



# **Recommendation to Minister of Energy and Resources to make Gas (Levy of Industry Participants) Regulations 2023**



**Gas Industry Co.**



# Executive Summary

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Pursuant to section 43ZZB of the Gas Act 1992 (the Act), Gas Industry Co recommends to the Minister of Energy and Resources that regulations be made under section 43ZZE to require industry participants to pay levies to the industry body in respect of the year commencing 1 July 2023 (FY2024), totalling \$4,455,703 on the following basis:

- From every gas retailer who is an industry participant on the last day of each month, a retail levy based on one twelfth of the annual retail levy of \$6.54 for each ICP for each retail customer.
- From every industry participant on the first day of each month, a wholesale levy rate of 1.4326c/GJ based on gas purchases made directly from gas producers during the previous month.

Gas Industry Co notes that for FY2024:

- The levy funding requirement of \$4,455,703 (\$4,579,373 in FY2023), and market fees of \$1,487,750 (\$1,713,450 in FY2023). Added together, these result in total work programme costs for FY2024 of \$5,943,453 (\$6,340,373 in FY2023);
- The retail levy of \$6.54 is down from \$6.63 in FY2023 - a 1.4% decrease; and
- The wholesale levy of 1.4326c/GJ is up from 1.3997c/GJ in FY2023 – a 2.4% increase. This increase is driven by a 170 PJ draft gas volume assumption (down from 185 PJ in FY2023).

Gas Industry Co remains principally reliant on annual levies to provide the effective governance of the downstream gas sector that Part 4A of the Act requires. Gas Industry Co believes that the recommended levy rates are reasonable, and present good value for gas consumers and the wider industry.

The contents of this Levy Recommendation achieved broad support from industry stakeholders, through a robust annual consultation process.

This Levy Recommendation has been approved by Gas Industry Co's Board of Directors.



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# 1. Introduction

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The Government and the gas industry have implemented a unique co-regulatory model in which a specially established 'industry body' develops and maintains governance arrangements for consumers and other participants in gas markets. Gas Industry Co was established in 2004 to perform the role of the industry body as set out in Part 4A of the Act. Gas Industry Co has two main sources of funding to meet the total costs of delivering its work programme and other aspects of its role as the industry body – market fees and the levy.

## Market fees

Established gas governance rules and regulations include provisions to recover costs directly required to meet Gas Industry Co's obligations under those arrangements (referred to as 'market fees'). These cover the contractually agreed costs of any service providers (particularly the Allocation Agent, the Registry Operator and the Critical Contingency Operator) and any other expected direct costs related to the monitoring of those arrangements.

A formal estimate of market fees for each set of rules or regulations is published two months before they apply with each new financial year commencing on 1 July. Market fees collected are applied to actual expenses incurred for each set of rules or regulations. Any shortfall or excess fees are invoiced/credited to the market fee payers in a year-end 'wash-up'.

## Industry levy

The levy funds the industry body's costs that are not covered by market fees, including the direct costs of workstreams and non-operational expenditure.

The Act provides for the levy to be collected through annual regulations, on recommendation to the Minister by the industry body. Gas Industry Co develops its annual Levy Recommendation through a consultation process with levy payers and other stakeholders. This process includes development of an annual Work Programme, an indication of future activity, and the resulting estimated Total Work Programme Costs covering all activities to be undertaken by the industry body.

This paper provides that recommendation for the year commencing 1 July 2023 (FY2024).



## 2. Consultation Process and Outcomes

### Levy Consultation Process

In developing its annual Levy Recommendation to the Minister, Gas Industry Co consults on all aspects of its Work Programme, including costs and any forward indication for subsequent requests to be included in the Statement of Intent, and engages with interested stakeholders, including gas industry participants and major gas users. The process includes consultation on the proposed levy rate and amount, consistent with section 43ZZD(2)(b).

### Key Steps in FY2024 Consultation Process

The diagram below sets out the key steps in the consultation process:



The consultation process commenced at the annual Co-Regulatory Forum on 1 December 2022. Feedback from this Forum was generally positive, and the paper Consultation on Gas Industry Co FY2024 Work Programme and Levy (Consultation Paper) was published on 16 December 2022. The Consultation Paper:

1. Sets out Gas Industry Co's strategic context, roles, and strategy;
2. Describes the work that Gas Industry Co will undertake in FY2024 and the estimated costs to carry out this work;
3. Outlines the amount of the Levy Funding Requirement for FY2024; and
4. Outlines the proposed levy rates for FY2024.

The proposed FY2024 Work Programme includes meeting statutory requirements, such as administration of existing gas governance regulations, and seeks to address Government and industry priorities through the completion of key project deliverables. It continues existing multi-year workstreams and reflects significant progress already made in addressing the objectives and outcome set for Gas Industry Co and the industry in the Act and the GPS.

Submissions were invited by 7 February 2023, and were received from Firstgas Group, Genesis Energy, the Major Gas Users Group, Methanex New Zealand Limited, Nova Energy, Powerco, and Vector Limited.

Each submission and an Analysis of Submissions have been published on Gas Industry Co's website. In summary, there was broad support for Gas Industry Co's role, Work Programme, estimated costs, and associated levy rates.



### 3. FY2024 Levy Funding

#### FY2024 Levy funding summary

The costs corresponding to the Work Programme (set out in Appendix A) and the steps involved in the levy methodology are set out in the following tables. In summary:

- The levy funding requirement is \$4,455,703 (\$4,579,373 in FY2023), and market fees are \$1,487,750 (\$1,713,450 in FY2023). Added together, these result in total work programme costs for FY2024 of \$5,943,453 (\$6,340,373 in FY2023);
- The levy methodology is the same as that used in previous years and is based on the principle of beneficiary pays;
- The retail levy rate is \$6.54/ICP. This is down from \$6.63/ICP in FY2023 (a 1.4% decrease); and
- The wholesale levy is \$1.4326/GJ. This is up from 1.3997c/GJ in FY2023 (a 2.4% increase). This increase is driven by a 170 PJ draft gas volume assumption (down from 185 PJ in FY2023 – an 8.1% decrease).

#### Levy funding calculation and trends

The following table provides details of the levy funding calculation:

Description	TWPC	Indicative Market Fees		Levy Funding Requirement	
		Wholesale	Retail	Wholesale	Retail
<b>Gas Governance</b>	3,047,246	547,184	940,563	713,520	845,976
<b>Facilitating Industry Systems and Processes</b>	1,113,926			657,625	456,301
<b>Trusted Advisor to Government and Industry</b>	1,782,281			1,064,300	717,981
<b>TOTAL</b>	<b>5,943,453</b>	<b>1,487,750</b>		<b>4,455,703</b>	

The following table shows the actual Levy Funding Requirement for FY2019-23, and the recommended Levy Funding Requirement for FY2024, along with published market fees to FY2023 and the indicative estimate for FY2024.

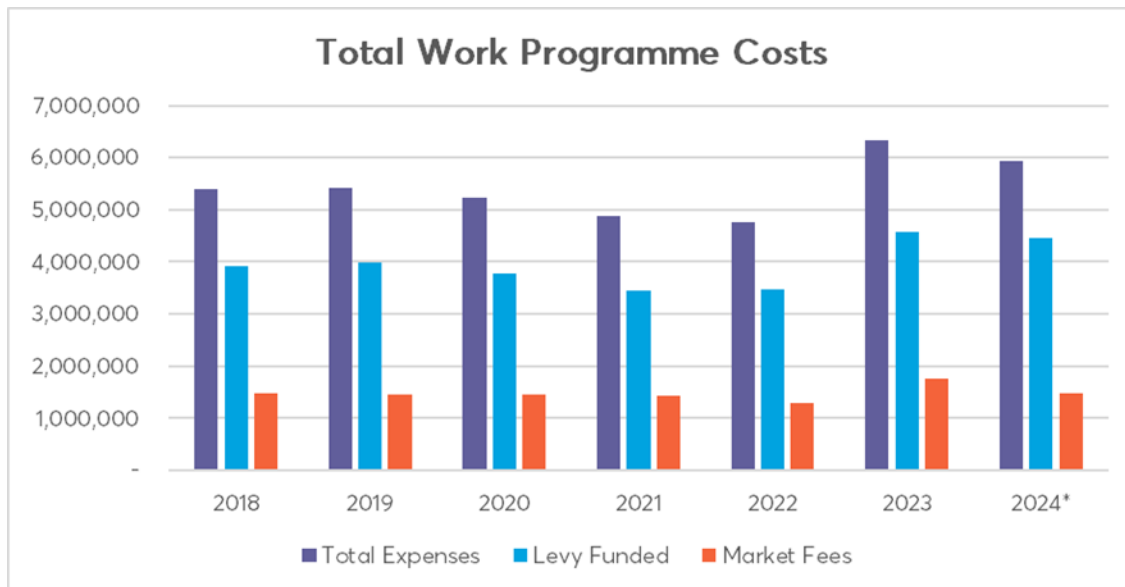
**Table 2: Levy Funding Requirement and Market Fees - FY2019-24**

	Levy Funding Requirement	Market Fees
<b>2019</b>	<b>3,982,551</b>	<b>1,441,169</b>
<b>2020</b>	<b>3,774,336</b>	<b>1,458,000</b>
<b>2021</b>	<b>3,450,182</b>	<b>1,436,000</b>
<b>2022</b>	<b>3,472,367</b>	<b>1,299,000</b>
<b>2023</b>	<b>4,579,373</b>	<b>1,713,450</b>
<b>2024*</b>	<b>4,455,703</b>	<b>1,487,750</b>

1. \*recommended levy funding requirement/indicative market fees

Based on the combination of the FY2024 Levy Recommendation and indicative market fees in table 2, Total Work Programme Costs are expected to be \$5,943,453 for FY2024, compared to budgeted costs of \$6,340,373 in FY2023.

**Chart 1: Total Work Programme Costs**



## Proposed levy methodology and rates

Gas Industry Co's existing levy methodology:

1. Is based on a set of Levy Principles. In summary, those Principles are economic efficiency, rationality, simplicity, equity, and revenue sufficiency. The full Principles are available on Gas Industry Co's website.
2. Has two components: a wholesale component and a retail component. These components are apportioned according to the cost allocated to each part of the annual Work Programme and apportioned among levy payers pro rata with either their wholesale levy volumes or ICP market shares. In years when the Work Programme focusses on retail issues, for instance, the retail levy rate will increase while the wholesale levy will decrease.

These arrangements have remained unchanged since 2007.

In summary:

1. The wholesale levy rate has been calculated using an assumption of 170 PJ (170,000,000 GJ) of gas consumption during the year (FY2023 185 PJ).
2. The retail levy rate is calculated using the current number of ACTIVE-CONTRACTED entries in the gas registry of 309,000 (FY2023 300,000).

This results in the following levy rates:

**Table 3: FY2024 Levy rates**

<b>FY2024 Levy rates</b>			
	<b>Retail</b>	<b>Wholesale</b>	<b>Total</b>
<b>Direct costs</b>	1,306,229	1,574,676	2,880,905
<b>Indirect costs</b>	714,028	860,770	1,574,798
<b>Total Levy Funding Requirement</b>	2,020,258	2,435,446	4,455,703
<b>Basis of apportionment:</b>	Per ICP	Per GJ	
<b>Number</b>	309,000	170,000,000	
<b>Levy rate</b>	\$6.54/ICP	1.4326c/GJ	

The impact of the levy on gas consumers is relatively small. Assuming the levy is passed through to end users, residential gas consumers would each pay approximately \$6.90 per annum, or around 0.69% of their annual gas bill. For larger consumers, the amount of levy paid is proportionate to wholesale gas purchases and adds about 0.16% or less to the unit cost of gas. The largest consumers, who together consume much of the gas supply, are active participants in consultation and have raised no objections to the levy rate.

Gas Industry Co has determined that it should refund unutilised levies as soon as the annual accounts have been received by shareholders at the Annual Meeting. This also has some similarity with the wash-up arrangements collected under Market Fees. This policy encourages a predictable and stable levy by removing from the levy calculations any variability resulting from a fluctuating level of reserves.





## 4. Recommendation

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Pursuant to section 43ZZB of the Gas Act 1992, Gas Industry Co recommends to the Minister of Energy and Resources that regulations be made to require industry participants to pay levies to the industry body in respect of the year commencing 1 July 2023, totalling \$4,455,703, on the following basis:

1. From every gas retailer who is an industry participant on the last day of each month, a retail levy based on one twelfth of the annual retail levy of \$6.54 for each ICP for each retail customer.
2. From every industry participant on the first day of each month, a wholesale levy rate of 1.4326c /GJ based on gas purchases made directly from gas producers during the previous month.



# Appendix A Work Programme

## FY2024 Work Programme: Trusted Advisor to Government and Industry

### Gas Transition Plan

The government's emissions reduction plan includes work to develop a Gas Transition Plan to drive emission reductions from natural gas. The plan will be a key input into a broader Energy Strategy, showing how emissions from gas can be reduced in line with targets in emissions budgets, in legislation, and in New Zealand's international commitments.

Gas Industry Co is working with MBIE to develop the plan. MBIE is engaging with consumers, non-government organisations, other interested parties, and Treaty partners. Gas Industry Co is engaging closely with industry as the plan develops.

Work to develop the plan commenced in May 2022, with targeted engagement during 2022.

Public consultation on the Plan is expected around mid-2023 before finalisation. The Energy Strategy is expected at the end of 2024.

The purpose of the Gas Transition Plan is to establish transition pathways for decarbonising the gas sector in line with the first three emissions budgets. It will provide a framework to inform and engage with industry and other stakeholders about the challenges and opportunities. Further measures that may be required to achieve an 'equitable transition' will be identified.

The plan is also expected to establish a strategic view on the potential role for renewable gases, including potential measures for accelerating their uptake, and for carbon capture and utilisation technology.

Actions will be set out for the government to undertake, with the aim of providing more certainty about the government's future gas work programme. Recommendations for the gas industry will also be part of the plan.

### Forecast activities in FY2024

Recommendations from the Gas Transition Plan may be implemented in FY2024.

Recommendations may include any of the following:

- Blending of renewable gas into gas networks and measures to bring renewable gases into the natural gas market, such as tradeable renewable gas certificates and other market measures;
- New regulatory arrangements relating to CCUS;
- Measures to support and strengthen gas security of supply, including security for industrial use and electricity.

Recommendations arising from the Gas Transition Plan may require new gas governance arrangements or amendments to existing arrangements.

## Energy Transition

Substantial changes to the role of gas are anticipated to 2050, when New Zealand by law is targeted to become a net zero emissions economy.

Gas Industry Co is already dedicating significant resources to transition issues such as its work with MBIE on the Government's Gas Transition Plan.

### Forecast activities in FY2024

While work on issues relating to the gas transition will continue to be required in FY2024, further issues in the energy transition will overlap and complement the substance of the Gas Transition Plan. Examples of energy transition issues include:

- Investment in ongoing field development, and solutions to investment confidence issues identified in the 2021 gas market settings investigation, where those are not fully addressed in the Gas Transition Plan;
- Measures to ensure gas is available, including for electricity (where responsibility for markets involves collaboration between regulatory agencies);
- Consideration of whether additional or changed mechanisms are needed to ensure natural gas is available to industrial users in times of unexpectedly tight supply;
- Our regular supply and demand studies;
- Consider whether any additional or changed mechanisms are needed to ensure natural gas is available to industrial users in times of unexpectedly tight supply;
- Engagement with agencies responsible for achieving emissions reductions to ensure measures align with security of supply and emissions reductions plans in the gas sector.

## FY2024 Work Programme: Gas Governance

### Critical Contingency Management

The purpose of the Gas Governance (Critical Contingency Management) Regulations 2008 (CCM Regulations) is to achieve the effective management of critical gas outages and other security of supply contingencies without compromising long-term security of supply. The CCM Regulations provide for the appointment of a Critical Contingency Operation (CCO) and that role is responsible for determining, managing, and terminating critical contingencies, as well as associated activities such as stakeholder training and running exercises.

### Forecast activities in FY2024

- Make a Recommendation to the Minister to amend the CCM Regulations;
- Support MBIE through the legislative change process;
- Implement proposed changes to the CCM Regulations including consequential changes to existing industry processes.

### Guidelines to Enhance Consumer Outcomes

Gas Industry Co monitors governance arrangements in related industries to assess whether any changes may influence existing gas industry regulations, and if any changes to gas regulations are required in response.

The Government's Electricity Price Review made 32 recommendations about whether the electricity market delivers efficient, fair, and equitable prices to customers. Gas Industry Co

considered it prudent to review whether those recommendations should apply to the gas market, given the similarities and links between the gas and electricity markets. Gas Industry Co consulted on its assessment of the application of the EPR recommendations to the gas market. Following this consultation process, Gas Industry Co developed new guidelines for:

1. Dealing with vulnerable gas consumers;
2. Raising consumer awareness of the Utilities Disputes and Powerswitch services; and
3. Managing saves and winbacks behaviour in the gas market.

#### **Forecast activities in FY2024**

- Follow up on steps taken by dual fuel retailers to comply with the guidelines in accordance with the 12-month review process in the following guidelines:
  - Consumer Care Guidelines;
  - Guidelines for Raising Awareness of Utilities Disputes and Powerswitch;
  - Saves and Winbacks Guidelines.
- Commence work on any actions arising from the review of participants' processes.

#### **Advanced Gas Metering**

Gas Industry Co is determining what changes are required to support the roll-out of Advanced Gas Metering Infrastructure (AGMI). This includes assessing if there is merit in changing the Gas (Switching Arrangements) Rules 2008 (Switching Rules) and the Gas (Downstream Reconciliation) Rules 2008 (Reconciliation Rules), and working closely with industry to ensure associated gas industry systems and rules are fit for purpose.

#### **Forecast activities in FY2024**

- Finish working through the list of issues from the 2021 Issues Paper with the AGMI working group;
- Consult on a Statement of Proposal for rule changes and determine the preferred approach for non-regulatory aspects;
- Make a Recommendation to the Minister and begin implementation of system changes;
- Go-live of new arrangements and monitoring of new processes (eg UFG allocation and D+1) to ensure they are working effectively.

### **5. Retail Gas Contracts Oversight Scheme**

In 2010, Gas Industry Co established a Retail Gas Contracts Oversight Scheme. This was designed to assess retailers' contracts with residential and small commercial/industrial consumers, against a series of benchmarks of satisfactory customer expectations and outcomes. Reviews are undertaken by an Independent Assessor.

The next full review is underway. An Independent Assessor has been engaged to carry out the assessment of retailers' contracts with residential and small commercial/industrial consumers and will advise retailers of the results prior to the end of FY2023.

### **Forecast activities in FY2024**

- Review the Scheme's Benchmarks and Reasonable Consumer Expectations in light of changes to industry processes (eg Consumer Care Guidelines) and legislative changes;
- Review new-entrant retail contracts, as requested; and
- Provide information to new entrant retailers to help them understand their obligations and the governance processes.

### **Gas Distribution Contracts Oversight Scheme**

In 2012, Gas Industry Co established the Gas Distribution Contracts Oversight Scheme. This is an industry agreed scheme which assesses standard contracts between gas distributors' and gas retailers against a set of principles.

Gas Industry Co appointed an Independent Assessor in FY2014 who found that contracts offered by distributors exhibited 'substantial' alignment with the set of principles agreed upon.

Following the 2014 assessment, Gas Industry Co's assessments would be undertaken on an exceptions basis (as contracts are revised or replaced). In our most recent survey of distributors in 2020, no material changes had been made to distribution agreements since 2014. However, we understand that one distributor is currently working on a new agreement.

### **Forecast activities in FY2024**

- Review the Gas Distribution Contracts Oversight Scheme following discussions with retailers and distributors, and report on any necessary changes.

### **Downstream Reconciliation/D+1**

The purpose of the Reconciliation Rules is to establish a set of uniform processes that enable the fair, efficient, and reliable downstream allocation and reconciliation of downstream gas quantities.

In addition to business-as-usual activities such as managing the Allocation Agent, commissioning audits and investigating unaccounted for gas, Gas Industry Co will carry out an appointment process in preparation for the expiry of the current allocation agent contract.

### **Forecast activities for FY2024**

- Complete regulatory process to codify D+1 (assuming we receive continued support in the FY2023 Options Paper), comprising a Statement of Proposal followed by a Recommendation to the Minister to amend the Reconciliation Rules;
- Procurement process and execution of new service provider agreement for Allocation Agent (current contract expires end of 2023);
- Ensure alignment of allocation system and processes with market changes (D+1, advanced metering, renewable gases).

## Switching and Registry

The purpose of the Switching Rules is to establish a set of gas switching and registry arrangements that enable consumers to choose, and alternate, efficiently and satisfactorily between competing retailers. The Switching Rules provide for a centralised database, the gas registry, which stores key technical parameters about every customer installation and facilitate and monitors each customer switch from initiation through to completion.

The Switching Rules provide for the appointment of a Gas Registry Operator. The appointment of the current Gas Registry Operator does not expire until 2025.

### Forecast activities in FY2024

- Manage Registry Operator contract;
- Assess the ongoing performance of the Switching Rules;
- Monitor and report on switching statistics;
- Make determinations under the Switching Rules as required;
- Commission performance and event audits as required;
- Follow up on any issues identified in the switching audits.

## Compliance and Enforcement

The Gas Governance (Compliance) Regulations 2008 (Compliance Regulations) provide for monitoring and enforcement of the other gas governance rules and regulations. The compliance arrangements are designed as an efficient, low-cost means of determining or, where appropriate, settling rules/regulations breaches that raise material issues.

### Forecast activities in FY2024

- Perform Market Administrator role;
- Assess ongoing performance of the Compliance Regulations;
- Assist Investigator and Rulings Panel as required; and
- Monitor compliance trends for indications of regulatory inefficiency.

## Statement of Intent and Annual Report

The Gas Act requires that the industry body provide its Annual Report to the Minister of Energy and Resources within three months of the end of the financial year (the Minister then tables it in the House of Representatives). Similarly, annual Statements of Intent (SOI) are required to be submitted to the Minister for comment prior to being finalised and published.

### Forecast activities in FY2024

- Prepare and publish the SOI to meet statutory timeframes;
- Provide the draft SOI to the Minister for comment prior to publication; and
- Prepare and publish the Annual Report and meet requirements for tabling in Parliament.

## Other Reporting

Gas Industry Co is required by the Gas Act to report on the present state and performance of the gas industry. It does this through a number of publications, including Switching Statistics, Quarterly Report and Industry Performance Measures.

### **Forecast activities in FY2024**

- Prepare and publish Switching Statistics and Industry Performance Measures; and
- Continue engagement and communications for interested stakeholders.

## **FY2024 Work Programme: Facilitating Industry Systems and Processes**

### **Information Disclosure**

In 2018 Gas Industry Co commenced a workstream to assess the level of information disclosure in the industry and consider options to address any issues found, including disclosure of gas production and storage facility outage information. A Statement of Proposal was consulted on, and the conclusion from this work was that the regulatory objective is unlikely to be satisfactorily achieved by any reasonably practicable means other than through regulation.

In FY2022 Gas Industry Co made a recommendation to the Minister, with the Gas (Facilities Outage Information Disclosure) Rules 2022 due to come into effect on 1 April 2023. These rules provide for:

- The disclosure of information regarding an unplanned outage or planned outage at a gas production facility or a gas storage facility; and
- The disclosure of information to the industry body to enable it to monitor compliance with these rules.

### **Forecast activities in FY2024**

- Review performance of the Gas (Facilities Outage Information Disclosure) Rules 2022 including disclosing party compliance.

## **6. Gas Transmission**

The suitability of transmission arrangements during the energy transition is a matter that will likely require further consideration, including by Gas Industry Co's energy transition workstream.

### **Forecast activities in FY2024**

- Potentially working with the Commerce Commission regarding recommendations impacting pipeline regulation in the Gas Transition Plan;
- Monitor asset management plans for gas transmission and report on any significant matters;
- Review transmission pipeline interconnections as required, address any concerns regarding reasonable access, and amend the Guidelines as required.



## Appendix B Key Industry Background

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- Gas is a key contributor to New Zealand, at around 18% of primary energy supply. In the past decade, the gas industry in New Zealand has undergone substantial change, transitioning from reliance on the large Maui field in 2007, then reduced production from Pohokura, to now drawing supplies from multiple smaller fields.
- Gas is an important fuel for industrial, commercial, and residential consumers. In 2009, there were about 250,000 gas consumers; today, there are over 300,000.
- Gas Industry Co has developed a mix of formal rules and regulations (e.g. critical contingency management, reconciliation, switching) and non-regulated arrangements (e.g. retail contracts, distribution contracts) that are well-advanced in meeting the legislative and policy objectives and outcomes that the Government expects the industry to achieve.
- These arrangements have contributed to the development of a healthy downstream gas market. Key indicators include:
  - a) 11 distinct retail gas brands.
  - b) Over 99% of gas customers are connected to a network where seven or more retailers trade, suggesting that the retail gas sector is generally competitive throughout the North Island.
  - c) About 3,800 gas consumers switch gas supplier each month, which translates to an annual churn of about 14.9% of gas consumers. In 2022, around 81% of consumer switches are completed within three business days; 98% are completed within 7 business days.
  - d) 68% of residential consumers have switched retailer at least once in the past ten years; 50% of small commercial, 53% of large commercial sites, and 54% of large industrial sites have switched at least once.
  - e) Average annual unaccounted-for gas (UFG) usually sits around the range of 1.00% to 1.25%, however this did peak at nearly 1.8% for the 12-months leading up to mid-2022. Indications are now that this is trending back towards normal levels.



## About Gas Industry Co

Gas Industry Co is the gas industry body and co-regulator under the Gas Act. Its role is to:

- Develop arrangements, including regulations where appropriate, which improve:
  - the operation of gas markets;
  - access to infrastructure; and
  - consumer outcomes;
- Develop these arrangements with the principal objective to ensure that gas is delivered to existing and new customers in a safe, efficient, reliable, fair and environmentally sustainable manner; and
- Oversee compliance with, and review such arrangements.

Gas Industry Co is required to have regard to the Government's policy objectives for the gas sector, and to report on the achievement of those objectives and on the state of the New Zealand gas industry.

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