



14 April 2011

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Dear Ian

## Gas Governance (Insolvent Retailers) Regulations 2010

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Genesis Power Limited, trading as Genesis Energy, welcomes the opportunity to provide a submission to the Gas Industry Company ("GIC") on the consultation paper "Gas Governance (Insolvent Retailers) Regulations 2010 – Statement of Proposal" dated March 2011.

Genesis Energy wishes to comment on a few issues raised in the paper and we have responded to the consultation questions in Appendix A.

### **Existing regulations should be allowed to expire**

We agree with the GIC that the Gas Governance (Insolvent Retailers) Regulations ("the Regulations") should be allowed to expire. The Regulations are not sufficiently generic to apply beyond the particular circumstances of the E-Gas liquidation.

We are also not convinced that the case for backstop regulations of this nature has been established and we are concerned that such regulation may not be in the long-term interest of consumers.

### **The rationale for stranded customer regulations**

We expect there may be a case for regulations of some type to deal with issues surrounding retailer insolvency; however, there is a need to tread carefully to avoid unintentionally raising costs that will ultimately be borne by all gas consumers.

We have the following specific concerns:

- backstop arrangements that transfer customers of an insolvent retailer to larger, more stable retailers present a risk to those retailers that will inevitably be reflected in the prices faced by most gas consumers at any one time and by all gas consumers over time; and
- providing customers of unprofitable retailers with a safety net induces a “moral hazard” effect that is likely to incentivise reckless trading.

We consider that these concerns are more than just theoretical and must be weighed up alongside the costs of permitting customers to consume gas at an interconnection point (ICP) without a responsible retailer.

We consider that a constructive approach to dealing with stranded customer issues could be to establish clear processes for distributors to disconnect stranded customers. The threat of credit disconnection by distributors should reinforce incentives for consumers to seek a new supplier if their current retailer becomes insolvent or severely stressed. Processes for disconnection could ensure that consumers are provided with adequate timeframes to seek a new supplier and with good information to allow them to understand their choices.

Whichever approach the GIC decides to adopt, we consider there is value in having clear rules in place to avoid the need for *ad hoc* intervention that may undermine confidence in the sector and unfairly shift costs to stable retailers and their customers.

If you would like to discuss any of these matters further, please contact me on 04 495 6357.

Yours sincerely,



John Bright  
Regulatory Affairs Analyst

## Appendix A: Responses to Consultation Questions

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QUESTION	COMMENT
Q1: Do you agree that the Regulations should be revoked under regulation 19?	Yes.
Q2: Do you have any comments on the provisions of the Regulations themselves?	<p>The Regulations were specific to the E-Gas situation and are unlikely to be appropriate to other events.</p> <p>We also consider that further thought should be given as to whether regulated bulk transfer of customers from distressed to stable retailers is a desirable intervention. This is likely to raise costs for consumers in the long run.</p>
Q3: In your view, is some form of regulatory intervention required to deal with cases of retailer insolvency?	We support further work on this question. We expect that some form of <i>ex ante</i> regulatory provision may prove more desirable than <i>ad hoc</i> regulatory intervention.
Q4: Are there other factors to consider that have not been mentioned?	We consider that an alternative approach to regulating for bulk customer transfers is to make clear provision for a robust credit disconnection process by distributors. This approach should reinforce constructive incentives that are beneficial to consumers in the long term.

QUESTION	COMMENT
<p>Q5: Do you agree that the objectives addressed by the Regulations were appropriate?</p>	<p>The objectives are generally appropriate, however there is likely to be some trade-off between the objectives. The overriding objective should be to provide arrangements consistent with the long-term benefit of consumers.</p> <p>This may entail not providing an absolute guarantee of supply continuity for customers who choose to contract with a retailer that subsequently becomes financially stressed.</p>
<p>Q6: Are there others that an insolvent retailer policy should address?</p>	<p>Regulations should provide any necessary administrative provisions such as allowing the GIC to stand in the shoes of an insolvent retailer with respect to switching requests.</p>
<p>Q7: Are there any other options that Gas Industry Co should consider?</p>	<p>GIC should consider making clear provision for a robust credit disconnection process by distributors. Refer Q4 and cover letter.</p> <p>GIC could also consider applying different provisions for different types of customer. For example, regulatory transfer of large customers poses a different type of problem for receiving retailers than regulatory transfer of large numbers of small customers.</p>
<p>Q8: What are your views concerning alignment with the default arrangements being developed by the Electricity Authority?</p> <p>Are there opportunities for harmonisation that we have not identified?</p>	<p>Ideally, we would welcome alignment between the Electricity Authority and the GIC. The policy problem is essentially identical and many parties are participants in the gas and electricity markets. It could prove problematic if insolvency of a dual-fuel retailer was covered by two incompatible regulatory regimes.</p>