

Status of Breach Notices 2010-32, 59 and 127 – E-Gas Audit Matter

In May and June 2009, the Allocation Agent, NZX Ltd, noticed that levels of unaccounted for gas (UFG) at a number of gas gates were higher than expected. Gas Industry Co commissioned event audits under rule 66 of the Gas (Downstream Reconciliation) Rules 2008 (the Rules) of two of those gas gates – Greater Auckland and Tawa A. As a result of the audits, breaches of the Rules were alleged against E-Gas Ltd and E-Gas 2000 Ltd (E-Gas).

The market administrator investigated the alleged breaches and determined that they were material. As such, the alleged breaches were referred to the independent investigator for investigation. The investigator determined the matter could not be settled, and referred the alleged breaches to the Rulings Panel on 30 April 2010, for determination under the Gas Governance (Compliance) Regulations 2008.

The alleged breaches were admitted by E-Gas. The matters left for determination by the Rulings Panel were any penalties and compensation due under section 43X of the Gas Act 1992, to parties joined to the proceedings. A hearing before the Rulings Panel was set down for 3-5 November 2010 to determine the issue of penalty. The issue of compensation was to be dealt with at a separate hearing at a later date (subject to any settlement as between the parties).

On 18 October 2010 E-Gas was placed into voluntary liquidation. At a pre-scheduled hearing on 20 October 2010 the Rulings Panel ordered that as a result section 248 of the Companies Act 1993 applied, and the matter was stayed. Parties can apply to have the proceeding recommenced on 7 days notice.