

17 April 2019

Gas Industry Co
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Subject: Consultation: Options Paper for Information Disclosure

Dear Andrew Knight, Paul Cruse & colleagues,

We welcome the opportunity to respond to the Gas Industry Company's consultation: Options Paper for Information Disclosure. Thank you for organising the workshop on 27 March – this was a helpful forum to exchange ideas with colleagues and to gain a better understanding of the GIC's proposals to improve gas market information disclosure.

We agree there are potential issues relating to information availability in the wholesale gas sector. This is a high priority topic for the gas sector, with important overlaps with the electricity sector. In the following we outline our high level views on the topic and attach answers to specific questions on which we are able to comment in the Appendix.

We agree there is a case for change

We firmly believe improvements should be made to gas market information disclosure. Asymmetric information, either systemic or short term, can inhibit the efficient operation of markets and regulators can address it to improve market outcomes such as efficiency of prices. Broadly, market participants should disclose information they hold about themselves that could influence market prices, to ensure parties can trade on an even playing field and avoid insider trading.

The current low level of disclosure in the gas market is inhibiting the efficient operation of the electricity market. An increased level of transparency in the gas market will improve the efficient operation of the gas market, which will have flow on benefits for gas market participants as well as the electricity market. The electricity market is impacted by the supply of gas to CCGT and OCGT units, which provide baseload and peaking generation and are a key source of back up electricity when hydro storage is low, and information about this is critical.

In tight supply conditions, such as during the Pohokura outage in Spring 2018, the value of transparent information is even greater, as prices are typically at a higher and more volatile level, so release of information can have a larger impact. For example, feedback to us over the last six months has stated that uncertainty and uneven access to gas production information contributed to high electricity prices, has raised questions about insider trading in the electricity forward contract (hedge) market and may have caused breaches of the Code. Our investigation into the 15 September 2018 Undesirable Trading Situation raised concerns that participants are not using all available sources of information relevant to the electricity market, and that some of the information available is difficult to find and interpret.

Additionally, only some of the four electricity market makers are gas market participants. This means they can have access to uneven levels of information which creates unhelpful tensions within market making for the electricity market.

In addition, electricity disclosure rules may create an obligation on an electricity participant to disclose information about gas supply, if it impacts electricity supplies. This indirectly causes gas disclosure obligations to fall on a subset of gas participants. It is inefficient for gas disclosure to come about via electricity disclosure rules.

High level recommendations

We strongly recommend a regulated response, and the solution should not be limited to a voluntary disclosures regime. Voluntary arrangements are unlikely to achieve the required and timely level of impact, and so may perpetuate uncertainty in the market. Voluntary disclosure provides the potential for swift and low cost implementation and therefore early benefits realization, but our experience is parties won't disclose when they don't have the incentive to do so, or their incentives are to withhold information. This is why we recommend a regulated approach.

The specific information we would like to see disclosed as soon as possible is gas supply and demand outages (planned and unplanned). We are also interested in seeing information on contracted volumes, though we appreciate the complexities involved in these non-standard contracts.

We support a principles based approach provided this is achieved in a timely manner.

Experience from the electricity sector

Information disclosure rules were introduced to the electricity market in 2013, and we have been working to refine them since¹. The Authority embraced a principles based approach when designing these rules. We recommend a similar and aligned approach is taken in the gas markets, because parties understand it, comply with it, have found it effective in reducing asymmetry. We note that key to success with this approach is to achieve genuine agreement from all parties on the chosen principles.

We appreciate a test of material impact on prices is hard to apply in practice. We would encourage the obligation of deciding this to remain with participants, as they are best placed to understand how their information evolves over time. Publishing more rather than less is better.

We note an important feature is consistency of data between obligated participants, to enable other participants to understand and compare it. The data should also be publically accessible (not on a membership basis or behind a paywall). The approach we use, and which we recommend, is to set out principles in the rules (Code) and supplement these with guidelines², which offer a more practical interpretation of what information should be disclosed and how.

We note that we are evolving our arrangements through experience, particularly in terms of exclusions, where we are examining whether the current exclusions are appropriate and if they should be narrowed. There is a risk that participants begin to rely on exclusions as the norm to avoid disclosure. Our experience therefore suggests you should minimise the number of exclusions in the disclosure rules, and only include them where absolutely necessary. We are also currently considering what we can learn, including whether changes may be required, from events such as the Spring 2018 Pohokura outage.

¹ Clauses 13.2 and 13.2A of the Code <https://www.ea.govt.nz/code-and-compliance/the-code/>

² <https://www.ea.govt.nz/dmsdocument/15138-clause-13-2-disclosure-guidelines>

Increased participation of financial players in the electricity market has demanded increased rigour around the disclosure rules, supporting the good functioning of the physical and financial components of our markets. Their presence has in turn helped grow the liquidity in the electricity forward markets. We expect increased participation by financial players in the gas market would require a similar step change improvement in disclosure.

Challenging status quo views and reaching consensus

During the workshop some parties expressed reluctance to publish any information, questioning the value of information disclosure. The reasons they gave against publishing information included commercial disadvantage, damage to international competitiveness, risk of misinterpretation and the presence of confidentiality agreements. We encourage the GIC to challenge these long held beliefs of participants. We echo a workshop participant in advocating that the position to start from is 'disclose everything unless...', rather than 'disclose nothing unless...'.

We do agree not all information should be disclosed, and caution is warranted in defining the details of what should be included. In particular, information related to parties' innovation activities such as early stage discussions of commercial terms would potentially hinder that innovation, and may cause market inefficiencies if disclosed. There is also a balance to be struck in how frequently outage information should be disclosed – too frequent updates can lead to an overload of information for participants to make sense of, which can also be unhelpful.

Any regime is only as effective as its associated compliance regime. We encourage the GIC to consider how it will approach compliance simultaneously with designing the policy. This should include considering the impact of compliance costs on different types of participants. There is a balance to be struck between promoting effective compliance and minimising compliance costs.

Next steps

There is a broad range of information that could be addressed. We would encourage the GIC to identify any possibility for quick wins. At the workshop there appeared to be general agreement that gas outage information could be made more readily available, which in our view would have a positive effect on the electricity market. We suggest the GIC could work with parties holding this information to improve disclosure on a voluntary basis in the short-term, and tackle information types where there is less agreement subsequently.

Thank you for taking the time to consider our submission and we would welcome the chance to discuss this further if useful to you. We are keen to work closely with the GIC as it develops its approach to this topic and help further where we can.

Yours faithfully,



James Stevenson-Wallace
Chief Executive, Electricity Authority

Appendix A Answers to select consultation questions

Question	Response
Q10. Have the potential information problems in the wholesale gas market been identified appropriately? Have we missed aspects of the problem or are there parts of the identified problem that we have not described correctly? Please provide details and any examples in your response.	<p>We recognise the information problems identified in table 6.</p> <p>We suggest prioritizing planned and unplanned outage information related to production and major gas user facilities.</p>
Q12. Has the proposed problem statement been characterised appropriately? Have we missed aspects of the problem or are there parts of the identified problem that we have not described correctly? Please include details and any examples in your response.	<p>We recognise the problems described in table 7 – the problems appear to correspond to the information gaps we observe in the market.</p> <p>We recognise the objectives of efficiency, competition, availability of risk management approaches and stimulation of investment as useful outcomes.</p>
Q16. Given the advantages and disadvantages, do you consider that that voluntary disclosure option is a viable option? Please provide the reasoning behind your answer, including details and any examples.	<p>Voluntary disclosure provides the potential for swift and low cost implementation and therefore early benefits realization, but we recognise the significant drawbacks of this approach.</p> <p>Under a voluntary approach, our experience is parties won't disclose when they don't have the incentive to do so, or their incentives are to withhold information. This is why we recommend a regulated approach.</p>
Q20. If a principles-based information disclosure option is adopted do you think there should be exclusions on information that is disclosed? If so, what types of exclusion should be considered and why? If confidentiality is a concern, please explain why this is the case, including any details and examples.	<p>We favour this approach because it would align with the approach in the electricity market which has proved effective in general.</p> <p>We recognise the need for exclusions. They are necessary for example to allow the development of intellectual property. However, exclusions where the threshold is too low can inappropriately undermine the effectiveness of the regime. We recommend minimising exclusions.</p> <p>In the electricity market parties have proposed removing the 'confidentiality' exclusion as they consider it has prevented disclosure of information that has had a</p>

Question	Response
	material impact on the electricity market.
Q21. Has the specific information disclosure option been identified appropriately? Are there alternative versions of the option that are worthy of consideration? Please provide reasons in your response.	<p>We agree this option has been identified appropriately.</p> <p>We don't favour a prescriptive approach due to this risk of inevitable loopholes being exploited and the need for constant updating.</p> <p>The advantage of this approach over a voluntary solution is this would promote consistency.</p>
Q25. Do you think that principles-based information disclosure based on industry-led arrangements is a viable option? Please provide the reasoning behind your answer.	<p>An industry led, principles based disclosure regime is potentially viable but has a number of drawbacks: uncertain around how long it would take to implement, uncertainty around whether the information that is disclosed is adequate, uncertainty around whether it could be enforced.</p> <p>Our experience is that an industry led implementation approach may not achieve the objectives, making regulation necessary. A principles based approach is likely to be most effective implemented with regulatory disclosure.</p>
Q26. Do you agree with the proposed coverage for disclosure obligations? What issues do you see with the proposed coverage?	The suggested coverage seems appropriate.
Q28. Should there be a minimum threshold? If so, what should it be and what should it be based on (e.g. nameplate capacity, X GJ/day)? Should the minimum threshold be the same for all types of market participants or should it vary between market segments? Please provide details.	A threshold may be appropriate for smaller players given the compliance costs involved in disclosure.
Q39. Should lagged emsTradePoint traded volumes and prices be disclosed under an information disclosure regime? Please provide reasons in your response.	Basic information about prices and volumes should be freely available in as close to real time as possible, and we question the necessity for any lagging.
Q42. Should there be publication of weighted average wholesale prices & aggregate traded volumes that cover the entire gas wholesale sector (with data sources including price and volume information covered under bilateral agreements and other arrangements)?	We suggest prioritising publication of volume information. Price information is relevant but we understand the nature of the gas product can be quite different between contracts, limiting how valuable this information is

Question	Response
	<p>without any contextualizing information.</p> <p>In the electricity market, bids and offers are published with one day lag. For forward market prices, ASX settlement prices are published daily. Over-the-counter trades and details of ASX trades are also disclosed on the Hedge Disclosure website, where counterparties must report trades with varying lag and threshold requirements. We suggest this varying lag component is unhelpful as it makes it difficult to get a complete picture of trades. There is no requirement to publish trades on the Hedge Disclosure website that span more than 10 years.</p>
<p>Q46. Should a twelve-month outlook for gas production information ('gas production information') be disclosed under an information disclosure regime? Please provide reasons in your response.</p> <p>Q50. Should a twelve-month outlook for major users' gas consumption information ('gas consumption information') be disclosed under an information disclosure regime? Please provide reasons in your response.</p>	<p>In general terms, information on expected future production and consumption would be helpful in promoting the efficiency of the market. Consumption information is important because in the NZ market it is possible for a few specific users to easily have a substantial impact on supply/availability and therefore price.</p>
<p>Q54. Have any publication channels been left out of the identified channel list? Are there channels in the list that should be excluded? Please provide details in your response.</p>	<p>A common gas and electricity option seems to have potential merit and we would be supportive of an approach that makes use of POCP. It should be noted there are improvements identified for POCP, such as ensuring historic publications remain available for sufficient time.</p> <p>A fifth potential option not listed is publication on individual companies' websites.</p>
<p>Q56. Have you got any comments on the benefits analysis?</p>	<p>We support the approach of assessing potential quantified benefits before deciding to proceed on a detailed proposal.</p> <p>To the extent it's possible to quantify the benefits associated with this proposal, the approach taken looks reasonable. We do note that the accuracy of such methods has been subject to criticism.</p>