



10 March 2009

Bas Walker  
Gas Industry Co. Limited  
Level 8, Todd Building  
95 Customhouse Quay  
WELLINGTON

First Floor  
Genesis Energy Building  
Cnr Woodward St & The  
Terrace  
PO Box 10568  
The Terrace  
Wellington 6143  
New Zealand

Genesis Power Limited  
trading as Genesis Energy

Telephone: 04 495 6350

Fax: 04 495 6363

by email: [submissions@gasindustry.co.nz](mailto:submissions@gasindustry.co.nz)

Dear Bas

## Switching Exemption Application SW08-11-T

---

Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide a submission to the Gas Industry Company on its consultation paper regarding exemption application SW08-11-T made by Nova Gas Ltd.

Appendix A provides Genesis Energy's responses to the consultation questions.

If you would like to discuss any of these matters further, please contact Ross Parry on 04 495 3348.

Yours sincerely

A handwritten signature in black ink, appearing to read "John A Carnegie".

John A Carnegie  
Regulatory Affairs Manager  
Genesis Energy

## Appendix A: Responses to Consultation Questions

QUESTION	COMMENT
<p>Q1: Do you agree or disagree that the consumer installations connected to Nova Gas' bypass networks should be included in the gas registry and subject to the Rules?</p>	<p>Agree.</p> <p>Exempting an entire market segment from compliance with the rules is a significant policy decision requiring a high standard of justification. The appropriate time for seeking such a dispensation would have been during the policy formation process.</p> <p>The onus is on Nova to prove that an exemption wouldn't be detrimental to the public good. Nova doesn't seem to have established that this is the case.</p> <p>Genesis Energy expects that compliance by Nova would improve consumer outcomes by:</p> <ul style="list-style-type: none"> <li>• improving gas market information and transparency;</li> <li>• enabling other market arrangements to function fully (for example, curtailment under the critical contingency regulations); and</li> <li>• improving customer switching.</li> </ul> <p>If ICP data for bypass-connected consumers is not available then the switch process will be more error-prone and retailers will need to obtain information manually.</p> <p>The status quo (Nova complies with the rules) appears to provide the best consumer outcomes.</p> <p>Genesis Energy is unconvinced by Nova's argument that it is efficient to</p>

QUESTION	COMMENT
	encourage duplication of natural monopoly infrastructure.
<p>Q2: Do you agree or disagree that a transitional exemption should be granted as sought?</p>	<p>Disagree.</p> <p>As per Q1, Genesis Energy does not believe Nova has established an argument that justifies exemption.</p> <p>The alternative approach proposed by Nova would shift costs to other retailers, make customer switching more difficult, reduce transparency, and would degrade the value of the registry as a comprehensive database of record for the reticulated gas sector.</p> <p>Nova's non-compliance with the rules (i.e. not populating the registry) can be dealt with via the breach process.</p>
<p>Q3: Do you agree or disagree with Nova's proposition that a transitional exemption should be granted mainly as a holding action until the issues in relation to bypass networks under both the Rules and the Gas (Downstream Reconciliation) Rules 2008 can be properly addressed?</p> <p>(The alternative is to address the underlying issues in the present application on their merits immediately, and deal separately with the downstream reconciliation issues at a later time.)</p>	<p>Disagree.</p> <p>Given the rules have now been made, the onus is on Nova to show that its compliance with the rules would clearly be against the public interest.</p> <p>Genesis Energy does not believe that Nova's arguments regarding the definition of 'distributor' have any merit. As such, compliance with the switching rules and compliance with the reconciliation rules are separate matters that can be handled independently.</p>

QUESTION	COMMENT
<p>Q4: If a transitional exemption is granted – and given the desirability as suggested by Nova Gas, of considering at the one time, the substantive issues in regard to the coverage of bypass networks by both the Rules and the Gas (Downstream Reconciliation) Rules 2008 – is there any merit in the exemption expiring other than on the same date (30 June 2009) as the existing downstream reconciliation exemption?</p>	<p>No.</p>
<p>Q5: Given the additional information set out above, do you consider that there would be any adverse impact on other registry participants if the exemption as sought was granted?</p> <p>In particular would the ability of a move to occur from a customer installation on a bypass network to a new/recommissioned consumer installation on an open access network be impaired?</p>	<p>Yes.</p> <p>Switching a customer away from a Nova network would require additional effort to ensure that accurate data is used.</p> <p>Customers of registry participants would also ultimately pay a larger share of the registry establishment and operation fees, while Nova’s customers would avoid industry-wide common costs.</p> <p>GIC, as a registry participant, would have less market data available to inform its policy and monitoring work.</p> <p>Granting an exemption for rule 41 would affect the application of other rules. For example, rule 36 requires retailers to print ICP identifiers on customer documentation. Nova’s customers would presumably have both the ‘deemed’ registry ICP and Nova’s internal (non-registry) ICP identifier on their invoices, which could lead to confusion.</p>

QUESTION	COMMENT
<p>Q6: The possibility of adverse impacts on the ability to move to or from a bypass network under the Rules notwithstanding, do you have any information available which would indicate that these occurrences would be likely during the proposed term of the exemption?</p>	<p>Gas retail is a competitive market with frequent switching activity.</p>
<p>Q7: The ability to make a switch aside, are there any wider reasons for not granting the exemption and ensuring that data for all Nova Gas' bypass ICPs is entered into the registry?</p>	<p>Refer Q1, Q2, Q5, and Q6.</p>
<p>Q8: Do you think the condition suggested by Nova Gas, i.e. that all of the ICPs on each bypass network should be represented by a single notional ICP, is practicable or acceptable?</p>	<p>No.</p>
<p>Q9: Do you consider that the nature of the exemption proposed by Nova Gas is such that Gas Industry Co has the jurisdiction to grant a transitional exemption under rule 90?</p>	<p>Genesis Energy doesn't have a view on GIC's jurisdiction.</p> <p>However, the exemption that Nova is seeking would be an extreme case. As such, granting the exemption demands a high standard of justification.</p>
<p>Q10: Do you have any views on the contention by Nova Gas that, in respect of its bypass networks, Nova Gas is not a 'distributor' under the Gas Act 1992 and the Rules?</p>	<p>Genesis Energy cannot see any merit in this argument.</p>