

GAS (FACILITIES OUTAGE INFORMATION DISCLOSURE) RULES 2022

Pursuant to sections 43F, 43Q and 43S of the Gas Act 1992, the Minister of Energy and Resources, 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 (Facilities Outage Information Disclosure) Rules 2022.

2. Commencement

These **rules** come into force as follows:

2.1 except for the rules referenced in rule 2.2, these **rules** come into force on 1 April 2023; and

2.2 rules 15.2, 16.2 and 18 come into force on 1 April 2024.

3. Purpose

The purpose of these **rules** is to provide for effective and timely disclosure of information regarding an **unplanned outage** or **planned outage** at a **gas production facility** or a **gas storage facility** for all gas and related market participants.

4. Outline

These **rules** provide for –

4.1 The disclosure of information regarding an **unplanned outage** or **planned outage** at a **gas production facility** or a **gas storage facility**; and

- 4.2 The disclosure of information to the **industry body** to enable it to monitor compliance with these **rules**.

Part 1

General provisions

5. Interpretation

- 5.1 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**.

- 5.2 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, Te Rā Aro ki a Matariki/Matariki Observance Day, 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**;

daily total withdrawal means the aggregate quantity of gas withdrawn from a **gas storage facility** on a **gas day**;

daily total withdrawal nominations means the aggregate nominations for withdrawals from a **gas storage facility** on a **gas day**;

daily total production means the aggregate quantity of gas exported from a **gas production facility** on a **gas day**;

gas day means the period from 00:00 hours until 24:00 hours on any day;

gas production facility means a facility –

- (a) at which gas is produced or processed for domestic export or sale, and includes any associated gas production or other wells; and
- (b) which has produced or processed gas at a minimum of 20 TJ per **gas day**;

gas storage facility means a facility –

- (a) at which gas is injected and later made available for withdrawal; and
 - (b) which has a **withdrawal capacity** of at least 20 TJ per **gas day**; and
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(c) which is not a **gas production facility**;

gas storage owner means any owner of a **gas storage facility**;

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;

nomination means the gas quantities notified by a customer to a **gas storage owner** in respect of a **gas storage facility** that specify the customer's intended use of the service provided by the **gas storage owner**;

outage means an event or circumstance resulting in a reduction in the gas able to be exported from a **gas production facility** or able to be withdrawn from a **gas storage facility**, not being a reduction resulting from an event or circumstance occurring at a customer's facility or otherwise initiated by a customer;

planned outage means –

- (a) in relation to a **gas production facility** and a **gas day**, any reduction in the **daily total production**, caused by an **outage** of that facility that is planned for in advance, in a quantity of 20 TJ or more per **gas day** measured against the average of the gas producer's most recent forecast **daily total production** over the 14 gas days immediately preceding the expected start of the **outage**; or
- (b) in relation to a **gas storage facility** and a **gas day**, any reduction in the **withdrawal capacity** from that facility in a quantity of 20 TJ or more per **gas day**, caused by an **outage** of that facility that is planned for in advance;

reasonable and prudent operator means, in relation to the performance of obligations under these **rules**, the application by a gas producer or **gas storage owner** of that degree of diligence, prudence and foresight reasonably and ordinarily exercised by experienced gas producers or **gas storage owners** under the same or similar circumstances and conditions;

rules means these Gas (Facilities Outage Information Disclosure) Rules 2022 as may be amended from time to time and includes any schedule to the rules, and any codes made pursuant to the rules;

TJ means terajoules;

unplanned outage means –

- (a) in relation to a **gas production facility** and a **gas day**, any reduction in **daily total production** from that **gas production facility**, caused by an **outage** of that facility that is not planned for in advance, in a quantity of 20 TJ or more per **gas day** measured against the average of the gas producer's most recent
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forecast **daily total production** for the following week in respect of that facility, for the period including that **gas day**; or

- (b) in relation to a **gas storage facility** and a **gas day**, any reduction in the **withdrawal capacity** from that facility in a quantity of 20 TJ or more per **gas day**, caused by an **outage** of that facility that is not planned for in advance;

withdrawal capacity means the maximum quantity of gas that can be withdrawn from a **gas storage facility** on a **gas day**.

Part 2

General requirements as to disclosure

General obligations

6. **Obligation to disclose information**

Each gas producer and **gas storage owner** must disclose information in accordance with these **rules**, provided that if a **gas production facility** or **gas storage facility** is owned by more than one party, a compliant disclosure by one party will satisfy the obligation of the other party to disclose the relevant information in accordance with these **rules** and the other party is not required to separately disclose the same information.

7. **Duty to act in good faith and as a reasonable and prudent operator**

Each gas producer and **gas storage owner** must perform its obligations under these **rules** in good faith and as a **reasonable and prudent operator**.

Other disclosure arrangements

8. **Additional disclosure**

8.1 Nothing in these **rules** prevents a gas producer or **gas storage owner** from disclosing information about an **unplanned outage** or **planned outage** that is not required to be disclosed under these **rules** to any person, provided that if a gas producer or **gas storage owner** discloses information about an **unplanned outage** or **planned outage** to a person that has not been disclosed under these **rules**, the gas producer or **gas storage owner** must ensure that the information is made available to the public immediately after the information is disclosed to the person.

8.2 The obligation to make information publicly available in rule 8.1:

8.2.1 is limited to information that is material to an **unplanned outage** or **planned outage** having regard to:

- (a) the information that is required to be disclosed under these **rules**; and
- (b) the purpose of these **rules**;

8.2.2 does not apply to detailed operational or technical information that a gas producer or **gas storage owner** is required or

expected to provide to a person in accordance with a contractual requirement or expectation.

9. Effect of any duty of confidence

Each gas producer or a **gas storage owner** must comply with these **rules** despite any actual or alleged duty of confidence that it owes to a third party.

Exclusions

10. No obligation to disclose matters of supposition or insufficiently definite outage information

A gas producer or **gas storage owner** is not required to disclose information in relation to an **outage** under these **rules** if the information relating to the **outage** comprises matters of supposition or is insufficiently definite to warrant being made readily available to the public.

Part 3

Information for public disclosure

11. Disclosure in relation to unplanned outages

Each gas producer or **gas storage owner** must disclose the following information in relation to any **unplanned outage** at **gas production facility** or **gas storage facility** wholly or partially owned by it or a related party:

11.1 *Initial disclosure:* as soon as reasonably practicable after the occurrence of an **unplanned outage**, or if an **outage** has occurred that is likely to develop into an **unplanned outage**, and in any event no later than 12 hours after its occurrence:

11.1.1 the date and time of the disclosure; and

11.1.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and

11.1.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and

11.1.4 the name of the **unplanned outage**; and

11.1.5 the date on which the **unplanned outage** commenced; and

11.1.6 whether the definition of an **unplanned outage** has been met, or is likely to be met.

11.2 *Daily update disclosure:* if an **unplanned outage** continues beyond the **gas day** of its occurrence, no later than 24 hours after the disclosure under rule 11.1 and again daily after the last disclosure under this rule 11.2 until a date that is 14 **gas days** after the disclosure under rule 11.1 or until such time as disclosure occurs under rule 11.4:

11.2.1 the date and time of the disclosure; and

- 11.2.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 11.2.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
 - 11.2.4 the name of the **unplanned outage**; and
 - 11.2.5 a description of the nature and cause of the **unplanned outage**, if known; and
 - 11.2.6 the estimated end date of the **unplanned outage**, if known; and
 - 11.2.7 a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
 - 11.2.8 the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day** due to the **unplanned outage**.
- 11.3 *Weekly update disclosure*: once an **unplanned outage** has continued for 14 **gas days**, within 7 **gas days** of the last disclosure under rule 11.2 and again at 7 day intervals after the last disclosure under this rule 11.3 until such time as disclosure occurs under rule 11.4:
- 11.3.1 the date and time of the disclosure; and
 - 11.3.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 11.3.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
 - 11.3.4 the name of the **unplanned outage**; and
 - 11.3.5 a description of the nature and cause of the **unplanned outage**, if known; and
 - 11.3.6 the estimated end date of the **unplanned outage**, if known; and
 - 11.3.7 a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
 - 11.3.8 the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day** due to the **unplanned outage**.
- 11.4 *Cessation disclosure*: as soon as reasonably practicable after cessation of an **unplanned outage**:
- 11.4.1 the date and time of the disclosure; and
 - 11.4.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
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- 11.4.3 the name of the **gas production facility** or **gas storage facility** affected by the **unplanned outage**; and
- 11.4.4 the name of the **unplanned outage**; and
- 11.4.5 confirmation of resumption of normal operations or other disclosure as to the final status of the relevant **gas production facility** or **gas storage facility** following completion of work in response to the **unplanned outage**.

12. Disclosure in relation to planned outages

Each gas producer or **gas storage owner** must disclose the following information in relation to any **planned outage** at any **gas production facility** or **gas storage facility** wholly or partially owned by it, or a related party:

- 12.1 *Quarterly disclosure*: no later than 10 **business days** after 10 January, 1 April, 1 July and 1 October each year, a gas producer or **gas storage owner** must disclose in relation to any such **planned outage** expected to occur in the immediately following 12 month period:
 - 12.1.1 the date and time of the disclosure; and
 - 12.1.2 the name of the disclosing gas producer or **gas storage owner** and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 12.1.3 the name of the **gas production facility** or **gas storage facility** affected by the **planned outage**; and
 - 12.1.4 the name of the **planned outage**; and
 - 12.1.5 a description of the nature and purpose of the **planned outage**; and
 - 12.1.6 the estimated duration of the **planned outage** being:
 - (a) in relation to a **planned outage** expected to occur no later than six months after the date of the disclosure under this rule 12.1, the estimated start date and estimated end date of the **planned outage**; or
 - (b) in relation to a **planned outage** expected to occur more than six months after the date of the disclosure under this rule 12.1, the month or months in which the **planned outage** is expected to occur; and
 - 12.1.7 if the **planned outage** has commenced at the time of the disclosure, confirmation of the plan for return to normal operations; and
 - 12.1.8 in relation to a **planned outage** expected to occur no later than six months after the date of the disclosure under this rule 12.1, the estimated reduction in **daily total production** or **withdrawal capacity** per **gas day**.
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- 12.2** *Material change disclosure:* if a gas producer or **gas storage owner** becomes aware of any material change to information disclosed in respect of a **planned outage** under rule 12.1, disclosure of the relevant change must be made:
- 12.2.1** as soon as reasonably practicable if the **planned outage** occurs or is to occur no later than six months after the disclosure under rule 12.1 (including if the **planned outage** has already commenced); and
 - 12.2.2** on the next quarterly disclosure date if the **planned outage** is to occur more than six months after the disclosure under rule 12.1.
- 12.3** *Cessation disclosure:* as soon as reasonably practicable after cessation of a **planned outage**:
- 12.3.1** the date and time of the disclosure; and
 - 12.3.2** the name of the disclosing party and the name of the owner or owners of the **gas production facility** or **gas storage facility**; and
 - 12.3.3** the name of the **gas production facility** or **gas storage facility** affected by the **planned outage**; and
 - 12.3.4** the name of the **planned outage**; and
 - 12.3.5** confirmation of resumption of normal operations or other disclosure as to the final status of the relevant facility following completion of work in response to the **planned outage**.

Part 4

Information platform

13. Form and manner of disclosure

Each gas producer and **gas storage owner** must make the information required to be disclosed in accordance with Part 3 of these **rules** available to the public –

- 13.1** on an electronic platform maintained by the **industry body**; or
- 13.2** if disclosure of information in accordance with these **rules** cannot be achieved using the electronic platform in rule 13.1, in an alternative form and manner specified by the **industry body**.

14. Liability of industry body

In respect of the electronic platform or alternative form and manner of disclosure in rule 13, the **industry body** –

- 14.1** makes no representation or warranty as to the accuracy, completeness, reliability or continued availability of any information disclosed by gas producers or **gas storage owners**; and
 - 14.2** to the maximum extent permitted by law, disclaims all implied representations and warranties as to the accuracy, completeness,
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reliability or continued availability of any information disclosed by gas producers or **gas storage owners**; and

- 14.3** is expected to use reasonable endeavours to ensure the availability of the electronic platform or alternative form of disclosure, but shall have no liability for any loss or damage arising directly or indirectly out of or in connection with the use of, or any inability to use or access, the electronic platform or for its continued availability or freedom from defects.

Part 5

Monitoring

15. Gas producers to provide industry body with information

- 15.1** No later than 10 **business days** after the commencement of these **rules**, each gas producer must provide the **industry body** with forecast **daily total production** for each **gas production facility** from the commencement of these **rules** until the following 31 March.
- 15.2** No later than 10 **business days** after 1 April each year, each gas producer must provide the **industry body** with –
- 15.2.1** forecast **daily total production** for each **gas production facility** from 1 April until the following 31 March; and
 - 15.2.2** actual **daily total production** for each **gas production facility** for the year immediately preceding 1 April in the relevant year.

16. Gas storage owners to provide industry body with information

- 16.1** No later than 10 **business days** after the commencement of these **rules**, each **gas storage owner** must provide the **industry body** with forecast changes in **withdrawal capacity** of the **gas storage facility** from the commencement of these **rules** until the following 31 March.
- 16.2** No later than 10 **business days** after 1 April each year, each **gas storage owner** must provide the **industry body** with –
- 16.2.1** forecast changes in **withdrawal capacity** of each **gas storage facility** from 1 April until the following 31 March; and
 - 16.2.2** **daily total withdrawal** for each **gas storage facility** for the year immediately preceding 1 April in the relevant year; and
 - 16.2.3** **daily total withdrawal nominations** for each **gas storage facility** for the year immediately preceding 1 April in the relevant year.

17. Industry body use of information

The **industry body** must use the information disclosed to it in accordance with this Part 5 of the **rules** only for the purpose of monitoring or enforcing compliance of gas producers and **gas storage owners** with these **rules**.

Part 6

Certification

18. Obligation to certify that information disclosed is correct

- 18.1** No later than 10 **business days** after 1 April each year, each gas producer and **gas storage owner** must provide the **industry body** with a certificate confirming that, in the gas producer's or **gas storage owner's** reasonable opinion, the information disclosed under these **rules** for the preceding 12 months is correct.
- 18.2** The certificate provided in accordance with rule 18.1 must be in a form specified by the **industry body** and must be signed by a director of the relevant gas producer or **gas storage owner** or senior manager whose functions include ensuring that the gas producer or **gas storage owner** discloses the information required under these **rules**.
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