led to over/under allocation of volumes to other parties, which in turn has contributed to positive/negative balancing cash-outs, incentives pool debits (IPD) and peaking charges.

The agreed settlement

6. The parties have agreed to adopt a simple and cost-effective calculation methodology that has been developed by Gas Industry Co, using a spreadsheet-based algorithm to simulate allocation calculations on a monthly basis. In lieu of BPP wash-ups, invoiced BPP charges are used as the basis for calculating compensation. This methodology was the same that was applied in respect of the alleged breaches that were the subject of settlements approved by the Rulings Panel on 22 September 2011 and 5 September 2012.
7. Gas Industry Co has used the agreed settlement methodology to make calculations of the principal sums payable or claimable by each of the parties. To these sums will be added interest, calculated according to the prevailing 90 day bank bill rate.

Payments to be made under the settlement (including interest, excluding GST)

8. Contact Energy Limited must make the following payments no later than 20 September 2013:
 - 8.1. \$9,566.53 to Genesis Power Limited;
 - 8.2. \$26,060.44 to Nova Gas Limited;
 - 8.3. \$6,516.85 to On Gas Limited.
9. Energy Direct NZ Limited must make the following payments no later than 20 September 2013:
 - 9.1. \$7,481.99 to Genesis Power Limited;

² Balancing and Peaking Pool.

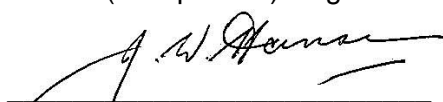
- 9.2. \$20,381.90 to Nova Gas Limited;
 - 9.3. \$5,096.83 to On Gas Limited.
10. Mercury Energy Limited must make the following payments no later than 20 September 2013:
- 10.1. \$288.99 to Genesis Power Limited;
 - 10.2. \$787.23 to Nova Gas Limited;
 - 10.3. \$196.86 to On Gas Limited.
11. This settlement 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

- 12. The Allocation Agent notified its acceptance of the terms of settlement in writing to the investigator on 20 August 2013.
- 13. Auckland Gas Company Limited, Nova Gas Limited and Bay Of Plenty Energy Limited notified their acceptance of the terms of settlement in writing to the investigator on 22 August 2013.
- 14. Contact Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 22 August 2013.
- 15. Energy Direct NZ Limited notified its acceptance of the terms of settlement in writing to the investigator on 20 August 2013.
- 16. Genesis Power Limited and Energy Online Limited notified their acceptance of the terms of settlement in writing to the investigator on 20 August 2013.
- 17. On Gas Limited notified its acceptance of the terms of settlement in writing to the investigator on 22 August 2013.
- 18. Mercury Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 19 August 2013.

Rulings Panel

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



Hon Sir John Hansen KNZM
Date: 27 August 2013

APPENDIX 1 – List of breach notices

Bay of Plenty Energy Limited

2012-195(11/6/ROT08101)

Nova Gas Limited

2012-137(11/4/DRU15101)	2012-201(11/6/GTW06910)
2012-137(11/4/GTT07701)	2012-201(11/6/HWA20801)
2012-137(11/4/KRG24101)	2012-201(11/6/TKS17401)
2012-137(11/4/ORD24701)	2012-229(11/7/FLD03001)
2012-164(11/5/DRU15101)	2012-229(11/7/GTK19101)
2012-164(11/5/LNB24301)	2012-260(11/8/PUK04201)
2012-164(11/5/ORD24701)	2012-346(11/10/PUK04201)
2012-164(11/5/TKS17401)	2013-012(11/11/TKS17401)
2012-201(11/6/GTK19101)	2013-080(12/2/TAU07001)
	2013-109(12/3/WTR12001)

Contact Energy Limited

2012-132(11/4/BEL24510)	2012-224(11/7/PAU20101)
2012-132(11/4/FLD03001)	2012-252(11/8/GIS07810)
2012-132(11/4/GIS07810)	2012-252(11/8/GTW06910)
2012-132(11/4/GTH11301)	2012-252(11/8/GTW33901)
2012-132(11/4/GTW06910)	2012-252(11/8/HST05210)
2012-132(11/4/HST05210)	2012-252(11/8/PAU20101)
2012-132(11/4/LVN24401)	2012-252(11/8/WAG21501)
2012-132(11/4/PLN24201)	2012-323(11/9/GIS07810)
2012-132(11/4/TWA35610)	2012-323(11/9/GTK19101)
2012-159(11/5/BEL24510)	2012-323(11/9/GTW06910)
2012-159(11/5/FLD03001)	2012-341(11/10/FLD03001)
2012-159(11/5/GTH11301)	2012-341(11/10/GTK19101)
2012-159(11/5/HWA20801)	2012-341(11/10/GTW06910)
2012-159(11/5/LVN24401)	2012-341(11/10/LVN24401)
2012-159(11/5/ROT08101)	2013-035(11/12/GIS07810)
2012-159(11/5/TAU07001)	2013-035(11/12/LVN24401)
2012-159(11/5/TWA35610)	2013-056(12/1/GIS07810)
2012-196(11/6/FLD03001)	2013-056(12/1/GTH11301)
2012-196(11/6/HWA20801)	2013-075(12/2/GIS07810)
2012-196(11/6/LVN24401)	2013-104(12/3/GIS07810)
2012-196(11/6/PAU20101)	2013-104(12/3/GTH11301)
2012-224(11/7/FLD03001)	2013-104(12/3/PLN24201)
	2013-104(12/3/TWA35610)

Energy Direct NZ Limited

2012-160(11/5/MTN23801)	2012-254(11/8/HWA20801)
2012-160(11/5/PLN24201)	2012-254(11/8/NPL12101)
2012-160(11/5/WAG21501)	2012-254(11/8/PLN24201)
2012-225(11/7/NPL12101)	2012-254(11/8/WAG21501)
2012-254(11/8/FLD03001)	

Genesis Power Limited

2012-134(11/4/BEL24510)	2012-256(11/8/ROT08101)
2012-134(11/4/GIS07810)	2012-256(11/8/STR10201)
2012-134(11/4/GMM08001)	2012-256(11/8/TAU07001)
2012-134(11/4/GTK19101)	2012-256(11/8/TKR19701)
2012-134(11/4/GTW06910)	2012-256(11/8/TPK33301)
2012-134(11/4/GTW33901)	2012-256(11/8/WHK32101)
2012-134(11/4/MRV16302)	2012-256(11/8/WTA16501)
2012-134(11/4/ROT08101)	2012-325(11/9/BEL24510)
2012-134(11/4/STR10201)	2012-325(11/9/CAM17201)
2012-134(11/4/TAU07001)	2012-325(11/9/ELM12301)
2012-134(11/4/TTK30601)	2012-325(11/9/FLD03001)
2012-134(11/4/TWA35610)	2012-325(11/9/GIS07810)
2012-134(11/4/WAK22801)	2012-325(11/9/GTH11301)
2012-161(11/5/BEL24510)	2012-325(11/9/GTK19101)
2012-161(11/5/FLD03001)	2012-325(11/9/GTT07701)
2012-161(11/5/GIS07810)	2012-325(11/9/HWA20801)
2012-161(11/5/GMM08001)	2012-325(11/9/NPL12101)
2012-161(11/5/GTA03610)	2012-325(11/9/PAU20101)
2012-161(11/5/GTH11301)	2012-325(11/9/PLN24201)
2012-161(11/5/GTK19101)	2012-325(11/9/ROT08101)
2012-161(11/5/GTT07701)	2012-325(11/9/STR10201)
2012-161(11/5/GTW06910)	2012-325(11/9/TAU07001)
2012-161(11/5/GTW33901)	2012-325(11/9/TKR19701)
2012-161(11/5/HWA20801)	2012-325(11/9/TPK33301)
2012-161(11/5/IGW11901)	2012-325(11/9/WAG21501)
2012-161(11/5/LNB24301)	2012-325(11/9/WTR12001)
2012-161(11/5/MRV16302)	2012-325(11/9/GTA03610)
2012-161(11/5/NPL12101)	2012-325(11/9/PAP06603)
2012-161(11/5/OTA22601)	2012-343(11/10/BEL24510)
2012-161(11/5/PAU20101)	2012-343(11/10/CAM17201)
2012-161(11/5/PLN24201)	2012-343(11/10/FLD03001)
2012-161(11/5/PTR32601)	2012-343(11/10/GIS07810)
2012-161(11/5/ROT08101)	2012-343(11/10/GMM08001)
2012-161(11/5/STR10201)	2012-343(11/10/GTH11301)
2012-161(11/5/TAU07001)	2012-343(11/10/GTK19101)
2012-161(11/5/TKR19701)	2012-343(11/10/GTT07701)
2012-161(11/5/TWA35610)	2012-343(11/10/HWA20801)
2012-161(11/5/WAG21501)	2012-343(11/10/MRV16302)
2012-161(11/5/WAK22801)	2012-343(11/10/NPL12101)
2012-161(11/5/WHG07501)	2012-343(11/10/PAU20101)
2012-161(11/5/WHK32101)	2012-343(11/10/PLN24201)
2012-198(11/6/BEL24510)	2012-343(11/10/ROT08101)
2012-198(11/6/CAM17201)	2012-343(11/10/STR10201)
2012-198(11/6/FLD03001)	2012-343(11/10/TAU07001)
2012-198(11/6/GIS07810)	2012-343(11/10/TKR19701)
2012-198(11/6/GTA03610)	2012-343(11/10/WAG21501)
2012-198(11/6/GTH11301)	2013-009(11/11/FLD03001)
2012-198(11/6/GTK19101)	2013-009(11/11/GIS07810)
2012-198(11/6/GTT07701)	2013-009(11/11/GMM08001)
2012-198(11/6/GTW06910)	2013-009(11/11/GTH11301)

2012-198(11/6/GTW33901)	2013-009(11/11/GTK19101)
2012-198(11/6/HWA20801)	2013-009(11/11/GTT07701)
2012-198(11/6/MRV16302)	2013-009(11/11/HWA20801)
2012-198(11/6/NPL12101)	2013-009(11/11/NPL12101)
2012-198(11/6/PAU20101)	2013-009(11/11/PAU20101)
2012-198(11/6/PLN24201)	2013-009(11/11/PLN24201)
2012-198(11/6/PTR32601)	2013-009(11/11/ROT08101)
2012-198(11/6/ROT08101)	2013-009(11/11/STR10201)
2012-198(11/6/STR10201)	2013-009(11/11/TAU07001)
2012-198(11/6/TAU07001)	2013-009(11/11/TKR19701)
2012-198(11/6/TKR19701)	2013-009(11/11/TWA35610)
2012-198(11/6/TWA35610)	2013-009(11/11/WAG21501)
2012-198(11/6/WAG21501)	2013-038(11/12/BEL24510)
2012-198(11/6/WHG07501)	2013-038(11/12/CAM17201)
2012-198(11/6/WHK32101)	2013-038(11/12/FLD03001)
2012-198(11/6/WTA16501)	2013-038(11/12/GIS07810)
2012-198(11/6/WTR12001)	2013-038(11/12/GTT07701)
2012-226(11/7/DRU15101)	2013-038(11/12/HRU16101)
2012-226(11/7/ELM12301)	2013-038(11/12/HST05210)
2012-226(11/7/GIS07810)	2013-038(11/12/HWA20801)
2012-226(11/7/GMM08001)	2013-038(11/12/NPL12101)
2012-226(11/7/GTT07701)	2013-038(11/12/PLN24201)
2012-226(11/7/GTW06910)	2013-038(11/12/ROT08101)
2012-226(11/7/GTW33901)	2013-038(11/12/TAU07001)
2012-226(11/7/MRV16302)	2013-038(11/12/TKR19701)
2012-226(11/7/NGW14501)	2013-038(11/12/TWA35610)
2012-226(11/7/PAU20101)	2013-038(11/12/WAG21501)
2012-226(11/7/PTR32601)	2013-038(11/12/WAK22801)
2012-226(11/7/WAK22801)	2013-059(12/1/BEL24510)
2012-256(11/8/BEL24510)	2013-059(12/1/CAM17201)
2012-256(11/8/CAM17201)	2013-059(12/1/GIS07810)
2012-256(11/8/ELM12301)	2013-059(12/1/HWA20801)
2012-256(11/8/GTH11301)	2013-059(12/1/NPL12101)
2012-256(11/8/GTK19101)	2013-059(12/1/PLN24201)
2012-256(11/8/HST05210)	2013-059(12/1/TWA35610)
2012-256(11/8/MRV16302)	2013-059(12/1/WAK22801)
2012-256(11/8/NPL12101)	2013-077(12/2/CAM17201)
2012-256(11/8/OTA22601)	2013-077(12/2/GIS07810)
2012-256(11/8/PAU20101)	2013-077(12/2/HWA20801)
2012-256(11/8/PLN24201)	2013-077(12/2/WAK22801)
2012-343(11/10/WAK22801)	2013-106(12/3/CAM17201)
2012-343(11/10/WHG07501)	2013-106(12/3/NPL12101)
2013-009(11/11/BEL24510)	2013-106(12/3/WAK22801)
2013-009(11/11/CAM17201)	

On Gas Limited

2012-345(11/10/HUN15301)	2013-039(11/12/HUN15301)
2013-011(11/11/HUN15301)	2013-061(12/1/HUN15301)
2013-039(11/12/BEL24510)	2013-108(12/3/HUN15301)

Mercury Energy Limited

2012-138(11/4/GTW06910)	2012-165(11/5/TWA35610)
2012-138(11/4/TWA35610)	2012-202(11/6/GTH11301)
2012-165(11/5/BEL24510)	2012-347(11/10/PLN24201)
2012-165(11/5/GTH11301)	2013-110(12/3/TWA35610)
2012-165(11/5/GTW06910)	2013-110(12/3/WAG21501)