



4 March 2021

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Submitted online at www.gasindustry.co.nz

Dear Andrew

Draft Statement of Proposal: Gas Production and Storage Facility Outage Information

Firstgas Group welcomes the opportunity to submit on the *Draft Statement of Proposal: Gas Production and Storage Facility Outage Information* (the SoP), released by the Gas Industry Company (GIC) in December 2020. We are making this submission on behalf of Firstgas' transmission and distribution businesses and Flexgas, the owner and operator of the Ahuroa gas storage facility (AGS facility). Flexgas is a signatory to the Upstream Gas Outage Information Disclosure Code 2020 (the Upstream Disclosure Code).

We have previously indicated our "in principle" support for a regulated approach to upstream information disclosure to help promote a well-functioning and transparent gas market. However, we consider proceeding to a regulated solution would be premature without first carrying out the inaugural review of the operation of the Upstream Disclosure Code. Our examination of the SoP has also highlighted concerns about the workability and effectiveness of its proposed compliance provisions. We would also like to invite the GIC to consider how the upstream information disclosure work-stream should be assessed and progressed in light of the broader Government-commissioned investigation into the security and certainty of gas supply in New Zealand (Security of Supply Study) and other priority work-streams.

Our submission focusses on:

- Flexgas' experience as a participant in the industry-led Upstream Disclosure Code
- Our view on the suitability of the Upstream Disclosure Code as an enduring information disclosure framework
- The need to factor in the findings of the imminent review of Upstream Disclosure Code into the GIC's decision-making and conclusions
- Potential issues with the compliance provisions set out in the SoP
- Our commitment to continue to provide timely information on scheduled and unscheduled outages on the Firstgas transmission system and the AGS facility
- Priority considerations between the GIC's SoP and other industry work-streams, including the Security of Supply Study.

We expand on these points below. We have also responded to consultation questions in **Attachment 1**.

Flexgas' experience as a participant in the industry-led Upstream Disclosure Code

The Upstream Disclosure Code came into effect in June 2020, approximately 10-months after the establishment of an Industry Notifications page on the GIC website. During this time, Flexgas has been an active participant in this voluntary disclosure regime, with multiple initial notifications and updates on both planned and unplanned outages at the AGS facility.

We believe that the Upstream Disclosure Code has several positive features that have led to significant improvements in both the quantity and quality of information that gas producers and Flexgas have shared publicly. Most notably, it has helped to alleviate the previous information asymmetry present due to contractual counterparties having better access to production and storage



outage information compared to other sector participants. This information asymmetry could potentially give rise to inefficient decision-making and may influence overall market outcomes.

We acknowledge the GIC's conclusion that there are certain deficiencies with the Upstream Disclosure Code that may limit its suitability as an enduring framework. However, we believe that the successes and deficiencies of the Upstream Disclosure Code are best explored and potentially addressed as part of the imminent third-party review required to be carried out on an annual basis.

Implementation costs associated with disclosure

We have developed systems and processes to ensure Flexgas meets the Upstream Disclosure Code requirements in a compliant and timely manner. The development and ongoing application of these systems and processes does incur a cost, both financially and in terms of additional workload for Flexgas' operational personnel. As the proposed regulatory solution purports to use the existing Upstream Disclosure Code as a foundation, we hope that if it were to proceed it would not require significant additional investment by Flexgas. However, uncertainties around the workability of the compliance provisions of the SoP (discussed further below) make it difficult to ascertain the extent of any additional costs associated with potentially moving to a mandatory regulated solution.

Findings from review of voluntary code

The Upstream Disclosure Code includes the requirement for gas producers and storage operators to engage and work with a suitably experienced third party or third parties to review the operation of the Code no later than 12-months after its coming into force. We believe this review should provide valuable insights on the performance of the Code (and its signatories) and whether it is producing the desired outcomes for gas industry stakeholders. We suggest any conclusions from this review would be a useful input into the GIC's decision-making within this wider work-stream, including whether the regulatory objective is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of regulation. It is possible that the review (which requires "wider energy sector feedback") may support a conclusion that the Upstream Code is providing a sufficient level of information disclosure or highlight what changes could be made to improve its suitability as an enduring framework.

In principle support for a regulated solution

We agree there is a risk that the voluntary nature of Upstream Disclosure Code (coupled with other underlying commercial considerations) may result in deficient information disclosures by upstream parties in certain circumstances. While not directly analogous, there are some similarities between this workstream and when the voluntary National Gas Outage Contingency Plan (NGOCP) was reviewed and replaced with the *Gas Governance (Critical Contingency Management) Regulations*. A key driver for change was the fact that compliance with the NGOCP was not mandatory and did not impose enforceable obligations on any industry participant.

We have previously advocated for increased disclosure around upstream information disclosure through our previous submissions to the GIC and the Ministry for Business, Innovation and Employment (MBIE).¹ Disruptions at gas production facilities have significant physical and financial impacts on the gas market (and broader energy markets) and pipeline operation. Having consistent and timely information on gas production and storage outages would help build confidence in a well-functioning and transparent gas market. The introduction of a prescriptive regulatory solution for information disclosure has been our preferred approach in principle as it:

- Makes all participants subject to the same requirements, removing the risk of parties withholding information that could apply under a voluntary approach
- Can be supported by compliance assessment and enforcement action where a party does not provide information in an accurate or timely way.

However, for the reasons contained in our submission, there are still several steps to occur and issues to be resolved before any regulatory solution should be progressed or implemented.

¹ See https://firstgas.co.nz/wp-content/uploads/Firstgas-submission_GIC-Information-disclosure-problem-assessment.pdf and https://firstgas.co.nz/wp-content/uploads/First-Gas-submission_Options-for-amending-the-Gas-Act-1.pdf and https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/52SCED_EVI_95142_ED3266/firstgas



Concerns with proposed compliance provisions

The *Government Policy Statement on Gas Governance 2008* (GPS) states that any gas governance arrangements need to be supported by appropriate compliance processes. We accept that the compliance framework in the Upstream Disclosure Code does have some deficiencies, primarily around reviewer access to the relevant information required to assess compliance. However, we have some concerns around the workability of the regulatory compliance provisions for gas storage operators proposed in the SoP.

The disclosure obligations for both planned and unplanned outages at the AGS facility is triggered by a 20 TJ/day reduction of withdrawals against a constant benchmark of 65 TJ/day (the maximum current daily withdrawal rate at the AGS facility). The SoP states that a gas storage facility owner is required to provide GIC with daily aggregate withdrawal information on a monthly basis, which will be used for monitoring purposes and assessment of compliance.

It is not immediately obvious how providing aggregate daily withdrawal information will verify that Flexgas did not lose extraction capacity of more than 20TJ per day, when scheduled withdrawals can vary significantly from the 65 TJ/day “benchmark” on any given day. Particularly, we are unclear how GIC will use the information currently requested under the SoP to successfully monitor compliance. We believe this is a significant omission from the SoP and without further clarity, we are concerned about what other information or costs may be imposed to ensure appropriate compliance with the SoP requirements.

Importance of a cost-effective approach

The SoP notes that a compliance and enforcement framework should aim for high levels of compliance in a least cost manner. We have already allocated additional time, money and resources to comply with the requirements of the Upstream Disclosure Code. Therefore, we request that if a regulatory solution is pursued, that all compliance measures need to be workable and importantly adhere to the cost-effectiveness criterion required by the GPS.

While the specific requirements of a regulatory compliance regime are yet to be finalised, we would hope they do not necessitate material changes to our AGS facility scheduling and reporting systems. We also need to be mindful of the expense that may be incurred if the assessment of compliance requires prolonged correspondence and communication with the GIC. Accordingly, any compliance regime needs to be efficient, effective and not resource intensive.

Commitment to providing timely information on transmission outages and outages at the AGS facility

Firstgas is committed to providing sufficient and timely outage information to assist the industry with its planning needs, and to keep stakeholders informed during any unplanned outage.

As the owner and operator of New Zealand's gas transmission system, we are strongly focused on ensuring information is readily available to support our security of supply requirements.² We currently publish information on any planned or unplanned transmission system outages on our OATIS sites. Detailed information on Firstgas' capital maintenance activities for the current year, any interruptions to supply resulting from this work, and information on asset condition is also contained in our publicly available Transmission Asset Management Plan (AMP).³

Flexgas has been a signatory to the Upstream Disclosure Code since its inception and has actively participated in the voluntary disclosure regime. The third-party review contemplated by the Upstream Disclosure Code will be carried out soon and its outcomes need to be considered by the GIC before making any final decisions in this area. However, if a regulatory solution to upstream information disclosure was considered necessary, we would bring the same level of accuracy, transparency and commitment to our obligations under that new regime.

² As set out in Appendix G of our Transmission Asset Management Plan: <https://firstgas.co.nz/wp-content/uploads/J003564-Firstgas-Transmission-AMP-2020-Appendices-FINAL-11JAN21.pdf>

³ See <https://firstgas.co.nz/wp-content/uploads/J003564-Firstgas-Transmission-AMP-2020-FINAL.pdf>



Relationship between GIC's Security of Supply Study and SoP work-streams

At the request of the Minister of Energy and Resources, GIC has begun an investigation into whether current market, commercial and regulatory settings that provide for gas availability and flexibility are fit for purpose to support the transition to a future with 100% renewable electricity and a net zero carbon economy.

We consider that the GIC's Security of Supply Study will canvass several broader market uncertainties and conditions, of which outage information disclosure may potentially be more of an ancillary consideration. We accept that outage information disclosure information is important for the various reasons set out above and in previous submissions. However, we respectfully suggest that there are now more significant issues to be prioritised and warrant the industry's attention, in order to secure the best outcomes for all gas users and stakeholders.

We invite the GIC to consider how the upstream information disclosure work-stream should be assessed and progressed in light of the Security of Supply Study and other significant industry commitments.

Contact details

If you have any questions regarding this submission, please contact me on 021 705 485 or via email at john.blackstock@firstgas.co.nz

Yours sincerely

John Blackstock
Senior Commercial Advisor



ATTACHMENT1: Consultation questions

Question	Firstgas response
<p>1. Do you agree with the regulatory definition? Please provide reasons supporting your views.</p>	<p>We agree with the regulatory objective for the following reasons:</p> <ul style="list-style-type: none">• The scope is appropriately confined to “gas production and storage outage information” and therefore does not unnecessarily encompass other information streams.• The outage information is to be made available to all gas and related market participants, which acknowledges the need to address the underlying information asymmetry issues.• Specific reference to “related market participants” is useful given previous feedback from parties such as the Electricity System Operator and renewables-only generators. <p>The problem assessment in the Statement of Proposal (SoP) particularly focuses on the implications for “efficiency” in both the gas sector and related energy markets (13 of the 17 relevant Gas Act and GPS criteria pertain to efficiency). While efficiency is implicit within the goals of “effective” and “timely” availability of outage information, we suggest that the GIC consider expressly referencing “efficient” or “efficiency” in the regulatory objective.</p>
<p>2. Do you agree with the information disclosure options for gas production and storage facility outage information that have been identified? Please provide reasons for your views.</p>	<p>We consider that the two options presented in the SoP warrant further consideration and assessment. We have previously submitted that in the long-term a prescriptive regulated form of information disclosure may be an efficient approach to achieving successful outcomes in this area. However, we also acknowledged that effective regulation takes time and consequently supported the industry-led Upstream Disclosure Code as an effective first step.</p> <p>Given the work to date on these options (including the operation of the Upstream Disclosure Code for several months now), we believe it is logical that they are assessed against the framework set out in section 3 of the SoP.</p> <p>As noted in our covering letter, we also note that the third-party review contemplated by the Upstream Disclosure Code will be carried out soon and its outcomes need to be factored into the GIC’s decision-making in this work-stream</p>
<p>3. Are there other options that you think should be considered in this process?</p>	<p>Potential amendment to the Upstream Code as a result of its required third-party review should be considered a discrete option.</p>
<p>4. Do you agree with our assessment of the Upstream Gas Outage Information Disclosure Code 2020 as an option for achieving the</p>	<p>We agree that the Upstream Disclosure Code has several positive features that have led to significant improvements in both the quantity and quality of information that gas producers and Flexgas have shared publicly regarding planned and unplanned</p>



Question	Firstgas response
<p>regulatory objective? Please provide supporting arguments for your views.</p>	<p>facility outages.</p> <p>However, we also acknowledge the GIC's conclusion that there are deficiencies with the Upstream Disclosure Code that may limit its suitability as an enduring framework.</p> <p>We believe that the successes and deficiencies of the Upstream Disclosure Code are best explored and potentially addressed as part of the third-party review required to be carried out on an annual basis.</p>
<p>5. Do you agree with the design of this regulatory option? Are there parts of design that require amendment? Please provide supporting information in your response.</p>	<p>We are not confident that the compliance provisions proposed in the SoP will bring about the desired results. As noted in our covering letter, we see gaps and workability issues with how the SoP proposes to address assessment of compliance.</p> <p>We would not be supportive of compliance provisions that require material amendments to existing scheduling / reporting systems or those that end-up being resource intensive as a result of prolonged exchanges with the GIC. This is discussed further in our covering letter</p>
<p>6. Do you agree with our conclusion that the most practicable means for implementing information disclosure arrangements for gas production and storage facility outage information is to implement them within a framework of regulations (and/or rules) under the Gas Act? Please provide supporting arguments in your response.</p>	<p>We consider that it is premature to progress with a regulatory solution.</p> <p>We would like to see the third-party review of the Upstream Disclosure Code be carried out as a key "next step" in this work-stream. It is possible that the results of that review may provide insights into how these objectives could be achieved through amendments to the code without the need for a regulated solution.</p> <p>As noted above, we also have concerns about the compliance regime proposed in the SoP, which will need to be examined further and resolved.</p> <p>We also invite the GIC to consider how the upstream information disclosure work-stream should be assessed and progressed in light of the recently commissioned Security of Supply Study and other priority gas industry work-streams.</p>