

12 July 2012



Vector Limited

101 Carlton Gore Road
PO Box 99882, Newmarket
Auckland 1149, New Zealand
www.vector.co.nz

Corporate Telephone
+64-9-978 7788

Corporate Facsimile
+64-9-978 7799

Jacki Eves
Gas Industry Company
PO Box 10-646
Wellington

Dear Jacki

**Submission on Proposed Amendments to the Gas Governance
Compliance Regulations**

Introduction

1. Vector Limited ("Vector") welcomes the opportunity to make this submission on the Gas Industry Company's ("GIC") *Statement of Proposal: Amendments to the Gas Governance (Compliance) Regulations 2008*, dated 31 May 2012. Vector also appreciates the GIC's engagement with industry participants on this matter at the Retail Gas Governance Forum on 26 June 2012.
2. No part of this submission is confidential and Vector is happy for it to be made publicly available.
3. Vector's contact person for this submission is:

Luz Rose
Senior Regulatory Analyst
04 803 9051
Luz.Rose@vector.co.nz

Proposed amendments

4. Vector broadly supports the GIC's proposed amendments to the Compliance Regulations. The amendments would ensure the Regulations are expressed more clearly and consistently, and therefore more effectively. This would reduce the risk of disputes on the interpretation of some of the provisions and the costs associated with such disputes.

5. Vector agrees with the GIC that most of the proposed amendments are non-controversial in nature and are proposed largely to correct drafting errors and anomalies.

Introduction of a threshold regime

6. Vector strongly supports the introduction of a threshold regime to manage the high volume of complaints that, under current arrangements, are likely to be determined "immaterial". It is now widely accepted by the GIC and industry participants that some existing rules and regulations result in unnecessary compliance requirements and costs, including the additional reporting that industry participants have to comply with internally as a result of breaching regulatory requirements.
7. As the vast majority of immaterial breaches are made under the Gas (Downstream Reconciliation) Rules 2008 ("the Rules"), the development of guidelines for the threshold regime is expected to have significant overlaps with the work of the Downstream Reconciliation Advisory Group ("DRAG") and the ongoing review of the Rules. Vector **recommends** that the guidelines be developed in conjunction with the work of the DRAG, or initially developed by the DRAG, and subsequently released for stakeholder consultation.

Joining or withdrawing from breaches

8. Vector agrees with the GIC's description, expressed at the June Retail Governance Forum, that the bar for joining up to or withdrawing from a breach process is low. While recognised in practice, Vector **recommends** that the Compliance Regulations explicitly recognise industry participants' opportunity to reconsider whether they would want or no longer want to become a party to a breach. This is particularly important in the case of large breaches which have huge implications for other industry participants but do not require large overhead costs for the GIC, Market Administrator, and Investigator (eg E-Gas breaches during the periods prior to its liquidation).
9. The 'abuse' of such flexibility or excessive disruption of the process could be minimised by providing specific and reasonable notice periods/timelines for opting in or out at various stages of the process.

Determination of the existence of a breach by the Market Administrator

10. Under the current Compliance Regulations, there appears to be a 'missing step' between a party alleging a breach in Regulation 5(1)(a) and the Market Administrator determining that a breach allegation does not raise material issues in Regulation 5(1)(b). Vector believes there should be an additional step whereby the

Market Administrator is able to determine whether an alleged breach is, in fact, a breach, and if not, to take no further action.

11. Vector **recommends** a new Regulation 5(1)(b), which should minimise the number of alleged breaches, provide greater certainty for the relevant parties, and reduce costs for all concerned.

5 Role of market administrator

(1) The role of the market administrator is to—

(a) receive **alleged** breach notices; and

(b) determine, if reasonably possible, whether alleged breaches are breaches under [or as defined by] the Rules and Regulations; and

(c) provide a filter so that alleged breaches **allegations** that do not raise material issues are not automatically referred to the investigation process and the Rulings Panel...

[emphasis added]

Penalty provisions

12. It is noted that the Compliance Regulations apply a 'one-size-fits-all' penalty where participants have breached any provisions of gas governance rules or regulations, ie section 52(1) which provides that the Rulings Panel may provide for a penalty not exceeding \$20,000 in any case. This non-differentiated approach does not provide proportionate incentives for parties to comply with the rules and regulations. The level of penalty that would provide sufficient (or insufficient) incentives for large commercial parties to settle or address a breach in an expeditious manner may be unduly onerous for smaller parties such as individual consumers.
13. Vector **recommends** that the GIC consider a stepped approach in imposing penalties on non-compliant parties, to better reflect the varying impacts of their non-compliance/actions on other industry participants and the market.

Closing comments

14. Vector understands that more substantial amendments to the Compliance Regulations will be proposed by the GIC at a later date, following the reviews of the Gas (Downstream Reconciliation) Rules 2008 and the Gas Governance (Critical Contingency Management) Regulations 2008.
15. Vector looks forward to engaging with the GIC on forthcoming amendments, including provisions that would ensure further consistency and take into

consideration recent developments in the gas and related sectors such as the deployment of advanced metering systems.

Yours sincerely

A handwritten signature in blue ink that reads "R. B. Girdwood". The signature is written in a cursive style with a period at the end.

Bruce Girdwood

Manager Regulatory Affairs