Gas Critical Contingency Management Arrangements – Short-form Consultation Paper

May 2008

GAS INDUSTRY COMPANY LIMITED

About Gas Industry Co

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

As such, its role is to:

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

Authorship

This paper was prepared by Ian Dempster and Tristan Meo of Gas Industry Co with support from Ben Farrington and Lee Wilson of Concept Consulting Group.

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1.1 Background

The need for critical contingency arrangements

The costs of a security of supply contingency to the economy and to individual consumers can be high. In most circumstances, the market arrangements can be relied on to manage contingencies. However, the costs associated with an uncontrolled contingency are so high as to signal the need for a set of back-stop arrangements[1].

In previous documents, including *Statement of Proposal—Gas Outage and Contingency Management Arrangements*, Gas Industry Co has reviewed the likely costs associated with contingencies which cannot be managed by market mechanisms and concluded that a regulated set of arrangements would be the most practicable option for providing the back-stop arrangements required.

Proposed approach to critical contingency management

The proposed approach would replace significant elements of the existing, voluntary, industry contingency plan[2]. The key elements of the proposal are listed below.

- Reliance on normal commercial incentives is the preferred means to ensure security of supply in most situations. Thus the proposed arrangements will not affect the management of most contingency situations, these will continue to be handled by the day-to-day market mechanisms.

- Exclusive reliance on normal commercial incentives may not deliver the best outcome in situations of extreme system stress because it is not possible for parties to trade effectively within the available time. For this reason, there is a need for someone to direct mandatory demand curtailment as a backstop means of balancing the system.

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1 For additional background on this issue, please see section 3 (Background) of *Gas Outage and Contingency Management Arrangements—Supplementary Consultation Paper* available on the Gas Industry Co website: www.gasindustry.co.nz.

2 The *National Gas Outage Contingency Plan* or NGOCP is a voluntary arrangement which the gas industry has used to co-ordinate the management of gas outages, whether national or regional in nature. The NGOCP may be found on the GANZ website (www.ganz.org.nz),

- Curtailment would be directed by a new service provider, the Critical Contingency Operator (CCO), engaged by Gas Industry Co and acting pursuant to regulations.

- The CCO would implement the provisions of pre-defined Critical Contingency Management Plans (CCMPs), developed by Transmission System Owners (TSOs) and approved by Gas Industry Co. The CCO would also take such other actions as are required to meet the objective set out in the regulations.

- Parties which suffered mandatory curtailment of their gas entitlements during a contingency would be paid by the parties that used gas to which they had no entitlement. The intention is that the price for these gas "sales" would reflect the scarcity value during the contingency. This should enhance the incentive on all parties to take appropriate steps before a contingency, and also during an event.

Details of the empowering provisions for the new arrangements can be found in sections 5, 6 and 7 of the Statement of Proposal (SOP) published in August 2007[3]. This paper assumes familiarity with the previous Gas Industry Co publications (see below), and focuses on the changes to the proposed Regulations (now titled the Gas Governance (Critical Contingency Management) Regulations 2008) from those published in December 2007[4].

1.2 Process since the SOP

The key elements of the proposal have been in discussion with stakeholders since they were first outlined at the Industry Forum held in May 2007. Since then, Gas Industry Co has produced the SOP, considered submissions on the SOP, held two further industry forums, and considered submissions on a supplementary consultation paper. The stages to the process are outlined in the table below:

Table 1 – Stages in the development of critical contingency management arrangements

Stage	Description	Date
Statement of Proposal	A comprehensive proposal to implement a regulatory framework for managing critical contingencies, supported by industry developed arrangements (ie the hybrid approach described at the May 2007 industry forum) was released for consultation.	August 2007
Industry Forum	The purpose of this forum was to explain the rationale for the arrangements included in the SOP, to run through the proposed Regulations, and to provide stakeholders with an opportunity to discuss the issues and provide feedback.	August 2007
Submissions	Responses were received from 7 stakeholders. The	October 2007

[3] *Statement of Proposal—Gas Outage and Contingency Management Arrangements*, August 2007. Available from Gas Industry Co website www.gasindustry.co.nz

[4] *Gas Outage and Contingency Management Arrangements – Supplementary Consultation Paper*, December 2007. Available from Gas Industry Co website www.gasindustry.co.nz

Stage	Description	Date
Analysis and Next Steps	submissions analysis identified some issues of principle and some implementation issues. Gas Industry Co confirmed the key design parameters and agreed to consult further on implementation issues.	
Industry Forum	The purpose of this forum was to confirm the high-level design of the arrangements and to discuss a number of implementation details that emerged from submissions.	November 2007
Supplementary Consultation Paper	Key issues relating to the implementation of the critical contingency arrangements were outlined along with proposed Regulations.	December 2007
Supplementary Submissions Analysis	The submissions analysis identified a reasonable level of support for the proposal and a strong focus on implementation.	March 2008
Contingency Management Implementation Group (CMIG)	Implementation group established to oversee the implementation issues. Two meetings of CMIG held.	April and May 2008

Consultation with MED and with the Parliamentary Counsel Office (PCO) has taken place during 2008, aimed at ensuring Gas Industry Co is developing a solution which is acceptable from a public law perspective. As a result, a number of changes have been made to the proposed regulations. The key changes are in the following areas:

- the critical contingency thresholds set in the CCMPs must fall within specified threshold ranges set out in proposed Regulations;
- limiting the discretion of the CCO in exercising powers during a critical contingency;
- removing provision for contingency imbalance guidelines and curtailment arrangements other than those set out in the proposed Regulations;
- including additional procedural protections in respect of contingency price, contingency imbalance determination and consumer designations; and
- clarifying the status of the CCMPs under the proposed Regulations.

1.3 Outline of document

This Short Form Consultation paper seeks to:

a) describe and consult on the changes made to the proposed Regulations since the version that was published with the December 2007 Supplementary Consultation Paper. These changes are mainly in response to comments received from MED and PCO about concerns arising from a public law perspective. Changes have also been made to how the trigger for

a critical contingency is expressed, and indicative values have been proposed for the ranges that those thresholds must fall within. This has been done with assistance from the Contingency Management Implementation Group (CMIG);

b) provide a further opportunity for comment on the draft Gas Governance (Critical Contingency Management) Regulations before a recommendation is made to the Minister;

c) to describe the role of the industry implementation group, CMIG, in more detail;

d) identify work that still has to be done by CMIG and the wider industry as part of the implementation; and

e) report on the service provider contract (SPACCO) with Vector which needs to be put in place as part of the new arrangements.

1.4 Submissions requirements

The purpose of this Short-form Consultation paper is to ascertain stakeholder comments on the changes to the proposed Regulations and on arrangements for the implementation of the new arrangements. Stakeholders should be aware that the intention is not to receive stakeholder views on issues that have been previously consulted on. Parties who wish to make a submission on the paper are invited to respond by 5:00 pm on Wednesday 28th May 2008. Please note that submissions received after this date almost certainly will not be able to be considered.

Gas Industry Co's preference is to receive submissions in electronic form (Microsoft Word format or pdf) with "Submission on Gas Critical Contingency Management" in the subject header to submissions@gasindustry.co.nz. A hard copy would also be appreciated and should be posted to:

Ian Dempster Gas Industry Co Level 9, State Insurance Tower 1 Willis Street	PO Box 10-646 Wellington Tel: +64 4 474 2467 Fax: +64 4 472 1801

Gas Industry Co will acknowledge receipt of all submissions electronically. Please contact Ian Dempster if you do not receive electronic acknowledgement of your submission within two business days.

Submissions should be provided in the format shown in Appendix A. Gas Industry Co values openness and transparency and, therefore, submissions will generally be made available to the public on Gas Industry Co's website. Submitters should discuss any intended provision of confidential information with Gas Industry Co prior to submitting the information.

2 Changes made to Regulations

2.1 Background to changes

A set of proposed Regulations was issued with the December 2007 Supplementary Consultation Paper[5]. In the light of industry submissions received and subsequent analysis described in the March 2008 Supplementary Analysis Paper[6], a number of changes have now been incorporated into the proposed Regulations. The proposed Regulations (with the amendments identified from the submissions analysis) have recently been discussed with MED and PCO. As noted above, this has led to a number of changes to address concerns that have arisen from a public law perspective.

2.2 List of changes

Table 2 lists the issues that were identified in the Supplementary Submissions Analysis of March 2008 and summarises the recommendation that was reached on each issue. In addition, the table includes a number of other items addressing the concerns raised by MED and PCO, and the issue of threshold limits that has been developed through CMIG. The recommendations contained in Table 2 are reflected in the proposed Regulations that are attached in Appendix D.

Table 2 – List of changes made to proposed Regulations[7]

Issue	Recommendation contained in the proposed Regulations
Avoiding Deadlock in preparation of CCMPs (see r31)	Deadlock breaker provision for the first set of plans only.
Critical contingency thresholds	
Specification of trigger (see r25(1)(a) and r45)	Retain a narrow scope for triggering a critical contingency with the trigger specified in terms of a measurable effect, rather than possible causes.

5 Gas Outage and Contingency Management Arrangements Supplementary Consultation Paper, December 2007
6 Gas Outage and Contingency Management Arrangements Supplementary Submissions Analysis, March 2008
7 Changes relative to the draft Regulations published by Gas Industry Co in December 2007

Issue	Recommendation contained in the proposed Regulations
Critical contingency thresholds – in CCMPs or Regulations? (see r25(1) and Schedule 1 in para 2.3 below)	Upper and lower limits for each of the thresholds to be specified in a Schedule to the Regulations. Threshold to specify the minimum operating pressure (no longer using linepack). Separate limits set for the Maui pipeline and for each of Vector's regional transmission pipelines. Threshold limits expressed as minimum and maximum time before, based on extrapolating flows, the minimum operating pressure will be reached.
Determination of a critical contingency (see r45)	CCO must make a determination that there is a critical contingency where: • either one or more of the thresholds has been breached, or the CCO has a reasonable expectation that a breach is imminent; and • the CCO considers that the determination is necessary to achieve the purpose of the Regulations.
Curtailment	
No mandatory curtailment of domestic consumers (see r5, definition of consumer)	Regulations do not apply to domestic consumers and compliance with any directions to curtail is not required by domestic consumers. Recommend that retailers include the right to curtail in their retail terms and conditions.
Other curtailment arrangements (see r50(2) and Schedule 2)	CCO can curtail a subset of load in a curtailment band so long as it is satisfied that the direction would further the objectives of the curtailment arrangements. In practice, the CCO would be expected to liaise with, and seek guidance from, the Electricity System Operator so as to optimise the order in which generation plant should be curtailed, based on maintaining the stability of the electricity supply network. Gas Industry Co to review curtailment schedule within three years. Gas Industry Co has no power to specify additional curtailment arrangements beyond what is contained in the Schedule to the Regulations.
Authority of Critical Contingency Operator (see r47)	CCO can issue curtailment directions in relation to matters outside the scope of a CCMP where the CCO considers those directions are necessary to achieve the purpose of the Regulations and mitigate the severity of the critical contingency.
Restoration of supply to consumers (see r25(1)(g) and Schedule 2)	Restoration can occur in an order different to the reverse order of curtailment if it would better achieve the purpose of the Regulations.

Issue	Recommendation contained in the proposed Regulations
Contingency imbalances	
Determination of contingency imbalances (see r25(1)(h) and r69(2)/(3))	Contingency imbalance guidelines removed from Regulations. Definitions and general requirements specified in Regulations. Detail of process to determine imbalances to be contained in each CCMP. Definitions of contingency imbalances have also been clarified to omit retailers who are not also acting as shippers during a critical contingency.
Flows in excess of pre-contingency volumes[8] (see r69(3))	No change made to proposed Regulations. CMIG to consider whether the existing gas supply agreements provide for the correct allocation of rights to gas. If there is a genuine issue then producers and shippers to resolve under their respective gas supply agreements.
Time period for calculating imbalances (see r69(3)(b))	Proposed Regulations provide for calculating imbalances only for the period of the critical contingency, ie on a part-day basis, where possible. For practical reasons, the time period will commence and conclude on the nearest hour to which the critical contingency was declared or terminated. If part-day calculations are not feasible, calculations are to use whole day(s). Details of the process to determine imbalances to be contained in each CCMP. CMIG to investigate what development of the existing measurement and allocation processes would be required to determine contingency imbalances over a sub-day period.
Changes in linepack during a critical contingency (see r69(3)(f))	Proposed Regulations require adjustments to be made to the positive contingency imbalances in order that the total of all positive contingency imbalances equals the total of all negative contingency imbalances, prior to the financial settlement. Where the magnitude of negative imbalances exceeds that of positive imbalances, the difference will have come from depletion of linepack. That linepack depletion will be deemed to be a positive contingency imbalance for the purpose of the imbalance calculations and cash-outs. Where line pack has been augmented the remaining positive contingency imbalances are to be dealt with under normal commercial arrangements under MPOC and VTC. CMIG to consider how the adjustment under the normal commercial arrangements will be made. Details of this to be included in CCMPs.
Performance of imbalance calculations (see r71-73A)	TSOs to calculate contingency imbalances and provide that information to Gas Industry Co for invoicing and payment. Provision included for error in imbalances to be corrected up to 6 months after critical contingency.
Regional contingencies (see r75)	The contingency imbalance provisions do not apply to a critical contingency where there is a loss of supply in only part of the transmission system, or a region becomes wholly or partly isolated from the supply of gas from the transmission system.

[8] For further information on this see Appendix B containing a CMIG paper discussing this issue.

Issue	Recommendation contained in the proposed Regulations
Critical contingency price	
Critical contingency Price (CCP) (see r65 and r67)	Independence requirements for expert now also specified in the proposed Regulations No changes to the following: • Independent expert required to set CCP applying the overarching principle: "the critical contingency price must be set at a level that reflects the price that would be established by an efficient short-term market that allocated scarce gas resources to the highest value uses during the contingency". • Proposed Regulations state that where gas-fired electricity generation plant was the marginal plant on the curtailment band curtailed, the independent expert is to base its determination on the prices in the wholesale market for electricity during the critical contingency (unless contrary to the overarching principle). The arrangements would allow for the use of a gas wholesale market to set the CCP if such a market were to develop in NZ.
Two-stage price-setting process (see r67A)	Preliminary price notified, opportunity for interested parties to provide feedback and the expert is to consider that feedback before issuing the final price.
Critical contingency cash pool (see r68 and r70)	Cash pool for settlement of contingency imbalances to be operated by Gas Industry Co (either by itself or by engaging a suitable service provider).
Other issues	
Compliance and interim injunctions	Cases of non compliance in a critical contingency will be dealt with primarily by the Gas Governance (Compliance) Regulations, with the potential for the Rulings Panel to impose orders on industry participants, including fines, penalties and restoration action, who fail to comply with the Regulations or a direction to curtail demand. Gas Industry Co can also seek urgent interim injunctions from the High Court in respect of breaches of the proposed Regulations. Note that this is an amendment to the Gas Governance (Compliance) Regulations.
Designation of minimal load consumers and essential service providers (see r43A)	Ability for consumers to appeal classification to Gas Industry Co, who can either confirm retailer's classification, refer back to retailer for reconsideration, or make the determination itself.
Essential service providers (see r42)	Gas Industry Co no longer issues guidelines on classification of consumers as essential service providers. Retailer must approve a consumer's application if it meets the criteria contained in r42(3).
Consumer information (see r41)	Period given to retailers to update emergency contacts increased from 5 business days to 40 business days.

Issue	Recommendation contained in the proposed Regulations
Testing of CCMPs (see r34)	Requirement for CCO to run a test exercise once a year. However, test exercise is not be required where a civil defence emergency management training exercise has been undertaken that meets the test criteria in r34(1).
Development and ongoing fees (see r15-20)	The fee provisions have been drafted to be more consistent with other recommended gas governance rules and regulations. Gas Industry Co to request the CCO to spread its upfront development costs over the duration of the service provider contract. If suitable agreement can be reached then it will structure the establishment fee in this way.
Vector Transmission Code (see r4)	Added as a defined term in the proposed Regulations (Maui Pipeline Operating Code already defined).

2.3 Discussion of significant changes

Threshold limits

The proposed Regulations consulted on in December 2007 required each TSO to set trigger levels for a critical contingency on its network and to consult with the industry as part of the process to prepare its CCMP.

There was a concern, from a public law perspective, that the TSO was being given too much freedom to set the level without sufficient regulatory constraints. In order to provide the necessary constraints, the proposed Regulations now specify the nature of the threshold on each network, and for each threshold specify an upper and lower limit. The trigger level(s) which is used to identify the onset of a critical contingency is to be proposed by the TSO and consulted on as before, however, each trigger level must lie *within* the range of relevant threshold limits specified in the Regulations.

Vector as the technical operator for both the Maui and Vector pipelines has proposed a methodology for setting thresholds and threshold limits. The proposal was presented to CMIG where the approach was well received. Gas Industry Co has worked with the Vector technical operator to develop the proposal further, and that approach has now been incorporated in the proposed Regulations. Values for the threshold limits and minimum operating pressure are indicative at this stage and will be the subject of further work and refinement by Vector technical operator and Gas Industry Co. Any submissions on these indicative values will also need to be considered before final values are determined.

Approach to defining the trigger

The absolute limit in each case is based on the minimum pressure required to maintain the continued supply of gas across the relevant parts of the transmission system, and through the transmission and distribution systems connected to that transmission system.

The pressure is defined and measured at a number of points located at the extremity of the TSO's network (for example Rotowaro at the northern extremity of the Maui pipeline). The pressure is being measured and remotely monitored at these points during the normal operation of the pipelines.

The trigger in the CCMP is defined in terms of the number of hours of flow before the minimum pressure would be reached, assuming prevailing flow conditions and no curtailment of load (see r25(1)(a). The threshold limits in the proposed Regulations state the permissible range in hours for the trigger.

The critical contingency threshold limits are intended to be specified in Schedule 1 of the proposed Regulations. The proposed draft of Schedule 1 (albeit with indicative ranges for the limits) is set out below.

Table 3 – Proposed Schedule 1: threshold limits showing indicative values for times and pressures

SCHEDULE 1

Critical contingency threshold limits

r 25 and r 45

In accordance with regulation 25(1)(a), the permissible limits for the thresholds specified in a critical contingency management plan that apply to the following parts of the transmission system (as identified on the map published in accordance with regulation 10) are:

Pipeline	Maximum time before minimum operating pressure is reached	Minimum time before minimum operating pressure is reached	Minimum Operating Pressure	Point of measurement (gate station)
Maui pipeline				
Rotowaro	5 hours(±2 hours)	2 hours (±1 hour)	32 (±5) bar g	Rotowaro
Vector pipeline				
South	6 hours (±2 hours)	3 hours (±1 hour)	35 (±5) bar g	Wellington
Hawkes Bay lateral	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Hastings
Frankley Rd to Kapuni	6 hours (±2 hours)	3 hours (±1 hour)	35 (±5) bar g	Kapuni
Bay of Plenty	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Gisborne
Bay of Plenty	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Taupo
Bay of Plenty	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Tauranga

Pipeline	Maximum time before minimum operating pressure is reached	Minimum time before minimum operating pressure is reached	Minimum Operating Pressure	Point of measurement (gate station)
Bay of Plenty	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Whakatane
Morrinsville lateral	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Cambridge
Central (North)	6 hours (±2 hours)	3 hours (±1 hour)	50 (±5) bar g	Westfield
North	6 hours (±2 hours)	3 hours (±1 hour)	30 (±5) bar g	Whangarei
For any other gate station on the Maui or Vector pipeline	N/A	N/A	30 (±5) bar g	Gate station not specified elsewhere

Please note that the ranges specified for the time-limits and minimum operating pressures (ie ±2 hours, ±1 hour, or ±5 bar g in Table 3) will not remain in any proposed Regulations – only a single value will be specified for the maximum time, minimum time and minimum operating pressure (eg Rotowaro, max 5 hours, min 2 hours, 32 bar g). In responding to the question below, submitters should consider the range of threshold values indicated by the tolerances and advise of any concerns with values that fall within the tolerances.

The minimum operating pressure reflects the physical characteristics of the system and is unlikely to change over time. The TSO's calculation of the trigger level in hours will depend on the nature of the load which would be curtailed if a critical contingency were triggered: points supplying networks with large loads (that are relatively quick to curtail) will tend to require shorter lead times for curtailment than points supplying networks containing only smaller loads (which are more numerous and, therefore, take longer to curtail).

A clear advantage of this approach over the current method used under NGOCP is that it takes account of the flow at the time.

There are over 100 other gate stations where the pressure is measured that are not listed in Table 3 and for which the minimum operating pressure is 30 bar g. If there were mechanical damage to an isolated lateral (such the line to Opotiki on the Bay of Plenty lateral), then none of the trigger levels at the points listed in Table 3 would be breached. However, the CCO will be able to call a critical contingency where a breach of the 30 bar g minimum pressure at any of the other gate stations (not listed in the table) is considered to be imminent.

The key point to remember in respect of the threshold limits described above is that these limits do not determine whether a critical contingency can be declared under the proposed Regulations. While the thresholds specified in the relevant CCMP must fall within the limits specified in the Regulations, it is the actual threshold specified in the plan which must be breached (or about to be breached) before a critical contingency can be declared. Gas Industry Co notes all that the actual thresholds specified in the CCMP will be subject to consultation, review by an industry expert and Gas Industry Co approval.

Q1: Are the proposed threshold limits (or the ranges for those limits) set at an appropriate level?

Authority of CCO to determine contingency and to direct curtailment

The CCO can trigger a critical contingency if there is an actual breach, or if the CCO has a reasonable expectation that a breach of the threshold contained in the relevant CCMP(s) is imminent.

The proposed Regulations have been updated to include an additional condition that the CCO considers that the determination is necessary to achieve the purpose of the Regulations, and this condition must also be satisfied before the CCO can trigger a critical contingency.

The curtailment arrangements contained in the draft Regulations consulted on in December 2007 gave Gas Industry Co scope to give notice to a TSO specifying 'other' curtailment arrangements provided those arrangements were considered by Gas Industry Co to further the objectives set out in the curtailment arrangements. However, this was viewed as potentially delegating too much of the power for revising the curtailment arrangements outside the proposed Regulations and has been removed.

Gas Industry Co had identified a need to permit the CCO to direct curtailment within a band (rather than having to curtail all consumers within a band equally) if, for example, there were considerations about the stability of the electricity transmission system. The CCO will be expected to liaise with, and seek guidance from, the Electricity System Operator so as to optimise which generation plant should be curtailed in order to maintain the stability of the electricity supply network.

The proposed Regulations have been updated to remove the scope for Gas Industry Co to add to the arrangements relating to the curtailment of consumers. The proposed Regulations permit the CCO to curtail a subset of load in a curtailment band so long as it is satisfied that the direction would further the objectives of the curtailment arrangements. This will allow the CCO to maintain gas supply to certain subsets of consumers (i.e. geographical, voltage support and electricity stability loads) in a band whilst at the same time curtailing other consumers in the same band. This would be appropriate in any regional contingency and may also be appropriate where only a portion of a band needs to be curtailed in order to balance the pipeline.

Contingency imbalances – clarification of positive and negative imbalances

In the process of reviewing the proposed Regulations, it became clear that the descriptions of positive and negative contingency imbalances needed further refinement. Regulation 69(2) has been redrafted to clarify what constitutes an imbalance (particularly for interconnected parties)

and to ensure that it only encompasses the correct parties. The proposed Regulations now clarify that contingency imbalances relate to the following persons:

- shippers (including retailers who are acting as shippers);
- interconnected parties; and
- transmission system owners (in certain circumstances).

The amendments mean that retailers who are not also shippers do not form part of the contingency imbalance calculation framework. Shippers and interconnected parties may need to review their contractual arrangements if they intend to pass on the costs of and/or receipts from any payments relating to contingency imbalances. For example, a shipper who sells gas to a retailer (where that retailer is not a shipper) may need to have arrangements in place to pass on the costs of any negative contingency imbalances incurred as a result of that retailer's load during a critical contingency. Because the proposed Regulations will not interfere with existing gas sales agreements, industry participants will need to make their own assessments of to how best to manage any exposure to cash-out arising from contingency imbalances.

Q2: Do you consider the definitions of positive and negative contingency imbalances are appropriate? If not, please explain why.

Contingency imbalances – treatment of changes in linepack

Any change in the linepack during a critical contingency (because the linepack going into a critical contingency could be different from the linepack coming out of a critical contingency) would potentially flow through to the settlement of imbalances. In order to ensure that all parties with negative imbalance positions will pay the critical contingency price it is necessary for the negative imbalances to be cashed out in full. This issue was described in the Supplementary Consultation Paper at paragraph 5.48 and, at that time, it was intended that the detail would be defined in the contingency imbalance guidelines. However, from a public law perspective, it has been decided that this particular aspect should be contained in the Regulations.

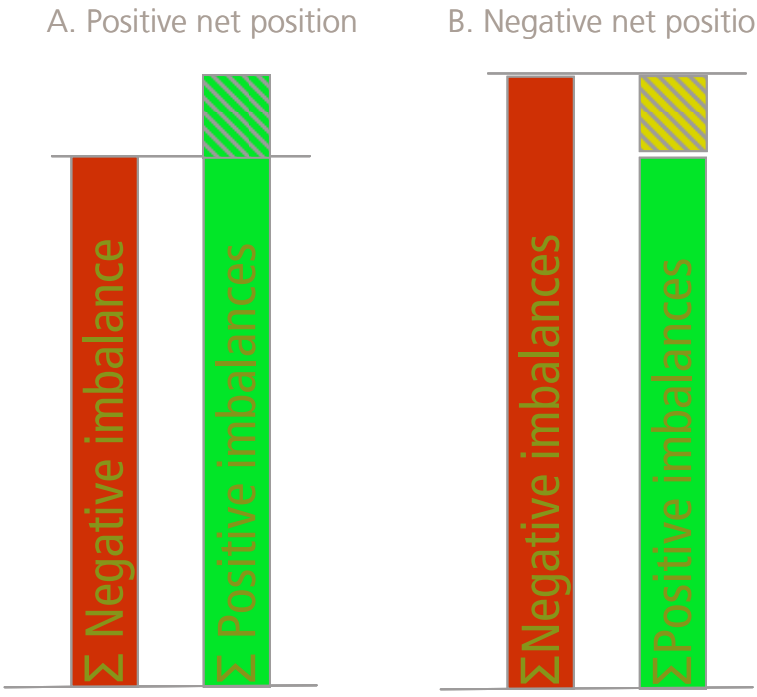
Where there is a positive net position (an increase in linepack) – Figure 1 A:

- positive imbalances will be scaled back proportionally to determine the positive contingency imbalance; and
- the positive residual will be accounted for under contractual arrangements with the TSO (e.g. adjustment to ROI).

Where there is a negative net position (a reduction in the linepack) – Figure 1 B:

- the difference is deemed to be positive contingency imbalance to the relevant TSO.

Figure 1 – Treatment of change in linepack



Gas Industry Co has presented this proposal for discussion within the CMIG. The result is a recommendation to proceed with an adjustment to the positive imbalance positions when required in order to ensure that the total of the positive imbalances is the same as the absolute value of the total of the negative imbalances.

The proposed Regulations have been changed to specify what will happen in respect of changes in linepack during a critical contingency.

Contingency imbalance – provision for correction

Following a critical contingency, the proposed Regulations require TSOs to calculate the contingency imbalance quantity for each party (shipper or interconnected party) on its pipeline. These quantities are provided to Gas Industry Co within 20 business days of the end of the month in which the critical contingency was terminated. Gas Industry Co (or its appointed agent) then performs the settlement of the contingency imbalances applying the critical contingency price through the operation of a contingency cash pool.

There was a concern that after the TSO has supplied the quantity data, if material errors were subsequently discovered, then there should be scope for a correction(s) to be made. The proposed Regulations have been changed to allow for correction of material errors which come to light within 6-months of the termination of the critical contingency (r73A). It should be noted that after this period has expired there will be no further scope for corrections.

Parties will still be required to settle their contingency imbalance payments in full within the timescales described in the proposed Regulations.

Q3: Do you agree that a process for correcting material errors in contingency imbalances is desirable?

Two-stage process for setting critical contingency price

Following a critical contingency, an independent expert is appointed by Gas Industry Co and it is the role of the independent expert to determine the critical contingency price, applying the relevant pricing clauses contained within the Regulations.

There was a concern expressed that the process followed by the independent expert should give affected parties the opportunity to comment before the critical contingency price is determined.

The proposed Regulations have been updated to include a two-stage process for the determination of the critical contingency price (r67A). The independent expert will be required to publish a preliminary price. Affected parties can then make submissions to the independent expert. The independent expert is then required to consider the feedback before issuing the critical contingency price.

Q4: What is your view of the proposed the two-stage process for setting the critical contingency price?

Regional critical contingency definition

Following submissions on the December 2007 Supplementary Consultation Paper, the definition of regional critical contingencies was tightened to also refer to an individual region's reduction, loss or isolation from the supply of gas (see r75). Gas Industry Co's intention is to set out a definition that is sufficiently clear and identifies to industry participants whether a critical contingency is a regional critical contingency or not. The distinction is important in that the contingency imbalance provisions do not apply to regional critical contingencies.

If further clarification is considered necessary by submitters, the definition could include greater specificity or other criteria. Another option could be for the transmission system map published by Gas Industry Co under r10 to indicate which pipelines/regions, if affected on their own, would give rise to a regional critical contingency.

Q5: Do you consider the definition of regional critical contingency is sufficiently unambiguous? If not, how do think it should be improved?

Appeal/review rights on consumer designations

A consumer can apply to its retailer if it wishes to be classified as either an essential service provider or as a minimal load consumer. If the relevant criteria contained in the Regulations are met then the retailer must approve the consumer's application. The December 2007 Supplementary Consultation Paper suggested arrangements which would have required Gas Industry Co to issue guidelines on the classification of consumers as essential service providers.

From a public law perspective, it has been decided that there should not be discretion for Gas Industry Co to issue guidelines authorised by the proposed Regulations.[9] There was also a concern expressed that the process should allow for a consumer to appeal if it has been refused its requested classification.

The proposed Regulations have been updated to remove the guidelines for essential service providers and to include an appeal process whereby Gas Industry Co is required to either confirm the refusal of classification), or refer the matter back to the retailer for reconsideration (providing guidance if necessary). Alternatively, Gas Industry Co may make the determination itself in accordance with the relevant criteria contained in the Regulations.

Q6: Do you agree with the appeal process for the designation of consumers as minimal load consumers and essential service providers?

Interim injunction

As noted in the March 2008 Supplementary Analysis Paper, Gas Industry Co considers that it is desirable for it to have the ability to seek urgent injunctive relief from the High Court to ensure compliance with the Regulations (for example, any obligations to curtail). This is particularly so in longer term or more severe critical contingencies, even if that option should be (as is hoped) rarely needed. Accordingly, it is intended that the proposed Gas Governance (Compliance) Regulations will include the following provision, based on its equivalent in the Electricity Governance Regulations 2003:

Interim injunctions

(1) The industry body may apply to the High Court for the grant of an interim injunction—

(a) restraining a participant from doing, or omitting to do, anything that is in breach of the Gas Governance (Critical Contingency Management) Regulations 2008; or

[9] Note this does not prevent Gas Industry Co issuing guidelines outside the framework of the proposed Regulations

(b) requiring a participant to do, or omit to do, something in accordance with Gas Governance (Critical Contingency Management) Regulations 2008.

(2) The Court may grant the injunction if, in the opinion of the Court, it is desirable to do so.

(3) Subclause (2) applies, in the case of an injunction under subclause (1)(a),—

(a) whether or not the participant has done, or omitted to do, that thing; and

(b) whether or not there is an imminent danger of substantial damage to any person if the participant does, or omits to do, that thing.

(4) The Court may rescind or vary the injunction on application by the industry body or any participant affected by the injunction.

Other changes

Q7: Are there any other changes to the proposed Regulations that you wish to comment on?

3 Next steps and implementation plan

3.1 Timetable – up to Regulations being notified in Gazette

The proposed timetable for seeking Gas Industry Co Board approval and making the recommendation to the Minister is shown in the table below. Based on this timetable, the Regulations would be promulgated and notified in the Gazette either in December 2008 or the first quarter of 2009.

Date	Task
14th May	Release short-form consultation paper.
28th May	Submissions received on short-form consultation paper.
19th June	Board considers submissions analysis, amended proposal, proposed Regulations, and recommendation to Minister.
June/July	Board makes recommendation to Minister.
After receiving a recommendation from Gas Industry Co for rules/regulations under s.43F, the Minister has 90 days to either accept or reject the recommendation (s.43ZP). If the Minister accepts the recommendation he will then recommend the making of the regulations. That process could take as little as two months but may take considerably longer depending on Government workload at the time.	
October	Minister recommends regulations be made
December 2008 or first quarter 2009	Regulations promulgated and notified in the Gazette

3.2 Process for implementation

Parts 1, 2 and 5 of the Regulations come into force on the 28th day after the date of their notification in the Gazette (the commencement date).

Commencement

Following the commencement date, the formal preparation process begins and includes:

- each TSO prepares its CCMP which gets reviewed by the industry expert and approved by Gas Industry Co;
- the CCO prepares the communications plan and the information guide;
- each retailer provides information on its customer numbers and annual volume (by curtailment band and by distribution network) to the CCO;
- each retailer notifies its consumers (excluding domestic consumers) that if they wish to be designated as essential service providers and/or minimal load consumers, they must apply to the retailer in writing. Designation of consumers by retailers occurs; and
- retailers to maintain a list of the emergency contact details of each of their consumers with gas consumption in excess of 2 TJ per annum.

Go-live

The go-live date is 5 business days after the CCMPs have been approved by Gas Industry Co and notified in the *Gazette.* Parts 3 and 4 of the Regulations come into force on the date. From the go-live date:

- the critical contingency website must be available and contain all information provided for the purposes of the Regulations (CCMPs, communications plan, information guide etc.);
- all plans have been published; and
- authority of CCO to trigger a critical contingency becomes enabled.

If the CCO declares a critical contingency then it has the power to direct curtailment of consumers, according to the curtailment arrangements in Schedule 2, to stabilise the gas supply system and, once the system is able to supply gas at the pre-contingency level, to progressively restore supply to consumers.

Following a critical contingency

Once the critical contingency has been terminated, the following processes are initiated under the Regulations:

- CCO reports on the critical contingency:
    - within 5 business days the CCO prepares and publishes an incident report;
    - within 15 business days the CCO prepares and publishes a performance report;
- within 10 business days Gas Industry Co appoints an independent expert to determine the critical contingency price:

- within 15 business days after being appointed industry expert gives notice of the proposed critical contingency price;
- affected participants have 5 business days to make a submission; and
- within 5 business days, the industry expert must give notice of the final critical contingency price;

- within 20 business days of the end of the month in which the critical contingency was terminated, each TSO must determine the contingency imbalances for each party affected by the critical contingency; and
- on the first business day of the month that is two months after the month in which the critical contingency was terminated, Gas Industry Co issues invoices to all affected parties;
  - on the 20th day of the month parties in negative imbalance must pay the amounts invoiced; and
  - on the last business day of the month payments made from contingency cash pool to parties in positive imbalance (pro rata payments if not all money has been received from parties with negative imbalances).

3.3 Role of CMIG

In April 2008 Gas Industry Co held the first meeting of the Contingency Management Implementation Group. The members of CMIG are listed in Appendix C.

Objective

The objective of CMIG is: To achieve an effective and efficient transition from the existing arrangement to the critical contingency arrangements under the CCMRs.

Scope

CMIG will cover all the key components of the new arrangements. Preparations required under the Regulations are listed below (party responsible under the Regulations):

- Threshold limits for a critical contingency in Schedule to Regulations (Gas Industry Co and TSOs);
- Processes for calculating imbalances (TSOs);
- CCMPs (TSOs);

- Service Provider Agreement for Critical Contingency Operator – SPACCO (Gas Industry Co and Vector);
- Communications Plan (CCO);
- Information Guide (CCO);
- Consumer Information (Retailers);
- Designation of customers as essential service providers and minimal load consumers (Retailers);
- Curtailment schedules (Gas Industry Co);
- Inclusion of those parts of the NGOCP arrangements that are not included in CCMPs (TSOs);
- Expert Adviser – terms of reference and recommendations (Gas Industry Co); and
- Industry Expert – terms of reference and recommendations (Gas Industry Co).

Q8: Are there any other areas related to implementation that should be included within the terms of reference of CMIG?

3.4 Service provider agreement

The service provider agreement for the critical contingency operator (SPACCO) is an agreement between Gas Industry Co and the CCO for services to carry out the role of the CCO under the Regulations. A draft terms sheet for the Service Provider Agreement was published in the March 2008 Supplementary Submissions Analysis.

The draft terms sheet for SPACCO has been developed into a draft contract which was provided to Vector in early April. To date, Gas Industry Co is not aware of any particular concerns or problems with the proposed approach.

Gas Industry Co has presented its proposed performance standards under SPACCO to CMIG for review and comment. As a result an additional performance standard has been added.

Gas Industry Co considers it is desirable to have an "in principle" agreement with Vector that it is prepared to undertake the CCO role, based generally on the terms set out in the draft agreement, before it makes a recommendation to the Minister. The next steps to develop the SPACCO are:

- comments on draft agreement to be received from Vector;

- draft agreement to be tabled at CMIG; and
- final agreement to be published on Gas Industry Co website.

Appendix A: Recommended Format for Submissions

QUESTION	COMMENT
Q1: Are the proposed threshold limits (or the ranges for those limits) set at an appropriate level?	
Q2: Do you consider the definitions of positive and negative contingency imbalances are appropriate? If not, please explain why.	
Q3: Do you agree that a process for correcting material errors in contingency imbalances is desirable?	
Q4: What is your view of the proposed two-stage process for setting the critical contingency price?	
Q5: Do you consider the definition of regional critical contingency is sufficiently unambiguous? If not, how do think it should be improved?	
Q6: Do you agree with the appeal process for the designation of consumers as minimal load consumers and essential service providers?	

QUESTION		COMMENT
Q7	Are there any other changes to the proposed Regulations that you wish to comment on?	
Q8	Are there any other areas related to implementation that should be included within the terms of reference of CMIG?	

Appendix B: Flows in Excess of Pre-contingency Volumes

Flows in Excess of Pre-Contingency Volumes

Introduction

At the industry workshop held on 27 November 2007, an issue was raised that a producer who caused a critical contingency and then subsequently recovered the flow during a critical contingency could benefit under the proposed contingency imbalance arrangements. The issue was described in section 5.57 of the Supplementary Consultation Paper. Section 5.58 presented possible options to address the issue, however, it is not intended to pursue these any further at this stage.

The purpose of this note is to explore the issue further and to recommend the steps required to determine whether the concern expressed at the workshop is justified. The answer depends on the detail of the contractual arrangements between producers and shippers. The Gas Supply Agreements (GSA) between producers and shippers are confidential and therefore it is necessary to put this question to the parties to the various contracts.

The example relates to a GSA where the title-transfer point is within the onshore transmission system. Thus it is the producer who is the party to the transportation arrangements at the receipt welded point.

Issue

A producer who loses part or all of its supply and faces reduced flows through the receipt welded point can call an event under 15.2 of MPOC and seek relief (force majeure) under the terms of the GSA with the shipper(s) concerned.

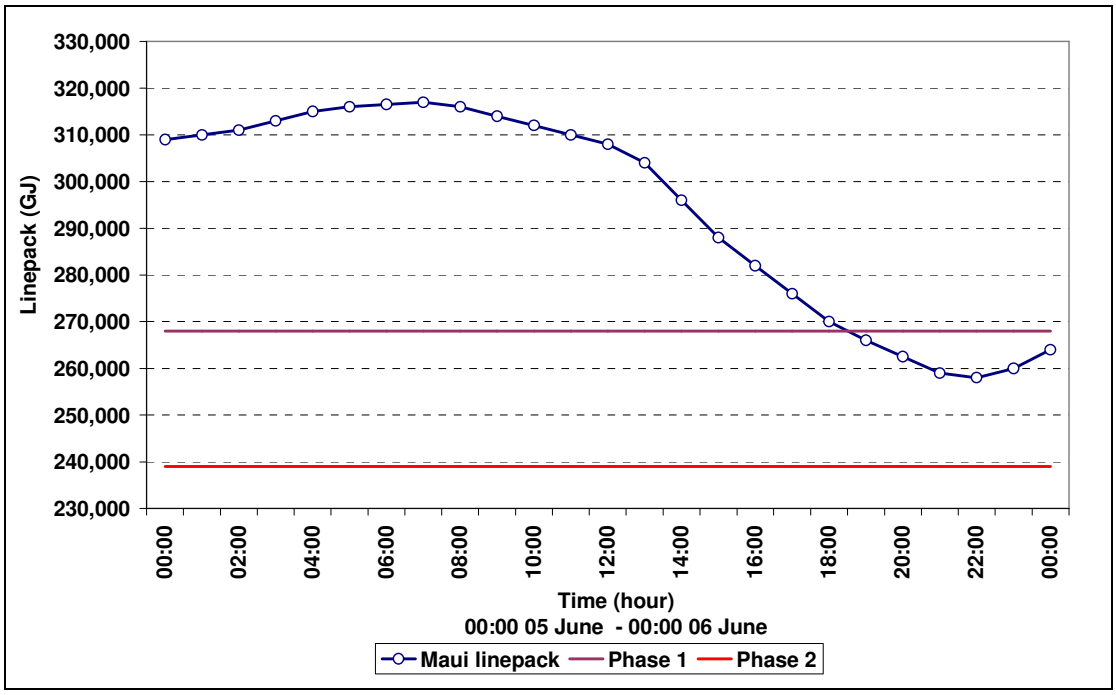
Under MPOC, the Scheduled Quantity (SQ) will be reduced to reflect the reduced flow rate and a series of consequential adjustments will be made to the nominations of those shippers affected by the event (and to the SQ of the corresponding delivery points). The producer who calls the event would not then incur negative Operational Imbalance (OI) following the reduction to the SQ.

Now, suppose that the situation on the transmission pipeline deteriorates to such an extent that a critical contingency is declared. Under MPOC, any revisions to the SQs are suspended during a critical contingency and the (previously revised) SQ will stay at the reduced level during the critical contingency. An anomaly may then arise if the producer recovers production and injects at a higher rate, causing that producer to accumulate positive OI – the measured quantity of flow is greater than the revised SQ. Under the critical contingency imbalance arrangements, as currently proposed in the draft Regulations, the producer would stand to receive payments for all or some of that positive imbalance.

Illustrative example

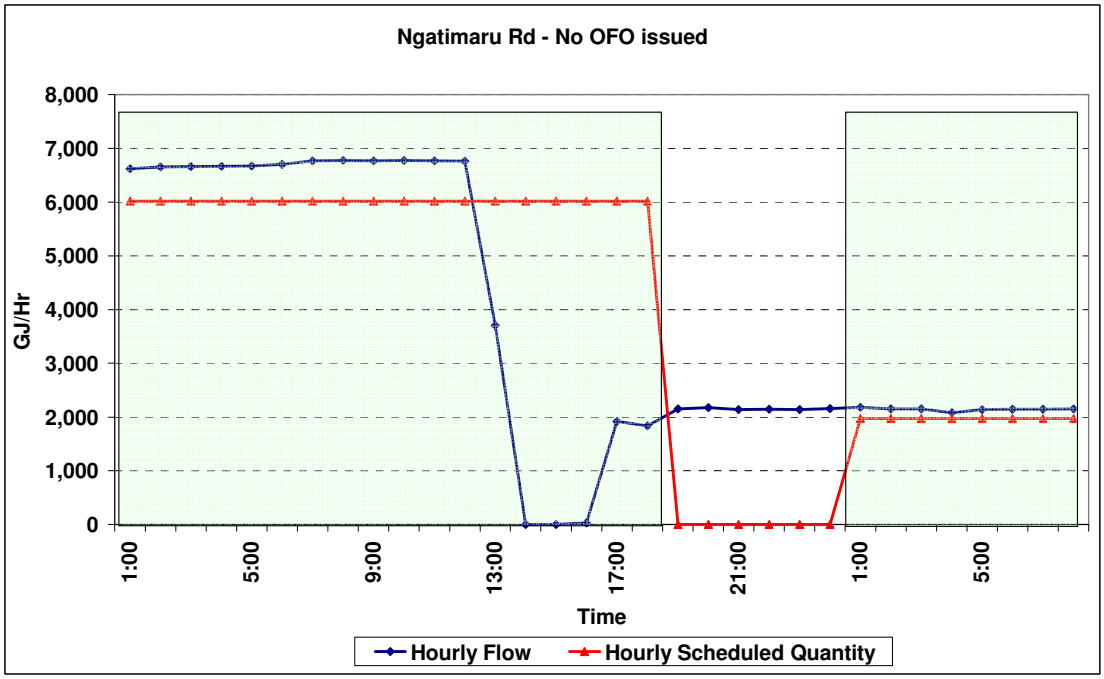
An example of this issue occurred on 5th June 2007 when a phase 1 contingency was called under the NGOCP (the existing industry arrangement). Figure 1 presents the hourly data provided by MDL which shows that during late morning and early afternoon the linepack on the Maui pipeline reduced steeply and at 18:00 hours a breach of the phase 1 level was imminent. For the purpose of our example we assume that a critical contingency was triggered before 19:00 hours and that the critical contingency was lifted with effect from 00:00 hours when the fall in linepack had been halted and linepack had recovered to close to the phase 1 threshold level.

Figure 1 – Maui Line Pack showing phase 1 threshold: 5th June 2007



Now we look at the flows at the Ngatimaru Road receipt point on the Maui pipeline. Figure 2 shows the hourly flows and scheduled quantities over 24 hours on 5th June and through the first eight hours of 6th June. Around 12:00 hours on 5th June flows through the receipt point fell. The scheduled quantity was reduced to zero from 19:00 hours prior to the (hypothetical) critical contingency and was held at zero during the period of the critical contingency. However, from 17:00 hours onwards the flows through the receipt point were resumed at around one third of the scheduled flow at the start of the day. During the hours of the critical contingency there was a positive operational imbalance (measured flow>scheduled quantity) at the receipt welded point.

Figure 2 – Maui Line Pack showing phase 1 threshold: 5th June 2007



Question

In the situation described above, what would the shippers' entitlement be to the flow during the critical contingency?

How it should work

Once that producer is able to flow gas again it would seem that they are no longer in a force majeure situation (at least for that quantity of gas which they are able to flow). Therefore, the flow at the receipt point during the hours of the critical contingency should continue to be provided to the shippers under the GSA and be credited to the shippers' contingency imbalances.

To avoid perverse incentives a producer should not benefit from the positive imbalance until the flow is increased to a rate above the pre-contingency SQ earlier in the day. A producer is, nevertheless, incentivised to help out in a critical contingency by virtue of accruing positive imbalance once they flow above either their current SQ (for a producer whose supply is not subject to outage) or their pre-contingency SQ. However, there may be situations where a producer has entered into a GSA which has effectively given the purchaser(s) rights to the field reserves. In such circumstances it would be difficult for the producer to obtain the benefit of positive contingency imbalances.

Objective

Gas Industry Co wants to ensure that there are incentives for producers to continue to flow gas during a critical contingency and to increase flow at times of shortage. However, it also wants to minimise any perverse incentives and to ensure that in the imbalance calculation that the shippers would be credited with the gas in the situation described above.

Recommendation

The Contingency Management Implementation Group (CMIG) should consider this issue of flows in excess of pre-contingency volumes. Specifically:

- representatives need to be able to discuss the kinds of arrangements under their existing GSAs;
- each representative should investigate whether or not there are existing gas supply arrangements which may create perverse incentives; and
- CMIG needs to consider whether there is any need to amend the proposed Regulations to address this issue.

Appendix C: Members of CMIG

The Contingency Management Implementation Group is an industry group chaired by Gas Industry Co that is responsible for overseeing the implementation of the new arrangements. The membership spans all parts of the gas supply chain including shippers, retailers, transmission companies and distribution companies. Members of CMIG are listed in the table below.

Member	Company
Roopal Gandhi	Contact Energy
Tara Gannon	Energy Direct
Jeremy Barker	Genesis Energy
Don Gray	Maui Developments (MDL)
Jim Raybould	Mighty River Power
Charles Teichert	Nova Gas
Dan Hynson	Powerco
Steve Ilcovics	Vector

Appendix D: Proposed Gas Governance (Critical Contingency Management) Regulations

DRAFT

Gas Governance (Critical Contingency Management) Regulations 2008

Governor-General

Order in Council

At Wellington this day of 2008

Present:
in Council

Pursuant to sections 43F, 43G, and 43S of the Gas Act 1992, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Energy made in accordance with sections 43J to 43O of that Act, makes the following regulations.

Contents

Regulations

1 Title

These regulations are the Gas Governance (Critical Contingency Management) Regulations 2008.

2 Commencement

(1) Parts 3 and 4 come into force on the 5th business day after the day on which the industry body publishes a statement in the *Gazette* in accordance with regulation 32(1).

(2) The rest of these regulations come into force on the 28th day after the date their notification in the *Gazette*.

3 Purpose

The purpose of these regulations is to achieve the effective handling of critical gas outages and other security of supply contingencies without compromising long-term security of supply.

4 Outline

These regulations provide for—

(a) the appointment of a critical contingency operator and funding arrangements in relation to the regulations; and

(b) the development of critical contingency management plans; and

(c) processes for managing a critical contingency; and

(d) processes for determining gas imbalances resulting from a critical contingency and setting a price to apply to those gas imbalances.

Part 1
General provisions

5 Interpretation

In these regulations, unless the context otherwise requires,— **Act** means the Gas Act 1992

business day means any day of the week except—

(a) Saturday and Sunday; and

(b) any day that Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day, and Waitangi Day are observed for statutory holiday purposes; and

(c) any other day that the industry body has determined not to be a business day as published by the industry body

civil defence emergency means an emergency that results in a declaration of a state of national emergency or a declaration of a state of local emergency under the Civil Defence Emergency Management Act 2002 or any equivalent declaration under any subsequent replacement legislation

commencement date means the date referred to in regulation 2(2)

Commission means the Energy Commission established under section 43ZZH of the Act

communications plan means the plan published by the critical contingency operator under regulation 35

consumer—

(a) means any person who is supplied, or applies to be supplied, with gas (other than a domestic consumer); but

(b) does not include a transmission system owner or any gas distributor or retailer, except to the extent that the transmission system owner, the gas distributor, or retailer is supplied, or applies to be supplied, with gas for its own consumption and not for the purposes of resupply to any other person

consumer installation means 1 or more gas installations that have a single point of connection to a distribution system or a transmission system and for which there is, or previously has been, a single consumer

contingency imbalance means either a negative contingency imbalance or a positive contingency imbalance as defined in regulation 69(2)

critical contingency means a critical contingency as determined by the critical contingency operator in accordance with regulation 45

critical contingency management plan means a plan approved by the industry body under regulation 30 or 31

critical contingency operator means the person appointed in accordance with regulation 6(1)

critical contingency operator service provider agreement means the agreement between the industry body and a person in respect of that person's appointment as the critical contingency operator

critical contingency price means a price determined by the industry expert under regulation 67

curtailment arrangements means the curtailment arrangements set out in Schedule 2

curtailment band means a curtailment band as specified in the curtailment arrangements

director of civil defence emergency management means the director appointed under the Civil Defence Emergency Management Act 2002 or any person appointed to an equivalent or replacement role under any subsequent replacement legislation

electricity system operator means the service provider for the time being who is appointed as system operator pursuant to the Electricity Governance Regulations 2003, or any person appointed to an equivalent or replacement role under any subsequent replacement legislation

essential service provider means a consumer that has been approved as an essential service provider under regulation 42

expert adviser means a person appointed by the industry body in accordance with regulation 27 to be the expert adviser in respect of a proposed critical contingency management plan or amendment

gas gate means the point of connection between—

(a) a transmission system and a distribution system; or

(b) a transmission system and a consumer installation; or

(c) 2 distribution systems

gas producer has the same meaning as in section 43D(1) of the Act, but in respect of Maui gas means the Crown

go-live date means the day referred to in regulation 2(1)

industry body means—

(a) the industry body approved by Order in Council under section 43ZL of the Act; or

(b) in the event that the approval of the industry body is revoked under section 43ZM of the Act and no other industry body is approved, the Commission

industry expert means a person appointed by the industry body in accordance with regulation 65

information guide means the guide published by the critical contingency operator under regulation 36

interconnected party means any person who has an interconnection agreement with a transmission system owner to take gas from, or inject gas into, an interconnection point on the transmission system

large consumer means any consumer installation connected directly to the transmission system that has the potential to consume gas at rates that in aggregate exceed 15 terajoules a day

Maui Pipeline Operating Code or **MPOC** means the code, issued by the owners of that part of the transmission system identified as the Maui pipeline on the map published in accordance with regulation 10, covering operation of the Maui pipeline, as amended from time to time

minimal load consumer means a person approved by a retailer to be a minimal load consumer in accordance with regulation 43

National Gas Outage Contingency Plan or **NGOCP** means the document entitled "*Gas Contingency Plan: A Plan for the New Zealand Natural Gas Industry to Manage the Interruption of Gas Supplies*", version 2.3, issued by the National Gas Outage Planning Group and dated 1 December 2005

OATIS means the online interactive open access transmission information system that is used to facilitate the open access regime under MPOC and VTC

obligations, in relation to a person, includes the duties, powers, functions, and responsibilities of the person

publish means,—

(a) after the commencement date and before the go-live date, in respect of information to be published by the industry body, to make such information available on the industry body's Internet site; and

(b) on and after the go-live date, in respect of information to be published by the industry body or the critical contingency operator, to make such information available on the critical contingency Internet site established in accordance with regulation 9; and

(c) for all other information, to make available to the intended recipient in such manner as may be determined by the industry body from time to time

retailer means any person who supplies gas to another person or other persons through the transmission system, or through a distribution system that is connected to the transmission system, for any purpose other than for resupply by the other person or persons

shipper means a person who is a party to a valid and subsisting agreement with a transmission system owner to have gas transported through all or part of the transmission system

switch means a switch as defined in the Gas (Switching Arrangements) Rules 2008

system operator means a person who operates a transmission system

transmission system means the system—

(a) comprising those high pressure transmission pipelines from the point where the gas leaves a gas processing facility to an interconnected point for distribution or, where the gas does not enter a distribution system, to a consumer

(b) as depicted in the map published by the industry body in accordance with regulation 10

transmission system code means any code which sets out detailed rules covering operation of part or all of a transmission system, as amended from time to time

transmission system owner means any person or persons who own a transmission system or part of a transmission

system and includes any agent of the transmission system owner

Vector Transmission Code or **VTC** means the code, issued by the owners of that part of the transmission system identified as the Vector pipeline on the map published in accordance with regulation 10, covering operation of the Vector pipeline, as amended from time to time.

Appointment

6 Appointment of critical contingency operator

(1) The industry body may, by agreement with a person who is the system operator for all or any of the transmission system, appoint that person to act as the critical contingency operator.

(2) The critical contingency operator has the obligations set out in these regulations.

(3) The industry body may at any time terminate, or change the appointment of, or reappoint, any person as the critical contingency operator, subject to the terms of the critical contingency operator service provider agreement.

(4) The remuneration of the critical contingency operator is as agreed between the industry body and the critical contingency operator in the critical contingency operator service provider agreement.

(5) The industry body and the critical contingency operator may agree on any other terms and conditions not inconsistent with the obligations of the critical contingency operator under these regulations.

(6) If a person is the system operator of all of the transmission system, the industry body must appoint that person as the critical contingency operator for an initial term of 5 years beginning on the commencement date, on the terms of the critical contingency operator service provider agreement.

(7) Any appointment of the critical contingency operator beyond the initial term is at the industry body's sole discretion.

(8) If at any time the person appointed to act as critical contingency operator ceases to be the system operator for any or all of the transmission system, the industry body may terminate

the critical contingency operator service provider agreement in accordance with the terms of that agreement.

7 Other terms of critical contingency operator service provider agreement

In addition to any other terms and conditions required by these regulations, the critical contingency operator service provider agreement must provide for—

(a) appropriate provision for liability cover; and

(b) testing of plans and procedures; and

(c) publishing a communications plan and information guide.

8 Publication of critical contingency operator service provider agreement

The industry body must publish the critical contingency operator service provider agreement.

9 Critical contingency Internet site

(1) Before the go-live date, the critical contingency operator in consultation with the industry body must develop a critical contingency Internet site for the purpose of providing a central repository for publicly available information relevant to a critical contingency.

(2) The critical contingency Internet site must be able to perform the functions required of the Internet site by these regulations, and available to the public on and after the go-live date.

(3) The critical contingency operator must take reasonable steps to ensure the information on the critical contingency Internet site is accurate and up to date.

(4) The critical contingency operator must publish on the critical contingency Internet site all information provided to it by the industry body for the purposes of publication by the industry body.

(5) For the purposes of these regulations, the information referred to in subclause (4) is deemed to be published by the industry body.

10 Publication of transmission system

(1) No later than 5 business days after the commencement date, each transmission system owner must provide the industry body with the information specified in clause 1(2) of Part 5 of Schedule 1 of the Gas (Information Disclosure) Regulations 1997.

(2) As soon as practicable after receiving the information described in subclause (1), the industry body must consult with all transmission system owners.

(3) As soon as practicable after that consultation, the industry body must publish a map depicting the transmission system.

(4) On the go-live date, or as soon as practicable after the go-live date, the industry body must publish a map depicting the transmission system.

(5) A transmission system owner must give notice to the industry body of any error or change in the boundaries of, and pipelines comprising, the transmission system as soon as practicable after becoming aware of the error or change.

(6) The industry body may amend or update the boundaries of, and pipelines comprising, the transmission system in response to any notice given by a transmission system owner under subclause (5) and, where applicable, must publish an updated map depicting the transmission system.

11 Performance standards

(1) On the appointment of the critical contingency operator, the industry body must set performance standards against which the critical contingency operator's performance is to be reported and measured.

(2) Before setting any performance standards under subclause (1), the industry body must consult with the critical contingency operator.

(3) Following the completion of any review carried out by the industry body under regulation 12, the industry body may revoke, amend, or add to any performance standards set under this regulation.

12 Review of critical contingency operator performance by the industry body

(1) The industry body may, on an annual basis, review the manner in which the critical contingency operator has performed its duties and obligations under these regulations in the preceding 12 months.

(2) The review must concentrate on the critical contingency operator's —

(a) compliance with its obligations under these regulations; and

(b) operation of these regulations; and

(c) compliance with any performance standards agreed between the critical contingency operator and the industry body; and

(d) compliance with the provisions of the critical contingency operator service provider agreement.

Scope

13 Relationship with NGOCP and transmission system codes

(1) With effect from the go-live date,—

(a) these regulations replace the National Gas Outage Contingency Plan; and

(b) the National Gas Outage Contingency Plan ceases to have effect except in so far as it relates to events and obligations and liabilities occurring or arising before the go-live date.

(2) MPOC, VTC, and any other transmission system code must be read subject to these regulations.

(3) If both a transmission system code and these regulations impose an obligation or liability in respect of the same matter, the obligation or liability in the code is replaced by the obligation or liability in these regulations to the extent that the obligation or liability in the code is inconsistent with these regulations.

14 Civil Defence Emergency Management Act 2002

A person is not required to comply with these regulations where that compliance prevents that person from complying

with the requirements of the Civil Defence Emergency Management Act 2002.

Funding

15 Development fee

(1) The development fee is a fee to meet the critical contingency development costs.

(2) The critical contingency development costs are—

(a) the costs of the industry body associated with—

(i) the appointment of the critical contingency operator; and

(ii) the review and recommendation for approval of proposed critical contingency management plans under regulations 26 to 30; and

(b) the costs (if any) payable by the industry body to the critical contingency operator before the go-live date in respect of the development and establishment of any critical contingency management arrangements required under these regulations; and

(c) the costs of the industry body in connection with the development and establishment of the critical contingency management arrangements.

(3) Every person who purchases gas directly from a gas producer during the 28 days after the commencement date is liable to pay a development fee in accordance with these regulations.

(4) To avoid doubt, the critical contingency development costs do not include costs incurred before the commencement date.

16 How and when development fee must be paid

(1) The development fee is payable to the industry body.

(2) Every person to whom regulation 15(3) applies must supply to the industry body a return as at a date that is as soon as practicable after the commencement date and no later than 38 days after the commencement date (**the deadline for supplying returns**). The return must state—

(a) the total number of gigajoules of gas that the person purchased directly from all gas producers during the 12 months before the date of the return; and

(b) how many gigajoules of gas were purchased from each gas producer during that 12-month period.

(3) As soon as practicable after the deadline for supplying returns, the industry body must determine and publish a breakdown of the estimated critical contingency development costs.

(4) As soon as practicable after the deadline for supplying returns, the industry body must invoice every person to whom regulation 15(3) applies for that person's share of those costs calculated in accordance with the following formula:

$$a \times \frac{b}{c}$$

where—

a is the estimated critical contingency development costs

b is the total quantity of gas purchased by that person directly from all gas producers during the 12 months before the commencement date

c the total quantity of gas purchased by all persons directly from all gas producers during the 12 months before the commencement date.

(5) As soon as practicable after the go-live date, the industry body must determine and publish on its Internet site the actual critical contingency development costs.

(6) No less than 10 business days after publication of the actual critical contingency development costs, the industry body must invoice or issue a credit note to every person to whom regulation 15(3) applies with the difference between—

(a) that person's share of the actual critical contingency development costs calculated in accordance with the formula in subclause (4), with the necessary modifications; and

(b) the amount of the estimated critical contingency developments costs invoiced to that person.

17 Ongoing fees

(1) The ongoing fees are monthly fees to meet the critical contingency ongoing costs.

(2) The critical contingency ongoing costs are—

(a) the costs payable by the industry body to the critical contingency operator in respect of that year; and

(b) the costs payable to any person appointed by the industry body to carry out any obligations under these regulations in respect of that year; and

(c) the costs of the industry body associated with critical contingency management and its obligations under these regulations during that year.

(3) Every person who purchases gas directly from a gas producer during a month is liable to pay ongoing fees for that month in accordance with these regulations.

18 How and when estimated ongoing fees payable

(1) The estimated ongoing fees are payable to the industry body.

(2) Every person who is liable to pay ongoing fees for a month must supply to the industry body a return no later than the tenth day of that month, unless otherwise agreed by the industry body. The return must state—

(a) the total number of gigajoules of gas that the person purchased directly from all gas producers during the previous month; and

(b) how many gigajoules of gas were purchased from each gas producer during that month.

(3) As soon as practicable after the go-live date, the industry body must determine and publish the estimated critical contingency ongoing costs for the first year or part year of operation of the critical contingency management plans.

(4) As soon as practicable after the publication of the estimated critical contingency ongoing costs, the industry body must notify every person to whom regulation 17(3) applies of the estimated critical contingency ongoing costs, and that ongoing fees will be payable by that person in that year or part year in accordance with the following formula:

$$a \times \frac{b}{c}$$

where—

a the critical contingency ongoing costs estimated in accordance with subclause (4) and divided by the number of months in the applicable year or part year

b the total quantity of gas purchased by that person directly from all gas producers during the month before the current month

c the total quantity of gas purchased by all persons directly from all gas producers during the month before the current month.

(5) For each year following the first year or part year of operation, the industry body must—

(a) estimate and publish on its Internet site at least 2 months before the beginning of the year a breakdown of the estimated critical contingency ongoing costs for that year; and

(b) as soon as practicable after publication of the estimated critical contingency costs, notify each person to whom regulation 17(3) applies of the estimated critical contingency ongoing costs, and that ongoing fees will be payable by that person in that year in accordance with the formula in accordance with subclause (4).

(6) On the first business day of each month, the industry body or the critical contingency operator must invoice every person to whom regulation 17(3) applies with that person's share of the estimated critical contingency ongoing costs, calculated in accordance with the formula in subclause (4).

19 How and when actual ongoing fees payable

(1) The actual ongoing fees are payable to the industry body.

(2) As soon as practicable after the end of each year, the industry body must determine and publish on its Internet site, and on

the critical contingency Internet site, a breakdown of the actual critical contingency ongoing costs for that year.

(3) No less than 10 business days after publication of the actual critical contingency ongoing costs, the industry body must invoice or issue a credit note to each person to whom regulation 17 (3) applies with the difference between—

(a) that person's share of the actual critical contingency ongoing costs calculated in accordance with the formula in regulation 18(4), with the necessary modifications; and

(b) the amount of the estimated critical contingency ongoing costs invoiced to that person during the applicable year.

20 General provisions regarding fees

(1) The due date for the payment of any invoice or refund of any credit is the tenth business day after the date on the invoice or credit note.

(2) The fees payable under regulations 15 to 19 are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985, and goods and service tax on those fees (if any) may be added to any invoices issued to persons by the industry body under regulation 16 or 18.

(3) The industry body must ensure that all information and returns that are supplied under regulations 15 to 19 are used only for the purposes of collecting the development fee and the ongoing fees.

(4) The returns supplied to the industry body under regulation 7 of the Gas (Levy of Industry Participants) Regulations 2008 (or, where applicable, any replacement levy regulations) are sufficient to fulfil the requirements of regulations 16(2) and 18 (2) if the person who supplied the returns consents to the returns being used for this purpose.

Notices and receipt of information

21 Giving of ordinary notices

(1) If these regulations require any notice to be given, the notice must be in writing and be—

(a) delivered by hand to the nominated office of the addressee; or

(b) sent by post to the nominated postal address of the addressee; or

(c) sent by fax to the nominated fax number of the addressee; or

(d) sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.

(2) This regulation does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under regulation 23(3).

22 When ordinary notices taken to be given

(1) In the absence of proof to the contrary, notices are taken to be given,—

(a) in the case of notices delivered by hand to a person, when actually received at that person's address:

(b) in the case of notices sent by post, at the time when the letter would in the ordinary course of post be delivered; and in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted:

(c) in the case of notices sent by fax, at the time indicated on a record of its transmission:

(d) in the case of notices sent by electronic transmission or any other similar method of electronic communication,—

(i) at the time the computer system used to transmit the notice has received an acknowledgment or receipt to the electronic address of the person transmitting the notice; or

(ii) the person who gave the notice proves the notice was transmitted by computer system to the electronic address provided by the addressee.

(2) This regulation does not apply to the giving of urgent notices, but does apply to the confirmation of urgent notices under regulation 23(3).

23 Urgent notices

(1) In relation to a critical contingency, these regulations provide for urgent notices to be given in certain circumstances.

(2) Despite regulations 21 and 22, an urgent notice may be given orally where the person issuing a notice considers that the urgency of the situation means the notice should not be given in writing.

(3) If an urgent notice is given orally under subclause (2), the person who gave that notice must, as soon as practicable, confirm that urgent notice in writing in accordance with regulations 21 and 22.

Part 2
Obligations before critical contingency

Critical contingency management plans

24 Critical contingency management plan

No later than 50 business days after the commencement date, each transmission system owner must prepare a proposed critical contingency management plan for its part of the transmission system and submit it to the industry body for approval.

25 Content of critical contingency management plan

(1) A proposed critical contingency management plan must be consistent with these regulations and must provide for the following:

(a) a threshold for each part of the transmission system referred to in Schedule 1 that meets the following requirements:

(i) the threshold must be not be less than, and must not exceed, the relevant permissible limits for those thresholds set out in Schedule 1; and

(ii) the threshold must be specified in terms of the projected number of hours remaining before the minimum operating pressure is reached; and

(iii) the threshold must specify, as part of the threshold, the minimum operating pressure; and

(iv) the minimum operating pressure must be the minimum pressure that is required to maintain

the continued supply of gas across the relevant part or parts of the transmission system; and

(v) the minimum operating pressure must be measured at the points on the transmission system specified in Schedule 1; and

(b) a description of the events that the transmission system owner considers may feasibly result in a breach of the thresholds referred to in paragraph (a); and

(c) actions that the transmission system owner considers it may feasibly take to remedy any breach in those thresholds resulting from the events described in accordance with paragraph (b); and

(d) a process, consistent with the curtailment arrangements set out in Schedule 2, outlining the manner in which curtailment will be implemented, curtailment bands, how restoration will be implemented, and an explanation as to how these processes meet the objectives set out in Schedule 2; and

(e) a communications plan, describing the communications that the transmission system owner must initiate by notice to other transmission system owners, operators of gas distribution systems, retailers, large consumers, and any other person it considers necessary before and during a critical contingency, the reciprocal communications, and time frames within which those communications are to take place; and

(f) the contact details of any suitably qualified persons employed by the transmission system owner who the transmission system owner proposes will be responsible for—

(i) giving communications to the critical contingency operator and receiving communications from the critical contingency operator under the communications plan; and

(ii) giving directions in accordance with the critical contingency management plan; and

(g) the circumstances, if any, in which the transmission system owner considers it may be desirable for the critical contingency operator to direct the restoration of gas

supply in an order different to that (last curtailed and first restored) set out in the curtailment arrangements in Schedule 2, including how, in those circumstances, that different order would better achieve—

(i) the purpose of these regulations; and

(ii) the objectives of the curtailment arrangements set out in Schedule 2; and

(h) a process, consistent with regulations 68 to 75, outlining the manner in which the contingency imbalances will be determined for each affected interconnected party and shipper over the period of the critical contingency, including—

(i) what information is to be used by the transmission system owner to determine contingency imbalances; and

(ii) how the transmission system owner is to allocate contingency imbalances to affected interconnected parties and shippers; and

(iii) processes outlining how the information concerning those allocated contingency imbalances is to be provided to the industry body for the invoicing of those allocated contingency imbalances; and

(i) a list of the contact details for the—

(i) operators of gas storage facilities that are connected to the relevant part of the transmission system; and

(ii) operators of upstream gas production facilities that are connected to the relevant part of the transmission system; and

(iii) large consumers connected directly to the relevant part of the transmission system; and

(iv) interconnected parties, retailers, and shippers who are trading across or utilising the relevant part of the transmission system; and

(v) operators of gas distribution systems connected to the relevant part of the transmission system; and

(j) any other things that the transmission system owner considers appropriate to give effect to the purpose of these regulations.

(2) A proposed critical contingency management plan must be consistent with MPOC, VTC, or any other transmission system code except to the extent necessary to comply with these regulations.

26 Process for preparing critical contingency management plan

Before submitting the proposed critical contingency management plan to the industry body for approval, a transmission system owner must—

(a) consult on a draft of the proposed critical contingency management plan with persons that the transmission system owner considers are representative of the interests of persons likely to be substantially affected by the proposed critical contingency management plan; and

(b) immediately before consulting under paragraph (a), provide a draft of the proposed critical contingency management plan to—

(i) the critical contingency operator; and

(ii) the industry body, who must also publish the draft of the proposed plan; and

(c) give persons consulted with under paragraph (a) at least 20 business days to make submissions to the transmission system owner on the draft of the proposed critical contingency management plan; and

(d) provide copies of the submissions to the industry body as soon as practicable after those submissions have been received; and

(e) consider the submissions made and make any amendments to the proposed critical contingency management plan that the transmission system owner considers necessary.

27 Appoint expert adviser

The industry body must appoint an expert adviser to review a proposed critical contingency management plan or a proposed

amendment to a critical contingency management plan within whichever of the following is applicable:

(a) 30 business days of the commencement date; or

(b) 5 business days of receiving a proposed amendment to a critical contingency management plan from a transmission system owner under regulations 33(4)(c), 34(6)(c), or 61(3)(c).

28 Expert adviser to consult critical contingency operator

(1) As soon as practicable following receipt of a proposed critical contingency management plan under regulation 24 or a proposed amendment under regulations 33(4)(c), 34(6)(c), or 61 (3) (c), the industry body must provide the proposed plan or proposed amendment to the expert adviser and the critical contingency operator.

(2) In reviewing the proposed critical contingency management plan or proposed amendment under regulation 29, the expert adviser must consult with the critical contingency operator.

(3) The critical contingency operator may provide the expert adviser with a report on the proposed critical contingency management plan or proposed amendment in relation to any issues it perceives as material to the review by the expert adviser under regulation 29.

(4) Any report prepared by the critical contingency operator under subclause (3) must be submitted to the expert adviser no later than 10 business days after the proposed critical contingency management plan or proposed amendment was received from the industry body.

29 Review of a critical contingency management plan

(1) The expert adviser must review—

(a) a proposed critical contingency management plan provided by a transmission system owner under regulations 24 or 30(3); or

(b) a proposed amendment to a critical contingency management plan under regulations 33(4)(c), 34(6)(c), or 61(3)(c),—

to determine whether or not to recommend approval of the proposed critical contingency management plan or proposed amendment to the industry body.

(2) In reviewing the proposed critical contingency management plan or proposed amendment, the expert adviser—

(a) must have regard to any report submitted in accordance with regulation 28(3) and (4); and

(b) may have regard to any submissions received by the transmission system owner under regulation 26.

(3) Following the review, and no later than 20 business days after receiving the proposed critical contingency management plan or proposed amendment, the expert adviser must—

(a) make a recommendation, with reasons, to the industry body on whether the industry body should approve the proposed critical contingency management plan or proposed amendment; and

(b) give notice to the relevant transmission system owner and the critical contingency operator of its recommendation and the reasons for its recommendation.

(4) If the expert adviser considers that the proposed critical contingency management plan or proposed amendment complies with regulation 25 and gives effect to the purpose of these regulations, the expert adviser must make a recommendation that the industry body should approve the proposed critical contingency management plan or proposed amendment.

(5) If the expert adviser gives notice under subclause (3)(b) that it has recommended that the proposed critical contingency management plan or proposed amendment should not be approved by the industry body, then, no later than 10 business days after receiving that notice, the relevant transmission system owner—

(a) must revise the proposed critical contingency management plan in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or

(b) may revise the proposed amendment in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval.

(6) Regulations 27, 28, 29, and 30 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (5).

30 Approval of critical contingency management plan

(1) No later than 5 business days after receiving a recommendation to approve under regulation 29(3), the industry body must—

(a) approve or decline to approve the proposed critical contingency management plan or proposed amendment; and

(b) give notice to the relevant transmission system owner and the critical contingency operator of its determination and the reasons for its determination.

(2) The industry body must approve the proposed critical contingency management plan or proposed amendment if—

(a) it receives a recommendation for approval from the expert adviser under regulation 29(3); and

(b) the industry body considers that the proposed critical contingency management plan or proposed amendment complies with regulation 25 and gives effect to the purpose of the regulations.

(3) If the industry body gives notice under subclause (1)(b) that it has declined to approve the proposed critical contingency management plan or proposed amendment, the relevant transmission system owner, no later than 10 business days after receiving that notice,—

(a) must revise the proposed critical contingency management plan in response to the reasons given in that notice, and resubmit the proposed plan to the industry body for approval; or

(b) may revise the proposed amendment in response to the reasons given in that notice, and resubmit the proposed amendment to the industry body for approval.

(4) Regulations 27, 28, 29, and 30 apply to a proposed plan or proposed amendment resubmitted for approval under subclause (3).

31 Amendment of plan by industry body if deadlock exists

(1) This regulation only applies if a proposed critical contingency management plan submitted under regulations 24, 29(5)(a), or 30 (3) (a) has not been approved by the industry body under regulation 30 within 6 months of the commencement date.

(2) To avoid doubt, this regulation does not apply to any proposed amendment to a critical contingency management plan.

(3) The industry body may itself amend the proposed critical contingency plan, if the industry body considers that the amendments are—

(a) related to the reasons set out in any notice referred to in regulation 29(3)(b) or 30(1)(b); and

(b) necessary to ensure the proposed critical contingency management plan complies with regulation 25 and gives effect to the purpose of these regulations.

(4) If the industry body amends the proposed critical contingency management plan under subclause (3), the industry body must give notice to the relevant transmission system owner and the critical contingency operator of the amendments and the reasons for the amendments.

(5) On the fifth business day after giving notice under subclause (4), the industry body must determine whether or not to approve the proposed critical contingency management plan as amended under subclause (3).

32 Publish critical contingency management plans

(1) As soon as practicable after the industry body is satisfied that it has approved critical contingency plans to cover all of the transmission system, the industry body must publish, both in the *Gazette* and on the industry body's Internet site, a statement specifying—

(a) that it has approved critical contingency plans to cover all of the transmission system; and

(b) the go-live date on which, pursuant to regulation 2, Parts 3 and 4 come into force.

(2) No later than 5 business days after the industry body publishes a statement under subclause (1), the critical contingency operator must publish the critical contingency management plans on the critical contingency Internet site.

(3) However, the critical contingency operator must not publish any information in the critical contingency management plans that it considers is confidential or commercially sensitive.

(4) If any dispute or issue is raised regarding the publication of information in the critical contingency management plans, the dispute or issue may be referred to the industry body for determination as to what is and what is not appropriate for publication.

33 Maintaining critical contingency management plan

(1) Each transmission system owner must ensure that the contact details included in its critical contingency management plan in accordance with regulation 25 are current.

(2) Each transmission system owner must review its critical contingency management plan to determine whether it complies with regulation 25, and whether it is able to give effect to the purpose of these regulations,—

(a) once every 2 years; and

(b) at any time it is directed to do so by the critical contingency operator; and

(c) at any time that the relevant transmission system owner is of the opinion that its critical contingency management plan may not give effect to the purpose of these regulations.

(3) Each transmission system owner must notify the critical contingency operator, within 10 business days of making a determination, that its critical contingency management plan may not adequately comply with regulation 25, or give effect to the purpose of these regulations.

(4) If notice is given under subclause (3), the relevant transmission system owner must—

(a) prepare a proposed amendment to the critical contingency management plan that it considers would comply with regulation 25 and better achieve the purpose of these regulations; and

(b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and

(c) submit, after consultation in accordance with paragraph (b), the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.

34 Testing critical contingency management plans

(1) The critical contingency operator must, after consultation with transmission system owners, instigate exercises to test that— (a) the critical contingency management plans comply with

(a) regulation 25 and give effect to the purpose of these regulations; and

(b) the contact details included in critical contingency management plans in accordance with regulation 25 are current; and

(c) the list of emergency contact details maintained by retailers in accordance with regulation 41 is current.

(2) Transmission system owners must participate in tests instigated under subclause (1).

(3) To avoid doubt, participation in a civil defence emergency management training exercise that tests the matters set out in subclause (1) is considered to be an exercise for the purposes of this regulation.

(4) An exercise must be instigated by the critical contingency operator at least once every 12 months, except if there has been a critical contingency within that 12-month period and the report produced in accordance with regulation 61 confirms that the critical contingency management plans meet the test criteria in subclause (1).

(5) Within 10 business days of completing an exercise under subclause (1), each transmission system owner must provide a report to the critical contingency operator that—

(a) explains why its critical contingency management plan meets or does not meet the test criteria in subclause (1); and

(b) identifies areas in which its critical contingency management plan can be improved; and

(c) recommends to the critical contingency operator any amendments that the transmission system owner considers should be made to its critical contingency management plan; and

(d) contains any other information that the transmission system owner considers is appropriate.

(6) Following the provision of the report provided under subclause (5), a transmission system owner may—

(a) prepare a proposed amendment to the critical contingency management plan that it considers would better achieve the purpose of these regulations; and

(b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner and the critical contingency operator agree that the proposed amendment is immaterial; and

(c) submit, after consultation in accordance paragraph (b) (if any), the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.

Communications plan and information guide

35 Publish communications plan

(1) The critical contingency operator must, in consultation with transmission system owners, prepare a communications plan and publish it on the go-live date.

(2) The communications plan will govern the communications between the critical contingency operator and the transmission system owners during a critical contingency.

(3) The communications plan must apply to communications from the critical contingency operator to the transmission system owners, and from the transmission system owners to the critical contingency operator, relating to—

(a) implementing curtailment of demand; and

(b) revising curtailment of demand; and

(c) restoring gas supply; and
(d) terminating a critical contingency; and
(e) identifying persons who did not comply with curtailment or restoration directions.

(4) The critical contingency operator may, after consultation with transmission system owners, amend and publish a revised communications plan.

36 Information guide for certain parties

On the go-live date, the critical contingency operator must publish an information guide that explains the communication flows between the critical contingency operator and the following parties during a critical contingency:

(a) the electricity system operator; and
(b) the director of civil defence emergency management; and
(c) operators of gas storage facilities; and
(d) operators of upstream gas production facilities; and
(e) the industry body; and
(f) the Minister of Energy; and
(g) any other person that the critical contingency operator considers necessary.

37 Process for preparing information guide

(1) Before publishing the information guide, the critical contingency operator must—

(a) consult with persons that the critical contingency operator considers are representative of the interests of persons likely to be substantially affected by the information guide; and
(b) give persons consulted with under paragraph (a) at least 20 business days to make submissions to the critical contingency operator on the information guide; and
(c) consider the submissions made on the information guide.

(2) The consultation process, including consideration of submissions, must be completed within 50 business days of the commencement date.

(3) If submissions made on the information guide are also relevant to the critical contingency management plans or communications plan, the critical contingency operator may consider those submissions when reviewing the critical contingency management plans or preparing the communications plan as applicable.

(4) The critical contingency operator may, after consulting on any proposed amendments in accordance with subclause (1)(a), amend and publish a revised information guide.

Consumer information

38 Retailers to provide consumer information

(1) Each retailer must provide a notice to the critical contingency operator, no later than 20 business days after the commencement date,—

(a) the number of the retailer's consumers who are supplied gas through each gas gate and who are in each of the curtailment bands set out in the curtailment arrangements, and their aggregate total annual consumption; and

(b) the number of the retailer's consumers who are designated as minimal load consumers who are supplied gas through each gas gate and who are in each of the curtailment bands set out in the curtailment arrangements, and their aggregate total annual consumption.

(2) Retailers must give notice to the critical contingency operator as soon as practicable whenever there is a change of 20% or greater in the aggregate total annual consumption figures for the information provided in accordance with subclause (1).

39 Critical contingency operator to hold record of retailers' information

(1) The critical contingency operator must keep a record of information provided to it by retailers in accordance with regulation 38.

(2) If the critical contingency operator considers that information provided by any retailer is materially incorrect, the critical contingency operator must, as soon as is reasonably practicable, give notice to the industry body that a specific retailer's

information may be materially incorrect and provide all of the information provided by the retailer in accordance with regulation 38 to the industry body.

40 Audit of retailers' information

(1) If the industry body is notified by the critical contingency operator under regulation 39 that a retailer's information may be materially incorrect, the industry body must give the relevant retailer 10 business days to correct its information and provide the updated information to the critical contingency operator.

(2) If the critical contingency operator considers that the updated information provided under subclause (1) is materially incorrect, or the retailer does not provide the updated information, the critical contingency operator must, as soon as is reasonably practicable, give notice to the industry body.

(3) Within 5 business days of receiving notification under subclause (2), the industry body must give notice to the retailer that the industry body intends to conduct an audit of that retailer.

(4) The purpose of an audit under this regulation is to determine whether information provided to the critical contingency operator by the retailer is materially incorrect.

(5) The audit must be conducted in accordance with regulation 76.

41 Emergency contact details

(1) Retailers must maintain a list of the emergency contact details of all of their consumers who have annual gas consumption greater than 2 terajoules in any 12-month period.

(2) Retailers must include or remove (as appropriate) the emergency contact details of a consumer on the list maintained in accordance with subclause (1) within 40 business days of that consumer concluding a switch of retailers.

42 Designation of consumers as essential service providers

(1) The purpose of this regulation is to identify consumers who are essential service providers.

(2) Each retailer must, as soon as reasonably practicable after the commencement date, notify its consumers that, if they wish to

be classified as essential service providers, they must apply to the retailer in writing and that the application can be made at any time.

(3) A retailer must approve a consumer's application to be an essential service provider if both of the following criteria are met:

(a) the consumer provides services that are considered necessary to further the emergency response objectives set out in clause 59(4) of the National Civil Defence Emergency Management Plan Order 2005; and

(b) the consumer can demonstrate that its annual gas consumption was greater than 2 terajoules in any 12-month period within the 2 years before the consumer's application.

(4) Each retailer must, within 10 business days of receiving a consumer's application to be an essential service provider, give notice to the consumer that it approves or declines that consumer's application.

(5) If a retailer reasonably considers a consumer who has been approved as an essential service provider no longer meets the criteria set out in subclause (3), the retailer may give notice requiring the consumer to reapply under this regulation for approval as an essential service provider.

(6) To avoid doubt, a consumer remains an essential service provider unless it receives notice under subclause (5) that the retailer has declined its reapplication.

43 Designation of customers as minimal load consumers

(1) The purpose of this regulation is to identify consumers who require a minimal amount of gas during a critical contingency in order to avoid serious damage to plant, or mitigate serious environmental damage, while undertaking an orderly shut down of plant in the shortest time possible.

(2) Each retailer must, as soon as reasonably practicable after the commencement date, notify its consumers that, if they wish to be classified as minimal load consumers, they must apply to the retailer in writing and that the application can be made at any time.

(3) A consumer must include the following information in an application to be a minimal load consumer:

(a) the absolute minimum level of gas supply level required to avoid serious damage to plant or mitigate serious environmental damage; and

(b) the period of time required for an orderly and complete shut down of plant.

(4) A retailer must, within 10 business days of receiving an application to be a minimal load consumer, provide notice to the consumer that it approves or declines that consumer's application.

(5) A retailer must approve a consumer's application to be a minimal load consumer if all of the following criteria are met:

(a) the consumer would have no alternative arrangements that are economically feasible if gas supply was curtailed; and

(b) the consumer is operating a major item of capital plant and that plant would sustain serious damage, or significant environmental damage would likely be caused, if gas supply was curtailed; and

(c) the consumer installation has annual gas consumption of greater than 10 terajoules in any 12-month period.

(6) Within 10 business days of notifying a consumer that its application to be a minimal load consumer has been approved, the retailer and the consumer must agree in writing on—

(a) the absolute minimum gas supply level required to mitigate serious damage to plant or significant environmental damage; and

(b) the period of time for which it requires a gas supply to effect an orderly and complete shut down of plant.

(7) If a retailer reasonably considers a consumer who has been approved as a minimal load consumer no longer meets the criteria set out in subclause (5), the retailer may give notice requiring the consumer to reapply under this regulation for approval as a minimal load consumer.

(8) To avoid doubt, a consumer remains a minimal load consumer unless it receives notice under subclause (4) that the retailer has declined its reapplication.

43A Referral of designation decision to industry body

(1) If a consumer disputes the decision to approve or decline its application to be either an essential service provider under regulation 42 or a minimal load consumer under regulation 43, the consumer may by notice refer the matter to the industry body for review.

(2) As soon as practicable and no later than 10 business days after receiving notice under subclause (1), the industry body must review the decision by the retailer or approve or decline the application by the consumer and either—

(a) confirm the retailer's decision; or

(b) refer the application back to the retailer for reconsideration; or

(c) approve or decline the application itself in accordance with regulation 42 or 43, as applicable.

(3) To avoid doubt, this regulation does not apply if the industry body has previously referred the application back to the retailer for reconsideration.

Part 3
Critical contingency

General

44 Life and limb

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.

Declaring critical contingency

45 Critical contingency operator must determine critical contingency

(1) The critical contingency operator must make a determination that there is a critical contingency if—

(a) either—

(i) the critical contingency operator considers that a breach has occurred of 1 of more of the thresholds that are specified in a critical contingency management plan under regulation 25(1)(a); or

(ii) the critical contingency operator has a reasonable expectation that a breach of 1 or more of those thresholds is imminent; and

(b) the critical contingency operator considers that the determination is necessary to achieve the purpose of these regulations.

(2) When determining whether a breach of a threshold has occurred or is imminent, the critical contingency operator must assume that any occurring reduction in pressure in the relevant part of the transmission system will continue at a constant rate, unless the critical contingency operator has reasonable grounds for considering, based on the best available information, that a non-constant rate of reduction will provide a significantly more accurate basis for its determination.

46 Process for declaration

(1) If the critical contingency operator determines that there is a critical contingency under regulation 45, the critical contingency operator must declare a critical contingency.

(2) Without limiting the powers of the critical contingency operator under these regulations to declare a critical contingency, the critical contingency operator must, as soon as is reasonably possible after determining a critical contingency, give urgent notice to all affected transmission system owners—

(a) advising them that a critical contingency has been declared; and

(b) detailing the pipeline areas affected; and

(c) advising them that they are required to comply with any directions of the critical contingency operator; and

(d) advising them that communications under the communications plan are to commence immediately.

47 Authority of critical contingency operator

(1) If the critical contingency operator declares a critical contingency, the critical contingency operator must issue directions to transmission system owners that, having regard to the nature of the critical contingency, are—

(a) necessary to achieve the purpose of these regulations; and

(b) consistent with the relevant critical contingency management plans and the communications plan.

(2) To avoid doubt, subclause (1) does not prevent the critical contingency operator issuing directions in relation to matters outside the scope of a critical contingency management plan if the critical contingency operator considers those directions are necessary to—

(a) achieve the purpose of these regulations; and

(b) mitigate the severity of the critical contingency.

48 Notification of critical contingency to certain parties

As soon as is reasonably practicable after declaring a critical contingency, the critical contingency operator must give urgent notice to the following persons that a critical contingency has been declared:

(a) the electricity system operator; and

(b) the director of civil defence emergency management; and

(c) operators of gas storage facilities; and

(d) operators of upstream gas production facilities; and

(e) the industry body; and

(f) the Minister of Energy.

49 Publish declaration of critical contingency

The critical contingency operator must, as soon as is reasonably practicable after declaring a critical contingency,—

(a) publish a statement that a critical contingency has been declared, the date and time that the critical contingency was declared, and detail the pipeline areas affected; and

(b) ensure an appropriate critical notice is posted on OATIS or its replacement interactive software system, if any.

During critical contingency

50 Role of critical contingency operator during critical contingency

(1) For the duration of a critical contingency, the critical contingency operator must—

(a) monitor the pressure (including linepack levels) in the section or sections of the transmission system affected; and

(b) receive and consider communications from the transmission system owners and any other persons identified in the information guide; and

(c) maximise all available opportunities to increase upstream gas production and draw on gas storage, excluding any gas stored in a transmission system or distribution system; and

(d) for the purpose of stabilising the pressure (including linepack levels) in the section or sections of the transmission system affected, issue directions by giving urgent notice to transmission system owners in accordance with regulation 47 and the communications plan directing the transmission system owners to—

(i) implement curtailment of demand for gas in accordance with the curtailment arrangements and with these regulations; and

(ii) where necessary, revise curtailment of demand for gas in accordance with the curtailment arrangements and with these regulations; and

(e) once pressure (including linepack levels) in the section or sections of the transmission system affected has stabilised to a level where the critical contingency operator is satisfied that it is appropriate to restore gas supply, give urgent notice to transmission system owners in accordance with the communications plan directing the transmission system owners to either—

(i) restore gas supply to consumers—

(A) in the reverse curtailment order (last to curtail and first to restore) in accordance with Schedule 2; or

(B) in an order other than reverse curtailment order where it is considered by the transmission system owner and critical contingency operator to better achieve the purpose of these regulations, having regard to

the objectives and requirements set out in Schedule 2; or

(ii) if there is a civil defence emergency, restore gas supply to consumers in accordance with The Guide to the National Civil Defence Emergency Management Plan issued by the Director of Civil Defence Emergency Management under section 9 (3) of the Civil Defence Emergency Management Act 2002, or any equivalent or replacement document under any subsequent replacement legislation; and

(f) to the extent that is reasonably practicable in the circumstances, ensure the following persons are kept informed of the status of the critical contingency:
  (i) the persons listed in regulation 48; and
  (ii) affected transmission system owners, interconnected parties, retailers, and shippers; and

(g) publish—
  (i) updated information on the status of the critical contingency; and
  (ii) all urgent notices given by the critical contingency operator.

(2) To avoid doubt, the critical contingency operator may direct curtailment of only a subset of load within a curtailment band, if it is satisfied that direction would further the objectives set out in Schedule 2, including—
  (a) subsets of voltage support load; and
  (b) subsets of electricity system stability; and
  (c) subsets of geographical load.

51 Role of transmission system owner during critical contingency

If the critical contingency operator determines that there is a critical contingency under regulation 45, each transmission system owner must—

(a) comply with the directions of the critical contingency operator given under these regulations; and

(b) subject to paragraph (a), issue directions to retailers—
  (i) in accordance with these regulations; and

(ii) in a manner consistent with the relevant critical contingency management plan and the communications plan.

52 Retailers must follow directions

(1) Retailers must, as soon as is reasonably practicable, comply with the directions of a transmission system owner given under these regulations during a critical contingency.

(2) Retailers must provide a transmission system owner with regular updates of—

(a) the retailer's compliance with the directions of the transmission system owner; and

(b) consumers' compliance with the retailer's directions issued in accordance with the directions of the transmission system owner.

53 Retailers to instruct consumers

(1) As soon as is reasonably practicable after receiving a direction from a transmission system owner under regulation 52(1), retailers must give urgent notice to their consumers affected by that direction, directing the consumer to curtail demand in accordance with the direction from the transmission system owner.

(2) The urgent notice given under subclause (1) must include statements as follows:

(a) that a critical contingency has been declared by the critical contingency operator; and

(b) that the critical contingency operator has issued a direction for the curtailment band that the notified customers falls within; and

(c) either—

(i) the consumer must curtail all its demand; or

(ii) if the consumer is a minimal load consumer, gas demand must be curtailed in accordance with the agreement with the retailer under regulation 43 (6).

54 Consumers to comply with directions

Consumers must comply with the directions issued by their retailer under regulation 53 as soon as is reasonably practicable.

55 Continuing critical contingency

(1) If a critical contingency has not been terminated under regulation 56 within 3 days from the date the critical contingency was declared under regulation 46, the critical contingency operator must give urgent notice of that situation to the industry body, the director of civil defence emergency management, and the Minister of Energy.

(2) On receiving urgent notice under subclause (1), the industry body, the director of civil defence emergency management, or the Minister of Energy may require the critical contingency operator to provide any information it holds concerning the critical contingency.

Termination of critical contingency

56 Termination of critical contingency

(1) The critical contingency operator must make a determination to terminate a critical contingency when the transmission system is capable of supplying gas to all consumers at the level at which gas was supplied immediately before the event that triggered the critical contingency.

(2) To avoid doubt, the critical contingency operator may make a determination to terminate a critical contingency under subclause (1) before gas supply has been restored to all consumers.

57 Process for termination

As soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 56, the critical contingency operator must give urgent notice to all affected transmission system owners advising them—

(a) of the date and time on which the critical contingency terminates or has been terminated; and

(b) that they must give urgent notice to all affected retailers that the critical contingency has been terminated and

must direct retailers to advise their consumers that the critical contingency has been terminated; and

(c) that they must give urgent notice to all consumers connected directly to their transmission system that the critical contingency has been terminated.

58 Notification of termination to certain parties

As soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 56, the critical contingency operator must give urgent notice to the following persons that the critical contingency has been terminated:

(a) the electricity system operator; and
(b) the director of civil defence emergency management; and
(c) operators of gas storage facilities; and
(d) operators of upstream gas production facilities; and
(e) the industry body; and
(f) the Minister of Energy.

59 Publish termination of critical contingency

The critical contingency operator must, as soon as is reasonably practicable after making a determination to terminate a critical contingency under regulation 56, publish a statement that the critical contingency has been terminated.

Part 4
Obligations after critical contingency

Reporting requirements

60 Incident report

As soon as is reasonably practicable, but no later than 5 business days after making a determination to terminate a critical contingency under regulation 56, the critical contingency operator must, in consultation with the affected transmission system owners, prepare and publish an incident report that states the—

(a) cause of the critical contingency; and
(b) duration of the critical contingency; and

(c) actions taken by the critical contingency operator and transmission system owner during the critical contingency; and

(d) the level of general compliance by retailers and consumers with the directions of the transmission system owners and retailers during the critical contingency; and

(e) any other matters that the critical contingency operator considers are appropriate.

61 Performance report

(1) No later than 15 business days after making a determination to terminate a critical contingency under regulation 56, or as otherwise agreed between the critical contingency operator and the industry body, the critical contingency operator must prepare and publish a performance report that—

(a) assesses the critical contingency operator's and transmission system owners' compliance with these regulations and the effectiveness of the critical contingency management plan and communications plan; and

(b) assesses the extent to which it considers that these regulations, critical contingency management plans, and communications plan achieve the purpose of these regulations; and

(c) identifies, where applicable, any amendments to these regulations, critical contingency management plans, and communications plan that it considers would better achieve the purpose of these regulations.

(2) In preparing the performance report under subclause (1), the critical contingency operator must consult with—

(a) the affected transmission system owner; and

(b) any other person it considers necessary.

(3) If the performance report identifies an amendment to the critical contingency management plan, the transmission system owner must—

(a) prepare a proposed amendment to the critical contingency management plan that is consistent with the amendment identified in the performance report; and

(b) consult on the proposed amendment in accordance with regulation 26, except if the transmission system owner

and the critical contingency operator agree that the proposed amendment is immaterial; and

(c) submit the proposed amendment to the industry body for approval in accordance with regulations 27 to 30.

(4) If the performance report identifies an amendment to the communications plan, the critical contingency operator must amend and publish a revised communications plan in accordance with regulation 35.

62 Assist with report

A transmission system owner must provide any information and assistance requested by the critical contingency operator for the purpose of preparing the reports under regulations 60 and 61.

Critical contingency price for contingency imbalances

63 Purpose of applying critical contingency price to contingency imbalances

The purpose of regulations 64 to 67 is to determine a critical contingency price to be applied to the contingency imbalances sustained by interconnected parties and shippers during a critical contingency to—

(a) avoid shippers instructing their suppliers to reduce supply during a critical contingency when those shippers' consumers have been curtailed; and

(b) signal to suppliers and consumers of gas that it is a scarce and valuable product during a critical contingency; and

(c) provide incentives before a critical contingency, particularly for retailers who supply gas to consumers who are unlikely to be curtailed, to make alternative arrangements to minimise the financial repercussions of a critical contingency.

64 Nominate industry expert

(1) Each transmission system owner, interconnected party, and shipper who will be affected by the determination of a critical

contingency price may nominate 1 person to be considered by the industry body when appointing an independent industry expert to determine the critical contingency price.

(2) Each affected transmission system owner, interconnected party, and shipper must provide the name, qualifications, and industry associations of their nominee to the industry body in writing within 5 business days of the termination of a critical contingency.

65 Appoint industry expert

(1) Subject to subclauses (2) to (4), the industry body must appoint an industry expert to determine the critical contingency price from the persons nominated under regulation 64 within 10 business days of the termination of a critical contingency.

(2) The industry body must only appoint a person nominated under regulation 64 if the industry body considers that the nominee would be an independent industry expert.

(3) No person may be appointed as an independent industry expert under this regulation if the person—

(a) has a material financial interest in an industry participant; or

(b) is a director, officer, member, employee, or trustee of an industry participant; or

(c) is otherwise directly or indirectly materially interested in an industry participant.

(4) If the industry body considers that none of the nominees would be an independent industry expert, the industry body has absolute discretion to appoint an independent industry expert that has not been nominated under regulation 64.

(5) The industry body must publish the appointment of the industry expert within 2 business days of making such an appointment.

(6) The following are both final and binding on all affected transmission system owners, interconnected parties, and shippers: (a) a decision of the industry body to appoint a person as the industry expert; and

(b) a determination of the critical contingency price by the industry expert.

66 Terms of appointment of industry expert

(1) The industry expert is appointed as a service provider on the terms and conditions set out in a service provider agreement.

(2) The remuneration of the industry expert is as agreed between the industry body and the industry expert in the service provider agreement.

67 Determining critical contingency price

(1) The industry expert must determine the critical contingency price in dollars per gigajoule.

(2) The industry expert must—

(a) seek to set the critical contingency price at a level that reflects the price that would be established by an efficient short-term market that allocated scarce gas resources to the highest value uses during the critical contingency; and

(b) if a gas-fired electricity generator plant, which is connected to the electricity transmission system, was the marginal plant on the curtailment band curtailed, base his or her determination on the prices in the wholesale market for electricity during the critical contingency except where that would be contrary to subclause (3)(a); and

(c) for all other circumstances, take into account the following matters:

(i) the prices in the wholesale market for electricity during the critical contingency; and

(ii) the economic cost of the loss of gas supply to those consumers who had their gas supply curtailed; and

(iii) any other matters that the industry expert considers relevant to achieving subclause (2)(a).

67A Procedure for finalising critical contingency price

(1) No later than 15 business days after being appointed under regulation 65(1), the industry expert must give notice of the proposed critical contingency price to—

(a) affected transmission system owners, interconnected parties, retailers, and shippers; and

(b) the industry body; and

(c) any large consumer who had their gas supply curtailed and has advised the industry body it wishes to receive such notice.

(2) The persons listed in subclause (1) may make a submission, including give any relevant information, to the industry expert on the proposed critical contingency price.

(3) Any submission must be provided to the industry expert no later than 5 business days after the notice in subclause (1) is given.

(4) No later than 10 business days after giving notice under subclause (1), the industry expert must, after considering any submissions provided in accordance with this regulation, give notice of the critical contingency price to the persons listed in subclause (1)

Determining and resolving contingency imbalances

68 Contingency imbalance provisions

(1) The objectives of regulations 69 to 75 are to—

(a) ensure the gas consumed during a critical contingency and any resulting contingency imbalances are accurately determined and allocated to affected interconnected parties and shippers; and

(b) ensure fair, effective, and transparent arrangements are implemented for the determination, allocation, and payment of contingency imbalances between affected transmission system owners, interconnected parties, and shippers.

(2) The industry body may perform its functions under regulations 70, 72, and 73 by entering into an arrangement or contract with any person or persons for the performance of those functions.

69 Determining contingency imbalances

(1) Within 20 business days of the end of the month in which a critical contingency was terminated, the transmission system owner must determine the contingency imbalances for each

interconnected party and shipper affected by the critical contingency over the period of the critical contingency.

(2) A contingency imbalance may be a positive contingency imbalance or a negative contingency imbalance, and, for the purposes of these regulations,—

(a) a **negative contingency imbalance** means—

(i) for an interconnected party who injects gas into the transmission system at an interconnection point, the amount by which the quantity of gas which that party was contractually obliged to inject exceeds the measured quantity of gas injected; and

(ii) for an interconnected party who takes gas from the transmission system at an interconnection point, the amount by which the measured quantity of gas taken exceeds the amount of gas which that party was contractually entitled to take; and (iii)

(iii) for a shipper, the amount by which that party and its consumers have, or are considered to have as a result of any allocation results under the Gas (Downstream Reconciliation) Rules 2008, in aggregate taken more gas during a critical contingency than the total gas which that party was contractually entitled to take; and

(b) a **positive contingency imbalance** means—

(i) for an interconnected party who injects gas into the transmission system at an interconnection point, the amount by which the measured quantity of gas injected exceeds the quantity of gas which that party was contractually obliged to inject; and

(ii) for an interconnected party who takes gas from the transmission system at an interconnection point, the amount by which the quantity of gas which that party was contractually entitled to take exceeds the measured quantity of amount of gas taken by that party; and

(iii) for a shipper, the amount by which that party and its consumers have, or are considered to have as

a result of any allocation results under the Gas (Downstream Reconciliation) Rules 2008, in aggregate taken less gas during a critical contingency than the total gas which that party was contractually entitled to take; and

(c) if aggregate negative contingency imbalances exceed aggregate positive contingency imbalances, the difference must be treated as a positive contingency imbalance that must be allocated to the relevant transmission system owner.

(3) When determining a contingency imbalance for each affected interconnected party and shipper affected by the critical contingency, the transmission system owner must—

(a) use the best information available that is in its possession or can be obtained without unreasonable difficulty or expense in the 20 business days after the end of the month in which the critical contingency was terminated; and

(b) calculate the contingency imbalances for the period of the critical contingency either,—

(i) on a part-day basis, commencing and concluding on the nearest hour to that which the critical contingency was declared and terminated on; or

(ii) where the information required to calculate on a part-day basis cannot be obtained in accordance with paragraph (a), on a whole-day basis—

(A) commencing at 0000 hours on the day on which the critical contingency was declared; and

(B) concluding at midnight on the day on which the critical contingency was terminated; and

(c) assume that interconnected parties, retailers, and shippers, and their consumers, have complied with any curtailment directions issued by the critical contingency operator during the critical contingency when determining quantities consumed, unless there is evidence to the contrary; and

(d) adjust quantities consumed having regard to any evidence that interconnected parties, retailers, and shippers, or their consumers, did not comply with curtailment instructions; and

(e) treat trades—

(i) purchasing gas over the transmission system as injections into the transmission system; and

(ii) selling gas over the transmission system as withdrawals from the transmission system; and

(f) in respect of changes in linepack across the relevant part or parts of the transmission system affected during a critical contingency,—

(i) if the aggregate amount of all negative imbalances over the period of the critical contingency is greater than the aggregate value of all positive imbalances, that difference is treated as a positive contingency imbalance to be allocated to the relevant transmission system owner; and

(ii) if the aggregate amount of all negative imbalances is less than or equal to the aggregate value of all positive imbalances,—

(A) the amount of each positive contingency imbalance must be determined in accordance with the following formula:

$$M_A = M_{+ve} \times (\sum M_{-ve} / \sum M_{+ve})$$

where—

M_A is the positive imbalance of an interconnected party or shipper (**A**) in gigajoules to be used in accordance with subclause (g)

M_{+ve} is the calculated positive imbalance of interconnected party or shipper A in gigajoules

$\sum M_{-ve}$ is the total of all the negative imbalances of interconnected parties or shippers in gigajoules

$\sum M_{+ve}$ is the total of all the positive imbalances of interconnected parties and shippers in gigajoules; and

(B) to avoid doubt, if there is any remaining linepack that has not been accounted for under subsubparagraph (A), that linepack must be accounted for by interconnected parties and shippers under their respective contractual arrangements with transmission system owners; and

(g) calculate and allocate any contingency imbalances for the critical contingency in accordance with the following formula:

$$X_A = C \times M_A$$

where—

X_A is the amount in dollars to be received by or paid from (as applicable) a transmission system owner, interconnected party or shipper (**A**)

C is the critical contingency price in dollars as notified by the industry expert in accordance with regulation 67(3)

M_A is the positive or negative imbalance of a transmission system owner, interconnected party, or shipper A in gigajoules.

(4) In this regulation, Gas (Downstream Reconciliation) Rules 2008 includes any gas governance regulations or rules concerning downstream and upstream reconciliation.

70 Industry body to hold contingency cash pool

The industry body must receive and hold the payments made in accordance with regulation 72 in a secure and separate bank account in trust for the benefit of interconnected parties, transmission system owners, and shippers with positive contingency imbalances.

71 Transmission system owners to provide contingency imbalance information

(1) On the next business day following the date specified in regulation 69(1), a transmission owner must provide to the industry body—

(a) the amounts of each positive and negative contingency imbalance calculated in accordance with regulation 69; and

(b) the associated information used to calculate those imbalances in accordance with regulation 69.

(2) For the purposes of subclause (1),—

(a) the industry body may give notice to transmission system owners specifying the format that the amounts and information must be provided in; and

(b) transmission system owners must provide the amounts and information to the industry body in that format.

72 Negative contingency imbalances

(1) On the first business day of the month that is 2 months after the month in which the critical contingency was terminated, the industry body must issue invoices to interconnected parties and shippers with negative contingency imbalances for the amounts provided in accordance with regulation 71.

(2) No later than the 20th day of the month in which the invoice was issued, each interconnected party and shipper with a negative contingency imbalance determined under regulation 69 must pay the amount stated on the invoice to the industry body.

73 Positive contingency imbalances

(1) On the first business day of the month that is 2 months after the month in which the critical contingency was terminated, the industry body must issue credit notes to interconnected parties and shippers with positive contingency imbalances for the amounts provided in accordance with regulation 71.

(2) On the last business day of any month during which the payments required under regulation 72 have been received, the industry body must pay the amount calculated in accordance with the following formula to each transmission system owner,

interconnected party and shipper with a positive contingency imbalance:

$$R_A = C_P \times (M_A/\sum M_{+ve})$$

where—

R_A is the amount to be received by transmission system owner, interconnected party, or shipper (**A**)

C_P is the total amount of money held in the contingency cash pool at a specified time in relation to the relevant critical contingency

M_A is the positive imbalance of transmission system owner, interconnected party, or shipper A in gigajoules

$\sum M_{+ve}$ is the total of all the positive imbalances of interconnected parties and shippers in gigajoules.

(3) Subject to subclause (4), the industry body must make subsequent payments to transmission system owners, interconnected parties, and shippers calculated in accordance with subclause (2) so that the amount stated in the credit note is fully paid out to those interconnected parties and shippers.

(4) The industry body is not required to pay out an amount greater than the total amount of payments received under regulation 72(2) held in its contingency cash pool at that time.

73A Errors in allocated contingency imbalances

(1) If an interconnected party, shipper, or transmission system owner who has been allocated a contingency imbalance under regulations 69 to 73 considers that a contingency imbalance has been calculated or allocated in error, the person must advise the industry body of the error as soon as practicable.

(2) Subclause (3) applies if the industry body considers—

(a) an error has occurred; and

(b) the error has resulted in a materially different allocation of a contingency imbalance than would have resulted had the error not occurred.

(3) The industry body may give notice to the relevant transmission system owners directing them to recalculate any affected imbalances in accordance with regulation 69 and resubmit the corrected contingency imbalance information to the industry body under regulation 71.

(4) If subclause (3) applies, then the industry body must—

(a) immediately give notice to all affected persons of the error and that the contingency imbalances are to be adjusted based on corrected contingency imbalance information; and

(b) as soon as practicable after receiving the corrected contingency imbalance information under subclause (2), reissue invoices and credit notes under regulations 72(1) and 73(1), as applicable, for the difference between the incorrect and the adjusted contingency imbalances.

(5) Regulations 72(2) and 73(2) to (4) apply to any adjusted contingency imbalances, with all necessary modifications.

(6) The industry body may not give notice under subclause (2) later than 6 months after the date that the relevant critical contingency was terminated.

74 Imbalance obligations under MPOC, VTC, etc

(1) A payment made under these regulations in relation to a contingency imbalance discharges in full any payment liability under MPOC, VTC, or any other transmission system code in respect of the same contingency imbalance.

(2) This regulation does not limit regulation 13(2) and (3).

75 Price and imbalances provisions do not apply to regional critical contingencies

(1) In this regulation, a regional critical contingency means a critical contingency where—

(a) there is a reduction to, or loss of, the supply of gas in a part of the transmission system that supplies an individual region of New Zealand; and

(b) a region has become wholly or partly isolated from the supply of gas from the transmission system; and

(c) the effects of the critical contingency were restricted to only that region.

(2) Regulations 63 to 74 do not apply to a regional critical contingency.

Part 5
Miscellaneous provisions

76 Audits

(1) In appointing an auditor to conduct an audit of a retailer under regulation 40, the industry body must appoint a person who is independent of, and not in a position of conflict of interest with, the retailer that is to be audited.

(2) No officer or employee of the industry body may be appointed as an auditor.

(3) The retailer that is to be the subject of the audit may recommend 1 or more auditors for the industry body's consideration.

(4) In conducting an audit, the auditor may request any information from the retailer or the industry body.

(5) The request must be reasonable and strictly for the purposes of the audit.

(6) In providing information to the auditor, the retailer or the industry body may indicate to the auditor that the information is considered to be confidential.

(7) The auditor must prepare a written audit report and, within the time frame agreed with the industry body, give that audit report to both the industry body and the retailer audited.

(8) The audit report may be used—

(a) for the purposes of any functions or processes set out in these regulations, the Gas Governance (Compliance) Regulations 2008, and any other gas governance regulations or rules made under Part 4A of the Act; and

(b) by the industry body to require the retailer to provide correct information to the critical contingency operator for the purposes of regulation 38.

(9) The retailer being audited must pay the costs of the audit.

(10) For the purposes of this regulation, the costs of the auditor are those costs that have been agreed between the industry body and the auditor.

77 Treatment of critical contingency occurring before plans receive approval

(1) If a national gas contingency or a regional gas contingency (as defined in the National Gas Outage Contingency Plan) occurs before the go-live date, the National Gas Outage Contingency Plan will apply to those persons participating in the National Gas Outage Contingency Plan.

(2) To avoid doubt, before the go-live date, Parts 3 and 4 of these regulations do not apply to a national gas contingency or a regional gas contingency under the National Gas Outage Contingency Plan.

Schedule 1

r 25

Critical contingency threshold limits

[Proposed draft specified in table 3 of para 2.3 in the Short Form Consultation Paper]

Schedule 2

rr 5, 25, 38, and 50

Curtailment arrangements

1 Objectives of curtailment arrangements

The objectives of the curtailment arrangements set out in this schedule are to—

(a) ensure that gas is supplied in a safe, efficient, and reliable manner; and

(b) minimise net public cost; and

(c) prioritise the supply of gas to essential service providers; and

(d) allow for minimal load consumer supply; and

(e) ensure efficient utilisation of gas in storage facilities; and

(f) ensure effective operational management of a critical contingency.

2 Curtailment bands

Subject to regulation 50(2), during a critical contingency, the defined groups of consumers set out in the table below are to

be given equal priority in terms of any curtailment required during a critical contingency.

Curtailment band	Consumption (TJ/annum unless specified)	Description
0		Gas offtaken for injection into gas storage.
1a	>15TJ/day	Consumers supplied directly from the transmission system and who have an alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
1b	>15TJ/day	Consumers supplied directly from the transmission system that do not have an alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
2	>10TJ	Industrial and commercial consumers with alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
3	>10TJ	Industrial and commercial consumers without alternative fuel capability. If minimal load consumer, then manage wind-down of plant.
4	2 to 10TJ	All consumers except for essential service providers. Minimal load consumers fully interrupted.
5	>2TJ	Essential service providers.
6	<2TJ	All remaining consumers.

3 Restoration of supply

(1) The restoration of gas supply during a critical contingency must occur in reverse order (last curtailed and first restored) to the curtailment bands specified above.

(2) However, the restoration of gas supply during a critical contingency may occur in a different order than that set out in subclause (1) if that order is considered by the transmission system owner and critical contingency operator, in the circum-

stances of the critical contingency, to better achieve the purpose of these regulations, having regard to the objectives of the curtailment arrangements as set out in this schedule.