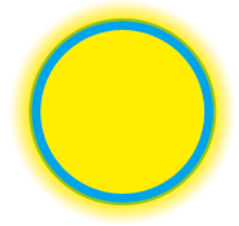


1 February 2013

Jacki Eves
Senior Legal Counsel
Gas Industry Company
PO Box 10 646
Wellington 6143

[Submitted via Gas Industry Co website]

POWERCO



Dear Jacki,

Powerco submission on proposed amendments to the Gas Governance (Compliance) Regulations 2008

Introduction

1. Powerco welcomes the opportunity to comment on the Gas Industry Company's (GIC) consultation paper, *Proposed amendments to the Gas Governance (Compliance) Regulations 2008 – further details of the threshold regime* (Consultation), published on 21 December 2012.
2. Powerco considers the *Gas Governance (Compliance) Regulations 2008* (Compliance Regulations) essential in providing a clear framework for the monitoring and enforcement of gas governance arrangements for industry participants. The introduction of the Compliance Regulations in 2008 has successfully created an environment of high compliance with gas governance rules, and has directly been responsible for reducing the number of reported breaches. Any changes to the Compliance Regulations should not be taken lightly as they currently contribute significantly to the smooth operation of the industry.
3. The positive response to the GIC's May 2012 consultation titled, *Amendments to the Gas Governance (Compliance) Regulations Statement of Proposal* (Statement of Proposal), clearly demonstrated the threshold regime has the support of industry participants and that the cost benefit analysis accurately reflects the industry's views regarding the benefits of the proposed amendments.
4. As stated in our response to the Statement of Proposal, Powerco would not receive any direct benefits from the introduction of the threshold regime but continue to support the proposed amendments due to the increased efficiencies and reduced costs the industry would experience. In general, we consider that efficiency savings by industry participants should ultimately provide positive benefits for consumers.

5. While the proposed amendments to regulation 11 of the Compliance Regulations relate to responsibilities of the Registry Operator or the Allocation Agent, other industry participants can be impacted indirectly by non-compliance. As such, ensuring the wider picture is considered when analysing the proposed changes must occur.

Comments on the proposed application of the threshold regime

6. Powerco considers that the Consultation paper provides the required detail on the proposed threshold regime to support the drafting of exemption provisions related to regulation 11 of the Compliance Regulations.
7. In our response to the Statement of Proposal we broadly supported the proposal of the threshold regime but expressed concerns regarding the uncertainty of the extent of the proposed exemptions. However, the identification and analysis of specific Switching Arrangement¹ and Downstream Reconciliation² Rules (Rules) based on historical breaches and their materiality in the Consultation paper has alleviated these concerns.
8. As recognised by the GIC, we consider the need for on-going monitoring and the ability to revoke any determination is important in ensuring that abuse of the threshold regime does not take place. Our support for the proposal is on the understanding that action is taken within a reasonable time if trends towards de-facto rule changes are identified. Furthermore, allowing participants, consumers and other persons to allege a breach at any time, regardless of any threshold determination is a non-negotiable, as it ensures the effectiveness of the Compliance Regulations and provides certainty.
9. Powerco supports the indicative drafting of the empowering provisions and consider them reflective of the proposed changes. Notably, we support proposed regulation 11A(3) and 11A(4) of the indicative draft provisions as these will allow the flexibility for the GIC to swiftly act to address issues if required. Powerco would like the GIC to consider drafting an additional clause in regulation 11A that specifies that industry consultation is required if additional rules are to be added to the supporting schedule referenced in 11A.

Conclusion

10. Thank you for the opportunity to make this submission. If the GIC wishes to discuss any aspects of this submission further, please do not hesitate in contacting me on 06 757 3397 or oliver.vincent@powerco.co.nz.

Yours sincerely,



Oliver Vincent
Regulatory Analyst
Powerco

¹ Gas (Switching Arrangements) Rules 2008

² Gas (Downstream Reconciliation) Rules 2008