

Subject Market Administrator Guidelines on the Materiality of Breaches of the Gas (Switching Arrangements) Rules 2008 and the Gas (Downstream Reconciliation) Rules 2008

Version 1.0

Date ~~7 September 2015~~[Insert]

Introduction

1. These Guidelines are published under regulation 19A of the Gas Governance (Compliance) Regulations 2008 (the Regulations), which states that the Market Administrator may publish guidelines to illustrate how it is weighting and applying the factors to be taken into account when determining whether or not an alleged breach raises a material issue.
2. These Guidelines should be read in conjunction with the Regulations, the Switching Rules and the Reconciliation Rules. These Guidelines in no way reduce the requirement upon participants to know and comply with their obligations under those arrangements. Terms that are defined in the Gas Act 1992 or the Rules or the Regulations but not in this document have the same meaning as in the Act, the Rules or the Regulations. The Act, the Rules or the Regulations will prevail if any conflict exists between those documents and these Guidelines.
3. These Guidelines may be amended from time to time. If a participant alleges a breach under any of the Rules that these Guidelines cover, the Market Administrator retains discretion to make a materiality determination. In accordance with regulation 19A(4), these Guidelines will be revoked if the Market Administrator considers that participants' reliance on the Guidelines is contributing to an increase in the number of breaches of the Rules.
4. The purpose of these Guidelines is to provide participants with information on how the Market Administrator will weight and apply the factors to be taken into account when determining the materiality of breaches of:
 - a. rules 67.3, 69.1, 69.2, 70.2 and 72.2 of the Gas (Switching Arrangements) Rules 2008 (the Switching Rules); and
 - b. rule 37 of the Gas (Downstream Reconciliation) Rules 2008 (the Reconciliation Rules)
- ~~5. Gas Industry Co consulted on these Guidelines in 2014 and reviewed six submissions, which showed broad support for the proposal. Submissions and Submissions Analysis can be found at: <http://www.gasindustry.co.nz/work-programmes/compliance/policy-development/>~~

Guidelines

Switching Rules

~~6-5.~~ If a Gas Switching Notice (GNT) for a standard switch contains a requested switch date that is before the date that the GNT was delivered to the Registry, but in the same month as the GNT delivery, then, in the absence of any other information, there is no likelihood that this will raise a material issue and it need not be alleged as a breach of rule 67.3 by the Registry Operator.

~~7-6.~~ If a Gas Transfer Notice (GTN) for a standard switch contains an actual switch date that is before the date that the GNT was delivered to the Registry, but is on or after the requested switch date in that GNT, then, in the absence of any other information, there is no likelihood that this will raise a material issue and it need not be alleged as a breach of rule 72.2 by the Registry Operator.

~~8-7.~~ If the expected switch date in a Gas Acceptance Notice (GAN) falls outside of the required timeframes, then, in the absence of any other information, there is no likelihood that this will raise a material issue and it need not be alleged as a breach of rule 70.2 by the Registry Operator.

~~9-8.~~ If a response to a GNT is given one day after the two business day deadline, then, in the absence of any other information, there is no likelihood that this will raise a material issue and it need not be alleged as a breach of rule 69.1 by the Registry Operator.

~~10-9.~~ If a GTN is given one day after the 10 business day deadline, then, in the absence of any other information, there is no likelihood that this will raise a material issue and it need not be alleged as a breach of rule 69.2 by the Registry Operator.

Reconciliation Rules

~~10.~~ If a retailer's initial submission for a consumption period at an allocated gas gate does not fall within the required percentage of error when compared with the final submission, ~~but the volume difference between the two submissions is less than or equal to 200 gigajoules~~, then, in the absence of any other information, there is no likelihood that ~~this an individual breach~~ will raise a material issue and it need not be alleged as a breach of rule 37 by the Allocation Agent.

11. Gas Industry Co will monitor retailers' compliance with rule 37 through the GAR050 report provided by the Allocation Agent on a monthly basis. Gas Industry Co may allege breaches of rule 37.2 (for example, if there is a material deterioration in a retailer's historical or current compliance). Any other industry participant or a consumer may allege a breach of rule 37 at any time.

12. These Guidelines replace the ~~August 2013~~ September 2015 Guideline Note that considers the materiality of rule 37.2 breaches. The Market Administrator's Guideline Note of ~~August 2013~~ September 2015 is revoked and no longer in force.

Circumstances arising that justify departure from approach

13. If there is something uncharacteristic or unusual about an alleged breach under any of the Rules affected by these Guidelines, then the Market Administrator may choose to request further information about that breach. Examples could include if the breach was alleged by a person

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instead of the Registry Operator or if there are indications that there is a repeated breach of a rule that indicates a systemic issue that could cause the breach to become material.

14. If it would be appropriate, taking into account the factors listed in reg 19(1) and given the circumstances, the Market Administrator may make a material determination in respect of a breach alleged by a person.

Referral to the Investigator of breaches under threshold

15. The process outlined in these Guidelines do not remove a participant's ability to refer a rule breach that is under the threshold to the Investigator, in accordance with the Regulations.

16. A participant may refer any breach to the Investigator directly if:

- a. The Market Administrator has determined not to take any action on the alleged breach (refer to reg 24(1)(a)); or
- b. The Market Administrator has not been able to informally resolve the alleged breach by agreement within 35 business days after the alleged breach was notified to participants by the Market Administrator