

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 on [insert date].

3. Purpose

The purpose of these rules is to provide for effective and timely disclosure of information regarding outages at gas production facilities and gas storage facilities for all gas and related market participants.

4. Outline

These rules provide for –

- 4.1** The disclosure of information regarding outages at gas production facilities and gas storage facilities; and
 - 4.2** The disclosure of information to the industry body to enable it to monitor compliance with these rules.
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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daily withdrawal capacity means the maximum quantity of gas that can be withdrawn from a gas storage facility on a gas day;

daily total withdrawal means the aggregate quantity of gas withdrawn from a gas storage facility on a gas day;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 a period of 24 consecutive hours, beginning at 0000 hours (New Zealand standard time);

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 20TJ 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 daily withdrawal capacity of at least 20TJ per gas day.
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(being, as at the commencement date, only the Taranaki facility known as the Ahuroa Gas Storage Facility owned and operated by Flexgas Limited);

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 producer or gas storage owner in respect of a gas production facility or gas storage facility that specify the customer's intended use of service provided by the gas producer or 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 downstream customer's facility or otherwise initiated by a downstream 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, over the following 12 month period, in a quantity of 20 TJ or more per gas day measured against the average of the gas producer's 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 daily withdrawal capacity from that facility, caused by an outage of that facility, over the following 12 month period, in a quantity of 20 TJ or more per gas day measured against the daily withdrawal capacity of that facility;

in each case which is planned for in advance.

reasonable and prudent operator means, in relation to the performance of obligations under these rules, the application by that 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 compared against the

average of the gas producer's forecast daily total production for the following week in respect of that facility, for the period including that gas day, in a quantity of 20 TJ or more; or

- (b) in relation to a gas storage facility and a gas day, any reduction in the daily withdrawal capacity from that facility, caused by an outage, in a quantity of 20 TJ or more per gas day measured against the daily withdrawal capacity of that facility,

in each case not being a planned outage.

Part 2

General requirements as to disclosure

General obligations

6. **Obligation to disclose information**

- 6.1 All gas producers and **gas storage owners** must disclose information in accordance with these **rules**.
- 6.2 Notwithstanding rule 6.1, for the purpose of these **rules**, if a **gas production facility** or **gas storage 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 production facility** or **gas storage facility**.

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

A gas producer or a **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 Subject to rule 8.2, nothing in these **rules** prevents a gas producer or **gas storage owner** from disclosing information about an **outage** that is not required to be disclosed under these **rules**.
- 8.2 Where a gas producer or a **gas storage owner** discloses information about an **outage** to a customer that exceeds the information required to be disclosed under these **rules** as to content or timing (or both), the gas producer or **gas storage owner** must ensure that the information disclosed to the customer is disclosed to the public at the time that the disclosure is made.

9. **Effect of any duty of confidence**

These **rules** apply notwithstanding any actual or alleged duty of confidence that a gas producer or **gas storage owner** 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.

[Drafting note for stakeholder consultation: rule 10 has been included following stakeholder feedback on the Gas Industry Co's Statement of Proposal dated July 2021 that the disclosure regime should only require the disclosure of firm plans rather than options or unconfirmed plans. The proposed drafting is similar to clause 13.2A(2)(g) of the Electricity Industry Participation Code]

Part 3

Information for public disclosure

11. Disclosure in relation to unplanned outages

A gas producer or **gas storage owner** must disclose the following information in relation to any **unplanned outage** that has occurred 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 **unplanned outage** is likely to have occurred, 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 **storage facility** affected by the **unplanned outage**; and

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

11.1.5 the date of the **unplanned outage**; and

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

[Drafting note for stakeholder consultation: the inclusion of "likely to have occurred" in rule 11.1 reflects the timing of the initial disclosure compared to the definition of an unplanned outage, which applies 20TJ per day threshold. This aligns with the information required to be provided under rule 11.1.6]

11.2 *Daily update disclosure:* if an **unplanned outage** continues beyond the **gas day** of its occurrence, within a further 24 hours of 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 duration of the **unplanned outage**, if known; and
 - 11.2.7 the estimated end date of the **unplanned outage**, if known; and
 - 11.2.8 a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
 - 11.2.9 the estimated quantity per **gas day** of the reduction in:
 - (a) **daily total production** for a **gas production facility**;
or
 - (b) **daily withdrawal capacity** for a **gas storage facility**,
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 duration of the **unplanned outage**, if known; and
 - 11.3.7 the estimated end date of the **unplanned outage**, if known; and
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- 11.3.8** a description of the progress made in confirming a plan for resolution of the **unplanned outage**; and
- 11.3.9** the estimated quantity per **gas day** of the reduction in:
- (a) **daily total production** for a gas production facility; or
 - (b) **daily withdrawal capacity** for a gas storage facility, 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
 - 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

A 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*: within 10 **business days** of 10 January, 1 April, 1 July and 1 October each year and of the commencement of these **rules** (if this does not coincide with one of the aforementioned dates), subject to rule 12.2 below, 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
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- 12.1.6** the estimated duration of the **planned outage** being:
- (a) in relation to a **planned outage** expected to occur within six months of 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 within six months of the date of the disclosure under this rule 12.1, the estimated quantity per **gas day** of the reduction in:
- (a) gas production for a **gas production facility**; or
 - (b) withdrawal capacity for a **gas storage facility**,
due to the **planned outage**.
- 12.2** *Material change disclosure*: where the 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 within six months of 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**.
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Part 4

Information platform

13. Form and manner of disclosure

Gas producers and **gas storage owners** 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 where disclosure of information in accordance with these **rules** cannot be achieved using the electronic platform in paragraph (a), 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**;
- 14.2 to the maximum extent permitted by law, disclaims all implied representations and warranties as to the accuracy, completeness, 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 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 Within 10 **business days** of 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 Within 10 **business days** of 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.
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16. Gas storage owners to provide industry body with information

16.1 Within 10 **business days** of the commencement of these **rules**, each **gas storage owner** must provide the **industry body** with forecast changes in **daily withdrawal capacity** of the **gas storage facility** from the commencement of these **rules** until the following 31 March.

16.2 Within 10 **business days** of 1 April each year, each **gas storage owner** must provide the **industry body** with:

16.2.1 forecast changes in **daily withdrawal capacity** of the **gas storage facility** from 1 April until the following 31 March; and

16.2.2 **daily total withdrawal** for a **gas storage facility** for the year immediately preceding 1 April in the relevant year; and

16.2.3 **daily total withdrawal nominations** for the year immediately preceding 1 April in the relevant year.

17. Industry body use of information

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

[Drafting note for stakeholder consultation: the timeframe for provision of information in rules 15 and 16 is intended to be close to the date that information is provided under the Crown Minerals (Petroleum) Regulations 2007]

Part 6

Certification

18. Obligation to certify that information disclosed is correct

18.1 Within 10 **business days** of 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**.
