



**Submission on Options for the Governance
of Gas Retail Contract Terms**

From

Contact Energy Limited

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Introduction

Contact Energy welcomes the opportunity to respond to the Gas Industry Company's consultation paper. Contact's response follows over the page.

For any questions related to this submission, please contact:

Peter MacIntyre
Regulatory Affairs Manager
Contact Energy Limited
L 1 Harbour City Tower
29 Brandon Street
PO Box 10742
Wellington

Email: peter.macintyre@contactenergy.co.nz

Phone: (04) 462 1399

Fax: (04) 499 4003

Submission

Question	Comment
<p>Q1: Do you agree with the proposed regulatory objective? If you disagree explain why, and give an alternative formulation.</p>	<p>Contact agrees with the regulatory objective, and suggests the following is added.</p> <ul style="list-style-type: none"> to consider the regulation currently imposed on retailers in relation to energy supply and consider what level of alignment is appropriate.
<p>Q2: Do you agree that the evidence available supports some degree of structured oversight of the quality of retail contract terms? If you disagree explain why.</p>	<p>Contact disagrees that two retailers supplying 15% of the market having terms the GIC considers unfair, justifies oversight of retail contract terms for the entire market. Particularly as the GIC has acknowledged, consumers supplied by other retailers have “better contracts”.</p> <p>Having a single complaints scheme for both gas and electricity with a single set of benchmark terms should be the objective, rather than to address concerns created by two retailers.</p>
<p>Q3: Do you agree the ‘benchmark’ terms for retail contracts should be selective and outcome based rather than comprehensive and prescriptive? If you disagree explain why, and describe your preferred approach.</p>	<p>Contact would certainly prefer selective and outcome based because comprehensive and prescriptive terms are not necessary to achieve the policy aims outlined by the GIC. Further, retailers should have the ability to differentiate themselves in the market.</p>
<p>Q4: Do you agree the focus of governance on retail contracts should be the bundled service (gas, metering, transport) received by consumers?</p>	<p>Contact agrees</p>
<p>Q5: Are you aware of any instances in the gas industry of consumers having direct contracts with meter owners or distributors? If so, how should these contracts be governed?</p>	<p>Contact is not aware of any instances in the gas industry on open access networks where mass market consumers have a direct contract with a meter owner or distributor.</p> <p>However with private networks (e.g. Nova Gas bypass network) the consumer has a contract with Nova Gas as a distributor. Contact expects that the proposed benchmarks will apply equally to private networks (irrespective of type of gas network)..</p>
<p>Q6: Do you agree with the analysis of the need for and scope of benchmark terms relative to consumer</p>	<p>Contact does not consider benchmark terms should be drafted taking into account only consumer expectation. As with any contract, retailers (as the counter party) also have some expectations.</p>

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expectations? If not explain why.	
<p>Q7: Are the benchmark terms proposed for 'how to become a customer' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>The proposed benchmark assumes that consumers and retailers always have an open line of communication. This is not always the case. Often, a consumer will move into a property and will not contact the retailer supplying energy to the property until prompted by contact from the retailer. At this stage, the "customer" has already used energy, for which they are responsible. It is Contact's view that the contract start date, in the absence of any specific agreement, which is generally the case, is where the "customer" begins taking supply from the retailer.</p> <p>Contact disagrees that the customer should be able to terminate the contract without charge where the customer has used energy. Customers are liable for the energy they use.</p>
<p>Q8: Are the benchmark terms proposed for 'how to stop being a customer of your current retailer' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>It is unnecessary to require compliance with legislation in contracts.</p> <p>If a customer is switching retailers the date of becoming or ceasing to be a customer of Contact will be determined in accordance with the industry switching rules, and may be a date requested by the customer if the requested date meets the requirements of the rules. Accordingly Contact suggests that the benchmark refer only to "industry switching rules".</p>
<p>Q9: Are the benchmark terms proposed for 'changes to a contract' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>The term "materially less favourable to the consumer" introduces uncertainty and is in our view, unworkable.</p> <p>In any case, customers always have the right to terminate a contract, therefore clause 3.2 appears superfluous.</p>
<p>Q10: Are the benchmark terms proposed for 'service standards' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate with some minor suggested changes.</p> <p>The only amendments that would be appropriate are to insert in 4.3 after "including" the words "if applicable", and change "compensation" to "service level payment" as "compensation" is an inappropriate word.</p> <p>"Service level payment" is the most common term used in the electricity industry for service levels with an associated payment for non-achievement. Most importantly no payment is ever "compensation".</p>

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<p>Q11: Are the benchmark terms proposed for 'prices, bills and payment' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers that for 4.2(e) no limitation on time should be set for underpayments, and similarly for overpayments, but if any limitation is to be set, it should be consistent across both. Contact considers that there are many different circumstances where errors can occur, and therefore the retailer should have the flexibility to consider this on a case by case basis.</p> <p>Further, the limitation on time should not apply where the customer has underpaid their account due to meter tampering, or other illegal activity which has resulted in unmetered energy being supplied to the property.</p>
<p>Q12: Are the benchmark terms proposed for 'bonds' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q13: Are the benchmark terms proposed for 'obligations of the parties in relation to supply to the site and access' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q14: Clause 7.1(c) reflects the outcomes in the GPS which relate to efficient market structures and good understanding of roles, in relation to gas metering, pipeline and energy services. Accepting the limitations in what can be covered in a retail contract, does this clause go as far as possible in reflecting these outcomes? Provide alternative wording if you think that amended or extended wording would improve the clause.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>

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<p>Q15: Are the benchmark terms proposed for 'metering' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers that 8.1(e) needs amendment. The errors that can occur in this space are incorrect reads, number of dials, meter multipliers, conversion from metered volume to standard volume, and conversion from standard volume to energy quantity.</p> <p>Contact suggests that the wording after "suspects that" be changed to "the quantity recorded by the meter and/or meter reader and/or billed to the consumer, is not truly reflective of the consumer's actual consumption, and the process used for correcting any such errors."</p>
<p>Q16: Are the benchmark terms proposed for 'disconnection and reconnection' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>The benchmark in 9.3 does not adequately cover circumstances where the retailer may wish to disconnect at the time of the final read if there is no known incoming consumer or move-in switch request.</p> <p>While typically retailers do not disconnect at the time of the final read, retailers must have the ability to disconnect in these circumstances to mitigate the risk of "vacant" consumption. In such circumstances the notice periods are inappropriate.</p> <p>Contact suggests the words "where the consumer advises it no longer requires a gas supply for the foreseeable future, or where the consumer is vacating the premises," be inserted after "requests disconnection".</p>
<p>Q17: Are the benchmark terms proposed for 'faults and planned shutdowns' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers that 10.1(d) is too broad, and should only cover a requirement to include information on how the consumer can turn off their gas supply in an emergency. In the event of a critical contingency (gas supply or transmission system issue) or major distribution network outage causing widespread loss of supply, consumers will be notified through various means as to what to expect around restoration of supply. It is inappropriate to expect retailers to include such specifics in their retail contracts.</p> <p>In accordance with the EGCC Gas Consumer Code of Practice, retailer members include a fault phone number on bills for consumers to call in the event of an unplanned outage.</p> <p>A requirement that retailers include a fault phone number on every bill, and include in their retail contracts that the consumer should use the fault phone number on their gas bill in the event of an unplanned outage, would be more appropriate than the words in 10.2.</p>
<p>Q18: Are the benchmark terms proposed for 'privacy' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>It is unnecessary for the GIC to require what the Privacy Act 1993 already does.</p>

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<p>Q19: Are the benchmark terms proposed for 'liability of the retailer and the consumer' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q20: Are the benchmark terms proposed for 'dispute resolution' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q21: Are the benchmark terms proposed for 'how consumers communicate with the retailer' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q22: Are the benchmark terms proposed for 'notices from the retailer' appropriate? If not please explain why. If an alternative form of words or an additional clause is suggested, please provide details.</p>	<p>Contact considers the proposed benchmark terms to be appropriate</p>
<p>Q23: Viewing the proposed benchmarks as a whole, are there topics which should have been included and have not, or are there terms which have been included but might be removed to mane the benchmarks more</p>	<p>The benchmarks should not duplicate what is already required by the retailer pursuant to law.</p>

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compact? Give reasons for any views expressed, and examples where appropriate.	
Q24: Should the benchmarks be extended or amended to prevent the use of such unfair conditions, or would another approach be more appropriate?	<p>Contact considers the benchmarks should be extended to prevent clearly unfair terms, in particular locking consumers into contract rollover.</p> <p>There is of course a balance to be found between the interests of consumers and ensuring that consumers carry out their obligations under retail contracts. For example, while on its face the first example may seem unfair to consumers, this provision avoids tenants all defaulting in turn on paying for energy used in the house. Generally retailers only rely on this clause where the ongoing default is from the same group of tenants.</p>
Q25: Are there other examples of unfair terms in use which should be excluded from acceptable terms? If the answer is yes please give examples.	Contact is not aware of any other unfair terms
Q26: To what extent do you think the published standard retail terms reflect the current practice between retailers and consumers (persons consuming less than 10 terajoules per annum)?	<p>Contact notes that its current published standard terms fairly reflect current practice between Contact and its customers, except for customers on additional special terms where appropriate due to special circumstances (network investment agreement) and/or the distributor's or customer's desire for special pricing or contract term.</p> <p>Contact notes that the 10TJ threshold may be convenient given it has been used as the TOU threshold for the downstream reconciliation rules and levy threshold between retail and wholesale levies. However it is not necessarily the best threshold for the benchmark terms. The standard residential and business terms published by retailers applicable to most customers not on special price/term negotiated contracts, and able to be unilaterally changed at 30 days notice, would seem to be more practical threshold. Generally the special price/term contracts are individually negotiated and not subject to unilateral changes.</p>
Q27: Do you agree that a common set of benchmarks or minimum terms and Q27: conditions should be used, irrespective of whether implementation is voluntary or mandatory (regulated)? If you disagree, explain why.	<p>Contact considers that if minimum terms are regulated for, there should be fewer items and more precise language to avoid over regulation..</p> <p>Further, the benchmark terms should not include restrictions or requirements that could not be imposed by regulation.</p>

Question	Comment
<p>Q28: Do you agree that these are the most appropriate options for analysis, and that they have been appropriately specified? If you think that other options should have been selected or the specifications should be changed, set out your proposals and explain why.</p>	<p>Contact considers the most effective means to achieve alignment with the benchmarks is publication of recommended benchmark terms, with monitoring of uptake occurring on the basis of voluntary disclosure</p>
<p>Q29: Do you agree that all of the relevant benefits, costs, risks and uncertainties of the option had been identified and appropriately characterised. If you disagree please provide alternative or additional material and explain your reasoning.</p>	
<p>Q30: What degree of commitment do you think is required from retailers, in relation to the voluntary alignment of their contracts with the proposed benchmarks, to shift the cost/benefit analysis away from regulated benchmarks terms?</p>	<p>Commitment to align within 18 months of finalising the benchmarks</p>
<p>Q31: Based on the analysis above or any additional analysis that you include in your submission, what do you think the preferred option for inclusion in the statement of proposal should be? Explain why.</p>	<p>Contact considers the most effective means and preferred option to achieve alignment with the benchmarks is to make them voluntary with the threat of regulation if substantive alignment has not been achieved within 18 months. Publishing an alignment report on the Gas Industry Co website exposing outlier retailers should incentivise those retailers to align without requiring regulation.</p> <p>It is noted that in the electricity industry the requirement for retailers to offer standard terms for distributed generation (purchase of embedded generation up to a threshold) was achieved through the threat of regulation, whereas the low fixed charge regulations were required when the threat of regulation failed to achieve alignment.</p>