

13 October 2006

Paul Mitchell
Senior Adviser – Retail and Distribution
Gas Industry Company
PO Box 10-646
Wellington

Dear Mr Mitchell

Submission on the Proposal for Switching Arrangements for the New Zealand Gas Industry

Thank you for the opportunity to make a submission on the proposed switching arrangements for the New Zealand Gas Industry.

The Ministry of Consumer Affairs supports effective markets where consumers can transact with confidence, in particular, through accurate information flows with suppliers.

Good switching arrangements are an essential component of an effective and competitive market.

The Ministry of Consumer Affairs supports having switching arrangements in place that achieve timely and accurate switching for consumers seeking this outcome, and that are cost effective. We note with concern the estimate that 90% of the total costs attributed to switching currently are likely to be as a result of inefficiencies. These are costs unnecessarily being passed onto consumers.

Specific Comments

Q1 The Ministry of Consumer Affairs would like the regulatory objective to recognise that the switching arrangements in place should be cost effective. Accordingly, we suggest the regulatory objective is 'to achieve timely and accurate switching for consumers seeking this outcome, and that are cost effective.'

General comments on proposed rules:

- We support Rules being put in place for switching.
- We strongly support switching being readily accessible and at no charge to consumers.
- We would like clarity on who will own the registry database facility and information it contains. We also suggest that the Rules reference that any information on the registry database of a personal nature is subject to the

Privacy Act. Alternatively, the Rules should make it clear that the registry database will not contain any information of a personal nature.

- We suggest the Rules refer to the Gas Industry Company not the Co-Regulatory Body.

General Comments on Cost Benefit Analysis

- Ministry of Consumer Affairs is concerned that the cost information presented is very vague. Paragraph 11.72 notes that submitters suggested that data cleansing and migration costs may have been underestimated in previous work, so as a result costs have been doubled. A cost range of \$29,000 to \$375,000 is a meaningless estimate as the range is too wide and somewhat unreal.
- Ministry of Consumer Affairs considers that any new switching arrangements must be able to capture the 90% inefficiency costs estimated from the current approach and these cost savings should be passed back to consumers, who are paying unnecessarily, as noted above.

Specific Comments on Draft Rules

- Ministry of Consumer Affairs is concerned that definitions used in the draft Rules are not the same as in the Act when the Act includes a very similar term. For example, the Act defines 'gas distributor'. The draft Rules instead use 'distributor' and the need for the difference in the language used in describing distributor compared to gas distributor is not at all clear. The Act defines 'distribution system'. The draft Rules define 'gas distribution system' and again the need for the difference in the language used is not at all clear. Ministry of Consumer Affairs is concerned that saying the definitions in the Act apply (4.1) and then using ever so slightly different wording for ever so slightly different terms is going to lead to legal debate unnecessarily if there is dispute regarding the application of the Rules. You also need to be aware that some definitions in the Act may be amended with the passage of the Energy Safety Review Bill, including 'distribution system'.
- The draft Rules definitions include some very small differences to the Act, for example, the draft Rules refer to Queen's Birthday and the Act refers to Sovereign's birthday. Is there a reason for the different approach? If Regulations were to be the preferred form rather than Rules such matters would be addressed by Parliamentary Counsel Office. It is important that different terms and wording are chosen only when there is good reason. For example, 'business' day needs to be defined rather than 'working day' as in the Act because of the need for switching to be facilitated during the period between 25 December and 15 January. Similarly the need for a definition of 'consumer installation' is understood.
- Could the definition of 'published' be considered further. The present definition is vague. There may be occasions when a Gazette Notice should be made, for example, when it is determined a particular day, other than those specified, is also a 'business day'.
- From reading the draft Rules, Ministry of Consumer Affairs understands that there will be only two reasons why a switch may be withdrawn – either error for the switch occurring in the first place, or the consumer exercising a legal

right to withdraw the switch request. The Ministry supports these two reasons for switch withdrawal. We note the text at paragraph 6.11 of the discussion paper is more open suggesting the acquiring or current retailer could request withdrawal of the request notice for one of a specific set of reasons. If other reasons are to be included we would like to be further consulted on these.

- Regarding registry access, Rule 31.1.2 needs to be more specific about who in the Gas Industry Company (Board, CEO, delegated authority?) may authorise who may have view access to the registry. Ministry of Consumer Affairs supports the Electricity and Gas Complaints Commission having access to the registry for the investigation of specific complaints where access to data on the registry may assist investigation of the complaint.

We note a few typing errors as below:

- Draft Rule 26.2 seems to have the wrong cross-reference to Rule 23.1.
- Draft Rule 49.4 states: 'Within one business day of having accepted any the remaining ICP
- Draft Rule 62.1 should say '....for the supply of gas to a relevant ...'
- Draft Rule 66.3 refers to 'Company'. Who is this referring to? This draft Rule is not well written.
- Draft Rule 69.2.2 '...the new of retailer and switch...!'
- The word switch is defined as meaning 'the process by which the retailer ...' however in the provisions, for example, the switch is sometimes referred to as a 'switch process' for example cl 71.1.1 states: 'where there has been an error in the switch process'. For better clarity there needs to be a consistent use of words as using the words switch (defined as the process) and process in one sentence is confusing.
- The word retailer is defined as a person who supplies gas to a consumer at a consumer installation. Clause 71.2.1 refers to retailer as "either the retailer or the new retailer" then in clause 71.2.2 it refers to retailer as "the retailer or the former retailer". The use of the words "the retailer" to mean the old retailer or the new retailer is confusing.
- Currently, draft Rule 38.1 reads 'To facilitate efficient and accurate switching of retailers by consumers; and'. Consumers do not perform the actual switch they request a switch. We suggest the wording be changed to: 'To facilitate efficient and accurate switching of retailers when requested by a consumer.'

Draft Gas (Compliance) Regulations 2006

We question the need for these regulations and would like the opportunity to discuss this matter further. Our concern is that the regulations may result in unnecessary additional costs for industry that will be passed to consumers.

Thank you for the opportunity to forward these comments.

Evelyn Cole
Manager Consumer Policy