

Notification of the Commission's Decision Pursuant to Regulation 91(1)

Under regulation 91(1) of the Electricity Governance Regulations 2003 (Regulations), the Electricity Commission (Commission) must publicise every decision made under regulation 86(2) or regulation 90(2) or regulation 90(3), together with the reasons for the Commission's decision. This notice relates to a decision made under regulation 90(2) not to lay a formal complaint against the System Operator.

Investigation

On 19 March 2008, the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following self-reported breach of the Electricity Governance Rules 2003 (Rules) by Transpower Limited in its role as System Operator:

- Rule 1.3.4.7 of schedule G6 of part G self reported by the System Operator. (in relation to incorrect modelling in the Scheduling, Pricing and Dispatch software model (SPD model) of KIK_STK2.1 circuit during trading periods 27 and 28 on 9 December 2007)

Matters Considered by the Commission

On 20 August 2008, the Investigator provided the Commission with a report in relation to the self-reported breach.

The Commission considered the Investigator's report, which contained additional information that was provided by the System Operator in the course of the investigation, including steps taken by the System Operator to prevent reoccurrence of the same breach in the future.

The Commission considered:

- its functions (section 172O of the Electricity Act 1992 (Act)) and in particular, the function in section 172O(1)(b) which requires the Commission to administer, monitor compliance with, investigate, enforce, and apply penalties or other remedies for contraventions of the Regulations and Rules; and
- its principal objectives, which are to ensure electricity is produced and delivered to all classes of consumers in an efficient, fair, reliable, and environmentally sustainable manner and to promote and facilitate the efficient use of electricity (section 172N(1) of the Act); and
- its specific outcomes (section 172N(2) of the Act) and in particular those which require:
 - (i) that energy and other resources are used efficiently (section 172N(2)(a)); and
 - (ii) risks (including price risks) relating to security of supply are properly and efficiently managed (section 172N(2)(b)); and

- the Government Policy Statement on Electricity Governance (“GPS”) which provides that the Government expects the Commission to take responsibility for monitoring compliance, investigating alleged breaches and if necessary taking enforcement action in relation to regulations and rules (clause 11).

The Commission’s Decision

In respect of this self-notified breach of rule 1.3.4.7 of schedule G6 of part G, the Commission decided to:

- **Dismiss** the notified breaches under investigation against the System Operator (effected by deciding under regulation 90 that no formal complaint should be laid) , and
- **Send** a warning letter to the General Manager of System Operations.

Reasons for the Commission’s Decision

A settlement could not be achieved as no parties joined the investigation

The Commission considered, and agreed with, the reasons set out in the investigator’s report as to why the breach was unsuitable for using the informal settlement process. The report noted that regulation 82, regarding informal settlements, excludes the ability for the investigator to try to effect an informal settlement of a notified breach when no other party joins the investigation.

The Commission considered that not laying a formal complaint met the fairness and efficiency objectives because:

- there was only moderate market impact as a result of the self-reported breach; and
- the System Operator has since taken steps to prevent recurrence of the self-reported breach.