



18 December 2012

Ian Dempster
General Manager Operations
Gas Industry Company Limited
PO Box 10 646
Wellington 6143

Dear Ian,

RE: Statement of Proposal – Amendments to the Gas Governance (Critical Contingency Management) Regulations 2008

Greymouth Gas New Zealand Limited ("Greymouth Gas") is pleased to make a submission on the Statement of Proposal – Amendments to the Gas Governance (Critical Contingency Management) Regulations 2008 (the "SoP") following an invitation from the Gas Industry Company Limited ("GIC") on 12 November 2012.

Greymouth Gas supported the GIC and the Critical Contingency Operator ("CCO") before, during and after the October 2011 event by providing communication, information, comments and feedback. Due to the severity of the October 2011 event, we recognise the need for a comprehensive review of the Gas Governance (Critical Contingency Management) Regulations 2008 ("CCM Regulations") and we further support the GIC in this regard.

Greymouth Gas considers the SoP to be a good paper and our submission will focus on the questions posed in the SoP.

- 1) *Are there any other matters that should be addressed when considering proposals to amend the CCM Regulations?*

Yes.

- The National Civil Defence Emergency Management Plan Order 2005 expired on 30 June 2011, was not in force at the time of the October 2011 event, and has not yet been superseded by subsequent plan orders. Due to questions 5 through 9 in the SoP, it appears that reference to this document may be going to be removed. However, if any references are to remain, then the document's expiry and potential lack of validity may need to be addressed in the SoP.
- One of the key issues at the time of the October 2011 event was the informal (and interfering albeit well-intentioned) interaction with Civil Defence ("CD"). It is disappointing that the SoP doesn't seek to canvass some of these issues, including, but not limited to:

- When industry participants no longer need to comply with the CCO's instructions, e.g. if a CD situation is called,
 - The process and authorities (even if by reference) involved in invoking a CD situation,
 - Communication structures involving CD when they are not formally involved in the process, including interaction of regional CD offices in a non-regional critical contingency event being made clear to gas industry participants,
 - Allowance for CD to obtain appropriate information if they have not been formally called into the process, e.g. access to gas registry or allocation agent data or CCO data (possibly for planning purposes and outside of actual events).
- The SoP talks at length about incentives. However, the gas industry is perhaps missing the greatest incentive of all – upstream security of supply. To this regard, having a critical contingency cash-out price of ~\$11/GJ just does not make sense because this is within the realm of normal cash-out prices. Surely the incentives to avoid emergency situations (or to provide back-up options for helping out in the same) should be significantly greater than business-as-usual incentives. The grid investment test for electricity looks at a counterfactual price of \$20,000/mwh of electricity. While this is extreme, and the SoP is not dealing with a grid investment test, surely greater prices are needed to incentivise better security of supply rather than simply relying on the regulatory framework.
 - Ability of CCO to formally call for (and receive) additional resources to help out in critical contingencies.
 - Clarifying whether and if so, how, critical contingencies could be defined as regional for part of a critical contingency and non-regional for another part, including confirming what trumps what for intraday changes and how incentive regimes and balancing would work in these circumstances.
 - Requirement for an independent and immediate report into root-cause of the problem. Regarding the October 2011 event, the government's report was about a year after the event and the asset owner's report arguably contained a conflict of interest. What industry needs is timely independent assessment of accountability for insurance claims purposes.
 - Given the number of issues raised in the government's report into the October 2011 event, thought should be given as to whether TSO pipeline risk registers should be made public to give confidence to industry that known transport security of supply risks are being managed and progressed. This is perhaps more important now, given that TSO pipelines are going to continue to age and some New Zealand terrain is rugged.

2) *Do you agree with the Gas Industry Co proposal to combine bands 2 and 3? If not, please provide your reasons.*

Yes.

3) *Do you consider that the option of trading gas usage rights during a critical contingency is worth exploring? Please explain your reasoning.*

No.

Prima facie, the CCM Regulations are set up to manage a worst-case scenario situation (which is very unlikely at any given time). In such critical situations the focus should be on 'first response', i.e. operations.

Applicable to any emergency situation, if non-essential contractual issues were considered as part of a first response, then this would likely muddy-the-water for the persons responsible for implementing the first response and it could cost lives. Sure, some contractual issues should be taken into account, but the trading of usage rights (especially when these might only be called ~5% of the time in a critical contingency) does appear to be non-essential. Keep it simple – particularly in emergencies.

In any case, while r53(2) of the CCM Regulations does already give the CCO some flexibility to curtail parts of bands, our hope is that the CCO will continue to do so fairly and without bias, and only if such part-curtailed was going to further the objectives set out in Schedule 2 of the CCM Regulations, such objectives appearing to be at levels higher than individual business-specific economic analyses.

Notwithstanding our position, Greymouth Gas is open to discussions on gas usage right trading during critical contingencies, but does not see it as a priority at this stage. If it is to be considered, then this should occur outside of this SoP and should have CCO buy-in before being progressed.

- 4) *Do you agree that regulation 53(1)(d)(ii) and 53(2) provide the necessary flexibility for the CCO to respond to changing circumstances?*

Yes.

- 5) *Do you have any comments on the analysis of ESP consumers?*

Yes.

The analysis of essential services provider ("ESP") consumers is reasonable except for chart 9 on page 36 of the SoP where the chart is used as evidence to suggest variability of interpretation. The conclusion is probably correct, but using the chart as the basis for this conclusion is poor because it does not take into account different retailers' niche markets which can explain the variability in the chart.

Without repeating the detail, the first high-level issue is process. Greymouth Gas agrees with the analysis that suggests that ESP designation should be centralised.

The second high-level issue is interpretation of ESP consumers. Greymouth Gas notes that the GIC and/or associated bodies did not allege any breaches by retailers (that we are aware of) pertaining to incorrect ESP consumer designation, despite the GIC's own Essential Services and Minimum Load Guidelines dated November 2012¹ ("Guideline Note") which advocates for a very tight interpretation. Therefore:

- If GIC wants to change the policy and intent of ESP consumers, the wording and references in the CCM Regulations need to be changed as part of this SoP process, and
- The Guideline Note is but one interpretation and, if the GIC is charged with making ESP designations in the future, particular care will need to be made such that ESP designations fit within a reasonable interpretation of the CCM Regulations and not just the interpretation contained within the Guideline Note.

¹ The previous version of the Guideline Note, applicable at the time of the October 2011 event, contained similar interpretations as contained within the Guideline Note

- 6) *Are the proposed categories appropriate? Are there any additional categories that you think should be included? If so, please provide your justification.*

The proposed categories do appear to be appropriate based on a plain and ordinary interpretation of what an ESP means in an emergency situation, notwithstanding the current interpretation under the CCM Regulations. It also makes sense to remove the 2 TJ/pa threshold for this band.

However, perhaps the GIC could reflect on whether prisons should be afforded the same benefit of being classed as a critical care provider (a potential sub-set of the ESP definition) by having regard for life/death situations, health and safety, and whether or not persons had a choice in getting themselves into various situations.

In addition, perhaps the GIC could reflect on whether animal welfare issues (as contemplated in the lead-up to question 8 in the SoP) might also need to be in an ESP category due to any specific animal welfare regulations. Greymouth Gas has no view but this may need investigating.

- 7) *Do you agree with the option evaluation set out above? If not, please explain why.*

This is a political question and GIC is best-placed to propose amendments to the CCM Regulations that best meet the regulatory requirements. Greymouth Gas notes that the option evaluation appears to fit with what appears to be the GIC's chosen amended policy framework.

Greymouth Gas notes that the unamended Concept Review contained a recommendation to split band 5 into minimum supplies to avoid substantial economic costs and minimum supplies for essential food production and environmental protection². It appears that the GIC does not favour this split, nor does it favour keeping a band pertaining to economic/environmental impacts in aggregate. Greymouth Gas offers no view on the merits of the GIC's desired policy framework, other than to caution that the GIC should be absolutely sure (and this may require analysis after receipt of submissions on the SoP) that removing access to the current band 5 (and not providing a reasonable alternative) for various parties will not lead them to turn off their gas.

While GIC's currently preferred option would likely improve an end-user's risk-readiness for a critical contingency situation, it would not be relevant if that end-user did not use gas. If GIC's preferred option triggered end-users to turn off gas, this outcome would not fit with the NZ gas story and it would not comply with an objective of GIC when recommending regulatory changes, i.e. section 43ZN(b)(i) of the Gas Act 1992. Greymouth Gas requests GIC to make an informed decision in this regard, potentially being open to reconsidering its position on this option evaluation depending on findings revealed from exploring this potential dynamic.

Greymouth Gas has invited our customers to also comment on the SoP and some may have more specific comments further to the band framework.

Furthermore, given the proposed narrowing of the definition of ESP, and given the robust discussion in the SoP in the lead-up to question 6, it is difficult to distinguish between proposed ESPs (e.g. biohazards, crematoria etc.) in band 5, and critical care providers in band 7. The logic pertaining to both groups appears to be the same – i.e. who absolutely needs gas in an emergency. Therefore why not simplify things and incorporate critical care providers into the ESP category and move this to band 7. Band 5 could then be kept or dropped depending on the GIC's amended policy framework.

² Page 46 of the SoP

- 8) *Are there any other criteria for MLC designation that you feel would be appropriate?
Please include your justification for any that you consider should be added.*

No.

- 9) *Would you delete any of the proposed categories?*

No – although some of the categories may need to be considered as an ESP category (in the case of animal welfare) or have caveats pertaining to r47 of the CCM Regulations (in the case of health and safety).

- 10) *Should electricity generators be eligible for MLC status, as described in the first option above? Or should there be a separate category, as described in the second option?*

The second option appears to fit more closely with the intent of the CCM Regulations – i.e. the CCO can consider requests (under a new designation) for power stations to run to support the electricity grid. CCO will be best-placed to make this call in a critical contingency situation.

The counterfactual, i.e. giving power stations a pre-approved curtailment profile, doesn't explicitly canvass the question of electricity grid support. However, similarly, the nature of ramping down power station production is such that a curtailment profile will be followed, but surely allowance for this is already contained within r55(1) of the CCM Regulations and any ex post facto alleged breaches would consider what was reasonable vis-a-vis this clause.

- 11) *Do you agree with the above evaluation of options? If not, please explain why.*

Yes.

- 12) *Do you agree with the above evaluation of options? If not, please give your reasons.*

Yes.

- 13) *Do you agree with the 9-month timeframe for transitioning to the new ESP and MLC arrangements?*

Yes.

- 14) *Do you agree with the tight provisions for designations during a critical contingency event?*

No.

Greymouth Gas agrees with the proposed amendments, except that customers that have not previously applied but who have a pressing need to do so during an event, should also be afforded the ability to apply for designation during an event.

Failure to factor in this point may lead to a rush of basic and incomplete applications to the GIC, lodged just to capture that a business has 'previously applied' – i.e. a perverse incentive to achieve the same outcome.

- X) *Do you agree with the analysis pertaining to health and safety?*

Greymouth Gas supports the retention of r47 of the CCM Regulations and agrees with the GIC's analysis.

15) *Do you agree that the communications framework outlined above is the minimum that should be provided for in terms of public communications during a contingency event? If not, please give your reasons.*

Yes.

16) *Have we correctly identified the parties that should provide communications and the information that each should provide?*

Yes – except there should be more robustness to the framework to: a) assign specific items to specific parties to avoid disagreements in an actual event; and b) ensure the information is concise and accurate to dissuade lengthy and overly long communications.

17) *Do you agree that contingency imbalances should only apply in the case of non-regional contingencies? If not, what rationale would you provide for applying contingency imbalances to all critical contingencies (given that the Vector Transmission Code already provides for shipper mismatch)?*

No.

Greymouth Gas considers that the distinction between non-regional contingencies and regional contingencies should be dropped (and TSO CCMPs could be shortened to 1 page) or the distinction should be retained but the contingency imbalances and incentives should apply to both.

GIC states, on page 68 of the SoP that *'the key reason for the contingency imbalance/pricing arrangements – incentivising parties who are long gas in the system not to reduce their upstream purchases – simply does not exist in [regional critical contingencies]'*. However:

- In regional critical contingencies, every consumer must curtail gas demand in accordance with the bands (not necessarily just those of a geographical sub-set, depending on CCO instructions),
- This means that consumers unaffected by the outage may need to reduce demand, leaving gas retailers or gas suppliers long on gas,
- Gas retailers would want to balance as closely as possible to zero (in a business as usual and non-compensated situation) and not be left with significant positive imbalance to manage after the fact (as would be the case above), including managing exposure to the balancing framework,
- Gas suppliers will also be long gas and may be incentivised to reduce upstream supply if gas retailers or consumers reduce demand. However, in a regional contingency, gas suppliers will likely keep supplying some gas (providing line pack), but they are not rewarded for this (a perverse incentive),
- Therefore parties who are long in gas are incentivised to reduce gas supply/upstream purchases and/or are not rewarded for providing supply in a regional critical contingency.

Greymouth Gas considers that the only way that both non-regional and regional critical contingencies can be retained and have different contingency imbalances/incentives, is if the CCM Regulations explicitly direct the CCO's obligations in r53(2)(b) of the same to make it clear that only consumers in

the relevant bands downstream of the issue are required to comply with CCO's directions in the case of a regional critical contingency. This would get around the issues outlined above.

18) Do you agree that a set of guidelines would be the most efficient way to identify regional contingencies?

Yes – in conjunction with question 19 and assuming the distinction between regional and non-regional critical contingencies is retained.

19) Do you agree that the CCO is the best party to determine regional/non-regional status of a critical contingency? If not, who would have better information on which to base a determination?

Yes – and the CCO should be mandated by the CCM Regulations to make this determination within a set period of time, early after a critical contingency event is declared.

Greymouth Gas raised this risk months before the October 2011 event and our concerns were largely ignored by the GIC. It is pleasing to see that this risk is now being taken seriously as the interaction between business' commercial and operational functions is intertwined.

20) Do you agree that the CCO's role should allow direction of system reconfiguration, as outlined above? Is it important that the CCO only make such a direction where it is supported by the affected TSO?

Yes and yes.

21) Do you agree with this analysis? If not, please state why.

Yes.

22) Do you agree that the CCO is best placed to write the performance report after a critical contingency? If not, who would be better placed?

Yes.

23) Do you agree with the modifications to the performance report provisions outlined above? If not, please identify those you do not agree with and explain why.

Yes.

24) Do you agree that the CCO should collect and publish information on scheduled outages as outlined above? If not, please explain why.

No.

Greymouth Gas does support the CCO factoring in supply side risk factors into their decision making process. However, the suggestion to provide tentative, planned and confirmed outage information to the CCO and to have this published is too onerous for the following reasons:

- Gas suppliers sometimes do not know, 12 months in advance, what scheduled maintenance may need doing,

- The suggestion doesn't endeavour to distinguish between site outages lasting many days compared with, for example, servicing a compressor which may not impact gas supply or may do so for a period of hours (both can be scheduled maintenance),
- If the materiality threshold is set too low, this would be an intrusion into gas suppliers' operations.

Greymouth Gas suggests that this is either made voluntary, or that it is made mandatory so long as the threshold is for material outages, i.e. complete outages scheduled to last >1 day for example, and for confirmed outages (as tentative plans do change) and as long as gas suppliers can direct the CCO not to publish commercially sensitive data if so elected.

25) Do you agree that if the CCO requires more granular data, the most efficient source would be the allocation agent? If not, what other means would you suggest, and why?

Yes.

26) Do you have any comment on the need to ensure that Gas Industry Co is always able to appoint a party as the CCO and the need to ensure that the CCO always has access to the information and data required to fulfil the role?

No.

27) 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?

Yes.

28) Given that the seriousness of a situation that requires curtailment of Band 6, do you agree with the proposal to use text messaging to contact Band 6 customers urgently? If not, how would you propose to notify these customers in a manner that ensures they understand the need to curtail their gas use?

Greymouth Gas offers no comment (as we have very few, if any, band 6 customers) other than noting that this raises the issue of whether something is received if it is sent, and if so, on what timeframes. Incidentally this same issue is already at play in the CCM Regulations, which is why r55(1), 56(1) and 57 of the same have an 'as soon as is reasonably practicable' caveat.

29) While we are sympathetic to retailers' concerns about contacting large numbers of customers, there appears to be merit in placing a 'best endeavours' obligation on retailers to contact at least their largest customers in Band 6 regarding curtailment progress. Please provide your views on this issue.

Further to the answer to question 28, such a best endeavours obligation to band 6 customers appears completely unjustified. This would require significant investment, processes and technology (not to mention contact lists), and there would still be no guarantee that either retailers or consumers were not flying, driving, away from their phones, out of the country or that communication infrastructure would be working. A reasonably practicable basis seems the most logical and the most representative of what is possible.

30) *Please provide your views on the proposals outlined above for retailer curtailment plans.*

Greymouth Gas considers the options provided to be at odds with the intent of the lead-in discussion. The discussion is all about audits, and so option '3' – retailers to have plans and those to be subject to audit by the CCO, such general findings (but not the plans themselves) to be published – is the most sensible. Greymouth Gas would support this approach and this is similar to the Gas (Downstream Reconciliation) Rules 2008.

Coming up a few levels, firstly, there doesn't appear to be a problem. Secondly, option 1 is a complete overreaction to the 'problem' – look at the counterfactual, i.e. what other non-strategic business policies and procedures are required to be publically published? It also ignores the fact that retailers already have obligations under the CCM Regulations and seeks to (inappropriately) hold hands to ensure compliance with retailer preparedness for an event. Thirdly, option 2 crosses the line with regard to internal policies and procedures, i.e. analysis or audits could be done, but an independent party should not approve internal policies and procedures. If the GIC feels the need to extend tentacles this far then perhaps the regulatory settings and incentives themselves need to be addressed as the purpose of regulations is to provide the policy and regulatory framework for compliance (i.e. governance) and not delve into operations except for alleged non-compliance or audits.

The case for change has not been made on this point.

31) *Do you agree that retailers are best placed to assist their customers in applying for ESP or MLC status?*

No – if the GIC is assessing the applications, then the GIC is best placed to assist customers. Where gas retailers can help is passing on applications, but not checking for completeness – that is the GIC's proposed role.

32) *Do you agree with the changes proposed to improve compliance with the CCM Regulations?*

Yes.

33) *Do you agree that using data from the allocation agent is the most expedient way of checking compliance with curtailment directions by ToU-metered customers? If not, what alternative would you suggest, and why?*

Yes – allowing opportunity for retailers to discuss or explain the data, e.g. regarding timings.

34) *Do you agree with this proposal? If not, please give your reasons.*

No.

Similar issues as discussed in the answer to questions 28 and 29 will arise and TSOs may not necessarily be in a position to meet a 30 minute relay deadline at all times.

Involving TSOs in the loop is a waste of time and is inefficient (and delays retailers who receive multiple lengthy notices containing the same/similar information).

Greymouth Gas strongly suggests that the best thing to do is to remove TSOs from the line of communication pertaining to CCO instructions (they can be copied in, but will have no relay function).

Not only would this streamline internal industry communications, but it would free-up the TSO to focus on a solution to the asset problem and associated external communication.

Yours sincerely,

A large black rectangular redaction box covering the signature of Chris Boxall.

Chris Boxall
Commercial Manager