

NOVA ENERGY LIMITED
Participant allegedly in breach

**Record of settlement of alleged breach of rules 26.2.1 and 28.2 of the
Gas (Downstream Reconciliation) Rules 2008**

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Breach notice: 2014-159

Participant allegedly in breach: Nova Energy Limited

Background

1. The Market Administrator referred an alleged breach of rules 26.2.1 and 28.2 of the Gas (Downstream Reconciliation) Rules 2008¹ by Nova Energy Limited² to an investigator, Jason McHerron, for investigation.
2. The alleged breach relates to Nova's failure to use correct altitude information for 1,354 consumer installations (ICPs).

Why is correct altitude information important?

3. Having correct altitude information for each ICP on the registry is important to ensure consumers are billed accurately for the gas they use. Gas meters at each ICP measure the volume of gas flowing through the meter. Customers are not billed by volume, however, but instead for the amount of energy they have used. Measured volume is converted to energy quantity, for billing purposes, according to a process set out in the relevant Rules.³ How much energy a given volume of gas represents depends on a number of factors influencing the molecular content of the gas, one of which is altitude.⁴
4. Gas retailers, such as Nova, must maintain current and accurate altitude information on the registry for the ICPs for which they are responsible.⁵
5. Gas Industry Co expects retailers to use ICP-specific altitudes for their conversions of metered volume to standard volume.⁶ Altitudes should be correct to within 10m, where practicable.⁷
6. The maximum permissible error for altitude conversion at an ICP where the meter pressure is greater than 100 kPa is $\pm 0.5\%$.⁸ For an ICP where the meter pressure is less than 100 kPa, the maximum permissible error is $\pm 1\%$.⁹ All other

¹ Hereafter "Reconciliation Rules. The alleged breach was referred to me for investigation on 8 May 2015.

² Hereafter "Nova".

³ Reconciliation Rules, rule 28.2, NZS 5259:2002, at 2.7.

⁴ See Gas (Downstream Reconciliation) Rules 2008 Billing Factors Guideline Note, 22 December 2011, at 2.1.

⁵ Gas (Switching Arrangements) Rules 2008, rule 58, Schedule, part A.

⁶ Ibid at 5.38.

⁷ NZS 5259:2004, Note from 2004 Amendment, p 38.

⁸ NZS 5259:2004, Table 3.

⁹ Ibid.

variables being equal, altitude figures within 45m of the actual altitude will ensure an accuracy of approximately $\pm 0.5\%$. Altitude figures within 90m of the actual altitude will ensure an accuracy of approximately $\pm 1.0\%$.¹⁰

The facts underlying the alleged breach

7. In July 2014, Steve Woods of Veritek Limited conducted a performance audit of Nova. Mr Woods completed his report on 17 December 2014. He noted that Nova's policy was to use the altitude figures maintained on the Registry by distributors only for ICPs at an altitude greater than 100m.¹¹
8. As a result, Mr Woods found that, in relation to Nova's non-TOU records:¹²
 - 8.1. 33 ICPs have a meter pressure greater than or equal to 100kPa and are above 45m, but have an altitude factor of 1.
 - 8.2. 1,321 ICPs have a meter pressure less than 100kPa and are above 90m, but have an altitude factor of 1.
9. An altitude factor of 1 implies an altitude of 0m. The 45m and 90m altitude minima represent the point at which there would respectively be a 0.5% or 1% error for the purposes of Table 3 of NZS 5259. Thus, for the 1,354 ICPs described in paragraph 8 above, their altitude factor was incorrect and they exceeded the maximum permissible error for altitude conversion according to Table 3 of NZS 5259:2004.

Settlement

10. Nova accepts it was in breach of rules 26.2.1 and 28.2 of the Reconciliation Rules, in relation to the incorrect assignment of an altitude factor of 1 for 1,354 ICPs. It has corrected the altitude factors for all current Nova customers (1066 of the 1,354 sites identified, the remainder having switched away to other retailers since the audit).
11. Nova now runs a monthly billing system report showing discrepancies between the altitude figures as recorded on the Registry and those recorded in its own database. Such new errors can arise when ICPs are switched to Nova. Where discrepancies are identified, Nova updates its billing system with the correct value.
12. Nova calculated that, as a result of its breach, over the three-year period since Nova's previous audit, customers representing the 1,354 ICPs were overcharged \$47,563.68.
13. Nova will refund customers and former customers who were overcharged by a de minimis threshold of \$20 or more. A \$20 cut-off will result in \$40,331.45 being refunded to 530 customers. Currently, Nova retains the business of 434 of those

¹⁰ Gas Downstream Reconciliation Performance Audit Final Report for Energy Direct NZ Limited dated 25 November 2014, at p 22.

¹¹ Nova Energy Gas Performance Audit Report, dated 17 December 2014, at 2.1.2, p 22.

¹² Nova Energy Gas Performance Audit Report, dated 17 December 2014, at p 28.

customers with the others having switched to different retailers after the audit occurred. Nova will use all reasonable endeavours to contact those customers to arrange their refund. Any unclaimed money will eventually be dealt with under the Unclaimed Money Act 1971.

14. Nova will donate the remaining \$7,232.23, representing the overcharged amount not caught by the \$20 threshold, to the Citizens Advice Bureau.
15. Nova will provide a report to the investigator, no later than 31 October 2015, as to its progress with making compensation payments.

Were other parties affected by the breach?

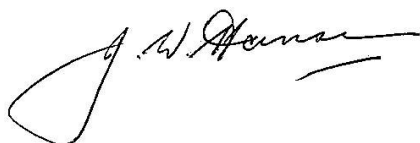
16. No other parties sought to be joined to this alleged breach. Other than overcharged customers, who will be compensated as described above, no other party appeared to the investigator to have been adversely affected.

Acceptance of party to settlement

17. Nova Energy Limited notified its acceptance of the terms of settlement in writing to the investigator on 21 August 2015.
18. On 20 August 2015, the reporting entity, Steve Woods of Veritek Limited, notified the investigator pursuant to regulation 32(3)(b) of the Gas Governance (Compliance) Regulations 2008 that he did not want to be involved in endeavouring to effect a settlement.

Rulings Panel

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



Hon Sir John Hansen KNZM

Date: 28 August 2015