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11 February 2008

Gas Industry Company,
Level 9, State Insurance Tower,
1 Willis Street, PO Box 10-646
Wellington

(Attention Ian Dempster, Senior Adviser – Wholesale Markets)

Dear Ian

Gas Outage and Contingency Management Arrangements: Second Consultation Round

I attach MDL's submission on the Gas Industry Company's Supplementary Consultation Paper regarding Gas Outage and Contingency Management Arrangements.

MDL's internal governance procedures have been completed, and MDL has no objection to the attached document being posted on the Gas Industry Company's web-site.

MDL looks forward to working with the Gas Industry Company in this area and we would be pleased to meet with you to discuss our submission in more detail.

If you need any further information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'D. Bott'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Bott
Commercial Operator, Maui Pipeline



**SUBMISSION TO
GAS INDUSTRY COMPANY**

on

**GAS OUTAGE AND CONTINGENCY
MANAGEMENT ARRANGEMENTS**

from

MAUI DEVELOPMENT LIMITED

11 February 2008

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1. EXECUTIVE SUMMARY

- 1.1 Maui Development Limited (**MDL**) welcomes the opportunity to provide comments to the Gas Industry Company (**GIC**) on the Supplementary Consultation Paper on Gas Outage and Contingency Management Arrangements dated December 2007 (**Supplementary Paper**).
- 1.2 The Supplementary Paper covers nine issues of varying relevance to MDL and the Maui Pipeline. These are:
- (a) provisions for avoiding deadlock in the preparation of an Outage and Contingency Management Plan (**OCMP**);
 - (b) whether critical contingency thresholds should be contained in OCMPs or in regulations;
 - (c) application of curtailment to consumers and retailers;
 - (d) determination of contingency imbalances;
 - (e) determination of the critical contingency price;
 - (f) invoicing arrangements;
 - (g) information provision;
 - (h) cost recovery; and
 - (i) compliance.
- 1.3 MDL considers that most of GIC's proposals for addressing these issues are appropriate and improve significantly upon the recommendations contained in GIC's initial Statement of Proposal dated August 2007.
- 1.4 However, MDL considers that there are a few practical issues that need to be resolved. MDL appreciates that, in some cases, this may be achieved after the regulations are passed, in developing OCMPs and related guidelines. MDL looks forward to working with GIC to ensure that the new arrangements work in practice.
- 1.5 MDL's key areas of concern in relation to the above issues can be summarised as follows:
- (a) the deadlock provisions should allow enough time for TSOs to resubmit a proposed OCMP twice before GIC can make a final determination on the content of the OCMP;
 - (b) TSOs, rather than an industry group, should be responsible for developing guidelines for the preparation of OCMPs and the determination of contingency imbalances;
 - (c) for practical reasons, there should be greater flexibility in the operation of curtailment bands – the proposed requirements should be rephrased as objectives, with the CCO and TSOs given discretion as to how best to curtail and restore supplies;

- (d) further work is required to determine the best method of calculating contingency imbalances – there are several complicating factors that GIC has not yet considered;
- (e) TSOs should be able to charge interest on unpaid invoices that they have issued for negative contingency imbalances;
- (f) TSOs should be able to recover their costs incurred in:
 - (i) preparing and consulting on OCMPs; and
 - (ii) managing the critical contingency cash pool, including calculating contingency imbalances, issuing invoices, and collecting and making payments; and
- (g) information flows should be managed using the existing OATIS website and existing communications plans, and contact details should be listed outside of OCMPs.

1.6 MDL has set out in this submission:

- (a) its approach to these issues, including answers to GIC's specific questions (Appendix 2); and
- (b) a marked-up version of the (revised) proposed Gas (Outage and Contingency Management) Regulations (**Draft Regulations**), with suggested drafting improvements (Appendix 3).

2. **DEADLOCK**

Initial proposal

- 2.1 GIC initially proposed that a TSO develop an OCMP in accordance with the following procedure:
- (a) TSO drafts the OCMP;
 - (b) TSO consults with affected parties allowing a minimum of 20 business days for consultation;
 - (c) Critical Contingency Operator (**CCO**) (in consultation with an expert adviser) is required to confirm that the OCMP meets the requirements of the regulations; and
 - (d) OCMP comes into effect when approved by the GIC.
- 2.2 Several submitters raised the concern that significant costs may be incurred and the process delayed where GIC and a TSO cannot agree on the content of an OCMP.
- 2.3 MDL commented that there was no limit on the number of times an OCMP may be required to be resubmitted.

New proposal

- 2.4 GIC now proposes that, where an OCMP has not been approved within 6 months of the commencement date of the regulations:
- (a) GIC can amend it and put it into effect; and
 - (b) it will stay in effect until the TSO has produced an OCMP that has been approved.
- 2.5 The new procedure is as follows:
- (a) TSO prepares OCMP;
 - (b) 20 business days allowed for consultation;
 - (c) TSO includes any updates required;
 - (d) 50 business days after the commencement date the OCMP must be provided to the GIC;
 - (e) the expert adviser must prepare a recommendation to the GIC within a further 20 business days;
 - (f) GIC must make a decision within 5 business days;
 - (g) if resubmission is required, TSO is allowed 10 business days to resubmit;
 - (h) steps 5 and 6 occur again; and
 - (i) if 6 months has elapsed from commencement day, and no plan is approved, GIC may alter the existing plan and put it into force.

The maximum time from the beginning of the process to the end of step (f) is 75 business days ie 15 weeks, and the maximum time for resubmission(s) is 35 business days ie 7 weeks.

- 2.6 To further assist the process, GIC has also recommended establishing an industry group to develop guidelines for the preparation of OCMPs.

MDL's position

- 2.7 MDL agrees that a deadlock breaker provision should be included in the regulations, and that the proposed process is generally appropriate.
- 2.8 However, by MDL's calculations, the timeframes allowed at each step of the process will only permit one resubmission of an OCMP within the 6-month period. MDL would like to be able to make two resubmissions if necessary.
- 2.9 MDL proposes an adjustment to the time allowed for expert consideration (step (e)) so that, in the case of a resubmitted OCMP, the expert adviser must make a recommendation within 10 business days, rather than 20. MDL considers this practicable as the issues to be considered will be well known by that stage.
- 2.10 MDL does not support the establishment of an industry group to prepare guidelines for the development of OCMPs because it considers that:
- (a) such group is unlikely to reach agreement quickly;
 - (b) other industry participants not involved in the group may disagree with the guidelines;
 - (c) the group might come up with guidelines that are impractical, especially in the difficult and highly technical area of determining contingency imbalances (this is discussed in further detail below);
 - (d) there will be adequate opportunity for consultation when the OCMP is prepared (as is required under regulation 24); and
 - (e) from a practical point of view, it will be more efficient for MDL to prepare its preferred solutions (consulting with outside parties such as Vector or GIC where necessary), instead of engaging in an additional general industry consultative exercise.
- 2.11 MDL proposes that, instead, TSOs should work together to:
- (a) produce guidelines that are consistent across both pipeline systems; and
 - (b) ensure a robust industry consultation process is followed in preparation of such guidelines. MDL considers that the process for adopting the OCMP provides adequate opportunity for general industry consultation.

3. CRITICAL CONTINGENCY THRESHOLDS

Initial proposal

- 3.1 GIC initially proposed that critical contingency thresholds (the trigger for the application of the outage and critical contingency management arrangements) be included in OCMPs, rather than in regulations.
- 3.2 Some submitters suggested that it would be more appropriate to include such thresholds in regulations because this might bring about changes of behaviour that would allow the thresholds to be lowered.

New proposal

- 3.3 GIC continues to believe that the OCMP is the appropriate place for these matters to be listed because TSOs have the required expertise to set appropriate thresholds.

MDL's position

- 3.4 MDL agrees that it is preferable for TSOs to set the line pack and pressure thresholds in their OCMPs because:
 - (a) the setting of these thresholds is, in effect, the determination of the amounts of emergency and flowing line pack required for the pipeline, These measures are not affected by the behaviour of pipeline users, Setting them is inherently a decision for the pipeline owner; and
 - (b) it would be inappropriate for TSOs to be liable for these thresholds if they were not setting them themselves. Allowing GIC to set thresholds in regulations would raise the question of whether GIC should be liable if compliance with such thresholds caused damage to third parties.

4. CURTAILMENT

Initial proposal

- 4.1 GIC initially proposed that all consumers be required to comply with any directions issued by their retailer, following a direction to curtail demand from the critical contingency operator in a critical contingency.
- 4.2 Directions to curtail would be made in accordance with curtailment bands specifying the order for curtailment of demand.
- 4.3 Submitters noted that:
 - (a) such curtailment bands should not be used too rigidly; and
 - (b) there is legal uncertainty as to whether GIC has the power under the Gas Act 1992 to place consumers and retailers in a curtailment band.

New proposal

- 4.4 As a result, GIC has developed a new proposal whereby:
 - (a) curtailment arrangements must be implemented in a manner that achieves certain objectives;
 - (b) consumers will generally be curtailed (and have supplies restored) in specified bands although:
 - (i) the CCO also has the power to direct curtailment of a sub-set of the load within a band;
 - (ii) GIC retains the power to direct TSOs to introduce a particular set of curtailment bands and restoration processes as well as other arrangements that it considers necessary; and
 - (iii) GIC will be reviewing curtailment bands over the next three years
 - (c) the CCO will issue an incident report which details levels of compliance with instructions to curtail; and
 - (d) domestic consumers are excluded from the curtailment regime because:
 - (i) there is legal uncertainty as to whether GIC has the power under the Gas Act to place consumers and retailers in a curtailment band;
 - (ii) distributors have powers to assist curtailment under the Gas Act;
 - (iii) the Civil Defence Emergency Management Act 2002 may be applicable if the need to curtail consumers and retailers arises; and
 - (iv) voluntary curtailment measures have also been shown to be effective in New Zealand.

MDL's position

Objectives

- 4.5 Paragraph 1(e) of the schedule to the Draft Regulations (**Schedule**) provides that one of the objectives of the curtailment arrangements is to ensure efficient utilisation of gas in storage facilities.
- 4.6 MDL considers that this principle should also apply to use of any additional gas that the CCO is able to source from other sources such as gas production facilities.

Curtailment

- 4.7 Paragraph 2 of the Schedule states that a defined group of consumers must be given equal priority in terms of any curtailment during a critical contingency.
- 4.8 MDL had difficulty with this proposition from two points of view:
- (a) Maui Pipeline operators only see the flow through welded points which may connect to many different customers allocated to different contingency bands; and
 - (b) the CCO needs the ability to curtail selectively within a band (as is provided for in regulation 49(2)). This part of the regulations needs to be consistent.

Restoration

- 4.9 Regulation 49(1)(e) (and paragraph 3 of the Schedule) states that flows should be restored to consumers in the reverse curtailment order in accordance with the OCMP.
- 4.10 MDL agrees that restoration by reverse curtailment order should be an objective, but notes that:
- (a) practical considerations on the day have to be allowed for as the circumstances faced during an emergency might vary greatly; and
 - (b) restoration phases have to be carefully managed as the availability of gas may still be subject to constraints.
- 4.11 MDL therefore considers that the Draft Regulations are overly prescriptive and it would be better to rephrase this requirement as an objective and leave the CCO (and the TSO when writing the OCMP) some discretion about managing this process.

Incident Reports

- 4.12 Under regulation 59, no later than 5 business days after terminating a critical contingency, the CCO must (in consultation with affected TSOs) prepare and publish an incident report which outlines, inter alia, the level of compliance with the TSO's curtailment instructions during the critical contingency.
- 4.13 MDL considers that complying with the timing required will be difficult where meter readings are only available monthly, as is the case for some consumers.

Domestic Consumers

4.14 MDL agrees that:

- (a) there does not appear to be a legal basis for including domestic consumers in a curtailment regime;
- (b) it is not essential for the CCO, through retailers, to be able to require domestic consumers to comply with curtailment directions. GIC's proposal to exclude domestic consumers therefore:
 - (i) is adequate for the effective operation of the outage and contingency arrangement; and
 - (ii) recognises the reality that there is no effective mechanism for domestic gas consumption curtailment; and
- (c) the curtailment of domestic consumers would only be considered in an extreme emergency such as a break in the Maui Pipeline or a failure of one of the Vector transmission lines that supply a complete region, in which case the alternative curtailment options outlined by GIC will be effective.

5. CONTINGENCY IMBALANCES

Initial proposal

- 5.1 GIC originally proposed that “contract imbalances” (now renamed “contingency imbalances”) be calculated by an “appointee” or “industry expert” following a gas contingency.
- 5.2 MDL submitted that GIC’s proposal failed to identify how:
- (a) contract imbalances would be calculated (except by allowing an unspecified “appointee” to work it out after the event); and
 - (b) negative imbalances would be calculated (except by saying that an “industry expert” will work it out).

New proposal

- 5.2 As a result, GIC has developed a proposal whereby:
- (a) TSOs will calculate critical contingency imbalances using methods outlined in OCMPs;
 - (b) contingency imbalances should be able to be determined across two pipeline systems for contingency periods of less than a day; and
 - (c) industry groups may be established to develop guidelines for determining contingency imbalances.

MDL’s position

- 5.3 The determination of contingency imbalances and the role TSOs are expected to play in calculating them is a key issue for MDL.
- 5.4 MDL agrees that TSOs should be responsible for determining contingency imbalances because:
- (a) they are the only party able to assemble all of the relevant information in respect of contingency events occurring on their pipeline(s); and
 - (b) even if some other party were nominally given the responsibility, the practical end of the task would still fall to the relevant TSO.
- 5.5 However, MDL has several concerns about how this proposal will work in practice (as outlined below). MDL would like to work with GIC and other relevant parties to ensure that a practical system is adopted. Developing practical and acceptable procedures is likely to require considerable effort by, and cost to, TSOs.
- 5.6 Specifically, MDL wishes to ensure that:
- (a) any arrangements are as simple as possible;
 - (b) TSOs are not exposed to financial liability for carrying out this service; and
 - (c) TSOs can recover their costs incurred in undertaking this role.

- 5.7 Contingency imbalances result when a welded point either takes or supplies more or less gas than its scheduled quantity during the contingency period. GIC defines such imbalances as the change in operational imbalance over the period of the contingency.
- 5.8 MDL notes that TSOs will face a number of potential practical difficulties in carrying out the actual calculations. For example:
- (a) obtaining accurate measurements may be difficult where scheduled quantities have been adjusted or changes in line pack have occurred during such period;
 - (b) MDL will need to consider how best to maintain a smooth transition from the normal MPOC arrangements to the procedures under the Draft Regulations and back again;
 - (c) there will need to be substantial cooperation between TSOs to design systems for recording contingency imbalances;
 - (d) any system adopted for the Maui Pipeline is likely to require a substantial amount of manual calculation outside OATIS using systems and procedures that will have to be designed and tested;
 - (e) given that imbalances are currently calculated on a daily basis, MDL considers that the development of a practical system to achieve the calculation of contingency imbalances across two pipeline systems for contingency periods of less than a day will require further discussion and co-operation between TSOs and GIC. MDL notes that any contingency period will need to be rounded to a full hour, as more closely spaced meter data is unavailable; and
 - (f) the Supplementary Paper does not explicitly recognise that, under the MPOC, the responsibility for operational imbalances and flow rates at welded points is assigned to welded parties, and *not* shippers. Whilst MDL does not consider that any change is required to the actual wording of Draft Regulations, MDL notes that this will also be the case for contingency imbalances. MDL will assess imbalances for, invoice, and pay welded parties (called “interconnected parties” in the Supplementary Paper), rather than shippers.
- 5.9 MDL considers that the establishment of an industry group to set guidelines for the calculation of contingency imbalances may compound the difficulties already inherent in the process, to the extent that the task may become impractical or impossible.
- 5.10 This is because:
- (a) such group is unlikely to reach agreement quickly;
 - (b) other industry participants not involved in the group may disagree with the guidelines; and
 - (c) the group might come up with guidelines that are impractical, especially in the difficult and highly technical area of determining contingency imbalances;
 - (d) any contingency imbalance guidelines will need to be designed using a detailed and specific knowledge of how the OATIS system and the available data will be used and then included in the procedure outlined in the OCMP;
 - (e) there will be adequate opportunity for consultation when the OCMP is prepared as specified in regulation 24; and

- (f) from a practical point of view, it will be more efficient for MDL to prepare its preferred solutions, (consulting with outside parties such as Vector or GIC where necessary), instead of engaging in an additional general industry consultative exercise.

5.11 MDL proposes that, instead, TSOs should work together to:

- (a) produce guidelines that are consistent across both pipeline systems; and
- (b) ensure a robust industry consultation process is followed in preparation of such guidelines (MDL considers that the process for adopting the OCMP provides adequate opportunity for general industry consultation).

6. CRITICAL CONTINGENCY PRICE

Initial proposal

- 6.1 GIC initially proposed a set of criteria for an industry expert to take into account in determining the critical contingency price.
- 6.2 Many submitters, including MDL, considered that the initial proposal for calculation of the critical contingency price was inappropriate.

New proposal

- 6.3 As a result, GIC has developed a new proposal whereby, in setting the critical contingency price, the industry expert must take into account:
 - (a) the over-arching principle that the critical contingency price must be set at a level that reflects the price that would be established by an efficient short-term market that that allocated scarce gas resources to the highest-value uses during the contingency; and
 - (b) the following matters:
 - (i) the prices in the wholesale market for electricity during the critical contingency;
 - (ii) the economic cost of the loss of gas supply to those consumers who had their gas supply curtailed; and
 - (iii) any other matters that the industry expert considers necessary to achieving the goal outlined at subparagraph (a) above.

MDL's position

- 6.4 MDL considers that the new proposed method for setting the critical contingency price improves significantly on the system previously suggested, specifically:
 - (a) the over-arching principle to be considered in making the calculation appears sensible; and
 - (b) the issues to be considered in making the calculation are appropriate.

7. **INVOICING**

Initial proposal

- 7.1 As noted above, GIC originally proposed that an industry appointee or industry expert would calculate contingency imbalances and hence issue invoices and collect associated payments.

New proposal

- 7.2 Given that GIC now proposes that TSOs take on the role of calculating contingency imbalances, GIC suggests that TSOs:

- (a) issue invoices for critical contingency imbalance charges;
- (b) hold the money collected in a critical contingency pool; and
- (c) make payments from the pool.

MDL's position

- 7.3 MDL agrees that, if TSOs are to calculate contingency imbalances, then it is appropriate for them to fulfil the functions outlined at paragraph 7.2 as well.

- 7.4 However, MDL notes that:

- (a) it will need to develop an invoicing procedure that will:
 - (i) be spreadsheet based; and
 - (ii) use data from the open access transmission information system (**OATIS**) as well as data collected from outside OATIS;
- (b) it would like to assign the function for managing this process to the Incentives Pool Trustee;
- (c) in principle, the payments should be self-balancing. However, a TSO should not be put in a position where disputes over invoiced amounts delay payment while parties expecting to be paid from the pool require payment right away. The Draft Regulations do not seem to require a TSO to pay out money that has not been previously collected (see regulation 70(4));
- (d) the Draft Regulations contain insufficient detail around non-payment of invoices. If MDL is unable to recover the costs due immediately, interest should accrue on invoiced amounts, as is provided for in the equivalent provisions of the MPOC (see clause 14.2 of the MPOC) and as GIC is entitled to do in relation to unpaid development fees under proposed regulation 18(1); and
- (e) TSOs should be able to recover their costs incurred in the preparation of invoices and in otherwise managing the critical contingency pool.

8. INFORMATION PROVISION

Initial proposal

- 8.1 GIC initially proposed the establishment of a new gas contingency website and new communications plans to ensure prompt provision of information in a contingency.
- 8.2 Submitters voiced concerns that the proposal should clarify that there should be two-way information flows between the CCO and participants.

New proposal

- 8.3 GIC continues to recommend the establishment of a new critical contingency website (regulation 8).
- 8.4 However, it has revised the Draft Regulations to clarify that both the CCO and participants will provide each other with timely information in a contingency.
- 8.5 Regulation 23(i) requires a list of contact details to be included as part of the OCMP.

MDL's position

- 8.6 MDL considers that there is no need to establish a separate critical contingency website given that the OATIS website:
 - (a) has sections that are accessible by the public;
 - (b) can easily accommodate the required information; and
 - (c) is more likely to be viewed regularly by shippers and welded parties.
- 8.7 MDL also notes that GIC's proposal involves unnecessary duplication of the current role of the OATIS website. This duplication is inconsistent with GIC's efficiency objectives as outlined in section 4 of the GPS and section 43ZN(a) and (b)(v) of the Gas Act 1992.
- 8.8 MDL considers that:
 - (a) there is little point in including contact details as part of OCMPs given that:
 - (i) this list is likely to be amended frequently; and
 - (ii) the process for amending OCMPs requires consultation and GIC approval; and
 - (b) instead, it should be sufficient to require TSOs to:
 - (i) maintain a contact list;
 - (ii) update it regularly; and
 - (iii) make it available to the CCO as required.

9. **COST RECOVERY**

Initial proposal

- 9.1 GIC initially proposed that the new system would be funded through an up-front development fee.
- 9.2 Submissions highlighted some concerns about funding the up-front development and establishment costs and indicated a preference for the costs to be spread over several years rather than funded through an initial payment.

New proposal

- 9.3 GIC now seeks to incorporate recovery of any development and establishment cost incurred by the CCO into the annual price for the service provider agreement and thereby spread the costs over several years, subject to cash-flow considerations.

MDL's position

- 9.4 MDL supports this recommendation.

10. **COMPLIANCE**

Initial proposal

- 10.1 GIC originally proposed amendments to the draft Compliance Regulations to ensure compliance by participants with any instruction to curtail demand during a critical contingency.
- 10.2 Concerns were raised as to the sufficiency of such amendments.

New proposal

- 10.3 GIC has therefore considered two new options for obtaining urgent orders to enforce compliance with a curtailment order, either providing for:
 - (a) injunctive relief from the High Court; or
 - (b) a fast track mechanism using the Rulings Panel.
- 10.4 GIC supports the High Court option because:
 - (a) the threat of an interim injunction is likely to provide the most effective mechanism; and
 - (b) a fast track Rulings Panel mechanism is likely to increase the Rulings Panel's costs.

MDL's position

- 10.5 MDL agrees that providing for injunctive relief from the High Court will provide the most effective mechanism.

- 10.6 MDL notes that the Electricity Governance Regulations 2003 contain both options. However, MDL considers that the electricity industry is different to the gas industry in that the former:
- (a) has a system operator with far more control over the whole system in emergency situations; and
 - (b) is a larger industry with the ability to fund a larger (and therefore less likely to be biased) Rulings Panel, and the cost of setting the panel up to hear urgent cases is spread wider.

11. APPOINTMENT OF CRITICAL CONTINGENCY OPERATOR

- 11.1 MDL would also like to take this opportunity to comment on the difficulties it foresees if Vector were to be appointed as CCO.
- 11.2 These difficulties arise from the historical relationship between Vector and MDL under a White Paper on the Development of the Maui Gas Field dated October 1973.
- 11.3 The White Paper contains the Eighth Schedule to the Maui Joint Venture Agreement: Contract of Employment of the Natural Gas Corporation of New Zealand (now Vector). Vector is the "Operator" under that contract.
- 11.4 As part of / pursuant to this contract, Vector entered into a further agreement with MDL called "Scope of Services for Natural Gas Corporation, Gas Control Centre on Behalf of Maui Development Limited" dated 17 December 2001. Vector is the "Service Provider" under this agreement.
- 11.5 Under the Scope of Services agreement, Vector agreed (amongst other things) to:
- (a) provide MDL with an emergency response service in the event of an "HSE" incident on the Maui pipeline (this term is not defined in the agreement, or elsewhere in the joint venture agreement, but it is probably a reference to the Health and Safety in Employment Act 1992) (clause 2.3); and
 - (b) to perform certain services as directed by Shell Todd Oil Services (**STOS**) in the event of a Maui Gas Outage or Maui Contingency under the National Gas Outage and Contingency Plan (**NGOCP**) (clause 2.2).
- 11.6 In relation to an HSE incident, Vector agreed to:
- (a) maintain an emergency response capability to manage the operational aspects of any incident which comprises the integrity of the Maui Onshore Pipeline, such as a gas leak, or mechanical damage to the pipeline caused by unauthorised works within the pipeline easement;
 - (b) ensure that this capability includes appropriate communication facilities and the maintenance of a duty roster of senior staff who will act as Emergency Controller to oversee the management of the operational aspects of the incident on behalf of MDL;
 - (c) immediately communicate with MDL and STOS regarding the incident so as to provide MDL and STOS with the opportunity to set up their own emergency response capabilities, if required;
 - (d) notify the Maui Gas Purchasers as soon as practicable of the incident.
- 11.7 In relation to outages and contingencies under the NGOCP, Vector agreed to:
- (a) determine the quantity of useable linepack at the start of the outage;
 - (b) monitor the rate of linepack depletion during the course of the outage and the rate of linepack recovery during the period following restoration of normal gas supplies;
 - (c) act as a call centre and provide regular updates of information regarding the status of pipeline linepack and the quantities of Maui Gas available ex-Oaonui;

- (d) inform STOS immediately of any matter that requires STOS to take direct action or to pass pertinent information on behalf of MDL relating to the operation of the Maui Onshore Pipeline to other parties;
 - (e) maintain a log of all significant events during the outage;
 - (f) submit a report to MDL as soon as reasonably practicable following the restoration of normal Maui Gas supplies.
- 11.8 The agreement includes a cost sharing arrangement whereby the costs charged to MDL by Vector will be 50% of the total costs incurred by Vector in operating its Gas Control Centre, subject to a cap.
- 11.9 Vector also provides services to MDL under an "Agreement Relating to the Operation of Maui Pipeline under Open Access" dated 27 September 2004. The services are outlined in Schedule 2. They are essentially "system operator" services under the MPOC and therefore do not include outage and contingency management services.
- 11.10 Vector's obligations under the Scope of Services agreement do not appear to be incompatible with its potential obligations as CCO to the extent that it would have a conflict of interest in performing both roles. In other words, the Scope of Services does not restrict Vector from taking on the role as CCO. Rather, the Draft Regulations may make its role under the Scope of Services agreement redundant.
- 11.11 However, MDL notes the need to ensure:
- (a) consistency between the Scope of Services agreement and the CCO service provider agreement provided for in the Draft Regulations; and
 - (b) that Vector is not remunerated twice for performing the same role.
- 11.12 GIC should also ensure that, if Vector were appointed CCO, it could not exercise a power under the Draft Regulations in a way that favoured its operations as a TSO and hence gave rise to a conflict of interest.

APPENDIX 1

GLOSSARY

In this submission:

“**CCO**” means Critical Contingency Operator.

“**Draft Regulations**” means the Draft Gas (Outage and Contingency Management) Regulations 2008 proposed by GIC in the Supplementary Paper.

“**GIC**” means the Gas Industry Company Limited.

“**MDL**” means Maui Development Limited.

“**MPOC**” means Maui Pipeline Operating Code.

“**OCMP**” means Outage and Contingency Management Plan.

“**Supplementary Paper**” means the GIC’s Supplementary Consultation Paper on Gas Outage and Contingency Management Arrangements dated December 2007.

“**TSO**” means Transmission System Owner.

APPENDIX 2

ANSWERS TO GIC QUESTIONS

QUESTION	COMMENT
<p>Q1: Do you consider the proposed deadlock breaker provision (which can only be exercised after a period of 6 months) is an appropriate mechanism to ensure the application of the regulations is not frustrated by any delay in getting the first OCMPs in place?</p>	<p>MDL agrees that a deadlock breaker provision should be included in the regulations, and that the proposed process is appropriate.</p> <p>However, by MDL's calculations, the timeframes allowed at each step of the process will only permit one resubmission of an OCMP within the 6 month period. MDL would like to be able to make two resubmissions.</p> <p>The timeframes are as follows:</p> <ol style="list-style-type: none">1. TSO prepares OCMP.2. 20 business days allowed for consultation.3. TSO includes any updates required.4. 50 business days after the commencement date the OCMP must be provided to the GIC.5. The expert adviser must prepare a recommendation to the GIC within a further 20 business days.6. GIC must make a decision within 5 business days.7. If resubmission is required, TSO is allowed 10 business days to resubmit.8. Steps 5 and 6 occur again.9. If 6 months has elapsed from commencement day, and no plan is approved, GIC may alter the existing plan and put it into force. <p>(Maximum time from beginning to end of step 6 is 75 business days ie 15 weeks). (Maximum time for resubmission(s) is 35 business days ie 7 weeks).</p> <p>MDL proposes an adjustment to the time allowed for expert consideration (step 5) so that, in the case of a resubmitted OCMP, the expert adviser must make a recommendation within 10 business days, rather than 20. MDL considers this practicable as the issues to be considered will be well known by that stage.</p>

QUESTION	COMMENT
<p>Q2: What is your view of Gas Industry Co setting the line pack and pressure thresholds as part of recommending the regulations? Do you agree that the approach set out in 5.18 and 5.19 for the setting of the minimum pressure and linepack thresholds is preferred?</p>	<p>MDL agrees with GIC that it is preferable for TSOs to set the line pack and pressure thresholds in their OCMPs (as described at 5.18 and 5.19). MDL is opposed to these thresholds being set by the GIC or other outside bodies and enshrined in regulations. It is inappropriate for TSOs to be liable for thresholds that they do not set themselves. Allowing GIC to set OCMP conditions would raise the question of whether GIC should be liable if compliance with such thresholds caused damage to third parties.</p>
<p>Q3: Do you consider it essential for the CCO, through retailers, to be able to require domestic consumers to comply with curtailment directions or is Gas Industry Co's proposal to exclude domestic consumers adequate for the effective operation of the outage and contingency arrangements?</p>	<p>MDL agrees with GIC that it is not essential for the CCO, through retailers, to be able to require domestic consumers to comply with curtailment directions. GIC's proposal to exclude domestic consumers is adequate for the effective operation of the outage and contingency arrangements.</p> <p>MDL considers that the curtailment of domestic consumers may only be needed in the case of an extreme emergency, such as a break in the Maui Pipeline or a failure of one of the Vector transmission lines that supply a complete region. In any other circumstance, the provisions for the exclusion of domestic consumers seem to be no more than recognition of reality as there is no easy mechanism for domestic gas consumption curtailment available. MDL agrees that there does not appear to be a legal basis for including domestic consumers in a curtailment regime.</p> <p>The curtailment of domestic consumers would only be considered in an extreme emergency and MDL agrees with GIC that the Civil Defence Emergency Management Act 2002 appears to give powers to issue directives to conserve energy supplies, while the Gas Act 1992 gives powers to enter onto premises (presumably to turn the gas off). Public appeals to conserve gas are also likely to be effective in an emergency situation.</p>
<p>Q4: Do you agree that the proposed curtailment arrangements outlined in 5.33 and as specified in the schedule to the regulations are appropriate?</p>	<p>Broadly, yes. However, MDL considers that TSOs should only be required to curtail in accordance with the proposed curtailment bands where this is practicable. MDL also notes that the regulations allow the CCO to curtail a sub-set of a load within a band. There needs to be greater consistency between this part of the regulations and the schedule.</p>

QUESTION	COMMENT
<p>Q5: Do you agree that defining contingency imbalances on a sub-day period is more likely to fulfil the objectives, and that the feasibility of this should be examined further?</p>	<p>The determination of contingency imbalances and the role MDL is expected to play in calculating them is a key issue for MDL. MDL wishes to ensure that any arrangements are as simple as possible, and that it is not exposed to financial liability for carrying out this service. Consideration must also be given to maintaining a smooth transition from the normal MPOC arrangements to the outage and contingency management procedures and back again.</p> <p>MDL does not support the establishment of an industry group to aid the development of guidelines for calculating contingency imbalances because it considers that:</p> <ul style="list-style-type: none"> • such a group is unlikely to reach agreement quickly; • other industry participants not involved in the group may disagree with the guidelines; and • the group might come up with guidelines that are impractical, especially in the difficult and highly technical area of determining contingency imbalances; • any contingency imbalance guidelines will need to be designed using a detailed and specific knowledge of how the OATIS system and the available data will be used and then included in the procedure outlined in the OCMP; • there will be adequate opportunity for consultation when the OCMP is prepared as specified in Regulation 24; and • from a practical point of view, it will be more efficient for MDL to prepare its preferred solutions, (consulting with outside parties such as Vector or GIC where necessary), instead of engaging in an additional general industry consultative exercise.
<p>Q6: Do you agree that the Gas Industry Co should develop a set of guidelines to clarify some of the detail and help TSOs prepare plans that are workable and consistent with the regulations for determining imbalances?</p>	<p>MDL agrees that such guidelines would be helpful to TSOs. However, MDL considers that they should be developed by TSOs themselves. For the reasons outlined above, MDL does not support the establishment of an industry group to aid the development of guidelines for calculating contingency imbalances, but does support full consultation with the industry. The Draft Regulations already provide for consultation with other industry participants in the context of developing OCMPs, and in MDL's view, this should be sufficient.</p>

QUESTION	COMMENT
Q7: Do you agree that in the case of a regional contingency there is no advantage to putting in place arrangements that would require payments between shippers? If not, please explain your rationale, the way any such payment arrangement would work, and how efficiency would be improved by the requirement for such payments.	This is not an issue for MDL.
Q8: Do you agree that the independent expert should be required to apply the over-arching principle set out in 5.80 when determining the Contingency Price?	MDL considers that the new proposed method for setting the Contingency Price improves significantly on the system previously suggested. The over-arching principle to be considered in making the calculation appears sensible.
Q9: Do you agree that the independent expert should be required to have regard to the issues set out in 5.81 when determining the Contingency Price?	Yes. The issues to be considered in making the calculation are appropriate.
Q10: Do you agree that under the proposed arrangements where the TSO calculates the imbalances, that the TSO should operate a critical contingency cash pool?	<p>Yes. This would appear to be the most efficient arrangement. Once the Contingency Price has been set, and the imbalances calculated, TSOs will be required to issue invoices and make payments. In principle, the payments should be self-balancing. However, a TSO should not be put in a position where disputes over invoiced amounts delay payment while parties expecting to be paid from the pool require payment right away. The regulations do not seem to require a TSO to pay out money that has not been previously collected.</p> <p>MDL considers that the Draft Regulations contain insufficient detail around non-payment of invoices. If MDL is unable to recover its costs immediately, interest should accrue on invoiced amounts, as is provided for in the equivalent provisions of the MPOC (see clause 14.2 of the MPOC).</p>
Q11: Do you agree that the CCO should be asked to spread its up-front costs over the duration of the agreement?	Yes.
Q12: Do you accept the proposed approach to spreading the development costs, and that the final outcome will be dependent on Gas Industry Co's balance sheet capability?	Yes.

QUESTION	COMMENT
Q13: Do you agree that it is necessary for the Compliance regulations to include an ability to obtain urgent orders where consumers fail to comply with directions to curtail demand? If not, why not?	Yes.
Q14: Do you agree that the ability for Gas Industry Co to apply for an interim injunction in the event that a consumer fails to comply with a direction to curtail demand would be the most effective incentive for compliance? If not, do you think the Rulings Panel would provide a sufficient incentive and if so, why?	Yes.

APPENDIX 3

PROPOSED GAS (OUTAGE AND CONTINGENCY MANAGEMENT) REGULATIONS – DRAFTING SUGGESTIONS

APPENDIX 3: PROPOSED GAS (OUTAGE AND CONTINGENCY MANAGEMENT) REGULATIONS 2008 :DRAFTING SUGGESTIONS

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>1 Title</p> <p>These regulations are the Gas (Outage and Contingency Management) Regulations 2008.</p>			
<p>2 Commencement</p> <p>(1) Except as provided in subclause (2), the regulations come into force on the 28th day after the date their notification in the <i>Gazette</i>.</p> <p>(2) Parts 3 and 4 of the regulations come into force on the go-live date.</p>			
<p>3 Purpose</p> <p>(1) The purpose of these regulations is to achieve the effective handling of gas outages and <u>critical</u> contingencies without compromising long-term security of supply.</p> <p>(2) These regulations provide for –</p> <p>(a) The appointment of a critical contingency operator; and</p> <p>(b) A process for managing a critical contingency; and</p> <p>(c) Processes for determining gas imbalances resulting from a critical contingency and setting a price to apply to those gas imbalances.</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>Part 1</p> <p><i>General provisions</i></p>			
<p>4 Interpretation</p> <p>(1) In these regulations, unless the context otherwise requires,-</p>			
<p>Act means the Gas Act 1992;</p>			
<p>business day means any day of the week except –</p> <p>(a) Saturday and Sunday; and</p> <p>(b) Any day that Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Labour Day, Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day, and Waitangi Day are observed for statutory holiday purposes; and</p> <p>(c) Any other day which the industry body has determined not to be a business day as published by the industry body;</p>			
<p>civil defence emergency means an emergency that results in a declaration of a state of national emergency or a declaration of a state of local emergency under the Civil Defence Emergency Management Act 2002 or any equivalent declaration under any subsequent replacement legislation;</p>			
<p>commencement date means the date referred to in regulation 2(1);</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>Commission means the Energy Commission established under S43ZZH of the Act;</p>			
<p>communications plan means the plan published by the critical contingency operator under regulation 34;</p>		Existing plans	<p>MDL notes that TSOs already have communications plans developed pursuant to existing contractual relationships and considers that it would be simpler and more efficient to use these plans (with any desirable amendments), rather than creating new ones.</p> <p>Duplicating a resource by having a separate new communications plan is inefficient, contrary to GIC's objectives under section 43ZN(a) and (b)(v) of the Gas Act 1992 and sections 4 and 5(h) of the GPS.</p>
<p>consumer –</p> <p>(a) Means any person who is supplied, or applies to be supplied, with gas: but</p> <p>(b) Does not include a transmission system owner or any gas distributor or gas retailer, except where the transmission system owner or, as the case may be, the gas distributor or gas retailer is supplied, or applies to be supplied, with gas for its own consumption and not for the purposes of re-supply to any other person;</p>			
<p>consumer installation means one or more gas installations that have a</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
single point of connection to a distribution system or a transmission system and for which there is, or previously has been, a single consumer;			
<p>contingency imbalance guidelines means the guidelines published by the industry body in accordance with regulation 33;</p>			<p>MDL agrees that such guidelines will help TSOs.</p> <p>However, MDL considers that these should be developed by TSOs themselves (working collaboratively).</p> <p>MDL does not agree to the establishment of an industry group for the purpose of developing such guidelines because it considers that:</p> <ul style="list-style-type: none"> • the group is unlikely to reach agreement quickly; • other industry participants who are not involved in the group may disagree with the guidelines; and • the group might come up with guidelines that are impractical, especially in the difficult and highly technical area of determining contingency imbalances; • any contingency imbalance guidelines will need to be designed using a detailed and specific knowledge of how the OATIS system and the available data will be used and then included in the procedure outlined in the OCMP; • there will be adequate opportunity for consultation when the OCMP is prepared as specified in Regulation 24; and

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<ul style="list-style-type: none"> from a practical point of view, it will be more efficient for MDL to prepare its preferred solutions, (consulting with outside parties such as Vector or GIC where necessary), instead of engaging in an additional general industry consultative exercise. <p>MDL considers that the establishment of an industry group for this purpose would be contrary to GIC's efficiency objectives as set out at section 43ZN(a) and (b)(v) of the Act, and sections 4 and 5(h) of the current GPS (sections 3 and 4(h) of the new draft GPS). It would also be contrary to the timeliness feature of good regulatory practice.</p>
<p>critical contingency means a critical contingency as determined by the critical contingency operator <u>transmission system owner</u> in accordance with regulation 44;</p>			
<p>critical contingency operator means the person appointed in accordance with regulation 5(1) to be the critical contingency operator;</p>			
<p>critical contingency operator service provider agreement means the agreement between the industry body and a person, where that person is appointed as the critical contingency operator;</p>			
<p>critical contingency price means a price determined by the industry expert under regulation 66;</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>curtailment arrangements means the curtailment arrangements set out in the Schedule;</p>			
<p>director of civil defence emergency management means the director appointed under the Civil Defence Emergency Management Act 2002 or any person appointed to an equivalent or replacement role under any subsequent replacement legislation;</p>			
<p><u>distribution system has the meaning set out in the Act:</u></p>			<p>This term has been used frequently throughout the draft regulations without definition.</p>
<p>electricity system operator means a system operator as defined in Part A of the Electricity Governance Rules, or any person appointed to an equivalent or replacement role under any subsequent replacement legislation;</p>			
<p>essential service provider means a person that has been approved as an essential service provider under regulation 41;</p>			
<p>expert adviser means a person appointed by the industry body in accordance with regulation 25 to be the expert adviser in respect of a proposed outage and contingency management plan or amendment;</p>			
<p>gas gate means the point of connection between –</p> <p>(a) A transmission system and a distribution system; or</p> <p>(b) A transmission system and a consumer installation; or</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(c) Two gas distribution systems;			
go-live date means 5 business days after the day on which the industry body publishes a statement in accordance with regulation 30(1);			
industry body means the industry body approved by the Governor General by Order in Council under section 43ZL of the Act. In the event that the industry body is revoked under section 43ZM of the Act, all references to the industry body shall be replaced with references to the Commission;			
industry expert means a person appointed by the industry body in accordance with regulation 64;			
information guide means the guide published by the critical contingency operator under regulation 35;			
interconnected party means any person who has an interconnection agreement with a transmission system owner to receive gas at an interconnection point on the transmission system;	√		MDL suggests this definition is changed to “welded party,” as the term with which the industry is familiar, and to be consistent with the MPOC.
large end user means any consumer installation connected directly to the transmission system that has the potential to consume gas at rates that in aggregate exceed 15 terajoules a day;			
Maui Pipeline Operating Code or MPOC means the code issued by the		GIDRs	MDL considers that the requirement to

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
owners of that part of the transmission system identified as the Maui pipeline <u>which sets out the terms and conditions on which third parties may interconnect with, and shippers may transport gas on, on the map published in accordance with regulation 9 covering operation of</u> the Maui pipeline, as amended from time to time;		Reg 23	publish maps once per year under regulation 23 of the Gas (Information Disclosure) Regulations 1997 should be sufficient.
minimal load consumer means a person approved by a retailer to be a minimal load consumer in accordance with regulation 42;			
National Gas Outage Contingency Plan or NGOCP means the document entitled "Gas Contingency: A Plan for the New Zealand Natural Gas Industry to Manage the Interruption of Gas Supplies" version 2.3 dated 1 December 2005;			
OATIS means the online interactive open access transmission information system that is used to facilitate the open access regime <u>on the transmission system</u> under MPOC;			
outage and contingency management plan means a plan approved by the industry body under regulation 28 or 29;			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>publish means –</p> <p>(a) After the commencement date and before the go-live date, in respect of information to be published by the industry body, to make such information available on the industry body’s website; and</p> <p>(b) On and after the go-live date, in respect of information to be published by the industry body or the critical contingency operator, to make such information available on the OATIS critical contingency website established in accordance with regulation 8; and</p> <p>(c) For all other information, to make available to the intended recipient in such manner as may be determined by the industry body from time to time;</p>		OATIS website	<p>MDL considers that regulation 8 should be amended to remove unnecessary duplication of the current role of the OATIS website.</p> <p>This duplication is inconsistent with GIC’s efficiency objectives as outlined in section 4 of the GPS, and section 43ZN(a) and (b)(v) of the Gas Act 1992.</p>
<p>retailer means any person who supplies gas to another person or other persons through the transmission system or through a distribution system which is connected to the transmission system for any purpose other than for re-supply by the other person or persons;</p>			
<p>shipper means a person with a valid and subsisting agreement to have gas transported through all of part of the transmission system;</p>			
<p>switch means a switch as defined in the Gas (Switching Arrangements) Rules 2008;</p>			
<p>system operator means a person who operates a transmission system;</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>transmission system means the system:</p> <p>(a) comprising those high pressure transmission pipelines from the point where the gas leaves a gas processing facility to a <u>welded interconnected</u> point for distribution or, where the gas does not enter a distribution system, to a consumer; and</p> <p>(b) as depicted in the map published by the industry body in accordance with regulation 9;</p>		GIDR Reg 23	<p>MDL would prefer to use the term “welded point” rather than “interconnected point” as this is the term used in the MPOC.</p> <p>MDL considers that the requirement to publish once per year under regulation 23 of the Gas (Information Disclosure) Regulations 1997 should be sufficient.</p>
<p>transmission system code means any code which sets out detailed rules covering operation of part or all of a transmission system, as amended from time to time;</p>			
<p>transmission system owner means any person or persons who own a transmission system or part of a transmission system and includes any agent of the transmission system owner;</p>			
<p><u>welded party means any person who has an interconnection agreement with a transmission system owner to receive gas at an interconnection point on the transmission system.</u></p>			<p>See comment above. MDL would prefer to use this term, rather than the term “interconnected party.”</p>
<p><i>Appointment</i></p>			
<p>5 Appointment of critical contingency operator</p>			
<p>(1) The industry body may, from time to time, by agreement with a</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
person appoint that person to act as the critical contingency operator.			
(2) The critical contingency operator has the functions, rights, powers, and obligations set out in these regulations.			
(3) The industry body may at any time terminate, re-appoint, or change the appointment of any person as the critical contingency operator, subject to the terms of the critical contingency operator service provider agreement.			
(4) The remuneration of the critical contingency operator will be agreed as between the industry body and the critical contingency operator in the critical contingency operator service provider agreement.			MDL considers that the CCO should only be able to recover incremental costs that would not be incurred in its other roles (eg as system operator) and a regulated margin on such costs.
(5) The industry body and the critical contingency operator may agree on any other terms and conditions, not inconsistent with the functions, rights, powers and obligations of the critical contingency operator under these regulations.			
(6) If a person is the system operator of all of the transmission system –			
(a) The industry body will appoint that person as the critical contingency operator for an initial term of 5 years beginning on the commencement date and on the terms of the critical contingency operator service provider agreement; and			
(b) The industry body may terminate the critical contingency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
operator service provider agreement between the industry body and such a person if at any time that person ceases to be the system operator for any or all of the transmission system; and			
(c) Any appointment beyond the initial term will be at the industry body's sole discretion.			
<p>6 Other terms of critical contingency operator service provider agreement</p> <p>In addition to any other terms and conditions required by these regulations, the critical contingency operator service provider agreement must provide for–</p>			
(a) Remuneration of the critical contingency operator; and			
(b) Appropriate provision for liability cover; and			
(c) Preparation and approval of outage and contingency management plans; and			
(d) Testing of plans and procedures; and			
(e) Publishing a communications plan and <u>an</u> information guide.		Existing plans	As noted above, TSOs already have communications plans developed pursuant to existing contractual relationships and it would be simpler and more efficient to use these plans (with any desirable amendments), rather than

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<p>creating new ones.</p> <p>Duplicating a resource by having a separate new communications plan is inefficient, contrary to GIC's objectives under section 43ZN(a) and (b)(v) of the Gas Act 1992 and sections 4 and 5(h) of the GPS.</p>
<p>7 Publication of critical contingency operator service provider agreement</p> <p>The industry body must publish the critical contingency operator service provider agreement.</p>			
<p>8 <u>OATIS</u> Critical contingency website</p>		OATIS website	<p>MDL considers that this regulation 8 should be amended to remove unnecessary duplication of the current role of the OATIS website. This duplication is inconsistent with GIC's efficiency objectives as outlined in section 4 of the GPS, and section 43ZN(a) and (b)(v) of the Gas Act 1992.</p>
<p>(1) Prior to the go-live date, the critical contingency operator in consultation with the industry body must <u>ensure that critical contingency information is available on the OATIS website</u> design a critical contingency website for the purpose of providing a central repository for publicly available information relevant to a critical contingency.</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) The critical contingency <u>information on the OATIS</u> website must be functional and available to the public on the go-live date.			
(3) The critical contingency operator must ensure the <u>critical contingency</u> information on the <u>OATIS</u> critical contingency website is accurate and up to date.			
(4) The critical contingency operator must publish on the <u>OATIS</u> critical contingency website all information provided to it by the industry body for the purposes of publication by the industry body. For the purposes of these regulations, such information will be deemed to have been published by the industry body.			
9 Publication of the transmission system			
(1) No later than 5 business days after the commencement date, each transmission system owner must provide the industry body with the information specified in clause 1(2), Part 5, Schedule 1 of the Gas (Information Disclosure) Regulations 2007.			
(2) As soon as practicable after receiving the information described in subclause (1) and consulting with all transmission system owners, the industry body must publish a map depicting the transmission system.		GIDR Reg 23	MDL considers that the requirement to publish once per year under regulation 23 of the Gas (Information Disclosure) Regulations 1997 should be sufficient.
(3) On the go-live date, or as soon as practicable thereafter, the industry body must publish a map depicting the transmission system on the critical contingency website.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(4) A transmission system owner must give notice to the industry body of any error or change in the boundaries of, and pipelines comprising, the transmission system as soon as practicable after becoming aware of any such error or change.			
(5) The industry body may amend or update the boundaries of, and pipelines comprising, the transmission system from time to time in response to any notice given by a transmission system owner under subclause (4) and, where applicable, must publish an updated map depicting the transmission system on the OATIS website .			
10 Performance standards			
(1) On the appointment of the critical contingency operator, the industry body must set performance standards against which the critical contingency operator's performance is to be reported and measured.			
(2) Prior to setting any performance standards under subclause (1), the industry body must consult with the critical contingency operator.			
(3) Following the completion of any review carried out by the industry body under regulation 11, the industry body may revoke, amend or add to, any performance standards set under this regulation.			
11 Review of critical contingency operator performance by the industry body			
(1) The industry body may, on an annual basis, review the manner in			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
which the critical contingency operator has performed its duties and obligations under these regulations in the preceding 12 months.			
(2) The review must concentrate on the critical contingency operator's compliance with –			
(a) Its obligations under these regulations; and			
(b) The operation of these regulations; and			
(c) Any performance standards agreed between the critical contingency operator and the industry body; and			
(d) The provisions of the critical contingency operator service provider agreement.			
<i>Scope</i>			
12 Relationship with NGOCP, and transmission system codes <u>and specified agreements</u>			MDL considers that the relationship between the Regulations, OCMPs, and existing arrangements, such as the Vector TSA, the MPOC, and existing contractual relationships that TSOs have with third parties (for example, with Shippers under Transmission Services Agreements, and with Welded Parties under Interconnection Agreements) is unclear.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<p>MDL submits that this creates uncertainty in relation to contingency management, whereas certainty is a key feature of a good regulatory regime. The processes outlined in the Regulations should lead to predictable results both in terms of gas quantities and gas prices in a critical contingency.</p> <p>This also makes contingency management more complex, contrary to GIC's goal of simplicity as outlined in its original Statement of Proposal.</p> <p>MDL has made suggested amendments to this regulation 12 in an attempt to address these concerns.</p>
(1) With effect from the go-live date –			
(a) These regulations will replace the National Gas Outage Contingency Plan; and			
(b) The National Gas Outage Contingency Plan will cease to have effect except in so far as it relates to events and obligations and liabilities occurring or arising prior to the go-live date.			
(2) Parties to <u>any agreements that incorporate the terms and conditions of the MPOC, and parties to and</u> any other <u>pipeline transmission services agreement or</u> transmission system code, are relieved from any obligations imposed on them by those <u>agreements and/or</u> codes			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
to the extent that those obligations are inconsistent with these regulations.			
<p>13 Civil Defence Emergency Management Act</p> <p>Compliance with the Civil Defence Emergency Management Act 2002 shall take priority over compliance with these regulations to the extent that a person shall not be required to comply with these regulations where such compliance prevents that person from complying with the requirements of that Act.</p>			
<i>Funding</i>			
<p>14 Development fee</p>			
(1) The development fee is a fee to meet the critical contingency development costs.			
(2) As soon as practicable after the commencement date, the industry body must determine the estimated critical contingency development costs. The critical contingency development costs will include –			
(a) The costs associated with:			
(i) The appointment of the critical contingency operator; and			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(ii) <u>The transmission system owner's costs incurred to prepare, publish, consult on, and implement gas outage and contingency management plans under regulations 22 to 24; and</u>			MDL considers that the current provisions for funding the proposed regime fail to account for costs TSOs would incur in preparing, publishing, consulting on, and implementing OCMPs. They are therefore insufficient, contrary to GIC's objective as outlined in its initial Statement of Proposal.
(iii) The review and recommendation for approval of proposed outage and contingency management plans under regulations 24 to 28; and			
(b) The costs (if any) payable by the industry body to the critical contingency operator in respect of the development and establishment of any contingency and outage management arrangements required under these regulations; and			
(c) The costs of the industry body in connection with the development and establishment of the contingency and outage management arrangements; and			
(d) Any other costs that <u>are reasonably determined to</u> form part of the critical contingency development costs (whether or not such costs have been incurred at the time that the critical contingency development costs are estimated).			
(3) Once it has estimated the critical contingency development costs, the industry body will publish those costs, including a breakdown of the costs, on the industry body's website.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(4) Every person who purchases gas directly from gas producers during the month prior to the commencement date is liable to pay a development fee in accordance with these regulations.			
(5) The development fee payable by each person who is liable to pay a development fee is calculated as follows:			
$A = B \times (C/D)$ <p>Where:</p> <p>A = the development fee payable by person A; and</p> <p>B = the estimated critical contingency development costs; and</p> <p>C = the total quantity of gas purchased by person A directly from gas producers during the 12 months prior to the commencement date; and</p> <p>D = the total quantity of gas purchased directly from all gas producers during the 12 months prior to the commencement date.</p>			
15 How and when development fee must be paid			
(1) The development fee is payable to the industry body.			
(2) Every person who is liable to pay a development fee must supply to the industry body a return no later than 10 days after the			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
commencement date.			
(3) The return must state-			
(a) The total number of gigajoules of gas that the person purchased directly from gas producers during the 12 months prior to the commencement date; and			
(b) How many gigajoules of gas were purchased from each gas producer during that 12 month period.			
(4) As soon as practicable after receipt of the return required under regulation 14(2), the industry body must invoice the person who supplied the return for the development fee calculated in accordance with regulation 14(5).			
(5) As soon as practicable after the go-live date, the industry body must determine the actual critical contingency development costs in accordance with regulation 14(2).			
(6) The industry body must invoice or credit each person liable to pay the development fee with the difference between the actual critical contingency development costs and the amount of the estimated critical contingency development costs paid by that person.			
(7) The due date for the payment of the development fee is the tenth business day after the person receives an invoice for the development fee.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>(8) <u>The industry body will pay any person identified in regulation 14(2):</u></p> <p>(a) <u>the portion of the development fee recovered under regulations 14 to 15 that reflects that person's costs; plus</u></p> <p>(b) <u>the portion of any interest recovered under regulation 18(1) that has accrued on the amount specified at subclause (a)</u></p> <p><u>within ten business days of receiving payment of an invoice issued under regulation 15(4).</u></p>			MDL considers it necessary to include such a provision to make the fees provisions work in practice.
<p>16 Ongoing fees</p>			
<p>(1) The ongoing fees are monthly fees to meet the critical contingency ongoing costs.</p>			
<p>(2) <u>No less than one month before the go-live date, transmission system owners must notify the industry body of their estimated costs in relation to the operation of the contingency cash pool under regulations 67 to 70 and likely changes in line pack and balancing gas to be supplied during critical contingencies during the first year or part year of operation of the outage and contingency management plans.</u></p>			
<p>(3) As soon as practicable after the go-live date, the industry body must determine the estimated critical contingency ongoing costs for the first year or part year of operation of the outage and contingency management plans.</p>			
<p>(4) The critical contingency ongoing costs will include –</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(a) The costs payable by the industry body to the critical contingency operator in respect of that year; and			
(b) The costs payable to any person appointed by the industry body to carry out any role under these regulations; and			
(c) <u>The reasonable costs of transmission system owners in relation to the operation of the contingency cash pool (including calculating contingency imbalances, issuing invoices for negative contingency imbalances, and making payments for positive contingency imbalances) under regulations 67 to 70; and</u>			MDL considers that the costs associated with operation of the critical contingency pool, including calculating contingency imbalances, issuing invoices and collecting and making payments should be included in the ongoing costs.
(d) <u>Reasonable compensation to transmission system owners for changes in line pack, and balancing gas supplied by a transmission system owner, during a critical contingency; and</u>			MDL considers that TSOs should be compensated for these costs. See MDL's comments at regulation 67 below.
(e) The costs of the industry body associated with contingency and outage management and its role under these regulations during that year; and			
(f) Any other costs that are <u>reasonably</u> determined by the industry body to form part of the critical contingency ongoing costs.			
(5) Once it has determined the estimated critical contingency ongoing costs for the first year or part year of operation, the industry body will publish those costs (including a breakdown of the costs).			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(6) Every person who purchases gas directly from a gas producer during a month is liable to pay ongoing fees for that month in accordance with these regulations.			
(7) The ongoing fees payable by each person who purchases gas directly from a gas producer are calculated as follows:			
<p>A = B x (C/D)</p> <p>Where:</p> <p>A = the ongoing fees payable by person A; and</p> <p>B = the estimated critical contingency ongoing costs for that month; and</p> <p>C = the total quantity of gas purchased by person A directly from gas producers during the month prior to month B; and</p> <p>D = the total quantity of gas purchased directly from gas producers during the month prior to month B.</p>			
17 How and when ongoing fees payable			
(1) The ongoing fees are payable to the industry body.			
(2) As soon as practicable after publication of the estimated critical contingency ongoing costs for the first year or part year of operation, the industry body must notify all persons liable to pay ongoing fees of			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
the ongoing fees payable in that year or part year.			
(3) For each year following the first year or part year of operation:			
(a) <u>transmission system owners must estimate their ongoing costs in relation to the operation of the contingency cash pool and likely changes in line pack and balancing gas to be supplied during critical contingencies during the year, and notify the industry body at least 2 months prior to the beginning of that year; and</u>			
(b) the industry body must estimate the critical contingency ongoing costs and notify all persons liable to pay the ongoing fees at least 2 months <u>1 month</u> prior to the beginning of that year of the ongoing fees payable in that year.			
(4) Every person who is liable to pay ongoing fees for a month must supply to the industry body a return no later than the 10th day of that month, unless otherwise agreed by the industry body.			
(5) The return must state-			
(a) The total number of gigajoules of gas that the person purchased directly from gas producers during the previous month; and			
(b) How many gigajoules of gas were purchased from each gas producer during that month.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(6) As soon as practicable after receipt of the return required under subclause (4), the industry body must invoice the person who supplied the return for the ongoing fees calculated in accordance with subclause 16(7).			
(7) The ongoing fees for a month are due and payable on the 20th day of the month.			
(8) As soon as practicable after the end of each year, the industry body must determine the actual critical contingency ongoing costs for that year. The industry body must invoice or credit each person liable to pay ongoing fees during that year with the difference between the actual critical contingency ongoing costs and the amount of the estimated critical contingency ongoing costs paid by that person.			
(9) The industry body must ensure that all information and returns that are supplied under regulations 14 to 17 are: <ul style="list-style-type: none"> (a) used only for the purposes of collecting the development fee and the ongoing fees; (b) <u>kept confidential; and</u> (c) <u>not disclosed to any person without the prior written consent of the person supplying the information and returns.</u> 			This information will be commercially sensitive, and MDL considers that the additional provisions are necessary to protect parties sufficiently.
(10) Subject to the consent of the persons which supplied them, the returns supplied to the industry body under regulation 7 of the Gas (Levy of Industry Participants) Regulations 2007 or its replacement will be sufficient to fulfil the requirements of subclause (4).			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>(11) <u>The industry body will pay any person identified in regulation 16(3):</u></p> <p>(a) <u>the portion of the ongoing fees recovered under regulations 16 to 17 that reflects that person's costs; plus</u></p> <p>(b) <u>the portion of any interest recovered under regulation 18(1) that has accrued on the amount specified at subclause (a)</u></p> <p><u>within ten business days of receiving payment of an invoice issued under regulation 17(6).</u></p>			<p>MDL considers that it is necessary to include such a provision to make the fees provisions work in practice.</p>
<p>18 General provisions regarding fees</p>			
<p>(1) Any person who is liable to pay any ongoing fees under regulations 14 to 17 inclusive, and who fails to make payment of such ongoing fees on or before the date on which it falls due, is liable to pay an additional fee of 10% of the amount of the ongoing fees that are unpaid.</p>			<p>MDL considers that TSOs should be entitled to charge interest in respect of unpaid critical contingency fees (see suggested amendments to regulation 69 below) in the same way as GIC can on unpaid fees.</p> <p>MDL notes that regulation 14 relates to the development fee and considers that interest should accrue on development fees as well as ongoing fees.</p> <p>As suggested above at MDL's proposed regulations 15(8) and 17(11), MDL considers that GIC should be required to pass on to any other relevant party the amount of any fee (and any interest that accrues on it) that reflects that party's costs.</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) The additional fee becomes payable and due on the 10th business day after the date that the industry body notifies the person that an additional fee is payable.			
(3) The fees payable under regulations 14 to 18 and any additional fee payable under subclause (1) are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and service tax on those fees will be added to any invoices issued to persons by the industry body under regulations 15(4) or 17(6).			
Notices and receipt of information			
19 Giving of notices			
If these regulations require any notice to be given, the notice must be in writing and be –			
(a) Delivered by hand to the nominated office of the addressee; or			
(b) Sent by post to the nominated postal address of the addressee; or			
(c) Sent by facsimile to the nominated facsimile number of the addressee; or			
(d) Sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
electronic address of the addressee.			
20 When notices taken to be given			
In the absence of proof to the contrary notices are taken to be given,-			
(a) In the case of notices delivered by hand to a person, when actually received at that person's address;			
(b) In the case of notices sent by post, at the time when the letter would in the ordinary course of post be delivered; and in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted;			
(c) In the case of notices sent by fax, at the time indicated on a record of its transmission;			
(d) In the case of notices sent by electronic transmission or any other similar method of electronic communication -			
(i) At the time the computer system used to transmit the notice has received an acknowledgment or receipt to the electronic mail address of the person transmitting the notice; or			
(ii) The person who gave the notice proves the notice was transmitted by computer system to the electronic			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
address provided by the addressee.			
21 Formal notices			
(1) In relation to a critical contingency, these regulations provide for formal notices to be given in certain circumstances.			
(2) Despite regulations 19 and 20, a formal notice may be given orally where the person issuing a formal notice considers that the urgency of the situation means the notice should not be given in writing.			
(3) If a formal notice is given orally under subclause (2), the person who gave that formal notice must, as soon as is practicable, confirm that formal notice in writing in accordance with regulations 19 and 20 .			
Part 2 Obligations prior to a critical contingency <i>Outage and contingency management plans</i>			This section requires TSOs to incur significant costs in developing and implementing OCMPs. MDL will also incur additional costs associated with amending the MPOC and contractual arrangements entered into under the MPOC (such as Interconnection Agreements and Transmission Services Agreements). Those costs are not provided for in the Draft Regulations and seem to be expected to be carried by TSOs. It is unclear how a TSO might recover those costs except by increasing transmission charges.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<p>This seems to be contrary to the GIC's "user pays" objective in Appendix B of its initial Statement of Proposal, and the goal of ensuring downwards pressure on prices set out in section 43ZN(b)(iv) of the Act and section 5(f) of the GPS.</p> <p>It also introduces considerable uncertainties into many aspects of a TSO's role in contingency situation, contrary to the principles of good regulatory practice. For example:</p> <ul style="list-style-type: none"> • the transition from operation under the provisions of the MPOC, to operation under the provisions of the OCMP in a critical contingency, and then back to normal operation under the MPOC raises many practical issues around fixing the price and allocation of gas at each point in the process; • the appointment of an expert adviser also creates uncertainty from a TSO perspective. TSOs have no input into the selection of the expert adviser and the regulations contain no guidance for the adviser as to how to reach a decision as to whether to recommend approval of a plan; • in preparing an OCMP, a TSO risks publication of information that it

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			considers to be commercially sensitive, in circumstances where the GIC agrees (it would be better if the GIC's determination about publication followed a dispute resolution process).
<p>22 Outage and contingency management plan</p> <p>No later than 50 business days after the commencement date, each transmission system owner must prepare a proposed outage and contingency management plan for its part of the transmission system and submit it to the industry body for approval.</p>			
<p>23 Content of outage and contingency management plan</p>			
<p>(1) A proposed outage and contingency management plan must be consistent with the regulations <u>and, where possible, the MPOC</u> and must include –</p>			
<p>(a) Either:</p>			
<p>(i) The minimum pressure threshold required to maintain the continued supply of gas across the relevant part or parts of the transmission system as measured at various points on the transmission system (such points to be determined by the transmission system owner); or</p>			MDL agrees with GIC that it is preferable for TSOs to set the line pack and pressure thresholds in their OCMPs (as described at paragraphs 5.18 and 5.19 of the Supplementary Consultation Paper).
<p>(ii) The minimum linepack threshold required to maintain the continued supply of gas across the relevant part or</p>			As above.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
parts of the transmission system stating the uniform pressure on which linepack is based; and			
(b) A description of the events that the transmission system owner considers may feasibly result in a breach of the relevant thresholds as advised under subclause (a); and			
(c) Actions that the transmission system owner considers it may feasibly take to remedy any breach in the thresholds resulting from the events described at subclause (b); and			
(d) A process, consistent with the curtailment arrangements, outlining the manner in which curtailment will be implemented, curtailment bands, how restoration will be implemented, and an explanation as to how these processes meet the objectives set out in the Schedule; and			
(e) Communications that the transmission system owner must initiate by notice to other transmission system owners, operators of gas distribution systems, <u>shippers, welded parties,</u> retailers, large end users and any other person it considers necessary prior to and during a critical contingency, the reciprocal communications and timeframes within which such communications are to take place; and			
(f) The contact details of a suitably qualified person employed by the transmission system owner who the transmission system owner proposes will be responsible for –			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>(i) Giving communications to the critical contingency operator and receiving communications from the critical contingency operator under the <u>existing</u> communications plan(s); and</p>		Existing plans	<p>MDL notes that TSOs already have communications plans developed pursuant to existing contractual relationships. MDL consider that it would be simpler and more efficient to use these plans (with any desirable amendments), rather than creating new ones.</p> <p>Duplicating a resource by having a separate new communications plan is inefficient, contrary to GIC's objectives under section 43ZN(a) and (b)(v) of the Gas Act 1992 and sections 4 and 5(h) of the GPS.</p>
<p>(ii) Directing compliance with the outage and contingency management plan; and</p>			
<p>(g) The circumstances, if any, in which the transmission system owner is likely to restore gas supply in an order that is different from the reverse order of any curtailment bands (last curtailed and first restored) set out in the curtailment arrangements; and</p>			<p>TSOs may not be able to anticipate the different circumstances that may arise and hence the appropriate order of restoration.</p> <p>MDL considers that it would be better to leave the CCO (and the TSO when writing the OCMP) some discretion about managing this process as the circumstances faced during an emergency might vary greatly.</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>(h) A process, consistent with the contingency imbalance guidelines, outlining the manner in which the contingency imbalances will be determined for each affected welded<u>interconnected</u> party, retailer and shipper over the period of the critical contingency, including:</p>			<p>MDL agrees that such guidelines would be helpful to TSOs.</p> <p>However, MDL considers that these should be developed by TSOs themselves (working collaboratively).</p> <p>For the reasons outlined above, MDL does not agree to the establishment of an industry group to develop such guidelines.</p>
<p>(i) What information is to be used by the transmission system owner to determine contingency imbalances; and</p>			
<p>(ii) How the transmission system owner is to allocate contingency imbalances to affected welded<u>interconnected</u> parties, retailers and shippers; and</p>			
<p>(iii) How and when payments are to be made by transmission system owners, affected welded<u>interconnected</u> parties, retailers and shippers for contingency imbalances; and</p>			
<p>(i) A list of the contact details for the</p>			<p>Since this list is likely to be amended frequently and the process for amending an OCMP requires consultation and approval of GIC, there is little point in including contact details</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<p>as part of an OCMP.</p> <p>It should be sufficient to require a TSO to maintain the contact list, update it regularly and make it available to the CCO as required.</p>
<p>(i) Operators of gas storage facilities that are connected to the relevant part of the transmission system; and</p>			
<p>(ii) Operators of upstream gas production facilities that are connected to the relevant part of the transmission system; and</p>			
<p>(iii) Large end users connected directly to the relevant part of the transmission system; and</p>			
<p>(iv) Interconnected parties, retailers and shippers who are trading across or utilising the relevant part of the transmission system; and</p>			
<p>(v) Operators of gas distribution systems connected to the relevant part of the transmission system; and</p>			
<p>(j) Such other things as the transmission system owner considers appropriate to give effect to the purpose of the regulations.</p>			
<p>(2) Subject to subclause (1) but without limiting the discretion of the industry body under regulations 28 and 29, a proposed outage and</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
contingency plan should only modify any existing arrangements set out in MPOC or any other transmission system code to the extent necessary to better give effect to the purpose of the regulations.			
24 Process for preparing outage and contingency management plan			
Prior to submitting the proposed outage and contingency management plan to the industry body for approval, a transmission system owner must –			
(a) Consult on a draft of the proposed outage and contingency management plan with persons that the transmission system owner considers are representative of the interests of persons likely to be substantially affected by the proposed outage and contingency management plan; and			MDL considers that this consultation process removes the need for the establishment of industry groups to develop guidelines for the preparation of plans.
(b) Immediately prior to consulting under subclause (a), provide a draft of the proposed outage and contingency management plan to:			
(i) the critical contingency operator; and			
(ii) the industry body, who must also publish the draft of the proposed plan.			
(c) Give persons consulted with under subclause (a) at least 20 business days to make submissions to the transmission system owner on the draft of the proposed outage and contingency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
management plan; and			
(d) Provide copies of the submissions to the industry body as soon as practicable after those submissions have been received; and			
(e) Consider the submissions made and any necessary amendments to the proposed outage and contingency management plan.			
25 Appoint expert adviser			
(1) Within:			
(a) 30 business days of the commencement date; or			
(b) 5 business days of receiving a proposed amendment to an outage and contingency management plan from a transmission system owner under regulations 31(4)(c), 32(6)(c) or 60(3)(c);			
whichever is applicable, the industry body must appoint an expert adviser to review, a proposed outage and contingency management plan or a proposed amendment to an outage and contingency management plan.			
<u>(2) Each transmission system owner may nominate one person to be considered by the industry body when appointing an expert adviser.</u>			MDL considers that TSOs should have some input into this process.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
26 Expert adviser to consult critical contingency operator			
(1) As soon as practicable following receipt of a proposed outage and contingency management plan under regulation 22 or proposed amendment under regulations 31(4)(c), 32(6)(c) or 60(3)(c), the industry body must provide the proposed plan or proposed amendment to the expert adviser and the critical contingency operator.			
(2) In reviewing the proposed outage and contingency management plan or proposed amendment under regulation 27, the expert adviser must consult with the critical contingency operator.			
(3) The critical contingency operator may provide the expert adviser with a report on the proposed outage and contingency management plan or proposed amendment in relation to any issues it perceives as material to the review by the expert adviser under regulation 27.			
(4) Any report prepared by the critical contingency operator under subclause (3) must be submitted to the expert adviser no later than 10 business days after the proposed outage and contingency management plan or proposed amendment was received from the industry body.			
(5) In reviewing the proposed outage and contingency management plan or proposed amendment under regulation 27, the expert adviser:			
(a) shall have regard to any report submitted in accordance with subclauses (3) and (4).			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(b) may have regard to any submissions received by the transmission system owner under regulation 24; and			
27 Review of an outage and contingency management plan			
(1) The expert adviser appointed under regulation 25 will review:			
(a) A proposed outage and contingency management plan provided by a transmission system owner under regulations 22 or 28(3); or			
(b) A proposed amendment to an outage and contingency management plan under regulations 31(4)(c), 32(6)(c) or 60(3)(c);			
to determine whether or not to recommend approval of the proposed outage and contingency management plan or proposed amendment to the industry body.			
(2) Following the review and no later than 20 business days after <u>after</u> receiving the proposed outage and contingency management plan or proposed amendment <u>(or in the case of an outage and contingency management plan resubmitted under regulation 28, no later than 10 business days after receiving it)</u> , the expert adviser must:			MDL considers that this timeframe should be reduced to 10 business days where the expert adviser is in receipt of a resubmitted outage and contingency management plan, so that a TSO has an opportunity to make two resubmissions, rather than one.
(a) make a recommendation, with reasons, to the industry body, on			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
whether or not the industry body should approve the proposed outage and contingency management plan or proposed amendment; and			
(b) give <u>written</u> notice to the relevant transmission system owner and the critical contingency operator of its determination and the reasons for its determination.			
(3) If the expert adviser considers that the proposed outage and contingency management plan or proposed amendment complies with regulation 23 and gives effect to the purpose of the regulations, the expert adviser must make a recommendation that the industry body should approve the proposed outage and contingency management plan or proposed amendment.			
(4) If the expert adviser gives notice under subclause (2)(b) that it has recommended that the proposed outage and contingency management plan or proposed amendment should not be approved by the industry body, no later than 10 business days after receiving that notice the relevant transmission system owner:			
(a) must revise the proposed outage and contingency management plan, in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or			
(b) may revise the proposed amendment in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval .			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(5) Regulations 25, 26, 27 and 28 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (4).			
28 Approval of outage and contingency management plan			
(1) No later than 5 business days after receiving a recommendation to approve under regulation 27(2), the industry body must:			
(a) approve or decline to approve the proposed outage and contingency management plan or proposed amendment; and			
(b) give <u>written</u> notice to the relevant transmission system owner and the critical contingency operator and of its determination and the reasons for its determination.			
(2) The industry body must approve the proposed outage and contingency management plan or proposed amendment if –			
(a) it receives a recommendation for approval from the expert adviser under regulation 27(3); and			
(b) the industry body considers that the proposed outage and contingency management plan or proposed amendment complies with regulation 23 and gives effect to the purpose of the regulations; or			
(c) <u>the outage and contingency management plan or proposed</u>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p><u>amendment adequately addresses the concerns raised by the expert adviser in the notice issued under regulation 27(2)(b).</u></p>			
<p>(3) If the industry body gives notice under subclause (1)(b) that it has declined to approve the proposed outage and contingency management plan or proposed amendment, no later than 10 business days after receiving that notice, the relevant transmission system owner:</p>			
<p>(a) must revise the proposed outage and contingency management plan in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or</p>			
<p>(b) may revise the proposed amendment, in response to the reasons given in that notice and resubmit the proposed amendment to the industry body for approval.</p>			
<p>(4) Regulations 25, 26, 27 and 28 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (3).</p>			
<p>29 Amendment of plan by industry body where deadlock exists</p>			<p>MDL agrees that a deadlock breaker provision should be included, and that the process proposed is appropriate.</p> <p>However, by MDL's calculations, the proposed timeframes would allow for only one resubmission of an OCMP. MDL would like these timeframes adjusted slightly to allow for two resubmissions.</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			This might be accomplished if the time allowed for expert consideration (step 5) was changed from 20 to 10 business days on resubmission. MDL considers that this would be practicable as the issues to be considered would be well known by that stage.
(1) This regulation only applies where a proposed outage and contingency management plan, submitted under regulations 22, 27(4)(a) or (a), has not been approved by the industry body under regulation 28 within 6 months of the commencement date			
(2) To avoid doubt, this regulation does not apply to any proposed amendment to an outage and contingency management plan,			
(3) The industry body may itself amend the proposed outage and contingency plan, provided such amendments are:			
(a) related to the reasons set out in any notice referred to in regulation 27(4) or 28(3); and			
(b) considered necessary by the industry body to ensure the proposed outage and contingency management plan complies with regulation 23 and gives effect to the purpose of the regulations.			
(4) Where the industry body amends the proposed outage and contingency management plan under subclause (3), the industry			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
body must give <u>written</u> notice to the relevant transmission system owner and the critical contingency operator of the amendments and, the reasons for the amendments.			
(5) On the 5th business day after giving notice under subclause (4), the industry body must determine whether or not to approve the proposed outage and contingency management plan as amended under subclause (3).			
30 Publish outage and contingency management plans			
(1) As soon as practicable after the industry body is satisfied that it has approved outage and contingency plans to cover all of the transmission system, the industry body must publish a statement specifying:			
(a) it has approved outage and contingency plans to cover all of the transmission system; and			
(b) the go-live date that, pursuant to regulation 2, parts 3 and 4 of the regulations come into force on.			
(2) No later than 5 business days after the industry body publishes a statement under subclause (1), the critical contingency operator must publish the outage and contingency management plans on the critical contingency <u>OATIS</u> website, except as provided in subclause (3).		OATIS website	As noted above, MDL considers that there is no need for the establishment of a new website.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(3) The critical contingency operator must not publish any information in the outage and contingency management plans that it considers is <u>determines, following consultation with the relevant transmission system owner, to be</u> confidential or commercially sensitive.			This gives the CCO a very wide discretion. The CCO should at least be required to consult TSOs before reaching a determination, whether or not any dispute arises under subclause (4).
(4) If any dispute or issue is raised regarding the publication of information in the outage and contingency management plans, the dispute or issue may be referred to the industry body for determination as to what is and what is not appropriate for publication.			MDL considers that this involves significant risk to the TSO. MDL would prefer this determination to follow a dispute resolution process.
31 Maintaining outage and contingency management plan			
(1) A transmission system owner must ensure the contact details included in its outage and contingency management plan in accordance with regulation 23 are current.			As noted above at regulation 23, MDL considers that such contact details should not be contained in plans.
(2) A transmission system owner must review its outage and contingency management plan to determine whether it complies with regulation 23 and whether it is able to give effect to the purpose of the regulations -			
(a) Once every 2 years; or			
(b) At any time it is directed to do so by the critical contingency operator; or			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(c) At any time that the relevant transmission system owner is of the opinion that its outage and contingency management plan may not give effect to the purpose of the regulations.			
(3) If, as a result of a review under subclause (2), a transmission system owner considers that the outage and contingency management plan may not:			
(a) adequately comply with regulation 23; or			
(b) give effect to the purpose of the regulations;			
the transmission system owner must notify the critical contingency operator within 10 business days of making such a determination.			
(4) If notice is given under subclause (3) the relevant transmission system owner must:			
(a) prepare a proposed amendment to the outage and contingency management plan which it considers would better provide compliance with regulation 23 and achieve the purpose of the regulations; and			
(b) consult on the proposed amendment in accordance with regulation 24, except where the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(c) submit, after consultation in accordance subclause (b), the proposed amendment to the industry body for approval in accordance with regulations 25, 26, 27 and 28.			
32 Testing outage and contingency management plans			
(1) The critical contingency operator must, after consultation with transmission system owners, instigate exercises to test that –			
(a) The outage and contingency management plans comply with regulation 23 and give effect to the purpose of the regulations; and			
(b) The contact details included in outage and contingency management plans in accordance with regulation 23 are current; and			As noted above at regulation 23, MDL does not consider that such contact details should be included in plans.
(c) The list of emergency contact details maintained by retailers in accordance with regulation 40 is current.			
(2) Transmission system owners must participate in tests instigated under subclause (1).			
(3) Participation in a national civil defence emergency management training exercise under the Civil Defence Emergency Management Act 2002 is deemed to be a test for the purposes of this regulation.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(4) An exercise must be instigated by the critical contingency operator at least once every 12 months, except where there has been a critical contingency within that 12 month period and the report produced in accordance with regulation 60 confirms that the outage and contingency management plans meets the test criteria in subclause (1).			
(5) Within 10 business days of completing an exercise under subclause (1), a transmission system owner must provide a report to the critical contingency operator which –			
(a) Explains why or why not its outage and contingency management plan meets the test criteria in subclause (1); and			
(b) Identifies areas in which its outage and contingency management plan can be improved; and			
(c) Recommends to the critical contingency operator any amendments that the transmission system owner considers should be made to its outage and contingency management plan; and			
(d) Contains such other information the transmission system owner considers is appropriate.			
(6) Following the provision of the report provided under subclause (5), a transmission system owner may –			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(a) prepare a proposed amendment to the outage and contingency management plan which it considers would better achieve the purpose of the regulations; and			
(b) consult on the proposed amendment in accordance with regulation 24, except where the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and			
(c) submit, after consultation in accordance subclause (b), the proposed amendment to the industry body for approval in accordance with regulations 25, 26, 27 and 28 .			
<i>Guidelines</i>			<p>MDL agrees that guidelines would help TSOs.</p> <p>However, MDL considers that TSOs should develop these guidelines themselves (working collaboratively).</p> <p>MDL does not agree to the establishment of an industry group to aid the development of such guidelines because it considers that:</p> <ul style="list-style-type: none"> • the group is unlikely to reach agreement quickly; • other industry participants not involved in the group may disagree with the guidelines; and • the group might come up with guidelines that are impractical, especially in the difficult and highly

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			<p>technical area of determining contingency imbalances;</p> <ul style="list-style-type: none"> • any contingency imbalance guidelines will need to be designed using a detailed and specific knowledge of how the OATIS system and the available data will be used and then included in the procedure outlined in the OCMP; • there will be adequate opportunity for consultation when the OCMP is prepared as specified in regulation 24; and • from a practical point of view, it will be more efficient for MDL to prepare its preferred solutions, (consulting with outside parties such as Vector or GIC where necessary), instead of engaging in an additional general industry consultative exercise. <p>MDL considers that the establishment of an industry group for this purpose would be contrary to GIC's efficiency objectives as set out at section 43ZN(a) and (b)(v) of the Act, and sections 4 and 5(h) of the current GPS (sections 3 and 4(h) of the new draft GPS). It would also be contrary to the timeliness feature of good regulatory practice.</p>
33 Contingency imbalance guidelines			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(1) <u>By</u> On the commencement date, <u>transmission system owners, after consulting with persons considered representative of the interests of persons likely to be substantially affected,</u> the industry body must make and publish contingency imbalance guidelines.			
(2) The objectives of the contingency imbalance guidelines are to –			
(a) ensure the gas consumed during a critical contingency and any resulting contingency imbalances are accurately determined and allocated to affected welded <u>interconnected</u> parties, retailers and shippers; and			
(b) ensure fair, effective and transparent arrangements are set out in the outage and contingency management plans for the determination, allocation and payment of contingency imbalances between affected transmission system owners, welded <u>interconnected</u> parties, retailers and shippers; and			
(c) assist compliance with the matters set out in regulation 67(3).			
(3) The contingency guidelines may specify:			
(a) Procedures for the determination, allocation and payment of any contingency imbalances for welded <u>interconnected</u> parties, retailers and shippers affected by a critical contingency over the period of the critical contingency; and			
(b) Other contingency imbalance arrangements considered by the			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
industry body to further the objectives set out in subclause (2).			
(4) Transmission system owners The industry body , after consulting with persons considered representative of the interests of persons likely to be substantially affected, may amend the contingency imbalance guidelines and the industry body must publish any such amendments as soon as practicable.			
<i>Communications plan</i>			
34 Publish communications plan		Existing plans	<p>MDL notes that TSOs already have communications plans developed pursuant to existing contractual relationships and it would be simpler and more efficient to use these plans (with any desirable amendments), rather than creating new ones.</p> <p>Duplicating a resource by having a separate new communications plan is inefficient, contrary to GIC's objectives under section 43ZN(a) and (b)(v) of the Gas Act 1992 and sections 4 and 5(h) of the GPS.</p>
(1) The critical contingency operator must, in consultation with transmission system owners, prepare a communications plan and publish <u>any existing industry communications plan(s)</u> it on the go-live date.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) The communications plan(s) will govern the communications between the critical contingency operator and the transmission system owners during a critical contingency.			
(3) The communications plan(s) must apply to communications from the critical contingency operator to the transmission system owners and from the transmission system owners to the critical contingency operator relating to –			
(a) Implementing curtailment of demand; and			
(b) Revising curtailment of demand; and			
(c) Restoring gas supply; and			
(d) Terminating a critical contingency; and			
(e) Identifying persons who did not comply with curtailment or restoration directions.			
(4) The critical contingency operator may, after consultation with transmission system owners, amend and publish a revised communications plan(s).			
<i>Information guide</i>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
35 Information guide for certain parties			
On the go-live date, the critical contingency operator must publish an information guide which explains the communication flows between the critical contingency operator and the following parties during a critical contingency –			
(1) The electricity system operator; and			
(2) The director of civil defence emergency management; and			
(3) Operators of gas storage facilities; and			
(4) Operators of upstream gas production facilities; and			
(5) The industry body; and			
(6) The Minister of Energy; and			
(7) Any other person that the critical contingency operator considers necessary.			
36 Process for preparing information guide			
(1) Prior to publishing the information guide, the critical contingency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
operator must -			
(a) Consult with persons that the critical contingency operator considers are representative of the interests of persons likely to be substantially affected by the information guide; and			
(b) Give persons consulted with under subclause (1)(a) at least 20 business days to make submissions to the critical contingency operator on the information guide; and			
(c) Consider the submissions made on the information guide.			
(2) The consultation process, including consideration of submissions, must be completed within 50 business days of the commencement date.			
(3) If submissions made on the information guide are also relevant to the outage and contingency management plans or <u>existing</u> communications plan(s), the critical contingency operator may consider those submissions when reviewing the outage and contingency management plans or preparing the <u>existing</u> communications plan(s) as applicable.		Existing plans	As above, TSOs have pre-existing communications plans.
(4) The critical contingency operator may, after consulting on any proposed amendments in accordance with subclause (1)(a), amend and publish a revised information guide.			
<i>Consumer information</i>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
37 Retailers to provide consumer information			
(1) Retailers must provide a notice to the critical contingency operator no later than 20 business days after the commencement date containing the number and aggregate total annual consumption of the retailer's consumers which are supplied gas through each gas gate that are –			
(a) In each of the curtailment bands set out in the curtailment arrangements; and			
(b) Designated as essential service providers; and			
(c) Designated as minimal load consumers.			
(2) Retailers must give notice to the critical contingency operator as soon as practicable whenever there is a change of 20% or greater in the aggregate total annual consumption figures for the information provided in accordance with subclause (1).			
38 Critical contingency operator to hold record of retailers' information			
(1) The critical contingency operator must keep a record of information provided to it by retailers in accordance with regulation 37.			
(2) If the critical contingency operator considers that information provided by any retailer is materially incorrect the critical contingency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
operator must, as soon as reasonably practicable, give notice to the industry body that a specific retailer's information may be materially incorrect and provide all of that retailer's information to the industry body.			
39 Audit of retailers' information			
(1) If the industry body is notified by the critical contingency operator pursuant to regulation 38 that a retailer's information may be materially incorrect, the industry body must give the relevant retailer 10 business days to correct its information and provide the updated information to the critical contingency operator.			
(2) If the critical contingency operator considers that the updated information provided under subclause (1) is materially incorrect, or the retailer does not provide the updated information, the critical contingency operator must, as soon as reasonably practicable, give notice to the industry body.			
(3) Within 5 business days of receiving notification under subclause (2), the industry body must give notice to the retailer that the industry body intends to conduct an audit of that retailer.			
(4) The purpose of an audit under this regulation is to determine whether information provided to the critical contingency operator by the retailer is materially incorrect.			
(5) The audit is to be conducted in accordance with regulation 73.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
40 Emergency contact details			
(1) Retailers must maintain a list of the emergency contact details of all of their consumers with gas consumption in excess of 2 terajoules per annum.			
(2) Retailers must include or remove (as appropriate) the emergency contact details of a consumer on the list maintained in accordance with subclause (1) within 5 business days of that consumer concluding a switch of retailers.			
41 Designation of customers as essential service providers			
(1) The purpose of this regulation is to identify consumers which are essential service providers.			
(2) Each retailer must, as soon as reasonably practicable after the commencement date, notify those of its consumers who are not domestic consumers, that if they wish to be classified as essential service providers they must apply to the retailer in writing and that such an application can be made at any time.			
(3) A retailer must approve a consumer's application to be an essential service provider if all of the following criteria are met -			
(a) The consumer provides services which are considered necessary to further the emergency response objectives set out in section 59 of the National Civil Defence Emergency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
Management Plan Order 2005 ; and			
(b) The consumer can demonstrate that its annual gas consumption was greater than 2 terajoules in any 12 month period within 2 years before the consumer's application; and			
(c) The consumer meets the criteria in any essential service provider guidelines that may be published by the industry body from time to time.			
(4) Retailers must, within 10 business days of receiving a consumer's application to be an essential service provider, give notice to the consumer that it approves or declines that consumer's application.			
(5) If a retailer reasonably considers a consumer who has been approved as an essential service provider no longer meets the criteria set out in subclause (3), the retailer may give notice requiring the consumer to re-apply under this regulation for approval as an essential service provider. To avoid doubt, a consumer remains an essential service provider unless it receives notice under subclause (4) that the retailer has declined its re-application.			
42 Designation of customers as minimal load consumers			
(1) The purpose of this regulation 42 is to identify consumers which require a minimal amount of gas during a critical contingency in order to avoid serious damage to plant and/or mitigate serious environmental damage while undertaking an orderly shut down of plant in the shortest time possible.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) Each retailer must, as soon as reasonably practicable after the commencement date, notify those of its consumers who are not domestic consumers that if they wish to be classified as minimal load consumers they must apply to the retailer in writing and that such an application can be made at any time.			
(3) A consumer must include the following information in an application to be a minimal load consumer –			
(a) The absolute minimum level of gas supply level required to avoid serious damage to plant or mitigate serious environmental damage; and			
(b) The period of time required for an orderly and complete shut down of plant; and.			
(4) A retailer must, within 10 business days of receiving an application to be a minimal load consumer, provide notice to the consumer that it approves or declines that consumer's application.			
(5) A retailer must approve a consumer's application to be a minimal load consumer if all of the following criteria are met -			
(a) The consumer would have no alternative arrangements that are considered economically feasible if gas supply was curtailed; and			
(b) The consumer is operating a major item of capital plant and that			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
plant would sustain serious damage or significant environmental damage would likely be caused if gas supply was curtailed; and			
(c) The consumer installation has annual gas consumption of greater than 10 terajoules in any 12 month period.			
(6) Within 10 business days of notifying a consumer that its application to be a minimal load consumer has been approved, the retailer and the consumer must agree in writing on:			
(a) the absolute minimum gas supply level required to mitigate serious damage to the plant or the environment; and			
(b) the period of time for which it requires a gas supply to effect an orderly shut down of plant.			
(7) If a retailer reasonably considers a consumer who has been approved as a minimal load consumer no longer meets the criteria set out in subclause (5), the retailer may give notice requiring the consumer to re-apply under this regulation for approval as a minimal load consumer. To avoid doubt, a consumer remains a minimal load consumer unless it receives notice under subclause (4) that the retailer has declined its re-application.			
Part 3 Critical contingency <i>General</i>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>43 Life and limb</p> <p>No person is required to comply with a provision of this Part 3 to the extent that compliance would unreasonably endanger the life or safety of that person or any other person.</p>			
<p><i>Declaring a critical contingency</i></p>			<p>MDL considers that it would be more efficient (and therefore more consistent with GIC's objectives under section 43ZN(a) and (b)(v) of the Act, and sections 4 and 5(h) of the GPS) for TSOs to determine whether there is a gas contingency as they have the necessary information and experience to do so.</p> <p>It would also be simpler to place the entire decision making process with TSOs (in accordance with GIC's objectives under its Statement of Proposal).</p> <p>TSOs are in a better position to act promptly to resolve a contingency, so that gas industry participants can get on with business (in accordance with the timeliness feature of good regulatory practice).</p>
<p>44 Critical contingency operator <u>Transmission system owner</u> must determine a critical contingency</p>			
<p>The critical contingency operator <u>A transmission system owner</u> must make</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
a determination that there is a critical contingency if either –			
(a) One or more of the thresholds included in an outage and contingency management plan pursuant to regulation 23(1)(a) is breached; or			MDL agrees that these thresholds should be contained in plans, rather than in regulations.
(b) The critical contingency operator <u>That transmission system owner</u> has a reasonable expectation that a breach of one or more of the thresholds included in an outage and contingency management plan pursuant to regulation 23(1)(a) is imminent.			
45 Process for declaration			
(1) If the critical contingency operator <u>a transmission system owner</u> determines that there is a critical contingency under regulation 44, the critical contingency operator <u>transmission system owner</u> must declare a critical contingency.			
(2) Without limiting the powers of the critical contingency operator under these regulations, to declare a critical contingency, the critical contingency operator <u>transmission system owner</u> must, as soon as reasonably possible after determining a critical contingency, give formal notice to <u>the critical contingency operator and all other</u> affected transmission system owners:			
(a) Advising them that a critical contingency has been declared; and			
(b) Detailing the pipeline areas affected; and			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(c) Advising them that they are required to comply with any directions of the critical contingency operator; and			
(d) Advising them that communications under the <u>existing</u> communications plan(s) are to commence immediately.			
46 Authority of critical contingency operator			
If the critical contingency operator <u>a transmission system owner</u> declares a critical contingency, the critical contingency operator must –			
(a) Issue directions to the transmission system owners in accordance with the relevant outage and contingency management plans and the communications plan(s) as closely as practicable having regard to the nature of the critical contingency; and			
(b) Take any other mitigating action it considers necessary to meet the purpose of the regulations if the actions required to mitigate the severity of the critical contingency lie outside the scope of the outage and contingency management plans.			
47 Notification of a critical contingency to certain parties			
As soon as reasonably practicable after <u>receiving notice that a transmission system owner has</u> declared ing a critical contingency, the critical contingency operator must give formal notice to the following persons that a critical contingency has been declared -			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(a) The electricity system operator; and			
(b) The director of civil defence emergency management; and			
(c) Operators of gas storage facilities; and			
(d) Operators of upstream gas production facilities; and			
(e) The industry body; and			
(f) The Minister of Energy.			
48 Publish declaration of critical contingency			
The critical contingency operator must as soon as reasonable practicable after <u>receiving notice that a transmission system owner has</u> declared <u>ing</u> a critical contingency –			
(a) Publish a statement that a critical contingency has been declared, the date and time that the critical contingency was declared, and detail the pipeline areas affected; and			
(b) Ensure an appropriate critical notice is posted on OATIS or its replacement interactive software system, if any.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<i>During a critical contingency</i>			
49 Role of critical contingency operator during a critical contingency			
(1) For the duration of a critical contingency, the critical contingency operator must –			
(a) Monitor the linepack levels and pressure in the section or sections of the transmission system affected; and			
(b) Receive and consider communications from the transmission system owners and any other persons identified in the information guide; and			
(c) <u>Direct transmission system owners to maximise all available opportunities under their balancing gas contracts</u> to increase upstream gas production and draw on gas storage, excluding any gas stored in a transmission system or distribution system; and			MDL considers that TSOs are in the best position to maximise these opportunities.
(d) Without limiting the critical contingency operator’s power under regulation 46(b), give formal notices to transmission system owners in accordance with the communications plan(s) directing the transmission system owners to -			
(i) Implement curtailment of demand in accordance with the outage and contingency management plan; and			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(ii) Revise curtailment of demand in accordance with the outage and contingency management plan;			
for the purpose of stabilising the linepack and pressure in the section or sections of the transmission system affected; and			
(e) Once linepack and pressure in the section or sections of the transmission system affected has stabilised to a level where the critical contingency operator is satisfied that it is appropriate to restore gas supply, give formal notice to transmission system owners in accordance with the communications plan(s) directing the transmission system owners to either –			
(i) <u>use all reasonable endeavours to r</u> estore gas supply to consumers in the reverse curtailment order (last to curtail and first to restore) in accordance with the outage and contingency management plan unless agreed otherwise with the transmission system owner; or			<p>MDL notes that restoration phases have to be carefully managed as the availability of gas may still be subject to constraints.</p> <p>Restoration by exact reverse priority order may not always be possible, particularly if absolutely equal precedence must be given within bands.</p> <p>MDL considers that it would be better to leave the CCO (and the TSO when writing the OCMP) some discretion about managing this process as the circumstances faced during an emergency might vary greatly.</p> <p>Restoration by reverse curtailment order should be an objective, but practical considerations on the day have to be</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			allowed for.
(ii) If there is a civil defence emergency, restore gas supply to consumers in accordance with The Guide to the National Civil Defence Emergency Management Plan issued by the director of civil defence emergency management under section 9(3) of the Civil Defence Emergency Management Act 2002, or any equivalent or replacement document under any subsequent replacement legislation; and			
(f) To the extent reasonably practicable in the circumstances, ensure the following persons are kept informed of the status of the critical contingency:			
(i) the persons listed in regulation 47; and,			
(ii) affected transmission system owners, welded interconnected parties, retailers and shippers; and			
(g) Publish –			
(i) updated information on the status of the critical contingency; and			
(ii) all formal notices given by the critical contingency operator.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) To avoid doubt, the critical contingency operator has the power to direct curtailment of only a subset of load within a curtailment band including:			<p>MDL agrees that the CCO should have this power.</p> <p>However, MDL considers that this regulation 49(2) is inconsistent with regulation 2 of the Schedule, which requires OCMPs to provide that the defined groups of consumers set out in the table contained in that regulation are to be given equal priority in terms of any curtailment required in a critical contingency.</p> <p>MDL considers that regulation 2 of the Schedule should be amended for consistency with this regulation 49(2).</p>
(a) subsets for voltage support load; and			
(b) subsets for electricity system stability; and			
(c) subsets of geographical load.			
50 Role of transmission system owner during a critical contingency			
If the critical contingency operator determines that there is a critical contingency under regulation 44, transmission system owners must –			
(a) Comply with any and all directions of the critical contingency			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
operator given under these regulations; and			
(b) Subject to subclause (a):			
(i) follow the outage and contingency management plan as closely as practicable, having regard to the nature of the critical contingency; and			
(ii) issue directions to retailers in accordance with the outage and contingency management plan; and			
(c) Follow the communications plan.			
51 Retailers must follow directions			
(1) Retailers must, as soon as practicable, comply with any and all directions of a transmission system owner issued in accordance with these regulations during a critical contingency.			
(2) Retailers must provide a transmission system owner with regular updates of –			
(a) The retailer's compliance with the directions of the transmission system owner; and			
(b) Consumers' compliance with the retailer's directions issued in accordance with the directions of the transmission system			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
owner.			
52 Retailers to instruct consumers			
(1) As soon as reasonably practicable after receiving a direction from a transmission system owner under regulation 51(1), retailers must give formal notice to their consumers affected by that direction that the consumer is to curtail demand in accordance with the direction.			
(2) The formal notice given under subclause (1) must include statements that:			
(a) A critical contingency has been declared by the critical contingency operator; and			
(b) The critical contingency operator has issued a direction for the curtailment bands, that the notified customers falls within; and			
either -			
(c) The consumer must curtail all its demand; or			
(d) If the consumer is a minimal load consumer, gas demand must be curtailed in accordance with the agreement with the retailer under regulation 42(6).			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
53 Consumers to comply with directions			
(1) Subject to subclause (2), consumers must comply with any and all directions issued by their retailer under regulation 52 as soon as reasonably practicable.			
(2) Subclause (1) does not apply to domestic consumers.			<p>MDL agrees with GIC that it is not essential for the CCO, through retailers, to be able to require domestic consumers to comply with curtailment directions. GIC's proposal to exclude domestic consumers is adequate for the effective operation of the outage and contingency arrangements.</p> <p>The curtailment of domestic consumers may only be needed in the case of an extreme emergency, such as a break in the Maui Pipeline or a failure of one of the Vector transmission lines that supply a complete region. In any other circumstances the provisions for the exclusion of domestic consumers seem to be no more than recognition of reality as there is no easy mechanism for domestic gas consumption curtailment available. There also does not appear to be a legal basis for including domestic consumers in a curtailment regime.</p> <p>The curtailment of domestic consumers would only be considered in an extreme emergency and MDL agrees with GIC</p>

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
			that the Civil Defence Emergency Management Act 2002 appears to give powers to issue directives to conserve energy supplies, while the Gas Act 1992 gives powers to enter onto premises (presumably to turn the gas off). Public appeals to conserve gas are also likely to be effective in an emergency situation.
54 Continuing critical contingency			
(1) Where a critical contingency has not been terminated under regulation 55 within 3 days from the date the critical contingency was declared under regulation 45, the critical contingency operator must give formal notice of that situation to the industry body, the director of civil defence emergency management and the Minister of Energy.			
(2) On receiving formal notice under subclause (1), the industry body, the director of civil defence emergency management or Minister of Energy may require the critical contingency operator to provide any information it holds concerning the critical contingency.			
<i>Termination of a critical contingency</i>			
55 Termination of critical contingency			
(1) The critical contingency operator must make a determination to terminate a critical contingency <u>upon notice from</u> when the transmission system <u>owners that they are</u> is capable of supplying gas to all consumers at the level at which gas was supplied			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
immediately prior to the event that triggered the critical contingency.			
(2) To avoid doubt, the critical contingency operator may make a determination to terminate a critical contingency under regulation 55(1) before gas supply has been restored to all consumers.			
56 Process for termination			
As soon as reasonably practicable after making a determination to terminate a critical contingency under regulation 55, the critical contingency operator must give formal notice to all affected transmission system owners advising them –			
(a) Of the date and time on which the critical contingency terminates or has been terminated; and			
(b) That, <u>where applicable</u> , they must give formal notice to all affected retailers that the critical contingency has terminated and direct retailers to advise their consumers that the critical contingency has terminated; and			MDL does not have a relationship with retailers (although Vector does).
(c) That, <u>where applicable</u> , they must give formal notice to all consumers connected directly to their transmission system that the critical contingency has terminated.			
57 Notification of termination to certain parties			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
As soon as reasonably practicable after terminating a critical contingency the critical contingency operator must give formal notice to the following persons that the critical contingency has been terminated -			
(a) The electricity system operator; and			
(b) The director of civil defence emergency management; and			
(c) Operators of gas storage facilities; and			
(d) Operators of upstream gas production facilities; and			
(e) The industry body.			
58 Publish termination of critical contingency			
The critical contingency operator must, as soon as reasonably practicable after terminating a critical contingency, publish a statement that the critical contingency has been terminated.			
Part 4 Obligations post critical contingency <i>Reporting requirements</i>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
59 Incident report			
<u>(1)</u> As soon as reasonably practicable, but no later than [5] business days after terminating a critical contingency under regulation 55, the critical contingency operator must, in consultation with the affected transmission system owners, prepare and publish an incident report which states the –			
(a) Cause of the critical contingency; and			
(b) Duration of the critical contingency; and			
(c) Actions taken by the critical contingency operator and transmission system owner during the critical contingency; and			
(d) The level of retailers' and consumers' general compliance with the instructions of the transmission system owners during the critical contingency <u>to the extent possible</u> ; and			MDL considers that complying with these timeframes will be difficult where meter readings are only available monthly, as is the case for some customers.
(e) Any other matters that the critical contingency operator considers are appropriate.			
<u>(2) If incomplete information is available by the date specified at regulation 59(1), the critical contingency operator must, in consultation with the affected transmission system owners, prepare and publish a revised incident report once the relevant information is available.</u>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
60 Performance report			
(1) No later than 15 business days after terminating a critical contingency under regulation 55, or as otherwise agreed between the critical contingency operator and the industry body, the critical contingency operator must prepare and publish a performance report which –			
(a) Assesses the critical contingency operator’s and transmission system owners’ compliance with the regulations, outage and contingency management plan and communications plan; and			
(b) Assesses the extent to which it considers the regulations, outage and contingency management plan and communications plan achieve the purpose of the regulations; and			
(c) Identifies, where applicable, any amendments to the regulations, outage and contingency management plan and communications plan which it considers would better achieve the purpose of the regulations.			
(2) In preparing the performance report under subclause (1), the critical contingency operator must consult with:			
(a) the affected transmission system owner; and			
(b) any other person it considers necessary.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(3) If the performance report identifies an amendment to the outage and contingency management plan pursuant to subclause (1)(c), the transmission system owner must –			
(a) prepare a proposed amendment to the outage and contingency management plan which is consistent with the amendment identified in the performance report; and			
(b) consult on the proposed amendment in accordance with regulation 24, except where the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial.			
(c) submit the proposed amendment to the industry body for approval in accordance with regulations 25, 26, 27 and 28.			
(4) If the performance report identifies an amendment to the communications plan pursuant to subclause (1)(c), the critical contingency operator must amend and publish a revised communications plan in accordance with regulation 34.			
61 Assist with report			
A transmission system owner must provide any information and assistance requested by the critical contingency operator for the purpose of preparing the reports under regulations 59 and 60.			
<i>Critical contingency price for contingency imbalances</i>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
62 Purpose of applying critical contingency price to contingency imbalances			
The purpose of regulations 63 to 66 is to determine a critical contingency price to be applied to <u>welded</u> interconnected parties', retailers' and shippers' contingency imbalances sustained during a critical contingency to –			
(a) Avoid shippers instructing their suppliers to reduce supply during a critical contingency when those shippers' consumers have been curtailed; and			
(b) Signal to suppliers and consumers of gas that it is a scarce and valuable product during a critical contingency; and			
(c) Provide incentives prior to a critical contingency, particularly for retailers who supply gas to consumers who are unlikely to be curtailed, to make alternative arrangements to minimise the financial repercussions of a critical contingency.			
63 Nominate industry expert			
(1) Each transmission system owner, <u>welded</u> interconnected party, retailer and shipper who will be affected by the determination of a critical contingency price may nominate one person to be considered by the industry body when appointing an independent industry expert to determine the critical contingency price.			
(2) An affected transmission system owner, <u>welded</u> interconnected party,			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
retailer or shipper must provide the name, qualifications, and industry associations of their nominee to the industry body in writing within 5 business days of the termination of a critical contingency.			
64 Appoint industry expert			
(1) Subject to subclauses (2) and (3), the industry body must appoint an industry expert to determine the critical contingency price from the persons nominated under regulation 63 within 10 business days of the termination of a critical contingency.			
(2) The industry body must only appoint a person nominated under regulation 63 if the industry body considers that such a nominee would be an independent industry expert.			
(3) If the industry body considers that none of the nominees would be an independent industry expert, the industry body has absolute discretion to appoint an independent industry expert that has not been nominated under regulation 63.			
(4) The industry body must publish the appointment of the industry expert within 2 business days of making such an appointment.			
(5) Both:			
(a) a decision of the industry body to appoint a person as the industry expert; and			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(b) a determination of the critical contingency price by the industry expert;			
are final and binding on all affected transmission system owners, welded interconnected parties, retailers and shippers.			
65 Terms of appointment of industry expert			
(1) The industry expert is to be appointed as a service provider on the terms and conditions set out in a service provider agreement.			
(2) The remuneration of the industry expert will be as agreed between the industry body and the industry expert in the service provider agreement.			
66 Determining the critical contingency price			MDL considers that setting a price for gas supplied above contractual entitlements during a critical contingency is a great improvement on current arrangements and that the proposed method of determining the critical contingency price improves greatly on the arrangements proposed in the initial draft of the regulations.
(1) The industry expert must determine the critical contingency price in dollars per gigajoule.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) In making the determination under subclause (1), the industry expert must:			
(a) seek to set the critical contingency price at a level that reflects the price that would be established by an efficient short-term market that allocated scarce gas resources to the highest value uses during the critical contingency; and			The method for setting the critical contingency price looks better than the system previously suggested. The overarching principle and the issues to be considered in making the calculation appear sensible.
(b) take into account the following matters: -			
(i) the prices in the wholesale market for electricity during the critical contingency; and			
(ii) the economic cost of the loss of gas supply to those consumers who had their gas supply curtailed; and			
(iii) any other matters that the industry expert considers relevant to achieving subclause (2)(a).			
(3) Where a gas-fired electricity generator plant, which is connected to the electricity transmission system, was the marginal plant on the curtailment band curtailed during the critical contingency, the industry expert should base its determination under this regulation on the prices in the wholesale market for electricity during a critical contingency, except where that would be contrary to subclause (2)(a).			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(4) No later than 20 business days after being appointed under regulation 64(1), the industry expert must give notice of the critical contingency price to affected transmission system owners, welded interconnected parties, retailers, shippers and the industry body.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<i>Determining and resolving contingency imbalances</i>			<p>The determination of contingency imbalances and the role MDL is expected to play in calculating them is a key issue for MDL.</p> <p>MDL wishes to ensure that any arrangements are as simple as possible, and that it is not exposed to financial liability for carrying out this service.</p> <p>Consideration must also be given to maintaining a smooth transition from the normal MPOC arrangements to the outage and contingency management procedures and back again.</p> <p>As noted above, MDL does not agree to the development of an industry group that will consider the best method of calculation of contingency imbalances and develop guidelines for the making of such calculations. MDL considers that TSOs are best placed to develop such guidelines.</p> <p>MDL considers that the regulations should provide for payment / compensation to a TSO for changes in line pack and balancing gas supplied by the TSO during the critical contingency. They don't appear to at present. Please see MDL's proposed amendments to regulation 16(3) above.</p>
67 Determining contingency imbalances			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(1) Within 20 business days of the end of the month in which the critical contingency was terminated, the transmission system owner must determine the contingency imbalances for each welded interconnected party, retailer and shipper affected by the critical contingency over the period of the critical contingency.			
(2) A contingency imbalance may be a positive contingency imbalance or a negative contingency imbalance and for the purposes of these regulations –			
(a) a negative contingency imbalance means the imbalance for a welded an interconnected party, retailer or shipper created where its consumers in aggregate have, or are deemed under any industry allocation rules to have, consumed more gas during a critical contingency than the total of that welded interconnected party's, retailer's or shipper's injections into the transmission system determined in accordance with this regulation; and			
(b) a positive contingency imbalance means the imbalance for a retailer or shipper created where its consumers in aggregate have, or are deemed under any industry allocation rules, to have consumed less gas during a critical contingency than the total of that retailer's or shipper's injections into the transmission system determined in accordance with this regulation.			
(3) When determining a contingency imbalance for each affected welded interconnected party, retailer and shipper affected by the critical contingency, the transmission system owner must -			
(a) Act in accordance with its outage and contingency management			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
plan; and			
(b) Use the best information available that is in its possession or can be obtained without unreasonable difficulty or expense in the 20 business days of the end of the month in which the critical contingency was terminated; and			
(c) Assume that welded interconnected parties, retailers and shippers and their consumers have complied with any curtailment directions issued by the critical contingency operator during the critical contingency when determining quantities consumed unless there is evidence to the contrary; and			
(d) Adjust quantities consumed having regard to any evidence that welded interconnected parties, retailers and shippers or their consumers did not comply with curtailment instructions; and			
(e) Treat trades –			
(i) Purchasing gas over the transmission system as injections into the transmission system; and			
(ii) Selling gas over the transmission system as withdrawals from the transmission system; and			
(f) Use the critical contingency price to allocate and invoice any contingency imbalances.			MDL agrees that TSOs should take on this role.

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
68 Transmission system owners to hold contingency cash pool			
(1) A transmission system owner must receive and hold the payments made in accordance with regulation 69 in a secure and separate bank account in trust for the benefit of welded interconnected parties, retailers and shippers with positive contingency imbalances.			<p>MDL agrees with this proposal. In principle, the payments pool should be self-balancing. However, TSOs should not be put in a position where disputes over invoiced amounts delay payment while parties expecting to be paid from the pool require their payment right away. The regulations do not seem to require TSOs to pay out money that has not been previously collected.</p> <p>MDL considers that the Draft Regulations contain insufficient detail around non-payment of invoices. If MDL is unable to recover its costs immediately, interest should accrue on invoiced amounts, as is provided for in the equivalent provisions of the MPOC (see clause 14.2 of the MPOC), and as GIC can do in recovering its costs (see regulation 18(1)).</p>
69 Negative contingency imbalances			
(1) Within 25 business days of the end of the month in which the critical contingency was terminated, a transmission system owner must issue invoices to welded interconnected parties, retailers and shippers with negative contingency imbalances for the amounts calculated in accordance with regulation 67.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) No later than the 20 th day of the month following the month in which the invoice was issued, each welded interconnected party, retailer and shipper with a negative contingency imbalance determined under regulation 67 must pay the amount stated on the invoice to the transmission system owner.			
(3) <u>Any person who is liable to pay any invoice under regulation 69(1), and who fails to pay such invoice on or before the date on which payment falls due, is liable to pay an additional amount equal to 10% of the amount of the invoice that is unpaid.</u>			
(4) <u>The additional amount becomes payable and due on the 10th business day after the date that the transmission system owner notifies the person that an additional amount is payable.</u>			
(5) <u>The amount payable under this regulation 69 and any additional amount payable under subclause (3) are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and services tax on that amount will be added to any invoices issued to persons by the transmission system owner under regulation 69(1).</u>			
70 Positive contingency imbalances			
(1) Within 25 business days of the end of the month in which the critical contingency was terminated, a transmission system owner must issue invoices to welded interconnected parties, retailers and shippers with positive contingency imbalances for the amounts calculated in accordance with regulation 67.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
<p>(2) On the last business day of any month during which the payments required under regulation 69 have been received, the transmission system owner must pay the amount calculated in accordance with the following formula to each weldedinterconnected party, retailer and shipper with positive contingency imbalance:</p>			
<p>$R_A = C_p \times (M_A/M_t)$</p> <p>Where:</p> <p>$R_A$ is the amount to be received by weldedinterconnected party, retailer or shipper A</p> <p>C_p is the total amount of money held in the transmission system owner's contingency cash pool at a specified time in relation to the relevant critical contingency</p> <p>M_A is the positive imbalance of weldedinterconnected party, retailer or shipper A in gigajoules</p> <p>M_t is the total of all the positive imbalances of weldedinterconnected parties, retailers and shippers in gigajoules</p>			
<p>(3) Subject to subclause (4), a transmission system owner must make subsequent payments to weldedinterconnected parties, retailers and shippers calculated in accordance with subclause (2) so that the amount stated in on the invoice is fully paid out to those weldedinterconnected parties, retailers and shippers. .</p>			
<p>(4) A transmission system owner is not required to not pay out an amount greater than the total amount of payments received under regulation 69(2) held in its contingency cash pool at that time.</p>			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
71 No other imbalance obligations			
(1) A transmission system owner, welded interconnected party, retailer or shipper shall not be required by MPOC or any other transmission system code to make any payment in relation to a contingency imbalance to the extent that a payment for that contingency imbalance is required and has been paid in accordance with these regulations.			
72 Price and imbalances provisions do not apply to regional critical contingencies			
(1) In this regulation, a regional critical contingency means a critical contingency where the effects of the critical contingency were restricted to only a region of New Zealand.			
(2) Regulations 62 to 71 do not apply to a regional critical contingency.			
Part 5 <i>Miscellaneous provisions</i>			
73 Audits			
(1) In appointing an auditor to conduct an audit of a retailer under regulation 39, the industry body must appoint a person who is independent of, and not in a position of conflict of interest with, the retailer that is to be audited.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(2) No officer or employee of the industry body may be appointed as an auditor.			
(3) The retailer that is to be the subject of the audit may recommend one or more auditors for the industry body's consideration.			
(4) In conducting an audit, the auditor may request any information from the retailer or the industry body. Such a request must be reasonable and strictly for the purposes of the audit.			
(5) In providing information to the auditor, the retailer or the industry body may indicate to the auditor that such information is considered to be confidential.			
(6) The auditor must prepare a written audit report and, within the timeframe agreed with the industry body, give that audit report to both the industry body and the retailer audited			
(7) The audit report may be used -			
(a) For the purposes of any functions or processes set out in these regulations, the Gas (Compliance) Regulations 2008 and any other gas governance regulations or rules made under Part 4A of the Act; and			
(b) By the industry body to require the retailer to provide correct information to the critical contingency operator for the purposes of regulation 37.			

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
(8) The retailer being audited must pay the costs of the audit.			
(9) For the purposes of this regulation, the costs of the auditor are those costs that have been agreed between the industry body and the auditor.			
74 Treatment of critical contingency occurring before plans receive approval			
(1) If a national gas contingency or a regional gas contingency (as defined in the National Gas Outage Contingency Plan) occurs before the go-live date, the National Gas Outage Contingency Plan will apply to those persons participating in the National Gas Outage Contingency Plan.			
(2) To avoid doubt, prior to the go-live date, Parts 3 and 4 of these regulations do not apply to a national gas contingency or a regional gas contingency under the National Gas Outage Contingency Plan.			

Schedule*Curtailment arrangements*

r4, r 23, r 37 and r 49

Regulation	Inconsistent with MPOC	Covered elsewhere	Comment
1 Objectives of curtailment arrangements			
The objectives of the curtailment arrangements set out in this Schedule are to:			
(a) Ensure that gas is supplied in a safe, efficient and reliable manner; and			
(b) Minimise net public cost; and			
(c) Prioritise essential service providers; and			
(d) Allow for minimal load consumer supply; and			
(e) Ensure efficient utilisation of gas in storage <u>and production</u> facilities; and			This principle should also apply to use of any additional gas that the CCO is able to source from other sources such as gas production facilities.
(f) Ensure effective operational management of a critical contingency.			

<p>2 Curtailment Bands</p>															
<p>An outage and contingency management plan must provide that, <u>where possible</u>, the defined groups of consumers set out in the table below are to be given equal priority in terms of any curtailment required during a critical contingency <u>(except where this is impractical, or where the critical contingency operator decides to curtail selectively under regulation 49(2))</u>.</p>			<p>MDL has difficulty with this proposition from two points of view:</p> <ul style="list-style-type: none"> • Maui Pipeline operators only see the flow through welded points which may connect to many different customers allocated to different curtailment bands; and • the CCO needs the ability to curtail selectively within a band. This is provided for in Regulation 49(2). This part of the regulations needs to be consistent. 												
<table border="1"> <thead> <tr> <th data-bbox="235 773 401 927">Curtailment Band</th> <th data-bbox="401 773 588 927">Consumption (TJ/annum unless specified)</th> <th data-bbox="588 773 1033 927">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="235 927 401 1019">0</td> <td data-bbox="401 927 588 1019"></td> <td data-bbox="588 927 1033 1019">Gas offtaken for injection into gas storage.</td> </tr> <tr> <td data-bbox="235 1019 401 1203">1a</td> <td data-bbox="401 1019 588 1203">>15TJ/day</td> <td data-bbox="588 1019 1033 1203">Consumers supplied directly from a transmission system and who have an alternative fuel capability. If minimal load consumer then manage wind-down of plant.</td> </tr> <tr> <td data-bbox="235 1203 401 1386">1b</td> <td data-bbox="401 1203 588 1386">>15TJ/day</td> <td data-bbox="588 1203 1033 1386">Consumers supplied directly from a transmission system that do not have an alternative fuel capability. If minimal load consumer then manage wind-down of plant.</td> </tr> </tbody> </table>	Curtailment Band	Consumption (TJ/annum unless specified)	Description	0		Gas offtaken for injection into gas storage.	1a	>15TJ/day	Consumers supplied directly from a transmission system and who have an alternative fuel capability. If minimal load consumer then manage wind-down of plant.	1b	>15TJ/day	Consumers supplied directly from a transmission system that do not have an alternative fuel capability. If minimal load consumer then manage wind-down of plant.			
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1b	>15TJ/day	Consumers supplied directly from a transmission system that do not have an alternative fuel capability. If minimal load consumer then manage wind-down of plant.													

2	>10TJ/annum	Industrial and commercial consumers with alternative fuel capability. If minimal load consumer then manage wind-down of plant.			
3	>10TJ	Industrial and commercial consumers without alternative fuel capability. If minimal load consumer then manage wind-down of plant.			
4	2 to 10TJ	All consumers except for essential service providers. Minimal load consumers fully interrupted.			
5	>2TJ	Essential service providers.			
6	<2TJ	All remaining consumers who are not domestic consumers.			
Regulation			Inconsistent with MPOC	Covered elsewhere	Comment
3 Restoration of supply					
An outage and contingency management plan must provide either:					
(a)	that, <u>where practicable</u> , the restoration of gas supply during a critical contingency is to occur in reverse order (last curtailed and first restored) to the curtailment bands specified above; or				MDL notes that restoration phases have to be carefully managed as the availability of gas may still be subject to constraints. MDL considers that it would be better to leave the CCO (and the TSO when writing the OCMP) some discretion about managing this process as the

			<p>circumstances faced during an emergency might vary greatly.</p> <p>Restoration by reverse curtailment order should be an objective, but practical considerations on the day have to be allowed for.</p>
(b)	<p>the <u>any</u> specific circumstances when the restoration of gas supply during a critical contingency is to occur in a different order than that set out in subclause (a).</p>		<p>TSOs may not be able to anticipate the different circumstances that may arise and hence the appropriate order of restoration.</p> <p>As noted above, MDL considers that it would be better to leave the CCO (and the TSO when writing the OCMP) some discretion about managing this process as the circumstances faced during an emergency might vary greatly.</p>
4	Other curtailment arrangements		
(a)	<p>The industry body may give notice to a transmission system owner specifying other curtailment arrangements provided those arrangements are considered by the industry body to further the objectives set out in this Schedule.</p>		
(b)	<p>The industry body must publish any notice given under this Schedule.</p>		
(c)	<p>An outage and contingency management plan must provide for the other curtailment arrangements specified in the notice given under this Schedule.</p>		