



# Consultation Paper: Draft Principles for Arrangements on Gas Distribution Systems

**June 2011**  
**Submissions due: Friday 29 July 2011**







## **About Gas Industry Co.**

Gas Industry Co was formed to be the co-regulator under the Gas Act.

As such, its role is to:

- recommend arrangements, including rules and regulations where appropriate, which improve:
  - the operation of gas markets;
  - access to infrastructure; and
  - consumer outcomes;
- administer, oversee compliance with, and review such arrangements; and
- report regularly to the Minister of Energy and Resources on the performance and present state of the New Zealand gas industry, and the achievement of Government's policy objectives for the gas sector.

## **Author**

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# Executive summary

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Gas Industry Co has completed its initial assessment of distribution for natural gas in New Zealand. Gas Industry Co has concluded that at this time, regulation is not required. However, through consultation, we have identified improvements that can be made to existing arrangements to ensure such arrangements meet the objectives of the Gas Act 1992, the April 2008 Gas Governance Policy Statement on Gas Governance, and Gas Industry Co's regulatory objective for this work:

To ensure that arrangements for the distribution of gas are safe, efficient, and reliable with particular regard to achieving:

- an efficient market structure for the provision of gas metering, pipeline services, and energy services;
- clearly understood roles for the provision of gas metering, pipeline, and gas retail to distribution services; and
- reasonable access by new entrant and existing retailers to distribution services.

One area we identified to improve was the contractual arrangements between a distributor and a retailer. In this paper we propose a set of Draft Principles for Arrangements on Gas Distribution Systems. The principles aim to improve the contractual arrangements a distributor offers to a retailer under a network services agreement.

Submissions on this paper are invited. Submissions are due by **5pm, Friday 29 July 2011**. Gas Industry Co will determine next steps for developing the principles after submissions have been received and considered.

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# 1

## Introduction

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### 1.1 Purpose of this paper

Gas Industry Company Limited (Gas Industry Co) has completed its initial assessment of distribution arrangements for natural gas in New Zealand. Gas Industry Co has concluded that at this time, regulation is not required. However we do consider that improvements could be made to ensure arrangements better meet the objectives of the Gas Act 1992 (Gas Act), Government Policy Statement on Gas Governance (GPS) and proposed regulatory objective. One area we identified to improve was the contractual arrangements between a distributor and a retailer.

This paper proposes a set of Principles for Arrangements on Gas Distribution Systems (the Draft Principles). We are seeking stakeholder submissions on these Draft Principles.

### 1.2 Approach

This paper:

- describes the background to the distribution review that led to the development of the Draft Principles;
- sets out the policy context Gas Industry Co operates under and how it relates to this work;
- presents the Draft Principles and an explanation of each; and
- proposes next steps for developing the Draft Principles.

### 1.3 Invitation for submissions

Gas Industry Co invites submissions on this paper. We are particularly seeking responses to the questions highlighted at various points in the body of the text. Submissions on the questions should be provided in the format in Appendix C.

Submissions are due by **5pm, Friday 29 July 2011**. Please note submissions received after that date may not be considered.

We prefer receiving submissions in electronic form (Microsoft Word format and PDF). Submissions may be uploaded on our website at [www.gasindustry.co.nz](http://www.gasindustry.co.nz). You will need to log in as a user and upload the submission on the consultation page by clicking on the submissions button.

Gas Industry Co will acknowledge receipt of all submissions electronically. If you do not receive electronic acknowledgement of your submission within two business days, please contact Jay Jefferies on 04 472 1800.

Gas Industry Co values openness and transparency and therefore submissions will generally be made available to the public on our website. If you intend to provide confidential information in your submission, please discuss this first with Ian Wilson at Gas Industry Co (04 472 1800).

Gas Industry Co will release a paper containing a summary of submissions as well as our analysis and conclusions.

# 2 Background

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## 2.1 The Distribution Issues Paper

### Approach to analysis

In September 2010, Gas Industry Co released the *Gas Governance Issues in Gas Distribution: Issues Paper* (Distribution Issues Paper). In that paper we assessed whether there are any issues with the distribution of natural gas that warrant the development of gas governance arrangements.

The approach was to:

- propose a regulatory objective based on the policy context provided by the Gas Act and the GPS;
- analyse the characteristics of natural gas distribution in New Zealand; and
- assess natural gas distribution characteristics against the proposed regulatory objective, discuss potential issues, and consider what an appropriate response might be.

The analysis took account of the Gas Act requirements for making regulations. It also considered the Commerce Commission's work in this space under the Commerce Act 1986.

### Issues with Retailer-Distributor arrangements

The Distribution Issues Paper considered the arrangements between a retailer and distributor<sup>1</sup>. We noted that industry discussions indicated some concerns with the current arrangements. One such concern was that distributors have been slow to update their contracts with retailers, so many contracts are well out-of-date or have expired. We considered that these out of date contracts mattered because:

- failure to re-negotiate replacement network services agreements on expiry implies unresolved issues between distributors and retailers, rather than poor contract management (if each party was satisfied with the contractual terms, the final agreements would by now have been executed);
- retailers consider out-of-date agreements present significant risks to them with liability and cost implications;

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<sup>1</sup> When we refer to 'distribution arrangements', we mean all documents relevant to the relationship, such as the formal distribution services contract and any policy or informational documents referred to by that contract.

- out-of-date provisions might not reflect changes in the regulatory environment;
- without contractual certainty, distributors and retailers will not always act congruently on particular issues;
- end users benefit (through the delivery of gas) from the agreement between retailers and distributors, despite not being party to those agreements (similar to the concept of privity of contract);
- a lack of alignment between retail contracts and network service agreements can thus create risks for end users that they cannot mitigate because they have no formal relationship with distributors; and
- industry participants are concerned at a lack of certainty or commitment to the renewal of these contracts.

We considered it possible that distributors are waiting for a good opportunity to update these agreements, such as the introduction of the Commerce Commission's price-quality regime.

### **Suggestion to pursue principles**

Gas Industry Co concluded there are no issues that warrant recommending regulatory intervention at this stage. However, we considered the current arrangements could be improved. We suggested two approaches:

- regular status reporting on the progress distributors were making on updating their distribution contracts; and
- the development of high-level benchmarks (principles) for distribution contracts (some examples of possible principles were given at the end of the Distribution Issues Paper).

In relation to the development of principles, we noted that the principles would be designed to enhance the watching brief by providing a measure against which any improvements in arrangements could be assessed. We also suggested that either the industry could decide whether it wanted to adopt the benchmarks, or Gas Industry Co could monitor the degree to which they are adopted in a way similar to the Retail Gas Contract Benchmarks (see below). However, we noted that the latter approach would depend on the distributors agreeing to provide copies of distribution contracts for monitoring purposes.

The experience in the electricity sector suggests that going beyond principles/benchmarks to a model contract would be difficult and expensive.

## **2.2 Submissions on the Distribution Issues Paper**

Gas Industry Co received eight submissions on the Distribution Issues Paper. After considering submissions, we concluded that improvements could be made to existing distribution arrangements. Also we confirmed our view that currently there is no strong case for introducing regulation.

The majority of submitters supported the development of voluntary high-level distribution contract benchmarks. Gas Industry Co agreed it would be sensible to pursue this work. Appendix B contains submitters' comments on the Draft Principles.

## **2.3 Advice to the Minister of Energy and Resources**

Gas Industry Co provided the Minister of Energy and Resources an update on this work in December 2010. The advice outlined our conclusion, following the consultation, that improvements could be made to the distribution arrangements but that regulation is not required at this time. We described our intention to work with industry participants to develop a set of distribution principles. We also noted that we would monitor and report on distributors' progress on updating their Network Services Agreements. We considered this could take place on a yearly basis.

## **2.4 Related retail work**

### **Retail Gas Contracts Benchmark Oversight Scheme**

In March 2010 Gas Industry Co recommended the introduction of Retail Gas Contract Benchmark scheme (Retail Benchmarks)<sup>2</sup>. The Associate Minister of Energy and Resources endorsed the scheme in May 2010. The recommended scheme comprised of:

- selective, outcome-based benchmark terms that were developed based on industry best practice and in consultation with industry participants;
- an oversight arrangement to monitor gas supply arrangements based substantially on published terms and conditions for residential consumers, and all appropriate legacy arrangements (not agreements based on significantly negotiated terms); and
- a baseline assessment of current gas supply arrangements by an independent contractor, with a further transitional assessment being conducted in June 2011.

Gas Industry Co proposed that based on the results of the assessments, we would maintain a 'watching brief' to determine whether or not further action, such as selective or full regulation of benchmark terms, is necessary.

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<sup>2</sup> <http://www.gasindustry.co.nz/work-programme/retail-contracts?tab=1768>



# 3

## Policy context

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### 3.1 Overall context

The legislative framework for governance of the downstream gas industry in New Zealand primarily comprises the Gas Act and the GPS.

Subpart 2 of Part 4A of the Gas Act provides for co-regulation of the gas industry by the Government and Gas Industry Co (as the approved industry body under section 43ZL(1) of the Gas Act).

The Minister of Energy and Resources is responsible for the energy portfolio. The Minister monitors the performance of, and receives recommendations and advice from, Gas Industry Co. Responsibility for gas industry matters was transferred to the current Associate Minister on 1 February 2011.

### 3.2 Gas Act scope and objectives

The industry body has the ability to recommend to the Minister gas governance regulations (or rules) on a range of matters relevant to the gas sector (set out in sections 43F and 43G of the Gas Act). With respect to this discussion paper, section 43F(2)(c) states that gas governance regulations may be made to “prescrib[e] reasonable terms and conditions for access to transmission or distribution pipelines”.

Regulations recommended by Gas Industry Co must pursue the objectives set down in section 43ZN of the Gas Act. The principal objective is to:

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

The other objectives are:

- the 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;
- barriers to competition in the gas industry are minimised;
- incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced;
- delivered gas costs and prices are subject to sustained downward pressure;

- risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties; and
- consistency with the Government's gas safety regime is maintained.

### **3.3 GPS objectives**

The GPS requires Gas Industry Co to have regard to two further principal objectives – fairness and environmental sustainability – in all of its recommendations.

Gas Industry Co must also have regard to the other objectives set out in the GPS as follows:

- energy and other resources used to deliver gas to consumers are used efficiently;
- 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;
- the full costs of producing and transporting gas are signalled to consumers;
- the quality of gas services where those services include a trade-off between quality and price, as far as possible, reflect customers' preferences; and
- 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 and Resources may specify from time to time, by minimising gas losses and promoting demand-side management and energy efficiency.

### **3.4 Regulatory objective**

As with all Gas Industry Co projects, we must consider whether the work will meet the objectives of the Gas Act and the GPS. This applies equally to regulatory and non-regulatory solutions. Section 43ZN of the Gas Act sets out the objectives that Gas Industry Co seeks to achieve in developing gas governance arrangements. The GPS sets further outcomes and objectives that Gas Industry Co must consider.

Accordingly, to provide our work with better focus, we proposed a regulatory objective in the Distribution Issues Paper. Gas Industry Co will have regard to the regulatory objective when considering governance arrangements for gas distribution. The objective is:

To ensure that arrangements for the distribution of gas are safe, efficient, and reliable with particular regard to achieving:

- an efficient market structure for the provision of gas metering, pipeline services, and energy services;
- clearly understood roles of gas metering, pipeline, and gas retail to distribution services; and
- reasonable access by new entrant and existing retailers to distribution services.

### **3.5 Recommendation of industry-led arrangements as an alternative to rules or regulations**

The process for Gas Industry Co to make recommendations on rules and regulations is set out in section 43L and sections 43N to 43Q of the Gas Act. Section 43N(1)(c) in particular requires that Gas Industry Co:

Ensure that the objective of the regulations [rule] is unlikely to be satisfactorily achieved by any reasonable practicable means other than the making of the regulations [rule] (for example, by education, information, or voluntary compliance ...)

The need to consider alternatives to rules and regulations is also set out in the GPS, as follows:

Gas Industry Co may recommend non-regulatory arrangements, including voluntary codes or multilateral contracts, or that rules or regulations be made under the Gas Act 1992, for the governance of the gas industry, whichever Gas Industry Co considers most practicable to achieve the objectives and outcomes described in the Gas Act 1992 and this policy statement.

### **3.6 This work**

Following our consultation in the Distribution Issues Paper, we determined that the best approach to resolving issues in relation to gas distribution arrangements between a distributor and retailer would be to pursue a non-regulatory approach. As such, Gas Industry Co is proposing the introduction of high-level principles, rather than a voluntary code or model contract.

It is possible that, after a review of their impact, the Draft Principles may form the basis of a voluntary code or model contract.

# 4

## The Draft Distribution Principles

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### 4.1 Consideration of the principles

#### The Distribution Issues Paper

A draft of the principles was first presented in Appendix A of the Distribution Issues Paper. That paper invited comments on those draft principles. A summary of submitter comments on Gas Industry Co's suggestion to pursue draft principles is included in Appendix B to this report.

#### Industry workshop

On 18 February 2011, Gas Industry Co hosted a workshop for interested parties to consider the Draft Principles. The Draft Principles were updated following that meeting and are included in this paper.

### 4.2 Purpose of the Draft Principles

The Draft Principles are not intended as a model contract for gas distribution services. They are designed simply to guide the content of distribution service arrangements.

While similar to Gas Industry Co's Retail Benchmarks, the key difference is that the parties to distribution service arrangements are commercial entities that are better able to negotiate mutually acceptable terms, therefore, the Draft Principles are less prescriptive.

The Draft Principles are intended to provide a high-level context for these commercial negotiations. However where possible, the Draft Principles are aligned with the Retail Gas Contract Benchmarks.

### 4.3 Definitions

The definitions of certain terms contained in the Draft Principles, and a brief explanation of each, are provided below.

Term	Meaning	Explanation (as required)
Consumer	A person who uses gas supplied from a gas distribution system.	The definition includes consumers who are a party to a gas supply arrangement with a retailer.

<b>Term</b>	<b>Meaning</b>	<b>Explanation (as required)</b>
<b>Distributor</b>	Has the same meaning as 'Gas Distributor' as set out in s 2(1) of the Gas Act 1992.	That is, any person that provides Line Function Services to another.  At this time, in line with the decision of the Rulings Panel <sup>3</sup> , this definition does not include a participant that provides Line Function Services to itself.
<b>Distribution Services</b>	Includes Line Function Services but may also include ancillary services.	Includes the distribution of gas quantities as well as any other services the Distributor agrees to provide to the Retailer, such as metering.
<b>Distribution Service Arrangement</b>	Includes all documents relevant to the agreed relationship between a Distributor and a Retailer for the provision of Distribution Services over a distribution system.	Contractual arrangements are often the sum of the main written agreement along with other documentation that is referred to in the main agreement. For example, policies and procedures, or other information. This term seeks to encompass all information relevant to the relationship.
<b>Line Function Services</b>	Has the same meaning as set out in s 2(1) of the Gas Act 1992.	
<b>Line Charges</b>	Refers to charges (fixed, variable, or a combination of these) imposed by a Distributor for the provision of Line Function Services.	
<b>Retailer</b>	Any person who supplies gas and associated services to a Consumer or Consumers.	

*Q1: Do you have any comments on the proposed purpose and definitions for the principles?*

<sup>3</sup> Decision of the Rulings Panel in the matter of alleged breach notice 2009-104, 130, 138 etc (Nova Bypass). See the Gas Industry Co website for more information: [http://www.gasindustry.co.nz/sites/default/files/u24/Nova\\_Bypass\\_Rulings\\_Panel\\_Decision\\_2.pdf](http://www.gasindustry.co.nz/sites/default/files/u24/Nova_Bypass_Rulings_Panel_Decision_2.pdf).

## 4.4 General principles

Draft principle 1	Explanation
<p>All Retailers should receive access to a distribution system on substantially similar terms.</p> <p><b>Note:</b> As far as possible, and without inhibiting innovation and the need to reflect special circumstances, distribution terms of access should be standardised across all distribution systems and Retailers.</p>	<p>This principle recognises that the nature of the market means Distributors do have a degree of market power. As such, it requires that the terms offered to one Retailer should be substantially similar to those offered to other Retailers.</p> <p>However, Gas Industry Co recognises that some aspects of Distribution Service Arrangements may need to be negotiated between the Retailer and Distributor. To the extent possible, we would like to see standardised terms of access.</p>

Draft principle 2	Explanation
<p>The Distribution Service Arrangement should fairly represent the interests of the Retailer and the Distributor (as parties to the agreement), and the Consumer (as ultimate beneficiary of the arrangement).</p>	<p>This principle recognises the imbalance in leverage between the parties, and the lack of leverage for consumers. It seeks to prevent asymmetrical contractual arrangements.</p>

Draft principle 3	Explanation
<p>The Distribution Service Arrangement should be current and comprehensive; this can be achieved by establishing a process for regular review of the arrangement.</p>	<p>As industry arrangements change, it is important that these changes are reflected in contractual arrangements to provide protection to both parties. Regularly reviewing contracts will help to ensure any necessary changes are identified and made.</p>

Q2: *Do you have any comments on the proposed General Principles?*

## 4.5 Obligations and rights of the parties

Draft principle 4	Explanation
<p>The obligations and rights of the parties should be clearly and comprehensively set out in the Distribution Service Arrangement.</p> <ul style="list-style-type: none"> <li>The Distribution Service Arrangement should be consistent with, and the parties should act in accordance with, the requirements of all relevant legislation, regulations, and rules.</li> <li>Where a Retailer is legally responsible for matters that are physically or practically under the control of the Distributor, or one of the Distributor's service providers, the Distribution Service Arrangement should acknowledge those matters and describe how the Distributor will assist the Retailer to meet the relevant legal responsibilities.</li> </ul> <p><b>Note:</b> An example of this is under <i>NZS 5442: 2008 Specification for reticulated natural gas</i>, where the Retailer is legally responsible – but not physically in control of – the gas specification. In this case the Distribution Service Arrangement should include a 'description' of this responsibility. It may be as simple as noting that the Distributor has an agreement with the TSO regarding the management of the quality of gas entering the distribution system, or something similar.</p> <ul style="list-style-type: none"> <li>The process for amending or varying the Distribution Service Arrangement should be described. There should be not less than 30 days notice of the changes.</li> <li>The procedures for dispute resolution regarding the Distribution Service Arrangement, including the levels of escalation for discussion of issues arising out of the contractual relationship, should be clearly set out.</li> </ul>	<p>Contracts should be clear, especially in relation to the obligations and rights of parties. We consider this is critical for ensuring that arrangements function as intended.</p> <p>Contracts should be up-to-date with respect to relevant legislation. Gas Industry Co considers that clear identification of legal responsibilities is very important because the consequences of non-compliance can extend beyond the distribution contract.</p> <p>If either party wishes to amend the Distribution Service Arrangements, the contract should specify a process for doing so. The notice period for any such changes should be of a reasonable length to allow both parties to fully consider the proposed changes. Where possible, any such changes should be mutually agreed.</p> <p>A process for resolving disputes is a necessary element of any contract. We consider this process should be clearly set out and accessible to both parties.</p>

Q3: Do you have any comments on the draft 'obligation and rights of parties' principle?

## 4.6 Distribution services provided

Draft principle 5	Explanation
The Distribution Service Arrangement should describe the Distribution Services to be provided by the Distributor and the service standards for those services.	This principle does not name the specific Distribution Services that should be provided. However, it recognises the expectation that the Distributor will clearly identify all of the services it will provide to a Retailer.  This principle also provides that the service standards for those services are identified in the contract.

Draft principle 6	Explanation
The Distribution Services and service standards should include all those aspects that are under the reasonable control of the Distributor, or a service provider to the Distributor.	This principle ensures that the services and service standards required in principle 5 are under the control of the Distributor, or a service provider to the Distributor. For example, it would be unreasonable to set out services for which the TSO is responsible.

Q4: *Do you have any comments on the draft 'distribution services provided' principles?*

## 4.7 Pricing including pricing changes<sup>4</sup>

Draft principle 7	Explanation
Changes to pricing structures and methodologies should be transparent and subject to reasonable consultation with Retailers.	We consider it fair that the Distributor consult with the Retailer on the proposed pricing change.
Draft principle 8	Explanation
A Distributor's notification of price changes to a Retailer should be accompanied by all of the information required to enable the effective implementation of the price changes by the Retailer.	To ensure the proposed pricing change is fully understood by the Retailer, all supporting documentation should be provided to the Retailer on notification.

<sup>4</sup> Note: Gas Industry Co recognises that overall pricing levels for Vector and Powerco are controlled by authorisations issued by the Commerce Commission. These authorisations also set out pricing principles. The Electricity Authority has proposed similar principles for electricity distribution. As such, these Principles look only at the reasonable notification of price changes to Retailers and Consumers.

Draft principle 9	Explanation
<p>The notice period given by a Distributor for changes in pricing structures or levels should take into account the notice period that Retailers must provide to Consumers for consequential changes in retail prices and the time for preparation of that notice. This period should be no less than 30 days.</p>	<p>Changes should be notified within a reasonable timeframe. The timeframe is consistent with the Retail Benchmarks.</p>

Q5: *Do you have any comments on the draft 'Pricing including pricing changes' principles?*

## 4.8 Commencement and cessation of line charges

Draft principle 10	Explanation
<p>The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the commencement and cessation of line charges for the supply of gas.</p>	<p>The contract should be transparent by providing clear indication of when the Distributor will begin charging line charges and end line charges.</p>

Q6: *Do you have any comments on the draft 'commencement and cessation of line charges' principle?*

## 4.9 Disconnection and reconnection

Draft principle 11	Explanation
<p>The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the disconnection and reconnection of a supply point on its system.</p> <p><b>Note:</b> The Distributor may refer to established industry practice as described in policies such as the Gas Association of New Zealand (GANZ) Protocol on Disconnection/Reconnection of gas supply.</p>	<p>Gas Industry Co is aware of previous issues in relation to disconnection and reconnection between Retailers and Distributors. We consider that the contract should be clear and set out what the expectations are in terms of a Distributor's policy on disconnection and reconnection.</p>

Q7: *Do you have any comments on the draft 'disconnection and reconnection' principle?*

## 4.10 Information exchange and use

Draft principle 12	Explanation
<p>The Distribution Service Arrangement should set out the amount, type, and format of information required to be exchanged between the parties. Formats should be, as far as possible, standardised and in line with any industry-agreed standard information exchange protocols.</p>	<p>To ensure information is exchanged in the most efficient way, parties should have clearly defined arrangements.</p>

Draft principle 13	Explanation
<p>Information will only be requested under the Distribution Service Arrangement for the purposes of enabling efficient and effective gas distribution.</p>	<p>Information requested must be reasonable and relate to promoting efficiency in the distribution of gas.</p>

Draft principle 14	Explanation
Information will only be used for the purpose for which it is provided.	If information is provided to a party for a specific purpose it should not be used for another purpose. This includes confidential and non-confidential information.

Q8: *Do you have any comments on the draft 'information exchange and use' principles?*

## 4.11 Service interruptions

Draft principle 15	Explanation
The Distribution Service Arrangement should explain, or refer the Retailer to, the Distributor's policy for planned interruptions to Distribution Services. It is expected that the policy would take account of the costs of notification for the retailer and whether other lower-cost alternatives can be adopted.	The Distribution Service Arrangement should clearly identify how and when it will interrupt a Retailer's service. This will help to minimise risks to the Retailer and Consumer.

Draft principle 16	Explanation
The Distribution Service Arrangement should describe how the Distributor will provide the Retailer with timely information when an unplanned service interruption occurs. The information to the Retailer is expected to include the cause(s) of the interruption and progress towards reinstatement of line function services. The minimum notice period of a planned shutdown should be no less than 4 business days unless agreed otherwise with the Retailer.	The Distribution Service Arrangement should clearly identify how and when it will interrupt a Retailer's service. This will help to minimise risks to the Retailer and Consumer.

Q9: *Do you have any comments on the draft 'service interruptions' principle?*

## 4.12 Managing critical contingencies

Draft principle 17	Explanation
<p>Contracts should provide for the management of the regional effects of critical contingencies in accordance with the Gas Governance (Critical Contingency Management) Regulations 2008, so the risks for all of parties are minimised and appropriately managed.</p>	<p>To ensure parties understand their respective roles and responsibilities when a critical contingency event occurs, it is important that contracts align with the Gas Governance (Critical Contingency Management) Regulations 2008.</p> <p>If a Retailer contracts a Distributor to perform Consumer usage monitoring and/or disconnection services during a critical contingency, these services should be specified.</p>

*Q10: Do you have any comments on the draft 'managing critical contingencies' principle?*

## 4.13 Publication of the standard distribution agreement

Draft principle 18	Explanation
<p>The Distributor's most recent standard Distribution Service Agreement should be publicly available on the Distributor's website.</p>	<p>Transparency is an important part of providing for efficient arrangements.</p>

*Q11: Do you have any comments on the draft 'publication of the standard distribution agreement' principle?*

## 4.14 Assessment

Gas Industry Co considers that there is value in undertaking an assessment of Distributor's distribution system arrangements against the Principles. This could take place approximately six months after the Principles are adopted. Feedback from industry participants at the workshop in February indicated support for an assessment. We envisage that the assessment process would be similar to the one undertaken for the Retail Benchmarks.

*Q12: Do you agree that an assessment should take place approximately six months after the Principles are finalised?*



# 5

## Next steps

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The next steps depend on the feedback we receive in submissions. If submitters largely agree with the Draft Principles, we will finalise the Draft Principles and publish them along with a submissions analysis paper. If new issues or suggested changes are presented in submissions, another round of consultation on the Draft Principles may be required.

We expect to seek approval from the Minister of Energy and Resources for these Principles, similar to the approval given to the Retail Benchmarks oversight scheme.

# Appendix A The Draft Principles

## Purpose of the principles

The Principles are not a model contract for gas distribution services. They are designed simply to guide the content of distribution service arrangements.

While similar to Gas Industry Co's Retail Gas Contract Benchmarks (Retail Benchmarks), the key difference is that the parties to distribution service arrangements are industry participants who are better able to negotiate mutually acceptable terms.

These Principles are intended to provide a high-level context for these negotiations. Where possible, the Principles are aligned with the Retail Benchmarks.

## Definitions

**Consumer** – A person who uses gas supplied from a gas distribution system.

**Distributor** - has the same meaning as 'Gas Distributor' as set out in s 2(1) of the Gas Act 1992.

**Distribution Services** – includes Line Function Services but may also include ancillary services.

**Distribution Service Arrangement** – includes all documents relevant to the agreed relationship between a Distributor and a Retailer for the provision of distribution services (or Line Functions Services) over a distribution system.

**Line Function Services** – has the same meaning as set out in s 2(1) of the Gas Act 1992

**Line Charges** – refers to charges (fixed, variable, or a combination of these) imposed by a Distributor for the provision of Line Function Services.

**Retailer** – any person who supplies gas and associated services to a Consumer or Consumers.

## General principles

1. All Retailers should receive access to a distribution system on substantially similar terms.

**Note:** As far as possible, and without inhibiting innovation and the need to reflect special circumstances, distribution terms of access should be standardised across all distribution systems and Retailers.

2. The Distribution Service Arrangement should fairly represent the interests of the Retailer and the Distributor (as parties to the agreement), and the Consumer (as ultimate beneficiary of the arrangement).

3. The Distribution Service Arrangement should be current and comprehensive; this can be achieved by establishing a process for regular reviews of the arrangement.

### **Obligations and rights of the parties**

4. The obligations and rights of the parties should be clearly and comprehensively set out in the Distribution Service Arrangement.
  - a. The Distribution Service Arrangement should be consistent with, and the parties should act in accordance with, the requirements of all relevant legislation, regulations, and rules.
  - b. Where a Retailer is legally responsible (through any relevant legislation, regulations, or rules) for matters that are physically or practically under the control of the Distributor, or one of the Distributor's service providers, the Distribution Service Arrangement should acknowledge those matters and describe how the Distributor will assist the Retailer to meet the relevant legal responsibilities.

**Note:** An example of this is under the NZS 5442: 2008 Specification for reticulated natural gas, where the Retailer is legally responsible but not physically in control of that matter. In this case the Distribution Service Arrangement should include a 'description' of this responsibility. It may be as simple as noting that the Distributor has an agreement with the TSO that manages the quality of gas entering the distribution system, or something similar.

- c. The process for amending or varying the Distribution Service Arrangement should be described. There should be not less than 30 days notice of the changes.
- d. The procedures for dispute resolution regarding the Distribution Service Arrangement, including the levels of escalation for discussion of issues arising out of the contractual relationship, should be clearly set out.

### **Distribution Services provided**

5. The Distribution Service Arrangement should describe the Distribution Services to be provided by the Distributor and the service standards for those services.
6. The Distribution Services and service standards should include all those aspects that are under the reasonable control of the Distributor, or a service provider to the Distributor.

### **Pricing including price changes**

**Note:** Gas Industry Co recognises that overall pricing levels for Vector and Powerco are controlled by authorisations issued by the Commerce Commission. These authorisations also set out pricing principles. The Electricity Authority has proposed similar principles have been proposed for electricity

distribution. As such, these Principles look only at the reasonable notification of price changes to Retailers and Consumers.

7. Changes to pricing structures and methodologies should be transparent and subject to reasonable consultation with Retailers.
8. A Distributor's notification of price changes to a Retailer should be accompanied by all of the information required to enable the effective implementation of the price changes by the Retailer.
9. The notice period given by a Distributor for changes in pricing structures or levels should take into account the notice period that Retailers must provide to Consumers for consequential changes in retail prices and the time for preparation of that notice. This period should be no less than 30 days.

#### **Commencement and cessation of line charges**

10. The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the commencement and cessation of line charges for the supply of gas.

#### **Disconnection/Reconnection**

11. The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the disconnection and reconnection of a supply point on its system.

**Note:** The Distributor may refer to established industry practice as described in policies such as the Gas Association of New Zealand (GANZ) Protocol on Disconnection/Reconnection of gas supply.

#### **Information exchange and use**

12. The Distribution Service Arrangement should set out the amount, type and format of information required to be exchanged between the parties. Formats should be, as far as possible, standardised and in line with any industry-agreed standard information exchange protocols.
13. Information will only be requested under the Distribution Service Arrangement for the purposes of enabling efficient and effective gas distribution.
14. Information will only be used for the purpose for which it is provided.

## **Service interruptions**

15. The Distribution Service Arrangement should explain, or refer the Retailer to, the Distributor's policy for planned interruptions to Distribution Services. It is expected that the policy would take account of the costs of notification for the retailer and whether other lower-cost alternatives can be adopted.
16. The Distribution Service Arrangement should describe how the Distributor will provide the Retailer with timely information when an unplanned service interruption occurs. The information to the Retailer is expected to include the cause(s) of the interruption and progress towards reinstatement of Line Function Services. The minimum notice period of a planned shutdown should be no less than 4 business days unless agreed otherwise with the Retailer.

## **Managing critical contingencies**

17. Contracts should provide for the management of the regional effects of critical contingencies in accordance with the Gas Governance (Critical Contingency Management) Regulations 2008 so the risks for all of parties are minimised and appropriately managed.

## **Publication of the standard distribution agreement**

18. The Distributor's most recent standard distribution system agreement should be publicly available on the Distributor's website.

# Appendix B Submitters' comments on principles

Table 1 Comments on the principles from submissions on the Issues Paper

Submitter	Summary of comments on proposed principles
<b>Contact</b>	Contact considers the high level principles are a good starting point for developing more specific principles where known issues exist.
<b>GasNet</b>	GasNet is currently in the process of developing a new Use of Systems Agreement. Because it has already committed resources to this review, GasNet does not support the development of a model agreement. However, it generally supports the proposed principles.
<b>Genesis</b>	Genesis considers that maintaining a watching brief and reporting on progress would be the most appropriate course of action at this stage. It considers the principles proposed are appropriate.
<b>Greymouth</b>	n/a
<b>MRP</b>	MRP agrees the proposed principles are appropriate but suggests several changes.
<b>Nova</b>	Nova notes the high level principles were referred to as preliminary ideas only and Nova agrees the style of the benchmarks should be a useful starting point for development.
<b>Powerco</b>	Powerco believes the proposed principles are a good first representation. If there is a strong view from the industry that a standard NSA needs developing, then these could form a starting point for industry parties to develop a standardised NSA.
<b>Vector</b>	Vector does not support the development of high level principles for distribution contracts. There is no evidence to suggest there are significant issues with current distribution arrangements. Further it considers that the experience in the electricity industry indicates that the development of model distribution agreement has been lengthy and costly.

# Appendix C Consultation Paper: Draft Principles for Arrangements on Gas Distribution Systems

Submission prepared by: (company name and contact)

QUESTION	COMMENT
Q1: Do you have any comments on the proposed purpose and definitions for the principles?	
Q2: Do you have any comments on the proposed General Principles?	
Q3: Do you have any comments on the draft 'obligation and rights of parties' principle?	
Q4: Do you have any comments on the draft 'distribution services provided' principles?	
Q5: Do you have any comments on the draft 'Pricing including pricing changes' principles?	
Q6: Do you have any comments on the draft 'commencement and cessation of line charges' principle?	

QUESTION	COMMENT
Q7: Do you have any comments on the draft 'disconnection and reconnection' principle?	
Q8: Do you have any comments on the draft 'information exchange and use' principles?	
Q9: Do you have any comments on the draft 'service interruptions' principle?	
Q10: Do you have any comments on the draft 'managing critical contingencies' principle?	
Q11: Do you have any comments on the draft 'publication of the standard distribution agreement' principle?	
Q12: Do you agree that an assessment should take place approximately six months after the principles are finalised?	