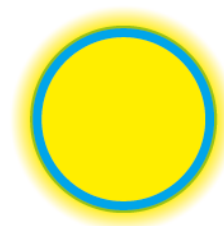


28 November 2014

Ian Dempster
Gas Industry Company
PO Box 10 646
WELLINGTON

[Submitted via Gas Industry Co website]

POWERCO



Dear Ian

Powerco submission on Draft Decision Paper – Framework for gas retailer insolvency arrangements

Introduction

1. Powerco welcomes the opportunity to comment on the *Draft Decision Paper – Framework for gas retailer insolvency arrangements* (the paper), published on 15 October 2014. Powerco recognise that incidents of gas retailer insolvency are very rare in New Zealand, but, due to the potential impact of such an event on the industry, it is important that clear and robust regulatory rules are put in place.
2. Our responses to the consultation questions in the submission template are in the appendix to this letter. None of the content of this letter or the appendix is confidential.

Certainty is essential for the development of the gas industry

3. The gas industry is battling to persuade people to connect, or stay connected to, reticulated gas. We must give consumers confidence that, when they buy a gas appliance and make an investment for ten or more years, they will continue to receive a high quality of service. The gas industry cannot afford reputational damage and the risk that confidence in the gas industry will be undermined. All risks must be carefully managed – and we see retailer insolvency as a real and significant risk.
4. The E-Gas situation highlighted the importance of having a regulatory back-stop, whether introduced under urgency or as a permanent regulation. While the regulations enacted under urgency for the E-gas situation were not required to be implemented, they helped provide assurance to affected parties while the insolvency process was resolved. Providing certainty to industry participants and the public is essential to building the confidence levels needed to develop the market. We recognise that, while standard insolvency arrangements

address significant risks, there are outstanding issues, such as orphan consumers, that need to be considered.

Support for non-regulatory option

5. There are only two options available to distributors in the event of retailer insolvency, and these both result in financial loss and create significant additional work for distributors. Gas distributors will always consider disconnecting customers to be a last resort, due to the utility nature of the gas service and our desire to maintain the reputation of gas as a secure and reliable energy source. Of course, there are also the associated disconnection and reconnection costs to consider. Hence, continuing to supply gas is the only credible option available to distributors in most cases. While this is positive for the industry, as it simplifies the insolvency situation, it creates costs, uncertainty and risks for the distributor.
6. The challenge associated with developing a solution to retailer insolvency that meets industry and customer expectations is ensuring that the process is robust enough to provide a high degree of certainty but not so complex that it creates unnecessary regulatory compliance costs. We consider that that the drafting instruction approach achieves this goal.
7. We support the use of industry led working groups to develop options and approaches for the GIC to use as the basis for consultations. The Insolvent Retailers Working Group (IRWG) is good example of the GIC convening and applying the findings of a working group appropriately.

Conclusion

8. Powerco considers that the GIC has achieved its objectives with respect to the retailer insolvency issue and we are confident that, should a retailer insolvency occur, the industry will be well placed to deal with it promptly and efficiently.
9. Thank you for the opportunity to make this submission. If the GIC wishes to discuss any aspects of this submission further, please do not hesitate to contact me on (06) 757 3397 or oliver.vincent@powerco.co.nz .

Yours sincerely



Oliver Vincent
Regulatory Analyst

Appendix: Submissions Template

Gas retailer insolvency arrangements.

Submission prepared by: Powerco Limited

QUESTION		COMMENT
Q1	Do you have any comments on the high-level process described in this section?	The summary provided is accurate and reflects Powerco's understanding of the issues and the work completed to date. We appreciate the clear and concise way it has been summarised.
Q2	Do you have any comment regarding the insolvency trigger?	We support the definition as it is consistent with the Companies Act 1993 and is unambiguous.
Q3	Should the obligation to report a retailer insolvency be placed on retailers only, to report their own insolvencies, or should gas producers, gas wholesalers, and the allocation agent also have reporting responsibilities (as proposed above)?	The entire industry benefits from clear communication of the fact that insolvency has occurred. Consequently, we support the proposal that, in addition to retailers, gas producers, gas wholesalers, and the allocation agent should also have reporting responsibilities.
Q4	Do you agree that these changes to the Switching Rules would be minor and would not adversely affect the interest of any person in a substantial way?	Yes, we agree that the proposed changes are minor and do not adversely affect retailers in a substantial way.
Q5	Do you agree that the Switching Rules be amended to include the ability for Gas Industry Co to require information from an insolvent retailer?	We agree. Access to the relevant information is essential to helping ensure that this process is managed in a proactive manner that benefits customers and industry members.
Q6	Do you agree with the proposed content of the report(s)? Are there items that should be added or deleted, and why?	We agree. We support a single file report format as this helps reduce potential error. We also consider that the 12 month lead time proposed for retailers to produce this report is reasonable.

QUESTION	COMMENT
Q7 Do you agree that these changes are minor and would not adversely affect the interest of any person in a substantial way?	We agree.
Q8 Further, it is likely that the cost of monitoring would be offset by the savings gained from finding any instances of gas consumption at the monitored ICPs, which can then be prevented through disconnection or used to identify potential new customers. In other words, without the proposed change, any UFG caused by vacant and inactive ICPs of the insolvent retailer will be allocated to remaining retailers at the affected gas gate in proportion to their customer load. With the proposed change, gas consumption at those ICPs will be identified and prevented, providing a benefit to all retailers at the gate at the expense of minor monitoring costs. Accordingly, Gas Industry Co concludes that this change does not adversely affect retailers in a substantial way. Do you agree with the proposed amendments to the Switching Rules?	<p>We support this proactive approach and believe that the saving gained from monitoring these sites will outweigh the costs associated with the ongoing monitoring.</p> <p>We agree with the the proposed amendments to the Switching Rules.</p>
Q9 Do you agree that the proposed change is minor and does not adversely affect the interests of any person in a substantial way? If not, please describe the substantial adverse effect.	Yes, we agree that the proposed changes are minor and do not adversely affect any person in a substantial way, as processes will already be in place with retailers to monitor ICPs with inactive or vacant status.
Q10 Do you agree with the proposed trigger?	We agree. The arrangements are clear but also provide the flexibility needed to ensure the triggering of customer transfer occurs as required.

QUESTION		COMMENT
Q11	Do you agree with the proposed approach of transferring orphan consumers on an ICP-by-ICP basis? If not, what alternative would you suggest that takes into account the need to transfer customers quickly and the limited resources at Gas Industry Co's disposal?	We agree. We support the focus on delivering a timely and efficient transfer process and consider that the GIC's proposal does this.
Q12	Should a de minimus threshold (of eg 5% or 10%) apply to recipient retailers? If yes, do you agree with the proposed separate approaches to allocation group 1-3 and allocation group 4-6 customers?	Yes, having a de minimus threshold makes sense as it avoids possible negative repercussions associated with small retailers being allocated ICPs numbers that they are unable to cope with. We support the proposed approach of separating allocation group 1-3 and allocation group 4-6 customers given that some retailers target specific allocation groups only.
Q13	If not, do you prefer the option where all retailers are included, but those with less than 5% market share (by customers and volume) can opt out?	N/A
Q14	Do you have any views on the proposed ICP allocation methodology?	We support the GIC's proposed allocation approach and also acknowledge that, while the process needs to be transparent, the time constraints will not allow for consolidation.
Q15	Do you agree with this approach? Why or why not?	We agree. We consider that the proposed approach fairly balances the needs and expectations of retailers and customers.
Q16	Do you agree that this is a reasonable approach to the transfer of large consumers? If not, what alternative would you suggest?	We agree. However, we recommend that the GIC consider creating a back stop default arrangement that would be activated after a reasonable period of time has elapsed, if the gaining retailer and customer have not agreed terms. The back stop could be as simple as defaulting to the standard terms applied to a similar sized consumer of the recipient retailer. If the customer did not agree they could switch retailers.
Q17	Do you have any comments on clauses 8-11 of the proposed Drafting Instructions?	We support the drafting instruction in these clauses.

QUESTION		COMMENT
Q18	Do you have any comments on clause 12 in the proposed drafting instructions?	We agree that the GIC's proposed drafting of clause 12 addresses this issue adequately.
Q19	Do you agree with the proposal in clause 13 of the proposed drafting instructions?	Yes, this is an appropriate and fair mechanism to deal with a real issue. The net capacity demand will not change – it is simply a reallocation that will be washed up in the subsequent gas year.
Q20	Do you agree with this proposal? Why or why not?	Yes, we agree with the proposal. It provides genuine clarity should such an event occur and it does not create any onerous or unrealistic requirements for a retailer that ceases trading.
Q21	Do you agree that the change is minor and will not adversely affect the interest of any person in a substantial way?	We agree that the proposed changes are minor and do not adversely affect any person in a substantial way.