

Market Governance Update

September 2009

Commission workshop with Compliance Framework Submitters

On 19 August the EGR Committee held a workshop with representatives from six participants who had made submissions on the Commission's compliance framework. The Committee appreciated the opportunity to meet with those who had made submissions and valuable feedback was received.

Proposal to release EGR Committee's minutes to improve transparency

The EGR Committee recognised submitter's requests for greater transparency around the EGR Committee's decisions and operations.

The Committee said that it thought disclosure of the minutes would have advantages for learning, and would give submitters the greater transparency that has been requested, but a potential disadvantage would be the loss of confidentiality of some participant information contained in the minutes.

The Commission will be consulting shortly on the proposal to publish the EGR Committee's minutes, before a decision is made on whether to adopt this practice.

Precedents and guidance on the meaning of the Rules

The Commission reconfirmed its willingness to provide guidance to participants on interpreting the Electricity Governance Rules. The final determination on what particular rules mean is provided by the courts, but in the absence of a court decision on a rule, the Commission is happy to guide participants on its understanding of the meaning.

The proposal to publish the EGR Committee's minutes should also help to build up a body of precedent on the Committee's interpretation of the rules and allow for participants to use the information to inform their actions.

Commission guidelines on reporting rule breaches

The Commission will shortly release guidelines on reporting breaches. The guidelines will give practical advice on when to allege breaches, which breaches have to be notified, and will also include sections on which breaches to self-report and guidance on the meaning of "quality and security" breaches.

Reconciliation Participant and Distributor Audits

Retail audits were discussed and concerns were expressed about the resources tied up in dealing with a number of notified minor breaches that came out of those audits. The Commission confirmed that it is looking at ways to address this, and will update participants

shortly.

Follow up

A number of other issues were discussed at the Workshop and the Commission will carefully consider everything that was raised and get back to participants with some more proposals to address the concerns raised.

New senior investigator at the Commission

Alex Ehlert has joined the Commission's market governance team as a senior investigator.

Alex holds German and New Zealand law degrees and has nine years' experience in the electricity industry.

Prior to joining the Electricity Commission, Alex worked for Capgemini Consulting in Europe as a Senior Consultant. He project-managed the restructuring of a major European electricity company, within the areas of HR, tax and legal affairs, distribution, mining, generation, and low cost retailing in order to meet a regulatory requirement to unbundle. Before joining Capgemini he worked for six years for Energie Baden-Württemberg AG (Germany's third largest electricity and gas company) in several positions in retail and distribution.



In 2005 Alex spent a year in New Zealand studying the electricity industry and the regulatory parallels with Germany for a Master of Laws.

The Commission looks forward to an ongoing good relationship between investigators and participants.

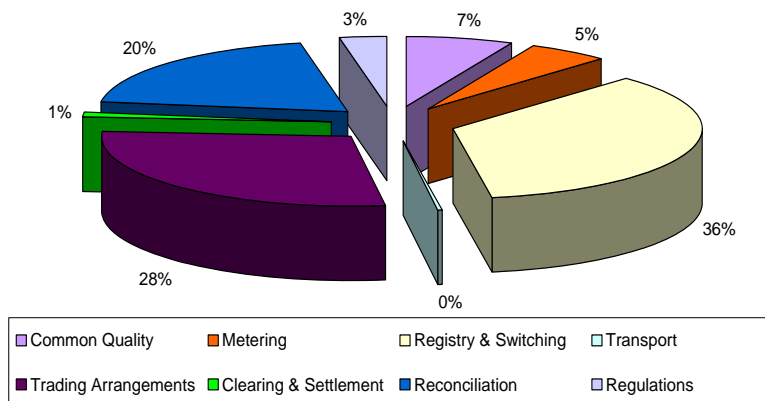
Open breach files and breaches by Rule type

As at 31 August 2009 the market governance team had 99 open breach notifications files. Of those files 17 were under investigation, 10 were 'on hold' and 72 files were in the fact finding stage.

A file is put 'on hold' when something is likely to happen which will impact on the Commission's decision on which is the best way to proceed, or while a compliance plan is being implemented. Usually the participant appears to be in breach, is willing to take corrective action, but will take time to achieve compliance.

The following chart shows of the breaches notified in the last 12 months, which types of rules they relate to.

Rule Breach Notifications by Rule Type - 12 Months to August 2009



Appointment of investigators to investigate breaches

Investigators were appointed to investigate the following breaches:

- Contact Energy: a self-reported breach concerning the submission of incorrect reconciliation information relating to network supply point Reefton (RFN1101) for 10 months over the period between May 2007 and September 2009. More details are available here:
<http://www.electricitycommission.govt.nz/pdfs/rulesandregs/compliance/in-progress/Investigation-74.pdf>
- Trust Power: a self-reported breach concerning the submission of revision files to the Reconciliation Manager. TrustPower is using shape files it had produced itself for the Westpower network area rather than using the seasonal adjustment shape as published by the Reconciliation Manager. More details are available here:
<http://www.electricitycommission.govt.nz/pdfs/rulesandregs/compliance/in-progress/Investigation-75.pdf>
- Trust Power: a self-reported breach concerning the submission of incorrect reconciliation information relating to network supply point EDG0331 in April 2009 for the month 14 washup of February 2008. More details are available here:
<http://www.electricitycommission.govt.nz/pdfs/rulesandregs/compliance/in-progress/Investigation-76.pdf>
- Genesis Energy and Meridian Energy:
 - Meridian alleged that Genesis had breached the Rules by providing Meridian Energy, the new retailer, a validated meter read that was made at the time the

ICP was disconnected rather than the event date or the date of the switch request.

- The Commission alleged Meridian had breached the Rules by, as a new retailer, not using “reasonable endeavours” to resolve a dispute concerning a request for a changed switch meter reading.

More details are available here:

<http://www.electricitycommission.govt.nz/pdfs/rulesandregs/compliance/in-progress/invest77-78.pdf>

Market governance case studies

We would like your ideas on topics you want to see covered in case studies.

In the past our case studies have focussed on the most commonly breached rule. They gave common scenarios that led to breaches of the rule, guidance on the Commission’s approach to assessing breaches, and hot tips on how to avoid breaching the rule.

We’ve had feedback that the case studies would be more useful if they were applicable to a number of types of participants (previously we’ve concentrated on generators). We welcome your suggestions on what want to read about in our future case studies. Please email your suggestions to the investigators.

Commission staff ideas for case study topics include:

- certification of reconciliation participants by due date (covering involvement of agents);
- non-compliant meters;
- failure to switch installation control points (ICPs) and failure to reconcile loads;
- use of agents;
- performance of interruptible load in the instantaneous reserves market; and
- breaches involving programmable logic computers.

Compliance conference – what do you want to hear about?

The Commission’s annual compliance conference will be held in November. At this stage the Commission plans to have the morning sessions addressing topics relevant to all attendees, then the afternoon sessions tailored to participants with similar interests e.g. sessions on trading, switching reconciliation.

As part of its planning the Commission invites participants to suggest topics that they would like seen addressed at the conference.

Please email your suggestions to compliance@electricitycommission.govt.nz.

Looking forward

The next EGR Committee meeting is scheduled for 29 September 2009.

Contact us

If you would like to contact us please email the Market Governance team at compliance@electricitycommission.govt.nz or contact

Chavdar, Peter or Alex directly at:

Chavdar.Petkov@electricitycommission.govt.nz

Peter.Wakefield@electricitycommission.govt.nz

Alex.Ehlert@electricitycommission.govt.nz

Rule breaches assessed at August EGR Committee Meeting

Rule breached	Self-Reported	Action taken and reasoning given
Part C		
Clause 20.3 of Schedule C4	Y	Declined to pursue but issued warning letter – breach caused by preventable human error, it had moderate market and operational impact but limited security impact, so a warning letter was thought necessary.
Clause 22.5 of Schedule C4	Y	Declined to pursue but issued warning letter – breach caused by preventable human error, it had insignificant market, operation and security impact but 14 previous breaches relating to the same issue (incorrect applicaiton of security constraints) by the participant, so a warning letter was thought necessary.
Clause 90.1 of Schedule C4	Y	Declined to pursue but issued warning letter noting the importance of employee training. The breach was caused by preventable human error but an inexperienced energy co-ordinator. The impact had minimal market impact and no operational or security impact.
Rule 1.3.4.7 of Scheduld C6	Y	Declined to pursue. The breach was caused by human error in a complex situation. It had no significant market or security impact.
Part E		
Rule 1.2 of Schedule E2	Y	Declined to pursue – early closure.
Rules 2.2,2.3 and 4 of Schedule E2	Y	Declined to pursue – early closure.
Rule 2.3.2 of Schedule E2	N	Investigator appointed – although the disputed volumes would have negligible market impact the dispute remains unresolved and it is desirable to give the industry certainty around the mutual obligations of participants for switching.
Rule 2.4.2.1 of Schedule E2	N	Investigator appointed – same as above.
Rule 43 of Schedule E2	Y	Declined to pursue – early closure.
Part G		
Rule 2.2 of section I	N	Declined to pursue. The participant failed to establish a prima facie case for the alleged breach.
Rule 3.1.5 of section II	Y	Declined to pursue – early closure.
Rule 3.3 of section II	Y	Declined to pursue – early closure.

Rule 3.6.2 of section II	Y	Declined to pursue – early closure.
Rule 5.6 of section II	Y	Declined to pursue – early closure.
Rule 6.3.3 of section II	Y	Declined to pursue – early closure.
Rule 4.1 of section III	N	Declined to pursue but issued a warning letter and noted in which it was noted that the station should have advised the System Operator of the operating conditions it was experiencing before the breach – the breach has minimal market and operational impact but the participant has previously breached this rule eight times, so a warning letter was thought necessary.
Rule 4.11 of section III (numerous breaches by one participant)	Y	Declined to pursue but issued a warning letter noting earlier assurances from the participant that are relevant to this breach, and note the Commission will be monitoring participant's performance in future – the breaches were caused by human error, oversight, wrong decisions, poor communication, or a systems fault, and had either no impact, a minor or negligible market impact but the participant had breached this rule on eight previous occasions, so a warning letter was thought necessary.
Rule 4.6.9 of section III	Y	Declined to pursue – first breach of this rule and breach had no market or security impact. Sent a letter confirming the participant remains non-compliant with the rule and asking for an update on progress towards compliance in six months.
Rule 4.9.3 of section III	Y	Declined to pursue – early closure.
Rule 7.2.2 of section III	N	Declined to pursue. The participant failed to establish a prima facie case for the alleged breach.
Rule 2.13 of section IV	Y	Declined to pursue but issued a warning letter. The participant previously breached this rule and advised remedial measures to prevent recurrence which do not appear to have been implemented given the circumstances of this current breach, so a warning letter was thought necessary.
Rule 4 of section IV	N	Declined to pursue but issued warning letter – the incident was the result of trader error, the trader inadvertently offered zero priced volume exceeding the MRDA rights because the trader had not noticed the price lock in the software was removed. This was the fourth case of the participant breaching this rule, so a warning letter was thought necessary.
Rule 1.3.4.6 of Schedule G6	Y	Declined to pursue. The breaches were a result of a situation not previously

Rule 1.3.4.7 of Schedule G6	Y	<p>encountered by the System Operator. The breaches had no market and no security impact, the issued was identified and addressed quickly to prevent reoccurrence.</p> <p>Declined to pursue. Breach was caused by human error but had minimal market and security impact, breach has been overtaken by introduction of MSP.</p>
Part H		
Rule 7.2.1	N	<p>Declined to pursue but issued warning letter and asked the Commission's market governance team to monitor the payments made by this participant to the Clearing Manager – delays in the participant's payment approval process meant the 4pm deadline for paying the Clearing Manager in same day cleared funds was not met. Procedures have now been altered. This was the participant's eight breach of this rule, so a warning letter was thought necessary.</p>
Part J		
Rule 1.2	Y	Investigator appointed – the severity of the market impact of this breach (\$1.4 million) warranted the appointment of an investigator.
Rule 1.2	Y	Investigator appointed – the breaches affected a number of participants and cannot be fully resolved by washup processes, so an investigator was appointed to pursue the breaches.
Rule 1.2 and rule 7.2.4 of Schedule J2	Y	Declined to pursue – early closure.
Rule 3.1 (3 breaches by same participant)	Y	Declined to pursue – early closure.
Rule 3.1 (3 breaches by same participant)	Y	Declined to pursue – early closure.
Rule 3.1 (2 breaches by same participant)	Y	Declined to pursue – early closure.
Rule 3.1	Y	Declined to pursue – early closure.
Rule 3.1	Y	Declined to pursue – early closure
Rule 3.1	Y	Declined to pursue – early closure.
Rule 4.2.1.1	Y	Declined to pursue – early closure.
Rule 11.4.5.3	N	Declined to pursue. The participant failed to establish a prima facie case for the alleged breach.
Rule 2.2.1 of Schedule J3	Y	Investigator appointed – the breaches are deliberate and ongoing and warrant the appointment of an investigator.

Electricity Governance (Connection of Distributed Generation) Regulations

Clause 26 of Schedule 1

N

Declined to pursue – early closure.

Clause 26 of Schedule 1

N

Declined to pursue – early closure.

Clause 26 of Schedule 1

N

Declined to pursue – early closure.

