

Notification of the Authority's Decision under regulation 29 of the Electricity Industry (Enforcement) Regulations 2010

Under regulation 29(1) of the Electricity Industry (Enforcement) Regulations 2010 (Regulations) the Electricity Authority (Authority) must publicise every decision made under regulation 23(3) together with the reasons for the Authority's decision.

Investigation

On 23 September 2009, the Electricity Commission (Commission) appointed an investigator under regulation 69 of the Electricity Governance Regulations 2003 to investigate the self-reported breaches of rule 11.4.9.5 of part J and rule 2.2.1 of schedule J3 of part J of the Electricity Governance Rules 2003 (Rules) by Contact Energy Limited (Contact) and the alleged breach of rule 11.4.9.2 of part J by NZX Limited, acting as the Reconciliation Manager.

Contact reported that it breached rule 11.4.9.5 of part J when it did not use the seasonal adjustment shapes published by the Reconciliation Manager on 16 October for all transitional revisions. Contact also reported that it breached rule 2.2.1 of schedule J3 of part J when it used a flat profile instead of the specified methodology when the relevant seasonal adjustment shape was available.

The Commission alleged that the Reconciliation Manager breached rule 11.4.9.2 of part J when it published further seasonal adjustment shapes for the consumption periods for which transitional revisions were required.

Mighty River Power Limited, TrustPower Limited, and Todd Energy Limited joined the investigation as interested participants.

On 1 November 2010, the Commission was disestablished and the Authority was established in its place. Section 139 of the Electricity Industry Act 2010 provides that the Authority takes over responsibility for dealing with every matter, such as a complaint about a breach, or possible breach, of the Rules, or an investigation, that was before the Commission immediately before its disestablishment, provided the matter had not already been referred to the Rulings Panel.

On 22 March 2012, the Authority received and considered a report and a recommendation from the investigator to discontinue the investigation.

The Authority's decision

On 22 March 2012, the Authority decided under regulation 23(3)(a) to discontinue the investigation.

Reasons for the Authority's decision

The reasons for the Authority's decision to discontinue the investigation were that:

- (a) although the market impact of these breaches could not be resolved using the wash-up provisions or the invoice dispute process in the Rules, the parties to the investigations had no settlement requirements;

- (b) Contact's breaches were inadvertent and occurred during the transitional period to the then new reconciliation rules which came into effect on 1 May 2008. The Rules were subsequently amended to allow for the correction of errors via a special wash-up; and
- (c) the alleged breach by the Reconciliation Manager caused Contact to breach the above rules. Had the Reconciliation Manager not republished the seasonal adjustment shapes, Contact's breaches would not have occurred. The Reconciliation Manager republished the seasonal adjustment shapes on the basis that it was correcting previously incorrect information.