

## **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.

### **Investigation**

On 24 March 2005, the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following breaches alleged by the Commission of the Electricity Governance Rules 2003 (Rules) by Transpower Limited in its role as system operator;

- Rule 2, section III, part G – The dispatch objective.
- Rule 4.2, section III, part G – The system operator may adjust the dispatch schedule.
- Rule 1.3.4.9, schedule G6, part G – Adjustments (required to meet the dispatch objective).
- Rule 4.2, schedule G6, part G – Adjustments made by setting parameters.
- Rule 4.3.3, schedule G6, part G – Adjustments to instantaneous reserves.
- Rule 5.5, schedule G6, part G – Adjustments to dispatch schedule and pre-dispatch schedule.

On 22 February 2006 the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following alleged breaches and Regulation in relation to the same incident;

- Regulation 51(2) – Each service provider must ensure that its software performs in accordance with the relevant software specification and the rules.
- Rule 2.1, section I, part G – Prohibition on misleading or deceptive information.
- Rule 4.1, schedule G6, part G – System operator to suggest changes. After each schedule has been completed the system operator will notify any changes required to meet the dispatch objective, including adjustments.
- Rule 5.4, schedule G6, part G – Where the schedule is to be used as a schedule of prices, it will contain the information used in the first dispatch schedule prepared for that trading period.

The System Operator denied all breaches.

The investigations concerned breaches, alleged by the Commission, by the System Operator where instantaneous reserves were not dispatched but were included in information provided to the Pricing Manager for trading periods 36 and 42 on 10

March 2004. The market impact of including non-existent reserves in final pricing resulted in purchasers being overcharged by \$6.8M, generators being overpaid by \$5.8M and loss constraint excess payments overpaid by \$1.0M.

### **Matters Considered by the Commission**

On 20 September 2006 the Commission considered the Investigator's report prepared under Regulation 88 because it had not been possible to effect a settlement between the parties. The Investigator recommended the matter be referred to the Rulings Panel for interpretation and if appropriate, to make an order of compliance. The Commission deferred making its decision regarding the recommendation to make a formal complaint and requested that the Commission's Senior Advisers Wholesale and Common Quality attempt to find an interim solution to avoid a recurrence of such pricing outcomes.

An exemption to the Pricing Manager was developed as an interim solution and this came into effect on 1 March 2007. No submissions were received on the exemption. The exemption provided an outcome and interpretation that avoids the recurrence of pricing non-existent reserves into final prices.

The Commission also made its decision taking into account its relevant functions and objectives. 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). Of relevance are the Commission's outcomes which require:
  - (i) that energy and other resources are used efficiently (section 172N(2)(a)),
  - (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"). This 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 all the alleged breaches the Commission decided to:

1. **Dismiss** the alleged breaches under investigation against the System Operator (effected by deciding under regulation 90 that no formal complaint should be laid).

### **Reasons for the Commission's Decision**

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

- the exemption to the Pricing Manager provides an outcome and interpretation that avoids the recurrence of pricing non-existent reserves into final prices; and
- the exemption has the benefit of providing an earlier and more certain solution and avoids the resource and cost associated with making a formal complaint.