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<p><i>Q1: Do you agree or disagree that the consumer installations connected to Nova Gas' bypass networks should be included in the gas registry and subject to the Rules? Please give your reasons</i></p>	<p>Disagree. The reasons are outlined in the Nova exemption request.</p> <p>We note that the GIC has recently published a paper regarding the treatment of bypass networks in relation to gas industry regulations.</p> <p>We have not had sufficient time to review the paper in detail but do note, in a cursory look at the content of the paper, that there are some material factual and legal inaccuracies in the paper regarding:</p> <ul style="list-style-type: none">- Novas bypass network such as the nature of the Flatbush gate (ie there is not monopoly supply to consumers off this gate as all offtake points are in Manakau and adjacent to the open access Vector distribution system);- Proper interpretation of the provisions of the Gas Act 1992 (eg. the incorrect proposition that customer-owned private pipeline systems not captured by the definition of "industry participant" in the Gas Act); <p>In addition there are some propositions in the paper that we fundamentally disagree such as that somehow the Nova pipeline is seeking to free-ride via exemptions and derives some benefit from the application of the regulations for switching and reconciliation. STA has not articulated what those benefits are in their paper.</p> <p>We maintain that Nova and its customers on its bypass network receive no benefits from the switching/reconciliation rules and yet it is proposed that Nova shares in the associated costs.</p> <p>This is a tantamount to a direct subsidy provided by the bypass network to open access networks that require switching and reconciliation protocols of some sort to provide for orderly trading. These arrangements were provided for historically through contractual means and the Nova bypass pipelines were not captured by those arrangements; consistent with the treatment of direct connect consumers. The fact that a regulatory approach has been adopted for the provision of these arrangements has been driven more by concerns about efficiency, robustness and the inability to achieve a suitable pan-industry agreement through contractual means.</p> <p>If Nova was to bear the costs associated with reconciliation and switching rules that are required and are for the private benefit of open access networks where multiple traders operate, then it would be the open access networks that would be free riding!</p> <p>We note that the STA paper is currently out for consultation and submission are due on 17 April 2009 and we will respond more fully at that time.</p>

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<i>Q2: Do you agree or disagree that a transitional exemption should be granted as sought? Please give your reasons.</i>	Agree
<i>Q3: Do you agree or disagree with Nova's proposition that a transitional exemption should be granted mainly as a holding action until the issues in relation to bypass networks under both the Rules and the Gas (Downstream Reconciliation) Rules 2008 can be properly addressed? (The alternative is to address the underlying issues in the present application on their merits immediately, and deal separately with the downstream reconciliation issues at a later time.) Either way please give reasons.</i>	Agree – this is efficient and prevents duplication of costs

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<i>Q4: If a transitional exemption is granted – and given the desirability as suggested by Nova Gas, of considering at the one time, the substantive issues in regard to the coverage of bypass networks by both the Rules and the Gas (Downstream Reconciliation) Rules 2008 – is there any merit in the exemption expiring other than on the same date (30 June 2009) as the existing downstream reconciliation exemption?</i>	It is logical that the two exemptions be granted for the same period. That said, it is not clear what the time frame for the consideration of the substantive issues are at this time although we are cognisant of the need to begin that process if we are to avoid the need to extend the current exemption.

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<p><i>Q5: Given the additional information set out above, do you consider that there would be any adverse impact on other registry participants if the exemption as sought was granted? In particular would the ability of a move to occur from a customer installation on a bypass network to a new/recommissioned consumer installation on an open access network be impaired? If you think there would be adverse impacts, explain what they are and the reasons for those impacts occurring</i></p>	<p>Nova does not believe that there are any adverse impacts on other registry participants and we cannot see how ICP data re a connection to a Nova bypass pipeline assists if that customer then chooses to disconnect and reconnect to a open access system. When this occur, the new connection will require new pressure regulator equipment and metering devices. As Nova’s bypass network runs at different pressures to the open access networks the Nova information is not valid and indeed may be misleading if other seek to rely on it.</p> <p>With respect to costs associated with the registry, Nova believes that it should not share in those costs as Nova (and the consumers on its network) do not benefit from the registry. Benefits accrue to retailers and consumers on an open access network as the registry primary function is to facilitate switching between retailers trading on an open access network. Accordingly, those retailers and consumers should pay for the cost of the registry.</p>
<p><i>Q6: The possibility of adverse impacts on the ability to move to or from a bypass network under the Rules notwithstanding, do you have any information available which would indicate that these occurrences would be likely during the proposed term of the exemption?</i></p>	<p>As we have stated previously, consumers ultimately determine which network they prefer to connect to and Nova cannot prevent parties from connecting to another network should they make that decision. That is not to say that Nova (or any other distributor) may not have contractual rights with consumers on its network but generally consideration of those rights and obligations is independent of the ability of parties to physically disconnect and connect from a network.</p> <p>Therefore there is no adverse impact of the ability of consumers to move to or from a bypass network.</p>

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<p><i>Q7: The ability to make a switch aside, are there any wider reasons for not granting the exemption and ensuring that data for all Nova Gas' bypass ICPs is entered into the registry? If yes, what are those wider reasons?</i></p>	<p>In response to a point raised by one distributor re connections to or from there network, Nova should not have to bear costs associated with the lack of performance of other distributors whose data records regarding connections to the own network is substandard.</p> <p>This is not to say that Nova will not assist other distributors where appropriate, just that we should not be forced to bear costs for this purpose.</p>
<p><i>Q8: Do you think the condition suggested by Nova Gas, ie that all of the ICPs on each bypass network should be represented by a single notional ICP, is practicable or acceptable? Give the reasons for your view. If you disagree with this alternative arrangement, do you have any views on a more acceptable alternative condition?</i></p>	<p>Agree</p>
<p><i>Q9: Do you consider that the nature of the exemption proposed by Nova Gas is such that Gas Industry Co has the jurisdiction to grant a transitional exemption under rule 90?</i></p>	<p>Nova believes the GIC has jurisdiction to grant exemptions such as that proposed by Nova.</p>

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<i>Q10: Do you have any views on the contention by Nova Gas that, in respect of its bypass networks, Nova Gas is not a 'distributor' under the Gas Act 1992 and the Rules?</i>	The proper construction of the Gas Act and related rules and regulations is a legal question. It is inappropriate and pointless to seek opinions from retailers and distributors on this issue.