

Appendix A Recommended format for submissions

To assist Gas Industry Co in the orderly and efficient consideration of stakeholders' responses, a suggested format for submissions has been prepared. This is drawn from the questions posed in the body of this Consultation Paper. Submitters are also free to include other material on the exemption applications in their responses.

Submission from: Vector Gas Limited; Bob Sheppard, Commercial Adviser – Gas Transportation; 803 9013

Question	Comment
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<p>Q1: Do submitters have any comments on the exemption DR09-09-S proposed by Vector regarding the requirements of rule 41 and 42 (and as a consequence rules 31 and 48)?</p>	<p>Vector agrees with the preliminary views of the GIC reached in the <i>Consultation Paper</i> – ie:</p> <p>Rule 41 – “that there is sufficient reason for continuing the relaxed initial allocation submission and reporting deadlines currently allowed via exemption.” (Page 5). This conclusion is also consistent with the proposal by the GIC to amend this rule as it has no “adverse or material effect on the allocation process” (<i>Statement of Proposal - Minor Amendments to the Gas (Downstream Reconciliation) Rules 2008</i>), Issued 2 June 2009, page 11); and</p> <p>Rule 42 – “that the continuation of the urgent exemption is appropriate.” (Page 6).</p> <p>Vector also notes that the conditions of the urgent exemption issued on 30 April 2009 (Urgent Exemption DR09-09-S: Injection Information) do not contain the condition proposed in the GIC report on exemptions granted in respect of rules 41 and 42 (23 April 2009, Part 7, page 12)) that “TSOs make all reasonable endeavours to be in a position to comply with rule 42 in respect of all gas gates with telemetry on non-business days by 30 September 2010”. Vector agrees with the approach of the GIC that effectively continuing the urgent exemption without such a condition is appropriate. The GIC has correctly acknowledged, in its consultation paper, the views of Vector in opposing that prospective condition on both the basis of waiver of its future right and possible predetermination. As the Gas (Downstream Reconciliation) Rules 2008 permit, and will continue to permit, industry participants to apply for exemptions from full compliance with the rules, a condition in an approval cannot purport to limit that right. Further, as a public body with statutory functions, the GIC must be in a position to be able to retain an open mind and assess each application on its merits according to the applicable criteria (rule 2 of the Rules; section 43ZN of the Gas Act; and the Government’s Policy Statement on Gas Governance April 2008). This is the view of the High Court in the leading authority <i>CREEDNZ v Governor-General</i> [1982] 2NZLR 172 at 194; recently cited by Wild J in <i>New Era Energy Inc v. Electricity Commission and Another</i> Unreported High Court Wellington CIV 2007-405 – 2774 (9 May 2009) at [73]</p>
<p>Q2: Do submitters have any comments on the exemption application DR09-10-T from Vector regarding the oversized meters at the following gas gates: Flockhouse FLH21901, Te Teko TTK30601 and Rainbow Mountain RBM03101?</p>	<p>No comments</p>

Question	Comment
<p>Q3: Do submitters have any comments on the exemption application DR09-11-S from Vector regarding the 9 nominated unmetered gas gates?</p>	<p>Vector agrees with the initial view of the GIC “that there looks to be a good case for extending the existing exemption, probably to 30 September 2010 to line up with other exemptions.” However, Vector would be concerned if the continued exemption required a reduction to 7 unmetered gas gates instead of the current 9 which have been exempt since September 2008. Vector accepts that the initial view of the GIC is without prejudice to whatever might come out of the consultation process; however we note that the additional information relating to metered gas gates has not come <i>out of</i> the formal consultation process. While Vector has fully covered the reasons for continuing the exemption for all 9 gas gates in its report dated 31 March 2009 and application on 5 June 2009, it is worth briefly revisiting the reasons supporting the exemption in September 2008 that “gas quantities at unmetered gas gates are unable to be measured.” This is due to a number of factors such as both cost and engineering considerations at each site, and assessment of the long term benefit for capital expenditure (particularly when there is a small number of customers downstream). Those considerations are still relevant for continuation of the exemption for all 9 unmetered gas gates as opposed to just 7. Given these considerations and the fact that Shipper consumption information has proven to be acceptable for the purpose of allocations, possible reduction of the exemption to 7 gas gates based on a comparison of average injection quantities (at some metered gas gates) with Papakura No3 and Waverley does not appear to be relevant for the purpose of “fairer, more efficient and more reliable allocations.” (rule 2 - Purpose). Nor would the objective in s 43N of the Gas Act of maintaining or enhancing the incentive for investment in transmission be supported by that comparison. Even though the GIC has a discretion to apply the assessment criteria noted in the GICs March 2009 <i>Information Paper Dealing with Exemptions under the Downstream Reconciliation and Switching Rules</i> according to the particular application, it must only consider relevant matters (see <i>Judith Kirk v. The Electoral Commission</i> (unreported High Court Wellington, CIV 485 805, 9 June 2008, at [19])). While the relevance of the comparison with metered gas gates is debateable, the fact that the application is effectively an extension of the original exemption is, in our view, relevant. Accordingly, the original reasons (as indicated above) supporting the granting of the initial exemption should be the main focus in assessing the application for effectively an extension of the current exemption.</p> <p>Finally, whether or not comparison with average injection quantities at some metered gas gates and that the application is effectively for an extension of the current exemption are relevant considerations, Vector has a reasonable expectation that the GIC will act consistently in dealing with the current application and the original exemption.</p>

