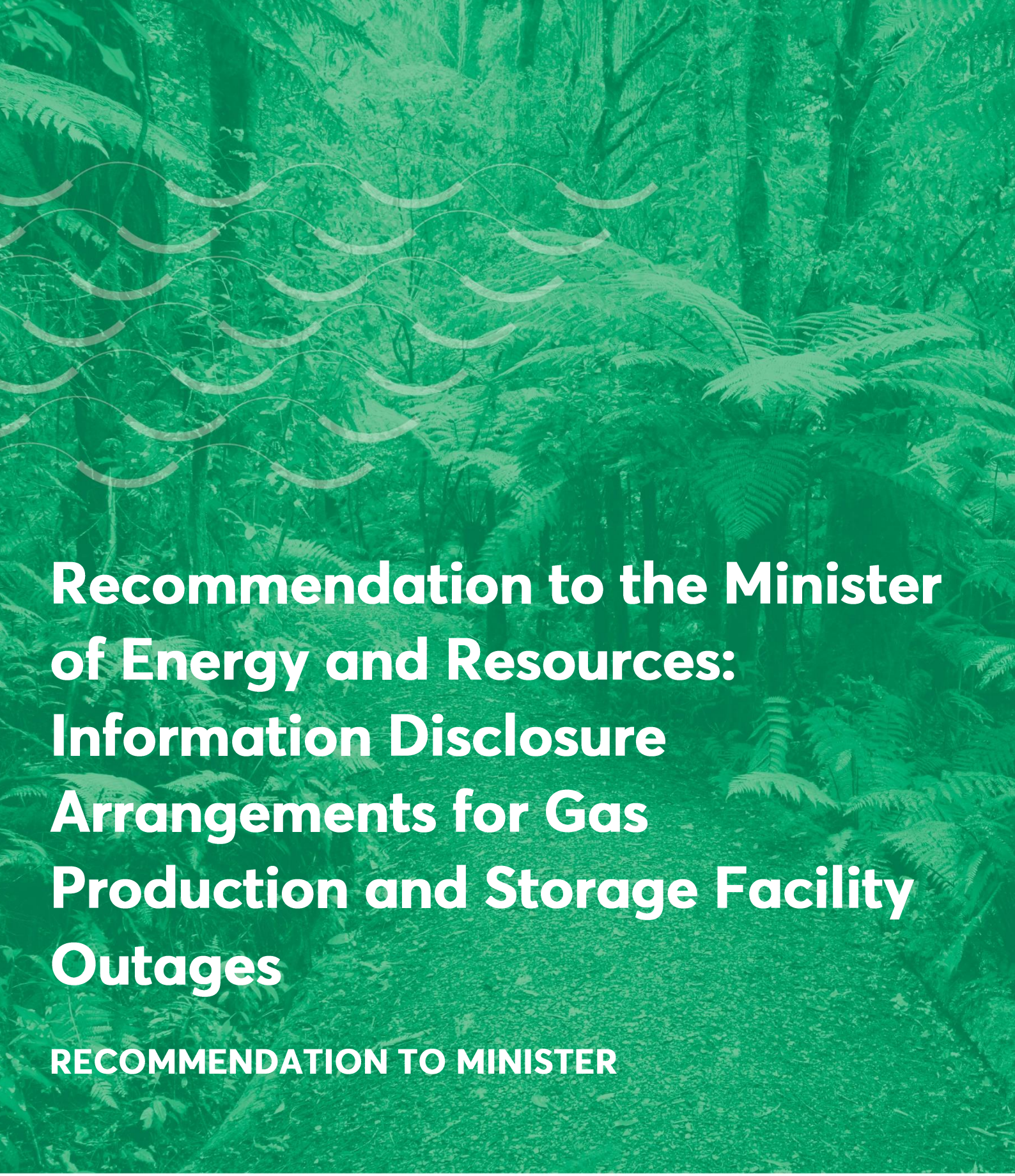

Recommendation to the Minister of Energy and Resources: Information Disclosure Arrangements for Gas Production and Storage Facility Outages

RECOMMENDATION TO MINISTER

18 February 2022

Gas Industry Co.

Executive Summary

The purpose of this paper is to recommend that the Minister of Energy and Resources makes new gas governance rules for the disclosure of gas production and storage facility outage information.[1]

Background

Gas Industry Co workstream on information disclosure

Gas production outages related to the Pohokura field in 2018 led to concerns across the gas industry and wider energy sector regarding information transparency and asymmetry in the wholesale gas market. The Minister requested that Gas Industry Co investigate the current information disclosure requirements and consider whether they are adequate.

In response to this request, Gas Industry Co established a workstream to progress issues related to information availability in the wholesale gas sector. Following an initial investigation phase (including consultation on the discussion paper *Options for Information Disclosure in the Wholesale Gas Sector*), we developed a Problem Assessment paper (*Information Disclosure: Problem Assessment*) which reviewed ten potential information areas where there may be information transparency or asymmetry issues. From consultation on this paper, we identified that limited information on gas production and storage facility outage information was the most important information issue that needed to be addressed. It was concluded that work on this information element should be prioritised, and that it should be advanced to a Statement of Proposal (SOP).

This SOP was developed in two stages. We first developed a draft SOP (*Draft Statement of Proposal: Gas Production and Storage Facility Outage information*). Following consultation on this draft, we then developed and consulted on a final SOP (*Statement of Proposal: Gas Production and Storage Facility Outage information*).

This recommendation paper follows the final SOP and incorporates feedback we received on this paper.

Industry Notifications page

Gas Industry Co developed the Industry Notifications webpage as an interim measure to help improve the flow of information in the gas industry. The page went live in August 2019. This webpage was developed as a communications channel for parties to voluntarily post information on the industry (including production and storage outages).

Upstream Gas Outage Information Disclosure Code 2020

In submissions on the initial discussion paper (see above), the major gas producers[2] and Energy Resources Aotearoa (ERA) agreed that information regarding upstream gas outages is important for a well-functioning gas market. Together with Flexgas (owner/operator of the

[1] Gas Industry Co is recommending that the information disclosure arrangements be made as rules (see the discussion at Section 2.4). However, whether the recommendation is given effect to as regulations or rules is a matter for the Minister under section 43Q of the Gas Act.

[2] OMV, Todd Energy, Beach Energy and Greymouth Petroleum.

Ahuroa gas storage facility), these parties developed the *Upstream Gas Outage Information Disclosure Code 2020*[3] ("Upstream Disclosure Code") to address this need for information. This Code is an industry-led, voluntary framework for both planned and unplanned outage information disclosure. The Code has been in operation since June 2020.

This Code was developed by these parties in response to Gas Industry Co's information disclosure workstream. In our SOP process and the assessment in this paper, this Code is considered as one of the options for addressing problems with limited gas production and storage facility outage information.

Problem assessment

Free-flowing, timely and accurate information is a key element of a well-functioning market. Accessible information is a cornerstone for market participants in making decisions. In the gas sector, it supports the efficient production of gas and the allocation of supply to those users who value it the most. Information reduces the barriers to market entry for new participants. It supports parties in managing their risks, enabling them to make more informed operational and investment decisions. Information also facilities better monitoring by regulators and third parties.

Most of the gas that is produced in New Zealand is sold under long-term, bilateral gas supply agreements (GSAs). Flexgas also has bilateral arrangements with its customers for storage of gas. Gas producers and Flexgas provide production and storage outage information respectively to contract counterparties. Prior to Gas Industry Co's launch of our Industry Notifications page and the subsequent introduction of the industry's Upstream Disclosure Code, this information had not been shared generally with the wider gas sector. This resulted in production and storage outage information being relatively opaque to the broader gas market. The contract counterparties had an information advantage relative to other sector participants; that is, there was information asymmetry regarding production and storage outage information.

Our problem assessment noted that limited transparency and asymmetry of gas production and storage facility outage information affects a range of energy sector participants. In particular, the assessment found that limited information has efficiency implications for parties across several parts of the gas sector value chain and the wider energy sector (including the electricity sector). We also note that limited and asymmetric information is inconsistent with the Government's outcome for good, publicly available information on the present state of the gas sector.

Gas producers and Flexgas developed the Upstream Disclosure Code to address these issues. The option of the Upstream Disclosure Code as a permanent solution for addressing gas production and storage information issues is considered in our review.

Regulatory objective

Gas Industry Co's approach to developing governance arrangements under the Gas Act requires the development of a regulatory objective. From the Final SOP, we have determined that this objective should be:

[3] Upstream Gas Outage Information Disclosure Code 2020, available at https://industrynotifications.gasindustry.co.nz/assets/Upstream-Gas-Outage-Information-Disclosure-Code-March-2020-Copy.pdf

> That arrangements are in place that ensure the effective and timely availability of material gas production and storage outage information for all gas and related market participants.

This regulatory objective addresses the problems associated with limited transparency and availability of gas production and storage facility outage information that were identified in the problem assessment.

Options for achieving the objective

We consider that the options for achieving this objective are:

1. Disclosure of gas production and storage facility outage information under the voluntary, industry-led *Upstream Gas Outage Information Disclosure Code 2020* (Upstream Disclosure Code).
2. Rules under the Gas Act for the disclosure of gas production and storage facility outage information.

The first option is to use the current industry-led framework as the permanent solution for the disclosure of gas production and storage facility outage information. The second option uses the basic structure of the Upstream Disclosure Code in a regulated set of arrangements. In this option, some elements of the Code are augmented or replaced to address various limitations and/or make the elements workable as a regulated set of arrangements.

Analysis of options

Upstream Disclosure Code

The Upstream Disclosure Code is an industry-led, voluntary framework for the disclosure of gas production and storage facility outage information. The Code is currently in operation. It was acceded to by natural gas producers Beach Energy, Greymouth Petroleum, OMV and Todd Energy and gas storage facility owner Flexgas in June 2020.

The introduction of the Upstream Disclosure Code has led to a major improvement in both the quantity and quality of production and storage facility outage information that is shared publicly. Despite the improvement in outage reporting that has occurred, Gas Industry Co considers that that there are issues with the Code that limit its suitability as an enduring framework. These issues include:

- Compliance with the Code may be difficult for external parties to monitor and verify because disclosure is based on private information.
- The structure of the Code as a multilateral agreement between Upstream Parties means that the Code can only be enforceable between those parties. The parties most likely to be affected by non-compliance sit outside the Code and have limited ability to effect change in the Code or enforce its reporting obligations. In contrast, the signatories to the Code are not directly impacted by non-compliance and have limited incentives to enforce its rules.
- When considered in conjunction with the absence of an effective compliance and enforcement regime, the broad liability exclusion in the Code reduces the incentives for parties to the Code complying with its requirements.
- Gas Industry Co considers that it is unlikely that Upstream Parties could amend the Code to include appropriate mechanisms for compensating parties affected by non-compliance and incentivising compliance.

Rules under the Gas Act

The regulatory option uses the basic structure of the Upstream Disclosure Code. It augments or changes particular elements to address limitations that we have identified. The option includes requirements for gas producers and storage owners to provide Gas Industry Co with information so that we can monitor their adherence with the Code. Importantly, the option also includes a compliance and enforcement framework that is used across various gas rules and regulations. In this option, the disclosure of information is subject to the compliance framework in the Gas Governance (Compliance) Regulations 2008.

Gas Industry Co considers that this option addresses the main deficiency of the Upstream Disclosure Code, which is an inadequate monitoring, compliance and enforcement framework. We consider that this regulatory option will ensure that information disclosure arrangements are effective and durable.

Cost benefit analysis

Section 43N of the Gas Act requires Gas Industry Co to assess the costs and benefits of each of the options when recommending regulations (or rules) to the Minister. We engaged Sapere Research Group (Sapere) to conduct this analysis.

Sapere's focus was on the efficiency of the means of disclosing this information, given that a decision to disclose outage information has been made. This involved determining whether a voluntary scheme (i.e. the Upstream Disclosure Code) or a regulated set of arrangements is likely to result in the highest net economic benefit (lowest net cost).

Sapere concluded that a regulated set of arrangements is likely to be closer to the goal of information being disclosed where the economic benefits of disclosure outweigh the costs. Because these arrangements would be closer to this objective, they would provide more of the benefits of information disclosure than the industry-led Upstream Disclosure Code.

Summary of the regulatory option design

The regulatory option includes:

- A minimum size for gas production and storage facilities that are required to disclose outage information
- Definitions of planned and unplanned gas production and storage facility outages that are covered by the rules
- A description of the information that should be disclosed
- Requirements for the timing of disclosures
- Information sharing requirements that enable Gas Industry Co to monitor parties' compliance with the rules
- Obligations that ensure the quality of disclosed information
- A link to the compliance framework in the Gas Governance (Compliance) Regulations 2008.

Recommendation

Gas Industry Co recommends to the Minister of Energy and Resources, under sections 43F(2)(e), 43F(2)(f) and 43Q of the Gas Act 1992, the making of new gas governance rules for the

disclosure of gas production and storage facility outage information, as set out in Section 4 of this paper.

Contents

1. Purpose and background

1.1 Purpose

The purpose of this paper is to recommend that the Minister makes new gas governance rules for the disclosure of gas production and storage facility outage information.

These rules will require owners of these facilities to publicly disclose planned and unplanned outage information. The information will be freely available to all interested parties, including gas sector participants and related energy sector parties (including electricity sector participants).

In this paper, a gas production facility is defined as a facility at which gas is produced or processed for domestic export or sale and includes any associated gas production or other wells. A gas storage facility storage is a facility where gas is injected and later made available for withdrawal (the Ahuroa Gas Storage Facility, owned and operated by Flexgas, is currently the only gas storage facility in New Zealand).

1.2 Background

Gas Industry Co workstream on information disclosure

Gas production outages related to the Pohokura field in 2018 led to concerns across the gas industry and wider energy sector regarding information transparency and asymmetry in the wholesale gas market. The Minister requested that Gas Industry Co investigate the current information disclosure requirements and consider whether they are adequate. In response to this request, Gas Industry Co established a workstream to progress issues related to information availability in the wholesale gas sector.

The initial phase of the workstream focussed on understanding the scope of information issues in the gas sector. We met with industry stakeholders to understand their perspectives. Following these discussions, we developed the *Options for Information Disclosure in the Wholesale Gas Sector*[4] paper ("Options paper") on information issues in the gas sector for consultation. This was followed by a pan-sector workshop for parties to share their views with us and other workshop participants. Gas Industry Co received thirty-three submissions and cross submissions on the Options paper from a wide range of parties spanning New Zealand's energy sector.

From this investigation phase, we identified ten separate information areas or "information elements" where we considered there may be information transparency or asymmetry issues. We assessed these information elements against the Government's policy objectives for the gas sector (as set out in the Gas Act 1992 and the Government Policy Statement on Gas Governance 2008) in the *Information Disclosure: Problem Assessment* paper[5] ("Problem Assessment paper"). The assessment framework is attached as Appendix B.

[4] Options for Information Disclosure in the Wholesale Gas Sector, available at https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation/document/6480

[5] Information Disclosure: Problem Assessment, available at https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/problem-assessment-october-2019/document/6634

Amongst other matters, the Problem Assessment paper concluded that gas production and storage facility outage information should be disclosed publicly. Gas Industry Co received thirty submissions and cross-submissions on the paper. In these submissions, there were no parties that disagreed that this information should be disclosed in some form. Several parties submitted that this information element was the most important area that needed to be addressed. We concluded that work on gas production and storage facility outage information disclosure should be prioritised, and that it should be advanced to a Statement of Proposal (SOP).

This SOP assessed options to address the identified gaps in gas production and storage facility outage information disclosure. Given the range of issues associated with the disclosure of this information, we developed the SOP in two stages. We first developed a draft SOP (*Draft Statement of Proposal: Gas Production and Storage Facility Outage Information*, "Draft SOP")[6] which identified the problem, the associated regulatory objective and assessed options for achieving this objective. This assessment included an evaluation of the Upstream Disclosure Code, the design and assessment of a regulatory option, a cost benefit analysis of both options and a recommendation on a preferred option. We received sixteen submissions on the Draft SOP.

This draft paper was followed by a final SOP (*Statement of Proposal: Gas Production and Storage Facility Outage Information*, "Final SOP")[7]. This paper incorporated stakeholder feedback on the Draft SOP. This Final SOP was released for a further round of consultation. We received nine submissions on the Final SOP. Parties were generally supportive of the process that Gas Industry Co has followed in the workstream. Submitters' perspectives on various matters in the Final SOP are discussed in Section 3.

This recommendation paper follows the Final SOP and includes stakeholder feedback from the consultation process on this paper. We have incorporated various detailed suggestions for improving the design of the regulatory option (see Section 4).

Industry Notifications page

Gas Industry Co developed the Industry Notifications webpage as an interim measure to help improve the flow of information in the gas industry. The page went live in August 2019. This webpage was developed as a communications channel for parties to voluntarily post information on the industry (including production and storage outages). The information that has been posted to-date is information related to gas production and storage facility outages, although any industry information can be included on the page.

Parties to the *Upstream Gas Outage Information Disclosure Code 2020* (see below) wrote to Gas Industry Co in March 2020 requesting that we host a platform to facilitate their disclosures under this Code. Gas Industry Co decided to enhance the Industry Notifications page to perform this function. An upgraded version of the Notifications page launched in August 2020.

Upstream Gas Outage Information Disclosure Code 2020

In submissions on the Options paper, the major gas producers[8] agreed that information regarding upstream gas outages is important for a well-functioning gas market. Together with Energy Resources Aotearoa (ERA, previously PEPANZ), these parties developed the *Upstream*

[6] Information Disclosure: Problem Assessment, available at https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/problem-assessment-october-2019/document/6634

[7] Draft Statement of Proposal: Gas Production and Storage Facility Outage Information, available at https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation-2/document/7154

[8] OMV, Todd Energy, Beach Energy and Greymouth Petroleum.

Gas Outage Information Disclosure Code 2020[9] ("Upstream Disclosure Code") to address this need for information. This Code is an industry-led, voluntary framework for both planned and unplanned outage information disclosure.

These parties invited Flexgas to join in the Upstream Disclosure Code's development. Flexgas agreed to this request, supporting the disclosure of gas information outages. Flexgas is treated as a producer for the purposes of the Code, but is an owner of a gas storage facility.

The Upstream Disclosure Code came into effect on 22 June 2020. It was acceded to by natural gas producers Beach Energy, Greymouth, OMV and Todd Energy as well as gas storage owner Flexgas. In the following discussion, we refer to these parties collectively as the "Upstream Parties".

This Code has been developed by the Upstream Parties independent of Gas Industry Co's information disclosure workstream. Feedback from energy sector participants on the information that has been published to-date has been positive. In our SOP process, this Code was considered as one of the options for addressing problems with limited gas production and storage facility outage information.

[9] Upstream Gas Outage Information Disclosure Code 2020, available at https://industrynotifications.gasindustry.co.nz/assets/Upstream-Gas-Outage-Information-Disclosure-Code-March-2020-Copy.pdf

2. Process to establish regulations and rules

2.1 Power to regulate information disclosure

Section 43F of the Gas Act provides the Governor General, on the recommendation of the Minister of Energy and Resources, with the power to make regulations for the following purposes:

> *Arrangements relating to outages and other security of supply risks*
>
> *(e) providing, in relation to wholesale or any other markets for gas, for arrangements relating to outages and other security of supply risks, including imposing requirements in connection with those matters on any industry participant or consumer (other than a domestic consumer):*
>
> *Information disclosure for whole gas industry*
>
> *(f) providing for the provision and disclosure of data and information by any industry participant or consumer (other than a domestic consumer).*

We note that the Minister's power to recommend regulation under section 43F of the Gas Act is subject to section 43J of the Act. That section provides that, in relation to the section 43F regulation making powers, the Minister may only recommend regulation if the recommendation gives effect to a recommendation from Gas Industry Co, and does not differ from Gas Industry Co's recommendation in any material way.

The Government Policy Statement on Gas Governance 2008 (GPS), at paragraph 9, states that the Government's objective for the entire gas industry is:

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

The above objective incorporates, and expands on, the objectives in section 43ZN of the Gas Act.

The specific objectives that Gas Industry Co applies when making recommendations for regulations are summarised in Appendix B of this paper.

2.2 Regulatory objective

Gas Industry Co's approach to developing gas governance arrangements under the Gas Act requires the development of a regulatory objective as part of the process. The proposed regulatory objective is contained in Section 3.3 of this paper.

2.3 Requirements when recommending regulations

Section 43L(1) of the Act requires the body recommending gas governance regulations to the Minister to:

1. undertake an assessment under section 43N of the Act; and
2. consult with persons that the recommending body thinks are representative of the interests of persons likely to be substantially affected by the proposed regulations; and

3. give those persons the opportunity to make submissions;

4. consider those submissions.

A summary of the consultation undertaken by Gas Industry Co is included in Section 1.2.

Section 43N(1) of the Act requires that, before making a recommendation to the Minister, Gas Industry Co must:

1. seek to identify all reasonably practicable options for achieving the objective of the regulation;

2. assess those options by considering—

   (a) the benefits and costs of each option

   (b) the extent to which the objective would be promoted or achieved by each option

   (c) any other matters that the industry body considers relevant;

3. 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);

4. prepare a statement of the proposal for the purpose of consultation under section 43L(1).

Section 43N(2) requires that the statement of proposal referred to in section 43N(1)(d) must contain:

1. a detailed statement of the proposal;

2. a statement of the reasons for the proposal;

3. an assessment of the reasonably practicable options, including the proposal, identified under subsection (1);

4. other information that the industry body or the Commission considers relevant.

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

2.4 Rules or regulations

Section 43Q of the Act empowers the Minister to make a rule for all or any of the purposes for which a gas governance regulation may be made. In deciding whether to make a rule rather than a regulation, the Minister must have regard to:

1. the importance of the rule, including whether the rule has a material effect on the rights and interests of individuals;

2. the subject matter of the rule, including whether the rule contains detailed or technical matters rather than matters of general principle;

3. the application of the rule, including whether the rule applies principally to a particular group (eg, industry participants) rather than the general public;

4. the expertise and rule-making procedures of the recommending body.

Having regard to the factors in section 43Q, Gas Industry Co recommends that disclosure of gas production and storage facility outage information should be achieved by rules rather than regulations. In reaching that view, we have had regard to the following factors:

1. The impact of the disclosure requirements on the rights and interests of gas production and storage facility owners is similar to the requirements of the Upstream Disclosure Code which provides for disclosure of similar information
2. The disclosure requirements are relatively detailed and technical
3. The disclosure requirements apply to a subset of industry participants (gas production and storage facility owners).

Gas Industry Co notes that the now expired Gas (Processing Facilities Information Disclosure) Rules 2008, which provided for disclosure of information on capacity at gas processing facilities, were made as rules.

3. Problem Assessment

3.1 Introduction

In this section, issues with inadequate gas production and storage outage information in the New Zealand wholesale gas sector are discussed. This summarises the analysis in the Problem Assessment paper and the Final Statement of Proposal. This assessment incorporates feedback that stakeholders have provided Gas Industry Co at the various stages of this work programme. A list of stakeholders that have been consulted is attached as Appendix A.

3.2 Problem Assessment

Introduction

Free-flowing, timely and accurate information is a key element of a well-functioning market. Accessible information is a cornerstone for market participants in making decisions. In the gas sector, information supports the efficient production of gas and the allocation of supply to those users who value it the most. Information reduces the barriers to market entry for new participants. It supports parties in managing their risks, enabling them to make more informed operational and investment decisions. Information also facilitates better monitoring by regulators and third parties.

In contrast, situations where parties do not have access to information or where information is uneven (or asymmetric) amongst parties may regarded as examples of information failure, a type of market failure. If information is not available widely, some market participants may be required to make decisions based on limited facts. In these situations, parties may make inefficient business decisions, leading to a misallocation of resources, with users paying too much or too little, and producers suppling too much or too little.

We note that although transparent and widely accessible information is important for the efficient operation of a market, this does not mean all information should necessarily be made available. For instance, protection of a right to withhold information (including commercial information) may be necessary for parties to make efficient and effective business decisions. The design of an information disclosure regime should carefully consider the costs and benefits of disclosing information.

Most of the gas that is produced in New Zealand is sold under long-term, bilateral gas supply agreements (GSAs). Flexgas also has bilateral arrangements with its customers. Gas producers and Flexgas provide production and storage outage information respectively to contract counterparties. Prior to Gas Industry Co's launch of our Industry Notifications page (as an interim measure) and the subsequent introduction of the industry's voluntary Upstream Disclosure Code, this information had not generally been shared with the wider gas sector. These arrangements resulted in production and storage outage information being relatively opaque to the broader gas market. The contract counterparties had an information advantage relative to other sector participants; that is, there was information asymmetry regarding production and storage outage information.

Gas producers and Flexgas developed the Upstream Disclosure Code for the voluntary disclosure of gas production and storage facility outage information to deal with these issues. This industry-led Code has improved the level of publicly available gas production and storage

facility outage information. The option of the Upstream Disclosure Code as a permanent solution for addressing production and storage information issues was considered in the SOP and is discussed later in this section.

Assessment framework

The following discussion identifies the problems with limited production and storage outage information. These problems are determined by assessing the issues identified in the workstream against the Government's policy objectives for the sector. These objectives are set out in the Gas Act and the Government Policy Statement on Gas Governance 2008 (GPS). Tables listing the relevant Gas Act and GPS objectives and outcomes are attached as Appendix B. A more detailed review is included in the Problem Assessment paper.

An effective information disclosure regime should address these problems. Options for this framework are identified in Section 3.4 and include the Upstream Disclosure Code (as a permanent solution) as well as other options.

Assessment

Efficiency

Limited gas production and storage facility outage information has efficiency implications for several parts of the gas industry value chain and associated markets:

- ***Gas production and storage.*** There could be efficiency losses at production and storage facilities if outage information is not shared between individual gas production and storage operators. For instance, a lack of information may inhibit the coordination of plant maintenance and contingency planning. However, the small size of the upstream sector in New Zealand means that any efficiency cost is likely to be small, since there are informal channels for sharing this information.

- ***Transmission.*** Firstgas (the transmission pipeline owner and system operator) sometimes receives provisional information on planned outages from gas producers; however, the supply of this information is inconsistent. Closer to the time that a production outage is taking place, nominations information may provide some indication of an outage. The lack of consistent information on production facility outages potentially leads to operational efficiency issues for the transmission system operator. Regarding gas storage facility outages, Flexgas is an affiliate of Firstgas, so Firstgas has knowledge of Ahuroa storage facility outages.

- ***Downstream gas sector (including major users).*** In the consultation rounds, several downstream parties commented that a lack of information regarding production facility outages has adversely affected their operations. For instance, limited knowledge of outage events has affected some parties' ability to make effective business decisions in response to gas supply shocks. The Problem Assessment paper observed that the efficiency implications of limited storage facility outage information are not unlike production outages.

- ***Gas wholesale trading market.*** Transparent and symmetric availability of information is a cornerstone for the efficient operation of any market. The gas wholesale market is no different. emsTradepoint commented in its submission on the Options paper that limited outage information inhibits "efficient arrangements for the short-term trading of gas".

- ***Related markets – electricity.*** A common theme among several electricity parties' submissions was that there is a need for information transparency, particularly around gas

supply availability. Several parties commented that information regarding gas sector events is important for the efficient operation of the electricity wholesale market. Thermal electricity generation (mostly fuelled by gas or coal) is important for both baseload and peaking duties and is often the marginal form of generation in the market. The renewables-only generators (Meridian and Mercury) submitted that they had asymmetric information regarding gas production outages, relative to competitors who have thermal generation in their portfolios. The electricity system operator commented that a lack of information on gas supply issues makes it more difficult for it to manage outages on the electricity network and can also lead to potential gaps in security of supply forecasting and information. We note that the Electricity Authority has made amendments to the Electricity Industry Participation Code and its information disclosure guidelines to improve the disclosure of thermal fuel information.

Fairness

A theme across several submissions was that some parties have greater access to gas production facility information than others (i.e. asymmetric information), which has fairness implications.

Reliability

The main impact of limited outage information on this measure is that downstream parties have increased uncertainty regarding the reliability of gas supply availability. This uncertainty affects these companies' business decisions and leads to inefficient outcomes.

Environment

There was limited comment in the submissions processes on the impact that limited information transparency regarding gas facility outages may have on environmental outcomes.

Safety

There were no impacts on safety outcomes from a lack of information transparency regarding gas production and storage facility outages identified in submissions.

Summary

This problem assessment has identified several issues associated with limited transparency and asymmetry of gas production and storage facility outage information. In particular, we have found there are implications for efficiency and fairness in both the gas sector and related energy markets arising from limited publicly available information regarding gas production and storage outages. These issues appear in several parts of the gas sector value chain and most notably at the consumer end of the market. We also note that limited and asymmetric information is inconsistent with the Government's policy outcome for good, publicly available information on the present state of the gas sector (GPS Item 13 point 4).

In the submissions on the Problem Assessment paper, there were no parties that disagreed that these outages (planned and unplanned) should be disclosed in some form. This is consistent with the views expressed in the Options paper submission process.

3.3 Regulatory objective

Gas Industry Co's approach to developing governance arrangements under the Gas Act requires the development of a regulatory objective. From the Statement of Proposal papers (including feedback that we have received), we consider that this objective should be:

> **That arrangements are in place that ensure the effective and timely availability of material gas production and storage outage information for all gas and related market participants.**

We consider that this regulatory objective addresses the problems associated with limited transparency and availability of gas production and storage facility outage information that were identified in the problem assessment.

3.4 Options for achieving the objective

Section 43N of the Gas Act requires Gas Industry Co to identify and assess reasonably practicable options for addressing the regulatory objective.

The following options for achieving this objective were identified in the Final SOP:

1. Disclosure of gas production and storage facility outage information under the *Upstream Gas Outage Information Disclosure Code 2020* (the industry's Upstream Disclosure Code).
2. Rules or regulations under the Gas Act for the disclosure of gas production and storage facility outage information.

The first option is to use the industry-led framework as the permanent solution for the disclosure of gas production and storage facility outage information. The second option uses the basic structure of the Upstream Disclosure Code in a regulated set of arrangements. In this option, some elements of the Code are augmented or replaced to address various limitations and/or make the elements workable as a regulated set of arrangements.

In the Draft SOP consultation, most parties that commented agreed that these are two possible options for meeting the regulatory objective. Some of the Upstream Parties considered that a third option of an amended Upstream Disclosure Code should also be considered. This option would be developed in the Code's review process, which was scheduled to commence in June 2021 (we note that this review has not been conducted). These parties commented that the issues identified with the current version of the Upstream Disclosure Code would be addressed in the amended Code. We concluded in the Final SOP that a modified Upstream Disclosure Code would not be substantially different to the Code currently in place (particularly on the key issues of compliance and enforcement). Accordingly, a potential amended Code is not included as a separate option. There was little feedback on this conclusion in submissions on the Final SOP apart from Energy Resources Aotearoa, who restated its preference for an amended Code.

An effective information disclosure framework should address the information issues identified in Section 3.2, while minimising disclosure costs across all parties. These options are analysed in the following section, with a cost benefit analysis of these options included in Section 3.6.

3.5 Analysis of options

Introduction

These options were assessed in the SOP papers following the process prescribed in the Gas Act for evaluating options when recommending regulations or rules to the Minister. This process is set out in Section 43N which requires Gas Industry Co to:

1. Assess the costs and benefits of each of the options;

2. Assess the extent to which the objective would be promoted or achieved by each option;

3. Ensure that the problem(s) are unlikely to be satisfactorily addressed by any reasonably practicable means other than the making of the regulation or rule (including, for example, education, information, or voluntary compliance).

Upstream Gas Outage Information Disclosure Code 2020

Review

Our review of the Upstream Disclosure Code in our SOP papers found that the Code has resulted in a major improvement in both the quantity and quality of information that Upstream Parties have shared publicly regarding both planned and unplanned facility outages. This Code has gone a considerable way in addressing the problems identified in the problem assessment (Section 3.2).

Despite the step change improvement in outage reporting that has occurred, Gas Industry Co considers that there are issues with the Code that limit its suitability as an enduring framework.

We commented in the Draft SOP that compliance with the Code may be difficult for external parties to monitor because disclosures involve information that is private to the Upstream Parties. In the consultation process, some of these parties submitted that the Code could be amended to address this issue. We agree that information available for monitoring could potentially be improved through Code amendments, however the ability of third parties to verify the accuracy of information is likely to remain limited.

Of greater concern, the compliance and enforcement mechanisms in the Code are very limited. The structure of the Code as a multilateral agreement between Upstream Parties means that the Code can only be enforceable between those parties. The parties most likely to be affected by non-compliance sit outside the Code and have limited ability to effect change in the Code or enforce the reporting obligations in the Code. In contrast, the Upstream Parties are not directly impacted by non-compliance with the Code and have few incentives to enforce the Code. Furthermore, enforcement is confined largely to the possibility that a party might be removed from the Code for repeated infringements. However, the potential removal of a party is at odds with the aim of the Upstream Disclosure Code, which is to encourage the greater disclosure of information.

In addition, the broad liability exclusion in the Code reduces the incentives for parties to the Code complying with its requirements.

The lack of a credible compliance and enforcement mechanism means that costs of non-compliance with the Upstream Disclosure Code may not outweigh any benefits of non-disclosure.

We commented in the Final SOP that amendments to the Code would not ameliorate the incentive issues identified above, for the following reasons:

- As we noted, the current signatories to the Code are not directly impacted by non-compliance with the Code and have few incentives to enforce the Code. Signing every potentially impacted party up to the Code to address this issue unlikely to be achievable.
- It is unlikely that Upstream Parties could develop an appropriate mechanism for compensating parties impacted by non-compliance and incentivising compliance. The impact and severity of non-compliance is likely to vary depending on the circumstances of a particular non-disclosure event. Upstream Parties, and those who are impacted by non-

compliance, require a fair and impartial process for determining the impact of non-compliance. This is likely to require an independent adjudicator who can make orders that are binding on both Code signatories and impacted parties. This is unlikely to be achieved through an amended Code that is not inclusive of all impacted parties.

Stakeholder feedback

In submissions on the Draft SOP, several of the Upstream Parties submitted that the reputational risk from not complying is significant and provides strong incentives to meet the requirements of the Upstream Disclosure Code. In response, Gas Industry Co commented that we do not consider reputation to be a sufficient incentive for ensuring compliance with the Code. While reputation risk may provide some incentives for an Upstream Party to comply with the Code, it does not provide anyone else with the ability to hold the Upstream Party accountable for compliance with the Code's framework. There is a possibility that at some future date, a party may decide that the benefits of non-disclosure (which could potentially be significant in a gas market that is under transition, with increased levels of uncertainty) may outweigh the associated costs, including reputational implications.

Several of these parties also submitted that the Code is working well and that so far there have been no compliance problems. In the Final SOP, Gas Industry Co commented that this observation is incorrect. As an example, we noted that a party had recently made a planned production facility outage that did not comply with the Code disclosure rules. Gas Industry Co has also contacted at least one party to correct issues with the content of a disclosure. We observed that there are also limits to our ability to verify Upstream Parties' claims there have been no compliance issues given that some of the triggers for disclosure in the Code rely on private information. The implication of this is that there may have been other departures from the Code that Gas Industry Co is unaware of.

Todd Energy, OMV and Energy Resources Aotearoa repeated their preference for the Upstream Disclosure Code in their submissions on the Final SOP. These submissions did not include any substantive new points to the matters these parties had previously made. Todd restated the position it made in previous consultation rounds that the industry Code is operating effectively and achieving the regulatory objective. It remained of the view that it is inappropriate for Gas Industry Co to regulate when there has been no signal that this voluntary Code has failed. OMV also preferred an industry-based approach. It noted that if regulation is to be pursued, it supported the great extent to which the proposed regulation builds on the framework established in the existing industry Code. ERA's submission made similar points to OMV.

Over the various consultation phases, six of the nineteen parties who provided feedback on the two options favoured the Upstream Disclosure Code option. With the exception of Contact Energy, all of these parties are either signatories or were involved in the development of the Code.

Many of the other submitters on the SOP papers agreed with our assessment that the Upstream Disclosure Code does not have an effective compliance and enforcement framework. For instance, in its submission on the Draft SOP, Genesis noted that the lack of material consequences in the Code for non-disclosure creates a heightened risk of non-compliance. Vector, Haast Energy, emsTradepoint and Trustpower made similar points in their submissions on the Final SOP.

Rules under the Gas Act

Description

The regulatory option uses the basic structure in the Upstream Disclosure Code, which we consider captures matters that we would reasonably expect to be included in an information disclosure framework. The proposed regulatory option adopts aspects of the Upstream Disclosure Code where we consider those aspects to have merit. Other aspects of the Upstream Disclosure Code are augmented or replaced to address various limitations and/or make the elements workable as a regulated set of arrangements.

The biggest difference between this option and the Upstream Disclosure Code is the monitoring, compliance and enforcement framework. In this option, gas production facility owners are required to provide Gas Industry Co with information on planned and actual production volumes. Likewise, storage facility owners are required to provide information on storage withdrawal volumes. This information will be used by Gas Industry Co to monitor parties' compliance with the disclosure rules.

Gas Industry Co's design of the option has the disclosure of information being subject to the compliance framework in the Gas Governance (Compliance) Regulations 2008. The advantage of this approach is that the compliance and enforcement framework would be consistent with the approach used for other gas rules and regulations. Breaches of the information disclosure regulations would be processed in the same manner as breaches of the Gas (Switching Arrangements) Rules 2008, the Gas (Downstream Reconciliation) Rules 2008 and Gas (Critical Contingency Management) Regulations 2008.

Gas Industry Co considers that this option addresses the key deficiency of the Upstream Disclosure Code, which is an inadequate monitoring, compliance and enforcement regime. We consider that this regulatory option will ensure that information disclosure arrangements are more efficient and durable. A stable information disclosure framework should provide certainty and support energy sector participants' decision-making, which is particularly important in a sector that is in transition.

We consider that this option is the most practicable approach for implementing enduring information disclosure arrangements for the disclosure of gas production and storage facility outage information.

Stakeholder feedback

Thirteen of the nineteen parties who submitted over the various phases of consultation favoured a regulated set of arrangements. As we discussed in the previous section, many of these stakeholders considered that a key benefit of this option over the Upstream Disclosure Code is its compliance and enforcement mechanism. For instance, emsTradepoint commented in its submission on the Draft SOP that "…the voluntary nature of the Upstream Disclosure Code leads to limitations, including lacking independence and penalties for non-compliance. We perceive this creates a risk that the quality of disclosures may not be enduring."

The key design elements for this option are outlined in Section 4.

In its submission on the Final SOP, Todd commented that parties' disclosure of outage information should be based on firm plans for outage remediation or for planned outage events rather options that are still being assessed and developed.

We note that there is a similar focus on firm information in the electricity sector's wholesale market information disclosure guidelines[10]:

> A participant is not required to make disclosure information publicly available if the disclosure information concerns an incomplete proposal or negotiation. (7.25)
>
> A participant does not have to disclose matters of supposition or disclosure information which is insufficiently definite to warrant being made readily available to the public. (7.26)
>
> For example, a participant does not have to publicly disclose that there is a possibility of an outage of one of its generators. However, once a decision has been made that a planned outage is required for maintenance, then it may be difficult for the participant to argue that this exclusion applies. (7.27)

The Upstream Disclosure Code has a similar clause where a planned outage that is not certain does not have to be disclosed (cl. 16.3). In addition, in 13.1 (b) of the Code, knowledge of a planned outage is first acquired once the event has been confirmed to be planned for the relevant facility.

Gas Industry Co considers that the design of the regulatory option should be focussed on the disclosure of firm information. We have added a paragraph under the "Information that should be disclosed" heading in Section 4.2 reflecting this point.

3.6 Cost Benefit Analysis

Section 43N requires Gas Industry Co to assess the costs and benefits of each of the options when recommending regulations or rules to the Minister.

To fulfil this requirement, Gas Industry Co engaged Sapere Research Group ("Sapere") to conduct a cost benefit analysis of the options. Sapere's two papers on the subject are attached to the Final SOP.

Sapere's analytical approach takes the decision to disclose upstream outage information as given. This assumption reflects the fact that Upstream Parties have already made this decision with their implementation of the Upstream Disclosure Code. Given that assumption, Sapere's focus was on the efficiency of the means of disclosing that information. This involved determining whether a voluntary scheme (i.e. the Upstream Disclosure Code) or a regulated set of arrangements is likely to result in the highest net economic benefit (lowest net cost).

Sapere considered this issue by assessing the extent to which the options establish rights over the following elements of an information disclosure regime:

- The type and specification of information that should be disclosed.
- The monitoring of parties' compliance with the disclosure rules that have been specified.
- The enforcement, or assuring that parties have complied, with the rules that have been specified.

Sapere assessed these elements by determining the various parties' (in this context, the parties are the Upstream Parties or Gas Industry Co) comparative advantage over each of these elements. In this context, comparative advantage is determined by:

[10] Electricity Authority (2021) "Guidelines for participants on wholesale market information disclosure obligations", 23 March 2021, accessed at https://www.ea.govt.nz/assets/dms-assets/27/Guidelines-for-participants-on-wholesale-market-information-disclosure-obligations-clean.pdf

- The information that is available to the party exercising the right.
- The incentives faced by the party exercising the right.
- The respective capabilities and expertise of the party in exercising the right.

Sapere's assessment is summarised in the table below.

		Information available to the party exercising the right	Incentives faced by the party exercising the right	Respective capabilities and expertise of the party in exercising the right
Specification of information to be disclosed	Upstream Disclosure Code	The parties to the Code have good knowledge of what information is available and what would benefit them. They may be less knowledgeable of what information would benefit downstream entities	Strong incentive to specify information of benefit to Code parties relative to cost of supplying that information. Weak incentives to specify information that benefits wider market	Only the parties know what the planned and unplanned outages are
	Regulated approach	Reliant on information from the parties. Possibly have more insight into how the information is used	Required to weigh the costs and benefits of information disclosure on all affected parties. Incentive to over specify information as do not bear the cost.	Reliant on information from the parties but may be more knowledgeable of what information would benefit downstream parties
Monitoring whether information is disclosed	Upstream Disclosure Code	The individual parties have the ability to self-monitor but not so clear they can monitor the other parties.	Driven by risk of reputational damage to ensure compliance with the scheme is monitored.	Only able to self-monitor to see if information is available when it is most needed.
	Regulated approach	Only able to monitor after the fact which may be too late to ensure benefits are achieved.	Represent all affected parties and are motivated to carry out monitoring	Only able to enforce release of information after the fact.
Enforcing compliance with disclosure requirements	Upstream Disclosure Code	The individual parties have the ability to test self compliance but not the other parties.	Individual parties driven by risk of reputational damage to ensure all of the parties are compliant.	It is not clear the parties have the ability to enforce the rule on all parties.
	Regulated approach	The regulator has the capability to enforce compliance after the fact.	Represent the interests of all parties and not just the parties to the multilateral contract	This is one of the GIC's roles and they have the capability to enforce compliance.

Sapere concluded that a regulated set of arrangements is likely to be closer to the goal of information being disclosed where the economic benefits of disclosure outweigh the costs. Because these arrangements would be closer to this objective, they would provide more of the benefits of information disclosure than the industry-led Upstream Disclosure Code.

3.7 Conclusion

Based on the analysis presented above, Gas Industry Co considers that:

1. The Upstream Gas Outage Information Disclosure Code 2020 does not satisfactorily achieve the regulatory objective. Regarding the Government's objectives for the gas sector (summarised in Appendix B), we consider:
    (a) An improvement in efficiency outcomes requires information to be available to all relevant parties, all of the time and on a consistent basis. The lack of a meaningful compliance and enforcement framework in the Code means that this outcome is not assured under this framework.
    (b) The fact that there is a risk that information transparency and symmetry may not be consistently achieved implies that fairness outcomes may not be delivered over time.
2. The regulatory objective will be satisfactorily achieved by implementing information disclosure arrangements for gas production and storage facility outage information within a framework of rules under the Gas Act. This option addresses the compliance and enforcement issues identified with the Upstream Disclosure Code and should ensure that gas production and storage facility outage information is available to all interested parties on a timely basis.

4. Statement of Proposal

4.1 Introduction

As noted above, we consider that the regulatory objective is likely to be satisfactorily achieved through rules under the Gas Act for gas production and storage facility outage information disclosure.

The Final SOP paper sets out the main elements of this regulatory option design. This paper incorporated feedback we received from stakeholders on the design of this option in the Draft SOP. The table below provides further detail on the regulatory option design included the Final SOP. The table also includes some amendments following feedback we received on the Final SOP (see Section 3.5).

4.2 Regulatory option design

Table 1 Statement of Proposal: regulatory option design

Coverage of arrangements The arrangements apply to the following facilities: • Gas production facilities. Production facilities that have produced a minimum of 20 TJ/day. • Gas storage facilities. Storage facilities that have a maximum withdrawal rate of at least 20 TJ/day. A gas production facility is defined as a facility at which gas is produced or processed for domestic export or sale and includes any associated gas production or other wells. A gas storage facility storage is a facility where gas is injected and later made available for withdrawal. Disclosures under these arrangements may be made on behalf of a production or storage facility owner by the operator (or another nominated person) of the relevant facility.
Outage definitions Information disclosed under the arrangements includes reductions in gas production or storage withdrawal associated with a facility outage. The outage definitions cover both planned and unplanned gas production and storage facility outages: *Planned gas production facility outage.* • For the following 12-month rolling period, a reduction in the production of gas from a production or processing facility caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day). • The planned reduction is measured against the producer's forecast gas production for the 14 gas days preceding the forecast start of the outage. *Unplanned gas production facility outage.*

- A reduction in the production of gas caused by an outage in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The unplanned reduction is measured against a forecast of week ahead total gas production.

Planned gas storage facility outage.

- For the following 12-month period, a reduction in the withdrawal capacity from a gas storage facility, caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The reduction is measured against the total withdrawal capacity of that facility.

Unplanned gas storage facility outage.

- A reduction in the withdrawal capacity from a gas storage facility, caused by an outage, in a quantity greater than or equal to the Threshold Quantity (for a gas day).
- The reduction is measured against the total withdrawal capacity of that facility.

A gas day is a period of 24 consecutive hours, beginning at 0000 hours (New Zealand standard time).

Threshold Quantity

The Threshold Quantity is 20 TJ/day for each outage definition.

Definition of gas production from a gas production or processing facility

For these disclosure arrangements, the definition of gas production from a gas production or processing facility includes all gas exported from a gas processing facility.

Timing of disclosures

Planned outages

- A gas producer or storage owner must make rolling 12-month forecast planned outage disclosures within 10 working days of 10 January, 1 April, 1 July and 1 October in each year.
- If the party becomes aware of any material change in disclosed information in events that are forecast to occur in the first six months, the change must be disclosed as soon as reasonably practical. The party must identify that the updated information supersedes previously reported information.
- If the party becomes aware of any material change in information for outages in the latter six months, the update must be included as part of subsequent quarterly notifications. The party must identify that the updated information supersedes previously reported information.
- Once a planned outage is underway, a gas producer or storage owner must disclose as soon as reasonably practicable a description of any material change to the information previously disclosed. The party must identify that the updated information supersedes previously reported information. This information must include confirmation of the plan for returning to normal operations or other disclosure as to the final status of the facility following completion of work in response to the outage.

Unplanned outages

- *Initial disclosure.* A gas producer or storage owner is required to disclose an initial notification identifying that there is an unplanned outage at a facility as soon as

reasonably practicable after it has occurred. The timing of this notification must not be greater than 12 hours after the outage has occurred.

- *Disclosures over the first two weeks of the outage.* If the outage extends beyond the day it occurred, the party is required to disclose daily information for the following two weeks.
- *Disclosures after the first two weeks of the outage.* If the outage extends beyond these two weeks, weekly updates must be provided after this period.
- *Cessation disclosure.* The production or storage facility owner must notify that the facility has resumed normal operation as soon as reasonably practicable after this event has occurred.

Information to be disclosed

The information that is required to disclosed under these arrangements is listed below, with the information varying by the timing of the disclosure and whether the event is a planned or unplanned outage.

Planned outage – first six months

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Brief description of nature/purpose of outage
- Estimated quantity per gas day of likely reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)
- Expected duration of outage
- Proposed start and completion date
- When an outage is already underway, confirmation of plan for return to normal operations/revised operations (with brief detail)

Planned outage – second six months

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Brief description of nature/purpose of outage
- The month(s) that the outage is expected to occur

Planned outage – cessation disclosure

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage

- Confirmation of resolution of outage and return to normal operations/revised operations (with completion date and brief detail)

Unplanned outage – initial notification

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Date of the outage
- Whether the threshold for disclosure is met or likely to be met

Unplanned outage – daily disclosures for the first two weeks of the outage

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Description of the nature and cause of outage (if known)
- Estimated duration of the outage (if known)
- Estimated end date for the outage (if known)
- Description of progress made in confirming plan for resolution of the outage
- Estimated quantity per gas day of the reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)

Unplanned outage – weekly disclosures after the first two weeks of the outage.

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage
- Description of the nature and cause of outage (if known)
- Estimated duration of the outage (if known)
- Estimated end date for the outage (if known)
- Description of progress made in confirming plan for resolution of the outage
- Updated estimate of quantity per gas day of the reduction in gas production (for a production facility) or withdrawal capacity (for a storage facility)

Unplanned outage – cessation disclosure

- Date and time of disclosure
- Name of operator and name of facility owner(s)
- Name of production/storage facility(ies) affected
- Name of outage

- Confirmation of resolution of outage and return to normal operations/revised operations (with completion date and brief detail)

A gas producer or storage owner may at any time provide other disclosures that it considers are necessary or desirable to ensure the disclosed information for an outage event is as up to date as is reasonably practicable for it to disclose.

A gas producer or storage facility owner is not required to make disclosure information publicly available if the information is insufficiently definite to warrant being made readily available to the public.

Outage information (both planned and unplanned) that is provided to a customer (irrespective of whether this is required under a contractual commitment or a voluntary disclosure) must be disclosed publicly at the same time. This information must include the disclosure information listed above.

Additional disclosure

Nothing prevents a gas producer or storage owner from disclosing more information than the set of information defined in these arrangements.

Confidential Information

The disclosure requirements must be complied with irrespective of whether gas producers or gas storage owners are subject to confidentiality arrangements in their agreements.

Information required for monitoring

A gas production facility owner must provide Gas Industry Co with:

- An estimate of daily production for each field for the upcoming 12 months from 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Actual daily total production for each field for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.

With 10 working days of the commencement of the rules, each gas production facility owner must provide Gas Industry Co with estimated daily production for the period from the commencement of the rules to the following 31 March.

For these purposes, gas production includes all gas exported from a gas processing facility.

A gas storage facility owner must provide Gas Industry Co with:

- Expected changes in a facility's daily aggregate withdrawal capacity for the following year from 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Daily actual aggregate withdrawal information for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.
- Daily aggregate gas withdrawal nominations information for the year immediately preceding 1 April in each year. The information must be provided to Gas Industry Co within 10 working days of this date.

With 10 working days of the commencement of the rules, each gas storage facility owner must provide Gas Industry Co with expected changes in a facility's daily withdrawal capacity for the period from the commencement of the rules to the following 31 March.

Nothing prevents a gas producer or storage facility owner from disclosing information on a more regular basis than the minimum requirements outlined above.

Confirmation of information quality

Gas production facility owners and gas storage facility owners must provide information under the rules to the standard of a reasonable and prudent operator. For these arrangements, a Reasonable and Prudent Operator means, in relation to the performance of obligations by a gas producer or gas storage owner, the application of that degree of diligence, prudence and foresight exercised by experienced gas producers or storage owners under the same or similar circumstances and conditions.

An annual certification by a senior manager of the gas producer or gas storage owner that it has complied with its obligations under the rules over the previous year is required.

Compliance and enforcement arrangements

The rules for the disclosure of information regarding gas production and gas storage facility outages are subject to the compliance framework in the Gas Governance (Compliance) Regulations 2008.

Gas Industry Co is making a separate recommendation to the Minister of Energy and Resources for amendments to the Compliance Regulations.

Information Platform

Parties disclosing information under these arrangements must publish this information using an information platform developed and hosted by Gas Industry Co.

5. Recommendation

Gas Industry Co recommends to the Minister of Energy and Resources, under sections 43F(2)(e), 43F(2)(f) and 43Q of the Gas Act 1992, the making of new gas governance rules for the disclosure of gas production and storage facility outage information, as set out in Section 4 of this paper.

Appendix A – List of consulted stakeholders

Electricity Authority

Major Energy Users Group (MEUG)

Firstgas Limited, Flexgas (owner and operator of the Ahuroa Gas Storage Facility) is an affiliate of Firstgas

Energy Resources Aotearoa (ERA), formerly known as Petroleum Exploration and Production Association of New Zealand (PEPANZ)

Beach Energy Limited

Transpower Limited

Mercury Limited

Meridian Energy Limited

Energy Link Ltd

Greymouth Gas New Zealand Limited

OMV New Zealand Limited

Todd Energy Limited and Nova Energy Limited

Trustpower Limited

Genesis Energy Limited

Contact Energy Limited

Vector Limited

Major Gas Users Group (MGUG)

New Zealand Steel Limited

Fonterra Co-operative Group Limited

Methanex New Zealand Limited

emsTradepoint Limited

Haast Energy Trading Limited

Flick Energy Ltd

Transpower

Appendix B – Assessment framework

We have assessed the options for addressing the regulatory objective against the Government's policy objectives for the sector to identify problems relating to limited gas production and storage facility outage information. These objectives are identified in the Gas Act 1992 (Gas Act) and the Government Policy Statement on Gas Governance (2008) (GPS).

Relevant Gas Act and GPS objectives and outcomes are listed in Table . GPS outcomes that are unlikely to be relevant to information disclosure outcomes are not included in the table.

Table 2 Assessment criteria

Criterion	Objective/Outcome	Text
1	Gas Act s43ZN(a)	the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner
2	Gas Act s43ZN(b)(i)	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
3	Gas Act s43ZN(b)(ii)	barriers to competition in the gas industry are minimised
4	Gas Act s43ZN(b)(iii)	incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced
5	Gas Act s43ZN(b)(iv)	delivered gas costs and prices are subject to sustained downward pressure
6	Gas Act 43ZN(b)(v)	risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties
7	Gas Act s43ZN(b)(vi)	consistency with the Government's gas safety regime is maintained
8	GPS Item 12(a)	energy and other resources used to deliver gas to consumers are used efficiently
9	GPS Item 12(b)	competition is facilitated in upstream and downstream gas markets by minimising barriers to access to essential infrastructure to the long-term benefit of end-users
10	GPS Item 12(c)	the full costs of producing and transporting gas are signalled to consumers
11	GPS Item 12(d)	the quality of gas services where those services include a trade-off between quality and price, as far as possible, reflect customers' preferences
12	GPS Item 12(e)	the gas sector contributes to achieving the Government's climate change objectives as set out in the New Zealand Energy Strategy, or any other document the Minister of Energy may specify from time to time, by minimising gas losses and promoting demand-side management and energy efficiency
13	GPS Item 9	it is also the Government's objective that Gas Industry Co takes account of fairness and environmental sustainability in all its recommendations. To this end, the Government's objective for the entire gas industry is as follows: To

		ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable and environmentally sustainable manner
14	GPS Item 13 point 1	pursue: An efficient market structure for the provision of gas metering, pipeline and energy services
15	GPS Item 13 point 2	pursue: Efficient arrangements for the short-term trading of gas
16	GPS Item 13 point 3	pursue: gas governance arrangements are supported by appropriate compliance and dispute resolution processes.
17	GPS Item 13 point 4	good information is publicly available on the performance and present state of the gas sector

These criteria can be mapped against the five outcome categories listed in Table 3. These outcome categories are identified in the GPS, listed as criterion 13 in the previous table.

Table 3 Assessment categories

	Efficiency	Fairness	Reliability	Environment	Safety
Gas Act	Criterion 1 Criterion 2 Criterion 3 Criterion 4 Criterion 5		Criterion 1 Criterion 2 Criterion 6		Criterion 1 Criterion 7
GPS Objective	Criterion 8 Criterion 9 Criterion 10 Criterion 11	Criterion 13		Criterion 8 Criterion 12 Criterion 13	
GPS Outcome	Criterion 14 Criterion 15 Criterion 16 Criterion 17				

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.

ENQUIRIES:
info@gasindustry.co.nz

+64 4 472 1800 • info@gasindustry.co.nz • www.gasindustry.co.nz
Level 8, The Todd Building, 95 Customhouse Quay, PO Box 10 646, Wellington 6143

Gas Industry Co.