

GAS (PROCESSING FACILITIES INFORMATION DISCLOSURE) RULES 2008

Pursuant to section 43G(2)(l) and 43Q of the Gas Act 1992, the Minister of Energy, acting on the recommendation of Gas Industry Company Limited as the industry body appointed pursuant to s43ZL of that Act, makes the following rules.

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1. Title

These rules are the Gas (Processing Facilities Information Disclosure) Rules 2008.

2. Commencement

These rules come into force on the 28th day after the date of their notification in the *Gazette*.

3. Purpose

The purpose of these rules is to provide a process to settle the issue of whether it is necessary to recommend rules or regulations setting reasonable terms and conditions for access to, and use of, gas processing facilities by:

- 3.1** Making information publicly available on the capability of, and availability of capacity at, gas processing facilities;
- 3.2** Monitoring responses to requests for third party access to gas processing facilities; and
- 3.3** Using that information to report to the Minister of Energy on the need for rules or regulations setting reasonable terms and conditions for access to, and use of, gas processing facilities under section 43F(2)(b) of the Act.

Part 1

General provisions

4. Interpretation

4.1 In these rules, any term that is defined in the Act and used in these rules, but not defined in these rules, has the same meaning as in the Act.

4.2 In these rules, unless the context otherwise requires,-

Act means the Gas Act 1992;

business day means any day of the week except –

- (a) Saturday and Sunday; and
- (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
- (c) Any other day which the industry body has determined not to be a business day as published by the industry body;

commencement date means the date referred to in rule 2;

commissioning date means the date on which a gas processing facility is commissioned by the facility owner;

facility owner means the whole or part owner of a gas processing facility;

gas processing facility means a facility which separates the various constituents of the fluid from a well so as to remove impurities and provide specification gas and gas liquids;

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 approval of the industry body is revoked under section 43ZM of the Act, all references to the industry body shall be treated as references to the Commission;

rules means these Gas (Processing Facilities Information Disclosure) Rules 2008 as may be amended from time to time.

Scope

5. Obligation to disclose information

5.1 All **facility owners** must disclose information in accordance with these rules.

5.2 Notwithstanding rule 5.1, for the purposes of these rules, if a **gas processing facility** is owned by more than one party it will be sufficient for one of those parties to disclose the information required in respect of that **gas processing facility**.

Notices and receipt of information

6. Giving of notices

- 6.1** If these rules require any notice or notification to be given, the notice or notification must be in writing and be –
- 6.1.1** Delivered by hand to the nominated office of the addressee; or
 - 6.1.2** Sent by post to the nominated postal address of the addressee; or
 - 6.1.3** Sent by facsimile to the nominated facsimile number of the addressee; or
 - 6.1.4** Sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.
- 6.2** An office, postal address, facsimile number and electronic address is nominated for the purposes of rule 6.1 if the party making the nomination provides written notice of such nomination to the registered office of the other party.
- 6.3** In the case of an emergency, a person may give notice other than in accordance with rule 6.1, but the person must as soon as practicable, confirm the notice in writing and by a method set out in rule 6.1.

7. When notice taken to be given

In the absence of proof to the contrary, notices are taken to be given,-

- 7.1** In the case of notices delivered by hand to a person, when actually received at that person's address;
- 7.2** 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;
- 7.3** In the case of notices sent by fax, at the time indicated on a record of its transmission;
- 7.4** In the case of notices sent by electronic transmission or any other similar method of electronic communication, at the time: –
 - 7.4.1** The computer system used to transmit the notice has received an acknowledgment or receipt addressed to the electronic mail address of the person transmitting the notice; or
 - 7.4.2** The person who gave the notice proves the notice was transmitted by computer system to the electronic address provided by the addressee.

Part 2

Information for public disclosure

8. Information to be disclosed

Facility owners must disclose the following information for each of the **gas processing facilities** wholly or partly owned by the **facility owner** -

- 8.1 The ownership share and contact details of all of the **facility owners**; and
- 8.2 Forecasts of spare gas processing capacity; and
- 8.3 Such other technical information on the capacity of their **gas processing facilities** as the **industry body** may require **facility owners** to disclose from time to time in order to achieve the purpose of these rules.

9. Obligation to certify that information disclosed is correct

- 9.1 **Facility owners** must ensure that all information disclosed under this Part 2 of the rules is certified as correct by a **director** or **principal officer** of the **facility owner** which discloses the information.

- 9.2 In these rules:

director has the same meaning as in section 2(1) of the Securities Act 1978

principal officer means a person whose functions include ensuring that the facility owner discloses the information required under these rules.

10. When and how information is provided

- 10.1 **Facility owners** must give a notice disclosing the information in rule 8 to the **industry body** –

- 10.1.1 No later than 30 **business days** after:

- (a) the **commencement** date; or
 - (b) the **commissioning date** of the **gas processing facility**;

whichever is applicable; and

- 10.1.2 Annually on the anniversary of the date the information was first supplied under rule 10.1.1; and

- 10.1.3 Whenever there is a material change in the information disclosed under rules 10.1.1 or 10.1.2.

- 10.2 The information in rule 8 must be provided in accordance with the disclosure form published by the **industry body** on the **commencement date**, as amended and **published** by the **industry body** from time to time.

11. Publication of information

The **industry body** must publish all information provided by **facility owners** in accordance with this Part 2 of the rules on its website within 10 **business days** of receiving such information.

12. No reliance on information

The information **published** in accordance with this Part 2 of the rules is published for disclosure purposes only and is not intended to be relied upon by third parties.

Part 3

Monitoring access requests

13. Information on approaches for access to be disclosed

13.1 Facility owners must disclose the following information on each of the **gas processing facilities** wholly or partly owned by the **facility owner** -

13.1.1 The numbers of bona fide approaches by third parties investigating the possibility of access to the **gas processing facility**; and

13.1.2 A summary of the nature of the approach for access; and

13.1.3 A summary of the outcome of the approaches.

13.2 When providing the information required by rules 13.1.2 and 13.1.3, **facility owners** will not be required to disclose any information that a reasonable person would consider was commercially sensitive at the time the disclosure was made.

13.3 The information provided in accordance with rule 13.1 must be correct and provide a fair representation of the nature of the approach.

14. When and how information is to be disclosed

Facility owners must give a notice to the **industry body** containing the information required by rule 13 for each 12 month period ended on the anniversary of the **commencement date**, or part thereof.

15. Access seekers may provide information

15.1 Any third party which has sought access to a **gas processing facility** may provide the information set out in rule 13.1 to the **industry body** in relation to an approach for access.

15.2 Provision of information by a third party access seeker under rule 15.1 does not relieve the obligation of the **facility owner** to provide the information required by rule 13.1 in relation to the same approach for access.

16. Confidentiality

16.1 The **industry body** must treat all information disclosed in accordance with this Part 3 of the rules as confidential unless agreed otherwise with the **facility owner**.

16.2 The **industry body** must only use the information disclosed in accordance with this Part 3 of the rules for the purposes of –

16.2.1 Monitoring the efficiency of the market for third party access to **gas processing facilities**; and

16.2.2 Reporting to the Minister of Energy from time to time on the need for regulation of third party access to **gas processing facilities**.

17. Expiry of rules

17.1 Subject to rule 17.2, these rules expire on the date which is 6 years after the **commencement date**.

17.2 The Minister may, by notice in the *Gazette*, extend the period for which these rules shall be in force, provided:

17.2.1 the Minister has received a recommendation from the **industry body** to extend the period for which the rules shall be in force; and

17.2.2 prior to making the recommendation in rule 17.2.1, the **industry body** has consulted persons that it thinks are representative of the interests of persons likely to be substantially affected by extending the period for which the rules shall be in force; and

17.2.3 the extended period for which the rules shall be in force is notified in the *Gazette* 12 months prior to the date specified in rule 17.1.

17.3 The **industry body** will provide a recommendation on the need for rules or regulations setting reasonable terms and conditions for access to, and use of, **gas processing facilities** within 5 years of the **commencement date**.
