

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 22 February 2006, the Commission appointed an investigator under regulation 69 of the Regulations to investigate the following alleged breaches of the Electricity Governance Rules 2003 (Rules) by Transpower Limited in its role as grid owner (Grid Owner):

- Admitted breach of rule 3.5.1.2 of section V of Part G of the Rules, self reported by the grid owner.
- Denied breach of rule 3.3.2.2 of section V of Part G of the Rules, alleged by the Electricity Commission.

The alleged breaches arose in respect of the Grid Owner's provision of metering data for the Redclyffe GXP to the Pricing Manager from trading period 36 on 1 April 2005 to trading period 25 on 6 April 2005.

Matters Considered by the Commission

On 13 December 2006 the Commission received and considered a report and recommendation from the investigator. 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 these alleged breaches the Commission decided to:

1. **Dismiss** the alleged breaches under investigation against the Grid Owner (effected by deciding under regulation 90 that no formal complaint should be laid); and
2. **Refer** potential rule changes to the current Pricing Process Improvement Project for consideration.

Reasons for the Commission’s Decision

The Commission considered, and agreed with, the reasons set out in the investigator’s report 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 (or as in some cases a party joins under regulation 75 but then withdraws) the investigation.

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

- there was moderate market impact as a result of the admitted breach; and
- affected parties that joined, and then subsequently withdrew from the investigation, have had the opportunity to put forward their settlement requirements, and to obtain explanations to their satisfaction; and
- the Grid Owner has since taken steps to prevent recurrence of the breach.