



# Review of gas critical contingency management – analysis of submissions on the Concept report

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## **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.

Gas Industry Co's corporate strategy is to 'optimise the contribution of gas to New Zealand'.



# Executive summary

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Gas Industry Co engaged Concept Consulting Group ('Concept') to undertake a review of the Gas Governance (Critical Contingency Management) Regulations 2008 ('CCM Regulations'). The review was focused on the experiences arising from the six day critical contingency in the last week of October 2011.

Concept used the Performance and Incident Reports issued by the CCO, information from interviews with various stakeholders, and research on overseas jurisdictions to inform its review. The document 'Review of Gas Critical Contingency Management: Post Maui Outage' ('Concept Review') was issued for consultation in June. These reports are available on the Gas Industry Co website.

Eight submissions were received and the general tenor of the submissions was supportive of the recommendations contained in the Concept Report. This submissions analysis document considers the matters raised by submitters and provides Gas Industry Co's responses.

## Essential service providers

Concept provided four key recommendations in respect of essential service providers ('ESP'):

- tighten and clearly define the criteria required to be an ESP;
- create a new curtailment band 7 for 'critical care providers' that would have the highest priority;
- amend the arrangements to ensure that ESP and Minimal Load Consumer ('MLC') designations are well publicised so they may be settled in advance; and
- provide the ability to make ESP and MLC designations during a critical contingency but only in exceptional circumstances.

Whilst there were variations in matters of detail, submitters generally agreed with Concept's recommendations. For example, there was universal agreement on the matter of 'critical care providers' having the highest priority, ie last to be curtailed. By contrast, there was a range of views as to what other types of consumers should be eligible for ESP status in any lower priority band(s).

Gas Industry Co considers that making the criteria both tighter and clearer is aligned with the purpose of the CCM Regulations. Similarly, ensuring that arrangements are in place to support all designations being made in advance of any critical contingency will ensure that gas users are well-placed to make the necessary decisions to achieve the particular level of resilience suited to their respective circumstances.

One submitter pointed out that there may be a number of consumers that do not fit the existing MLC criteria but would suffer significant loss or damage in an uncontrolled shutdown. This needs to be

tested as the MLC category exists to address those kinds of situations. In addition, if the ESP criteria are tightened, it may be necessary to broaden the application of the MLC designation so as to provide efficient arrangements for shutting down processing plant when needed.

### **New roles defined**

Concept recommended that two new roles be defined under the CCM Regulations.

First, retailers should not determine the ESP and MLC designations for their customers. Instead, Concept recommended that an independent body should make all of those determinations. This would have the advantage of ensuring consistent decision-making across the industry while removing a regulatory role from retailers that has the potential to intrude on the commercial relationship with the customer. Second, Concept recommended that retailers be required to have independently approved curtailment plans.

Submitters considered that these were sound recommendations and strongly supported Gas Industry Co being the approving body in both cases.

Gas Industry Co agrees with the creation of the two new roles. While the ESP and MLC approvals may place a heavy work-load on Gas Industry Co in the first instance, that load should ease over time.

### **Expanding the CCO role**

The Concept Review considered that the CCO role could be expanded in three areas:

- determination of regional/non-regional status of a critical contingency;
- acting as a co-ordinator for broader communications with stakeholders; and
- calling for public restraint and gas savings under certain circumstances.

Submitters were split on these issues. Vector did not support the recommendations to expand the CCO role, considering that those roles 'should be the proper function of the industry regulator'. Where other submitters expressed a view on these matters they supported the recommendations in the Concept Review.

Gas Industry Co considers that the first and third matters would be largely formulaic, provided that the CCM Regulations were amended to make them so. That being the case, the party with the best access to information, ie the CCO, would be better placed to apply the criteria in the CCM Regulations (to be amended) and make the appropriate decision in a timely fashion.

The question of co-ordinating communications is a more complex matter. From the stakeholder interviews conducted by Concept and the submissions on the report, there seems to be widespread industry agreement that communications during a critical contingency could be managed better. Gas Industry Co notes that the CCM Regulations are silent on this issue – primarily because

communications had been managed voluntarily by industry participants in the past. However, over the past 18 months, Gas Industry Co has strongly encouraged industry participants to reach an accord on communications to a broad stakeholder group (beyond the key agencies listed in reg 51 of the CCM Regulations), one that would ensure that communications during a critical contingency are adequately managed. To date, no agreement has been reached among the parties, written or otherwise.

While the majority of critical contingency events will typically affect only a small number of industry participants, broader communications become much more important when the CCO needs to direct curtailment beyond bands 1a and 1b.

Gas Industry Co's strong preference remains that industry participants reach a formal agreement that would see:

- asset owners and/or operators taking a proactive role in communicating about failures of those assets, the steps being taken to identify and repair problems, expected timeframes, and regular updates so that stakeholders are not left in the dark;
- the CCO taking responsibility for reporting on the state of the gas transmission system (area(s) affected, scope of curtailments, time to stabilisation, types of customers affected, and softer information such as the expected outlook based on information from the assets owners/operators); and
- Gas Industry Co addressing matters that relate to the CCM Regulations themselves.

Failing such an agreement being concluded promptly, Gas Industry Co will need to look at alternative feasible options, including regulation, to ensure that communications during a critical contingency are well managed by the various parties.

## **Regional contingencies**

The key difference between regional and non-regional contingencies, and the reason for the distinction, is that the contingency imbalance pricing processes do not apply to regional contingencies. The Concept Review recommended that more information be made available so that participants understand the distinction. It also recommended that the regional/non-regional status of a critical contingency be determined as soon as possible after a critical contingency is declared.

Submissions varied on the first of these recommendations, with some submitters in support and others asking that the distinction itself be reassessed. All submitters were in favour of the status being determined as soon as possible.

Gas Industry Co is not convinced that the contingency imbalance arrangements can be modified in any meaningful or efficient way so as to be applied to regional critical contingencies. This was considered at length in the original design of the CCM Regulations. We have asked submitters for more information to assist in identifying whether there is any basis for revisiting the earlier decision.

## **Compliance**

The Concept Review recommended that viable enforcement arrangements are required to ensure that the CCO's curtailment, directions are followed. The current compliance regulations arrangements were designed to be a low-cost, efficient means of settling technical breaches of gas governance arrangements. As such, they are more suited to gas industry participants rather than to end-use customers.

Submitters agreed that credible enforcement arrangements are required to ensure that the effectiveness of the CCM Regulations is not dependent on everyone 'doing the right thing'.

Gas Industry Co agrees and work is already under way to identify whether it is possible to insert specific offence provisions into the CCM Regulations.

## **Process for amending the CCM Regulations**

Gas Industry Co is required to consider and pursue the objectives in s43ZN of the Gas Act 1992 in the process of recommending regulations to the Minister. We are also required to assess the costs and benefits associated with those proposed regulations. Making a recommendation to amend existing regulations requires the same processes and procedures.

The next step is for Gas Industry Co to prepare and issue a Statement of Proposal that describes the proposed changes to the CCM Regulations and seeks submissions on those proposals. That will be an important step for stakeholders and it is essential that interested parties ensure they take advantage of that opportunity to consider the proposed changes and provide feedback. Gas Industry Co is aiming to release this paper in the third quarter of calendar 2012.

Assuming that the criteria for ESP and MLC designations change as a result, there will need to be provision for transition arrangements. At present, our thinking is that most likely would take the form of 'grand-fathering' existing designations for a limited time so as to allow those parties to reapply under the revised criteria. There may also be a need for transition arrangements in other areas depending on the scope of the amendments.



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# 1

## Introduction

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In late October 2011, a leak was discovered on the Maui gas pipeline south of the Mokau compressor station. Investigation and repair of the leak took six days, during which time the affected section of the pipeline was out of service, leading to a major reduction in gas supplies north and east of Taranaki. The Critical Contingency Operator (CCO) declared a critical contingency over the affected areas and directed load curtailment and restoration for the duration of the event.

Gas Industry Co asked Concept Consulting to undertake a review of the critical contingency management arrangements to assess their effectiveness during the Maui outage. Concept focussed particularly on the arrangements for curtailing gas demand and on whether the CCM Regulations could be amended or augmented to improve effectiveness.

Concept's report, *Review of Gas Critical Contingency Management: Post Maui Pipeline Outage*, was released for public consultation on 8 June 2012 and is available on Gas Industry Co's website<sup>1</sup>. Interested parties had until 2 July to provide submissions.

The purpose of this document is to summarise the submissions received and to review the recommendations of the Concept report in light of those submissions. In some cases, the recommendations put forward by Concept have been accepted by all submitters; in other cases there is disagreement. For each recommendation, this document summarises the positions of the submissions and indicates Gas Industry Co's view on the issue.

### 1.1 Submissions

A total of eight submissions were received from:

- Contact Energy
- Genesis Energy
- Fonterra
- Maui Development Limited

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<sup>1</sup> <http://gasindustry.co.nz/work-programme/discussion-papers-presentations-and-reports/review-gas-critical-contingency-managemen>

- Mighty River Power
- Major Gas Users Group (on behalf of Fonterra Co-operative, Carter Holt Harvey, New Zealand Steel, New Zealand Refining Company, and Ballance Agri-Nutrients).
- Powerco
- Vector

# 2

## Non-standard curtailment arrangements

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The arrangements for most gas consumers under the CCM Regulations are relatively straightforward. As part of the preparatory stage, consumers are placed in curtailment bands according to their annual gas consumption. During a Critical Contingency event that requires reductions in gas offtakes, the CCO directs successive curtailment bands to reduce or stop using gas so as to stabilise the transmission system receipts and deliveries.

However, there are some exceptions to this general scheme. Certain customers are designated as requiring higher priority access to gas (ESPs) or may be given a defined time within which to effect to their curtailment (MLCs). There may also be unforeseen situations that arise where suddenly reducing gas usage would result in hazard to life and/or limb and the CCM Regulations need to allow for that. This chapter addresses the issues that have arisen in regard to the various exceptions to the standard arrangements.

### 2.1 Curtailment bands and alternative fuel capability (Q1)

The Concept report recommended that the current distinction between large consumers with and without alternative fuel capability be retained, ie those with alternative fuel capability would be curtailed first.

#### What submitters said

Submitter	Response
Contact	Considers that the differentiation should be removed as the current process penalises those customers who have invested in back-up supplies. An added benefit of removing the distinction would be the removal of the data management overhead of maintaining customers in two bands rather than one.
Fonterra	Suggests that the disincentive could be mitigated, to an extent, by introducing a pricing mechanism whereby those who remain on gas would pay parties forced to run on more expensive fuel. Recommends that a working group be assembled to design such a mechanism.
Genesis Energy	Agrees with maintaining the distinction but questions the practical effect given that both bands 1a and 1b were curtailed at the same time during the Maui outage.
MDL	MDL supports retaining the current arrangement where consumers with back-up supplies are curtailed before consumers without back-up supplies.

MRP	Agrees with the split into separate bands.
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## Gas Industry Co's response

When the CCM Regulations were being drafted, the distinction was introduced as a means of reducing the effects of gas curtailment whilst maintaining the CCO's ability to manage a gas critical contingency. The view was that gas-using customers would have made the decision on whether to invest in alternative fuel supplies on the basis of their particular circumstances and that those who had made the investment had done so because it was better than the alternative (ie the business considered that investing in, and using, alternative fuel was of greater benefit than having all, or part, of their business ceasing to operate as a result of a gas curtailment).

It would be unfortunate if, by virtue of being curtailed sooner, the CCM Regulations caused parties not to invest in back-up supply in cases where that was an otherwise economically viable solution for them. However, anyone investing in back-up supply arrangements is increasing their resilience against a range of outcomes. For example, there are gas supply interruptions of a local nature that would not be classed as 'critical contingencies' (for example, gas distribution businesses experience a large number of 'hits' to their pipelines each year). A business that is resilient to gas critical contingencies will also be resilient to localised loss of gas.

The table below shows the current situation with regard to numbers of customers in each of the curtailment bands. Bands 1a and 1b have identical criteria (consumption of more than 15 TJ/day) except that 1a customers have alternative fuel supply while customers in band 1b do not. Similarly, bands 2 and 3 have identical criteria (consumption of greater than 10 TJ/annum) except that sites in band 2 have alternative fuel capability whereas sites in band 3 do not.

### ICPs per curtailment band as at 1 July 2012

Curtailed Band	Definition	Number of ICPs
0	Gas storage	1
1a	Consumption >15TJ/day with alternative fuel supply	3
1b	Consumption >15TJ/day without alternative fuel supply	2
2	Consumption >10TJ/pa and <15TJ/day with alternative fuel supply	12
3	Consumption >10TJ/pa and <15TJ/day without alternative fuel supply	1,542
4	Consumption >2TJ/pa and <10TJ/pa	1,120
5	Essential service providers	379
6	Consumption <2TJ/pa	11,568
DOM	Domestic consumers	246,052

Source: Gas Registry report, extracted 18 July 2012

Notes: Concept reported band 6 as having 13,600 sites

The number of customers in band 2 is less than 1% of the number of customers in band 3. That would tend to suggest that the CCO would get very little demand response by curtailing band 2 alone, which in turn suggests the theoretical disincentive to invest in alternative fuel capability (because the investor gets curtailed ahead of those who do nothing) is almost non-existent at present. For there to be a realistic probability of band 2 being curtailed without band 3, there would need to be a significant increase in the numbers of existing group 3 customers choosing to install alternative fuel capability (and moving to band 2).

The question of whether the theoretical disincentive ever comes into play therefore seems to hinge on the extent to which industrial consumers might be expected to install alternative fuel capability and how that might impact the relative volumes of load in bands 2 and 3 respectively. Once the volume of load in band 2 grew to a significant size that it offered the CCO a significant reduction then it could become more likely that the CCO might be able to manage a critical contingency by curtailing bands 1a, 1b and 2 without also curtailing band 3. However, depending on the make-up of the consumers currently in band 3, there may not be that many consumers for whom it would be advantageous to install back-up arrangements so as to be resilient against rare events.

The suggestion from Fonterra offers an interesting approach to addressing the theoretical disincentive. In essence, it would be a regime that would seek to balance costs between those who were curtailed (and forced to use more expensive fuel) and those who remained able to use gas. The suggestion appears to confine the 'balancing' arrangement to, say, bands 2 and 3. However, such an approach would need to have more general application. For example, whenever a critical contingency occurred and there was curtailment, Fonterra's suggestion would appear to mean that all remaining (non-curtailed) consumers would be required to pay something towards the costs (or loss of profits) to those gas users that were curtailed. In the case of the critical contingency in March, for example, a generally applicable cost balancing arrangement would have seen consumers in bands 2 through 6 paying the curtailed consumers in band 1.

However, there are practical difficulties associated with implementing such an arrangement, including:

- the cost of setting up and administering such an arrangement (the current contingency imbalance scheme involves considerable effort and that is built on current arrangements in the gas industry for measuring and allocating gas);
- difficulties associated with determining an efficient way to identify the 'harm' and the 'benefit' that should be balanced and the respective contributions – such an approach would be very intrusive;
- the possibility of creating perverse incentives not to strive to avoid critical contingencies or to mitigate losses by curtailed parties; and
- the fact that curtailment occurs from the largest customers to the smallest. As the Concept report states, gas demand for electricity generation generally represents 70-80% of demand, so in a critical

contingency where only bands 1a and 1b are curtailed, consumers representing 20-30% of demand not curtailed would be expected to compensate the 70-80% of demand that was curtailed.

The most practical way to address the incentive issue may be to collapse bands 2 and 3 so as to avoid concerns over the theoretical disincentive to invest in back-up arrangements. This will be investigated further by Gas Industry Co.

## 2.2 Health and safety issues (Q2)

At regulation 47 there is a provision which states '*No person is required to comply with a provision of this Part to the extent that compliance would unreasonably endanger the life or safety of that person or any other person.*' The Concept report sought feedback on whether regulation 47 should be clarified to ensure that its application was limited to exceptional circumstances.

### What submitters said

Submitter	Response
Contact	Does not agree that regulation 47 be clarified further saying that Contact is not in a position to determine or question how exceptional circumstances are. Suggested that there could be a requirement to have the status clarified after the event (i.e. whether the circumstance was exceptional).
Genesis Energy	Considered that the need and rationale for this change was not fully explained in the paper. Genesis considers the existing wording of regulation 47 sets a very high threshold.
MDL	Agrees that regulation 47 may be too broad and open-ended, and there may not be sufficient sanction available within the framework of the Gas Act and the Regulations to ensure that it is used only in exceptional circumstances.
MRP	Agrees that the current drafting allows for too wide an interpretation of safety.
MGUG	Does not specifically address the question but refers to concerns regarding the fact that curtailment notices need to be responded to within 'a short time frame, which may not allow for safe wind down of the facilities'.

### Gas Industry Co's response

Regulation 47 needs to be interpreted in the context of other, primary and secondary, legislation that addresses health and safety in employment. For example, at sections 6 and 7, the Health and Safety in Employment Act 1992 ('HSE Act') states:

- 6 *Every employer shall take all practicable steps to ensure the safety of employees while at work; and in particular shall take all practicable steps to—*
- a) *provide and maintain for employees a safe working environment; and*
  - b) *provide and maintain for employees while they are at work facilities for their safety and health; and*
  - c) *ensure that plant used by any employee at work is so arranged, designed, made, and maintained that it is safe for the employee to use; and*
  - d) *ensure that while at work employees are not exposed to hazards arising out of the arrangement, disposal, manipulation, organisation, processing, storage, transport, working, or use of things—*



- (i) *in their place of work; or*
  - (ii) *near their place of work and under the employer's control; and*
  - e) *develop procedures for dealing with emergencies that may arise while employees are at work.*
- 7 *Identification of hazards*
- 1) *Every employer shall ensure that there are in place effective methods for—*
  - a) *systematically identifying existing hazards to employees at work; and*
  - b) *systematically identifying (if possible before, and otherwise as, they arise) new hazards to employees at work; and*
  - c) *regularly assessing each hazard identified, and determining whether or not it is a significant hazard.*
- ...

(emphasis added)

Given that there are a number of possible causes for gas not being delivered to an employer's premises (from gas production outages through transmission pipeline and distribution system failures) it would appear the HSE Act places an obligation on employers to identify hazards that may be expected to arise from a loss of gas to a site (including where that may be due to a critical contingency) and to take the necessary practicable steps so that such potential hazards are anticipated and prevented in accordance with the HSE Act.

Against that background, it stands to reason that regulation 47 of the CCM Regulations should only come into play in rare circumstances where a hazard arises that was not able to be foreseen or where the practicable steps have been insufficient for the particular set of circumstances that has arisen.

It is also important to recognise that a gas critical contingency covers a wide range of possibilities; a range that spans reduced levels of delivery through to no delivery of gas whatsoever.

In October 2011, isolating the Maui pipeline north of the Mokau compressor station meant there was no ability to deliver gas from that pipeline beyond the limited amount of linepack that remained. However, the Vector pipeline that runs parallel to the Maui pipeline was undamaged and was able to provide an on-going source of gas from Taranaki, albeit about 15% of the volume that is normally able to be delivered from both pipelines. However, had the Vector pipeline also been damaged, then there would have been little or no gas available (indications at the time were that the Maui linepack would have provided a small number of days' worth of domestic demand, assuming curtailment of bands 1 through 6). In those circumstances, it is likely that continued consumption of gas, particularly by larger users, would have shortened the time until pressures dropped to such a level that gas deliveries north and east of Taranaki would have ceased.

Within that context, it is clear that all gas users need to take all practicable steps so as to be prepared for the (remote) possibility that gas delivery to their site(s) may cease. In that regard, regulation 47 could be read as implying that gas may be available in all circumstances and that is not the case. Gas Industry Co will investigate whether regulation 47 can be amended:

- so as to make clear both the context and the limitations; or
- to make health and safety concerns a defence against any enforcement action, provided all practicable steps have previously been taken to mitigate hazard(s) associated with a lack of gas supply.

## 2.3 Treatment of small (<2 TJ/annum) critical care providers (Q3-5)

As drafted, the CCM Regulations allow for certain consumers in curtailment bands 1 through 4 to apply to be designated as an ESP. ESPs are combined in a higher priority curtailment band 5. Concept recommended that 'critical care providers' be further prioritised and placed in a new band 7. In addition, Concept recommended lowering the 2 TJ/annum threshold for designation as an ESP, which would have the effect of increasing the number of 'critical care' ESPs that would be eligible for the new band 7. Submitters were asked whether they agreed with this (Q3); what was the best mechanism for achieving this (Q4); and whether a 'self-select' mechanism was desirable (Q5).

### What submitters said

Submitter	Response
Contact	<p>Expressed concern regarding the practical matters associated with identifying such customers and the resources that would be applied by both retailers and the approving body in processing large numbers of applications.</p> <p>Contact considered that the better approach would be to move the existing critical care providers into band 6 (from band 5) and, effectively, give them the same priority. In addition, Contact believes that these smaller consumers should be managed 'outside' of the CCM Regulations</p> <p>Contact did not support a 'self-select' mechanism for critical care consumers in band 6 to elect to move to band 7, believing that it would be confusing and difficult to police.</p>
Genesis Energy	<p>Agreed that all critical care consumers should enjoy the same level of priority irrespective of size. Considered that the additional overhead of processing applications would not be that high.</p> <p>Genesis Energy did not support combining bands 6 and the (proposed) band 7, considering that consumers who relied on gas for critical care should rank ahead of other band 6 consumers.</p> <p>Does not support a self-select mechanism for a number of reasons, including a lack of transparent, consistent and certain criteria as well as the difficulties associated with monitoring compliance after an event.</p>
MDL	<p>MDL agrees that small customers should be eligible for ESP status and 'self-selection' is preferable to avoid costs associated with a proliferation of applications. However, as suggested in the Discussion Paper, adoption of such an approach would need to be advanced in conjunction with necessary modifications to compliance and enforcement.</p>
MRP	<p>Agreed that small critical care providers should be eligible for ESP status. Considered that the standard application and approval process would be appropriate provided that the numbers were not high (in the hundreds rather than thousands).</p> <p>MRP did not support the self-select option, considering that it was potentially open to abuse. However, if the number of applicants was particularly high then MRP acknowledged that the standard application process might not be practical.</p>

## Gas Industry Co response

Subject to certain caveats, Gas Industry Co considers there is a strong case for critical care providers to have the highest priority access to gas. However, critical care providers will often sit alongside other forms of care that are not critical, for example a hospital that offers critical care may also offer elective and/or cosmetic surgery. Any replacement criteria will need to be carefully drafted so as to make clear what part(s) of an organisation qualify and those that do not.

There is also the question of support services for critical care providers, laundries for example. Given that critical care will only be a part of the overall business, it may be that the quid pro quo for obtaining the highest priority will be that the critical care provider must either source such services from parties who are, themselves, resilient against gas outages, or carry sufficient stocks so as to be able to ride-through a 7-10 day outage. It is important to keep in mind when the CCO cuts band 6 that indicates the gas system has very limited ability to maintain delivery pressures. As a result, there is no strong argument for suppliers to 'piggy-back' on the essential nature of one or more of their customers.

## 2.4 Criteria for designation as an ESP (Q6-7)

Concept noted that a number of interviewees considered that the current ESP designation criteria could allow some consumers to be approved as ESPs even though they 'are not involved in providing 'essential services''. That view would seem to be borne out in practice. Gas Industry Co requested a list of the ESPs approved by each retailer and a number of entries on the combined list do appear questionable. This suggests that the criteria are not sufficiently specific and that has led to a lack of clarity and consistency among retailers and customers.

The Concept paper recommended removing the current reference to the NCDEMP Order in regulation 43 and replacing it with specific criteria. Questions 6 and 7 sought feedback on that recommendation and input into which categories of customer should be eligible for ESP designation.

### What submitters said

Submitter	Response
Contact	Agrees the NCDEMP Order reference should be replaced with specific criteria. Contact's list of categories (from least to most important) is: <ul style="list-style-type: none"><li>• minimum supplies to avoid substantial economic cost;</li><li>• environmental protection;</li><li>• essential food preparation;</li><li>• maintenance of law and order, and preservation of governance;</li><li>• critical care services.</li></ul>
Fonterra	Supports the new band 7 for critical care providers. Has significant concern with the proposed band 5a 'avoidance of substantial economic cost' as that would be extremely difficult to define.

Submitter	Response
Genesis Energy	Supports the need for more specific criteria to ensure a more effective curtailment order, particularly ensuring that critical care services have the highest priority.
MDL	<p>Supports narrower, more robust criteria, combined with more stringent approval processes.</p> <p>Priority customers (from lowest to highest):</p> <ul style="list-style-type: none"> <li>• minimum supply to avoid substantial economic costs;</li> <li>• essential food production and environmental protection;</li> <li>• critical care services.</li> </ul>
MRP	<p>Agrees that the definition of an ESP will need to be managed in a more controlled and comprehensible manner than the current definition(s) provided by the NCDEMP Order.</p> <p>Favours the critical care types of definitions that Concept identified in its review of other jurisdictions. Hospitals and healthcare facilities plus companies that supply essential services to hospitals such as laundries and blood banks. Rest homes of all sizes that rely on gas for heating should also qualify for ESP status.</p> <p>Water treatment plants and certain government/law and order supplies should also be included. Crematoriums may also need to be considered as an ESP depending on the length of a contingency event.</p> <p>Priority should be given to those customers that require gas supplies to preserve health and life and these should be the last gas supplies curtailed during an emergency.</p> <p>Does not agree with the proposed criteria relating to economic loss. Any interruption to a customer's gas supply will ultimately result in some form of economic loss. Deciding what level of loss is sufficient to justify inclusion in this band would be difficult and the process for proving the loss and ensuring that each party is treated equitably would be near impossible. Can't see how regulations can adequately deal with this.</p>
Vector	Considers further work is required to develop a tighter set of definitions for curtailment bands and is concerned by the loose criteria for determining whether a customer is an ESP.

### Gas Industry Co response

The objectives specified by the NCDEMP Order are not satisfactory as ESP criteria: they are not well-targeted to a gas critical contingency, they are open to interpretation, and they have led to a number of inconsistencies in ESP designations. Moreover, the guidelines that Gas Industry Co issued have not overcome these shortcomings (and have no legal effect under the CCM Regulations).

One thing that is clear is that no customer can rely on an ESP designation to completely insulate them from a gas outage. The ESP designation moves a consumer into a higher (or highest) priority band but, depending on the particular circumstances of the event, that might only provide a temporary respite.

Although applying priority to the critical care designation would seem to be unarguable, the other suggested priority categories all seem to be less clear-cut. Gas Industry Co notes that the categories suggested in the Concept report seem to have been derived from the NCDEMP Order objectives, and, as discussed in that report, those objectives seem to have limited relevance in the context of a gas critical contingency. Gas Industry Co has given this matter further thought, and we consider there

would be merit in scaling back the categories of gas consumer that would be eligible for ESP designation. An example is food production: given that it would be extremely rare for a widespread gas outage to last longer than 5-10 days<sup>2</sup>, it seems unlikely that consumers would face significant food shortages in that time. The lack of certain foods may give rise to a degree of inconvenience for retail customers, but the short-term nature of gas outages is such that substitutes (be that different brands or different foodstuffs) are likely to be available. Obviously, in the event of a longer-term outage the option exists for a Civil Defence Emergency to be declared and the Ministry of Civil Defence and Emergency Management would have extensive powers to re-prioritise use of scarce gas supplies. Although food has been used as an example, the same logic can be applied to other sectors.

As Fonterra and MRP point out in their submissions, creating a priority band for 'supplies to avoid substantial economic cost' may be difficult in practice. By definition, all of the customers who are subject to curtailment under the CCM Regulations are commercial entities of one sort or another (with the exception of not-for-profit gas consumers). That means all of those consumers, when curtailed, suffer some form of economic loss. In some instances the extent of that loss may exhibit temporal or seasonal variations. In order to be able to undertake a rigorous ranking of customers so as to determine who should qualify for the suggested band 5a, it would be necessary to have information on all customers so as to be able to optimise the population of band 5a. It is questionable whether that is a more efficient approach compared with each of those customers determining for themselves whether or not to invest in arrangements to increase their resilience against short-term gas outages. This latter option does not rely on a central body requiring information (from all gas consumers taking above 2 TJ/annum) that would be regarded as highly commercially sensitive so as to identify a subset that would be eligible for band 5a. Gas Industry Co shares Fonterra's and MRP's concerns about the feasibility, costs, and practicality of such an arrangement.

In Gas Industry Co's view, it is vital that the gas consumers eligible for ESP designations are those gas consumers who truly are essential. Gas Industry Co will consider these issues further in preparing a Statement of Proposal (SoP) for consultation.

While the ESP designation exists for gas consumers who provide essential services, Gas Industry Co recognises that there are a number of large gas users whose plant configuration or manufacturing processes are such that it is difficult for them to curtail gas usage in a short time frame. This was an issue raised in the Major Gas Users Group (MGUG) submission. The CCM Regulations do provide for the MLC designation, which allows loads in excess of 10 TJ/annum to avoid serious damage to plant or to mitigate serious environmental damage from gas curtailment by allowing them to take a minimal amount of gas while undertaking an orderly shutdown of plant. MGUG expressed concerns about gas users who do not fit the criteria for MLC designation.

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<sup>2</sup> Note that the majority of contingency events have lasted less than 24 hours, and the longest six days (the 2004 Pohangina River Bridge failure, which affected supply to Hawkes Bay, lasted five days; the 2011 failure of the Maui Pipeline lasted six days).

Gas Industry Co considers that there would be merit in expanding the criteria for MLC designation, so that it also allows priority gas for a short time so that processes under way can be completed. Again, Gas Industry Co will consider this issue further in preparing the SoP.

## 2.5 Specified usage for ESPs (Q8)

Concept proposed that the CCM Regulations be amended so as to require ESPs to specify a 'minimum load' that is considered to be essential. Under most circumstances, the level of essential gas consumption would be expected to be lower than the level of gas consumption under business as usual conditions.

### What submitters said

Submitter	Response
Contact	Contact believes the proposal fails to take account of seasonality – when a contingency occurs it is the daily consumption for each consumer at the time of the contingency that is most important. As consumers <10TJ have non-daily metering, it is impractical to designate a minimal level of gas supply which is relevant. It would be more practical for those customers wishing to be designated as an ESP to provide the minimum and maximum gas load requirements and any seasonal profile.
Genesis Energy	Considers that there could be practical issues with limiting consumers to a predetermined 'essential' level of supply. What is 'essential' for a given consumer will depend on seasonal variations and demand for goods and services at that time. There needs to be flexibility to account for this.
MDL	Although agreeing in principle that retaining the ESP designation to cover sectors other than critical care may have merit, MDL pointed out that the level of gas supply permitted would need to be tempered by the particular circumstances of the critical contingency and the particular facilities and operations of the ESP.
MRP	Believes that the maximum volume of gas customers should be authorised to use during a contingency event is the equivalent volume necessary to maintain basic or minimum services.  Customers who are essential service providers but not critical care providers should only be allowed to use sufficient gas to allow them to maintain their services but only to their customers classified as ESP customers.
Vector	Vector does not believe that an ESP should assume it would be able to consume gas during a critical contingency let alone continue gas consumption at unrestricted levels. This is due to the low level of interconnection in the New Zealand gas system. If a consumer is genuinely an ESP, Vector believes it should reasonably and prudently be expected to have considered its back-up arrangements within the specific context of the transmission system's ability to deliver any gas during a supply failure, and not all of its gas consumption would necessarily qualify as an essential service. There could be critical contingencies where gas supply is not possible.  Vector agrees consideration should be given to amending the CCM Regulations to require that all designations as an ESP must specify a minimum load considered to be 'essential' which 'under most circumstances...would be expected to be less than normal gas consumption'

## Gas Industry Co's response

Setting aside issues around seasonal and/or market-driven variability, submitters appear to accept that an ESP should be classified as an ESP for only that part of its operations that is truly essential. In addition, Vector makes a good point that an ESP designation does not confer an unfettered right to use gas. Rather it provides a preferential placement in the order of curtailment. But each curtailment band, including any that contain ESPs, may be subject to full curtailment depending on the circumstances of a particular event.

Gas Industry Co agrees that the CCO, in order to manage a critical contingency with the best information possible, needs to be informed of the magnitude of gas usage by the essential part of an ESP's operations and if there is any seasonal variation.

## 2.6 Non-critical ESP categories (Q9)

The Concept report recommended that the existing ESP band (band 5) be split into:

- band 5a – minimum supply to avoid substantial economic costs; and
- band 5b – essential food production and environmental protection.

### What submitters said

Submitter	Response
Contact	As per question 7, from least to most important: <ul style="list-style-type: none"> <li>• Minimum supplies to avoid substantial economic cost</li> <li>• Environmental protection</li> <li>• Essential food preparation</li> <li>• Maintenance of law and order, and preservation of governance</li> <li>• Critical care services</li> </ul>
Fonterra	Although splitting band 5 into 5a (Avoidance of substantial economic cost) and 5b (Essential Food & environmental aspects) has some appeal, Fonterra cannot see how one could adequately define 'substantial economic cost'. Is this with respect to absolute cost, cost to the economy, or cost relative to the company's size? Unless 'substantial economic cost' can be quantitatively defined to its satisfaction, Fonterra will not support that recommendation. If an appropriate definition can be developed, Fonterra would want to see some reference in that to irrecoverable losses due to perishability of raw materials.
Genesis Energy	Agrees with the order of ranking that is proposed in the Concept paper.
MDL	MDL agrees with the revised curtailment schedule proposed in the Discussion Document. However, as a result of MDL's role as a TSO and the limited number of affected Consumer Installations or Interconnection Points directly connected to the Maui Pipeline, MDL feels other parties may be in a better position to comment on any specific proficiencies or deficiencies in the curtailment (and restoration of demand) schedule.

Submitter	Response
MRP	<p>Believes that the current arrangements modified with the changes as proposed by Concept are reasonably close to being correct particularly with regards to the introduction of the new critical care band. MRP is less convinced about the new Band 5a as any interruption to a customer's gas supply will ultimately result in some form of economic loss. Deciding what level of loss is sufficient to justify inclusion in this band would be difficult and the process for proving the loss and ensuring that each party is treated equitably would be near impossible.</p> <p>MRP agrees with the basic intent of the Regulations in that it is preferable to curtail the larger customers that are fewer in number but providing significant load reductions first, and then working down the curtailment bands to affect a larger number of customers but achieving less of an impact on gas consumption.</p>

### Gas Industry Co's response

The creation of the original ESP band was designed to address those instances where a consumer's operations were truly essential and/or disproportionate harm would be caused by curtailing gas to that site. However, for those consumers, it seems reasonable to expect that they would make arrangements, consistent with their unique set of costs and benefits, so as to be resilient to a loss of gas supply. In the case of a manufacturer or raw materials supplier, that may involve maintaining sufficient inventory or finished goods on hand to be able to fulfil orders during an outage. For a business of a more critical nature, it might require having an alternative fuel source available – for example, Gisborne Hospital was able to continue operations throughout the Maui outage by virtue of having a backup arrangement fuelled by diesel.

With critical care services likely to be prioritised in a new band 7 it will be necessary to consider very carefully what attributes and/or circumstances would justify placing parties in a priority band 5.

Gas Industry Co shares the concerns of some submitters that the mechanism for consistently identifying 'substantial economic costs' would be extremely difficult to codify in the CCM Regulations, as discussed in section 2.4.

Also as discussed earlier, Gas Industry Co considers that there may be merit in narrower criteria for ESP designations than those proposed in the Concept report. We will progress this issue in the SoP.

## 2.7 Information required from ESP applicants (Q10-11)

The recommendation that a single party be made responsible for approving ESP and MLC designations would be expected to result in such designations being more consistent. However the degree of consistency will also depend on applicants providing good quality information that supports good decisions being made.

Concept recommended that the CCM Regulations be amended:

...to require consumers who wish to be designated as ESP to supply information on the essential nature of service, any back-up supply arrangements in place or the reasons why



back-up supply arrangements are not feasible, the minimum supply necessary to maintain the service, and emergency arrangements for coping with full loss of supply (including emergency stores and other back-up arrangements necessary to survive a gas outage) (p 73)

This is consistent with the construct that:

- the primary mechanism for managing a critical gas contingency is curtailment of gas users according to a predetermined order (Schedule 2 of the CCM Regulations);
- a key characteristic of the curtailment schedule is the lower priority bands provide the greatest reductions in load and are associated with relatively small numbers of consumers (almost 80% of annual gas consumption can be attributed to 20 individual customers). That makes it possible for the CCO to achieve stability before it is too late;
- the CCM Regulations must cover a wide range of circumstances (from a modest reduction in gas deliveries into the transmission system through to a greatly reduced ability to deliver gas to end users (affecting all or only a subset of regions); and
- the primary rationing mechanism will be made less efficient if significant volumes of load are permitted to migrate to higher priority curtailment bands, necessitating cuts to more curtailment bands than would otherwise be required to stabilise the transmission system.

### What submitters said

Submitter	Response
Contact	<p>Contact believes consumers wishing to be classified as ESPs should be required to provide a detailed explanation of their services to support their application.</p> <p>It may be possible for ESPs to demonstrate that they have considered back-up arrangements, but there is no relevant process to deal with this.</p>
Fonterra	<p>Fonterra does not dispute the need for an applicant to justify its position but is concerned about the specifics. The first is the need to justify that having back-up supplies are not feasible or, as referred to elsewhere in the report, not an economic alternative. Who is to decide what is economically viable or feasible, by what criteria? Will the Gas Industry Company make an assessment as to how often an outage can be expected so that a cost benefit criteria can be set?</p> <p>The second issue is the recommendation that the applicant provides details of emergency arrangements in case of a full gas curtailment. Contingency planning is an internal process and should be part of a company's business continuity planning. Fonterra believes that the approving party need only receive information as to what the consequence of a complete outage would be, not the detailed emergency plan.</p> <p>If detailed emergency plans were provided it is feared that this could lead to selective curtailment within bands based upon who is most prepared to cope with a gas outage.</p>

Submitter	Response
Genesis Energy	<p>Considers the type of information required should reflect who is charged with making the decision or recommendation on the application. Genesis Energy does not consider it should be the retailer's role to assess information relating to how prepared a consumer is for an emergency, including whether a consumer reasonably ought to have back-up supply arrangements for coping with loss of supply. Considers an independent body acting in the interests of the industry as a whole is better placed to assess this information. If this role is left with the retailer it could lead to consumers switching if the retailer does not give them the answer they want.</p> <p>Agrees that potential ESPs should be required to demonstrate they have considered back-up supply arrangements.</p>
MDL	<p>The information suggested in the Discussion Document appears sufficient and reasonable. However, the body approving ESP applications may need the flexibility to obtain additional information in order to assess the unique characteristics of a particular applicant.</p>
MRP	<p>Technical information should include the rating of gas plant and equipment, the purpose for which the plant and equipment is used, the minimum level of running and the estimated daily gas consumption required during a contingency event to maintain minimum services.</p> <p>The customers will also have to clearly demonstrate the danger to life or health issues that would occur if their gas supplies were curtailed, ie justify why they should be classified as an ESP.</p> <p>Considers that only customers larger than 10 TJ/annum should be required to demonstrate they have considered backup arrangements.</p>
Vector	<p>Vector would expect genuine ESP customers to have contingency plans to manage such situations, e.g. appropriate back-up supplies or alternative arrangements.</p> <p>Further consideration should be given to amending the CCM Regulations 'to require consumers who wish to be designated as ESP to supply information on the essential nature of the service ...'</p>

### Gas Industry Co's response

The importance of the rationing arrangements makes it imperative that any departure from those arrangements is adequately justified. Clearly, all of the loads that are curtailed are associated with businesses that are important to the economy and to their customers. Accordingly, to justify a preferential classification *vis à vis* all of the other important gas customers requires the information to support such an analysis.

Fonterra's last concern is understandable, but would appear to be addressed by the separation between the ESP application/approval process (conducted by retailers or an independent body) and the process of managing load curtailment (undertaken by the CCO according to the criteria in the CCM Regulations).

Elsewhere in this document we discuss amending the way in which ESP/MLC designations will be made (ie whether that continues to be done by retailers or by an independent body). As part of the amended arrangements, it will be necessary to improve the general awareness of the existence of the

CCM Regulations and the need for businesses to consider the degree of resilience that is appropriate for their operations. Vector's submission states:

If a consumer is genuinely an ESP, it should reasonably and prudently be expected to have considered its back-up arrangements within the specific context of the transmission system's ability to deliver any gas during a supply failure, and not all of its gas consumption would necessarily qualify as an essential service. There could be critical contingencies where gas supply is not possible. ESPs should have contingency plans to manage such situations.

Put another way, it is difficult to conceive of a situation in which it is not efficient for a business to make fit-for-purpose arrangements to increase its resilience to a gas outage yet be efficient for that business to have priority access to scarce gas. As a consequence, it appears that the type of information suggested by Concept as necessary for the consideration of an ESP approval would ensure that applicants had made appropriate contingency arrangements for themselves and that they understood that an ESP designation, if granted, is no guarantee of uninterrupted gas supply.

## **2.8 ESP/MLC approvals during a CC event (Q12)**

The CCM Regulations, at regulation 44 and regulation 45, unambiguously require retailers to notify *all* of their customers of greater than 10TJ/annum (in the case of MLC) or greater than 2 TJ/annum (in the case of ESP) that to be classified as an ESP or MLC they must apply to the retailer in writing. During the October 2011 contingency, it was evident that a number of customers who considered that the services they provided were 'essential' had not applied for the ESP designation. As noted in the Concept report, it is not clear whether this was due to failure of retailers to discharge their obligations under the CCM Regulations or low awareness by those consumers of the prospects for gas supply interruption.

Whatever the reason, the Concept report noted:

The result was a rash of applications to retailers, following the onset of the contingency, for designation as ESPs. Retailers were motivated to respond, the CCO and Gas Industry Co became involved, and 33 applications for ESP status were ultimately approved, with aggregate daily consumption of 16TJ per day (almost 50% of the gas available from the Vector 200 line).

While Concept accepts the need for those re-designations at the time, it notes that the process was the subject of some criticism by those interviewed, with suggestions that designations be frozen so as to allow the CCO to focus on managing the critical contingency. Concept considers that, on balance, there should be some flexibility to approve ESP designations during a contingency, but it should be limited to 'exceptional circumstances'.

## What submitters said

Submitter	Response
Contact	While Contact recognises there may be exceptional circumstances where this is required, any application would need to be administered strictly, in order to ensure a level playing field for consumers and retailers. In our view, it is up to retailers to ensure their data is accurate at all times and it should be only in very rare circumstances that reassignment is required during a contingency.
Genesis Energy	Agree, but it is more important that the arrangements encourage retailers and consumers to prepare in advance.
MDL	MDL agrees it is preferable for ESP designations to be organised in advance, and for the CCO not to be distracted by applications while managing a critical contingency. However, some flexibility to designate consumers during a contingency should be retained. MDL agrees that this flexibility should be limited to exceptional circumstances.
MRP	Yes, but only in exceptional circumstances
Vector	Further consideration should be given to the recommendation to '[r]etain flexibility to approve ESPs and MLCs during a contingency, but limit this to exceptional circumstances, and ensure that the arrangements encourage retailers and consumers to prepare in advance.'

## Gas Industry Co's response

Gas Industry Co has a number of concerns with retaining flexibility to approve ESPs and MLCs during a critical contingency. Chief among those concerns is that such flexibility will weaken the incentives for parties to invest the necessary time and resources to apply ahead of time. A secondary concern is the possibility that some parties may attempt to game the arrangements by neither applying nor making arrangements to be resilient against a gas outage as a way of putting themselves into a difficult state during a contingency event. They would then cite that difficult situation as a justification for an 'on the fly' ESP designation.

By contrast, Gas Industry Co does support flexibility for ESP/MLC designations during an event to address truly unforeseen situations. For example, where a business has taken all reasonable steps to be resilient against a gas outage but, perhaps, their back-up supply has failed (or there has been some other exceptional circumstance) then it would seem reasonable for them to at least be able to apply for ESP status.

The desirable outcome would be to amend the CCM Regulations to make it clear that:

- retailers must ensure that their customers know (well in advance) of the ESP and MLC categories and the ability to be designated as such;
- flexibility to designate ESP and MLC customers during a critical contingency event will be limited to those that have previously applied (and been refused) but:

- either circumstances have changed sufficiently that the customer now meets the criteria and designation is now appropriate; or
- appropriate resilience arrangements were made but, through unforeseeable circumstances, those backup arrangements have failed.

In this way all of the parties will have strong incentives to establish whether or not they qualify for ESP/MLC status and, if not, take action appropriate to their individual circumstances.

## 2.9 Information required from MLC applicants (Q13-14)

Concept’s recommendation was that the CCM Regulations be:

... amended to require consumers who wish to be designated as MLC to supply information on the rationale (e.g. probable damage to plant), the economic costs involved with loss of supply, any back-up supply arrangements in place or the reasons why back-up supply arrangements are not feasible, the minimal supply arrangements necessary to avoid damage to plant, and emergency arrangements for coping with full loss of supply (including emergency stores and other back-up arrangements necessary to survive a gas outage)

The MLC category recognises that some large, industrial plants may have difficulties shutting down operations quickly but can shut down within a known period without plant or environmental damage, according to a defined shut-down profile.

### What submitters said

Submitter	Response
Contact	Given MLCs should only be relevant to large daily-metered consumers, they should be required to provide minimum daily usage in order to mitigate the problem that arises from 100% load curtailment. MLCs should be required to demonstrate they have considered back-up arrangements.
Genesis Energy	Refer answers to Q10 & Q11.
MDL	The information suggested in the Discussion Document appears sufficient and reasonable. However, the body approving MLC applications may need the flexibility to obtain additional information in order to assess the unique characteristics of a particular applicant. MDL believes that further work is required to ensure the appropriate designation of relevant consumers as either ESP or MLC.
MRP	Similar to an ESP only in this case the information is required to demonstrate that a maximum volume of gas is required to maintain the minimum required output to avoid essential food shortages or minimise potential environmental damage.
Vector	Further consideration should be given to the recommendation that ‘[t]he Regulations are amended to require consumers who wish to be designated as MLC to supply information on the rationale ...’

## **Gas Industry Co's response**

As can be seen from the submissions, this recommendation is not controversial. Requiring information to justify the designation as an MLC is thoroughly reasonable. The suggestion from MDL that the approving party should be able to request additional information would be an excellent addition to the current construct of regulation 45. In addition, there would be value in making it clearer in the CCM Regulations what is meant by 'minimal'. Clearly there needs to be a degree of flexibility to accommodate the varying requirements of different plants' shutdown regimes, but the MLC category does not exist so as to allow parties to continue production unabated.

Gas Industry Co is aware of a number of large users who have noted that the MLC designation is much less desirable than the ESP designation, since an MLC designation essentially requires a shutdown. The ESP and MLC categories exist for two entirely different reasons:

- To be an ESP requires that a site meets the limited criteria that define essential service provision.
- On the other hand, the MLC category exists for sites that do not meet the ESP criteria and provides an option for a controlled shutdown or, if the critical contingency does not require curtailment beyond band 3, the right to use gas at a low rate of delivery so as to avoid a complete shutdown.

## **2.10 Approval process for ESP/MLC (Q20-21)**

When the CCM Regulations were being designed, the decision was made that retailers would be best placed to determine whether any of their customers were eligible to be designated as ESPs or MLCs. The rationale for that decision was:

- retailers already had the relationship with their customers;
- Gas Industry Co had no information about customers and was not resourced to process applications; and
- retailer organisations would be well aware of the consequences of prioritising large numbers of customers (and thereby placing all gas customers at risk of an uncontrollable contingency).

Anecdotal evidence following the CCM Regulations coming into effect indicated that, in the main, retailers were taking a thoroughly objective and even-handed approach to evaluating and determining applications for ESP/MLC status. Nevertheless, in a number of instances, it appears that being able to offer 'priority' access to gas might have been used as a marketing technique by a small number of retailers. In turn, that behaviour may have made it difficult for other retailers to 'hold the line'.

Gas Industry Co requested information from gas retailers on the make-up of their respective lists of ESP customers. The list shows a great deal of variability in the approach to ESP approvals and is concerning for a number of reasons. First, it supports the concerns by Concept and others that the criteria in the NCDEMP Order are insufficiently clear. Secondly, although there are persons within retailer organisations who understand the risks of overly generous classifications, it may indicate that

the individuals within the retailer organisation who make these decisions are not aware of the broader consequences. Thirdly, it may indicate that the need to perform a 'regulatory' function is an intrusion into the commercial relationships between retailers and their customers.

Concept received a good deal of feedback from interviewees suggesting that the responsibility for MLC and ESP designations should be transferred away from retailers. In the report Concept recommends:

The Regulations are amended to require all MLC and ESP designations to be approved by an independent approving body, following a recommendation from a retailer. Retailers would retain responsibility to interface with consumers over possible designations, assist with preparation of applications, and to make recommendations to the independent approving body.

### What submitters said

Submitter	Response
Contact	<p>The GIC or an independent body should approve MLC and ESP designations. Retailers should approve their initial application and only submit them where valid information is provided.</p> <p>If there is an independent body, it should be the distributor, consistent with most UoSAs, provided there are clear guidelines to be followed. There is no need to add further cost to the industry by appointing another body to approve MLC and ESP designations. If, however, the distributor wishes to engage a third party to perform approvals for their network then there should be no barrier to that.</p>
Genesis Energy	<p>Genesis Energy supports the proposal for an independent body to approve consumer applications for MLC and ESP designations. However, while retailers can add value by co-ordinating and assisting consumers with the application process, Genesis Energy do not consider they are the appropriate body to make the decision itself. Any decision of whether or not a consumer is an MLC or ESP should reflect the wider public interest. We do not consider that retailers are the appropriate body to make this decision. Retailers are likely to come under pressure to uphold existing designations and are likely to face negative consequences from making a decision that reflects the public policy interest of the gas market.</p> <p>Genesis Energy considers that the proposed process whereby an independent body approves retailer recommendations introduces unnecessary duplication into the process. The most efficient way to resolve concerns with the designation approval process is to place the decision directly with the independent body. A single layer of decision making is more procedurally efficient and will ensure that designations are granted consistently across all consumers.</p> <p>The GIC is the most appropriate body for assessing and making these public policy decisions. It is already well equipped to make decisions that reflect this wider public interest, and to consider the type of information necessary for this assessment. The GIC as decision maker also has the added benefit of ensuring that retailers can rely upon MLC or ESP designations granted to customers who have switched from other retailers.</p>

Submitter	Response
MDL	MDL agrees that that some form of independent approval or oversight of the MLC / ESP approval process is necessary to ensure consistent and accurate decision-making. MDL agrees that the role of MLC / ESP approval body could be performed by either GIC (possibly supplemented by an independent expert) or an independent expert panel appointed for the purpose.
MRP	An independent body most probably the GIC with a co-opted expert if required.
Vector	Vector does not support consideration of requiring retailers to make a recommendation on designation. All the reasons against having retailers make designations apply equally to requiring retailers to make a recommendation. Whether a retailer assists consumers with preparation of applications should also be a commercial decision for retailers and not a regulatory requirement. Vector would support amendment of the CCM Regulations to require all MLC and ESP designations to be approved by the GIC. It is not clear why Concept recommends establishment of an independent approving body as opposed to the function being undertaken by the GIC.

### Gas Industry Co's response

The recommendation in the Concept paper has appeal as an efficient means of whittling down the numbers of applicants for ESP status in particular. However, it must be acknowledged that requiring retailers to provide a recommendation to Gas Industry Co on whether or not to approve the designation may be a step too far as it risks interfering in the commercial relationship between retailer and customer.

However, it is clear that retailers are best placed to:

- inform their customers of the existence of the ESP/MLC designations;
- provide information on the criteria that customers must meet and to invite applications from those customers who consider they may meet the criteria;
- vet the applications to ensure that they contain all of the necessary information; and
- pass the completed applications on to Gas Industry Co together with the appropriate contact details for the customer.

Gas Industry Co would then evaluate the applications against the criteria, seek additional information or clarification where necessary, and make a determination (which would be communicated to both the retailer and the customer).



# 3

## Obligations of industry participants

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### 3.1 Curtailment arrangements for band 6 (Q15)

With over 10,000 customers in band 6, it would be challenging for retailers to contact each by telephone to instruct them to curtail. In the case of the October 2011 critical contingency, there would have been some 8,500 customers in band 6 in the affected region who needed to be instructed to curtail. The logistical issues associated with contacting such large numbers of customers have been cited as a matter of concern by the retailers.

With regard to these difficulties, Concept noted that:

...retailers experienced difficulties contacting some of these consumers, difficulties confirming that they clearly understood the direction and the obligation to curtail, and difficulties establishing that they had indeed curtailed demand. Most band 6 consumers do not have time-of-use metering and have gas meters read typically only once per month, so it is difficult to establish compliance with curtailment directions.

Nevertheless, Concept recommended that the status quo be retained, ie that retailers are required to give urgent notices to band 6 customers to curtail demand.

#### What submitters said

Submitter	Response
Contact	<p>Contact is strongly of the view that there is little benefit in including band 6 in the curtailment directions. Contact also notes that it is virtually impossible to monitor compliance at the &lt;2TJ level.</p> <p>Contacting these customers individually is unnecessarily onerous. Small commercial (&lt;2TJ) and domestic customers should be treated in the same way. The most practical and effective channel to achieve a timely response would be through media releases which have clear messaging requesting voluntary reductions in gas usage or complete curtailment of gas usage (but requesting consumers do not turn off the gas supply valve at the meter).</p> <p>In Contact's view, resource would be better spent ensuring the larger customers have complied with the direction to curtail load rather than attempting to contact small consumers.</p>
Genesis Energy	<p>Genesis supports retaining the existing arrangements whereby band 6 customers are required to curtail demand. This should occur prior to a public appeal for savings.</p>

Submitter	Response
MDL	On the assumption that steps in the Discussion Document are taken to ensure retailers are better prepared and have clearer plans in place for contacting band 6 consumers, there would seem to be no obvious harm in supplementing the curtailment direction with a public appeal for savings ie the scope for 'mixed messages' should be reduced.
MRP	MRP considers that both the existing arrangements and public appeals for savings should be used.
Vector	Public conservation campaigns should not be undertaken by a market participant, whether a service provider or not.

### Gas Industry Co's response

Gas Industry Co is sympathetic to the difficulties faced by individual retailers in having to contact hundreds or thousands of retail customers in a short timeframe. At the same time, even though band 6 represents a small proportion of overall demand, if the CCO needs to cut that deep then it is most likely due to the extended nature and scale of the outage – that means it is essential to use best endeavours to direct those customers to curtail.

It may be that the way to address this problem is by altering the arrangements that apply to band 6 so that retailers can make use of communication methods more suited to broadcasting to a large number of customers. For example, it is almost certain that business owners will have mobile phones, allowing for the use of SMS as a means of communicating to a large number of people at once. It is now commonplace for many businesses to use SMS as a means of communication in marketing campaigns. Targeting business owners in this way allows communication with the person who has authority within the business to cease gas usage. Of course SMS has its limitations, most notably the shortness of the message.

By broadening the definitions of 'ordinary notices' and 'urgent notices' in the CCM Regulations, at least for notices given to consumers in band 6, it would be possible for retailers to employ technology to assist them in communicating with large numbers of customers during a critical contingency event. Of course this could have broader application and be used with all of a retailer's customers to provide short updates on the status of the critical contingency. Retailers might also consider communicating other updates and information through this channel.

The above arrangements would need to be put in place well ahead of time and would need to be supplemented by information to the band 6 customer that was aimed at educating them about the need to understand that gas outages of that severity are rare events indeed, and such rare events need everyone to 'do their bit' in order to avoid a much more prolonged lack of gas.

Consideration needs to be given to whether there should also be a 'best endeavours' obligation for retailers to telephone band 6 customers in decreasing order of size. That would ensure the largest of the customers in that band ceased using gas as well as provide information on the effectiveness of SMS and/or email communications.

Gas Industry Co supports the use of public appeals for savings as a supplement to, but **not a replacement** for, direct notifications to band 6 consumers. Public appeals would have the additional advantage of encouraging domestic consumers to save gas even though they are not able to be directed to curtail gas usage. Although Vector expressed some concerns regarding the use of appeals for public savings, those concerns can readily be dealt with by restricting such calls to situations where the CCO has identified the need to curtail band 6, ie only the most serious critical contingencies.

### 3.2 Ensuring customers know of ESP/MLC designations (Q16)

As noted earlier, regulations 44 and 45 placed a mandatory requirement on retailers to inform all of their customers above the relevant annual consumption levels (10 TJ and 2 TJ) of the existence of MLC and ESP designations. Unfortunately, the question associated with this topic incorrectly referenced regulation 39.

Concept recommended that the CCM Regulations be amended so as to:

...provide an on-going obligation on retailers to notify consumers about the possibility of loss of supply and the opportunity to apply for ESP and/or MLC designation;

This recommendation was intended to ensure that retailers and customers are given the best opportunity to be prepared for future critical contingencies without placing an unnecessarily large burden on either group.

#### What submitters said

Submitter	Response
Contact	Contact agree the emphasis should be on ensuring consumers are educated and prepared, possibly through a common flyer for all >2TJ consumers. Regulation 39 would be more relevant if the information for the >2TJ curtailment bands was split into winter (July) and summer (February) daily average consumption (updated every 6 months to accommodate churn). In our view, annual consumption is limited for planning and responding to a contingency event.
MDL	Agreed.
MRP	In MRP's opinion on-going is too loose a requirement and would prefer if a specific time frame was included within the Regulations for this. As the average gas supply contract appears to be 3 years then it would not be unreasonable for retailers to be required to advise their customers on the potential consequences on a gas contingency event once every 3 years. The requirement to assist customers in applying for ESP or MLC status should be on request and also offered as part of the 3 year notification process.
Vector	Vector agrees with Concept's Recommendation 9 which states that '[t]he Regulations are amended to provide an on-going obligation on retailers to notify consumers about the possibility of loss of supply and the opportunity to apply for ESP and/or MLC designation.'

## Gas Industry Co's response

Consistent with the proposal to retain limited flexibility (ie only in exceptional circumstances) to make ESP or MLC designations during a critical contingency event, there needs to be a mechanism to ensure that gas customers are aware of the ESP and MLC designations.

Gas Industry Co supports amending the CCM Regulations to include a standing requirement for retailers to contact their customers periodically and inform/remind them:

- that ESP & MLC categories exist;
- customers who meet the relevant criteria are able to apply for the appropriate designation; and
- customers who have previously applied but not been approved may apply again if their circumstances have changed and they believe they now meet the criteria.

Such a requirement would provide a means of keeping the CCM arrangements in front of customers and remind them to consider their emergency management arrangements. It is expected that this would materially contribute to those customers being better prepared for future critical contingencies.

MRP suggests that a three-yearly interval would be appropriate, based on the typical length of contracts with those customers. Gas Industry Co is concerned that may be too long and would prefer for retailers to be communicating with their customers on this matter annually or every other year. Given the confusion that was caused by the question referencing the wrong section of the CCM Regulations, the question of the frequency with which customers should be reminded of the MLC/ESP classifications will be raised in the forthcoming statement of proposal.

### **3.3 Maintaining the 'load shedding category' field in the gas registry (Q18)**

When the Gas (Switching Arrangements) Rules 2008 were drafted, the responsibility for populating and maintaining the 'load shedding category' field in the gas registry was assigned to distributors. That reflected a view that the distributors already had information on customers regarded as essential service providers under the NGOCP and it would be efficient for them to populate the gas registry. A secondary consideration was that the arrangement provided a degree of visibility concerning retailer decisions on ESP designation as retailers would need to communicate those designations to distributors so as to maintain an accurate record in the gas registry.

Interviews revealed that a number of parties have concerns about the quality of the data in the 'load shedding category' field. That is consistent with a desktop review of the data in that field carried out by Gas Industry Co that showed a number of ICPs that were categorised as band 5 (ESP) but were in allocation group 6 (which is for sites with an annual consumption of 250 GJ or less). A snapshot of the population of these categories over time is presented in the table below. Clearly, for each of those ICPs one of the entries (load shedding category or allocation group) had to be incorrect.

### Essential services providers per allocation group (ACTC ICPs only)

Allocation Group	March 2009	March 2010	March 2011	March 2012	July 2012
1	7	18	23	30	37
2	9	32	36	39	65
3	0	0	1	1	2
4	136	126	170	154	164
6	126	69	91	106	111
<b>Total</b>	<b>278</b>	<b>245</b>	<b>321</b>	<b>330</b>	<b>379</b>

Source: Gas Registry, reports extracted between March 2009 and July 2012

Concept recommended that:

The Gas (Switching Arrangements) Rules 2008 are amended to provide for retailers to maintain the 'load shedding category'.

### What submitters said

Submitter	Response
Contact	There is some merit in transferring responsibility of this field to retailers. The main purpose of having this as a distributor field was to ensure consistency and fairness across retailers (as set out in most UoSAs), but that obligation or right seems to have been neglected.
Genesis Energy	From a process perspective Genesis Energy consider that it makes more sense for retailers to maintain this record.
MRP	Retailers.

### Gas Industry Co response

Gas Industry Co considers that shifting the responsibility for populating and maintaining this field to retailers would be the best way to improve the accuracy of the data on the gas registry over time. None of the submitters opposed Concept's recommendation on this matter.

### 3.4 Should load shedding data be audited? (Q19)

Given the importance of having an authoritative source to identify which sites have ESP or MLC status Concept put forward the view that: '...consideration is given to the need for an independent audit of the registry fields in order to assess the accuracy of the consumer curtailment designations'. The Switching Rules do not currently contain auditing provisions, although work that is currently being undertaken in respect of inserting additional metering-related fields into the gas registry is also giving consideration to the addition of auditing provisions as a means of further incentivising registry

participants to actively maintain the data in the gas registry so as to ensure it is an authoritative database.

### What submitters said

Submitter	Response
Contact	Yes, an independent audit of 'load shed category' registry fields is necessary. Contact has found a number of gained sites have incorrect information based on load size, end use and business / residential splits. Some distributors do not actively maintain this field and if an incorrect band is in place this would be transferred during the switch.
Genesis Energy	As retailers Genesis Energy consider it is obliged to ensure the accuracy of this field in terms of the customer load characteristics. If the purpose of the audit is for wider considerations to be taken into account, then an independent audit would be necessary.
MRP	MRP suggests that once the current review process has been completed that an agreed timeframe is set for an independent audit of this field in the Gas Registry. MRP suggests that such an audit be carried out 6 months after the completion of this review process. This should give customers, retailers and the independent body sufficient time to re-allocate customers' load shedding categories. Thereafter this field in the Gas Registry should be subject to the standard auditing arrangements for the Registry.
Vector	Work is required to develop a tighter set of definitions for curtailment bands.

### Gas Industry Co's response

At the most recent Retail Gas Governance Forum the topic of registry audits was raised and the retailers present were of the view that, whilst efforts are made to resolve discrepancies as part of business-as-usual operations, auditing of registry data would provide a much greater impetus to improve data quality and would be valuable for a number of purposes, most notably for the downstream reconciliation processes.

Given that, Gas Industry Co considers that auditing of the 'load shedding category' field is best placed on the rule change register for the Switching Rules and dealt with there. MRP makes the point that there would be value in allowing time following the review of the CCM Regulations for retailers to tidy up the data prior to any audit of the 'load shedding category field'. Gas Industry Co agrees with this suggestion.

### 3.5 The need for gas retailer curtailment plans (Q22-24)

The Concept report recommends requiring gas retailers to prepare, have approved, and maintain up-to-date gas retailer curtailment plans that include:

- A list of consumers allocated into curtailments bands (including those designated as ESP and MLC);
- Evidence that all consumers have been contacted about the possible need to curtail gas demand during a contingency, and the possibility of being designated as ESP or MLC;

- How they will go about contacting consumers with curtailment directions within each curtailment band;
- How they will monitor compliance with curtailment directions; and
- How they plan to report compliance to the TSOs.

Questions on this topic asked whether submitters agree that retailers should be required to prepare and have approved a gas retailer curtailment plan (Q22); the degree of detail the plans should contain (Q23); and who should approve the plans (Q24).

### What submitters said

Submitter	Response
Contact	Retailers should be required to prepare a 'Gas Retailer Curtailment Plan' and have this approved by the CCO or GIC. A plan should contain all relevant processes required to manage the information exchange between the CCO, retailers, distributors and end consumers. It should also contain templates for all relevant TSO-retailer information exchange documents, as well as perhaps a standard template to be used by all retailers when communicating with customers to ensure the same message is being provided regardless of supplier
Genesis Energy	Retailers should be required to prepare a 'Gas Retailer Curtailment Plan' and have this approved by the same body responsible for approving ESP and MLC designations. We consider the GIC would be the appropriate body for this role. Genesis Energy agree with the level of detail recommended in the paper.
MDL	Retailers should be required to prepare a 'Gas Retailer Curtailment Plan' and agrees that in the interests of efficiency and consistency, it would seem sensible for approval of the 'Gas Retailer Curtailment Plans' to be provided by the independent body established for the purpose of approving ESP and MLC designations.  The information suggested in the Discussion Document appears sufficient and reasonable. Again, there will be entities in a better position than MDL to comment on the appropriate level of detail for such a plan
MRP	Mighty River Power would agree to retailers being required to prepare a 'Gas Retailer Curtailment Plan' if the GIC were to provide a Curtailment Plan template. Such a template would provide for a consistency of approach to curtailment planning which is important.  As a minimum MRP suggests that the plan details each customer's name, address, ICP number, curtailment band designation, a contact number for the customer and the preferred method of contacting the customer as well as whether the customer maintains 24 hour or business hours contact arrangements.  Confirmation that the customers have been advised of their obligations under the Regulations and when they are required to be reminded of these obligations. An annual requirement as a minimum should be included to confirm the customers contact details and review the customers' curtailment bands.  For the retailer, the template should include the persons/positions responsible for maintaining the curtailment plan and complying with the Regulations (at a minimum regulations 39, 43, 55 and 56).  A 'Gas Retailer Curtailment Plan' should be approved by The Gas Industry Company

Submitter	Response
Powerco	Supports the recommendation, as it is a workable solution that will address the identified issues of retailer and consumer preparation and curtailing small consumers.
Vector	Agrees with the recommendation.

### **Gas Industry Co's response**

Gas Industry Co considers that requiring gas retailer curtailment plans seems a sensible way to ensure that retailers and their customers are prepared to respond to a contingency, and submissions on this topic agree. We will develop this concept further in the Statement of Proposal.



# 4

## Roles of the CCO

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### 4.1 Public appeals as a last resort (Q26)

The Concept report notes that there is no specific provision within the CCM Regulations that provides for a public appeal for gas savings and that public appeals are used in a number of international markets. Submitters were asked whether it would be useful to clarify within the CCM Regulations that the CCO may call for public restraint and gas savings in an affected region, following consultation with Gas Industry Co, if band 6 consumers in that region are directed to curtail gas consumption.

#### What submitters said

Submitter	Response
Contact	<p>Yes, provided the messaging makes it clear that consumers are not required to turn off their gas supply at the meter; rather they are being asked to minimise their gas usage to essential use only, or cease taking gas, as appropriate to the circumstance.</p> <p>Furthermore if the situation is critical then it needs to be made clear that failure to voluntarily minimise their gas usage to essential use only, or cease taking gas, will likely result in a loss of gas in the distribution network which would mean it would take days, if not weeks, to reinstate supply.</p> <p>In Contact's view, all calls for public restraint should be through paid-for media notices (to be read or printed without change) to ensure key messages are relayed as intended.</p>
Genesis Energy	<p>Yes. However, as noted in our response to Q15, a public appeal for savings should occur after curtailment of band 6 consumers.</p> <p>Genesis Energy would also want to receive notification prior to the call being made so that it could manage communications with its customers.</p>
MDL	<p>MDL understands that a public appeal for gas savings may be desirable, but queries whether a regulatory requirement or authorisation for taking such a step is necessary.</p>
MRP	<p>Yes if it is agreed that the CCO is to be the industry spokesperson during a contingency event and if another party is to be the industry spokesperson then the CCO should call for a public savings campaign via the industry spokesperson.</p>

Submitter	Response
Vector	<p>Vector is surprised Concept proposed the CCM Regulations be amended to 'allow' the CCO to make public conservation campaigns (PCCs), without any consideration of whether this role should be undertaken by the industry regulator. Vector considers that PCCs should not be undertaken by a market participant, whether a service provider or not.</p> <p>The Electricity Authority's review of consumer compensation arrangements in the event of public conservation campaigns is worth noting in this respect. The review came about because 'Some retailers have called for PCCs early in the onset of the dry winter sequence as a means of reducing their exposure to the high spot market prices that prevail in these situations.' This reinforces the point it should be the industry regulator and not a market participant that determines public conservation campaigns. The industry regulator should also provide clear guidelines or protocols for determining when a PCC should occur eg. the Electricity Industry Participation Code 2010 prescribes that a PCC is triggered when hydro storage falls to the point that the risk of supply shortages is 10% or more and is forecast to remain at 10% or more for a period of at least one week. The PCC ends when storage recovers to an electricity shortage risk level of 8%.</p>

### Gas Industry Co's response

Gas Industry Co considers that public appeals could be an important way to augment demand response in the event that band 6 is curtailed. As discussed previously, retailers have noted the difficulties associated with contacting their band 6 customers and instructing them to curtail, and Gas Industry Co considers that a public appeal could help to support those efforts.

Gas Industry Co notes Vector's comparison with the electricity market but considers that a gas critical contingency is materially different from a dry hydro year in two important ways. The first is that there is no spot market for gas: gas demand on a day does not affect gas prices on that day. There may be contingency imbalances to settle after the critical contingency, but retailers are responsible for paying imbalances relating to their own customers only. It is therefore difficult to see that Vector has conflicting incentives in calling for a public appeal, as the Vector submission suggests.

The second major difference is the timescale: the New Zealand electricity market is at times short of energy, rather than capacity. That is, if the hydro lakes are low, there may be a risk that the country could run short of electricity in the coming weeks or months. In contrast, a gas critical contingency arises because there is a risk of gas running out in a few hours or days. Time is of the essence during a critical contingency, which means, if band 6 is curtailed and a public appeal needs to be made, it should be done as expeditiously as possible. Gas Industry Co considers that the CCO is well-placed to make a public appeal where it could materially extend the ability to maintain pressure within the pipeline networks. Gas Industry Co also notes that there is nothing preventing gas retailers from also calling for customers' restraint during a critical contingency.

## 4.2 The CCO performance report (Q31)

The Concept report notes that the CCO Performance Report prepared following the October 2011 contingency suggested the review process could be improved by:

- replacing the current arrangement for self-assessment by the CCO with some form of independent assessment;
- clarifying that the report should be provided to Gas Industry Co; and
- adopting a more flexible approach to the timeframe for reporting to recognise that the reports on major incidents such as the October 2011 contingency will take longer to prepare.

The Concept report discusses these recommendations and concludes that it is appropriate for the CCO to review its own actions and assess the extent to which it complied with its obligations; the CCO is in the best position to review how effectively the arrangements performed and identify key areas for improvement. Consultation with stakeholders provides other affected parties with the opportunity to comment on CCO compliance and actions during a contingency. Concept agrees with the second recommendation. On the third, Concept notes that it may be appropriate to amend the CCM Regulations so that the timing of the Performance Report takes into account the duration, scale and complexity of the contingency.

Submitters were asked what processes should be established around the preparation and delivery of the CCO Performance Report.

### What submitters said

Submitter	Response
Contact	Contact agrees with the recommendation put forward in the paper
MDL	MDL agrees with the suggested amendments.
MRP	MRP support the Concept proposal with regards to the CCO's reporting procedures on a contingency event. In particular MRP believe that it is important that if the event is particularly complex then the CCO should be given sufficient time to thoroughly investigate the event before providing a report. For more straightforward events then the current timeframe for producing reports is reasonable
Vector	Vector considers that the CCO's self-assessment should be replaced with an independent assessment and that the independent reviewer be required to specifically seek views and recommendations on the Regulations from the CCO.

### Gas Industry Co's response

Gas Industry Co considers that the primary purpose of a Performance Report is to capture and document those aspects of the critical contingency arrangements that worked well during the critical contingency and to identify areas where arrangements could be improved. Gas Industry Co agrees with Concept's assessment that the CCO is best placed to undertake this review. Gas Industry Co also agrees with the recommendations on amendments to the Regulations.

Gas Industry Co understands that Vector is hesitant about performing an assessment of its own compliance with its obligations during a critical contingency. However, compliance with obligations is just one aspect of the Performance Report and, in Gas Industry Co's view, a minor one. Gas Industry Co will consider whether an adjustment to the CCM Regulations is warranted to clarify the required content of a Performance Report.

Gas Industry Co also considers that, having a third party to undertake the performance review could intrude on the CCO's operation. To be authoritative, an independent reviewer would need to shadow the CCO, attend emergency meetings and fully understand how decisions were made.

### 4.3 Reconfiguring networks (Q32)

The Concept report noted that, during the Maui outage, the CCO and Vector as TSO agreed to reconfigure the Vector network so that the 200mm pipeline that runs parallel to the Maui pipeline could provide supply to both Auckland and the Bay of Plenty. The report recommends amending the CCM Regulations to provide powers for the CCO to direct TSOs to reconfigure networks where reconfiguration could assist with minimising the costs of a contingency. Submitters were asked if they agree with this recommendation.

#### What submitters said

Submitter	Response
Contact	Yes, but Contact would note that in the case of distribution networks it would have to be done through an instruction to the relevant distributor(s).
Genesis Energy	Yes, the most recent Maui contingency has demonstrated the benefits this can have in reducing the effects of the event.
MDL	MDL believes that as a result of the location, operation and physical characteristics of the Maui Pipeline, there would be limited scope or need to reconfigure the Maui system in critical contingency circumstances. In any event, the October 2011 critical contingency showed that TSOs were willing to discuss and implement the reconfiguration of networks / systems, without an express ability in the Regulations for the CCO to compel such action.
MRP	Yes

#### Gas Industry Co's response

Gas Industry Co takes MDL's point that there may be limited circumstances in which reconfiguration would assist in the management of a critical contingency. Nevertheless, clearly there can be instances in which network configuration is desirable. Gas Industry Co considers it would be worth amending the CCM Regulations to make clear that the CCO has the power to direct such reconfiguration.

# 5

## Regional critical contingencies

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### 5.1 Improved understanding of regional status of CC event (Q33)

The Concept paper reported that the interviews highlighted a lack of clear understanding about the difference between regional and non-regional contingencies and the application of contingency pricing. Several interviewees suggested that there needed to be more clarity around the definitions and when imbalance calculations and pricing would apply. Accordingly, Concept recommended that:

Further consideration is given to whether it is necessary to provide some supplementary information about the distinction between national and regional contingencies (clarifying that national contingencies reflect gas shortages and regional contingencies reflect transport shortages) and the rationale for imbalance calculations only applying during a national critical contingency;

#### What submitters said

Submitter	Response
Contact	Contact agrees that further clarification is needed.
Genesis Energy	No. If there was any lack of clarity then the past two events (Maui and Pohokura) should have cleared this up.
MDL	MDL believes there is merit in revisiting the purpose for, and distinction between, regional and non-regional critical contingencies. MDL suggests that the GIC produce a Discussion / Options / Issues Paper on the regional vs. non-regional distinction and the accompanying rationale for the application of the critical contingency imbalance methodology.
MRP	Mighty River Power believes that it would be beneficial for the definitions of national and regional contingency events to be revisited. It may be that the names national and regional may not be the best way to describe the different contingency events. MRP's simplest definition is that if a party uses another parties' gas to supply its customers then contingency imbalances should apply regardless of whether the contingency event is the result of a field or a pipeline failure.
Powerco	Supports the recommendation to develop a document and amend the Regulations to address the confusion surrounding regional and national contingencies due to the significant cost impact it can have.

This issue is discussed in the next section.

## 5.2 Consideration of expanding the purpose of contingency imbalances (Q34-35)

Concept discussed the current purpose of the contingency imbalance arrangements, in particular that they exist to ensure that where a shipper's load is curtailed, the contingency imbalance arrangements work to provide an incentive for that shipper not to revise its upstream nominations downward to create a balanced position for that shipper. Instead, the shipper can leave its upstream position unchanged and thereby create a positive contingency imbalance position for itself. That, in turn, would leave gas in the system to assist with managing the critical contingency. The application of the 'contingency price' to those contingency imbalances sharpens the incentives on shippers and welded parties to behave in ways that assists the CCO to manage a non-regional contingency. By contrast, if the contingency imbalance arrangements did not provide such an incentive, there is a risk that CCO-directed curtailments might be matched by upstream curtailments of receipt-point nominations, which would greatly reduce the effectiveness of the CCM Regulations.

However, as Concept explained, that same rationale does not exist for regional contingencies, as the issue in those cases is not a lack of upstream gas but a lack of the ability to deliver gas to downstream customers. Using the October 2011 critical contingency as an example: if customer curtailments had been matched by reductions in shipper's upstream nominations, it would not have impacted on the CCO's ability to manage that critical contingency. In fact, in that particular case, a reduction in upstream nominations would have (literally) eased the pressure in the Maui pipeline in Taranaki. Accordingly, there does not appear to be a strong argument for applying a price premium to the normal balancing and peaking pool arrangements.

As a result, Concept recommended that:

The existing arrangements, whereby contingency imbalance calculations and contingency prices only apply to national contingencies, are retained;

### What submitters said

Submitter	Response
Contact	Contact does not agree that the contingency imbalance arrangements should only apply to non-regional contingencies. First there should be a review of how these calculations are determined given the industry has now experienced two critical contingency events involving the determination of a critical contingency price. This will ensure that the correct incentives are in play and limit the extent of an event. In our view, there should also be some way of reconciling a party's allocation of contingency imbalance to provide transparency and accuracy. Following agreement on a methodology, it could also be extended to apply to regional events.

Submitter	Response
Genesis Energy	Genesis Energy feel under contingency arrangements it would be beneficial to have a single balancing pool, (currently there is a separate Maui pool and Vector pool). This would incentivise and make it easier for producers and shippers to mitigate the event. Under the current arrangements if an event occurred on the Maui system producers injecting gas into the Vector transmission system may find it too late in the day to nominate additional gas under the Maui nominations cycle, thus preventing gas flowing to assist reducing the effects of the event.
MDL	MDL believes there is merit in re-examining the rationale for the application of the critical contingency imbalance methodology. Is the current approach as effective as it could be? Is there potential for distorted, or a vacuum of incentives? Could a hybrid approach or regional pricing model be developed? Could Regulation 82 be removed completely, or would that result in unintended or perverse consequences? The applicable Critical Contingency Imbalance methodology may impact the rate and approach to restoring Line Pack in the Transmission System.
MRP	MRP considered that it could only answer these questions once the review of the definitions of national and regional contingency events has been concluded.
Vector	Vector does not support Concept Recommendation 23 that '[t]he existing arrangements, whereby contingency imbalance calculations and contingency prices only apply to national contingencies, are retained.' Vector believes consideration should be given to whether 'the pricing and imbalance methodology could be applied to all critical contingencies'.

### Gas Industry Co's response

With regard to the question of whether the scope of the contingency imbalance arrangements should be expanded to encompass regional critical contingencies, Gas Industry Co does not see how it would improve the incentives on the various parties. Gas Industry Co has invited a number of submitters to expand on how the contingency imbalance provisions would materially improve the management of regional contingencies.

Gas Industry Co remains open to being convinced that the contingency imbalance arrangements (or some modification of them) can be applied to improve the arrangements for regional contingencies. However, failing that, Gas Industry Co considers that the regional distinction remains of value. We do accept that there has been confusion over the distinction between regional and non-regional contingencies in the CCM Regulations, and, assuming the distinction remains, we intend to propose amendments to those definitions in the Statement of Proposal.

### 5.3 Declaration of regional critical contingencies during a CC event (Q36-37)

Interviews also revealed concern that the CCM Regulations do not empower a person to declare whether a critical contingency is regional or not. Indeed, that decision does not need to be taken until sometime after the critical contingency has been terminated.

Concept concluded that somebody needed to be empowered to make a declaration of whether a critical contingency was 'regional' or not. Given that the distinction would seem to be relatively

straightforward, ie is this a situation in which there is a shortage of upstream gas or not, Concept considered that the CCO would be well placed to make such a declaration.

As a result, Concept recommended that:

The Regulations are amended to provide that the CCO should make a declaration as to whether a critical contingency is national or regional, as soon as reasonably practicable following a critical contingency declaration, and allowing for that declaration to be modified during a contingency, if required, to reflect developments.

### What submitters said

Submitter	Response
Contact	<p>If the two events continue to be treated the same way as currently regulated then yes, Contact agrees it would be helpful to have an early declaration as to whether a critical contingency was regional or national.</p> <p>In Contact's view, the CCO in conjunction with the TSO should determine whether the contingency is regional or national.</p>
Genesis Energy	<p>It is important to know as soon as possible if the event is a supply issue (critical contingency) or a pipeline constraint (regional). This ensures that industry participants can take the appropriate action as soon as possible.</p> <p>The CCO is in the best position to determine this.</p>
MDL	<p>The October event highlighted the current gap in the Regulations where no particular entity is responsible for making a real-time determination or declaration of the 'regional' status of a critical contingency event. In circumstances where only part of a pipeline is affected it is essential for TSOs to know right at the beginning whether the Critical Contingency is of a regional or non-regional type and if it is regional, the area affected. This is simply a matter of the TSO being able to know the portion of the pipeline for which it remains responsible in the case of a regional critical contingency affecting only part of its pipeline. Guidance at the commencement of a critical contingency is also essential for industry participants for a number of other reasons. There are currently different financial consequences directly related to the status of the event. A clear, real-time determination of the regional status of a critical contingency event would also help ensure co-ordinated actions of the broad spectrum of parties affected by such events, and reduce the risk of time delay that is present when parties have to make their own assessments. Although, from an MDL perspective, this did not adversely affect the management of the critical contingency event, it did reinforce MDL's view that it remains an area that needs to be addressed in both the short and long term.</p> <p>At this point in time, MDL considers that the CCO is in the best position to provide a real-time determination of regional status.</p>
MRP	<p>Considers that a declaration of the regional status should be made and that the CCO would be the best party to make that declaration.</p>
Vector	<p>Vector does not support the Regulations being amended to provide that the CCO should make a declaration as to whether a critical contingency is national or regional.</p>



## **Gas Industry Co's response**

Gas Industry Co agrees with Concept's assessment that in most circumstance it should be relatively straightforward to determine whether a critical contingency is non-regional or regional and that the CCO will have the best information available to make that determination promptly. Guidance could be provided to the CCO on distinguishing between a regional and a non-regional contingency. In the event that a contingency situation develops that is ambiguous in terms of its regional status, then the CCO could defer to Gas Industry Co, who could make the declaration after consultation with the CCO and TSOs. Gas Industry Co will develop this concept further in the Statement of Proposal.

# 6

## Communications

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### 6.1 Who should co-ordinate communications? (Q27-28)

The Concept report highlights that, during the Maui outage, the lack of clear responsibility for coordinating communications and appointing a spokesperson appears to have resulted in a delayed media response. They conclude that the CCO is best-placed to coordinate communications and provide the primary spokesperson during a gas contingency because it will be actively involved in coordinating amongst key stakeholders and will have the best knowledge of pipeline conditions, cause of the outage, and possible timeframe for reinstating supply. They note that the contingency manager is often given the role of spokesperson in other jurisdictions.

The report asked submitters whether they agree that the CCM Regulations should clarify who is responsible for coordinating communications during a critical contingency (Q27) and who is best-placed to assume that role (Q28).

#### What submitters said

Submitter	Response
Contact	Yes, although the CCO may delegate this function to Vector given that the CCO's role is predominantly to manage the contingency event. Contact believes Vector should assume the spokesperson role as the system operator for both the Maui and Vector pipelines, with support from the GIC.
Genesis Energy	Genesis supports the appointment of a central spokesperson, but would reserve the right to manage direct communications with its customers and would want to be notified prior to public announcements being made that may affect these communications with its customers. Genesis agrees that the CCO is best placed to assume this role.
MDL	MDL agrees there is a need to better coordinate communications during a critical contingency event. However, MDL believes further discussions are required (primarily between the CCO, TSOs and the GIC) before any amendments are formally proposed to the Regulations or CCO Service Provider Agreement (SPACCO). MDL and Vector are currently discussing the procedures that may be put in place to appoint a single spokesman in cases where MDL is the TSO and Vector has Operator responsibilities

Submitter	Response
MRP	<p>Yes. It is important that there is a single informed source of information during a contingency. In MRP's opinion the CCO or the GIC should appoint the spokesperson who may not necessarily be part of their organisations. Previous contingency events suggest that Vector, as TSO, will most likely fill this role.</p> <p>The CCO or the Gas Industry Company supported by the CCO and/or Vector as TSO.</p>
Vector	<p>Vector does not support the recommendation that the CCO Service Provider Agreement should be amended to require the CCO to coordinate and manage communications and provide a spokesperson, for a number of reasons which include:</p> <ul style="list-style-type: none"> <li>• the review of overseas jurisdictions fails to consider the different ownership arrangements that exist in relation to provision of contingency manager functions and ignores that in some overseas jurisdictions, the CCO role is undertaken by the industry regulator;</li> <li>• there is an absence of any consideration of the appropriate boundaries between regulatory and commercial functions and responsibilities;</li> <li>• the CCO would not be well placed to speak about the affected assets in all critical contingencies;</li> <li>• that the CCO had to balance several competing needs...implying it would not be prudent to place additional responsibilities on the CCO, including speaking on behalf of industry participants and the regulator.</li> <li>• Concept has not recognised that the SPACCO is a commercial arrangement and not a public service obligation.</li> </ul> <p>However Vector does believe there needs to be a robust analysis of roles and responsibilities to identify who should provide what communications and this should be prescribed and agreed.</p>

### Gas Industry Co's response

From the submissions and the stakeholder interviews conducted by Concept, there seems to be widespread industry agreement that communications during a critical contingency could be managed better. Gas Industry Co notes that the CCM Regulations are silent on this issue – primarily because communications had been managed voluntarily by industry participants in the past. However, over the past 18 months, Gas Industry Co has strongly encouraged industry participants to reach an accord on communications to a broad stakeholder group (beyond the key agencies listed in reg 51 of the CCM Regulations), one that would ensure that communications during a critical contingency are adequately managed. To date, no agreement has been reached among the parties, written or otherwise.

While the majority of critical contingency events will typically affect only a small number of industry participants, broader communications become much more important when the CCO needs to direct curtailment beyond bands 1a and 1b.

Gas Industry Co feels strongly that appropriate arrangements should be in place that specify who will be responsible for public communications during a critical contingency. Gas Industry Co agrees with Concept's assessment that the CCO is the function that is best-placed to provide information on the supply-demand situation, the need for curtailment, and how long gas supplies might last. We take Vector's point that the CCO may not be able to speak about the affected assets in all critical

contingencies and there need to be clear obligations on asset owners (or operators) to speak to their assets. Nevertheless, the CCO is the party with the overview of the entire system and is able to provide the best information on the particular contingency management situation.

Gas Industry Co's strong preference remains that industry participants reach a formal agreement that would see:

- asset owners and/or operators taking a proactive role in communicating about failures of those assets, the steps being taken to identify and repair problems, expected timeframes, and regular updates so that stakeholders are not left in the dark;
- the CCO taking responsibility for reporting on the state of the gas transmission system (area(s) affected, scope of curtailments, time to stabilisation, types of customers affected, and softer information such as the expected outlook based on information from the assets owners/operators); and
- Gas Industry Co addressing matters that relate to the CCM Regulations themselves.

Failing such an agreement being concluded promptly, Gas Industry Co will need to look at alternative feasible options, including regulation, to ensure that communications during a critical contingency are well managed by the various parties.

In relation to Vector's comment about the SPACCO, while we agree that the SPACCO can be viewed as a commercial arrangement, we also note that its purpose is solely to govern the performance of a statutory function (as set out in the CCM Regulations).

## 6.2 Acquiring information necessary for communications (Q29)

The Concept report suggested, as a follow-on to its recommendation that the CCO coordinate communications during a critical contingency, that the CCM Regulations be amended to provide powers for the CCO to require information from TSOs and other asset owners during a contingency.

### What submitters said

Submitter	Response
Contact	The main problem appears to arise from Regulation 39 and the requirement for annual rather than average daily usage during mid-winter and mid-summer. Contact believe, if this changed, the CCO would be in a better position to assess what action it should take. At the same time, the CCO should have the power to obtain any information it reasonably requires to enable it to manage a critical contingency effectively.
Genesis Energy	Genesis Energy consider that powers for the CCO to acquire important information are already provided for in the Regulations. Regulation 50(1)(a) provides the CCO with the authority to 'issue directions to transmission system owners that, having regard to the nature of the critical contingency, are necessary to achieve the purpose of these regulations'

Submitter	Response
MDL	MDL agrees that further discussion is warranted in this area. MDL would like to better understand the: (a) potential scope and purpose of the proposed information gathering powers; and (b) the type of 'important information' that could be sought over and above what a TSO is already required to make accessible to the CCO in accordance with the Regulations.
MRP	MRP believe that this is a question for the CCO to answer, although they suggest there should be a formal two way information arrangement between the CCO and the Network Operators as described in the covering letter

### Gas Industry Co's response

Unfortunately, the question in the consultation document was ambiguous; the question was meant to ask about getting information about an asset outage for the purposes of informing stakeholders and the public about the situation. Given that submitters did not understand the question, we will revisit this issue in the SoP. Gas Industry Co is currently of the view that asset owners should speak publicly about their own assets, so information of this nature would not need to be passed onto the CCO.

## 6.3 Amendments to SPACCO if CCO is to co-ordinate communications (Q30)

The Concept report recommends that the SPACCO is amended to provide for the CCO to coordinate communications and appoint a spokesperson; and to provide flexibility for the CCO to manage communications. Submitters were asked what additional provisions are required in the SPACCO to clarify and enhance its role during a critical contingency.

### What submitters said

Submitter	Response
Contact	Communications should be of two types: <ul style="list-style-type: none"> <li>- General event media releases</li> <li>- Load curtailment requests via media notices (adverts to be read or printed without amendment) to mass market (&lt;2TJ) consumers</li> </ul>
MDL	Further discussion will be required to determine what additional provisions are actually necessary, and whether they are best incorporated into: <ul style="list-style-type: none"> <li>- the SPACCO;</li> <li>- the Regulations; or</li> <li>- other supplementary documentation.</li> </ul>
MRP	The most obvious change would be to include a requirement for the CCO to act as, or appoint, the industry spokesperson during a contingency event
Vector	Does not support this recommendation as it would result in the CCO taking on functions they believe should be the responsibility of the industry regulator or relevant government agencies.

## **Gas Industry Co's response**

Until the broader issue of communications is settled by the ongoing discussions between participants, it is not clear whether this recommendation needs to be pursued.

# 7

## Other matters

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### 7.1 Clarifying that designations are per ICP (consumer installation) (Q17)

The Concept report recommends that the CCM Regulations be amended to clarify that each consumer installation should be separately identified and allocated to a curtailment band based on the characteristics of each installation, rather than aggregating multi-site consumers.

#### What submitters said

Submitter	Response
Contact	In Contact's view, this should be the case already.
Genesis Energy	Yes
MDL	Yes
MRP	Yes, references to a consumer's designation within the Regulations all refer simply to the consumer not the designation of the consumer's individual installations.

Gas Industry Co agrees with this recommendation.

### 7.2 Providing better load data to the CCO (Q25)

The Concept report notes that the CCO experienced difficulties in accessing quality information about consumer load characteristics during the Maui outage. In particular, the CCO tended to be guided by the annual or daily quantity provided by each consumer when placed within a curtailment band. In some cases, this information inadequately reflected seasonal and daily consumption trends. The report therefore asks submitters what is the best means for the CCO to access consumer seasonal or daily consumption data to facilitate analysis and planning during a contingency.

## What submitters said

Submitter	Response
Contact	<p>Contact agrees this information should be more granular and contain useful information, such as average daily GJ in winter (July) and summer (February), in place of annual GJ. A supplementary file could also be provided containing the highest daily consumption in both periods.</p> <p>Contact would have no issue providing this information on a more regular basis than what is required by regulation. However, they would be hesitant in agreeing to provide this during a contingency event.</p>
Genesis Energy	<p>The allocation agent should be the main source of data for all TOU gas consumption. Mass market and SME consumer information would need to be extracted from historical data within retailer's billing systems.</p>
MDL	<p>MDL is required to make the information described in Regulation 38(1) available to the CCO. In the interests of efficiency and practicality MDL has provided the CCO with read-only access to pre-defined areas within the OATIS system. This enables the CCO to access information relevant to a critical contingency (metered flow, scheduled quantities, pressures etc) in a timely and efficient manner. The CCO also has read-only access to current and historic metering and flow data via the SCADA system. Accordingly, MDL thinks it is unlikely that the CCO would require any further access to seasonal or daily consumption data from MDL during a critical contingency.</p> <p>MDL acknowledges that the CCO may need greater access to consumer information from sources other than MDL and/or specific powers to collect information from these sources during a critical contingency.</p>
MRP	<p>Gas Retailers are currently required to provide annual consumption data by curtailment band, by gas gate to the CCO each year by 31 March or following significant changes in their customer base. Given the seasonal nature of most gas loads Mighty River Power would suggest that gas retailers should provide this information but as 12 monthly estimates.</p> <p>For the provision of daily data we suggest that the Allocation Agent should be authorised to provide historical daily data to the CCO.</p> <p>For large customers such as power stations the CCO has access to daily data via OATIS.</p>

## Gas Industry Co's response

Gas Industry Co notes that the issue of load characteristics is probably most important where a large site is designated as an ESP or an MLC, and so its load during a contingency would be atypical, as it would either be scaled back to essential uses or it would be following its agreed shut-down profile. These scaled-back loads would be established as part of the approvals process for ESP or MLC designation, and would be conveyed to the CCO.



### 7.3 Improving compliance and enforcement arrangements (Q38-39)

The Concept report recommends that further consideration be given to how we can best enhance the enforcement provisions to cover breaches by non-participant consumers and whether it is necessary to seek changes to the Gas Act. Submitters were asked whether they agree that stronger enforcement provisions are necessary to cover breaches by non-industry participant consumers (Q38) and whether they have any suggestions about possible mechanisms to improve consumer compliance with curtailment directions (Q39).

#### What submitters said

Submitter	Response
Contact	Contact agrees that stronger enforcement provisions are necessary to cover breaches by non-industry participant consumers. Contact would like to see consumers educated through a flyer which is sent to all consumers >2TJ. Contact would recommend this flyer is distributed both electronically and through the post.
Genesis Energy	Genesis Energy agree that stronger enforcement provisions are necessary because of the discord between the definition of an 'industry participant' in the Gas Act 1992 and the definition of this term in the Regulations. Genesis Energy agree that that Act would need to be changed to enforce penalties against small consumers. Retailers could include terms and conditions in their customer contracts to enable them to collect penalties against consumers.
MDL	Agrees that stronger enforcement provisions are necessary to cover breaches by non-industry participant consumers
MRP	Agrees that stronger enforcement provisions are necessary to cover breaches by non-industry participant consumers The most obvious way to encourage customers to comply with the instructions to curtail would be the introduction of some form of penalty regime similar to the one currently in place in Victoria, Australia. The major issue would then be how to monitor compliance; however, the threat of a penalty itself should improve compliance levels. Monitoring time of use customers should be relatively simple but how to monitor the compliance of almost 14,750 customers in curtailment bands 4 and 6 with standard gas meters is not simple. The question of who carries out the monitoring of the customers would need to be addressed.
Vector	The Maui Outage highlighted the need to consider: (i) whether the penalties for non-compliance with load curtailment requirements are adequate to incentivise compliance; (ii) the practicability to physically disconnect customers to ensure supply is ceased or curtailed (which largely relies on consumer goodwill); and (iii) the adequacy of penalties for end-users not ceasing to use gas. It is clear consumers that complied with the CCM Regulations, and curtailed consumption, were disadvantaged compared with non-compliant consumers.

#### Gas Industry Co's response

Gas Industry Co is investigating whether, and how, section 43T of the Gas Act 1992 (Gas Act) can be used as a means of enforcing compliance with the CCM Regulations. Section 43T is a supplementary empowering provision for regulations that provides for offences in relation to regulations or rules made under Part 4A of the Gas Act.

## **7.4 Including domestic consumers in Regulations**

Powerco suggested in its submission that domestic consumers should be included in the CCM Regulations, as the exclusion of this consumer group creates a gap in the critical contingency management arrangements that could become an issue if curtailment of that customer group was required. Powerco acknowledged that the number of domestic consumers would pose a challenge to implementing a curtailment but noted that this challenge was not dissimilar to the challenge of curtailing other small consumers.

The issue of including domestic consumers was considered when the CCM Regulations were being developed. While the power to require curtailment is considered essential to the operation of effective outage arrangements, the Gas Act is silent on the ability of regulations to require consumers who do not purchase gas from a gas wholesaler to comply with the outage arrangements. To mitigate the concern over the application of the arrangements to domestic consumers, Gas Industry Co considered that it was appropriate for the curtailment bands to exclude domestic consumers and also for the regulations to clarify that compliance with any directions to curtail is not required by domestic consumers.

Of course, as the Concept report highlights, in a critical contingency where deep cuts are required to gas demand, it is open to the CCO and gas retailers – as well as gas distributors – to make a public appeal for consumers to curtail gas usage.

## **7.5 Partial restoration**

Vector considered in its submission that the issue of partial restoration of demand during a critical contingency had not been adequately addressed. The issue of partial restoration was raised in Vector's Performance Report, which said (at p 53):

As we noted in the chronology, we determined that there was likely to be sufficient gas available for some modest restoration of supply and acted to progressively restore consumers. After discussing this matter with the Gas Industry Company, we achieved the partial restoration by issuing 'revised curtailment notices', as the Regulations as currently drafted do not expressly envisage a situation where the transmission system is curtailed and then partially restored.

It would be useful if the Regulations were clearer as to how partial restoration should proceed.

Gas Industry Co does not agree that the CCM Regulations need to be amended specifically to address partial restoration. There is no evidence that partial restoration via revised curtailment notices did not achieve the intended purpose. Further, we note that clause 3 of Schedule 2 of the CCM Regulations provides the CCO with discretion to restore supply in a different order than prescribed, if that order would 'better achieve the purpose of these regulations, having regard to the objectives of the curtailment arrangements as set out in [Schedule 2]'. Given the ability of the CCO to revise curtailment directions and to restore out of order, Gas Industry Co sees no evidence that other restoration

provisions are needed. Indeed, the primary reason for needing to revise demand curtailment in October 2011 was due to the numbers of customers that were designated as ESPs during the event. This is something that should not be required in the future with the amendments being contemplated.

## **7.6 Mechanisms to require gas to be injected into the transmission system**

The Vector submission advocated that consideration be given to mechanisms to require gas to be injected into the transmission system. It stated that the lack of such mechanisms

... impacts on both the management of the event itself and bringing the system back on in an orderly way. The industry is currently reliant on industry participants 'doing the right thing' with no certainty of payment or cooperation. At face value, it seems anomalous to Vector that an electricity generator can be 'constrained on' and required to generate, but a gas field (needed for gas-powered generation) cannot be required to be 'constrained on' in a similar way.

It is simplistic to say that a generator can be 'required to generate'. Before a generator can be constrained on, that generator must have shown its willingness to generate by making an offer to the market. The constrained on payment is simply a mechanism to pay an offered generator for its output in situations where that particular generator is not the cheapest source of supply.

Gas Industry Co notes that there are differences with the electricity and gas markets that make the idea of constraining on a gas producer impractical. First, in the electricity market the generator determines its willingness to produce and the associated price. Secondly, there is no equivalent to the NZEM in the gas industry; gas sales agreements are bilateral contracts and are settled between the parties. Without a clearing manager – and therefore a counterparty – a gas producer would have no certainty of getting paid.

The contingency imbalance provisions in the CCM Regulations provide an incentive for gas producers with spare capacity to increase injections of gas into the transmission system, as the contingency price they receive will be at a premium to their normal selling price. Gas Industry Co has seen no evidence that these incentives are not working well. If industry participants can produce evidence of producers withholding supply from the market, and therefore jeopardising the CCO's ability to manage a critical contingency event, they should provide it for our consideration. Gas Industry Co will follow up any further information received on this issue as part of preparing the SoP.

# 8

## Process for amending the CCM Regulations

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In recommending gas governance regulations to the Minister, Gas Industry Co is required to consider and pursue the objectives in s43ZN of the Gas Act 1992:

**43ZN Objectives of industry body in recommending regulations for wholesale market, processing facilities, transmission, and distribution of gas**

The objectives of the industry body, in recommending gas governance regulations under section 43F, are as follows:

- (a) the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner; and
- (b) the other objectives are –
  - (i) 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:
  - (ii) barriers to competition in the gas industry are minimised:
  - (iii) incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced:
  - (iv) delivered gas costs and prices are subject to sustained downward pressure:
  - (v) risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties:
  - (vi) consistency with the Government's gas safety regime is maintained.

Gas Industry Co is also required to assess the costs and benefits associated with proposed regulations. Making a recommendation to amend existing regulations requires the same processes and procedures as recommending new regulations.

In relation to the review and amendment of the CCM Regulations, the next step is for Gas Industry Co to analyse the issues raised in the Concept report, in CCO reports, and stakeholder submissions and to prepare a Statement of Proposal (SoP) that describes proposed changes to the CCM Regulations. The SoP will be released publicly, and interested parties will have the opportunity to provide comment. This will be an important step in the process for stakeholders, and it is essential that interested parties ensure they take advantage of the opportunity to consider the proposed changes and to provide feedback. Gas Industry Co is aiming to release this paper in the third quarter of calendar 2012.

It is possible, given the nature of the changes that are being contemplated to the CCM Regulations, particularly to the criteria for ESP and MLC designations, that there will be a need for transition arrangements. At present, our thinking is that such transition arrangements would likely provide for 'grand-fathering' existing designations for a limited time, so as to allow parties to reapply under the revised criteria. There may also be a need for transition arrangements in other areas of the CCM Regulations, depending on the scope of the amendments.