

Gas Industry Company Limited

Application for an Exemption from the Gas (Downstream Reconciliation) Rules 2008

1. Please complete a separate form for each type of exemption sought.
2. Complete sections 1 to 4 of the form for all exemption types. Complete section 5 only in addition for urgent exemptions, and section 6 only in addition for transitional exemptions.
3. Please provide all relevant information. Expand the sections of the form as necessary to provide reasonably full information, but detailed supporting information should be set out in attachments to the form.
4. Gas Industry Co may request additional information after receiving and reviewing the application

1. Name and contact details for the participant(s) seeking exemption:

Company name: Nova Gas Ltd

Phone: 04 917 8851

Contact Name: Charles Teichert

Fax:

Email: cteichert@tpm.co.nz

Mailing Address:

2. Type of exemption sought (delete all but one):

Standard (under rule 19)

3. Provisions of the Rules from which the exemption is sought:

Rules 31, 32, 33, 39, 48, 49, 50, 51, 52, 53, 78, 79.

For each of the following gates:

FLB15601 Nova - Flatbush

HST05203 Nova - Hastings

HWA20802 Nova - Hawera 2

HUN15302 Nova - Hunua 2

TWB24810 Nova - Tawa B

OKW23401 Okaiawa (Taranaki Byproducts)

4. State the reasons on why you are seeking the exemption and why the exemption sought should be granted

(see notes attached which set out the requirements for different types of exemptions):

Why the Exemption is sought.

The five of the gas gates listed above are bypass pipelines of Nova's that deliver gas to Nova's gas customers only. The last gas gate listed is a customer supplied directly from the Vector high pressure transmission system. The gross consumption for these gas gates is fully accounted for and is metered at the interconnection point to the Vector high pressure transmission system.

Taranaki Byproducts at the dedicated Okaiawa gas gate is billed on the basis of the meter at the gas gate so there is no UFG to be calculated or allocated.

Nova's bypass network is for use by Nova customers only and as such there is no requirement for allocation of gas between retailers. All gas at the pipeline interconnection point is allocated to Nova Gas and is based on the meter at the interconnection point and not downstream metering. UFG on the Nova network is Nova's sole responsibility for managing.

Nova's bypass network competes with the Powerco and Vector distribution networks and offers an alternative distribution service for customers of Nova. Benefits of that service include improved security of supply, quality of service through higher pipeline pressures and the absence of UFG as well as lower distribution charges.

Requiring Nova to submit data and the Allocation Agent to process that data will not be of any benefit and simply represents additional processing costs. On the basis that there is no net benefit to the customer or the industry, an exemption is appropriate.

Why the Exemption should be granted

Section 19 provides the criteria for the granting of exemptions which are:

1) Section 43ZN objectives

Section 43ZN of the Gas Act 1992 provides:

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

- *The objectives of the industry body, in recommending gas governance regulations under section 43E, are as follows:*
 - *(a) the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner; and*
 - *(b) the other objectives are—*

- (i) the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements:
- (ii) barriers to competition in the gas industry are minimised:
- (iii) incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced:
- (iv) delivered gas costs and prices are subject to sustained downward pressure:
- (v) risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties:
- (vi) consistency with the Government's gas safety regime is maintained."

Should an exemption not be approved by the GIC then additional costs would be incurred by Nova with respect to its competitive bypass distribution network that disadvantages it compared to its Powerco/Vector open access network competitors.

Open access networks derive benefits from the allocation arrangements as increased volumes of gas can be distributed. However that benefit is traded off against the necessity to provide for the allocation of gas quantities among multiple parties trading on that network.

Requiring a non open access network that competes with an open access network to incur costs associated with compliance with the new Reconciliation Rules will represent a reduction in competitive tension and introduce a barrier to investment in new bypass distribution networks.

Granting the exemption is consistent with the objectives set down in S43ZN of the Act in relation to maintaining efficiency, competition, incentives to invest in distribution networks and sustained downwards pressure on delivered gas costs.

With respect to fully metered direct use of gas where there is no UFG and no need for allocation of gas between multiple participants the exemption would be consistent with achieving the objectives of efficiency and sustained downwards pressure on gas prices.

2) The purpose of the Rules

The purpose of the rules as per Section 2 of the Reconciliation Rules states:

" The purpose of the rules is to establish a set of uniform processes that will enable the fair, efficient and reliable downstream allocation and reconciliation of downstream gas quantities"

We believe granting an exemption is consistent with the purpose because:

- it would not be fair or efficient to impose requirements and costs on a reconciliation participant where there is no allocation of gas quantities between multiple retailers and there is no benefit achieved from doing so. Ultimately, this leads to higher costs being passed through to consumers.
- granting an exemption will not affect the reliability of allocation processes.

Describe how the exemption sought may affect other participants (including service providers) and any costs and benefits to them:

The exemption will not affect other participants. Service providers will simply have fewer gates to be responsible for in their allocation activities.

Specify how long the exemption sought is to be in effect for. Give reasons for the period that you specify:

From 1 October 2008.

Specify what conditions and/or alternative arrangements relating to the exemption sought are appropriate:

It may be appropriate to consider conditions such as:

- 1) the exemption is only valid until such time as it is made redundant by a future rule change:
and
- 2) the exemption is only valid while a non open network or any direct connect customer has an exclusive supply arrangement.

We note that several other participants (Contact, Vector and Genesis) have applied for similar exemptions, which indicate that perhaps a future rule change may be a better means of dealing with these situations. It is also true that my a direct connect customer may have an exclusive supply arrangement currently, it is always possible that in the future the customer may elect to break up the single site into multiple connections and take supply from multiple retailers. There are several instances of this currently such as at the Edgecumbe Dairy Factory where Nova supplies the cogeneration plant at that site and Contact Energy supplies other aspects of the Fonterra dairy factory. It may also be feasible that Nova could possible provide distribution services to multiple retailers on its bypass network.

For these reasons it may be appropriate to make all such exemptions relating to single supplier gates conditional.

5. Additional information for an urgent exemption:

If your application is urgent, specify the date(s) by when a decision is needed:

State the reasons for seeking an urgent exemption rather than a standard exemption:

6. Additional information for a transitional exemption

State the reasons for seeking a transitional exemption rather than a standard exemption:

Please email this form to bas.walker@gasindustry.co.nz

Notes on reasons for seeking an exemption

The passages below are verbatim extracts from the Rules

Purpose of the Rules

2. Purpose

The purpose of these rules is to establish a set of uniform processes that will enable the fair, efficient, and reliable downstream allocation and reconciliation of downstream gas quantities.

Standard Exemptions

19. Industry body may exempt allocation participant

19.1 Subject to rule 19.2, on the application of an **allocation participant** or the **allocation agent**, the **industry body** may, in its discretion and upon the terms and conditions (if any) that it thinks fit, exempt any **allocation participant**, class of **allocation participants**, **gas gate** or the **allocation agent** from complying with all or any of these **rules**.

19.2 The **industry body** may only grant an exemption under rule 19.1 if it is satisfied that the exemption is desirable to better achieve:

19.2.1 The objectives set out in section 43ZN of the Act; and

19.2.2 The purpose of the **rules**.

19.3 Prior to granting an exemption, the **industry body** must –

19.3.1 Publish the application for the exemption, excluding any information it considers to be confidential or commercially sensitive; and

19.3.2 Consult with those persons it considers are representative of those classes of persons likely to be substantially affected by the granting of the exemption.

19.4 The **industry body** must **publish** an exemption, and the reasons for granting the exemption, as soon as practicable after the exemption is granted.

19.5 An exemption takes effect from the date specified in the exemption which may not be earlier than the date that it is **published**.

Urgent Exemptions

20. Urgent exemptions

20.1 The **industry body** may grant an exemption under rule 19.1 without complying with rule 19.3.2 if the **industry body** considers that it is necessary or desirable that the exemption applied for be made urgently.

20.2 In that case –

20.2.1 The exemption must state that it is made in reliance on this rule; and

20.2.2 The exemption must state an expiry date, which must be a date that, in the opinion of the **industry body**, reasonably enables the **industry body** to consult with the persons specified in rule 20.2.3 about the exemption; and

20.2.3 The **industry body** must **publish** the exemption and consult with persons it considers are representative of those classes of persons likely to be substantially affected by the exemption; and

20.2.4 As soon as practicable after consulting in accordance with rule 20.2.3, the **industry body** must:

- (a) determine whether or not to revoke, replace, or amend the exemption; and
- (b) **publish** its determination and the reasons for the determination.

Transitional Exemptions

81. Transitional exemption

81.1 Despite anything in rules 19 and 20 the **industry body** may, in its discretion and upon the terms and conditions (if any) that it thinks fit, exempt any **allocation participant**, class of **allocation participants**, **gas gate** or the **allocation agent** from complying with one or more of these **rules** during the **transitional period**.

81.2 A transitional exemption applies for the period set out in the exemption and must set out alternative arrangements for complying with one or more of the **rules**.

81.3 The **industry body** may by notice require an **allocation participant** or the **allocation agent** to set out in detail any reasons why an exemption is needed, the period for which the exemption should be in effect, and what alternative arrangements should apply.

81.4 If the **industry body** is satisfied that a transitional exemption should be granted, the **industry body** may by notice grant the transitional exemption to the **allocation participant**, class of **allocation participants**, **gas gate** or the **allocation agent** which, in addition to stating the alternative arrangements that will apply, may be subject to such other conditions as the **industry body** thinks fit.

81.5 If the **industry body** grants a transitional exemption under rule 81.4. it must give notice of the transitional exemption to the **allocation participants** affected by the exemption and the **allocation agent**.