

11 February 2013



John Bright  
Gas Industry Company  
PO Box 10 646, Wellington 6143  
**Via upload**

Dear John,

Thank you for the opportunity to make a submission on the Gas Industry Company's ***Insolvent Retailers options paper "paper"***.

Before responding to the specific questions set out in the paper we would like to make some general comments.

***Contact considers that the GIC needs to be prepared for retailer insolvency, but does not believe a retailer of last resort regime is required at this time.***

Retailer insolvencies in New Zealand are rare events. Accordingly any regulatory intervention should be commensurate with the low probability of these market failures occurring.

In our view the key issue (in the event of a retailer becoming insolvent) is not the cessation of supply to an insolvent retailer's customers, but that there is currently no mechanism to stop the financial loss incurred by industry participants, particularly where that loss results from unaccounted for gas (UFG) i.e. where customers are physically connected and able to consume gas, but where they do not have a contract with a viable retailer.

The E-Gas insolvency highlighted the importance of having a regulatory back-stop mechanism in place. While not required to be implemented, it did provide certainty to impacted parties while the insolvency process was resolved.

We note that in the case of E-Gas it took around 12 months for residual ICPs to be cleaned up. This was because there were a number of ICPs for which E-Gas was responsible on the registry but which were not included in the list of ICPs/customer contracts purchased by and transferred to Nova Energy, or identified disclaimed contracts.

This required a co-ordinated process involving the GIC, distributors, meter owners and retailers – and included ICPs which were active-vacant (vacant-energised), active-contracted (switch in progress), and inactive-vacant with a meter still installed – all ICPs which could easily be or become "orphaned" consumers.

Therefore any process which is designed to clean-up the aftermath of an insolvency needs to capture **all** those ICPs on the registry that are/were the responsibility of the insolvent retailer, not just active-contracted ICPs/customers in the insolvent retailer's billing database set up as billable customers. In our view it would be preferable for the GIC to put thought into capturing these customers now rather than waiting until the aftermath of an insolvency.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Louise Griffin".

Louise Griffin

Submission prepared by: Contact Energy

QUESTION	COMMENT
Q1: Do you agree with our assessment of the RAG's proposal?	While this is consistent with our understanding, in our view the Electricity Authority's Retail Advisory Group ( <b>RAG</b> ) or their representative are best placed to answer this. Accordingly we would recommend liaison with the RAG on this question.
Q2: Do you agree with the stated regulatory objective?	Yes.
Q3: Do you consider that the orphaned customer risk could be managed contractually?	<p>The E-Gas experience suggests the orphaned customer risk cannot be effectively managed contractually and that facilitation is required by the GIC and participants to remove the associated UFG risk.</p> <p>While participants may be incentivised to work together to mitigate the risk of UFG, the related costs of orphaned customers and vacant ICPs, we don't believe it would be possible to contractually require the affected participants to remove the risk.</p> <p>It may be useful for the GIC to design a framework to deal with both orphaned customers and vacant ICPs, and then determine whether this can be implemented through contracts (distribution/retail contract principles), regulation or a combination of both.</p>

QUESTION	COMMENT
<p>Do you think Gas Industry Co can add value to a normal insolvency process by, for instance, providing lists of orphaned customers to market participants?</p> <p>Q4:</p>	<p>Yes. The provision of a list of orphaned customers to market participants could assist the normal insolvency process by enabling retailers to take on customers in an area in which they are, or would like to be operating in, or where the customers fit their individual risk profile.</p> <p>In addition the GIC can add value by working with participants to ensure all ICPs on the registry which were previously the responsibility of the insolvent retailer become the responsibility of a viable retailer or are disconnected with the meter removed (capped) to remove vacant consumption risk. The question that then arises will be who meets the cost if ICPs need to be disconnected / capped and the meters removed.</p>
<p>Do you think voluntary contract principles can manage the orphaned customer risk?</p> <p>Q5:</p>	<p>Potentially, but in order for this to be effective it would need to be supported by all parties and deal with orphaned ICPs in the wider context.</p>
<p>Do you agree that relying on urgent backstop arrangements that would apply after an insolvency process, where the parameters would be developed in consultation with the industry, is an efficient response to the orphaned customer risk?</p> <p>Q6:</p>	<p>Yes, but only if other more efficient low cost options do not result in all orphaned customers and energised ICPs becoming the responsibility of a viable retailer.</p>
<p>Do you have any comments on the parameters that could apply for those regulations?</p> <p>Q7:</p>	<p>Getting the parameters right is essential to the success of any backstop arrangements. One way of doing this, and ensuring the parameters are robust, would be by establishing a cross party working group.</p> <p>It is important that the parameters consider how all ICPs that were the responsibility of the insolvent retailer can be switched to a viable retailer or be disconnected and capped (with meters removed, in which case who would meet the cost).</p>

QUESTION	COMMENT
<p>Q8: If option 3 were selected, do you consider there to be any residual risks that would justify a more interventionist approach? If so, please elaborate on those risks.</p>	<p>While we are supportive of developing parameters now we only support urgent backstop regulations being implemented if circumstances suggest they will be necessary and if the issues cannot be fully addressed through contract.</p>
<p>Q9: Do you have any comments on the option requiring distributors to disconnect orphaned customers from their networks?</p>	<p>We would like to see the establishment of clear processes and timeframes for distributors to disconnect orphaned customers who continue to consume gas without a responsible retailer, and disconnect vacant-energised ICPS. We believe that not only would this provide some certainty to market participants but that it would actually incentivise distributors to seek a new retailer on their own accord.</p> <p>While in theory distributors can stop gas flowing to customers without a retailer now, in our view distributors currently have no incentive to disconnect customers. In fact the cost of disconnecting is likely to be a significant deterrent, in particular because distributors are likely to be unable to recoup this cost.</p> <p>Additionally we understand that prudential requirements of around three-months provide some protection for gas distributors to recover on-going costs.</p>
<p>Q10: If you consider that a permanent backstop arrangement is necessary please provide full supporting reasons.</p>	<p>N/A</p>
<p>Q11: Do you have comments on any of the sub-options for a permanent backstop regime? Are there other sub-options you believe warrant further investigation?</p>	<p>N/A</p>
<p>Q12: Are there any other options you think Gas Industry Co needs to analyse before moving to the next phase of this work stream?</p>	<p>No.</p>

QUESTION	COMMENT
Q13: Do you agree with Gas Industry Co's assessment of the practicable options?	In our view the scope needs to be widened in order to cover the issues which surround vacant ICPs.