

Appendix 1: List of questions for submitters

Submission prepared by industry body in its role as the Market Administrator under the Gas Governance (Compliance) Regulations 2008.

The Market Administrator has received 48 breach allegations relating to the October 2011 critical contingency: three (3) of these alleged breaches were against industry participants, and the rest were against consumers.

While the Market Administrator is under an obligation to keep confidential all information provided or disclosed to it¹, we believe there is value in commenting on general themes/issues relevant to this review that it noted when considering the alleged breaches.

We have only provided responses to questions that relate to issues identified during the processing of the critical contingency alleged breaches.

¹ Except in limited circumstances as set out in regulation 15 of the Gas Governance (Compliance) Regulations 2008.

QUESTION	COMMENT
<p>Q5: Do you have any comments on the analysis of ESP consumers?</p>	<p>Observations on essential service providers:</p> <ul style="list-style-type: none"> • Some of the consumers, who were alleged to have continued to use gas contrary to their retailer’s directions during the October 2011 critical contingency, noted that they were ‘essential service providers’ and so disputed the alleged breach on the basis that they were entitled to continue using gas. • It is concerning that there appears to have been confusion about who was within the ESP band during the curtailment given that the curtailment of bands is the CCO’s primary tool for controlling a critical contingency. The Market Administrator also observes that some entities were granted ESP status during the critical contingency event. • As the breaches were alleged by the CCO, and reviewed by retailers before being alleged (and therefore ESPs among them should have been identified and no breaches alleged against ESPs), the Market Administrator believes that better processes need to be put in place to track essential service providers and make sure the CCO and retailers are aware of all ESPs. Having one entity responsible for granting ESPs may resolve this issue. • The Market Administrator shares a concern raised in the Statement of Proposal that retailers do not always appear to have followed designation criteria (although further examination of this was not part of the Market Administrator’s breach determination process). It notes that some of the ESP entities who were allegedly ‘in breach’ will likely not be able to rely on ESP status in future should the changes in the Statement of Proposal go ahead.
<p>Q27: Gas Industry Co proposes annual notifications to customers as a means of encouraging customers to make appropriate arrangements to cope with a critical contingency. Do you agree with this frequency and if not, why not?</p>	<p>One of the points that came up in a number of responses by consumers to the alleged breaches is that they didn’t fully comprehend the critical contingency situation. For example:</p> <ul style="list-style-type: none"> • Some consumers didn’t understand that a direction to curtail was to stop using gas completely. Their understanding was that it means simply to reduce usage. • There was lack of comprehension on what a ‘curtailment band’ was. Lots of consumers did not know which band they were in and so whether they were able to use gas. • Others didn’t understand the relationship between the critical contingency regulations and other obligations, for example, export licenses. <p>There was also a recurring theme in responses that consumers required further education about critical contingency obligations and a presumption that they would have been given further guidance on what they should do during a critical contingency.</p> <p>Annual notifications to customers would be a step towards educating customers about how the steps they must take during a critical contingency.</p>

QUESTION	COMMENT
<p>Q30: Please provide your views on the proposals outlined above for retailer curtailment plans.</p>	<p>From the information provided on the alleged breaches, the Market Administrator observes that retailers had different approaches to how they directed customers to curtail and how quickly such directions were issued. Retailer curtailment plans would provide more consistency during a critical contingency event.</p> <p>Alternatively, retailers could be encouraged to share their approaches in a workshop setting (e.g. the next RGGF) so that they could learn from each other.</p> <p>Under regulation 56(1), '<i>[a]s soon as is reasonably practicably</i> after receiving a direction from a transmission system owner...retailers must give urgent notice to their consumers affected by that direction...'. Gas Industry Co may wish to consider putting in the regulations an alternative phrase to 'as soon as is reasonably practicable' or otherwise clarify the definition of these words.</p> <p>Note that the same threshold 'as soon as is reasonably practicable' applies to regulation 57, which states 'Consumers must comply with the directions issued by their retailer...as soon as is reasonably practicable.'</p> <p>The most common reason given by consumers to deny that they were in breach was that they had taken action to curtail as soon as was reasonably practicable. Consumers had varied interpretations on what this meant, so again Gas Industry Co might wish to consider whether more clarity is needed with respect to the phrase 'as soon as is reasonably practicable' and whether use of a different phrase would be clearer and more appropriate..</p>
<p>Q32: Do you agree with the changes proposed to improve compliance with the CCM Regulations?</p>	<p>Yes. The existing compliance process did not lend itself to consumer breaches as it was set up for industry participants. This was the first occasion on which the Market Administrator had dealt with alleged breaches by consumers. A great deal of resource was required to prepare information packs for consumers to help them understand critical contingencies, the role of Gas Industry Co, the Market Administrator, and the compliance process as a whole. An offence regime would be much more straightforward for consumers to understand and therefore incentivise them to comply with the regulations.</p>