



GREYMOUTH GAS

3 September 2012

Ian Dempster
General Manager Operations
Gas Industry Company Limited
PO Box 10 646
Wellington 6143

Dear Ian,

RE: Statement of Proposal: Downstream Reconciliation Rules Review

Greymouth Gas New Zealand Limited ("Greymouth Gas") is pleased to make a submission on the Statement of Proposal: Downstream Reconciliation Rules Review ("SOP") following an invitation from the Gas Industry Company Limited ("GIC") on 26 July 2012.

Greymouth Gas' submission on the SOP follows the questions posed in the SOP, followed by an analysis of the proposed amendments to the Gas (Downstream Reconciliation) Rules 2008 (the "Rules" or "proposed Rules" as the case may be) should such analysis not be canvassed in answers to the SOP questions.

Questions in SOP

- 1) *Do you agree that commercial arrangements provide sufficient obligations on meter owners for the purpose of the Rules? With regard to the suggestion by the DRAG, do you consider there is an identifiable market failure that merits Gas Industry Co developing a work-stream on the creation of guidelines and/or principles for metering contracts?*

In our submission to the Downstream Reconciliation – Options Paper (the "options paper"), Greymouth Gas put forth that some sort of changes to the Rules should be made to provide more regulatory structure with regard to the metering industry.

Greymouth Gas maintains this position, not because there is a clearly identifiable material market failure¹, nor because we disagree that commercial arrangements provide sufficient obligations on meter owners², but because:

¹ of which there may or may not be, although anecdotal evidence seems to suggest that there is a small market failure, as outlined in our submission to the options paper

² Greymouth Gas agrees that commercial arrangements between retailers and meter owners have the potential to be more competitive than similar arrangements on monopoly distribution or transmission systems, however, as an aside, we note that to switch a meter owner requires physically switching the asset which is an allocative cost for NZ Inc, resulting in little or negative productive economic efficiency on the same

- Gas metering industry technology is, by nature, a difficult technology³ and appropriate incentives should be in place to incentivise technological advancement, and
- Meter owners should be treated the same as retailers or TSOs under the Rules from a principle perspective.

Greymouth Gas notes that 50% of the Downstream Reconciliation Advisory Group's ("DRAG") members represent organisations that are meter owners⁴. DRAG's suggestion not to proceed with further meter owner obligations under the Rules could reasonably have been foreseen.

It is therefore up to the GIC whether GIC wants to make a difference in terms of incentivising gas metering technological advancement and creating fair regulations for all parties, or not.

Greymouth Gas purports that the sensible option for GIC is that some sort of changes to the Rules should be made to provide more regulatory structure with regard to the metering industry. In the options paper, Greymouth Gas suggested the following changes:

- Audit of meter owner performance, and
- Alleging a breach against a meter owner whenever an alleged breach is raised against a retailer under the current rules 31.1, 32.1 and 33.1 of the Rules.

Greymouth Gas requests the GIC to reflect on the points made above and make further changes here.

- 2) *Given that the review will cover all of the long-standing exemptions do you agree that the exemptions process should be retained?*

Yes.

- 3) *Do you agree with the proposal to codify a rule for direct connect gas gates? Do you agree with the creation of a new rule enabling Gas Industry Co and the allocation agent to access direct connect injection data as requested?*

Yes.

However, the drafting in the proposed Rules is unnecessarily complex. Greymouth Gas recommends the following changes:

- Rule 5.2 – direct connect gas gates' definition
 - Remove the reference to rule 25A and wholly define what a direct connect gas gate is within the definition
 - The definition could be something like 'are those gas gates where the gas quantity delivered at the gas gate is attributable to a single consumer installation for the whole of the relevant month'

³ as outlined in our submission to the options paper

⁴ in addition to such organisations also having other roles

- Rules 25A.1 and 25A.3
 - Delete

It is very clear at the moment based on publically available information which gas gates are direct connect gas gates and so it is unnecessary and inefficient for the GIC (or any party) to become involved in formally determining the same under the Rules.

- 4) *Do you agree with the proposed rule for G1M gas gates? Do you agree with establishing the deterministic criteria for G1M gas gates in an industry determination?*

Greymouth Gas responds to this question in four parts.

Part 1: Evidence

Greymouth Gas thanks the GIC for providing a more evidential base that the global method does not produce acceptable allocation results at gas gates with a high proportion of TOU load (the "G1M problem") in the SOP, as we alluded to in our submission to the options paper. The G1M problem canvassed by this question does appear to be evident.

However, the paper seeks to propose a solution to the G1M problem using the foundation assumption that TOU data must be inaccurate⁵ if large swings are worn by other allocation groups in G1M problem gas gates. There is no evidence that this is the root-cause of the problem.

There are valid reasons why TOU data itself may not be the root-cause of the problem, even though the G1M problem is evident, such reasons including, but not limited to, the following:

- TOU data is accurately measured at time of use, and
- Super-compressibility calculations and conversion to GJ follow prescribed industry practice, and
- Retailers with TOU loads are subject to audits from time to time, and
- There is no reason to suspect TOU data at a G1M problem gas gate is any more or less accurate than TOU data at a non-G1M problem gas gate.

Greymouth Gas calls for concrete evidence to investigate root cause.

Such evidence should include gas gate event audits for potential G1M problem gas gates to determine which of the following two situations apply:

- a) TOU data, mass market data and gas gate data appear reasonable and it is only the range of prescribed industry super-compressibility or GJ conversion practises that expose mass market data to significant MUFG swings, or

⁵ either of itself or relative to the impact on non-TOU data

- b) There is another reason contributing to the G1M problem, which could include a problem with the gas gate data itself, poor understanding or reconciliation of UFG factors in a city network, or gas leaks.

The proposed rule to solve G1M problems should not proceed unless a) above is the case for the relevant gas gates. Otherwise, industry is making a policy assumption about root-cause without evidence.

Part 2: G1M problem and Solution Options

Greymouth Gas therefore supports the solution for the G1M problem if the following test is true for each gas gate:

- A set level of TOU load applies (Greymouth Gas suggests that the bar set at 90%⁶), and
- A set level of MUFG variability applies (Greymouth Gas suggests that the bar is set at 10%⁷), and
- GIC can categorically rule out other UFG issues from contributing to the MUFG variability⁸.

Greymouth Gas understands that the first two tests above are as proposed by the GIC in the SOP. However, the addition of the third test does create an amended or a new reasonably practicable option which GIC must explore under section 43N of the Gas Act 1992 (the “gas act”).

If GIC has cost-benefit concerns, then the worst G1M problem gas gates, based on current evidence, should be tested⁹ to categorically rule out other UFG issues from contributing to the MUFG variability (and rolling out the findings and assumptions from these event audits across all G1M problem gas gates). This is therefore a further reasonably practicable option worthy of exploration under section 43N of the gas act.

Failure to analyse or consider the above options will mean any G1M solution cannot be adopted by the SOP for amendment to the Rules.

Part 3: Proposed Amendment to the Rules

Further to our submission to the Statement of Proposal – Amendments to the Gas Governance (Compliance) Regulations 2008 (the “compliance submission”), Greymouth Gas is of the view that GIC must wholly include policy criteria in regulations made under the gas act, notwithstanding that GIC can provide for parties to carry out functions in relation to those regulations outside of those regulations.

This view is supported by:

⁶ based on the analysis of page 18 of the SOP and having regard for administrative burden of GIC and retailers

⁷ in line with the inference on page 20 of the SOP, although this needs to be analysed further to determine the optimal level

⁸ see a) and b) above

⁹ by event audit

- All relevant comments from our compliance submission which are hereby incorporated in this submission to the SOP, and
- Section 1A(b) of the gas act which sets a purpose of gas act as being '*to provide for the regulation of the gas industry in New Zealand*', i.e. any regulations made must fall under the umbrella of the processes and intention of the gas act and any such regulations cannot subvert the gas act and delegate further authority to a party than is set forth in the gas act, and
- Section 43S of the gas act which sets supplementary empowering provisions for regulations which does provide for systems, processes, procedures and the carrying out of functions, but does not provide for a party to amend a policy or rule within a rule or regulation as part of the same unless done so in accordance with the gas act, e.g. a review of the rules or regulations much akin to the SOP, or as part of an exemption to a rule following an exemption process set forth in those rules or regulations.

Accordingly, if the GIC proposes to direct a party to determine which gas gates are G1M gas gates, then the policy settings in the proposed Rules must be wholly and completely contained within the proposed Rules such that that party cannot subvert the intent of the gas act.

What should happen is that the G1M criteria should be specified in the SOP and in the proposed Rules. This provides for regulatory and market certainty in addition to upholding the intent of the gas act.

Accordingly, Greymouth Gas suggests the following changes to the proposed Rules:

- Rule 25C.2
 - Delete
- Rule 25C.4
 - Delete and replace with the wording 'An allocated gas gate is deemed to meet the G1M criteria only if all of the following conditions are true.'
- Rule 25C.4.1
 - Amend so as to set the bar at which percentage of TOU load dominance is required – Greymouth Gas' suggestion is detailed in Part 2 above
- Rule 25C.4.2
 - Amend so as to set the bar at which percentage of MUFG variability is required – Greymouth Gas' suggestion is detailed in Part 2 above
- Rule 25C.4.3
 - Delete and replace with a clause along the lines of 'GIC can reasonably rule out other UFG factors from materially contributing to the MUFG variability which, if requested by an allocation participant, must include an event audit'
- Rule 25C.4.4
 - Delete
 - It is inappropriate for the GIC to consider the currently proposed rule 25C.4.4 which allows it carte-blanche freedom to determine G1M criteria as it sees fit.

- Rule 25C.5
 - Delete

The purpose of the Rules includes establishing a set of uniform processes, so it must necessarily follow that all G1M definitions and criteria are clearly defined in the proposed Rules.

Failure to do so would be inconsistent with the purpose of the Rules, with the delegated authority provisions in the gas act and with the wider intent of the gas act.

The proposed changes above would also simplify the proposed Rules, while retaining value and ensuring gas act compliance.

Part 4: Policy Settings

As an aside, further to page 24 of the SOP, Greymouth Gas agrees with the GIC's statement that this SOP does not consider the underlying policy settings of the Rules. However, statements in the SOP along the lines of applying G1M methodology to all gas gates as reflecting a truly global method compared to the current arrangement is lacking in policy logic because:

- ICPs with TOU devices are required to have actual meter reads pertaining to each day, whereas ICPs with no TOU devices do not have any actual meter reads pertaining to each day; therefore UFG is derived from estimates, splits and profiles, of which ICPs with TOU devices do not contribute towards in business-as-usual scenarios, and
- Investment in TOU devices should be encouraged and incentivised and the market should be able to obtain the benefit of such investment, and
- The globe is a varied place, and having different components of a global methodology does not make that methodology any more or less global¹⁰.

5) *Do you agree with the proposed rule change for unmetered and oversized metered gas gates?*

Yes.

However, like for direct connect gas gates and the G1M problem proposed amendments, the drafting in the proposed Rules does not adequately grasp the role of the gas act as it applies to the Rules. Greymouth Gas recommends the following changes:

- Rule 5.2 – oversized metered gas gates' definition
 - Delete the second half of the definition, i.e. the wording after the comma (because as it stands proposed, the definition partly sits within rule 5.2 and partly within rule 25B).

¹⁰ as global pertains to total coverage

- Rule 25B.2
 - Change the last word from 'matters' to 'criteria'
- Rule 25B.2.1
 - Delete and replace with the definition of oversized metered gas gates, which could incorporate the second half of the proposed definition in rule 5.2 perhaps further qualified with some regulatory protection that such an oversized metered gas gate must be the only reasonably practicable option available for the gas gate.
- Rule 25B.2.2
 - Delete and replace with the definition of unmetered gas gates, which is self explanatory but could incorporate further regulatory protection per the previous point.
- Rules 25B.2.3 through 25B.2.5
 - Delete

The purpose of the Rules includes establishing a set of uniform processes, so it must necessarily follow that all G1M definitions and criteria are clearly defined in the proposed Rules.

Failure to do so would be inconsistent with the purpose of the Rules, with the delegated authority provisions in the gas act and with the wider intent of the gas act.

The proposed changes above would also simplify the proposed Rules, while retaining value and ensuring gas act compliance.

6) *Do you have any comments on Gas Industry Co.'s recommendation not to change the method of apportioning the on-going fees?*

No.

7) *Do you agree with the proposed rule enabling the correction, where necessary, of an AUFG factor if it is found to be incorrect?*

Yes.

8) *Do you agree with the proposal for dealing with estimated daily energy quantities?*

While in the options paper Greymouth Gas preferred option one, Contact Energy Limited's proposed amendment to option four has clear benefits and Greymouth Gas agrees with the proposed changes.

However, the proposed rule 30.3 has some issues which Greymouth Gas considers is worth exploring further, i.e.:

- Is 'register reading' an adequate description?, and

- How does rule 30.3 interplay with rules 26.5.1 and 26.5.2? In other words, if a daily metered energy quantity can be taken from that day's register reading, but it is reasonably thought to be inaccurate or not representative of the actual gas used what happens next? Prima facie there is no scope for the retailer to estimate the data (as this only applies when no data is able to be taken from the register reading), therefore the daily metered energy quantity must be used and taken at face value. This is a backwards step as the Rules currently provide for the capture of actual data which may be from a register reading but may also be from a technical correction that is not an estimate.
- Further to the answer in question 1) in this submission, herein lies a further example of where meter owner responsibilities could be improved upon within the Rules. For example, Greymouth Gas understands that some meter owners or their agents are reluctant to amend or correct daily metered energy quantities in the case where there is a potential discrepancy in the data. It could therefore be regulated for that meter owners are obliged to correct register readings in accordance with generally accepted practice in these circumstances. This could also obviate the need to address the previous point.

9) *Do you agree with the proposal to amend the rules relating to trading notifications?*

Based on the graph on page 46 of the SOP and status quo, the benefits in the cost-benefit analysis on page 45 of the SOP appear to be overstated.

Greymouth Gas therefore considers that the other reasonably practicable option identified in the SOP should be implemented.

Greymouth Gas considers the amendments to rule 39 in the proposed Rules are an improvement on the same in the Rules. However, we have the following comments:

- Rule 39.1.1
 - Does the 'at which it has not previously supplied gas' pertain to the consumer installation or to the allocated gas gate?
 - Notwithstanding the above, if a retailer has previously supplied gas to a consumer installation, stopped supply, and recommenced supply then no notice would be required to be given, yet it seems that the allocation agent would need to know.
 - Wording more akin to rule 39.1.2 could be adopted
- Rule 39.2.2(a) and (b)
 - These situations should be qualified as pertaining to 'under a supplementary agreement to a transmission services agreement', otherwise if a supplementary agreement is granted mid-way through a term of supply, then the information to be currently provided would not represent when the supplementary agreement started or stopped.

10) *Do you agree that a rule should be created enabling performance audits to cover the accuracy of data population in the registry? Do you think that audits should be limited to certain fields relevant to reconciliation or would you prefer broader audit arrangements contained within the Switching Rules?*

Of the two suggestions made by DRAG, Greymouth Gas would prefer option two, i.e. making changes to the Gas (Switching Arrangements) Rules 2008. In light of the fact that these rules already set out clear requirements and standards relating to the gas registry, this is the most logical option.

11) Do you agree that rule 75 should be amended to allow the auditor more discretion in determining who should be responsible for paying the costs of an event audit?

Yes.

12) Do you agree that a rule should be created to require audits of major system changes? If so, do you agree that a post go-live audit should also be required? Do you think the definition of "major" should be specified in the Rules or in an industry guideline?

No.

This proposed amendment crosses a fine line, i.e. how far should regulations go in managing operations of a business? Greymouth Gas is of the view that, while it is sensible for a business to request an audit to check new system changes, this is ultimately a business risk and should be an optional decision for the business to make or not make as the case may be.

Furthermore, the Rules should already provide adequate default policy settings to ensure that parties are incentivised to comply with the Rules at all times, notwithstanding major system changes, e.g. performance audits and the general provisions of the Rules themselves.

As an aside, any definitions pertaining to the Rules should be included within the Rules not in guideline notes.

Greymouth Gas recommends that proposed rules 65.2.3 and 65.4 through 65.6 are deleted.

13) Do you agree that rule 42 is redundant and should be deleted from the Rules? Will your organisation be adversely affected by its removal? Should the obligations in rule 28.4 be extended to transmission system owners?

No, maybe and yes, respectively.

Rule 42 of the Rules must be retained in some form¹¹.

Greymouth Gas agrees that there is no problem at the moment and, prima facie, rule 42 of the Rules does appear to be redundant.

However, Greymouth Gas encourages the GIC to take an holistic view of this rule and to consider what might happen if/when Oatis reaches the end of its useful life. The key issue is for how much longer will Oatis meet the needs of the industry?

This is a backstop rule. Just because the rule is being complied with does not obviate the need for the rule.

¹¹ and in principle Greymouth Gas supports an amendment if GIC determines this is necessary

If Oatis was unavailable for a period of time, then it would be absolutely essential to industry to rely on rule 42 of the Rules in order to receive timely data to meet contractual balancing obligations.

14) Do you support the proposal to allow allocation participants access to the GAR170 report? If not, would you support disclosure of submission information consistent with the Sup/Sub report?

No.

This appears to traverse ground which may better be traversed during the second statement of proposal due in 2013.

15) Do you agree with the minor and technical amendments proposed in this section? Do you agree that the proposals meet the criteria in section 43N(3) of the Gas Act?

Yes.

However, the drafting in the proposed Rules does not go far enough. Greymouth Gas recommends the following changes:

- Clause 5.2 – NZS 5259 definition
 - Qualify any subsequent amendments or replacements to be applicable only if the relevant body (e.g. Standards New Zealand) has allowed reasonable notification to and opportunity for input from industry participants.

This standard underpins the Rules so it is reasonable that industry has rights to ensure participation in any such proposed amendments to those standards. The above suggestion incentivises the GIC to facilitate the same.

Incidentally, contrary to the SOP, Greymouth Gas understands that Standards New Zealand has not reviewed this standard so far in 2012 as no such e-notifications have been received throughout the year to date.

16) Do you have any comments on the transitional issues discussed in this section?

No.

Further Comments on proposed Rules

Greymouth Gas suggests the following changes:

- Clause 15.1.1
 - Add 'or' to the end of the clause otherwise both the gas year and the financial year are separate payment years and there is an argument that ongoing fees are to be calculated and paid for each payment year, thus double counting. The intent seems to be to keep the status quo but to allow for changes in time period.

- Clause 16.3
 - Greymouth Gas is interested to understand GIC's reasoning for changing 'retailer' to 'that person' in the equation of what b equals.
 - While the proposed amendment does work, it is difficult to see how any person to which this rule applied would not be a retailer by definition.

Yours sincerely,



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