



**Recommendation  
to the Minister of Energy  
on Information Disclosure  
by Owners of Gas Processing Facilities**

28 January 2008



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# 1 Purpose

The wellhead fluid which emerges from a gas field (or oil field with associated gas) must be processed to obtain a gas stream suitable for reticulation to end consumers. Under the Gas Act and the 2004 Government Policy Statement on Gas Governance (“GPS”), Gas Industry Co is required to consider whether it is necessary to prescribe “protocols that set reasonable terms and conditions for access to gas processing facilities.

Gas Industry Co has investigated the market for gas processing and found no evidence of substantial market inefficiency. The analysis indicates that gas processing facilities do not exhibit significant economies of scale and this view is supported by the wide range of sizes of processing facilities which exist in New Zealand. However, the gas sector is undergoing a transition from heavy reliance on a single source of supply (Maui) to more diverse, and smaller, sources of supply.

In this environment, Gas Industry Co has concluded that, at this stage, there is not sufficient evidence of a need for protocols for access to gas processing facilities to recommend such protocols being prescribed. However, Gas Industry Co considers that, while the transition from Maui gas as the dominant source of supply is occurring, it would be appropriate to put in place a process for monitoring access to gas processing facilities and finally settling this issue over time. This process may result in Gas Industry Co recommending to the Minister that protocols for access to gas processing facilities should be prescribed in future.

In order to achieve this, Gas Industry Co considers that it is necessary for there to be more information available to it and to potential access seekers on the capability of, and availability of capacity at, gas processing facilities. Gas Industry Co will then monitor facility owners<sup>1</sup> responses to requests for access in order to determine whether further regulatory intervention is required.

For this purpose, Gas Industry Co is recommending rules to establish a limited information disclosure regime which will require gas processing facility owners to:

- make information available to Gas Industry Co, which Gas Industry Co will publish on its website, on the capability of, and availability of capacity at, gas processing facilities<sup>2</sup>; and
- provide information to Gas Industry Co on the gas processing facility owner’s responses to requests for third party access;

These rules will expire after six years unless the Minister decides to extend the rules.

This recommendation is accompanied by a companion recommendation to amend the proposed Gas (Compliance) Regulations<sup>3</sup> to cover enforcement of the proposed information disclosure rules.

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<sup>1</sup> Companies with current ownership interests in gas processing facilities are: Vector, Genesis, Origin, OMV, NZOG, Shell, Todd, Greymouth and Bridge.

<sup>2</sup> Part 2 of the draft rules prescribes the information that facility owners must supply. An example disclosure form is attached as Appendix VI to this recommendation.

## 2 Background

The GPS identifies a number of specific areas on which the Government expects to receive, from Gas Industry Co, recommendations “*providing for effective industry arrangements*”. Specific to gas processing, the GPS requests:

*“Protocols that set reasonable terms and conditions for access to gas processing facilities.”*

At present, gas processing facility owners and access seekers are free to negotiate any commercial arrangements they wish within the normal legal requirements governing commercial arrangements in New Zealand.

The Wholesale Markets Working Group (WMWG) was established in May 2005 to assist Gas Industry Co with a number of its work streams, one of which was access to gas processing facilities. The WMWG undertook initial research into arrangements in other jurisdictions and provided assistance with reviewing drafts of later papers.

In 2006, Gas Industry Co undertook extensive analysis of the characteristics of the gas processing market to determine whether there was a need for access protocols. The analysis and the conclusions are contained in a discussion paper entitled *Access to Gas Processing Facilities* which was published in August 2006 (the “August 2006 discussion paper”) and is available on Gas Industry Co’s website<sup>4</sup>.

Following consultation on the discussion paper, in December 2006 Gas Industry Co wrote to the Minister of Energy recommending that, given the market is transitioning to increasing dependence on multiple and smaller sources of gas, an industry agreement to a voluntary information disclosure regime be sought. The information disclosure regime would enable Gas Industry Co to settle the issue of whether access protocols were required by making more information publicly available on the gas processing market and then allowing Gas Industry Co to assess whether, in light of that information, facility owners’ responses to requests for access were adequate.

In March 2007, the Minister endorsed this recommendation subject to universal agreement to a voluntary regime being achieved by mid 2007. The Minister subsequently agreed to extend the deadline to September 2007. However, despite early indications that an industry-based disclosure agreement was well supported by facility owners, Gas Industry Co could not obtain formal commitments from all of them. Therefore in September 2007 Gas Industry Co issued and consulted on a proposal to recommend to the Minister that a regulated disclosure regime be implemented by making rules under the Act.

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<sup>3</sup> See Gas Industry Co’s *Recommendation to the Minister of Energy on Regulations for Enforcement of Switching Arrangements* dated 31 May 2007

<sup>4</sup> See [www.gasindustry.co.nz](http://www.gasindustry.co.nz)

## 3 Analysis

### 3.1 Current arrangements

At present, gas processing facility owners and access seekers are free to negotiate any commercial arrangements they wish within the normal legal requirements governing commercial arrangements in New Zealand.

These requirements include the Commerce Act, in particular section 36. While, in principle, section 36 could deal with concerns that arise in relation to third party access to gas processing facilities, there are some practical issues which make it a fairly blunt instrument. Enforcement of the section requires an application to the High Court by either the Commerce Commission or industry participants. Enforcement can be both time-consuming and costly. Cases usually take many years to come to trial and require significant economic evidence.

### 3.2 Gas Industry Co's August 2006 discussion paper

For the purpose of the August 2006 discussion paper, Gas Industry Co adopted the commonly accepted meaning for the terms "gas processing" and "gas processing facility", as detailed below.

#### a) Gas processing

Raw natural gas, which can be sourced from gas or gas/condensate wells, consists primarily of methane, but also contains a mixture of other hydrocarbons (for example, propane, butane and ethane) as well as water vapour, hydrogen sulphide, carbon dioxide, and other compounds. Such impurities must be removed before use.

"Gas processing" involves treating well streams to separate out natural gas, water, liquids (condensate, natural gasoline and liquefied petroleum gas) and sometimes other substances such as naphtha, sulphur and carbon dioxide (CO<sub>2</sub>).

Although some impurities may be removed at the wellhead, processing is typically required to ensure gas meets certain technical prerequisites for injection into transmission and distribution pipelines and for subsequent use by consumers.

Gas processing is undertaken in stages with the particular requirements depending on the constituents of the raw gas feed. There are generally four main processes: sulphur and CO<sub>2</sub> removal, oil and condensate removal, water removal, and removal of heavier hydrocarbons/natural gas liquids extraction.

#### b) Gas processing facility

The term "gas processing facility" is not specifically defined in the Act or in the GPS. However, it is commonly used around the world to refer to the equipment, located at or near wells and/or further downstream, which processes raw gas or gas/condensate streams as described above. This could include on-site liquid storage where that is an integral part of a gas processing facility and could affect overall plant performance and capacity to process gas.

In preparing the August 2006 discussion paper, Gas Industry Co sought advice from Transfield Worley, an engineering firm which has extensive experience in the gas processing sector in New Zealand. The analysis in the discussion paper was supported by a series of independent interviews of potential access seekers and facility owners.

The August 2006 discussion paper concluded that:

- the cost structure of gas processing facilities is such that any economies of scale are relatively small, suggesting it would be difficult for the owner of an existing facility to exert market power;
- there was no evidence of substantial inefficiency in the gas processing sector;
- interviews with a range of stakeholders largely supported the view that gas processing is a contestable market; and
- there were reports of some parties having difficulty achieving satisfactory access to liquid storage facilities (necessary to be able to sell gas liquids extracted at processing plants), but this clearly lay outside of the scope of Gas Industry Co's responsibilities under the Gas Act.

### 3.3 Previous recommendation to the Minister of Energy

Against that background, Gas Industry Co made a recommendation to the Minister of Energy, in December 2006, proposing an information disclosure regime for gas processing facilities which would be implemented by way of a voluntary industry arrangement. It was also recommended that, if all facility owners had not agreed to information disclosure by mid-2007, Gas Industry Co would prepare a recommendation for the Minister of Energy to regulate for the supply of that information.

The Minister approved that recommendation in March 2007 subject to Gas Industry Co obtaining the agreement of all facility owners by mid-2007.

### 3.4 Attempt to implement voluntary information disclosure

Gas Industry Co wrote to owners of gas processing facilities in April 2007 informing them that the Minister had approved its recommendation to seek agreement from owners of gas processing facilities for an information disclosure arrangement. The process required each owner and part-owner of a processing facility to execute an information disclosure agreement.

The information that would be disclosed comprised:

- contact details and location of the processing facility;
- indicative forecasts of spare capacity over the short- and medium-term;
- technical capability of the plant, i.e. information on the ability of the plant to remove or separate various constituents from the raw gas stream; and
- summary information on any bona fide approaches by third parties investigating the possibility of having their gas processed.

With the exception of the last item, all of the above information would be made freely available by publishing it on Gas Industry Co's website.

The duration of the agreement was to have been two years as this was an interim arrangement designed to inform a later, and final, recommendation to the Minister on the necessity for access protocols.

No signed information disclosure agreements had been received by Gas Industry Co by mid-2007. While the part-owners of a number of facilities supported the information disclosure arrangement, they were unable to obtain the necessary corporate approvals to sign the agreement unless they could be certain that each of their joint venture partners would also sign.

Gas Industry Co sought a three-month extension from the Minister in the expectation that the issues could be worked through in that time. However, by August 2007 it had only received one executed agreement and it became clear the option of an industry agreement was unlikely to be feasible. At that stage, it was decided to move to the backstop option of regulating for the disclosure of the required information.

### 3.5 Need for rules under the Gas Act

The only other reasonably practicable option available to Gas Industry Co was to prepare and consult on rules for information disclosure under the Gas Act. A statement of proposal was prepared and issued for consultation in September 2007<sup>5</sup>. To provide a final opportunity for information disclosure to be achieved by industry agreement, Gas Industry Co's Board resolved to set a deadline for such an agreement. In the event that executed information disclosure agreements were received from all facility owners and part-owners prior to submissions closing on the statement of proposal, then there would be no need to proceed with rules under the Gas Act.

As the deadline for submissions drew near, a further two executed agreements were received, although one of these was accompanied by a set of conditions which Gas Industry Co was unable to accept.

### 3.6 Conclusion

Having clearly established that an industry agreement is not feasible in this case, the only reasonably practicable option left to Gas Industry Co to obtain the required information is to recommend the making of rules under the Gas Act.

## 4 Process to Establish Rules

### 4.1 Power to regulate for information disclosure

Part 4A of the Act provides the Governor-General with regulation-making powers for the governance of the gas industry. In exercising the power to recommend regulations or make rules, the Minister must have regard to any recommendation made by Gas Industry Co.

The draft information disclosure rules are being proposed for the purpose of providing a process to settle the issue of whether it is necessary to regulate protocols for access to gas processing facilities.

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<sup>5</sup> Statement of Proposal, Information disclosure by owners of gas processing facilities, September 2007 at [http://www.gasindustrycompany.co.nz/Previously\\_consulted.php](http://www.gasindustrycompany.co.nz/Previously_consulted.php)

Section 43G(2)(l) of the Gas provides that the Minister may recommend regulations, or make rules:

*...providing for processes for settling particular issues within the gas industry that may result in recommendations for gas governance regulations or rules, and requiring compliance by industry participants, the industry body, and the Commission with those processes, including compliance with requirements to produce documents as part of those processes.*

In addition, section 43S of the Act includes supplementary empowering provisions in respect of regulations or rules made under Subpart 1 of Part 4A of the Act. Those provisions include the power to make rules or regulations to:

- (a) ...
- (b) *provide for systems, processes and procedures (including dispute resolution procedures), and the keeping, supply and disclosure of information, in relation to any of the matters specified in this subpart:*
- (c) *prescribe the form and manner in which information is to be disclosed:*
- (d) *require disclosed information, or information from which disclosed information is derived (in whole or in part), to be certified, in the prescribed form and manner, by persons belonging to any class of person;*
- (e) *prescribe when and for how long information must be disclosed:*
- (f) ...
- (g) *provide for the supply of information for the purpose of administration and enforcement of this Act, and regulations and rules made under this Act:*
- (h) ...
- (i) *provide for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.*

The recommended rules require owners of gas processing facilities – facility owners – to disclose information. Facility owners are not defined in the Act. However, Gas Industry Co understands that all current gas processing facilities are owned by either “gas producers” or “gas wholesalers” which are defined in the Act, and that those definitions are sufficiently wide to cover owners of gas processing facilities.

Part 2 of the draft rules prescribes the information that facility owners must supply on the capability of, and availability of capacity at, their fully or partly owned gas processing facilities. Such information will be required to be provided annually in accordance with a disclosure form published by Gas Industry Co from time to time. An indicative disclosure form is attached as Appendix V.

Gas Industry Co considers that the Act provides sufficient power for the Minister to make the rules which are the subject of this recommendation.

## 4.2 Legal requirements when recommending rules or regulations

### a) *Section 43L - consultation*

Before recommending rules or regulations to the Minister, Gas Industry Co must comply with section 43L(1) of the Act. That section requires Gas Industry Co to:

- (a) *undertake an assessment under section 43N [of the Act]; and*
- (b) *consult with persons the recommending body thinks are representative of the interests of persons likely to be substantially affected by the proposed regulations; and*
- (c) *give those persons an opportunity to make submissions; and*
- (d) *consider those submissions.*

A summary of the consultation undertaken by Gas Industry Co is provided in section 7 of this recommendation.

### b) *Section 43N(1) – identification and assessment of options*

Under section 43N(1) of the Act Gas Industry Co is required to:

- (a) *seek to identify all reasonably practicable options for achieving the objective of the regulation; and*
- (b) *assess those options by considering-*
  - (i) *the benefits and costs of each option; and*
  - (ii) *the extent to which the objective would be promoted or achieved by each option; and*
  - (iii) *any other matters that the industry body or the Commission considers relevant; and*
- (c) *ensure that the objective of the regulation is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of the regulation (for example, by education, information, or voluntary compliance); and*
- (d) *prepare a statement of the proposal for the purpose of consultation under section 43L(1).*

A summary of Gas Industry Co's identification and assessment of options is provided in section 6 of this recommendation.

### c) *Section 43N(2) – statement of proposal*

Under section 43N(2) of the Act, the statement of proposal must contain:

- (a) *a detailed statement of the proposal; and*
- (b) *a statement of the reasons for the proposal; and*

- (c) *an assessment of the reasonably practicable options, including the proposal, identified under subsection (1); and*
- (d) *other information that the industry body or the Commission considers relevant.*

A summary of Gas Industry Co's statement of proposal is provided in section 5 of this recommendation.

#### **d) Conclusion**

Gas Industry Co considers that it has complied with all of the requirements of sections 43L and 43N of the Act.

### **4.3 Rules or regulations**

#### **a) Section 43(Q)**

Under section 43Q(1) of the Act, the Minister may make a rule for all or any of the purposes for which a gas governance regulation may be made.

When deciding to make a rule rather than a regulation, under section 43Q(2) of the Act the Minister must have regard to only:

- (a) *the importance of the rule, including whether the rule has a material effect on the rights and interests of individuals:*
- (b) *the subject matter of the rule, including whether the rule contains detailed or technical matters rather than matters of general principle:*
- (c) *the application of the rule, including-*
  - (i) *whether the rule applies principally to a particular group (e.g. industry participants) rather than the general public:*
  - (ii) *whether the benefits of publication in accordance with section 43R rather than the Acts and Regulations Publication Act 1989 outweigh the costs of publication by that method:*
- (d) *the expertise and rule-making procedures of the recommending body.*

#### **b) Conclusion**

Gas Industry Co has concluded that it is appropriate that the proposal be implemented by way of rules rather than regulations. This is because the proposed rules:

- govern the limited domain of information disclosure relating to third party access to gas processing facilities;
- incorporate detailed and technical matters affecting gas processing;
- apply only to gas processing facility owners;
- are aimed at making third party access to gas processing facilities more efficient;
- will be readily accessible, at no charge and at all reasonable times, on Gas Industry Co's website making the cost of publication under the Acts and Regulations Publication Act unwarranted; and

- have been drafted by Gas Industry Co, a co-regulatory body set up by the Government to undertake the specific task of regulating the New Zealand gas industry through rules or regulations where appropriate.

#### 4.4 Publication of notice in Gazette

Gas Industry Co must, no later than 10 working days after it gives a recommendation to the Minister for a gas governance rule or regulation, publicise that recommendation and the assessment completed under section 43N. The recommendation will be made available on Gas Industry Co's website and notified in the Gazette for that purpose. A draft gazette notice is attached as Appendix III.

## 5 Statement of Proposal

The statement of proposal issued in September 2007 proposed the making of a recommendation to the Minister under the Act to approve rules requiring facility owners to disclose certain information to Gas Industry Co. The proposed rules:

- require the owners of gas processing facilities to disclose, to Gas Industry Co, information about their facilities including technical capabilities, forecast spare capacity;
- set out obligations with respect to public disclosure of that information by Gas Industry Co;
- require the owners of gas processing facilities to disclose to Gas Industry Co the number of bona fide third party approaches regarding access; and
- oblige Gas Industry to report to the Minister on the need for further regulation of access to gas processing facilities after a period of five years.

The aims of the proposal are to allow Gas Industry Co to settle the issue of whether such further regulation is required by:

- providing access seekers and Gas Industry Co with basic information on gas processing facilities, including forecasts of available capacity; and
- informing Gas Industry Co on approaches by third parties seeking to have gas processed and the outcomes of those approaches.

Gas Industry Co may then advise the Minister on whether gas governance regulations or rules may be necessary to prescribe protocols to set the reasonable terms and conditions for access to gas processing facilities in the future.

The recommended rules have been amended to take into account submissions on the statement of proposal. More details on the statement of proposal are set out in Appendix I. The recommended rules are attached as Appendix VI.

## 6 Assessment

Before making a recommendation to the Minister, section 43N of the Act requires Gas Industry Co to:

- seek to identify the reasonably practicable options for achieving the objective of the regulation;
- assess the costs and benefits of each option;
- assess the extent to which the regulatory objective would be promoted or achieved by each option; and
- consider any other matters which Gas Industry Co considers relevant.

### 6.1 Identification of reasonably practicable options

Gas Industry Co's analysis, detailed in the August 2006 discussion paper, concluded that only options at the light-handed end of the spectrum could be justified and identified a model contract regime, information disclosure and maintaining the status quo as the most reasonably practicable options. In assessing these options, Gas Industry Co concluded that:

- a model contract regime would be unlikely to enhance efficiency in the sector (compared with the cost of producing such a contract);
- information disclosure would support a later, robust recommendation on access arrangements to the Minister; and
- maintaining the status quo would likely incur greater costs at a later date when a reassessment of the sector would be required to provide a final recommendation.

A voluntary or regulated information disclosure regime were identified as the most reasonably practicable options for achieving the objective of determining whether regulated access protocols are required.

Following Gas Industry Co consultation, and taking into consideration all submissions, these two options are still considered the only options for achieving that objective. As noted previously, in spite of the Minister extending the deadline and Gas Industry Co leaving open the possibility of opt-in during consultation on the September 2007 statement of proposal, universal acceptance of a voluntary disclosure regime has proven impractical. Gas Industry Co now considers the proposed information disclosure rules to be the only reasonably practicable option.

### 6.2 Cost-benefit analysis

The primary benefit of the proposed information disclosure regime is that it will allow Gas Industry Co to assess the operation and efficiency of the gas processing market over time. Data collected will provide a factual basis from which to advise the Minister on whether there is a need to regulate the terms and conditions of third party access to gas processing facilities.

Gas Industry Co considers the cost of implementing and administering the proposed information disclosure rules to be relatively low. The cost of drafting the rules and developing the data templates were incurred during the phase of attempting to obtain a voluntary agreement.

### 6.3 Conclusion

Gas Industry Co considers that rules for information disclosure would achieve the objective of the proposal. In principle, there should be little difference in cost between voluntary or

mandatory arrangements and a voluntary regime is likely to offer a marginally greater degree of flexibility. However, Gas Industry Co's experience in seeking agreement to a voluntary regime supports the view that the rule-based information disclosure regime is the only reasonably practicable option for achieving the objective of the proposal.

More details on the identification of options and assessment of costs and benefits are included in Appendix I.

Consideration of the proposal in the context of the Gas Act and regulatory objective is discussed in section 9.

## **7 Consultation**

Section 43L of the Act requires Gas Industry Co to:

- consult with persons that Gas Industry Co thinks are representative of the interests of persons likely to be substantially affected by the proposal;
- give those persons the opportunity to make submissions; and
- consider those submissions.

Gas Industry Co consulted on the September 2007 statement of proposal over a three week period in September 2007<sup>6</sup>. Submissions were invited from the list of stakeholders in Appendix II.

Submissions on the statement of proposal were received from:

- Genesis Energy
- Mighty River Power
- OMV New Zealand
- Shell (Petroleum Mining) Co
- Swift Energy New Zealand
- Vector.

Except for Mighty River Power, all of the submitters have an ownership interest in producing or soon-to produce gas fields and/or associated gas processing facilities.

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<sup>6</sup> Gas Industry Co previously consulted stakeholders on the August 2006 discussion paper.

## 7.1 Submissions on statement of proposal – key issues raised and Gas Industry Co response

### a) *Attempts to gain industry agreement*

In general, submitters supported Gas Industry Co's bid to gain industry approval for voluntary information disclosure arrangements and accepted that it had presented a clear opportunity to avoid regulated arrangements. Only one new alternative approach to the one used by Gas Industry Co was proposed by a submitter.

The alternative approach, suggested by OMV, would have involved Gas Industry Co:

- canvassing the industry to identify whether any party is being denied access to gas processing facilities; and
- introducing a process whereby any party that considers it has been denied access without good reason could raise the matter with Gas Industry Co for investigation.

Gas Industry Co considers that the first suggestion was undertaken during 2006, as summarised in the August 2006 discussion paper, which identified there was no apparent market power issue. From this Gas Industry Co concluded that it should maintain a watching brief on the sector, as proposed in the current recommendation. The second suggestion promotes a negotiate-arbitrate model with Gas Industry Co acting as the arbitrator, which is seen as premature and unjustified. Rather, Gas Industry Co considers that the proposed rules, which will allow third party approaches for access to be monitored, is more appropriate at present.

### b) *Level of prescription in the rules*

Mighty River Power and Genesis raised concerns about the lack of prescription in the proposed rules and the amount of discretion available to facility owners in the way they comply with the proposed rules. They believed this approach may undermine the regime and that the rules should be tightened, and brought in to line with the approach used in the Gas (Information Disclosure) Regulations 1997.

Gas Industry Co considers the proposed rules are appropriate given the aims of the proposal (collecting information on activity in the market in order to assess the need for further regulation on access to, and use of, gas processing facilities) and the desire for a very low cost regime.

### c) *Inclusion of a "sunset clause"*

Genesis Energy suggested the inclusion of a "sunset clause" to remove the presumption of indefinite regulation. Other submissions also raised this issue.

On consideration Gas Industry Co agrees that it is appropriate to include a sunset clause given that section 43G(2)(l) clearly contemplates that the processes in the rules may no longer be required once the matters at issue have been "settled". The original proposal under a voluntary regime was for Gas Industry Co to collect information and report to the Minister after a period of two years. This period has had to be extended under the rules because Gas Industry Co is unable to collect historical information from facility owners.

The draft rules have therefore been amended to provide that they expire after six years unless the Minister decides to extend the rules.

#### **d) Discretion over information being sought**

Some submitters consider the technical information requested under Part 2 of the proposed draft rules is too broad with potentially time consuming and expensive consequences. In particular, draft rule 8.3 stated that facilities owners must disclose:

*“Such other information as the industry body may require facility owners to disclose from time to time”.*

The rules were drafted in this manner because Gas Industry Co requires enough flexibility to be able to amend the list of information to be disclosed so as to be in a position to deal efficiently with errors and/or omissions to the disclosure form. In that regard, rule 10.2 states:

*“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.”*

More prescriptive rules could impose rule change requirements and additional costs at the drafting stage and when administering the rules. Gas Industry Co believes the current form of drafting will result in minimal costs. Checks and balances within Gas Industry Co, including the presence of industry directors, should ensure that facility owners are not subject to unnecessary intrusion.

However, following consultation, Gas Industry Co has amended draft rule 8.3 to make it clear that Gas Industry Co may only require facility owners to disclose from time to time additional “technical information on the capacity of their gas processing facilities...in order to achieve the purpose of these rules.” Gas Industry Co has also amended the purpose provision in the rules to make their scope absolutely clear.

## **8 Potential Risks**

The key risks with the proposal which have been identified by Gas Industry Co are:

- greater implementation cost; and
- non-compliance by facility owners.

Gas Industry Co considers the overall risks to be low, as the light handed regulatory approach to information disclosure is likely to result in relatively small upfront and ongoing operational costs. Based on initial attempts by Gas Industry Co to establish a voluntary information disclosure regime and general acceptance of the regime by the majority of facility owners, the risk of non-compliance under a regulated regime is considered low.

## **9 Consideration of Gas Act Objectives**

The GPS sets out the Government’s objectives and outcomes for governance of the New Zealand gas industry, and its expectations for industry action. Under section 43ZO of the Act, Gas Industry Co must have regard to those objectives and outcomes when making recommendations for gas governance rules or regulations.

The Government’s overall policy objective for the gas industry, as stated in the Act and the GPS, is:

*“To ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable, and environmentally sustainable manner.”*

Paragraph 5 of the GPS adds that, consistent with this overall objective, the Government is seeking certain specific outcomes which include:

- (a) *The facilitation and promotion of the ongoing supply of gas to meet New Zealand’s energy needs, by providing access to essential infrastructure and competitive market arrangements;*
- (b) *Energy and other resources are used efficiently;*
- (c) *Barriers to competition in the gas industry are minimised to the long-term benefit of end-users;*
- (d) *Incentives for investment in gas processing facilities, transmission, distribution, energy efficiency and demand-side management are maintained or enhanced;*
- (e) *The full costs of producing and transporting gas are signalled to consumers;*
- (f) *Delivered gas costs and prices are subject to sustained downward pressure;*
- (g) *The quality of gas services and in particular trade-offs between quality and price, as far as possible, reflect customers’ preferences;*
- (h) *Risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties;*
- (i) *Consistency with the Government’s gas safety regime is maintained; and*
- (j) *The gas sector contributes to achieving the Government’s climate change objectives by minimising gas losses and promoting demand-side management and energy efficiency.*

Paragraph 9 of the GPS sets out the Government’s expectation that Gas Industry Co will develop and submit to the Minister for approval proposed arrangements, including regulations and rules where appropriate, providing for effective industry arrangements in certain areas. In relation to gas processing, Gas Industry Co is to develop and propose:

*“protocols that set reasonable terms and conditions for access to gas processing facilities.”*

In the above context, Gas Industry Co stated in the August 2006 discussion paper and September 2007 consultation proposal, that the regulatory objective for access protocols is to:

*“promote efficient access to gas processing facilities to support Government’s overall objective, and the specific outcomes it expects, for the gas industry.”*

Stakeholder submissions generally supported this regulatory objective, which Gas Industry Co considers is consistent with the recommended rules for limited information disclosure to settle the issue of whether further regulation is required. The primary intent of the information disclosure proposal is to provide further information on the gas processing market during the transition to a larger number of smaller gas fields. This will help ensure that any later decision to impose access protocols will be soundly based and therefore promote the

regulatory objective. The proposed regime will also have the additional benefit of providing a convenient means for gas processing access seekers to identify potential options.

## **10 Consultation with MED**

Representatives of the Ministry of Economic Development (“MED”) have been briefed regularly by Gas Industry Co on the development of the proposed gas processing facility information disclosure arrangements.

MED has been issued with all relevant documents in conjunction with the industry stakeholders identified in Appendix II. A draft copy of this recommendation was also sent to MED, providing an opportunity for comment prior to it being forwarded to the Board of Gas Industry Co for approval.

## **11 Communications**

In accordance with section 43O of the Act, Gas Industry Co intends publishing, within 10 working days after providing it to the Minister, this recommendation and the assessment completed under section 43N in both the Gazette and on the Company’s website.

The notice of recommendation to be published in the Gazette is attached as Appendix III.

A draft of the notice to be published on Gas Industry Co’s website is attached as Appendix IV.

Gas Industry Co also intends to notify all stakeholders of the fact that this recommendation has been made and that it is viewable on its website.

## **12 Recommendation**

Gas Industry Co recommends to the Minister of Energy under section 43G(2)(l) and section 43S(1) of the Gas Act 1992 the making of the Gas (Processing Facility Information Disclosure) Rules 2007 in the form attached as Appendix VI to this recommendation.

## **Appendices**

The following appendices are attached to this recommendation:

- Appendix I: Statement of Proposal
- Appendix II: List of stakeholders for consultation
- Appendix III: Notice for Gazette
- Appendix IV: Notice for website
- Appendix V: Indicative Gas Processing Facility Information Disclosure Requirement
- Appendix VI: Rules



# Appendix I: Statement of Proposal

Before making a recommendation to the Minister for gas governance regulations, section 43N(1)(d) of the Gas Act requires Gas Industry Co to issue a statement of the proposal for the purpose of consultation with persons that Gas Industry Co thinks are representative of the interests of persons likely to be substantially affected by the proposal (s43L(1)(b)).

The statement of the proposal must contain:

- a detailed statement of the proposal;
- a statement of the reasons for the proposal;
- an assessment of the reasonably practicable options, including the proposal; and
- other information that Gas Industry Co considers relevant.

The proposal is to make a recommendation to the Minister of Energy under section 43G(2)(l) of the Act for rules requiring disclosure of information on third party access to gas processing facilities.

The reasons for the proposal are to allow Gas Industry Co to settle the issue of whether protocols for access to gas processing facilities are required by:

- obtaining and publishing basic information on gas processing facilities, including forecasts of available capacity;
- collecting information on approaches by third parties seeking to have gas processed and the outcomes of those approaches; and
- using that information to report to the Minister on the need for, and form of, access protocols.

## Detailed description of the information disclosure rules

The draft rules are attached in Appendix VI. The draft rules are divided into three parts:

- Part 1 sets out general obligations, including the obligation on all facility owners, which is defined in the rules, to provide information in accordance with the rules.
- Part 2 prescribes the information that facility owners must supply on the capability of, and availability of capacity at, their fully or partly owned gas processing facilities. Such information will be required to be provided annually in accordance with a disclosure form published by Gas Industry Co from time to time. A director or principal of the facility owner will be required to certify that the information is correct each time that it is provided. Gas Industry Co will publish on its website all information provided in accordance with Part 2.
- Part 3 prescribes the information that all facility owners must supply on bona fide approaches by third parties for access to their fully or partly owned gas processing facilities. Facility owners must provide:
  - the numbers of bona fide approaches;

- a summary of the nature of the approaches; and
- a summary of the outcome of the approaches.

The draft rules make it clear that a facility owner will not be required to disclose any information that a reasonable person would consider was commercially sensitive at the time the disclosure was made. The draft rules also provide for third party access seekers to provide information to Gas Industry Co on access approaches where the facility owner has not already provided that information. Provision of the information by the access seeker does not relieve the facility owner of the obligation to provide the information itself. Failure to provide the information may therefore be considered a breach of the draft rules.

Gas Industry Co will not publish any information provided in accordance with Part 3. Gas Industry Co will, however, use that information to report to the Minister from time to time on the need, if any, for further regulation in this area thereby fulfilling the purpose of the rules to resolve the issue of whether access protocols are required.

In order to avoid duplication, the draft rules make it clear that only one disclosure is required in respect of any jointly-owned gas processing facility.

It is proposed that any breaches of the draft rules will be dealt with through Gas Industry Co's compliance regime.

### Identification of reasonably practicable options

Detailed technical and economic analysis and independent stakeholder interviews, summarised in the August 2006 discussion paper, concluded that:

- the cost structure of gas processing facilities is such that any economies of scale are relatively small, suggesting it would be difficult for the owner of an existing facility to exert market power;
- there was no evidence of substantial inefficiency in the gas processing sector; and
- the market is changing with increasing dependence on multiple and smaller sources of gas supply and there may be merit in maintaining a watching brief on access arrangement as the market develops.

In this context, the discussion paper suggested that only low cost measures at the light-handed end of the spectrum would be worthy of consideration and identified a model contracts regime, information disclosure and the status quo as options. In considering these options, the discussion paper concluded that:

- a model contract regime would be unlikely to enhance efficiency in the sector (compared with the cost of producing such a contract);
- information disclosure would support a later, robust recommendation to the Minister; and
- maintaining the status quo would likely incur greater costs at a later date when a reassessment of the sector would be required to provide a final recommendation.

Gas Industry Co therefore considers information disclosure will best support the process of providing a final recommendation on access protocols. Two options for implementing

information disclosure were identified:

- a scheme whereby the facility owners voluntarily opt-in to a formal agreement with Gas Industry Co specifying the form, content and frequency of information disclosed; or
- rules approved by the Minister that specify the form, content and frequency of information to be disclosed, together with associated compliance mechanisms.

## Assessment of reasonably practicable options

### *Voluntary information disclosure*

This option requires the support of all facility owners in order to be viable. In that regard, it may be that facility owners will be incentivised to support an opt-in arrangement as a means of demonstrating support for an industry-led solution in this area. However, as has been Gas Industry Co's experience, an arrangement which relies on all facility owners to opt-in is vulnerable to the possibility of hold-out by one or more of those facility owners.

In addition, even once it is implemented, such a scheme will continue to be exposed to a number of risks:

- withdrawal by one or more facility owners;
- a facility changing hands and the new owner choosing not to opt-in; and
- the owner of any new facility who chooses not to opt-in.

The advantage of an opt-in scheme is that it may be easier to change the form and content of disclosures (in light of feedback and experience) as compared with a regulated alternative.

### *Regulated information disclosure*

The second means of delivering information disclosure is to provide a mandatory scheme through rules or regulations promulgated under the Act.

The requirement for disclosure is prompted by the need to acquire the information to be able to assess the operation and efficiency of the gas processing market over time in order to settle the issue of whether further regulatory intervention is required. Analysis of the information collected, together with further analysis undertaken by Gas Industry Co, will allow a final recommendation to be made to the Minister.

### *Analysis of Costs and Benefits*

The costs involved in both delivery mechanisms are relatively small. In the case of the opt-in scheme the costs included:

- designing the form and scope of information to be disclosed;
- drafting the agreement between facility owners and Gas Industry Co; and
- communicating with facility owners to get their agreement so as to achieve universal support.

In the case of the regulatory option, the costs would include:

- designing the form and scope of information to be disclosed;

- preparing a proposal on the information disclosure regime, including drafting the disclosure rules, and consulting on that proposal;
- preparing a recommendation to the Minister; and
- implementing the rules.

Given that there is likely to be very little difference in cost between the two options, and assuming the benefits are the same in both cases (i.e. both result in the information being disclosed), the voluntary arrangement appeared to offer a marginally greater degree of flexibility.

Having sought industry agreement to a low cost voluntary disclosure regime, and provided considerable opportunities for participants to opt-in, Gas Industry considers that disclosure rules are now the only viable option for meeting the objectives of the proposal.

### Choice between rules and regulations

Section 43Q(1) of the Act allows the Minister of Energy to make a rule for all or any of the purposes for which a gas governance regulation may be made. Given that the draft rules:

- govern the limited domain of information disclosure on third party access to gas processing facilities;
- incorporate detailed and technical matters affecting gas processing;
- apply only to gas processing facility owners;
- are aimed at making third party access to gas processing facilities more efficient;
- will be readily accessible, at no charge and at all reasonable times, on Gas Industry Co's website making the cost of publication under the Acts and Regulations Publication Act unwarranted; and
- have been drafted by Gas Industry Co, a co-regulatory body set up by the Government to undertake the specific task of regulating the New Zealand gas industry through rules or regulations where appropriate;

Gas Industry Co has concluded that the information disclosure arrangements should be implemented by way of rules under the Act.

### Other information considered relevant

Gas Industry Co does not consider that any other information is relevant to making an assessment of the proposal under section 43N(1) of the Act.

### Other means to achieve the regulatory objective

Due to the inability of gas processing industry participants to agree on a voluntary information disclosure regime, Gas Industry Co does not believe that the regulatory objective is likely to be satisfactorily achieved by any reasonably practicable means other than the making of the proposed rules.

## Conclusion

Gas Industry Co concludes that the reasonably practicable option which best achieves the regulatory objective is the making of the draft information disclosure rules under the Gas Act.



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## Appendix II: Stakeholder consultation list

Age Concern	Four Winds Communication
AGL	Gas Association of New Zealand
Arete Limited	Gas Net
Auckland Gas Company	Genesis Energy
Austral Pacific Energy	Greymouth Petroleum
Balance Agri Nutrients	Greypower
Bay of Plenty Electricity	Heinz Watties Ltd
Bell Gully	Kensington Swan
Blue Scope Steel	Kerridge & Partners
BRG	KPMG
Bridge Petroleum	LPG Association of New Zealand
Carter Holt Harvey	Major Electricity Users Group
Castalia	Marsh Limited
CGNZ	Maui Development Ltd
Clifford Chance Law Office	M-Co
Commerce Commission	Methanex New Zealand
Concept Consulting	Mighty River Power
Consumers Institute	Ministry of Consumer Affairs
Contact Energy Ltd	Ministry of Economic Development
Craftware Computing Ltd	Multigas (NZ) Ltd
E-Gas	National Council of Women
Electricity and Gas Complaints Commission	New Zealand Oil and Gas Ltd
Electricity Commission	NZPWC
Energy Efficiency and Conservation Authority	NZRC
Energy Link Ltd	New Zealand Steel
Exergi	Nova Gas Ltd
Fletcher Building Ltd	NZ Water and Wastes Association

O-I New Zealand Ltd	Westech Energy
OMV New Zealand Ltd	
Pan Pac Forest Products Ltd	
Parliament	
Parsons Brinkerhoff Associates	
PB World	
PEPANZ	
Powerco Ltd	
Pricewaterhouse Coopers	
RBZ Energy Ltd	
Richard Clarke QC	
Russell McVeagh	
SBT Group	
Shell (Petroleum Mining) Ltd	
Shell Todd Oil Services Ltd	
Simpson Grierson	
Stigley & Co	
Strata Energy Consulting	
Swift Energy Ltd	
Tap Oil Ltd	
Tatua Co-op Dairy	
The Australian Gas Light Company	
Thorndon Chambers	
Todd Energy Ltd	
TWS Consulting Ltd	
Vector Ltd	
VUW School of Economics and Finance	
Wanganui Gas Ltd	

# Appendix III: Notice for Gazette

## **Notice of Making of an Assessment and Recommendation for Gas Governance Rules**

This notice of an assessment and recommendation for gas governance rules is issued by Gas Industry Company Limited ("Gas Industry Co") approved as the industry body by Order in Council under section 43ZL of the Gas Act 1992 ("Gas Act").

Section 43O of the Gas Act provides that, no later than 10 working days after making a recommendation for a gas governance regulation to the Minister of Energy, Gas Industry Co must publicise the recommendation and the assessment completed under section 43N of the Gas Act.

### **Recommendation**

On 28 January 2008 Gas Industry Co made a recommendation to the Minister of Energy under sections 43G(2)(l) and 43Q of the Gas Act for approval of the Gas (Processing Facility Information Disclosure) Rules to provide for information disclosure by gas processing facility owners. The purpose of the proposed 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:

- Making information publicly available on the capability of, and availability of capacity at, gas processing facilities;
- Monitoring responses to requests for third party access to gas processing facilities; and
- 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 Gas Act.

The information disclosed will comprise:

- contact details and location of the processing facility;
- indicative forecasts of spare capacity over the short- and medium-term;
- technical capability of the plant i.e. information on the ability of the plant to remove or separate various constituents; and
- summary information on any bona fide approaches by third parties investigating the possibility of having their gas processed.

A recommendation for amended regulations providing for compliance with, and enforcement of, the Gas (Processing Facility Information Disclosure) Rules was made in conjunction with this recommendation .

A copy of Gas Industry Co's recommendation, including the assessment, is available at no cost on Gas Industry Co's website: <http://www.gasindustry.co.nz>

Dated at Wellington this [ ] of [ ].

For and on behalf of Gas Industry Co



## Appendix IV: Notice for website

Under section 43O of the Gas Act 1992 Gas Industry Co must, no later than 10 working days after making a recommendation to the Minister of Energy on gas governance arrangements, publicise that recommendation and the assessment completed under section 43N of the Act.

On 28 January 2008, Gas Industry Co made a recommendation for rules requiring information disclosure by gas processing facility owners. The text of this recommendation, including the assessment under section 43N of the Act, is available below:

### **Recommendation on Gas (Processing Facilities Information Disclosure) Rules**



# Appendix V: Indicative Gas Processing Facility Information Disclosure Requirement

## Location and Contact Information

### Facility owner

Company name:.....

Contact person:.....

Phone:..... (office) .....(mobile)

Address:.....

.....

### Facility details

Facility name: .....

Physical address:.....

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## 13 Forecast Ullage

Forecast gas capacity availability:

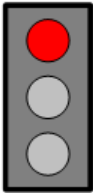
(tick one for each time period)

☐

☐

☐

<5% ullage

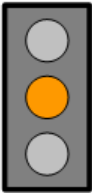


☐

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5-25% ullage

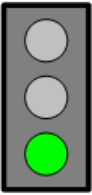


☐ 5+ years

☐ 2 – 5 years

☐ 0 – 18 months

>25% ullage



Comments: .....

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## **14 Processing Facility Capability (nameplate ratings)**

Entry specification:.....

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Exit specification: .....

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Outline details of gathering facilities: .....

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Outline details of primary separation processing facilities: .....

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Outline details of gas treatment facilities: .....

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Gas lift capacity:.....

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Produced water handling capacity: .....

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Water injection capacity: .....

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CO<sub>2</sub> removal capacity: .....

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H<sub>2</sub>S removal capacity:.....

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Dehydration capacity: .....

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Hydrocarbon dewpointing capacity: .....

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Export Gas compression capacity: .....

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Gas export capacity: .....

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Oil export capacity: .....

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LPG fractionation capacity .....

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LPG storage and loadout capacity .....

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Limiting factors: .....

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## 15 Certification

The Facility Owner has used reasonable endeavours to ensure the accuracy of the information provided in this disclosure, but is neither providing a guarantee of performance nor a commitment to process gas as a result of this disclosure.

Signed on behalf of: .....(company name)

..... (signature)

By:.....(insert name of signatory)

Information provided as at: ..... (insert date)

## Appendix VI: Draft rules



# **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.

## **Contents**

1. Title
2. Commencement
3. Purpose

### **Part 1 General provisions**

4. Interpretation
5. Obligation to disclose information
6. Giving of notices
7. When notice taken to be given

### **Part 2 Information for public disclosure**

8. Information to be disclosed
9. Obligation to certify that information disclosed is correct
10. When and how information is provided
11. Publication of information
12. No reliance on information

### **Part 3 Monitoring access**

13. Information on approaches for access to be disclosed
14. When and how information is to be disclosed
15. Access seekers may provide information
16. Confidentiality
17. Expiry of rules

## **1. Title**

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

## **2. Commencement**

These rules come into force on the 28<sup>th</sup> 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:

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- 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.

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## *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: –
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- 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.

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- 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**.
-