



Decision Paper

Switching and Compliance

19 January 2007

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 key 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

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Table of Contents

- 1 Introduction 1**
- 2 Background to Process 3**
 - The Importance of the Registry and the Switching Rules 4
 - The Importance of Compliance and Enforcement Arrangements 5
 - Submissions 5
- 3 Consultation on Statement of Proposal for Switching Rules 6**
 - Regulatory Objective 6
 - Cost-Benefit Analysis 6
 - Funding and Cost Allocation 8
 - Commercially Sensitive Information 9
 - Consumer Installations Connected Directly to Transmission Systems 10
 - Implementation 10
 - National Energy Registry 10
 - Other Issues 11
- 4 Consultation on Statement of Proposal for Compliance Regulations 12**
 - Industry Based Compliance Arrangement 12
 - Regulatory Objective 12
 - Philosophy 13
 - Funding the Ongoing Compliance Costs 14
 - Other Matters 14
 - New Matters 16
 - Incidental Matters 18
- 5 Matters for Supplementary Consultation 19**
 - Access to Commercially Sensitive Information 19
 - Consumer Installations Connected Directly to Transmission Systems 20
 - Coverage of Registry Operator 20
 - Draft Rules and Regulations 24

6	Problems with Gas Act	25
	Need to Amend Gas Act	25
	Amendment via Statues Amendment Bill	25
	Delay to Implementation	26
7	Final Assessment	27
	Reconsideration of Pan-Industry Agreement	27
	Reasonably Practicable Options	27
	Summary of Final Assessment	28
	Confirmation of Rules and Regulations.....	30
8	Next Steps	31
	Decision Paper	31
	Recommendation to Minister of Energy	32
	Publication of Notice in Gazette	32
	Legislative Enactment.....	32
9	Implementation Plan	34
	Introduction	34
	Registry Specification	34
	Request for Proposal	35
	Evaluation of Responses	35
	Appointment of Project Manager and Implementation Team	36
	Agreements with Registry Operator	37
	Development of the Registry.....	37
	Pre-Establishment Data Reconciliations and Clean Up	37
	User Acceptance Testing of the Registry	38
	Establishment of Registry and Initial Population of Data.....	38
	Pre-Go-Live Data Reconciliation and Cleansing	39
	Changes on Go-Live Date	39
	Termination of Transitional Functionality	39
	Implementation Timetable.....	39

10 Submission Requirements.....41

Appendices to this Paper:42

Appendix A: Recommended Format for Submissions

Appendix B: Responses to Submissions on Switching Proposal

**Appendix C: Responses to Submissions on Switching Proposal Question 7
Draft Rules**

Appendix D: Draft Switching Rules

Appendix E: Responses to Submissions on Compliance Proposal

Appendix F: Draft Compliance Regulations

1 Introduction

- 1.1 The Government Policy Statement on Gas Governance (GPS) invites Gas Industry Co to recommend arrangements, including regulations and rules where appropriate, for the standardisation and upgrading of protocols relating to customer switching, so that barriers to customer switching are minimised.
- 1.2 The main purpose of this paper is to explain the decisions that the Board has taken in respect of progressing the development of a set of switching arrangements, a central gas registry, and associated compliance arrangements. This paper also describes the process Gas Industry Co has followed in addressing customer switching issues and related compliance and enforcement arrangements which culminated in two Statements of Proposal for Switching Arrangements for the New Zealand Gas Industry.¹ These are referred to in this paper as the Switching Proposal and the Compliance Proposal.
- 1.3 The key decision is that the only reasonably practicable option to meet the GPS deliverable for switching arrangements is to develop a central registry and associated rules for switching retail customers, and to implement the arrangements by rules established by the Minister of Energy under the Gas Act (the Act). Associated with this decision is that the only reasonably practicable option to enforce compliance with the new customer switching rules is to implement a compliance system by regulations established by the Minister of Energy under the Act.
- 1.4 Although the Board has confirmed its overall approach and intends to recommend the arrangements to the Minister of Energy, further stakeholder input is sought in three particular areas:
- the extent to which stakeholders should be able to enforce the rules against the registry operator;
 - the treatment of commercially sensitive information in the registry; and
 - whether the final drafts of the rules and regulations accurately implement the arrangements.
- 1.5 Stakeholders should provide submissions on these three areas by **Friday 9 February 2006**. Gas Industry Co will consider submissions and expects to make recommendations to the Minister of Energy in March 2007. Implementation of the central registry, and establishment of a contract with a service provider, will follow the Minister of Energy approving the recommendations.
- 1.6 Unfortunately, the Minister of Energy will not be able to approve the recommendations until an amendment is made to the Act. This is because the empowering section in the Act does not provide for any party other than gas retailers to be bound by rules or regulations. Implementing the proposed switching

¹ Statement of Proposal for Switching Arrangements for the New Zealand Gas Industry Part 1: 18 August 2006. Statement of Proposal for Switching Arrangements for the New Zealand Gas Industry Part 2: Compliance and Enforcement Arrangements 18 August 2006.

arrangements requires that gas retailers, gas distributors and gas meter owners are all obliged to participate. It appears to be a drafting oversight, rather than a deliberate policy decision, that other participants are not covered by the relevant section in the Act.

- 1.7 It is proposed to introduce the legislation necessary to amend the Act in 2007. However, the priority attached to this legislation means that it is unlikely to be passed until mid 2007 at the earliest and could drift into 2008 under some scenarios. This means that the implementation of the central registry could be delayed until 2008.
- 1.8 In their submissions in response to the Switching Proposal, several stakeholders suggested that they would like to see more detail on, and be involved in, the implementation process. Gas Industry Co agrees that this is desirable and proposes to establish a Registry Establishment Team and a Registry Implementation Team to assist with developing the detailed registry specification, overseeing the tendering process, and coordinating the transition to a central registry.

2 Background to Process

- 2.1 The GPS requires Gas Industry Co to undertake a review of switching arrangements for retail gas customers in New Zealand. This review noted a broad industry acknowledgement of the inefficiency and sub-optimal performance of the current switching arrangements.
- 2.2 Central to the review was the work of the Switching and Registry Working Group (SRWG) which was established in May 2005. The SRWG helped oversee the initial consultation process and provided the basis for the Switching Proposal.
- 2.3 The consultation process has involved two separate discussion papers² and a workshop³ on the Switching Proposal, and has achieved a relatively high level of agreement about the general direction and how to proceed.
- 2.4 In conjunction with the Switching Proposal, Gas Industry Co has considered the development of suitable compliance and enforcement arrangements to support the switching arrangements. This has involved a discussion paper⁴, a decision paper⁵ and a workshop combined with the switching and registry workshop.
- 2.5 The most recent discussion paper comprised two Statements of Proposal for the purposes of sections 43L and 43N(2) of the Act. The Switching Proposal related to switching arrangements in the form of rules for the New Zealand gas industry, and the Compliance Proposal related to compliance arrangements, in the form of regulations, to support the switching rules.
- 2.6 The two Statements of Proposal were designed to be read in conjunction with each other. This ensured industry stakeholders were commenting on the full scope of the proposed arrangements for switching and compliance.
- 2.7 The industry workshop was designed to allow Gas Industry Co to explain the proposed rules and regulations, and provide industry stakeholders with the opportunity to understand and discuss them prior to completing their submissions.
- 2.8 The workshop was attended by thirteen industry stakeholders who participated in interactive discussion on the intent and effect of the proposed rules and regulations, identification of areas of concern, and clarification of issues.
- 2.9 There appeared to be a reasonable level of support for both proposals, with the discussion concerning switching and central registry focussing on cost allocation, the

² October 2005, and August 2006.

³ September 2006.

⁴ Consultation paper, Compliance and Enforcement Arrangements in the New Zealand Gas Industry, 12 April 2006.

⁵ Decision Paper on Modified Arrangements for Compliance and Enforcement for Retail Gas Market Registry and Switching, 19 July 2006.

cost and benefits analysis (whether the costs of the registry could be confirmed before proceeding), and central registry establishment and implementation issues (especially around database cleansing and rights of access by participants).

The Importance of the Registry and the Switching Rules

- 2.10 The development of the central registry and arrangements for switching of customers are identified as priorities in Gas Industry Co's Strategic Plan for 2007 to 2009 because they are important elements to improving competition in the retail market.
- 2.11 Effective customer switching arrangements enable customers to readily switch between retailers, and the accuracy and timeliness of the process is an important factor for the competitiveness of the retail market. An accurate central registry will also provide benefits to retailers and distributors by reducing their costs of tracking the progress of switches, and to the reconciliation process through more accurate allocation of energy network and metering services usage between participants.
- 2.12 The GPS identified customer switching as one of the key areas where the Government was looking to Gas Industry Co to improve outcomes for consumers, and invited Gas Industry Co to recommend arrangements to ensure effective outcomes for consumers.
- 2.13 The recent independent review of the New Zealand gas industry, prepared by the Allen Consulting Group (ACG Report)⁶, describes the state and performance of the gas industry. In the retail area the ACG Report indicates that:
- "...it would appear that the barriers for new entrants to the.....retail sector arise from the same factors that are challenging industry incumbents:.....the transaction costs and time delays associated with retail customer switching"*
- 2.14 The review highlights one of the major issues for the retail sector as:
- "New Zealand also has a small retail gas market and, accordingly, each decision by the industry to further develop retail market systems must take account of the costs and benefits. A customer registry is being developed and there could be a need for rules to clearly spell out the links between the customer registry, the allocation and reconciliation process, and the service provided by metering providers and data agents."*
- 2.15 There is a general acceptance that the development of the central registry and switching rules are an important platform for improving retail competition and the accuracy of the reconciliation process. However, the ACG Report cautions that the development of retail systems needs to be fit for purpose and take into account the relatively small size of the retail market in New Zealand.

⁶ Report to the Minister of Energy on the Performance and Present State of the New Zealand Gas Industry, 15 November 2006.

The Importance of Compliance and Enforcement Arrangements

- 2.16 Currently compliance and enforcement for switching, as with other arrangements in the gas industry, depends on bilateral enforcement of terms in contracts with the monopoly pipeline businesses and industry codes. Compliance with industry codes and protocols has largely been poor partly because of the muted incentives on the parties to enforce them through the courts.
- 2.17 In spite of the fact that the current arrangements are not adhered to and lack participant support, there is currently no industry governance structure to support and enforce compliance. This is one of a number of factors identified in the current switching arrangements which contribute to them not achieving the GPS objective.
- 2.18 The Act anticipates the creation of a compliance and enforcement regime to support gas governance arrangements.
- 2.19 A high level of compliance with the switching rules will help to achieve the net benefits of the switching arrangements set out in the Switching Proposal, including efficient switching and tracking of switches, minimising delays in customer switching, and providing more accurate bills leading to less problems for customers switching between suppliers. The result should be more efficient and fair outcomes for consumers.

Submissions

- 2.20 Eight submissions were received in response to the Switching Proposal and seven submissions were received in response to the Compliance Proposal, as outlined in Table 1.

Table 1: Submissions received

Stakeholder		Switching Rules	Compliance Regulations
Retailers	Contact Energy	Yes	Yes
	Genesis Energy	Yes	Yes
	Wanganui Gas	Yes	Yes
	Mighty River Power	Yes	Yes
Distributors	Vector	Yes	No
	Powerco	Yes	No
	Gas Net	Yes	Yes
Other	Ministry of Consumer Affairs	Yes	Yes

3 Consultation on Statement of Proposal for Switching Rules

- 3.1 The submissions demonstrated that there is strong support from retailers for the proposed switching arrangements and mixed support from distributors. As the ownership of meters is dominated by retailers and distributors the meter owner perspective is accommodated by submissions from retailers and distributors.
- 3.2 Although there is general support for the proposal, a number of key issues emerged from the submissions. These issues and Gas Industry Co's response follows.

Regulatory Objective

- 3.3 The Switching Proposal included a suggestion that the "regulatory objective" for the switching and registry arrangements should be:

".....to achieve timely and accurate switching of customers between retailers and distributors."

- 3.4 Some submissions have correctly pointed out that the objective should be to facilitate switching between retailers rather than between retailers and distributors, while acknowledging that distributors have a role in supplying information to support the process. It is therefore proposed to amend the regulatory objective to the following:

"The objective of the proposed draft rules for new switching arrangements is to achieve timely and accurate switching of customers between retailers, by facilitating the timely exchange of accurate and up-to-date information between customers, retailers, distributors, and meter owners."

Cost-Benefit Analysis

- 3.5 General reservations were expressed about the cost-benefit analysis included in the Switching Proposal. Several submissions noted reservations about the methodology used for the cost-benefit analysis, and expressed concerns that it was overstating the benefits relative to the costs. The main reservations and the proposed responses are outlined in Table 2:

Table 2: Reservations and responses

Identified concern with CBA	Gas Industry Co Response
The analysis appears to indicate a degree of scientific exactitude that is not warranted.	Agree that analysis incorporates a series of assumptions, estimates and judgements. This will be made clear in the final recommendation to the Minister of Energy.
The methodology to assess the dynamic efficiency benefits using retail margins as a proxy for the level of competitiveness of an industry is flawed. Dynamic efficiency benefits are overstated.	Acknowledge that dynamic efficiency benefits are difficult to quantify and agree that there is an element of subjective judgement involved. Note that the Essential Services Commission used retail margins in Victoria (Australia) as a measure of the extent to which competition restrained market power and delivered benefits to customers. Proposal noted that there was a high degree of uncertainty in application of the methodology and therefore assessed the sensitivity to a range of input assumptions.
Audit benefits are overstated.	Agree that the audit benefits are uncertain, but note that the assessment was based on an estimate provided by one retailer in the original submissions and a range was included to test the sensitivity.
Costs are uncertain and need to be better quantified.	The cost estimates were based on indicative estimates provided by a range of potential suppliers. The cost-benefit analysis used a range of costs in order to test the sensitivity of the outcome.
The registry should not proceed until the actual costs have been determined through a tender process and the cost-benefit has been firmly established.	Before tendering for the provision of the registry it is desirable to recommend the switching rules to the Minister of Energy and have them approved. This will provide some certainty for potential suppliers and participants about the rules and implementation dates. It is not feasible to have the Minister of Energy approve rules that are conditional on final costs.

3.6 Although several stakeholders have expressed reservations about the cost-benefit analysis, the submissions do tend to support the implementation of a central registry and associated switching rules. Gas Industry Co also notes that:

- the proposal has a high net benefit even under the worst case scenario considered in the sensitivity analysis;
- the benefits in the cost-benefit analysis were limited to five years in order to adopt a conservative value of the benefits – in reality the benefits are likely to be sustained well beyond five years; and
- there is a range of additional benefits to consumers from a clearer set of rules governing customer switches, a more timely switching process, and more accurate billing information. These benefits are difficult to quantify and have not been included in the cost-benefit analysis.

3.7 Gas Industry Co has decided to proceed with the Switching Proposal on the basis that it is highly likely to yield a net benefit to consumers.

Funding and Cost Allocation

- 3.8 The Switching Proposal suggested that the funding of the switching and registry arrangements should be divided into two categories:
- a development fee reflecting the costs associated with developing and establishing the registry – to be apportioned 50%/50% between distributors and retailers based on their respective share of ICPs; and
 - an ongoing fee reflecting the costs of operating and maintaining the registry including the costs payable to the registry operator – to be apportioned 45%/45%/10% between distributors, retailers and meter owners based on their respective share of ICPs.
- 3.9 Several different views are expressed in the submissions about how the costs should be allocated. These views vary between the two extremes of 100% allocation to retailers and 100% allocation to distributors and meter owners. Several submissions noted that the allocation appears to be relatively arbitrary and that the proposal does not attempt to justify the allocation in either economic or beneficiary terms. Genesis Energy also questioned why meter owners were treated differently for development costs from ongoing costs.
- 3.10 Developing a fee structure to recover costs in these circumstances requires the application of a number of standard criteria that are consistent with the various principles and objectives for the gas industry in general⁷:
- **economic efficiency** – the fee structure should not detract from efficient market behaviour;
 - **user/causer/beneficiary pays** – where possible the costs should be allocated on a basis where the those causing, or benefiting from, the costs will pay;
 - **rationality** – where costs are allocated to participant classes there should be a strong connection between the participant class and the costs being recovered;
 - **simplicity** – the fee structure should be simple to apply and understand;
 - **equity** – users in similar situations should pay similar amounts; and
 - **sufficiency** – the fee structure should generate sufficient revenue to recover the costs.
- 3.11 These criteria have generally been applied to the development of the proposed fee structure.
- 3.12 The main beneficiaries of the registry identified in the cost-benefit analysis are retailers, distributors and customers. Retailers and distributors should see benefits in terms of reduced switching costs, easier tracking of switches and improved accuracy.

⁷ These criteria are based loosely on, but with some modification to, the EGEP (2001) *Paper for Governance Working Group : Cost Allocation and Fee Structure* and the report provided to MED by Charles River Associates (2003) *Recovering the Costs of the Electricity Commission*.

Accordingly, it is proposed that retailers and distributors will share the largest part of the cost allocation. Customers will also benefit from a more efficient, timely and accurate switch process. Customers will not share directly in the cost allocation, but should benefit from the net reduction in costs experienced by participants. In this way customers will, in effect, share a proportion of the costs (which should be more than offset by the benefits). Meter owners should also gain some benefit from the registry arrangements by having access to a central registry recording who is using metering equipment. Because this benefit is assessed as relatively small, meter owners have been allocated a small share of the on-going costs and none of the development costs.

- 3.13 The proposed fee structure is relatively simple and readily calculated, based on the proportion of ICPs for each distributor, retailer and meter owner. Registry users in similar situations will pay similar amounts, thereby meeting the equity objective.
- 3.14 Although there has been no detailed assessment made of the likely cost savings for each class of participant, and there appear to be very different views on this point, the proposed cost allocation is considered to be a reasonable reflection of the benefits. Gas Industry Co also notes that the allocation between distributors and retailers is the same as that used for the recovery of the electricity registry costs (meter owners are not participants in the electricity registry).
- 3.15 A submission from Genesis Energy made several suggestions about payments and invoicing. These included:
- that the payment of invoices should be extended to one month from the date of invoice (rather than 10 business days);
 - that the registry ongoing fee should be a fixed monthly fee rather than a dynamic fee; and
 - that some form of wash-up process be adopted.
- 3.16 This submission has highlighted that the proposed funding arrangement set out in the draft rules could pose cash flow problems for Gas Industry Co and uncertain costs for participants. The draft rules for funding the registry have therefore been amended to incorporate a payments regime for both the registry development costs and the registry ongoing costs based on estimations, provisional payments and wash-ups.
- 3.17 This arrangement retains 10 business days for payments because extending the timeframe could also cause cash flow problems for Gas Industry Co.
- 3.18 Gas Industry Co has decided to confirm the proposed funding and cost allocation arrangements contained in the Switching Proposal, subject to the above change to the payment provisions.

Commercially Sensitive Information

- 3.19 Gas Industry Co has noted submissions from several stakeholders on access to certain information available within the registry.

- 3.20 This issue relates to access to network pricing and other sensitive information that some participants regard as commercially confidential and therefore should be available only on a restricted basis.
- 3.21 Gas Industry Co considers that the treatment of commercially sensitive information needs to be amended in the proposed rules and further consulted on with stakeholders. Accordingly this issue is further canvassed in section 5 of this paper.

Consumer Installations Connected Directly to Transmission Systems

- 3.22 One submission pointed out that the draft rules did not make it clear how consumer installations connected directly to transmission systems are dealt with in the registry.
- 3.23 Gas Industry Co considers that changes to the draft rules are required to ensure that ICPs for those consumer installations are included in the registry and that the changes should be consulted on with stakeholders. Accordingly this issue is further canvassed in section 5 of this paper.

Implementation

- 3.24 Some concerns were expressed about the lack of detail provided on the implementation process, and the need for stakeholder participation in order to ensure that the design of the registry takes into account existing systems and data protocols and to allow participant systems to be developed in response to the central registry requirements.
- 3.25 Gas Industry Co agrees that stakeholder participation is desirable. Gas Industry Co proposes to establish a Registry Establishment Team to assist with the registry specification and evaluation of tenders to provide the registry, and a Registry Implementation Team to coordinate the process of transition to the new registry.
- 3.26 More detail is provided on the proposed implementation process in section 9.

National Energy Registry

- 3.27 Some submissions suggested that there may be benefit from exploring the possible synergies from the development of a single “national energy registry”.
- 3.28 This was considered in the preparation of the Switching Proposal, but was eliminated as a reasonably practicable option for the following reasons:
- a national energy registry would require a high degree of coordination of rules and procedures between the electricity switching arrangements and the gas switching arrangements – this could be difficult and time-consuming to achieve;
 - an extension of the electricity registry to accommodate gas customers within a national energy registry would need to be negotiated with the existing registry service provider for the Electricity Commission – this runs the risk of losing the benefits of competition to supply the gas registry;

- to the extent that there may be cost synergies because one party has already developed a platform for electricity switching, these cost synergies should be evident in any possible offer from that party to develop the gas registry – the best means of capturing these benefits may be to encourage competition between alternative suppliers; and
- although the issues associated with switching gas and electricity customers may be similar, it seems plausible that the requirements for a gas registry and associated rules and compliance arrangements will differ from those deemed appropriate for electricity – change processes would need to be aligned and that may create tensions between the two arrangements if they have different priorities.

3.29 Gas Industry Co has decided to retain an independent gas registry.

Other Issues

3.30 Submissions also raised a number of issues of detail about the proposed switching rules. Many of these issues have resulted in minor changes to the switching rules. These submissions are addressed in Appendix C and Gas Industry Co's response is noted.

4 Consultation on Statement of Proposal for Compliance Regulations

- 4.1 In general there was good support from retailers for the Compliance Proposal, although Genesis Energy still favours an industry-based compliance arrangement. In respect of distributors, there was support from GasNet, but no detailed response from Vector, and no response from Powerco.
- 4.2 The submissions are addressed in Appendix E and Gas Industry Co's response is noted. The key issues to emerge and Gas Industry Co's response to them follows.

Industry Based Compliance Arrangement

- 4.3 Although Genesis Energy supports the introduction of switching rules, it still favours an industry-based compliance arrangement. Gas Industry Co considers that it would be difficult for industry participants to establish a self-regulating compliance regime in the form of a multilateral contract because of the:
- difficulty in participants reaching consensus as to the scope, powers, procedures, funding, governance and execution of a pan-industry compliance agreement which is legally binding;
 - diverse nature of the parties that would be required to agree the terms of a pan-industry compliance agreement and the fact that they include direct competitors;
 - inability to compel new switching participants to execute a pan-industry compliance agreement;
 - difficulties ensuring participants remain as parties to such an agreement; and
 - possible Commerce Act risks associated with such an agreement.
- 4.4 Gas Industry Co is also concerned whether such an arrangement would adequately ensure adherence to the switching rules. This is because the rights of enforcement would be restricted to signatories and not necessarily extend to consumers or the Gas Industry Co and its service providers. In addition, neither Gas Industry Co nor the Minister of Energy would be able to vary the arrangement over time if required, or ensure that it was being utilised.
- 4.5 Gas Industry Co has decided to implement the compliance and enforcement regime through gas governance regulations.

Regulatory Objective

- 4.6 The proposed regulatory objective for compliance is:

“to provide a high degree of confidence that the proposed switching rules will be adhered to, and thereby contribute to the better achievement of the Government’s policy objectives for the retail sector of the gas industry.”

- 4.7 A number of submitters highlighted the importance of a pragmatic cost effective compliance regime which emphasised achieving the benefits of the switching arrangements rather than imposing punitive sanctions. Genesis Energy sought the regulatory objective “*to appropriately balance the integrity of the rules and efficiency*”.
- 4.8 Gas Industry Co considers the primary objective for the compliance regime must be the integrity of the switching rules as opposed to minimisation of cost.
- 4.9 The arrangements must allow rule breaches to be pursued in order to ensure consumers have confidence that participants are complying with the rules. In addition, there must be a high level of compliance with the switching rules in order to realise the net benefits of the switching arrangements set out in the Switching Proposal.
- 4.10 Gas Industry Co considers the concept of efficiency is adequately covered by the reference to “*better achievement of the Government policy objectives for the retail sector of the gas industry*” as the GPS refers to efficient delivery of gas.
- 4.11 Further, Gas Industry Co considers the concept of efficiency is captured within the design of the compliance regime. For example, the market administrator role and materiality threshold ensure that non-material breach allegations are not automatically referred to the investigation process and the Rulings Panel.
- 4.12 For the above reasons Gas Industry Co does not consider that the regulatory objective needs to be changed.

Philosophy

- 4.13 The Board of Gas Industry Co has affirmed that the philosophy of the compliance regime is to provide a pragmatic approach to identifying and resolving breaches, in an efficient manner, rather than focusing on formal processes and penalties.
- 4.14 Gas Industry Co considers that the factors for determining the materiality of breaches provide sufficient guidance and flexibility for the market administrator to make pragmatic decisions in accordance with this philosophy.
- 4.15 Regulation 5 defines the role of the market administrator to:
- “Provide a filter so that breach allegations that do not raise material issues are not automatically referred to the investigation process and the Rulings Panel: and*
- Provide a fast and efficient resolution service for complaints that do not raise a material issue”.*
- 4.16 In the first instance, Gas Industry Co will act as the market administrator and within the bounds of the regulations can make determinations to reflect this philosophy.
- 4.17 Gas Industry Co has amended Regulation 5 by inclusion of the word ‘pragmatic’ to further reinforce this philosophy in the regulations.

Funding the Ongoing Compliance Costs

- 4.18 The proposed compliance regulations contemplate an ongoing cost to Gas Industry Co of providing the services of the market administrator, any appointed Investigator, and the Rulings Panel. Gas Industry Co proposed to recover these costs through the levy under section 43ZZE of the Act. Such costs were intended to be borne by all industry participants in a manner which will be consulted on separately under the levy process.
- 4.19 Submissions agreed in general with this proposal (Contact, Wanganui Gas, GasNet and Genesis Energy), while others did not respond. Genesis Energy considers that there should be a separate levy from the current levy borne by wholesalers and retailers, which should be a levy against all participants of the switching registry. GasNet welcomes the opportunity for further consultation on the funding mechanism.
- 4.20 Gas Industry Co agrees that these costs should be met by the beneficiaries of the new switching arrangements but notes the potential for these costs to vary over time if ultimately the costs of compliance are shared by other gas governance arrangements. Therefore Gas Industry Co has decided to amend the switching rules so that switching fees include a proportion of the annual costs of compliance as determined by Gas Industry Co in each year.
- 4.21 This results in consequential changes to Regulations 24 and 74.

Other Matters

No publication of alleged breach until breach proven

- 4.22 Alleged breaches are reported at the election of the participants or by the registry operator. The purpose of publication is to achieve transparency at the outset of the allegation process, enable other parties to join proceedings, and create a climate of better performance incentives. Contact submits that transparency provides a useful incentive for participants to drive improvements.
- 4.23 This is particularly important where the regime supports settlements which may not necessarily include an admission of breach. However, Genesis Energy submitted that breaches should only be published once they have been proven.
- 4.24 Gas Industry Co considers that it may not be necessary to publish breach allegations on Gas Industry Co's website in order to achieve these objectives.
- 4.25 Gas Industry Co has therefore decided to amend the regulations to require the market administrator to only notify other switching participants of an alleged breach to enable them to join the proceedings. By this mechanism transparency is maintained for participants. This amendment is captured in Regulation 12.

Simplification of materiality threshold

- 4.26 While there is support for the concept of the materiality threshold, Genesis Energy considers that there should be two primary criteria - a monetary threshold and impact

on consumers threshold - with the remaining criteria being of secondary consideration.

- 4.27 Gas Industry Co does not agree that the materiality threshold criteria should be weighted in this manner, as the suggested primary criteria may not always indicate the importance of the rule breach. Such a change may also limit the discretion of the market administrator to determine the materiality threshold, and overlooks the possible need for action where there is persistent non compliance with the rules by a switching participant.
- 4.28 All other submitters supported the materiality threshold criteria and Gas Industry Co has decided it should remain as detailed in the Compliance Proposal.

Role of market administrator

- 4.29 Genesis Energy submitted that the role of market administrator should be retained by Gas Industry Co due to the strong degree of independence required of the role, and the difficulty in aligning the incentives of a third party service provider.
- 4.30 It is intended that the market administrator role will initially be performed by Gas Industry Co. However, Gas Industry Co considers that the regulations should give the Board the discretion to contract out this role in the future.

Appointment of bodies

- 4.31 Genesis considers that any decision to appoint or change the Investigator and/or the Rulings Panel should be done in consultation with all participants and not by Gas Industry Co alone. While Gas Industry Co agrees with Genesis Energy that it is important that these positions are occupied by individuals/companies of good standing and knowledge, it considers that the Board is able to make this decision in an efficient manner without industry participation in the process.

Payment of penalties

- 4.32 The Compliance Proposal did not discuss how penalties imposed by the Rulings Panel are to be distributed, however the draft regulations provided that they be paid to the Crown. Penalties could be distributed in several ways including:
- to a charitable organisation as agreed to by industry participants; or
 - to off-set Gas Industry Co's future funding requirements for the compliance regime; or
 - back to industry participants via some methodology; or
 - to the Crown.
- 4.33 Gas Industry Co has decided that penalties should be used to off-set Gas Industry Co's future funding requirements. As the cost of funding Gas Industry Co is ultimately met by consumers, Gas Industry Co considers it is reasonable that penalties be used to off-set the costs of achieving and incentivising compliance with, and enforcement of, the rules.

4.34 A provision to this effect has been included in Regulation 49.

New Matters

Coverage of Registry Operator

- 4.35 Gas Industry Co has become aware that the issue of coverage of the registry operator under the compliance regulations for its own breaches of the switching rules was not clearly set out in the proposals and may have been ambiguous. The rules impose obligations on both the “registry” and the “registry operator”, specify what must be contained in the registry operator service provider contract, and provide for Gas Industry Co to review the ongoing performance of the registry operator.
- 4.36 The compliance regulations impose a mandatory obligation on the registry operator to report all breaches that it observes. However, the registry operator is not liable for its own rule breaches under the compliance regulations as the registry operator is not included within the definition of registry participant.
- 4.37 Gas Industry Co considers that the coverage of the registry operator needs to be further consulted on with stakeholders; accordingly the issue is fully canvassed in section 5 of this paper.

Submission from Ministry of Consumer Affairs

- 4.38 The compliance regulations give consumers the right to notify the market administrator of a breach of the switching rules. Consumers also have rights to pursue complaints with the Electricity & Gas Complaints Commission (EGCC).
- 4.39 In its submission, the Ministry of Consumer Affairs supported the overall approach of separating roles so that complaints between participants are addressed through the process outlined in the Compliance Proposal, and consumer complaints are addressed through a scheme under section 43E of the Act (i.e. the EGCC).
- 4.40 However, the Ministry of Consumer Affairs considered it important, as a matter of fairness and responsibility, that there be a process for notifying a consumer affected by a switching breach of the possible implications for them and their options for redress. This would require inclusion of a mechanism in the compliance regulations to notify any consumer who suffers detriment as a result of a breach of the switching rules. This notice could be given by either the market administrator or the retailer pursuant to an obligation arising under the compliance regulations once there has been a settlement or ruling.
- 4.41 Gas Industry Co met with representatives of the Ministry of Economic Development and Ministry of Consumers Affairs to discuss these concerns.
- 4.42 Gas Industry Co does not consider that it is necessary or in the interests of achieving the regulatory objective at this point in time to amend the compliance regulations to provide additional consumer rights.
- 4.43 The reasons for coming to this position are as follows:

- In the switching context, the types of breaches that will impact most upon consumers are likely to be the timing of switches and incorrect meter readings. These breaches are likely to be readily identifiable by consumers, and are best dealt with by the EGCC which has the expertise and resources to undertake enquiries on behalf of consumers. Such complaints are commonly dealt with by the EGCC for the electricity sector.
- The consumer's right to raise a rule breach under the compliance regulations will continue to exist if for some reason the door is shut to the EGCC scheme (e.g. the jurisdictional threshold is exceeded).
- The role of the market administrator is to filter out and resolve immaterial breaches in a fast, efficient and pragmatic manner. The market administrator has no power to obtain information or undertake an investigation. It would therefore be extremely difficult for the market administrator to determine, in respect of a particular breach, whether the consumer has been disadvantaged.
- No consumer information is held on the registry. No consumer information will be provided in a breach notice or a published ruling. Consumer information would therefore have to be provided to the market administrator outside of the registry. However, the market administrator has no power to require the provision of that information.
- Gas Industry Co considers that any notification obligation more properly rests with the retailer who has the contractual relationship with the consumer. However, if the retailer is required to notify the consumer of a proven or admitted breach which has adversely affected that consumer, then the notice would need to be sufficiently detailed to enable the consumer to properly assess their situation, accept any offer made by the retailer, or decide to seek further redress via the EGCC.

4.44 A number of issues arise:

- How would the retailer's compliance with the obligation to the consumer be tracked and enforced?
- Who determines whether the consumer has been significantly disadvantaged, which may require greater investigation than that required to determine a rule breach at additional cost?
- It is not clear that the Act provides the Rulings Panel with sufficient power to make orders relating to notification of consumers, particularly where it is approving a settlement.
- All these matters may impose additional processes in, and costs on, the compliance regime without achieving any direct or indirect improvement in compliance by participants with the switching rules. In fact, such a provision may act as a disincentive for switching participants to report breaches.

4.45 Gas Industry Co intends to agree a protocol with the EGCC to provide for:

- good communications between the organisations on compliance matters;

- a process for resolving potential dispute overlaps;
- a process for consumers to be referred to their rights under the compliance regulations if their complaint involves switching rule breaches which the EGCC considers should be reported; and
- an opportunity for EGCC to report any trends of non compliance they have observed.

4.46 In the event that a retailer proposes another complaints scheme similar protections can be a condition of approval under the Act.

4.47 Under the Act, Gas Industry Co has an ongoing obligation to review any arrangements it recommends to ensure they are meeting the regulatory objective. This will include the switching compliance regulations. Gas Industry Co suggests such a review should include reconsideration of the issue raised by the Ministry of Consumer Affairs to ensure that consumer needs are being met over time.

Incidental Matters

4.48 A number of other changes have been made to the compliance regulations which are either improvements or incidental changes.

5 Matters for Supplementary Consultation

- 5.1 Gas Industry Co has identified a number of issues arising from consideration of the submissions and its own re-appraisal of the arrangements which require further analysis and consideration.
- 5.2 Gas Industry Co considers that it should consult with industry stakeholders on these issues, however, none of the issues, either in themselves or in combination, result in the need for a reconsideration of the overall proposals for either the switching rules or compliance regulations.
- 5.3 Industry stakeholders are invited to make submissions on these matters by **5pm Friday 9 February 2007** in accordance with the submission requirements contained in section 10 of this paper.

Access to Commercially Sensitive Information

- 5.4 Several submissions were received regarding the provision of view access for certain information on the registry. The issues raised are dealt with in detail, and Gas Industry Co responses are noted, in Appendix C to this paper.
- 5.5 The issue of particular concern relates to participants' access to network price category codes and other sensitive information which some participants consider is commercially confidential and therefore should only be available on a restricted basis.
- 5.6 In summary:
- there are concerns that the approach taken in the draft rules would not achieve the intended outcome because the confidential network price category code and other sensitive information would be made available to any participant requesting that information;
 - a change to a "disclosure on application" approach could achieve the intended outcome more readily; and
 - most participants appear to accept that a "disclosure on application" approach to some network pricing information is reasonable as long as it does not lead to restricted access to the sensitive information for more than 1-2% of ICPs.
- 5.7 Gas Industry Co sought specific additional information from stakeholders on this point, has amended the rules in response to that information, and now seeks submissions from stakeholders on the proposed amendment to the rules. Gas Industry Co has amended the draft rules by removing draft rule 32 and adding a new rule 46, and allowing for "disclosure on application" codes to be used for the "network price category code", "MHQ", and "metering price code" parameters.

Q1: Do you agree that the draft rules did not meet the intent of the rule drafters by effectively making confidential network price and other sensitive information available to all participants?

Q2: *Do you agree that the draft rules should be amended to include a “disclosure on application” code to be used for some ICP parameters?*

Q3: *Do you agree that the amended draft rules included in this paper achieve the appropriate outcome for confidential network price and other sensitive information?*

Consumer Installations Connected Directly to Transmission Systems

- 5.8 One submitter identified that the draft rules do not accommodate the inclusion and management of ICPs for consumer installations connected directly to transmission systems.
- 5.9 Although the number of such ICPs is small and likely to remain so, participants have previously considered that it is important for any registry to include them for completeness, and the fact that they are connected to a transmission system rather than a distribution system should not be an obstacle.
- 5.10 In a practical sense there appears to be general acceptance that the transmission system owner should be the party accorded responsibility for the ICP with respect to the registry obligations. However, Gas Industry Co considers it would be ‘overkill’ to make transmission system owners registry participants solely for that purpose.
- 5.11 The solution proposed is that, for each consumer installation connected directly to a transmission system, Gas Industry Co is obliged to appoint a responsible distributor for the ICP.
- 5.12 Accordingly, Gas Industry Co has amended the proposal with the addition of rule 42.3 in the revised draft rules, and with related changes to the definitions of ‘ICP’ and ‘gas gate’.

Q4: *Do you agree that the draft rules did not meet the needs of participants by not catering for inclusion of consumer installations directly connected to transmission systems?*

Q5: *Do you agree that the amended draft rules included in this paper are an appropriate means by which ICPs related to consumer installations directly connected to transmission systems should be added to and maintained in the registry?*

Coverage of Registry Operator

Background

- 5.13 In the “Decision Paper on Modified Arrangements for Compliance and Enforcement for Retail Gas Market Registry and Switching” dated 19 July 2006 it was stated:

“This model (compliance) is set out in Figure 1, and should provide for effective compliance for potential breaches of switching and registry rules as most of the disputes are

technical and immediate involving simple mandatory functions such as:

- *Failure by participants to comply with rule e.g. input information, notification of a switch, accuracy standards and timing requirements.*
- *Failure by the registry operator service provider to perform obligations running the registry”.*

5.14 The Switching Proposal provides for Gas Industry Co to:

- appoint the registry operator;
- negotiate to contract with the registry operator within certain parameters also set out in the rules (a copy of which shall be made publicly available by Gas Industry Co);
- review the ongoing performance of the registry operator; and
- audit the registry operator.

5.15 The Compliance Proposal stated in paragraph 6.4:

“All switching participants bound by the switching rules will be bound by the compliance regulations.”

5.16 The compliance regulations cover all switching participants⁸ which is defined under the switching rules as retailers, distributors and meter owners, but does not include the registry operator.

5.17 The lack of coverage of the registry operator under the compliance regulations was raised by Gas Industry Co at the industry workshop where there was general feedback from industry stakeholders present that the registry operator need not be covered by the regulations. No specific question was asked on this issue in the Compliance and Switching Proposals, nor was the issue raised in the submissions.

Should there be coverage?

5.18 As a starting proposition all breaches of the rules should be covered by the compliance regime, unless there is justification for expressly excluding either the party or a particular type of breach.

5.19 In terms of the registry operator it is necessary to consider whether it is appropriate for the compliance regime to address breaches by this person, or whether the governance and appointment process for this person already provides sufficient security.

5.20 Gas Industry Co is to appoint the registry operator. Under the appointment structure, it is possible for the registry operator’s compliance and liability to participants to be

⁸ Note that there was an inconsistency between the first drafts of the rules and the regulations in this respect. The defined term switching participant used in the compliance regulations was changed in the switching rules to registry participant, but this change was not carried over to the compliance regulations. The term registry participant is now used in both the rules and regulations.

covered in the appointment contract, for the contract to specify that the registry operator is liable to participants under the compliance regime or a mix of both.

- 5.21 Practice in the electricity sector is that service providers (such as the registry which includes the registry operator) are covered by the compliance regime which includes a cap on their liability. Liability caps are familiar to most industry participants. The current liability cap for the electricity registry is \$50,000 in respect of any one event or series of closely related events arising from the same cause or circumstance, or \$1 million in respect of all events occurring in any financial year.
- 5.22 In addition, the appointment contracts in the electricity sector usually oblige service providers to rectify any failure to comply with the rules, with such rectification to be at the service provider's cost. There is usually a right of termination if the service provider fails to rectify the breach. To prevent double jeopardy, the contract also usually provides that the service provider is not liable under the appointment contract if it has already been held liable for a rule breach under the compliance regime.
- 5.23 Gas Industry Co understands that since the inception of the electricity rules in 2003 there have been no claims made in respect of the electricity registry.
- 5.24 Although attendees at the workshop did not appear to consider it important for the compliance regime to apply to the registry operator, Gas Industry Co is mindful that not all industry stakeholders have been given a chance to express their views on this point.

Limit on coverage

- 5.25 Gas Industry Co's view is that the obligations of the registry operator can be separated into two different types of obligations: process obligations (e.g. validating and forwarding switch files according to set process time frames), and reporting/relationship obligations (e.g. obligations to prepare monthly reports for Gas Industry Co). Gas Industry Co considers registry participants are likely to be more concerned with being able to enforce process obligations, rather than reporting/relationship obligations.
- 5.26 Gas Industry Co has therefore concluded that:
- registry participants should have a right of redress for rule breaches by the registry operator where the switching rules impose a mandatory process obligation on the registry operator;
 - in this manner reported breaches allow transparency of the overall compliance by the registry operator with the rules;
 - Gas Industry Co should exercise its performance management role under the contract appointing the registry operator; and
 - a formal process for investigating any complaints concerning the performance of the registry operator enables independent verification of non-performance by rule breach rather than untested allegations made through less formal channels.

- 5.27 While it is appropriate for the registry operator to be liable for certain conduct, it is also appropriate that any potential liability is capped. A registry operator facing potentially unlimited liability is likely to build a premium into its charges to cover the potential risk.
- 5.28 In setting an appropriate limit on liability it is necessary to take into account the potential losses that participants may face as a result of a breach. Although much of the loss that might occur will be as a result of incorrect information for a switch, the precise extent to which losses may occur is difficult to predict.
- 5.29 In addition, section 43Z of the Act limits tort claims against service providers except where the service provider has acted fraudulently.
- 5.30 Taking all of this into account, Gas Industry Co's preferred approach is:
- for the registry operator to be covered by the compliance regulations in respect of rules which specify key obligations of the registry operator (such as validating the ICP identifier is a valid code) that must be carried out according to a set process and timeframe where the failure to comply could affect participants;
 - for the registry operator to be excluded from coverage by the compliance regulations in respect of matters which are better dealt with under the appointment contract between Gas Industry Co and the registry operator, including key reporting and performance criteria (e.g. undertaking a self review). Such breaches will be a contractual issue, for which the ultimate sanction would be termination of the contract;
 - the compliance regulations should include a cap on the registry operator's liability. Gas Industry Co is currently thinking a cap of approximately \$20,000 for any event or series of events and not more than \$100,000 in any financial year may be appropriate, but welcomes submissions on this point; and
 - the appointment contract should avoid double jeopardy by ensuring that any contractual liability appropriately takes into account liability the registry operator may have already incurred through the compliance regime.
- 5.31 The proposed coverage of the registry operator can be achieved by extending the definition of participant in regulation 4 to include the registry operator, with consequential amendments to regulation 6 to limit rule breaches which are enforceable against the registry operator, and incidental changes to regulations 8 and 10. The switching rules are also amended to clarify that the registry operator is responsible for the establishment and maintenance of the registry and is responsible for ensuring its own compliance with the rules.

Q6: *Do you agree that the registry operator should be covered by the compliance regulations in respect of the switching rules which impose process obligations on the registry operator?*

Q7: *Do you agree that there should be a liability cap for the registry operator?*

Q8: *Do you agree with the amounts specified?*

Q9: *Do you agree that some aspects of the registry operator performance are best managed through a service provider contract?*

Draft Rules and Regulations

5.32 Several submissions were received that sought a further opportunity to comment on the draft switching rules before the recommendation to the Minister of Energy is finalised.

5.33 It is also noted that few comments were received on the draft compliance regulations and it appears that some stakeholders may not have had sufficient time to consider both the draft compliance regulations and the draft switching rules.

5.34 Gas Industry Co therefore invites further comment on the draft switching rules and draft compliance regulations, before finalising the recommendation to the Minister of Energy.

Q10: *Do submitters consider that the draft rules attached to this paper adequately reflect the intent of the Switching Proposal? If not, please provide drafting amendments in mark-up form.*

Q11: *Do submitters consider that the draft regulations attached to this paper adequately reflect the intent of the Compliance Proposal? If not, please provide drafting amendments in mark-up form.*

6 Problems with Gas Act

Need to Amend Gas Act

6.1 In May 2006 Gas Industry Co became aware of a problem with the Act that means it is not currently possible to implement the proposed central registry and associated switching arrangements as rules under the Act.

6.2 Under the GPS Gas Industry Co has the task to:

“recommend arrangements, including rules and regulations where appropriate, in relation to the standardisation and upgrading of protocols relating to customer switching, so that barriers to customer switching are minimised.”

6.3 Under section 43G(2)(c) of the Act, Gas Industry Co is empowered to recommend rules or regulations to the Minister of Energy for the purpose of, among other things:

“Requiring all gas retailers to comply with, and give effect to, a system or set of rules that will enable any consumer or class of consumer to choose, and alternate, between competing gas retailers, with the objective of promoting competition in gas retail markets.”

6.4 As noted in paragraph 1.10 of the Switching Proposal, this empowering provision does not envisage that any party other than gas retailers would be bound by such rules or regulations. However, gas retailers are not the only parties involved in switching a customer. For any switch of a customer to occur, gas retailers, gas distributors and gas meter owners are all required to participate.

6.5 Any arrangement that only binds gas retailers would result in a less certain, less standard and less robust switching arrangement than exists today and would not meet the GPS objective. This consequence was neither foreseen nor intended by the Act and appears to be a drafting oversight rather than a deliberate policy decision. Mighty River Power stated in its submission that it supported Gas Industry Co's view that the Act needs to be amended.

6.6 In June 2006 Gas Industry Co wrote to the Minister of Energy advising him of this issue and requesting that he consider amending the Act in order to enable rules or regulations in respect of switching arrangements to apply to all parties required to implement a customer switch.

Amendment via Statutes Amendment Bill

6.7 Gas Industry Co has been advised by MED that it is proposed to address the amendment to section 43G(2)(c) of the Act through the annual Statutes Amendment Bill. After introduction in 2007 the Bill is expected to spend at least six months at the Select Committee. Although the intention will be to pass the Bill within a reasonable time frame, there is potential for it to be delayed in preference to higher priority legislation.

- 6.8 This means that the legislation necessary to implement the changes to the Act is unlikely to be passed until mid 2007 at the earliest and could drift into 2008 under some scenarios.

Delay to Implementation

- 6.9 The Minister of Energy will not be able to recommend the rules and regulations to implement the proposed central registry and switching arrangements until the Act is amended. This suggests that, after allowing time to tender for the provision of the registry and providing participants with adequate notice, it is unlikely that the registry can be implemented until some time late in 2008, or under some scenarios, in 2009.
- 6.10 Gas Industry Co's Strategic Plan includes a milestone for a recommendation to the Minister of Energy by December 2006, and a milestone for implementing the central registry and associated rules and compliance regulations by June 2007. However, it will no longer be possible to achieve this milestone as a result of the problems with the Act. Gas Industry Co has advised the Minister of Energy accordingly.

7 Final Assessment

Reconsideration of Pan-Industry Agreement

- 7.1 As a result of the delay caused by the need to amend the Act, Gas Industry Co has reconsidered the possibility of a pan-industry agreement to implement the proposed central registry and switching arrangements. One of the problems identified with a pan-industry agreement is the likely time that would be required to achieve unanimous agreement and consider the possible Commerce Act issues that may arise. However, the extended time frame for a rules-based approach now suggests that this may no longer be a significant point of differentiation.
- 7.2 Gas Industry Co has confirmed its intention to proceed with the current proposals for rules and regulations for the following reasons:
- there is now a good base of support from stakeholders for the central registry and switching and compliance arrangements to be introduced through rules and regulations under the Act;
 - the difference of views on implementation expressed in the submissions suggests that unanimous agreement on the design of the contractual arrangements from all retailers, distributors and meter owners will be difficult and very time consuming to achieve;
 - there is a high level of disagreement about appropriate cost allocation amongst participants that will be difficult and very time consuming to resolve;
 - any agreement between competitors may require an authorisation under the Commerce Act; and
 - the likely cost of implementing a pan-industry agreement and seeking authorisation from the Commerce Commission is well beyond the scope of existing budget levels.

Reasonably Practicable Options

- 7.3 Accordingly, notwithstanding the delay, Gas Industry Co has reconfirmed that the only reasonably practicable option at this time that meets the regulatory objective and objectives of the Act and GPS, is to proceed with rules to govern switching arrangements that incorporate the establishment and operation of a central gas registry. The process Gas Industry Co followed to determine the reasonably practicable options for switching arrangements is set out in section 5 of the Switching Proposal.
- 7.4 The reasonably practicable options for compliance and enforcement to support the switching arrangements is set out in section 7 of the Compliance Proposal. Nothing in the response to submissions, the new issues identified for consultation, or the delay, gives reason for Gas Industry Co to alter its decision that the most reasonably practicable option is a regulated compliance regime as set out in the proposed compliance regulations.

Summary of Final Assessment

7.5 Before making a recommendation to the Minister of Energy, s43N of the Act requires Gas Industry Co to make an assessment of the proposed arrangements in accordance with certain criteria. Gas Industry Co has reconsidered the assessment made in the Switching Proposal and Compliance Proposal in light of its response to submissions and the need for supplementary consultation. Nothing arising from the submissions causes Gas Industry Co to alter its conclusion that the existing arrangements for both switching and compliance do not meet the regulatory objective, and that the regulatory objective is best achieved by implementing the proposed rules and regulations.

Switching Proposal

7.6 The benefits identified in the Switching Proposal were:

- consistent and secure data flows between parties by having a standard switching process for all participants, effected through the gas registry;
- the capability for performance monitoring by recording data flows;
- transparency of the switching process by recording the retailer responsible for an ICP at any point in time, including during a switch;
- improved service levels through timely and accurate switch processes;
- reduction in data discrepancy issues between participants by establishing the gas registry as database of record and specifying which parties are responsible for maintaining specific data on it;
- reduction of switching costs and risks by simplifying and reducing the required transactions to complete a switch and by enabling processes to be automated;
- support for timely and accurate billing which reduces costs to participants; and
- assistance with current allocation and reconciliation processes by providing a record of participant responsibilities for ICPs in relation to the allocation and reconciliation of gas quantities and other service costs.

7.7 The key outcomes of implementing the Switching Proposal include:

- improvement in customer satisfaction by implementing an efficient, timely and accurate switch process;
- lower barriers to competition in the gas retail market by facilitating customer choice between retailers; and
- reduction in administrative inefficiencies and costs for all consumers and participants involved in completing a switch of a retail customer.

- 7.8 The costs of the proposed switching rules relate to data cleansing and migration, software development and ongoing software operation and maintenance. These were quantified further in Appendix 2 to the Switching Proposal.
- 7.9 The conclusion of the cost-benefit analysis was that there is a highly positive net benefit under a wide range of assumptions for the proposed switching rules (see section 3 for response to submissions on the cost-benefit analysis).
- 7.10 Gas Industry Co considers that the amendments to the draft switching rules do not impact on the cost-benefit analysis in the Switching Proposal sufficiently to warrant review of that analysis.
- 7.11 In respect of the issues subject to further consultation outlined in section 5, the Gas Industry Co considers that they will not have the effect of increasing the costs of the Switching Proposal, and may actually reduce them. The benefits of the proposal do not change.

Compliance Proposal

- 7.12 Gas Industry Co considers that the proposed amendments to the draft compliance regulations do not impact on the cost-benefit analysis undertaken in the Compliance Proposal sufficiently to warrant a review of that analysis.
- 7.13 The purpose of the proposed compliance regulations is to ensure a high level of compliance with the switching rules. The benefits of the proposed compliance regulations are therefore the achievement of the benefits derived from the implementation of the switching rules.
- 7.14 In addition, the compliance regulations, as well as ensuring achievement of the benefits of the switching rules, will result in more fair and efficient outcomes for consumers by:
- providing a high degree of confidence that the proposed switching rules will be adhered to; and
 - allowing transparency of the level of non-compliance.
- 7.15 There is a relatively wide range of possible costs for the proposed compliance regulations, dependant upon the level of non-compliance which needs to be addressed. The likely range of costs was set out in Appendix 1 of the Compliance Proposal.
- 7.16 The proposed amendment to provide coverage of the registry operator for breaches of process obligations under the switching rules is unlikely to give rise to a significant increase in the number of breach allegations requiring investigation or a Rulings Panel hearing. The comparable experience in the electricity sector is that there will be very few breach allegations.

Other matters

- 7.17 Overall Gas Industry Co considers that the proposed switching rules and compliance regulations will deliver the regulatory objective, and that there are no other matters relevant to making this assessment.

Confirmation of Rules and Regulations

- 7.18 Gas Industry Co has confirmed its earlier decision to implement the central registry and switching arrangements as rules under the Act, and the compliance arrangements to support the central registry and switching rules as regulations under the Act.
- 7.19 Notwithstanding the delay due to the need to amend the Act, Gas Industry Co has decided to progress as planned, but allow a brief period for submissions from industry stakeholders on the detail of the rules and regulations, and supplementary consultation on a few additional matters. A recommendation will then be made to the Minister of Energy early in 2007.

8 Next Steps

Decision Paper

- 8.1 Gas Industry Co is releasing this decision paper and amended rules and regulations to inform industry stakeholders of the decisions taken by the Board, and their reasons, in response to submissions on the Switching and Compliance Proposals.
- 8.2 A summary of submissions on the Switching Proposal and Gas Industry Co responses are set out in Appendix B. A summary of submissions on the switching rules included in the Switching Proposal (question 7) and Gas Industry Co responses are set out in Appendix C. A summary of submissions on the Compliance Proposal and Gas Industry Co responses are set out in Appendix E.
- 8.3 The amended rules and regulations, including amendments to reflect the preferred position on the additional matters requiring supplementary consultation, are included with this paper. The amended draft switching rules are set out in Appendix D and the amended draft compliance regulations are set out in Appendix F.
- 8.4 Some submitters requested that the defined terms be typed in bold throughout the rules and regulations. This request has been accommodated in the draft rules. However, bold type is unable to be used in the regulations.
- 8.5 Gas Industry Co is inviting industry stakeholders to make submissions on the matters requiring supplementary consultation, and provide detailed comments on the amended rules and regulations. See section 10 of this paper for submission requirements.
- 8.6 On receipt of submissions on the matters requiring supplementary consultation, Gas Industry Co will consider its responses and publish a supplementary decision paper setting out its decisions.
- 8.7 Contemporaneously, the draft rules and regulations will be finalised and a draft recommendation prepared for Board approval and release to the Minister of Energy in late March 2007. Both decision papers and the Proposals will form the basis of the recommendations to the Minister of Energy.
- 8.8 In order to meet this timetable we require submissions on the due date. **Extensions of time will not be possible.**
- 8.9 The timetable for these next steps is as follows in Table 3:

Table 3: Next Steps

Step	Date
Release decision paper with draft rules and regulations to Industry stakeholders.	19 January 2007
Receive submissions.	9 February 2007
Supplementary decision paper on supplementary consultation, finalised rules and regulations, and draft recommendations to Board for approval.	9 March 2007

Step	Date
Board approval of recommendations.	15 March 2007
Recommendations to Minister of Energy.	19 March 2007
Publish recommendations on Gas Industry Co's website and notice in Gazette.	29 March 2007

Recommendation to Minister of Energy

- 8.10 The proposed recommendations⁹ for switching rules and compliance regulations are a first for Gas Industry Co.
- 8.11 Section 43N of the Act requires that, before making a recommendation to the Minister of Energy, Gas Industry Co must carry out a number of steps to ensure that it has identified all reasonably practicable options and consulted properly.
- 8.12 The recommendation to the Minister of Energy must therefore inform the Minister of Energy of the steps taken by Gas Industry Co to comply with s43N, as well as attaching the form of the arrangements recommended. In this case that will include the finalised switching rules and compliance regulations.

Publication of Notice in Gazette

- 8.13 Under s43O of the Act, Gas Industry Co must, no later than 10 days after it gives a recommendation to the Minister of Energy, publicise the recommendation and assessment under s43N. To publicise is defined under the Act as meaning to make the document available on Gas Industry Co's website and give notice of the document in the Gazette.
- 8.14 In this manner Gas Industry Co will notify industry participants of the recommendations made to the Minister of Energy.

Legislative Enactment

- 8.15 Once the recommendations are made to the Minister of Energy, approval of the recommendations is within the processes and timetable of Government. Gas Industry Co has requested that the amendment to the Act be implemented as soon as possible to enable implementation of the switching and compliance arrangements.
- 8.16 Before making a recommendation concerning regulations or rules under section 43G(2)(a) to (h) or section 43H of the Act, the Minister of Energy must consult with the Minister of Consumer Affairs (see s43L (3)). This obligation only applies to the switching recommendation.
- 8.17 The Minister of Energy need not consult further if his recommendation to the Governor General implements the effect of a Gas Industry Co recommendation, and does not differ from that recommendation in any material way (see s43L(2)). Gas

⁹ We intend to make two recommendations jointly; one for the switching rules and the other for the compliance regulations.

Industry Co is unsure how the process for making minor changes will operate but will be inviting the Minister of Energy to discuss any such changes in consultation with Gas Industry Co.

9 Implementation Plan

Introduction

- 9.1 The establishment of a central gas registry, and its implementation to give effect to the switching rules, has a number of phases. This section outlines each of those phases, generally defined as being:
- appointment of a Registry establishment team;
 - preparation of (functional and non-functional) specification for the registry;
 - preparation and issuing of a Request for Proposal (RFP) to potential registry operator service providers;
 - preparation of a service provider agreement for contracting of a registry operator;
 - evaluation of responses to the RFP, selection of the preferred registry operator;
 - appointment of project manager and implementation team;
 - entering into agreements with the registry operator with respect to establishment of the registry, transition to full operation and standard service provision;
 - pre-establishment data reconciliation and cleansing;
 - establishment and initial data population of the registry;
 - pre-go-live data reconciliation and cleansing; and
 - go-live and transition management.

Registry Specification

- 9.2 In transforming the contents of the rules into a registry specification, there is a need for stakeholder participation in order to ensure that the design of the registry takes into account existing systems and data protocols, and to allow for efficient development of participants' own systems in response to the registry's requirements.
- 9.3 Gas Industry Co proposes to appoint a Registry Establishment Team, drawn largely from industry participants, to develop the registry specification. The team will be lead by Gas Industry Co and include people with technical skills in this sphere.
- 9.4 The registry specification will include both the functional and the non-functional requirements of the registry. More specifically, the functional requirements will include what is required of the registry with regard to:
- its role as a database of specified events related to ICPs;
 - users' access and their view, reporting and data maintenance rights;
 - the rules governing the maintenance of the various data in the registry;
 - the search function requirements;

- the control and recording of switching information exchanges; and
- the registry's issuing of notices and provision of reports.

9.5 The non-functional requirements will include:

- system architecture, scalability and flexibility;
- the interfaces with participants' systems;
- security and data protection systems;
- daily data processing capacity; and
- data retention and audit trails.

Request for Proposal

9.6 The goal of Gas Industry Co with the RFP will be to identify the preferred party to assume the role of registry operator.

9.7 The RFP will seek proposals from potential suppliers, each of whom will be required to present a proposal outlining how as registry operator it would develop, deliver and operate a system that:

- meets Gas Industry Co and industry business requirements, in accordance with the registry specification;
- is cost effective and administratively efficient;
- can provide a basis for ongoing improved efficiencies; and
- effectively uses available information technology.

9.8 The RFP will include:

- the registry specification to be met by the registry operator in the design and performance of the registry;
- the process that Gas Industry Co will use to evaluate the responses to the RFP; and
- the obligations of the registry operator under the switching rules and the service provider agreement.

9.9 Prior to issuing the RFP, Gas Industry Co will publish a request for registration of interest in order to identify the recipients of the RFP.

Evaluation of Responses

9.10 The evaluation methodology will comprise the following steps:

- defining and documenting the evaluation criteria and the weightings appropriate for each criterion. This requires:

- definition of evaluation criteria categories that relate to the major components of the business requirements outlined in the RFP (both system and supplier credentials);
 - definition of components within each category (based on RFP content) that deserve specific scoring;
 - the assignment of importance weightings to each of the evaluation categories defined;
 - the assignment of importance weightings to each of the components defined within a category; and
 - the definition of a numerical scoring range for use by the scorers to record the degree to which each respondent's proposal meets the criteria at the component level.
- using the Registry Establishment Team to undertake the evaluation, scoring and preferred supplier selection;
 - scoring each response to the RFP against the evaluation criteria and obtaining (based on that scoring) a short list of responses for more detailed scrutiny. Each response will be assessed individually;
 - re-evaluating each of the short listed responses against the evaluation criteria and identifying potential preferred suppliers (preferably not less than two but not greater than four) to be taken forward to the detailed discovery and negotiation stage; and
 - completing detailed discovery and negotiations to identify the preferred supplier, and making a recommendation to the Board to have the preferred supplier appointment ratified.

Appointment of Project Manager and Implementation Team

- 9.11 The Board's ratification of the registry operator appointment will be the trigger for Gas Industry Co to appoint a project manager and a Registry Implementation Team to manage the balance of the registry implementation.
- 9.12 The project manager will be tasked with helping the registry operator and participants through registry establishment, user testing, data migration, and subsequent data reconciliations and discrepancy resolutions.
- 9.13 The project manager will liaise with the registry operator and participants to facilitate the timely establishment of the registry, facilitate the reconciliation processes (providing common tools and reports), assist in the resolution of discrepancies as required, and monitor progress up to, and several weeks beyond, go-live.
- 9.14 The Registry Implementation Team will consist of a person from each registry participant organisation. Each team member will be required to contribute to the overall integrity of the implementation process as well as ensure that the participant's organisation performs all its obligations in terms of data reconciliation, clean-up and testing.

Agreements with Registry Operator

- 9.15 Appointment of the registry operator will be completed by executing agreements on:
- a detailed system design for the registry, as provided by the registry operator based on the registry specification provided by Gas Industry Co;
 - a registry establishment plan that includes:
 - software development steps, deliverables and milestones;
 - project critical path (including external dependencies and areas of uncertainty, and resource requirements) up to full implementation;
 - regular reporting to the industry project manager; and
 - a robust testing strategy that includes sufficient programme, system and acceptance testing by the industry, and a market trial;
 - a plan for data migration and subsequent support of reconciliations performed by participants; and
 - the registry operator service provider agreement, including the service level performance standards required of the registry operator.

Development of the Registry

- 9.16 This phase involves the registry operator undertaking the development of the registry according to the design specification agreed with Gas Industry Co and the Registry Establishment Team.
- 9.17 It continues through system and unit testing conducted by the registry operator until the point at which the registry operator is confident that the registry is in a sufficiently robust state to be handed over to the industry for user testing.

Pre-Establishment Data Reconciliations and Clean Up

- 9.18 This phase involves the participants cleaning up the data that exists on their master databases by populating a (pre-establishment) registry and cooperating with other participants to resolve differences of opinion on ICP parameter values.
- 9.19 Each participant will reconcile the information on its master database with the information on the registry, as at a set date. This reconciliation exercise will be repeated on a periodic basis, probably fortnightly, for a period of two months.
- 9.20 This process will enable all distributors, retailers and meter owners with responsibility for ICPs on the registry to identify any ICP parameter values on the registry that do not match the value in their own databases. They can then take action alongside other participants to resolve those discrepancies and align the information on the registry with their databases.
- 9.21 The project manager will facilitate the process by providing a common tool to enable reconciliation of registry information with participants' information. Each participant will need to apply resources to perform the reconciliations, resolve the discrepancies

identified and align its master database (the source of registry information) with the registry.

- 9.22 During this phase, participants will need to maintain the registry ICP parameter information as if the registry rules apply, except that there will be transitional functionality in place to enable the retailer code to be changed without going through the switch process specified in the rules. Without accurate maintenance of the registry data during this phase, the periodic reconciliations will provide confusing results.

User Acceptance Testing of the Registry

- 9.23 For user testing, each registry participant will be required to test:
- the registry functionality relative to its obligations under the rules; and
 - the design features included in the detailed specification agreed with the registry operator.
- 9.24 The testing will be undertaken in a test environment (provided by the registry operator) that mimics a fully operational registry.
- 9.25 Special testing will be required to account for the fact that there will be a period after the go-live date during which transitional functionality will be in place which will expire at a specified date.
- 9.26 It is likely that user testing will be performed in the same environment in which the pre-establishment population and periodic reconciliations are undertaken.

Establishment of Registry and Initial Population of Data

- 9.27 Once all system and user testing is complete (for the transitional and final functionality), and the pre-establishment reconciliations and cleansing have resulted in acceptably clean master databases, the registry will be established in the production environment provided by the registry operator.
- 9.28 Initial population will follow in accordance with the rules and a migration plan agreed between the project manager (with Registry Implementation Team endorsement) and the registry operator.
- 9.29 The migration plan may involve a migration from the pre-establishment registry or a fresh population from the registry participants' master databases. Whichever approach is used, all distributors, retailers and meter owners will be required to ensure that their master databases and the registry have accurate current details for all ICP parameters.
- 9.30 The transitional functionality required in the production system will enable the responsible retailer for an ICP to be changed without adherence to the switching process in the rules, but consistent with the transitional provisions of the rules.

Pre-Go-Live Data Reconciliation and Cleansing

- 9.31 Following the initial population of the registry, there will be a period allowed for pre-go-live reconciliation to verify the integrity of the initial population process and allow any other residual data issues to be cleansed by participants.
- 9.32 It is expected that the pre-establishment cleansing process will have achieved a minimum of 99.5% alignment of participants and registry data, thereby requiring not more than one week between the initial population and go-live.

Changes on Go-Live Date

- 9.33 From the go-live date each participant will be bound by the rules in relation to the switching process and data maintenance on the registry.
- 9.34 Switches initiated on or after the go-live date will be controlled by registry functionality that requires gas switching notices and gas transfer notices. Switches initiated prior to the go-live date will be completed according to the switching arrangements that applied at the time of initiation, provided that they can be completed before the termination of the transitional functionality.

Termination of Transitional Functionality

- 9.35 The transitional functionality has potential to undermine the integrity of the registry with respect to controlling the switch process. Consequently, there will be a date from which:
- the transitional functionality will be terminated; and
 - those switches initiated prior to the go-live date but not completed by the termination date must be re-issued and processed through the registry.
- 9.36 It is intended that the transitional functionality termination date will be one month after the go-live date.

Implementation Timetable

- 9.37 Due to the need to amend the Act, it will no longer be possible to implement the registry systems or the switching rules by June 2007.
- 9.38 An indicative timetable for implementation is provided in Table 4, based on an estimated date for the amendment to the Act of August 2007.

Table 4: Implementing the registry

Step	Likely Time Frame	Possible date
Legislative change to take effect.	9 months	August 2007
Develop specification for registry and service provider agreement.	4 weeks	
Finalise and issue RFP.	2 weeks	

Step	Likely Time Frame	Possible date
Receive and evaluate RFP responses.	6 weeks	November 2007
Appoint registry operator and agree development plans.	2 weeks	
Development and testing of registry.	6 months	May 2008
Participants reconciliations of master databases with pre-establishment registry.	8 weeks	
Establishment and initial population of the registry.		
Pre-go-live reconciliations and cleansing.	1 week	
Go-live date.		August 2008
Operate with transitional functionality.	4 weeks	
Terminate transitional functionality.		September 2008

10 Submission Requirements

- 10.1 Gas Industry Co invites industry stakeholders to make detailed submissions on the content of the amended draft switching rules in Appendix D, the amended draft compliance regulations in Appendix F, and on the specific questions raised for supplementary consultation in section 5 of this paper, by **5pm on Friday 9 February 2007**.
- 10.2 Please note that only submissions in response to the matters for supplementary consultation outlined in section 5 and the amended draft rules and regulations will be considered. Submissions received after 9 February 2007 will not be able to be considered.
- 10.3 Gas Industry Co's preference is to receive submissions in electronic form (Microsoft Word format and PDF) and to receive one hard copy of the electronic version. The electronic version should be emailed with the phrase "Submission on the Proposal for Switching Arrangements for the New Zealand Gas Industry" in the subject header to submissions@gasindustry.co.nz and one hard copy of the submission should be posted to the address below:
- Kelly Rastovich
Gas Industry Co
Level 9, State Insurance Tower
1 Willis Street
PO Box 10-646
Wellington
New Zealand
- Tel: +64 4 472 1800
Fax: +64 4 472 1801
- 10.4 Gas Industry Co will acknowledge receipt of all submissions electronically. Please contact Kelly Rastovich if you do not receive electronic acknowledgement of your submission within two business days.
- 10.5 Submissions on the specific questions raised for supplementary consultation should be provided in the format shown in Appendix A. Submissions on the amended draft rules and regulations should be provided separately in mark-up in the form of redrafted rules/regulations with any comments.
- 10.6 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.

Appendices to this Paper:

The following appendices can be found at the end of this paper:

- Appendix A Recommended Format for Submissions
- Appendix B Response to Submissions on Switching Proposal
- Appendix C Response to Submissions on Switching Proposal Question 7
- Appendix D Draft Switching Rules
- Appendix E Response to Submissions on Compliance Proposal
- Appendix F Draft Compliance Regulations

Appendix A: Recommended Format for Submissions

To assist the Gas Industry Co in the orderly and efficient consideration of stakeholders' responses, a suggested format for submissions has been prepared. This is drawn from the questions posed throughout the body of this consultation document. Respondents are also free to include other material in their responses.

Submission prepared by:

(company name and contact)

Question	Comment
Q1: Do you agree that the draft rules did not meet the intent of the rule drafters by effectively making confidential network price and other sensitive information available to all participants?	
Q2: Do you agree that the draft rules should be amended to include a "disclosure on application" code to be used for some ICP parameters?	
Q3: Do you agree that the amended draft rules included in this paper achieve the appropriate outcome for confidential network price and other sensitive information?	
Q4: Do you agree that the draft rules did not meet the needs of participants by not catering for inclusion of consumer installations directly connected to transmission systems?	
Q5: Do you agree that the amended draft rules included in this paper are an appropriate means by which ICPs related to consumer installations directly connected to transmission systems should be added to and maintained in the registry?	

Question	Comment
Q6: Do you agree that the registry operator should be covered by the compliance regulations in respect of the switching rules which impose process obligations on the registry operator?	
Q7: Do you agree that there should be a liability cap for the registry operator?	
Q8: Do you agree with the amounts specified?	
Q9: Do you agree that some aspects of the registry operator performance are best managed through a service provider contract?	
Q10: Do submitters consider that the draft rules attached to this paper adequately reflect the intent of the Switching Proposal? If not, please provide drafting amendments in mark-up form.	
Q11: Do submitters consider that the draft regulations attached to this paper adequately reflect the intent of the Compliance Proposal? If not, please provide drafting amendments in mark-up form.	

Appendix B: Responses to Submissions on Switching Proposal

Appendix B: Submissions to Statement of Proposal for Switching Arrangements Part 1
(Collated by Question Number)

Question 1: Do submitters agree with this Regulatory Objective? If not, what do you think the regulatory objective should be?		
Content of Submissions Received		Gas Industry Co Response.
Contact Energy	Contact agrees	
GasNet	Yes although GasNet considers that there should be reference to cost benefit/effectiveness/efficiency.	
Genesis Energy	Yes.	
Mighty River Power	<p>Mighty River agrees that the direct objective of the Switching Rules is to achieve the timely and accurate switching of customers between retailers and distributors. However, the key objectives of the Switching Rules are best described in relation to how the Switching Rules contribute to the regulatory objectives contained in section 43ZN Gas Act¹. These include the objectives of:</p> <ul style="list-style-type: none"> a) Ensuring that gas is delivered to existing customers in, among other things, an efficient manner (section 43ZN(a) and GPS4); and b) Barriers to competition in the gas industry are minimised (to the long term benefit of end-users) (section 43ZN(b)(ii) and the GPS 5(c)). 	
Ministry Of Consumer Affairs	The Ministry of Consumer Affairs would like the regulatory objective to recognise that the switching arrangements in place should be cost effective. Accordingly, we suggest the regulatory objective is 'to achieve timely and accurate switching for consumers seeking this outcome, and that are cost effective'.	
Powerco	No. Section 43G(2) of the Gas Act refers to ensuring that customers have the ability to choose a gas retailer. However, the regulatory objective statement of this proposal refers to "... <i>timely and accurate switching of customers between</i>	

	<p><i>retailers and distributors”.</i></p> <p>Powerco recommends re-wording of the statement of proposal as follows:</p> <p>“ timely and accurate switching of customers between retailer to be facilitated by timely and accurate information exchanges between retailers, distributors and metering operators”.</p>	<p>Gas Industry Co agrees that the objective should be to facilitate switching between retailers rather than between retailers and distributors, while acknowledging that distributors have a role in supplying information to support the process. It is therefore proposed to amend the regulatory objective to the following:</p> <p><i>“The objective of the proposed draft rules for new switching arrangements is to achieve timely and efficient switching of customers between retailers, by facilitating the timely exchange of accurate and up-to-date information between customers, retailers, distributors, and meter owners.”</i></p> <p><i>“The objective of the proposed draft rules for new switching arrangements is to achieve timely and accurate switching of customers between retailers, by facilitating the timely exchange of accurate and up-to-date information between customers, retailers, distributors, and meter owners.”</i></p> <p>Wanganui Gas’ concern with respect to cost of the solution is responded to under Question 6.</p>
<p>Vector</p>	<p>No. As it stands the objective refers to “.....timely and accurate switching between retailers and distributors.” Our understanding is that the objective is to facilitate switching between retailers – switching between distributors is not part of the brief, and is not covered elsewhere in the document. We believe that the objective could therefore be more clearly stated as follows:</p> <p>“The objective of the proposed draft rules for new switching arrangements is to achieve timely and efficient switching of customers between retailers, by facilitating the timely exchange of accurate and up-to-date information between customers, retailers, distributors, and meter owners.”</p>	
<p>Wanganui Gas</p>	<p>Yes, however WGL believes that the both problems and the costs associated with the current system have been both overstated and in general unsubstantiated.</p> <p>WGL agrees with the GIC that one of the major problems with the current switching process is lack of governance. Furthermore we believe that the GIC missed the opportunity to take ownership of this governance of the current processes and could have developed and implemented cost effective solutions to the current problems with switching.</p> <p>Whilst there are clearly benefits that all parties will accrue from the creation of a central registry WGL continues to have significant concerns about the cost of this solution.</p>	

¹ Objectives of industry body in relation to recommendation of gas governance regulations

Question 2: Do submitters agree with the analysis of the Proposal? If not, please state your reasons?

Content of Submissions Received		Gas Industry Co Response.
Contact Energy	Contact agrees.	<p>Analysis of the current state of switching</p> <p>While there may be debate over the relative significance of features of the current switching arrangements, Gas Industry Co agrees that the issues do not detract from the validity of the outcome of the analysis or of the solution proposed.</p> <p>Extension of purpose of the proposed registry</p> <p>Whereas there is an intent for the registry to become a database of record for reconciliation and allocation purposes, that does not include the registry being used in the processes employed by participants to manage the creation of new consumer installations or the subsequent disconnection, reconnection and decommissioning processes.</p>
GasNet	Yes	
Genesis Energy	Yes.	
Mighty River Power	Yes.	
Powerco	<p>Powerco submitted that generally the analysis is accurate with no fundamental deficiencies, but identifies the following issues, which do not detract from the main points of the proposal:</p> <ul style="list-style-type: none"> • some of the analysis in paragraph 4.27 is considered not a fair assessment of the current state of switching and its governance. The comments alluding to why gas supply can be left without a retailer contract in particular are not, in Powerco's opinion, the primary cause. • Powerco considers that It is not that distributors databases are "an unreliable source of ICP data", but lack of mandatory rules around switching practises results in non-timely, non-accurate maintenance of ICP records in distributor databases; • notwithstanding the above, and timing differences aside, Powerco considers there is really no valid reason why distributors' databases should not be considered accurate if the retailer has appropriate procedures to capture switching notification advice sent by distributors to winning retailers; • Powerco comments that the quality of training and supervision received by call centre staff can result in switching errors and that these practices may not be fully resolved with a centralised registry; • Powerco commented that its preferred option has always been option 2 (Reconciliation Code enhancements). Whilst it accepts that Option 2 does not meet all of the requirements of a central registry, Powerco considers that some of the analysis under table 8 of the proposal is incorrect. 	

Vector	<p>Yes, in broad terms, although Vector considers there to be particular issues which impact on the analysis. These issues (not so significant as to alter the fundamental results of the analysis) include:</p> <ul style="list-style-type: none"> • the churn rate is considered to be understated; • distributors are considered unfairly compromised by inference that data in distributors databases are main cause of two common switching issues, and hence would be unfairly penalized by having to bear the lions share of associated costs; <p>Also, Vector :</p> <ul style="list-style-type: none"> • is pleased to see the link of ICP status and physical status and the discouragement of inappropriate use of commercially-sensitive data incorporated into the Proposal; • agrees with incremental approach of establishing a Gas Registry, as a first step to achieving a central registry with a fully integrated allocation mechanism at some future point in time; • agrees with the conclusion that new switching arrangements should be implemented by rules rather than regulations; • strongly concurs with the statement that the registry will be a database of record for allocation and reconciliation purposes; • Suggests that the registry should include an additional purpose, being to “govern the process of recording connection, disconnection, and reconnection events over the lifetime of an ICP”, and that these events must be recorded if the registry is to become the ‘database of record’ for allocation and reconciliation purposes. 	<p>The only process that the registry will govern is switching. For all other processes, the registry will record information provided by participants from those participants’ master databases. For non-switching events, the registry will be a database of record only to the extent that the participants conscientiously update the registry as those events occur. Its greatest importance in any allocation and reconciliation process where it is used as a ‘database of record’ will be as a single source of data for all participants in that process to reference.</p> <p>While the registry is expected to include functionality that governs how ICP parameter data is held and changed on the registry, Gas Industry Co considers that to expand the purpose as suggested by Vector overstates the registry’s intended position in the physical connection, disconnection, reconnection and decommissioning processes.</p> <p>This subject is discussed more fully in Appendix C of the Decision Paper.</p>
Wanganui Gas	<p>WGL agrees that there is a need to develop rules and regulations to govern switching arrangements but remain to be convinced that a central registry is the most cost effective solution to be included in these rules and regulations.</p>	

Question 3: Do submitters agree this Proposal complies with section 43N of the Gas Act? If not, please state your reasons.

Content of Submissions Received		Gas Industry Co Response.
Contact Energy	Contact agrees	
Genesis Energy	Yes	
GasNet	Yes.	
Mighty River Power	Yes, with caveat that section 43G(2)(c) should be amended to explicitly include reference to distributors and meter owners.	
Powerco	Yes. Powerco believes the proposal complies with s43N of the Gas Act.	
Vector	Yes	
Wanganui Gas	Yes.	

Question 4: Do submitters have any other information that they consider is relevant to the assessment of the Proposal?

Content of Submissions Received		Gas Industry Co Response
Contact Energy	Contact agrees	<p>Gas Industry Co is seeking to have the Gas Act be amended in order to enable rules or regulations in respect of switching arrangements to apply to all parties required to effect an accurate customer switch.</p> <p>Gas Industry Co has been advised by MED that it is proposed to address the amendment to section 43G(2)(c) of the Gas Act through the Annual Statutes Amendment Bill. After introduction in 2007 the Bill is expected to spend at least six months at the Select Committee. Although the intention will be to pass the Bill within a reasonable time frame, there is potential for it to be delayed in preference to higher priority legislation.</p>
GasNet	No	
Genesis Energy	No.	
Mighty River Power	<p>Mighty River Power considers that section 43G(2)(c) poses a difficulty for the proposed Switching Rules and Compliance Regulations as they presently stand. Section 43G(2)(c) provides that the Governor-General in Council may make regulations:</p> <p><i>Requiring all gas retailers to comply with, and give effect to, a system or set of rules that will enable any customer to chose, and alternate, between competing gas retailers, with the objective of promoting competition in gas retail market. (emphasis added)</i></p> <p>In Mighty River Power's view, the above provision (by specifying retailers only) does not include distributors and meter owners, but for section 43G(2)(c) and the Switching Rules to work they must apply equally to retailers, distributors and meter owners.</p> <p>Accordingly, in Mighty River Power's view, section 43G(2)(c) should be amended to include reference to distributors and meter owners. If section 43G(2) [c] is not amended, there is a real risk that the Switching Rules and Compliance Regulations will be ultra vires.</p>	
Powerco	Refer to Question 2 of this appendix.	
Vector	Refer to Question 2 of this appendix and to Appendix C of the Decision Paper.	
Wanganui Gas	No	

Question 5: Do submitters agree that the Proposal meets the Regulatory objective? If not please state your reasons.

Content of Submissions Received		Gas Industry Co Response
Contact Energy	Contact agrees	See response to Question 1.
GasNet	Yes	
Genesis Energy	Yes.	
Mighty River Power	<p>Mighty River Power agrees the regulatory proposal meets the Regulatory Objective as stated by the GIC of facilitating the timely and accurate switching of customers between retailers and distributors. It also considers that the regulatory proposal meets the broader regulatory objective of:</p> <ul style="list-style-type: none"> a. Ensuring that gas is delivered to existing customers in, among other things, and efficient manner (section 43ZN(a) and GPS 4); and b. Barriers to competition in the gas industry are minimised (to the long term benefit of end-users) (section 43ZN(b)ii) and the GPS 5(c)) <p>In respect to the broader regulatory objectives above, Mighty River Power agrees with the GIC that the gas customer switching proposal will result in:</p> <ul style="list-style-type: none"> a. a positive net consumer benefit (switching proposal paper, Appendix 2.) b. improvement of customer satisfaction by implementing an efficient, timely and accurate switch process; c. the lowering of barriers to competition; and d. a reduction of administrative inefficiencies and costs. 	
Powerco	No. Refer to Question 1.	
Vector	Yes, the Proposal meets the restated Regulatory Objective (as restated in Vector's response to Q 1).	
Wanganui Gas	Yes but see above with regards to the provision of a cost efficient solution.	

Question 6: Do submitters agree with the benefits relative to the costs of the Proposal as set out in Appendix 2? If not, please state your reasons.

Content of Submissions Received		Gas Industry Co Response
Contact Energy	Contact agrees	<p>The Cost Benefit Analysis</p> <p>Although reservations have been expressed about the cost-benefit analysis, the submissions do tend to support the implementation of a central registry and associated switching rules. Gas Industry Co also notes that:</p> <ul style="list-style-type: none"> the proposal has a high net benefit even under the worst case scenario considered in the sensitivity analysis; the benefits in the cost-benefit analysis were limited to five years in order to adopt a conservative value of the benefits – in reality the benefits are likely to be sustained well beyond five years; and there is a range of additional benefits to consumers from a clearer set of rules governing customer switches, a more timely switching process, and more accurate billing information. These benefits are difficult to quantify and have not been included in the cost-benefit analysis. <p>Gas Industry Co has decided to proceed with the Switching Proposal on the basis that it is highly likely to yield a net benefit to national</p>
GasNet	Yes, although GasNet remains uncomfortable with the accountabilities and consequence in the event that the analysis is found to be incorrect.	
Genesis Energy	<p>While it is reasonably clear that, as a result of the introduction of a switching registry and rules, that the conditions will exist for gas retail competition to flourish to a greater extent, Genesis Energy wonders about the degree to which the calculations outlined in Appendix 2 provide an aura of scientific exactitude that they simply do not deserve.</p> <p>By way of example, Genesis Energy notes the various assumptions regarding inclusions and exclusions, and questions the relevance of the comparison to either the electricity market or Victoria in other than the very broadest terms. It also notes that the retail margins quoted in Table 11 of Appendix 2 do not accurately reflect all of the costs associated with each customer and should not be used in any way to estimate the relative profitability of a customer.</p>	
Mighty River Power	<p>Mighty River Power has some concerns about the methodology (based on relative retail margins of electricity and gas) used by the GIC to assess dynamic efficiency.</p> <p>Mighty River Power considers that there is a long distance between retail margins and dynamic efficiency. Retail margins are at best a crude proxy for the level of competitiveness of an industry. All things being equal, the greater the margin the less competitive the market will be. In turn the less competitive the industry the greater the potential dynamic efficiency gains from promoting competition. In-of-themselves retail margins give no indication of the absolute level of dynamic efficiency gains to be had.</p> <p>Mighty River Power considers that retail margins are more tightly linked to allocative efficiency gains, in that the greater the margin the worse the allocative efficiency losses will be. A quantification of efficiency based on retail</p>	

	<p>margins will consequently (at best) provide information on allocative efficiency, not dynamic efficiency.</p> <p>Gas Industry Co states (abid, appendix 2 at paragraph 11.40) “that reduction in retail margin is not an absolute measure of economic efficiency gains, as increased competitive pressure may simply lead to decreased profit rather than increased efficiency”.</p> <p>In Mighty River Power's view the above statement is imprecise, in that:</p> <ul style="list-style-type: none"> • improved efficiency in-of-itself does not mean retail margins are reduced – if costs go down and prices remain static, retail margins remain unchanged. The comment seems to incorrectly treat retail margins as being equivalent to retail prices, that is, a reduction in retail margin equates to a reduction in retail prices. • A reduction in retail margins (and prices) due to a reduction in monopoly profits will also improve allocative efficiency (contrary to the GIC's comment); the extent of which depends on the elasticity of demand. 	<p>welfare.</p> <p>This is discussed in detail in section 3 of the Decision Paper.</p> <p>National Energy Registry</p> <p>The prospect of a national energy registry was as considered in the preparation of the Switching Proposal, but was eliminated as a reasonably practicable option for the following reasons:</p> <ul style="list-style-type: none"> • it would require a high degree of coordination of rules and procedures between the electricity switching arrangements and the gas switching arrangements – this could be difficult and time-consuming to achieve; • an extension of the electricity registry to accommodate gas customers would need to be negotiated with the existing registry service provider for the Electricity Commission – this runs the risk of losing the benefits of competition to supply the gas registry; • to the extent that there may be cost synergies because one party has already developed a platform for electricity switching, these should be evident in any offer from that party to develop the gas
<p>Ministry Of Consumer Affairs</p>	<p>Ministry of Consumer Affairs is concerned that the cost information presented is very vague. Paragraph 11.72 notes that submitters suggested that data cleansing and migration costs may have been underestimated in previous work, so as a result costs have been doubled. A cost range of \$29,000 to \$375,000 is a meaningless estimate as the range is too wide and somewhat unreal.</p> <p>Ministry of Consumer Affairs considers that any new switching arrangements must be able to capture the 90% inefficiency costs estimated from the current approach and these cost savings should be passed back to consumers, who are paying unnecessarily, as noted above.</p>	
<p>Powerco</p>	<p>Powerco has reservations in relation to the cost benefit analysis. These reservations are especially in relation to the specific costs of the software developments and ongoing support costs. Whilst the GIC has tried to give some indication of the likely costs, it is difficult to qualify the likely level of costs until that formal requirement specifications have been developed and sent to interested parties.</p> <p>While only the events of time will prove whether the costs and benefits have been accurately identified, Powerco believes that the GIC should commit to reviewing the project as the establishment and operational costs are more</p>	

	<p>accurately identified.</p> <p>Powerco believes that the dynamic efficiencies raised in the proposal following the introduction of the centralised registry are overstated. In Powerco’s opinion significant switching of all classes of customers already occurs.</p> <p>In providing some more context to the development of the registry GIC has stated that significant disputes exist between retailers relating to the allocation of energy. Powerco understands that similar disputes have occurred in the electricity industry and warns against the treatment of a centralised registry as a panacea for such issues.</p> <p>Powerco also considers that the audit benefits are significantly overstated.</p> <p>Powerco comments that the assumption made by GIC that \$20.6 million of margin is available to be driven from the gas industry is interesting, and notes that the cost benefit analysis is sensitive to the size of that figure.</p> <p>Powerco also notes that it is disappointing to see from the analysis that the option of Gas ICP records being into the National Electricity Registry to create a National Energy registry was not explored further.</p>	<p>registry; and</p> <ul style="list-style-type: none"> although the issues associated with switching gas and electricity customers may be similar, it seems plausible that the requirements for a gas registry and associated rules and compliance arrangements will differ from those deemed appropriate for electricity – change processes would need to be aligned and that may create tensions between the two arrangements if they have different priorities. <p>Gas Industry Co has decided to retain an independent gas registry.</p>
Vector	<p>Vector has reservations about the methodology used to quantify both benefits and costs. In particular, the costs of software development and the assessment of ongoing software costs are very subjective. These costs cannot be quantified until a full specification is developed, and proposals are received from interested parties. The costs and benefits will need to be reviewed at this stage. We discuss our concerns in more detail in Part 2.2 of this submission.</p> <p>Vector recommends that GIC approach the Electricity Commission to review what synergies may be obtained by developing a single “Energy Registry” for New Zealand.</p>	
Wanganui Gas	<p>No</p> <p>WGL has some concerns about the estimated savings and benefits that are claimed to be associated with the proposed introduction of a registry, in particular WGL has commented in our submissions on the supposed costs associated with switching at the moment and the estimated gross profit of supplying a residential gas customer. Both these estimated costs and profits in</p>	

WGL's opinion, lack credibility.

WGL believes that the costs of the existing switching system are grossly overestimated. The suggested cost of each switch is \$40. (\$40,000 per month and 1,000 switches per month). Each switch is estimated to take 25 minutes and costs are almost entirely labour costs. Assuming that 90% of the costs are labour costs that means that the average salary for employees carrying out gas switching is \$84.60 per hour. Such a figure is not credible and therefore casts significant doubts on the estimated savings that can be made through automating the switching process.

In addition the suggested retail margins that are claimed in Appendix 2 are, from WGL's perspective, unrealistic. The suggested gas price alone is unrealistic. In this week's Dominion Post the original cost of gas from the Pohokura fields was suggested to average \$6.50/GJ almost a full \$1/GJ higher than the price used in your calculations. In addition it is our understanding that the prices originally agreed with the purchasers were subject to an inflationary adjustment in line with the Producers Price Index which was 4.47% last year and 8% this year. Given these figures WGL would suggest that the retail margin is in fact more likely to be in line with that for electricity rather than substantially above it.

Given that, in WGL's opinion, retail competition is as a general rule stimulated by a competitor offering lower prices to a market than is currently available then WGL is of the opinion that if the retail margins estimated in this paper were accurate and sustainable then that type of margin on its own would stimulate competition within the marketplace regardless of the switching arrangements in place.

Question 7: Do submitters believe the Rules adequately reflect and govern the Proposal? If not, please provide all drafting amendments in mark-up.

Content of Submissions Received		Gas Industry Co Response
Contact Energy	Refer to comments included in Appendix C of the Decision Paper.	See Appendix C of the Decision Paper.
GasNet	Yes in respect of Section 8 Proposed Daft Rules (of the proposal document). However there are a number of issues that GasNet has identified in regard to Appendix 4 (draft rules). Those issues are included in Appendix C of the Decision Paper.	
Genesis Energy	Genesis Energy is pleased to be able to note that with some small exceptions, it believes the rules to be a fair reflection of an efficient switching process. Comments in relation to other rules are included in Appendix C of the Decision Paper	
Ministry of Consumer Affairs	Ministry of Consumer Affairs supports rules being put in place for switching and strongly supports switching being readily accessible and at no charge to consumers. Specific comments on the rules are contained in Appendix C of the Decision Paper.	
Powerco	No. Powerco considers there is a significant weakness if the registry is to be a "database of record". Refer to Appendix C of the Decision paper for detailed comments.	
Vector	Vector generally agrees that the Rules reflect the intent of the Proposal. However, it considers that amendments are needed in the fundamental area of recording status changes in the Registry. Refer to Appendix C of the Decision paper for detailed comments.	
Wanganui Gas	Wanganui Gas was unable to comment as it was still undertaking an internal review of Appendix 4 (of the Switching Proposal paper) at the time of submission.	

Question 8: Do submitters agree with the funding options for the Proposal? If not, please state your reasons.

Content of Submissions Received		Gas Industry Co Response
Contact Energy	See Q 9.	<p>See section 3 of the Decision Paper.</p> <p>Gas Industry Co has decided to confirm the proposed fee structure and cost allocation contained in the Switching Proposal.</p>
GasNet	See Q 9.	
Genesis Energy	Genesis Energy agrees that in order to recover the costs of implementing and administering a central registry the development fee and on-going fee options are a reasonable approach. Genesis Energy's comments on the allocation of such fees are covered in the response to Q 9.	
Powerco	<p>Powerco raised the following queries in relation to funding and allocation of registry costs:</p> <ol style="list-style-type: none"> 1. There appears to be no justification for the 45:45:10 split between distributors, retailers and meter owners, and there is no indication whether the number of ICPs derived in the calculation will be total ICPs, contracted ICPs or ICPs which are capable of being energised. 2. Why does GIC intend to levy charges against actual costs as incurred? This approach allows no cost certainty to participants and provides no incentive for cost management; 3. Powerco believes that the benefit from dynamic efficiencies will not accrue in proportion to the funding outlined. 4. Due to Powerco being under a Provisional Authorisation for the supply of GMS and gas network services, Powerco is unable to change its prices to reflect the registry development fee or any ongoing costs. Is GIC able to commit that the additional costs will not be imposed on Powerco without any ability to recover as a pass through charge? 	
Vector	Vector does not agree with the proposed funding options. We believe that the funding for the development of the Registry should be met primarily by those parties who will derive benefits from the proposed new switching arrangements. These are identified in the Proposal as end-consumers and	

	<p>retailers.</p> <p>Vector recommends that the costs of funding, and the allocation of ongoing costs, be apportioned according to where the benefits lie. This would result in 80% of costs (initial funding and ongoing costs) being borne by retailers and 20% by distributors. There is no allocation of costs to meter owners, as they do not share in any significant benefits from the Proposal, and in fact have new obligations to update registry records.</p> <p>Before committing to any funding methodology, Vector would seek to determine its maximum liability to these potential costs year on year. A figure that caps the maximum exposure would seem prudent.</p>	
Wanganui Gas	<p>Wanganui Gas considers that ultimately the customer will pay for all costs as both network and GMS operators pass on their additional cost to retailers who will in turn include these costs in their tariffs.</p> <p>WGL is of the opinion that as the central registry will be a database of record of ICPs that the cost of developing the registry should be borne by both the network and GMS companies on an 80/20 split. The cost of the registry will then be passed on to retailers as part of the tariffs applied by the network and GMS operators.</p> <p>The above reflects the situation now whereby the networks in particular are responsible for their own individual databases of record and charges retailers accordingly. WGL sees no need to reason to impose an alternative arrangement simply because the GIC has determined that a central registry should replace these individual databases of record.</p>	

Question 9: Do submitters agree with the allocation of costs for the Proposal? If not, please state your reasons.

Content of Submissions Received		Gas Industry Co Response
Contact Energy	Contact considers it may be better for all funding to be directed to retailers on a similar basis to the GIC retail levy as the GIC costs incurred by distributors and meter owners will only be passed through to retailers via the GIC retail levy. It is noted that there has been a tendency in the past for some pass through costs to be unbundled from prices thus making it difficult for retailers to predict costs which can then be recovered through retail charges and reconciled with invoices from distributors and meter owners.	See section 3 of the Decision Paper. A number of applicable criteria ² have been used in the development of the proposed fee structure. They are; economic efficiency, simplicity, equity, rationality, user/causer/beneficiary pays and sufficiency.
GasNet	Yes. Regardless of the funding options, GasNet considers that all costs incurred by GasNet will be directly recovered through it is network & GMS Service Charges to the Retailer. For this reason GasNet accepts any funding option whether it is 100% on the network/GMS business, 100% on the Retailer or on an apportionment basis such as that proposed.	The main beneficiaries of the registry identified in the cost-benefit analysis are retailers, distributors and customers. Retailers and distributors should see benefits in terms of reduced switching costs, easier tracking of switches and improved accuracy. Accordingly, it is proposed that retailers and distributors will share the largest part of the cost allocation. Customers will also benefit from a more efficient, timely and accurate switch process. Customers will not share directly in the cost allocation, but should benefit from the net reduction in costs experienced by participants.
Genesis Energy	Genesis Energy would like to understand the reasoning behind why meter owners are not included in the allocation of development costs. On the face of it, their exclusion seems arbitrary – meter owner are active participants in the gas market and as such have a legitimate obligation to bear a fair and reasonable portion of all costs associated with it. Therefore, unless Gas Industry Company has a strong reasons for excluding meter owners from bearing these costs, Genesis Energy recommends apportionment of both the development and on going fees to meter owners, retailers and distributors as all will receive benefits from the implementations of a central gas registry. Genesis Energy is also unclear about the specific rationale used by the Gas Industry Company in developing the allocation of costs between industry parties, While on first blush, a 45% distributors and 10% meter owners does not appear to be wholly unreasonable, Genesis Energy seeks to understand the reasoning for this particular split before being in a position to comment from	Meter owners should also gain some benefit by having access to a central registry recording who is using metering equipment.

² These criteria are based loosely on, but with some modification to, the EGEP (2001) *Paper for Governance Working Group : Cost Allocation and Fee Structure* and the report provided to MED by Charles River Associates (2003) *Recovering the Costs of the Electricity Commission*.

	<p>an informed basis.</p> <p>Genesis Energy does note, however, that the majority of transactions would be incurred by meter owners when updating meter information as the result of a meter change.</p>	<p>Because this benefit is assessed as relatively small, meter owners have been allocated a small share of the on-going costs and none of the development costs.</p>
Powerco	Covered in response to Q 8	<p>The proposed fee structure is relatively simple, readily calculated and equitable - based on the proportion of ICPs for each distributor, retailer and meter owner.</p>
Vector	Covered in response to Q 8	
Wanganui Gas	<p>As stated above WGL believes that the development fee should be apportioned over the GMS operators as well as networks in an 80/20 split, network/GMS. In addition we would suggest a 40/40/20 split on operating costs based on retailers paying 20%. Alternatively 100% could be apportioned between the network and GMS operators and these costs recovered in their tariffs as per the development fee.</p> <p>A final option is that the retailer could pay for their proportion of operating cost on a user pays basis.</p> <p>Our reasoning for the above is that the network and GMS operators will be involved in each and every switch that takes place and as they will be recovering these costs through their tariffs then it may be simpler to fund the all of the registry cost in this manner.</p>	<p>Although there has been no detailed assessment made of the likely cost savings for each class of participant, and there appear to be very different views on this point, the proposed cost allocation is considered to be a reasonable reflection of the benefits.</p> <p>Gas Industry Co also notes that the allocation between distributors and retailers is the same as that used for the recovery of the electricity registry costs (meter owners are not participants in the electricity registry).</p> <p>Gas Industry Co has decided to confirm the proposed fee structure and cost allocation contained in the Switching Proposal.</p>

Question 10: Any other comments?

Content of Submissions Received	Gas Industry Co Response
<p>Contact Energy</p>	<p>Clause 2.7. Given the Minister will not receive the recommendation until late in 2006, Contact considers the proposed go live date of 30 June 2007 unrealistic.</p> <p>Clauses 4.4 & 4.7. Contact understands that Vector Gas is the brand for the Vector owned networks and NGC Metering for the metering business. Wanganui Gas is the retail brand but it is the network business (GasNet) that owns the meters in Wanganui.</p> <p>Clause 4.15. It should be noted that in the 6 years since July 2000 only one distributor (United Networks – now inherited by Vector & Powerco in respect of the ex United Networks networks) has ever amended its network services agreement to give legal status to the Reconciliation Code.</p> <p>Clause 4.21. The meter reading is forwarded to the new retailer (not distributor), and the retailer provides consumption information (kWh or GJ) to the distributor each month for billing network charges.</p> <p>Clause 4.25. One distributor (Powerco) currently provides a facility for the losing (not winning) retailer to record the switch.</p> <p>Clause 6.7. It needs to be noted here that switching transactions are only a subset of the overall registry transactions. There are a significant number of transactions and affected party notifications associated with updating the registry which have nothing to do with switching.</p> <p>Clause 11.17. Competition occurs for all customers, including mass market and large business customers. If the registry is to become the database of record for who the retailer is at any point in time, and the status of an ICP for allocation and network/GMS billing purposes, it must include the same switch and update processes for all ICPs. Therefore Contact would argue that the benefits attributable to the proposal should include all ICPs.</p> <p>Clause 11.28. This issue is relevant to all switches, whether from or to an incumbent retailer.</p>

Point noted. Superseded by changes sought for the Gas Act.

Point noted.

Point noted.

Point noted.

Point noted.

See response below.

Point noted.

Point noted.

GasNet	<p>GasNet considers that section 43G(2)(c) must include the distributors and meter owners in designing and implementing switching arrangements as they are integral to the process. GasNet has identified a number of operational matters, in addition to those mentioned above, within the draft rules which on further review may or may not be an issue. GasNet would be extremely concerned if its requirements and input as a distributor and meter owner were not considered along with the retailers and consumers.</p>	<p>Participants in the on-going process</p> <p>Gas Industry Co agrees that stakeholder participation is desirable in the specification and implementation of the registry.</p> <p>Gas Industry Co proposes to establish a Registry Establishment Team to assist with the registry specification and evaluation of tenders to provide the registry, and a Registry Implementation Team to coordinate the process of transition to the new registry.</p> <p>Details on the proposed implementation process are included in section 9 of the Decision Paper.</p>
Genesis Energy	<p>Genesis Energy made a number of observations regarding the processes going forward, registry system capacity and intellectual property.</p> <p>Process going forward (including system costs management)</p> <ol style="list-style-type: none"> 1. There is a need for more information, particularly with respect to the establishment of a project team and how participants can participate in the process up to 'go-live' date; 2. There is a desire to review the rules in their 'final' form prior to their submission by Gas Industry Co to the Ministry of Economic development; 3. In order to best manage resources, it is vital that industry participants are advised of the level of the proposed development costs as soon as possible and prior to these costs being incurred; 4. There needs to be rigorous contractual controls placed on the service provider to ensure that development and implementation cost over-runs do not occur unless appropriate (pre-expenditure) sign off has been obtained. The sign-off process for such costs and the nature of the process (in terms of with whom accountability for such decisions should best lie) also needs to be explored further; and 5. Consideration needs to be given to the future costs to the industry and what controls should set in place to ensure that there are only acceptable incremental increases and that the service provider can not hold the industry "to ransom" as such also needs to be given further thought; <p>System Capacity:</p> <p>Paragraph 6.7 of the consultation paper mentions that "in the first instance, managing 30,000 switches per annum, with each switch representing 4</p>	<p>System capacity and capabilities</p> <p>Draft rule 12 relating to the service provider agreement with the registry operator is intended to ensure that Gas Industry Co agrees appropriate terms and conditions with the registry operator for the functional and non-functional requirements of the registry prior to the development of the registry.</p> <p>The capacity of the registry with respect to mass updates of ICP parameter values by multiple participants over a short period will be included in those specifications.</p> <p>It is agreed that the system would need the capability to validate, accept/reject and issue notifications for such mass updates as could occur with a gas gate addition or the change of</p>

	<p>transactions passing through the registry” Genesis Energy would like to raise the point that there seen to have been no consideration to the sheer volume of notifications between the registry and interested parties which may be required not only during a switch but when adding or updating data fields on the registry;</p> <p>Intellectual Property:</p> <p>Genesis Energy would encourage that any contracts between the Service Provider and the Gas Industry Company, acting on behalf of the industry, cover concerns raised at the Gas Industry Company Workshop on Wednesday 21 September 2006 with regards to this point. In particular:</p> <ul style="list-style-type: none"> • Data held in the registry and associated files and notifications must remain the property of the participants; and • The code used to develop the registry also must remain the property of the industry participants or is published for general consumption. <p>Other matters raised by Genesis Energy and impacting on the draft rules are included in Appendix C of the Decision Paper.</p>	<p>distributor or retailer code that might be required as a result of a company acquisition.</p> <p>Intellectual Property</p> <p>It is intended the service provider agreement will state that the registry operator shall have no rights to any of the data in the registry (other than to make it available to participants as specified in the rules and the service provider agreement).</p> <p>With regard to intellectual property rights to software code developed in the course of the design, build or implementation of the registry, it is intended to leave the matter open until negotiations with the preferred suppliers. Should there be intellectual property created in the course of this project:</p> <ul style="list-style-type: none"> • there are likely to be opportunities for trade-offs between rights to the property and the development and/or ongoing costs; and
Ministry Of Consumer Affairs	Ministry of Consumer Affairs would like clarity on who will own the registry database facility and the information it contains. It also suggests that the rules reference that any information on the registry database of a personal nature is subject to the Privacy Act. Alternatively, the rules should make it clear that the registry databases will not contain any information of a personal nature.	<ul style="list-style-type: none"> • if the decision is taken to retain any such rights then they will be held as the property of Gas Industry Co. <p>The matter will be dealt with by the proposed Establishment Team.</p>
Powerco	Powerco considers that the 30,000 limit of transactions per annum is too low given the number of changes which are expected to flow through the registry;	<p>It is not intended that the registry will contain any personal information that would be subject to the Privacy Act.</p>
Vector	<p>Vector supports the establishment of a Central Registry as a practical means of facilitating the timely and efficient switching of customers between retailers, and is committed to ensuring the records retained in the proposed Registry are accurate and up-to-date. This will ensure its relevance as the “database of record”.</p> <p>Vector considers that:</p>	

	<ul style="list-style-type: none"> • the registry system is potentially underspecified if only specified to be capable of handling 30,000 switches per annum. System will need to handle high volume of transactions over a short time frame (e.g. one day) associated with changes of ownership of ICP information over the lifetime of an ICP: and • it is essential that that the ownership of intellectual property developed during the design and implementation of the registry remains with Gas Industry Co; 	
Wanganui Gas	<p>WGL confirms that it does not oppose the concept of a central registry for the Gas Industry in principal, and is in favour of the full development of a registry that will include allocation processes. WGL is however very concerned about the final cost of a registry to be initially designed only for switching for a market of approximately 240,000 customers.</p> <p>WGL is most certainly opposed to the introduction of a system that will favour the currently inefficient operators by reducing their switching costs whilst penalising efficient operators like WGL by increasing their switching costs.</p> <p>Where WGL does agree wholeheartedly with the Gas Industry Company is that there is a real need to bring some sort of governance to this process.</p>	

Appendix C: Responses to Submissions on Switching Proposal Question 7 Draft Rules

Appendix C: Submissions to Statement of Proposal for Switching Arrangements Part 1
(Submissions on draft rules (Question 7), collated in draft rule order)

1. Submissions on interpretation, usage and definitions	
Content of Submissions Received	Gas Industry Co Response
<p>General</p> <p>Vector and Contact submissions suggested a need for consistency in terminology, particularly between gas rules and the electricity governance rules. And the Ministry of Consumer Affairs submission highlighted the fact that the draft rules included different definitions than used in the Gas Act.</p> <p>Genesis and GasNet submissions requested that defined terms be highlighted in some way in the rules.</p> <p>Contact suggested that definitions be included that:</p> <ul style="list-style-type: none"> • deemed (except for ToU meter readings) the time of a reading to be 2400 hours of the reading day; and • deemed consumption for any reading difference to relate to the period from 0000 hours of the day after the last reading to 2400 hours of the day the current reading. <p>Actual reading and register readings</p> <p>Vector commented that the definition of 'actual reading' in the draft rules did not adequately cover the case of ToU meters read by means of a datalogger.</p>	<p>General Consistency</p> <p>The Gas Act is the first point of reference, followed by the Gas (Information Disclosure) Regulations and NZS 5259:2004. Where definitions are required that have no reference point in any of those three sources then the electricity governance rules are used for guidance. In relation to this:</p> <ul style="list-style-type: none"> • The definition of business day has been changed in the amended draft rules to include the term Sovereign's Birthday (as used in the Gas Act) instead of the term Queen's Birthday; • Gas Industry Co will standardize on reference to itself as the industry body; • The amended draft rules include defined terms shown in bold typeface. <p>Contact's suggestion that definitions be included to specify deemed times for meter readings has not been acted on. However gas Industry Co considers the matter relevant to any allocation and reconciliation arrangements that might be developed.</p> <p>Gas Industry Co has identified that the meaning of rule 4.3 in the draft rules is ambiguous and needs to be modified. The intent of the rule was to link performance of the registry (the system) to the registry operator (as the party that established the system). Gas Industry Co has changed draft rule 4.3 to clarify its intent.</p> <p>Also, amended draft rule 25 now specifies those rules affecting the registry operator that will not be subject to the Gas (Compliance Regulations) 2007.</p> <p>Actual reading</p> <p>To recognise that actual readings may be electronically recorded (and not viewed on a register), the definition of actual reading has been changed and is included in the amended draft rules as "...a register reading which was recorded from a meter or</p>

Co-Regulatory Body

Ministry of Consumer Affairs suggested that the rules refer to the Gas Industry Company not the Co-Regulatory Body.

Gas Distribution system

Vector suggested a change to the definition of gas distribution system to include the fittings that connect a consumer installation to a transmission system.

ICP Type

Vector requested further definition of the use of this parameter.

Losses, UFG and Loss factor

Vector pointed out that the definition of loss factor gave the impression that all losses related to the distribution system, without any reference to the conditions of the metering or gas installations connected. As remedy, an alternative definition was proposed, along with supporting definitions of unaccounted-for-gas, gas delivered and gas injected.

corrector by means of physically viewing the register at the time or by retrieving the reading from a datalogger that recorded the reading at the time.”

Co-Regulatory Body

The amended draft rules have standardised on the term “industry body” to replace the terms “company” and “co-regulatory body” used in the original draft.

Distributor

Despite a different definition of distributor existing in the Act, a (revised) definition of distributor has been included in the amended draft rules. The differentiation between distribution and transmission in the Gas (Information Disclosure) Regulations provide the basis. The disclosure regulations refer to transmission systems and distribution systems as separate systems and refer to transmission activities and distribution activities as separate activities.

Gas Industry Co has consequently adopted the term ‘distributor’ to refer to the party that performs distribution activities and has refined the definition included in the amended draft rules.

Gas distribution system

The definition has been deleted from the amended draft rules and references to ‘gas distribution system’ have been changed to ‘distribution system’. This change followed Gas Industry Co inquires and a conclusion that despite some ambiguity in the definition in the Act, a recent review (and update) of the definition in conjunction with the Energy Safety Review Bill has served to clarify the intent – which is that it does not include transmission pipelines in the context of the switching and registry rules.

ICP type and ICP type code

The descriptions and use of the ICP type parameter and its codes will be defined by Gas Industry Co as required, according to the needs of the reconciliation and allocation processes if and when embedded distribution systems become an issue for gas. In the first instance, Gas Industry Co may issue a default code.

Amended draft rule 42 and schedule 1 has been modified to reinforce that types and type codes will be issued by Gas Industry Co.

Loss factor and related definitions

Gas Industry Co agrees that the definition of loss factor might be misleading and has refined it to take account of the points raised and that the principal need for definition relates to the reconciliation and allocation processes. The redefinition does not require the additional definitions of gas delivered, gas injected and unaccounted-for-gas. If required, such definitions will be set in conjunction with a review of the reconciliation processes. However, for clarity, a definition of losses has been added to the amended

Powerco noted that *“a definition of UFG is missing from the definitions listing and is distinctly different from the definition of losses”*

Meter

One submission suggested that the term meter be replaced by GMS.

MHQ

Gas Net submitted that the draft rules need to define MHQ clearly to avoid wrong one being provided.

Publish

Ministry of Consumer Affairs submitted that the definition of ‘publish’ should be more detailed and include gazette notice in some instances.

Registry participant

Contact questioned whether or not the allocation agent should be captured as a registry participant.

Switch

Ministry of Consumer Affairs submitted that the definition of ‘switch’ includes the word ‘process’, but the draft rules also refer to a ‘switch process’.

draft rules.

Meter, Corrector and Metering Equipment

The definition of a gas measurement system in the Gas Act goes beyond the physical equipment to include the system for conversion of readings to energy at standard conditions. The draft rules relate to the physical equipment only.

MHQ

The definition in schedule 1 is clear with regard to which quantity is being referred to, but additions have been made with regard to when populating the code is mandatory and the use of ‘disclosure on application’ in some instances.

Publish

Gas Industry Co has determined that scope of these switching rules is such that gazetting is not an applicable means of publication and that the proposed definition of publish is sufficient for the purpose.

Registry participant

Gas Industry Co has reviewed the definition, and has determined that, because it is merely a recipient of reports, the allocation agent is not a registry participant in the same way that retailers, meter owners and distributors have obligations to the integrity of the registry or obtain direct value from the registry.

Consequently, the definition of registry participant has been changed to be “retailers, distributors and meter owners”.

Switch

The definition of the term switch has been changed in the amended draft rules, to reflect that it is an outcome rather than a process.

2. Submission on registry participants

Content of Submissions Received

When registration information must be supplied (draft rule 6)

A submission from Vector suggested that it would be impracticable for a party to be a registry participant for 20 days before registration details were supplied to the registry operator. Instead, the submission suggested that a participant should be required to provide the registration details at least ten days before becoming a registry participant.

Gas Industry Co Response

Gas Industry agrees that, for most of the information required, the participant will need to provide it earlier than 20 days after becoming a participant. The 20 days is merely the outer limit for all registration details to be provided.

As providing of registration details is not linked to whether or not a party is defined as a registry participant, Gas Industry Co does not see it as necessary to require a party to provide registration details before becoming a registry participant.

No change has been made to draft rule 6.

3. Submission on registry operator service provider agreement

Content of Submissions Received

Availability of registry (draft rule 12.3)

In their submissions GasNet and Contact questioned why the draft rules should specify registry operating hours of 0730 to 1730 hrs business days, with one of those submissions suggesting that the hours should be 24/7 subject to planned outages.

Gas Industry Co Response

Availability of registry

With respect to the hours of availability of the registry, Gas Industry Co accepts that the way that the 'open and operational' hours are specified in the draft rules implies a restriction on what can be included in the service provider agreement. That was not the intention. Gas Industry Co has also identified that there is an unnecessary overlap between draft rules 12.1.1 and 12.3.

While the objective will be for the service provider agreement to provide for the registry to be operational available 24 hours a day 7 days a week, the specifics will be left to negotiation with the registry operator. Consequently draft rule 12.3 has been excluded from the amended draft.

4. Submissions on funding of the registry

Content of Submissions Received

How and when development fee must be paid (draft rule 21)

Genesis Energy suggests that the payment of the invoice by participants is extended from one month of the date of the invoice as opposed to 10 working days. This timeframe has been suggested in order to allow internal process of each participant to ensure that the charges as detailed in the invoice are correct and that participants are given time to make any queries regarding those charges if necessary;

Ongoing Fees (draft rule 22)

Genesis Energy suggests that this fee be a fixed monthly fee, as seen in the Electricity Market, rather than a dynamic fee as prescribed. This is mainly to help participants budget and to reduce administration costs to all parties, including the Gas Industry Company. Irrespective of which option is finally adopted,¹ Genesis Energy suggests that the Gas Industry Company should look to have some type of wash-up and audit process which all parties adhere to:

Gas Industry Co Response

Gas Industry agrees that the proposed funding arrangement set out in the draft rules could pose cash flow problems for the Gas Industry Co and uncertain costs for participants.

The amended draft rules relating to funding (rules 20 to 24) include a payments regime, for both the registry development costs and the registry ongoing costs, based on estimations, provisional payments and wash-ups.

The provisions specifying due date for payment as the 10th business day after receipt of the invoice is retained, because extending the timeframe would pose cash flow problems for Gas Industry Co.

¹ It is possible that a wash-up could be required even under a dynamic method if there were disputed switches that were unresolved at the end of the month.

5. Submissions on notices and receipt of information

Content of Submissions Received

Entering information in the registry (draft rule 28)

Vector noted that it is essential that the registry is able to receive notifications of changes to ICP values by .csv files, with appropriate management processes (transfer protocols and validation procedures) to deal with them.

Registry acceptance or rejection of information and notices (draft rule 29)

Contact submitted that the acceptance and rejection notices: “*should include date and time stamp*”.

Registry notification of a change to ICP parameter values (draft rule 30)

The Vector submission suggested the addition of a rule stating; “*All notices of changes to ICP parameter values must be time and date stamped according to the date that the change was accepted by the registry, as well as having a cross-reference to the party making the change and the date that the change took effect from*”

Gas Industry Co Response

Entering information in the registry

Although the precise mechanisms by which the registry is required to be able to receive information from registry participants are not specified, the draft rule 28 states that “*any reference to entering information in the registry means an attempt by the responsible distributor, responsible retailer, or responsible meter owner to enter information in the registry by electronic transmission or any other similar method of electronic communication (for example and without limitation, using a web browser or file batch transfer)*”.

Gas Industry Co is of the view that the expectation is sufficiently-well communicated in that draft rule for the registry specification to be able to include .csv files and associated transfer protocols in the communication mechanisms between the registry and registry participants. The establishment team proposed for the registry project will manage this issue.

Time and date stamping

Gas Industry Co accepts the points made by Contact and Vector with respect to time and date stamping, and has accordingly made amendments. Refer to amended draft rules 29.2 and 30.1.

Daily notification of net change

In the course of this current review of the draft rules, Gas Industry Co noticed that the intended meaning of draft rule 30.2 was lost in the drafting process. The October 2005 consultation document indicates that the intent of the draft rule was to state that a daily notification would provide the net effect of changes made to each parameter value for each event day. This is not evident in the draft rules.

Amended draft rule 30.2 corrects that drafting error.

6. Submissions on access to the registry

Content of Submissions Received

Registry access (draft rule 31-32)

Four submissions were received with regard to Gas Industry Co's ability to provide view access to the registry by parties other than participants. Specifically:

- Powerco requested the removal of ability of Gas Industry Co to give access to 'other parties'.
- Genesis stated that view-only access should be given to others only if:
 - the external party gaining view access contributes towards the costs that they impose on a user pays basis, to help control the costs to the participants; and
 - existing users' rights (such as access to additional licences, for example) are not in any way diminished.
- Ministry of Consumer Affairs suggested that the draft rules need to be more specific as to who in Gas Industry Co may authorise other parties to have access.
- Contact suggested that access to parties other than participants should be given only after consultation with participants.

Also, Vector suggested additions of rules to restrict view access such that:

"Any distributor, retailer or meter owner may make a view request which returns multiple ICPs, provided that each one of those ICPs are already "owned" by the requester; otherwise;

View requests will be restricted to one ICP identifier for each view request."

As an example, Vector referred to the prospect of a registry address-search function providing view access to multiple ICPs at a time.

View access security for certain information (draft rule 32)

Vector submitted; *"this section does not meet the intent of the rules and needs to be rewritten. As rule 32.8 stands anybody who gives a secure information request to the registry will be provided with the secured information, and the owner of that secured information will then be told that it has been provided to a third party (who is free to do whatever with it)."*

Related to this issue, Vector submitted that there was also a need to be able to use pricing codes that represented a 'price on application', and suggested a clause equivalent to 46.3 for metering price codes be added (as a clause 44.3) for network

Gas Industry Co Response

Registry (view) access

Gas Industry Co considers that its Board should have the power to confer view access rights to parties other than registry participants, such as the Electricity and gas Complaints Commission. However, Gas Industry Co agrees that other parties should not be given view access without consultation with participants, and the terms of access may need to vary between those parties.

Participant concerns at the impact of providing broader view access to the registry can also be ameliorated by creating a distinction between 'view' and 'report' access. Consequently, amended draft rule 31 differentiates the parties with 'report access' from those with 'view access', and 'report access' is added to the terms in the interpretation section.

With respect to Vector's submission that an address search by a participant should return only those ICPs for which the participant has a current responsibility, Gas Industry Co considers that such a limitation would be counter to the purpose of the registry.

However, Gas Industry Co does agree that there needs to be some limit to the amount of information returned in an on-line address search of the registry, and through amended draft rule 31.4.3 requires that the bounds of the information viewed from an address search are determined by Gas Industry Co in consultation with registry participants.

View access security for certain information

Gas Industry Co agrees that the proposed arrangement for restricting access to commercially-sensitive information does not meet the needs expressed in the submissions. To assist in developing a more satisfactory solution, Gas Industry Co made a request for additional information, on 29 November 2006.

The request for additional information focussed on the scale of the issue that was being addressed by the controls on view access and requirement for 'secure information requests'. Most stakeholder contacted responded to the request and the, following summarizes the relevant information provided:

price category codes.

Powerco submitted that it *“is pleased to see that a security flag has been added to the registry features to prevent data mining. However we are concerned that rule 32.8.1 provides for restricted data to be provided to any registry participant provided they inform the owner of the data that they have passed it on (32.8.2). We recommend these clauses are rewritten so the intent of the restriction to data is preserved.”*

GasNet submitted that there should be a mechanism to raise an objection to an inappropriate request - after the event.

Contact submitted that; *“We anticipate distributors and meter owners will protect pricing information for sites subject to bypass or significant competition by use of the code POA, rather than a standard price code which is then hidden by the security “ON” flag and which has its own unique price available via the standard price schedule, and that POA will cover all special prices network or metering prices, If this is the case it is not clear how a retailer obtains the special price information if the data security flag is set to “ON” and the request under 32.7 does not lead the retailer to being provided with a code under 32.8 which links to a published schedule of unique pricing information.”*

Related to this, Contact questioned how draft rule 46.3 (which enables a meter owner to publish metering pricing associated with a particular price code as ‘price on application’) would operate in conjunction with the proposal to transfer the metering price codes by means of a secure information transfer. Contact also questioned why there is no comparable rule relating to the network price category code.

Vector suggested that a rule be added to enable ‘price on application’ codes to be used for the network price category code as well as the metering price code.

- Mighty River Power expects that the network price category code should be viewable on the registry for each ICP that has a code that appears (with a price) in a standard published price plan. However, MRP believes that only if more than 20% of ICPs required some form of restricted access to information, would there be justification for the sort of secure information transfer approach proposed in the draft rules.
- E-gas stated that is essential that there are sufficient rules, accountability and consequences for inappropriate use of the registry and that access is controlled so that it is only available to authorized personnel. A figure in the order of 1% was indicated (verbally) as an acceptable percentage of ICPs on the registry to have information subject to ‘disclosure on application’.
- Genesis supports the approach proposed in the draft rules, but stated that having up to 1% of ICPs with ‘disclosure on application’ codes in the registry would be acceptable.
- Contact advised that:
 - for the network price category code, Contact is comfortable with either approach but contends that if the “disclosure on application’ option was adopted, it should be limited to consumer installations with annual consumption > 10 TJ (approximately 0.15% of all ICPs in the gas industry). However, In a practical sense, Contact considers that up to 1% of ICPs with ‘disclosure on application’ codes for the network price category on the registry, would be workable;
 - for metering, Contact prices are included in a single price code/pricing schedule available to all users of Contact's metering services and there are no ICPs for which ‘disclosure on application’ is required. However, some additional complexity may eventuate in the future with multiple equipment owners at an ICP and necessitate the use of a disclosure on application code –irrespective of which approach to protection was adopted.
- Vector advised that:
 - 315 (0.22%) of its total 141,000 ICPs are without publicly available network price codes. Of these, 216 have consumption >10TJ pa and special prices that would not fit readily into a structure of published codes and prices, and therefore would require a ‘disclosure on application’ code irrespective of which approach was adopted;
 - For metering price codes, the complexities are more pronounced than for network prices, but recommended the same approach. (Percentages of the ICPs requiring information protection for metering price codes were not provided).
- Powerco advised that:

- Approximately 1838 (1.75%) of its 105,000 ICPs would require restricted access to their network price codes in the registry. Of these 355 have special prices that would require a 'disclosure on application' code irrespective of which approach was adopted and the balance would have prices codes that relate to prices in published price schedules.
- Powerco currently does not record MHQ (maximum hourly quantity of the consumer installation) but, because it is a proxy for capacity or load group, it is reasonable to expect that the sites for which protection is required for the price code would require protection for an MHQ value; and
- Approximately 629 ICPs (representing 3.5% of Powerco's metering business) would require protection for the metering price information in the registry.
- GasNet provided confidential information that indicated a very low level requirement for use of any 'disclosure on application' or other view access protection facility."

On reviewing the responses, Gas Industry Co concluded that the more basic 'disclosure on application' approach is more likely to provide a better and more efficient outcome than the arrangement proposed in the draft rules.

In the case of the network price category code, for Vector, Powerco and GasNet combined approximately 0.8% of all ICPs were identified as requiring information protection. This included those that would require a 'disclosure on application' code on the registry even if the 'secured information transfer' approach was adopted.

The 0.8% figure is less than the upper limit figures indicated by all the retailer respondents to the information request.

Informally it has been commented by several participants that a party serious on network by-pass will not be deterred by any view-protection measures installed in the registry. If vulnerability exists as a result of a particular network pricing methodology, then it is only by addressing the cause that the vulnerability will be reduced. The area-specific pricing used in the Auckland region has been cited as an example of this and a reason why Vector has only 0.22% of ICPs requiring a 'disclosure on application' network price category code in the registry. The implication is that demand for the view-protection facility is likely to decline over time and effectively strand the systems investment involved.

In the case of the MHQ the responses from Vector and Powerco indicate that the number of consumer installations where this information requires protection would be less than those for the network price category code, and hence the same approach is viable.

As meter owners are not captured by the gas information disclosure regulations, there is less onus on meter owners (than there is on distributors) to have publicly available price schedules. However, it is reasonable to expect that metering price schedules will be available to the meter owners' customers, and that those schedules will contain

Obligation of registry participants to act reasonably (draft rule 33)

Mighty River Power noted that reference to Rule 35 in Rule 33.1 should be to Rule 38

Other obligations of registry participants (draft rule 34)

GasNet noted that a user is not necessarily employee or under supervision of employee.

Vector questioned why as is stated in draft rule 34.2, no registry participant may request, permit, or authorise anyone other than the registry operator to provide support services in respect of any software for the registry.

metering type groups – each of which would be assigned a metering price code for recording in the registry.

Gas Industry Co expects that, provided that a meter owner does not use a 'disclosure on application' code in the registry significantly more than it does in its schedules to customers, those (registry participant) customers are likely to be satisfied with use of the 'disclosure on application' code in the registry.

As a result of its analysis of the additional information, Gas Industry Co has made changes in the amended draft rules. The changes are:

- Deletion of the content of draft rule 32 (and other references to it) from the amended draft rules;
- Inclusion through amended draft rules 44, 47 and 48 (regarding network price category codes and metering price codes), that reasonable use of 'disclosure on application' is acceptable; and
- Addition to the data population rules in schedule 1 to recognise use of a 'disclosure on application' code for MHQ

Obligation of registry participants to act reasonably

The incorrect reference has been corrected in amended draft.

Other obligations of registry participants

Gas Industry Co considers the draft rules included to protect the registry system from improper or risky practices of registry participants or parties acting on behalf of registry participants to be valid as written.

The amended draft includes the same obligations.

7. Submissions on establishing the registry

Content of Submissions Received

Purpose of the registry (draft rule 38)

Ministry of Consumer Affairs suggested a change of wording to clarify that consumers request switching rather than effect switching (38.1)

Initial population of the registry (draft rule 40.1)

Vector submitted that distributors currently have the definitive record of responsible retailer and connection status and therefore should do the initial population of the registry for those two pieces of information, in addition to the information that is identified in the draft rules as being maintained by distributors (Schedule 1 Part A). Consequently, Vector suggested changes to draft rule 40.1 that specifies the initial population process and to draft rule 41 relating to the checking of the accuracy of the information populated.

Gas Industry Co Response

Purpose of the registry

Consequently, except to accommodate the wording change suggested by Ministry of Consumer Affairs, Gas Industry Co has not changed the 'purpose' or 'requirements' of the registry from those issued in the draft rules.

Initial population of the registry

With regard to the initial population of the registry, there appears to be no consensus on whether a particular class of participant may be considered to hold the definitive information on retailer and connection status for an ICP.

The initial population process specified in the draft rules takes the position that, except for some transitional functionality that will allow the responsible retailer code to be changed outside of the switch process (for a limited period), the registry will have its validation rules intact at the time of initial population.

Hence the parties that will have access to, and be responsible for, data maintenance of each ICP parameter on the registry are accorded the responsibility for initial population of the ICP parameters. The registry implementation process is expected to include a data cleansing phase for all registry participants before the registry is established and initially populated according to rules. It is therefore anticipated that the retailer and status information will be equally reliable from both the retailer and distributor sources.

Each distributor participant will populate the 'expected retailer' parameter in its population of the registry, thereby enabling reports to be provided to retailers on the basis of the distributor's view of who the retailer is.

8. Submissions on determination of certain ICP parameter code

Content of Submissions Received

Co-regulatory body to determine applicable ICP parameter codes (draft rule 43)

Vector submitted that two new ICP parameters be added ('Disconnection How' and 'Disconnection Why') and that the codes for these two parameters be determined and published by Gas Industry Co.

Distributors to determine network price category codes (draft rule 44)

As referred to in section 6 of this appendix, Vector and Contact questioned the lack of a 'price on application' facility for network price codes.

Consumer installations connected directly to transmission systems

Vector submitted that the draft rules are not clear as to how a consumer installation connected directly to a transmission system would be dealt with under the draft rules.

Gas Industry Co Response

Gas Industry Co to determine applicable ICP Parameter codes

With regard to the proposed addition of the 'Disconnection How' and 'Disconnection Why' parameters and related changes to the use of the ICP status and connection status parameters, refer to section 10 of this appendix.

Distributors to determine network price category codes

With regard to the lack of 'price on application' facility in the draft rules for the network price category code, refer to section 6 of this appendix.

Consumer installations connected directly to transmission systems

The solution intended to deal with the situation where a consumer installation is connected directly to a transmission system, is to treat the point of connection as both an ICP and a gas gate - with Gas Industry Co nominating the distributor that is to assume the role of responsible distributor for the ICP.

In addition to modifying the definition of a gas gate to include the point of connection between a transmission system and a consumer installation, the rules which facilitate the proposed approach are included as 42.3 in the amended draft and state that, in the case of a consumer installation directly connected to a transmission system, Gas Industry Co must;

- assign a unique gas gate code to the point of connection between the transmission system and the consumer installation;
- nominate a distributor as the responsible distributor for that gas gate and ensure that party has a distributor code assigned; and
- give notice to the appointed responsible distributor of its role in relation to the ICP for the consumer installation.

Gas Industry Co considers this to be a practical solution to deal with the small number of such connections involved, particularly considering that Vector (to whose transmission system the consumers concerned are connected) is also a distributor for other ICPs.

9. Submissions on creation of new ICPs

Content of Submissions Received

Creation of new ICPs (draft rule 47)

GasNet stated that it “is unsure as to the practicalities and potential conflict around the creation of new ICPs. In reality the network owner will receive a request from a retailer or property owner for a new gas service connection. This may take 10+ days from the initial request and only on commissioning of the new service can the ICP be established with any certainty. If clause 47 is based upon the new service connection being installed and active then this needs to be stated within the wording of the clause.”

Vector submitted that ‘expected retailer’, ‘connection status’ and ‘date of connection status’, should be included in the minimum set of ICP parameters populated when creating an ICP on the registry.

Registry validation of ICP creation (draft rule 48)

In line with its submission that the connection status is part of the set of minimum data for ICP creation, Vector also submitted that, once a new ICP is accepted on the registry and the ICP status is shown as NEW, “the connection status code will remain as entered by the distributor, and will reflect the physical status of the connection, as advised by field staff.”

Readying of new ICP and registry validation (draft rule 49)

Vector submitted that, once the full set of ICP parameter are accepted in the registry and the ICP status is shown as READY, “the connection status code will remain as entered by the distributor, and will reflect the physical status of the connection, as advised by field staff.”

GasNet submitted that the retailer code of the expected retailer must not be a mandatory field.

Retailer for READY ICP (draft rule 50)

Vector submitted that once it has an ICP status of READY, an ICP should remain with that status through its lifetime until it is eventually decommissioned.

Meter owner information for new ICP (draft rule 52)

Vector submitted that “a rule change is required to provide for the situation where a new gas supply has been set up, and a meter installed, but the owner or tenant has not yet chosen which retailer they wish to purchase gas from. As the rules stand currently the meter owner is prevented from entering meter details because the retailer must first identify the responsible meter owner. The sequence is not logical as the gas meter may be installed at a spec house long before the house is sold. The ultimate purchaser may choose several months later which retailer they wish to contract with.”

Gas Industry Co Response

Creation of new ICPs

Gas Industry Co agrees that a request for a new gas service connection can be received from parties other than a retailer and that it should not be necessary for the distributor to wait for a request from a retailer before creating the ICP in the registry. However, amended draft rules 49.1 and 49.2 relate to those cases where the request is made by a retailer and amended draft rule 49.3 applies irrespective of where the information comes from.

The minimum data requirements specified in amended draft rule 49.3 are designed merely to get a recognizable ICP on the registry. At the time of creation, it is very possible that no physical connection exists and that the expected retailer is not known. Gas Industry Co has concluded that no change is necessary to the minimum data required to create an ICP in the registry.

Vector’s submissions with respect to population of ICP status and connection status values at the time of ICP creation and beyond are discussed in section 10 of this appendix.

Readying of new ICP

The requirement in the draft rules that the expected retailer code is mandatory is to ensure that a retailer receives advice of when it is ready to have a responsible retailer attached. It is accepted that in some instances the distributor will need to seek that information from the party that requested the creation of the ICP, but this is viewed as preferable to a having an ICP in READY status with no retailer advised of that fact.

Meter owner information for new ICP

With regard to addition of meter owner information on the registry, it is recognized that there will be instances where a meter owner has equipment installed at a new consumer installation but must wait until it is nominated as the responsible meter owner (by the responsible retailer) before having access to populate the registry with that metering information.

The potential inconvenience is minimised by the fact that, until there is a responsible retailer for an ICP, the registry cannot be used to allocate metering service charges for that ICP. Once there is a responsible retailer, that retailer is obliged to immediately

Vector also stated that it considered the responsibilities for maintenance of metering equipment information on the registry are not clear when there are multiple parties for an ICP.

GasNet submitted that the rules need to better provide for when more than one GMS participant for an ICP.

populate the meter owner code in the registry.

Gas Industry Co considers that the responsibilities for population and maintenance of metering information in the registry are made explicit through:

- the distinction in the rules between 'metering' and 'metering equipment';
- the requirement that (except during transition) an ICP must have only one meter, and therefore only one meter owner, associated with it; and
- that the responsible meter owner has the obligation to maintain the metering equipment information in the registry.

10. Submissions on maintenance of ICP information	
Content of Submissions Received	Gas Industry Co Response
<p><i>ICP status and connection status (draft rule 54+)</i></p> <p>In its response to Q7 of the proposal document, Vector stated;</p> <p><i>“We generally agree that the Rules reflect the intent of the Proposal. However, amendments are needed in the fundamental area of recording status changes in the Registry. Currently the rules prevent the distributor and GMS owner from recording status changes through the lifetime of the ICP - this being the sole prerogative of the retailer. This is unacceptable to Vector.</i></p> <p><i>Since retailers, distributors and GMS owners dispatch field staff or undertake field audits (site visits) to complete work which may affect the connection status of the ICP; each party should be able to (indeed, obliged to) update the ICP status on the Registry on conclusion of the work. Similarly, field audits from each party may find that the status of the ICP is different to the latest event recorded on the Registry, obliging an update to the ICP status on the Registry so that it reflects the site’s actual status. Without Registry updates from each party being authorised the Registry is compromised in being the “database of record” as implied by Rule 38.2. The rules (as they currently stand) prevent this happening.</i></p> <p><i>Vector has marked up changes to the Rules to address this issue, with explanatory notes attached. We have also made minor changes to other parts of the Rules”.</i></p> <p>Further, Vector stated that in its view;</p> <p><i>“Schedule 2 ... does not clearly define the different state of connections. These need to be limited and reflective of other rules/protocols used in the industry. Nor do its proposals meet all requisite safety responsibilities (both HSE and common law).</i></p> <p><i>In these respects the Gas Reconnect/Disconnect Protocol developed by GANZ would be a good example to follow, especially as the GIC have commenced work on the Reconnect/Disconnect standard”</i></p> <p>In line with that position Vector proposed some additions to the draft rules to expand responsibilities of participants to maintain connection status events.</p> <p>In its submission Powerco commented that the proposal as it is written intends that the gas registry will constitute a database of record. However Powerco commented that:</p> <p><i>“unless distributors (and meter owners) have the ability to make status changes when the physical work at the site differs from the record in the registry then we can not place reliance that the registry is in fact fulfilling one of its core functions.</i></p> <p><i>Often as a result of an audit or a site visit Powerco will identify a deviation between</i></p>	<p><i>ICP status and connection status</i></p> <p>The draft rules included the use of two ICP parameters (ICP Status and Connection Status) to ultimately enable those parameters to be used in combination such that:</p> <ul style="list-style-type: none"> • Retailers would be required to report to their line and metering service providers according to the status combination recorded on the registry and as appropriate to the charging methodology of the service provider; • Distributors and meter owners would have access to the registry information that the retailers used to report their daily line and metering charge obligations; <p>The proposed register functionality mirrored in the draft rules was designed in response to submissions following the October 2005 consultation paper.</p> <p>Those submissions sought a closer linkage between the physical state of a gas connection and the ICP status recorded on the registry - including some recognition protocols developed to communicate connection status (i.e. the GANZ connection protocols).</p> <p>While this step was taken, the objective was not to create a database of record for all the disconnection/reconnection transactions as might be required of a safety management system. The purpose was to record changes of status as they affected the reconciliation and allocation processes for energy, line and metering services and their charges.</p> <p>Strictly, the connection status recorded on the registry should align with the true physical state of the gas connection. However, there is an important distinction between the registry being a database of record for allocation and reconciliation purposes and it being classed as the definitive source of connection (& safety) data. Irrespective of whether a gas registry exists or not, each participant that undertakes or authorizes other parties to undertake any form of disconnection is obliged to keep records of all such actions.</p> <p>The registry will be a database of record because the information it holds is the result of the combined inputs of the parties that are the source of the definitive information. Where a registry participant recognizes any discrepancy between the value of an ICP parameter on the registry and the value on its own database, an alignment action is required. Where such a discrepancy related to a parameter for which the participant is the source, then the registry would be updated to align with the participants database. This is the purpose of amended draft rule 60 (distributors, retailers and meter owners to resolve discrepancies). The point to note here is that in no way is the registry expected to replace an individual participant’s database of the information for which that participant is the source.</p> <p>One of the lessons learned for the first version of the electricity registry is that each ICP</p>

the physical connection at the site and the registry. As we do not have permission to change the status of a connection we rely on the retailer to make the appropriate change. In some cases the retailer may not make the change, or may not resolve it in a timely manner.

From our experience, this is one of the most significant weaknesses of the electricity registry and we sincerely hope that this weakness is not duplicated in the gas registry”.

In its submission, Powerco also stated that it:

“supports Vector’s position that the proposed rules and the operation of schedules 2 and 3 do not facilitate the registry becoming a database of record for the life-cycle of an ICP”, and that “Powerco supports Vector’s proposal to reduce the number of ICP statuses which will simplify the proposed arrangements”.

In relation to the ICP status descriptions and transition rules in schedules 2 and 3, Contact submitted that there was need to change:

- the definition of the INACP connection status in schedule 2; and
- some wording in relation to the ICP status transitions in schedule 3.

parameter (or particular values allowed for that parameter) should have only one participant with write access at any point in time.

For the vast majority of connection status changes, the change will be required by a retailer. Gas Industry Co considers that prime responsibility for managing connection status (other than prior to completion of a new connection or after a connection is permanently disconnected) should be assigned to the responsible retailer. This is consistent with the approach adopted by the electricity industry.

Where there is no responsible retailer or where the responsible retailer has confirmed permanent disconnection of the consumer installation, the responsible distributor is the appropriate participant to maintain the ICP Status and connection status information on the registry.

The draft rules include specific codes for ICP Status and connection status. In the majority of cases these codes reflect those included in the two GANZ protocols covering connections, disconnections and reconnections. The close alignment with the GANZ protocol structure opens up the possibility that relevant data interchanges performed under the GANZ protocol could also be adopted for communications with the registry.

The conclusions reached by Gas Industry Co with regard to Vector’s submission on the recording of connection status events are as follows:

- There is value in the recording of connection status on the registry for the purpose of being used in conjunction with ICP Status to accommodate reporting for line and metering services in a form that can be used for a range of different charging policies;
- Removal of the draft rules that strictly limit access to changing of the connection status values is not supported. Such a change would undermine the registry as a database of record for reconciliation and allocation purposes and add complexity to the discrepancy resolution processes;
- Replacement of the proposed single set of connection status codes with three tiers of connection ‘status’, ‘how’ and ‘why’ codes introduces a concept which (although it has some intuitive appeal) differs from the structure and coding of the GANZ connection and disconnection protocols, which guided the content of the draft rules. As there is no efficiency benefit or better outcome expected from introducing the three-tier approach, Gas Industry Co considers that the single tier approach in the GANZ protocols and adopted in the registry proposal should be retained.

The draft rules include some codes that are different from those in the GANZ protocol, and it is recognized that it would be preferable to have the setting of codes as an administrative function, authorized under the rules to be performed by Gas Industry Co. This is the approach used for other ICP parameters elsewhere in the draft rules.

Loss factors (draft rule 57)

Vector and Contact submitted that loss factors should be restricted to one loss factor per month.

Distributors to give notices in relation to gas gates (draft rule 58)

Contact submitted that if (as indicated by draft rule 58) there is an intention to accommodate embedded distribution systems then the rule might be best to mimic the electricity model.

Other ICP parameters

Multiplier in the registry

Genesis submitted that it “would like to see the inclusion of the meter multiplier on the registry.....It would seem that the inclusion of such a vital piece of information in the registry would not only help to ensure accurate billing by retailers to end consumers but also between distributors and retailers and aid in accuracies within allocation/reconciliation...”

Consequently, Gas Industry Co has made changes to the draft rules such that:

- The specific ICP status codes are removed, although the five ICP status descriptions are retained - with the management rules included in amended draft rule 57;
- The specific connection statuses and their codes are removed;
- Amended draft rule 42.1 provides Gas Industry Co with the authority to create and from time to time change the ICP status codes and the connection statuses and their codes. This will be done in consultation with participants, and provides flexibility to accommodate the outputs from any future related work streams.
- Schedules 2 and 3 are removed from the amended draft rules, with the controls regarding transitioning between ICP statuses included in amended draft rule 57.

Loss factors

Gas Industry Co agrees that loss factors should be limited to one per ICP per annum and has made appropriate changes in the amended draft rules. (This is viewed more as a reconciliation and allocation matter than a registry one).

Distributors to give notices in relation to gas gates

In response to Contact’s comment that the gas rules might best follow the electricity industry method of dealing with embedded networks, Gas Industry Co believes that as written the rules would accommodate the electricity approach, but the specifics have been left open for when reconciliation and allocation arrangements are defined.

This approach is also reflected in the definition of ICP type and the related codes, with responsibility being assigned (amended draft rule 42.1) to Gas Industry Co.

Other ICP parameters

Multiplier in the registry

The issue as to whether the register multiplier should be maintained on the registry by the meter owner as well as being communicated in the gas transfer notice was considered by the Switching and Registry Working Group (SRWG), when reviewing the responses to the October 2005 consultation paper, ‘Options for Switching Arrangements for the New Zealand Gas Industry’.

The SRWG accepted that some problems with customer billing might be avoided if GMS information such as ‘Multiplier’ and ‘number of dials’ were held on the Gas Registry, but concluded that the having dual sources of the information would not be likely to provide a more cost-effective approach than that included in the draft rules.

In relation to the ICP parameter descriptions and rules in schedule 1, Contact submitted that:

- Some wording changes were required for 'ICP Altitude', 'Allocation Group Code' and 'Responsible Meter Owner Code';
- Profile code should not be mandatory;
- The Meter Location codes should be based on a set of standard codes provided by the company; and
- The Metering Price Code will be problematic where there are multiple equipment owners.

It is also noted that, despite higher risks of erroneous metering data transfers in the electricity industry, the recent amendments to the rules for electricity switching and reconciliation did not include increased use of the electricity registry for storage of ICP metering information.

Consequently, no change has been made to the draft rules on this matter.

Allocation group code

Typographical error corrected with the removal of the description of allocation group from schedule 1.

ICP Altitude

Typographical error corrected with addition of the word 'sea' to create the term 'mean sea level' in schedule 1.

Meter location code

The draft rules relating to this parameter in schedule 1 have been changed to include that the code is as defined in a published schedule of meter location codes by the meter owner.

Metering price code

Contact noted that it sees metering price code set by the meter owner as problematic where there are multiple equipment owners involved for an ICP.

Profile code

In response to Contact's suggestion that the draft rules in schedule 1 should include that the code is not mandatory for all ICPs, Gas Industry Co believes that whether or not a null value should be a valid value for the profile code will be determined when the valid codes are defined. This is covered through amended draft rule 42.1 and Schedule 1.

Responsible meter owner code

The description in schedule 1 has been amended to more clearly relate the meter owner with the meter for the ICP.

11. Submissions on Switching

Content of Submissions Received

Initiation of switch 61.2

Ministry of Consumer Affairs suggested change of wording in order to use the term switching in the context of switching consumers rather than switching of retailers.

Vector submitted that it considered the 'and' between 61.2.1 and 61.2.2 should be replaced by 'or' or 'and/or'.

Switching notice 62.1

Vector submitted that it thought 2 business days to be an unreasonably short time from time of contracting with consumer to time of sending a gas switching notice to the registry.

Contents of gas switching notice 63.4

Vector questioned why is it necessary to restrict the gas registry from ever providing the facility to communicate reading information.

Response to an accepted gas switching notice (draft rule 65)

Gas Industry Co identified that the wording of this draft rule could be taken as meaning that the retailer has an option whether or not to accept a gas switching notice. It wasn't intended to. Related to that, the header for the rule should also be changed to remove the words "an accepted".

Also, the wording should be that 'within two business days after receiving a gas switching notice....', rather than "within two business days after accepting a gas switching notice...".

Vector questioned why a retailer has 23 days from date to receiving a gas transfer notice to the date of giving a gas transfer notice to the registry.

Gas acceptance notice 66.2

Vector questioned:

- why the retailer is not limited to any requested switch date (if one is provided) and suggested that this is not consistent with the draft rule 68.2.1; and
- why the expected switch date could be up to 23 business days after receiving the

Gas Industry Co Response

Initiation of switch and switching notice

Gas Industry Co accepts that the term switching should refer to consumers moving from one retailer to another, and the wording of amended draft rule 63.1 has been changed accordingly.

Gas Industry Co considers that two business days between the dates that a retailer agrees to supply a consumer and when it initiates the switch in the registry is a reasonable time frame. No change has been made to the draft rule.

The use of 'and' between amended draft rules 63.2.1 and 63.2.2 is confirmed as correct.

Contents of gas switching notice

With respect to the draft rule implying that the registry is restricted from ever providing the facility to communicate reading information, Gas Industry Co agrees that the rule should be rephrased. The intent is to clarify that the registry has no obligation to facilitate the transfer of the information, and the amended draft rule reflects that.

Response to an accepted gas switching notice

Changes have been made to the contents of amended draft rule 67 to correct the issue that there is an implication that the responsible retailer has an accept/reject option.

The maximum of twenty three days between the date of receipt of a gas switching notice and the date of giving a gas transfer notice is correct. It allows for the gas transfer notice to contain information relating to the switch date which may be up to 23 days after receipt of the gas switching notice. No change is required to the draft rules.

Gas acceptance notice

Gas Industry Co accepts that amended draft rule 68.2.1 should be qualified by the existence of amended draft rule 70.2.1, and has made a change accordingly in the amended draft.

The expected switch date may be up to 23 business days after receiving the gas switching notice to enable the switching date to be aligned with a normal monthly billing

gas switching notice.

Gas transfer notice (draft rule 68)

Contact submitted that the rules should clarify that the multiplier is used for conversion of the reading to ambient cubic metres of gas (re. 68.1.8 (a))

Vector submitted that a copy of the gas transfer notice should be sent to distributor – rather than merely a notice advising of the switch event. The reason given is that the transfer notice “*will allow distributors to validate consumption provided during the period of the losing retailer’s contract*”.

Accuracy of switch readings

Contact submitted that draft rules 70.4 and 70.5 are not applicable and should be deleted...

Switch withdrawals 71.2

Ministry of Consumer Affairs submitted that here (and elsewhere) the way in which the word retailer is used to refer to old retailer, existing retailer or new retailer is confusing

Switch read renegotiation 75.4

Contact submitted that the switch read renegotiation request should include the basis of the suggested replacement read

date. No change is required to the draft rules.

Gas transfer notice

Gas Industry Co agrees that clarification is required of some of the terms and parameters included in the various notices used for switching. Consequently, there are:

- changes to the wording of amended draft rules 70.1.8 (a) and (b) to clarify that the information relates to the ‘register multiplier’ and ‘number of dials on the register’;
- an addition to the requirement regarding the switch reading to ensure that the number of digits in the reading is the same as the number of dials; and
- the addition of the term ‘register multiplier’ to the interpretation section of the amended draft rules.

With respect to issuing a copy of the gas transfer notice to the distributor in order to allow the distributor to validate consumption provided during the period of the losing retailer’s contract, Gas Industry Co considers this to fall into the area of a customised need, rather than a requirement to be specified in the rules. The registry specification should note that not only must the contents of all notices that pass through the registry be viewable from the audit trail, but that copies of the notices may be issued (subject to access rights conferred by Gas Industry Co) to participants other than those specified in the rules. No changes have been made to the draft rules on this matter.

Accuracy of switch readings

With regard to the suggested deletion of amended draft rules 72.4 and 72.5, Gas Industry Co is of the opinion that 72.4 is likely to be required in the case of switches of ToU metered consumers, and 72.5 may eventuate where an embedded distribution system is created.

The content of these rules is retained in the amended draft.

Switch withdrawals and the use of the term ‘retailer’

Gas Industry Co accepts that the usage of the various ‘existing retailer’, ‘old retailer’ ‘new retailer’ and ‘responsible retailer’ terms can be confusing. Consequently the usage has been reviewed throughout the draft rules and a number of changes have been made – with greater use of the term ‘responsible retailer’ where the retailer being referred to is that whose code is against the ICP in the registry at the time.

Switch read renegotiation

Gas Industry Co agrees that a facility to enable the requesting retailer to add the basis for the replacement read in a switch reading renegotiation request would be useful to the recipient and potentially more efficient for the process.

Consequently the amended draft includes a rule requiring the responsible retailer to

GMS switching

GasNet pointed out that the draft rules make no accommodation of a GMS switching process.

Bypass switches 78

GasNet submitted that the definition of bypass switch doesn't recognize that bypass can occur with the same retailer using a different network.

provide the basis on which the proposed replacement read was established.

GMS switching

While the draft rules do not have any specific rules concerning the switching of metering equipment at an ICP, the expectation is that the retailer supplying gas at the consumer installation will be aware of the identity of the meter owner, and hence has been assigned responsibility for maintaining the meter owner code in the registry.

There is also an expectation that the meter owner at an ICP will be aware of the identity of the other metering equipment owners at the consumer installation, and hence has responsibility for maintaining those equipment owner codes in the registry.

There is always some participant with the responsibility for updating the registry with the results of any change of ownership of any piece of metering equipment relating to an ICP. No changes have been made to the draft rules.

Bypass switches

Gas Industry Co agrees that the definition of a by-pass switch in the draft rules is too narrow and a change has been made accordingly in the amended draft.

Also, because the rules defined a switch as a change of retailer, the amended draft rule 80 refers to 'bypass' rather than 'bypass switching'.

12. Submissions on Reporting

Content of Submissions Received

General Reports (draft rule 80)

The review of the reporting section prompted by the submissions outlined in the following highlighted to Gas Industry Co that there was an issue with the wording of draft rule 80.2. Whereas the intent of having the registry generate and publish a report on the performance of registry participants in terms of their interface with the registry is clear, the nature of the report to be provided is not.

Distributor reports (draft rule 81)

Vector submitted that:

- the report specified in 82.1.2 needed to include effective dates for the current values of each ICP parameter.
- The report specified in 82.3 “*effectively gives each distributor each month a complete history of all changes made to an ICP over the entire period the distributor was responsible for the ICP. This is unnecessary.*”

Contact submitted that it does not believe that the distributor reports are structured to enable the distributor to obtain information to bill fixed network charges.

Meter owner reports (draft rule 83)

Contact submitted that it does not believe that the meter owner reports are structured to enable the distributor to obtain information to bill fixed network charges.

Gas Industry Co Response

General Reports

Gas Industry Co has amended the wording of that rule (amended draft rules 82.2 and 82.3) to have the report specification developed outside of the rules environment.

Retailer, distributor and meter owner reports

Gas Industry Co agrees with the Vector and Contact submissions that the draft rules specifying the distributor and meter owner reports provided by the registry operator are not clear and require attention.

The intent of the draft rules 81.1, 82.1 and 83.1 was to enable each registry participant to identify discrepancies that might have occurred between the values of certain ICP parameters in the registry and their values in the participant’s master databases.

Gas Industry Co agrees that inclusion of effective dates would be useful for that purpose but, in the interest of each report containing information relevant to its purpose, believes that the content of each should be limited to the ICP parameters that the participant was responsible for maintaining.

Consequently the amended draft includes changes to amended draft rules 83.1, 84.1 and 85.1.

In the case of the reports detailed in the draft rules 81.3, 82.3, and 83.3, the intent was to provide sufficient information to enable each registry participant to generate invoices for distribution and metering services (either as a purchaser or supplier) – both for the last calendar month and any other month in the last rolling quarter if a wash-up invoicing process was being employed. The reports also have potential to enable participants to reconcile invoice information received against registry information.

On reviewing the submissions and considering practices in other jurisdictions, Gas Industry Co has concluded that the industry will be better served by not including such a detailed reporting requirement in the rules – but instead leaving specification of such reports either according to amended draft rule 81.5 (if a common requirement can be achieved through industry consultation) or according to amended draft rule 31.5 (where requirements must be customised).

Consequently, the amended draft rules 83 to 85 now limit the registry operators report requirements for retailer, distributor and meter owner reports to only those required for discrepancy analysis.

Allocation agent reports (draft rule 84)

Vector suggested changes in content of the report line with its recommendations for changes to use of ICP status and connection status, and to ensure that connection status info included.

Contact's question as to whether the allocation agent should be classified as a registry participant, raised the question as to the appropriateness of the allocation agent reports.

Allocation agent reports

In its deliberations on the question as to whether the allocation agent should be identified as a registry participant, Gas Industry Co has (in addition to concluding that allocation agents are not registry participants) determined that specifying the content of registry reports to the allocation agent is premature. Only if and when the reconciliation arrangements specify registry information in the reconciliation process, will there be a case for specifying the reports that the registry operator should be required to provide to the allocation agent.

The amended draft rules (81.5) require the registry operator to provide to participants or publish.. *"any other report as may be agreed from time to time between the registry operator and the Co-regulatory body."* This is sufficient for Gas Industry Co to specify and direct the registry operator to provide an appropriate report for reconciliation and allocation purposes as required by some future reconciliation process.

Consequently, the draft rule 84 has been removed from the amended draft rules.

13. Submissions on Transitional Provisions

Content of Submissions Received

Content of submissions received (draft rule 85)

Vector submitted that:

- the transitional provisions should be changed to recognize *“that records retained by distributors are effectively the Database or Record until the go-live date”*, and
- that an addition to draft rule 85 that would, at the time of completion of each switch, have the responsible distributor update the responsible retailer in the registry.

Gas Industry Co has identified that the draft rules did not include rules regarding:

- how those switches initiated (but not completed) before go-live would be completed under ‘arrangements that existed at the time’ in an systems environment that prevented such an approach; and
- the expiry of any transition period in which switches initiated prior to go-live would be completed according to the prior arrangements.

Gas Industry Co Response

Transitional provisions

Vectors suggestion that the distributor (as a neutral party in the switch) should have responsibility for update of the retailer code to complete the switches initiated prior to the go-live date, has some appeal. However, because contractually switching is very much a matter for retailers to settle, Gas Industry Co considers that the responsibility for accurate recording of gain and loss of a consumer should be placed in the hands of the retailers concerned. No change has been made to the draft rules in this regard.

To accommodate the completion of switches by means of a retailer updating the responsible retailer in the registry, the amended draft rules allow for transitional functionality and for Gas Industry Co to set an expiry date on which the transitional functionality would terminate.

Appendix D: Draft Switching Rules

GAS (SWITCHING ARRANGEMENTS) RULES 2007

1. Purpose

The purpose of these rules is to establish a set of gas switching and registry arrangements that will enable consumers to choose, and alternate, between competing retailers.

2. Outline

These rules provide for –

- 2.1 The establishment of the registry; and
- 2.2 The management of information held by the registry; and
- 2.3 The appointment of a registry operator; and
- 2.4 A process for switching consumers between retailers.

3. Commencement

- 3.1 Rules 47 to 85 come into force on the go-live date.
- 3.2 The rest of these rules come into force 28 days after the date these rules are notified in the *Gazette*.

Part 1

General provisions

4. Interpretation

- 4.1 In these rules, unless the context otherwise requires, a word or expression defined in the Act has the same meaning as it has in the Act.
- 4.2 In these rules, unless the context otherwise requires,-

Act means the Gas Act 1992;

actual reading means a register reading, which was recorded from a meter or corrector by means of physically viewing the register at the time or by retrieving the reading from a datalogger that recorded the reading at the time;

allocation agent means, for each gas gate, the person who allocates the daily and monthly gas purchase volumes to the retailers taking supply of gas at that gas gate;

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 which the industry body has determined not to be a business day as published by the industry body;

commencement date means the date referred to in rule 3.2;

Commission means the Energy Commission established under S43ZZH of the Act;

connection status means the physical status of the connection between the distribution system or transmission system and the consumer installation, with respect to the ability of gas to flow to the consumer installation and the nature of any disconnection of the consumer installation;

consumer installation means one or more gas installations that have a single point of connection to a distribution system or transmission system and for which there is a single consumer;

corrector means a device that dynamically replaces any one or more of the fixed factors otherwise required to convert gas volume measured at ambient conditions to gas volume measured at standard conditions;

day means a calendar day;

distributor means a gas distributor as defined in the Act, which undertakes distribution activities in accordance with the Gas (Information Disclosure) Regulations 1997;

estimated reading means a register reading that has been quantified by an estimation process;

financial year means the twelve-month period beginning on the date determined by the industry body;

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) two gas distribution systems;

go-live date means the first date on which the registry is fully operational in accordance with the requirements of rules 37 and 38;

ICP or Installation Control Point means the point at which a consumer installation is deemed to have gas supplied, and which represents the consumer installation on the registry;

ICP identifier means the unique 15-character identifier assigned to each ICP, having the format, yyyyyyyyyyxxccc, where:

yyyyyyyyyy is the gas connection number specified by the distributor and unique to that connection in the distributor's records;

xx is an alphabetic combination, determined by the industry body, for use by the distributor when creating the ICP identifier;

ccc is an alphanumeric checksum generated by an algorithm specified by the industry body;

ICP parameter means one of the defined set of components of an ICP as set out in Schedule 1;

ICP parameter value means a numerical value or an alphanumeric code or some free text assigned, in accordance with these rules, to an ICP parameter;

industry body means the industry body approved by the Governor General by Order in Council under section 43ZL of the Act. In the event that the industry body is revoked under section 43ZM of the Act, all references to the industry body shall be replaced with references to the Commission;

losses means, for a gas gate, the difference between the sum of the gas consumption measured at consumer installations supplied through the gas gate and the gas injection measured at the gas gate;

loss factor means the factor by which a measured or estimated volume of gas consumption for an ICP or aggregation of ICPs supplied through the same gas gate is multiplied in order to offset expected losses for that gas gate;

meter means an instrument designed to measure the volume of gas passed through it;

meter owner means the person who owns or controls a meter used to measure gas consumption for a consumer installation;

metering equipment means any one or a combination of a meter, corrector, datalogger and the telemetry used to measure or convey volume information related to an ICP;

month means a calendar month;

move switch means a situation where a consumer moves to a consumer installation and elects to have gas supplied at that consumer installation by a retailer different from the retailer that supplied the previous consumer at that consumer installation;

new retailer means the retailer who, as a result of a switch, will be the supplier of gas to the consumer installation concerned and the responsible retailer for the ICP on and from the switch date;

parent gas gate means for an ICP or gas gate, the gas gate immediately upstream of the ICP or gas gate, where upstream means in the direction towards a transmission system;

publish means –

- (a) In respect of information to be published by the industry body or the registry operator, to make such information available to the intended recipient through the registry; and
- (b) In respect of all other information, means to make available to the intended recipient in such manner as may be determined by the industry body from time to time;

register reading means the number displayed by, or estimated for, a meter register or corrector register at a particular date and time, and that represents the volume of gas recorded by the register over a certain period;

register multiplier means the number to be used to convert the difference between two register readings to cubic metres of gas;

registry means the database facility (including all relevant hardware and software) that meets the requirements set out in rule 38;

registry development costs means the costs of developing and establishing the registry;

registry ongoing costs means the ongoing costs of operating and maintaining the registry;

registry operator means the service provider appointed by the industry body to establish, maintain, and operate the registry;

registry operator service provider agreement means the agreement between the industry body and a person, where that person is appointed as the registry operator;

registry participant means a retailer, distributor or meter owner;

registry participant register means the register of registry participants kept by the registry operator under rule 7.1;

registry specification means the specification for the registry set out in the registry operator service provider agreement;

report access means a person is authorised to extract a report of ICP information by issuing an electronic request to the registry, which includes the criteria determining the content of the report;

responsible distributor means, for a particular ICP, the distributor whose distributor code is shown on the registry and who is thereby responsible for maintaining the values of the ICP parameters listed in Part A of Schedule 1;

responsible retailer means, for a particular ICP, the retailer whose retailer code is shown on the registry and who is thereby responsible for

maintaining the values of the ICP parameters listed in Part B of Schedule 1;

responsible meter owner means, for a particular ICP, the meter owner whose meter owner code is shown on the registry and who is thereby responsible for the ICP parameters listed in Part C of Schedule 1;

retailer means a gas retailer as defined in the Act;

rules means these Gas (Switching Arrangements) Rules 2007 as amended from time to time and includes every schedule to the rules, any code of practice and any technical code made pursuant to the rules, and every amendment to, deletion of, or addition to, any of the rules;

standard switch means a switch where a consumer, being supplied gas at a particular consumer installation elects to have gas supplied at that consumer installation by another retailer;

switch means the change of retailer supplying gas to a consumer installation, and the consequent change of responsible retailer for the ICP concerned;

switch date means the date on and from which a new retailer supplies gas to a consumer installation;

switch reading means the register reading that applies to the switch date;

transmission system has the same meaning as in the Gas (Information Disclosure) Regulations 1997;

view access means a person is authorised to view information in the registry, including the result of any ICP address search facility provided as part of registry functionality;

write access means a person is authorised to view and maintain certain information in the registry; and

year means the period from 1 July to 30 June.

4.3 Where the rules require the registry to comply with a rule, this has the same effect as if the registry operator is required to comply with that rule.

4.4 A reference to a rule is a reference to a rule in these rules unless the reference specifically states otherwise.

Registry participants

5. Obligation to supply registration information

5.1 All **registry participants** must supply registration information to the **registry operator**.

5.2 Registration information consists of –

- 5.2.1 The name of the **registry participant**; and
 - 5.2.2 The **registry participant's** telephone number, physical address, facsimile number, email address, and postal address; and
 - 5.2.3 Identification as to which class, or classes, of **registry participant (retailer, distributor or meter owner)** that the **registry participant** belongs.
- 5.3 Registration information must be given in the form and manner required by the **registry operator** as approved by the **industry body**.

6. When registration information must be supplied

- 6.1 Every person that is a **registry participant** at the **commencement date** must supply the registration information within twenty **business days** of the **commencement date**.
- 6.2 Every person that becomes a **registry participant** after the **commencement date** must supply the registration information within twenty **business days** of becoming a **registry participant**.

7. Registry operator must keep register

- 7.1 The **registry operator** must keep a register of **registry participants**.
- 7.2 The **registry participant register** must state –
 - 7.2.1 The registration information in respect of the **registry participant**; and
 - 7.2.2 The date on which the **registry participant** was recorded on the **registry participant register**; and
 - 7.2.3 The date on which the person ceases to be a **registry participant**.

8. Changes to particulars

- 8.1 Every **registry participant** must notify the **registry operator** as soon as practicable –
 - 8.1.1 Of any change in the **registry participant's** registration information; and
 - 8.1.2 If the person ceases to be a **registry participant**.
- 8.2 The **registry operator** must record the change, and the date of change, in the **registry participant register** on receipt of the notice.
- 8.3 The **registry operator** must **publish** the change as soon as possible after recording that change.

9. Effect of registration

9.1 A **registry participant** is bound by these **rules** regardless of whether or not the **registry participant** is recorded on the **registry participant register**.

10. Effect of ceasing to be registry participant

A person continues to be liable for all acts and omissions in respect of these **rules** carried out while the person is a **registry participant**, despite the fact that the person ceases to be a **registry participant**, and the person will be deemed to be a **registry participant** for that purpose.

Registry operator

11. Appointment of registry operator

11.1 The **industry body** may, from time to time, by agreement with a person appoint that person to act as the **registry operator**.

11.2 The **registry operator** has the functions, rights, powers, and obligations set out in these **rules**.

11.3 The term of appointment of a person as the **registry operator**, and the date on which the term begins, will be as set out in the **registry operator service provider agreement**.

11.4 The **industry body** may at any time terminate, re-appoint, or change the appointment of any person as the **registry operator** subject to the terms of the **registry operator service provider agreement**.

11.5 The remuneration of the registry operator will be as agreed between the industry body and the registry operator in the registry operator service provider agreement.

11.6 The **industry body** and the **registry operator** may agree on any other terms and conditions, not inconsistent with the functions, rights, powers, and obligations of the **registry operator** under these **rules**.

12. Other terms of registry operator service provider agreement

12.1 In addition to any other terms and conditions required by these **rules**, the **registry operator service provider agreement** must provide for–

12.1.1 the availability levels of the **registry**; and

12.1.2 service response times; and

12.1.3 **registry** system upgrades; and

12.1.4 **registry** system maintenance; and

12.1.5 data integrity and recovery of data; and

12.1.6 the handling of faults.

12.2 The **registry operator service provider agreement** must specify that the **registry operator** must maintain close contact with **distributors**,

retailers, and **meter owners**, and provide additional services and support to ensure that the **registry** remains responsive to and consistent with the needs of the **registry participants**.

13. Publication of registry operator service provider agreement

The **industry body** must **publish** the **registry operator service provider agreement**.

14. Insurance cover

The **registry operator** must at all times maintain any insurance cover that is required by the **registry operator service provider agreement**, on terms and in respect of risks approved by the **industry body**, with an insurer approved by the **industry body**.

15. Performance standards to be agreed

The **industry body** and the **registry operator** must, at the beginning of the term of the appointment and at the beginning of each **financial year**, seek to agree on a set of performance standards against which the **registry operator's** actual performance must be reported and measured at the end of the **financial year**.

16. Self-review must be carried out by registry operator

16.1 The **registry operator** must conduct, on a monthly basis, a self-review of its performance.

16.2 The review must concentrate on the **registry operator's** compliance with –

16.2.1 Its obligations under these **rules**; and

16.2.2 The operation of these **rules**; and

16.2.3 Any performance standards agreed between the **registry operator** and the **industry body**; and

16.2.4 The provisions of the **registry operator service provider's agreement**.

17. Registry operator must report to the industry body

17.1 The **registry operator** must within ten **business days** of the end of each **month**, provide a written report to the **industry body** on the results of the review carried out under rule 16.

17.2 The report must contain details of -

17.2.1 Any circumstances identified by the **registry operator** where it has failed, or may have failed, to comply with its obligations under these **rules**; and

17.2.2 Any area that, in the opinion of the **registry operator**, a change to a rule may need to be considered; and

17.2.3 Any other matters that the **industry body**, in its reasonable discretion, considers appropriate and asks the **registry operator**, in writing within a reasonable time before the report is provided, to report on.

17.3 As soon as practicable after receiving a report under rule 17.1, the **industry body** must **publish** that report.

18. Review of registry operator performance by the industry body

18.1 At the end of each **financial year**, the **industry body** may review the manner in which the **registry operator** has performed its duties and obligations under these **rules**.

18.2 The review must concentrate on the **registry operator's** compliance with –

18.2.1 Its obligations under these **rules**; and

18.2.2 The operation of these **rules**; and

18.2.3 Any performance standards agreed between the **registry operator** and the **industry body**; and

18.2.4 The provisions of the **registry operator service provider agreement**.

19. Audits of the registry and the registry operator

19.1 In addition to the review specified in rule 18, the **industry body** may carry out audits of the records and procedures of the **registry** and **registry operator** within normal working hours on reasonable notice.

19.2 In respect of any audit, the **registry operator** must –

19.2.1 Provide any auditor appointed by the **industry body** with reasonable access to all relevant facilities, personnel, records, and manuals; and

19.2.2 Provide the auditor with any additional information that the auditor reasonably considers necessary to enable an assessment of whether the **registry** continues to meet the requirements of these **rules**.

19.3 In accordance with any provisions in the **registry operator service provider agreement** between the **industry body** and the **registry operator**, the **registry operator** must implement any changes necessary to give effect to any reasonable recommendations made by the auditor, with the objective of constantly improving services.

Funding of the registry

20. Development fee

20.1 The development fee is a fee to meet the **registry development costs**.

20.2 As soon as practicable after the **commencement date**, the **industry body** must determine the estimated **registry development costs**. The **registry development costs** will include –

20.2.1 The capital costs associated with the development of the **registry**; and

20.2.2 The costs associated with the appointment of the **registry operator**; and

20.2.3 The administrative costs of the **industry body** in connection with the development and establishment of the **registry**; and

20.2.4 Any other costs that are determined by the **industry body** to form part of the **registry development costs** (whether or not such costs have been incurred at the time that the **registry development costs** are estimated).

20.3 Once it has estimated the **registry development costs**, the **industry body** will **publish** those costs (including a breakdown of the costs) on the **industry body's** website.

20.4 Every person who is a **distributor** or **retailer** on the **commencement date** is liable to pay a development fee in accordance with these **rules**.

20.5 The development fee is payable in respect of all **ICPs** except those with a status of **NEW** or **DECOMMISSIONED**.

20.6 The development fee payable by each **distributor** is calculated as follows:

$$A = (B \times 0.5) \times (C/D)$$

Where:

A = the development fee payable by a **distributor A**; and

B = the estimated **registry development costs**; and

C = the number of eligible **ICPs** as at the **commencement date** for which **distributor A** is a **responsible distributor**; and

D = the total number of eligible **ICPs** as at the **commencement date**.

20.7 The development fee payable by each **retailer** is calculated as follows:

$$A = (B \times 0.5) \times (C/D)$$

Where:

A = the development fee payable by **retailer A**; and

B = the estimated **registry development costs**; and

C = the number of eligible **ICPs** as at the **commencement date** for which **retailer A** is a **responsible retailer**; and

D = the total number of eligible **ICPs** as at the **commencement date**.

21. How and when development fee must be paid

21.1 The development fee is payable to the **industry body**.

21.2 As soon as practicable after publication of the estimated **registry development costs**, the **industry body** must invoice every **registry participant** liable to pay a development fee for those costs in accordance with rules 20.6 and 20.7.

21.3 As soon as practicable after the **go-live date**, the **industry body** must determine the actual **registry development costs** in accordance with rule 20.2.

21.4 The **industry body** must invoice or credit each **registry participant** liable to pay the development fee with the difference between the actual **registry development costs** and the amount of the estimated **registry development costs** paid by that **registry participant**.

21.5 The due date for the payment of the development fee is the tenth **business day** after the **registry participant** receives an invoice for the development fee.

22. Ongoing fees

22.1 The ongoing fees are monthly fees to meet the **registry ongoing costs**.

22.2 As soon as practicable after the **commencement date**, the **industry body** must determine the estimated **registry ongoing costs** for the first **year** or part **year** of operation of the **registry**.

22.3 The registry ongoing costs will include –

22.3.1 The costs payable to the **registry operator** in respect of that **year**; and

22.3.2 The administrative costs of the **industry body** associated with the **registry** and its role under these **rules** during that **year**;

22.3.3 The costs of enforcing compliance with these **rules** under the Gas (Compliance) Regulations 2007; and

22.3.4 Any other costs that are determined by the **industry body** to form part of the **registry ongoing costs**.

22.4 Once it has determined the estimated **registry ongoing costs** for the first **year** or part **year** of operation, the **industry body** will **publish** those costs (including a breakdown of the costs) on the **industry body's** website.

22.5 Every person who, on the first **business day** of a **month**, is a **distributor** or **retailer** or **meter owner** is liable to pay ongoing fees for that **month** in accordance with these **rules**.

22.6 Ongoing fees are payable in respect of all **ICPs** except those with a status of **NEW** or **DECOMMISSIONED**.

22.7 The ongoing fees payable by each **distributor** is calculated as follows:

$$A = (B \times 0.45) \times (C/D)$$

Where:

A = the ongoing fees payable by **distributor A**; and

B = the estimated **registry ongoing costs** for **month B**; and

C = the number of eligible **ICPs** as at the first **business day** of **month B** for which **distributor A** is a **responsible distributor**; and

D = the total number of eligible **ICPs** as at the first **business day** of **month B**.

22.8 The ongoing fees payable by each **retailer** is calculated as follows:

$$A = (B \times 0.45) \times (C/D)$$

Where:

A = the ongoing fees payable by **retailer A**; and

B = the estimated **registry ongoing costs** for **month B**; and

C = the number of eligible **ICPs** as at the first **business day** of **month B** for which **retailer A** is a **responsible retailer**; and

D = the total number of eligible **ICPs** as at the first **business day** of **month B**.

22.9 The ongoing fees payable by each **meter owner** is calculated as follows:

$$A = (B \times 0.10) \times (C/D)$$

Where:

A = the ongoing fees payable by **meter owner A**; and

B = the estimated **registry ongoing costs** for **month B**; and

C = the number of eligible **ICPs** as at the first **business day** of **month B** for which **meter owner A** is a **responsible meter owner**; and

D = the total number of eligible **ICPs** as at the first **business day** of **month B**.

23. How and when ongoing fees payable

- 23.1** The ongoing fees are payable to the **industry body**.
- 23.2** As soon as practicable after publication of the estimated **registry ongoing costs** for the first **year** or part **year** of operation, the **industry body** must notify all **registry participants** of the ongoing fees payable in that **year** or part **year**.
- 23.3** For each **year** following the first **year** or part **year** of operation, the **industry body** must estimate the **registry ongoing costs** and notify all **registry participants** at least two **months** prior to the beginning of that **year** of the ongoing fees payable in that **year**.
- 23.4** On the first **business day** of each **month**, the **industry body** or the **registry operator** must invoice every **registry participant** liable to pay the ongoing fees for the ongoing fees payable during that **month** calculated in accordance with rules 22.7 to 22.9.
- 23.5** As soon as practicable after the end of each **year**, the **industry body** must determine the actual **registry ongoing costs** for that **year**. The **industry body** or the **registry operator** must invoice or credit each **registry participant** liable to pay ongoing fees during that **year** with the difference between the actual **registry ongoing costs** and the amount of the estimated **registry ongoing costs** paid by that **registry participant**.
- 23.6** The due date for the payment of the ongoing fees is the tenth **business day** after the **registry participant** receives an invoice for that payment.

24. General provisions regarding fees

- 24.1** Any person who is liable to pay any fee under rules 20 to 24 inclusive, and who fails to make payment of such fee on or before the date on which it falls due, is liable to pay an additional fee of 10% of the amount of the fee that is unpaid.
- 24.2** The additional fee becomes payable and due on the tenth **business day** after the date that the **industry body** notifies the person that an additional fee is payable.
- 24.3** The fees payable under rules 20 to 24 inclusive are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

Compliance

25. Compliance

- 25.1** The Gas (Compliance) Regulations 2007 apply to these **rules**.
- 25.2** The **registry operator** is liable under the Gas (Compliance) Regulations 2007 for any breach of these **rules** other than rules 14,15,16,17,19, and 81.5.
-

Notices and receipt of information

26. Giving of notices

26.1 If these **rules** require any notice to be given, the notice must be in writing and be –

26.1.1 Delivered by hand to the nominated office of the addressee; or

26.1.2 Sent by post to the nominated postal address of the addressee; or

26.1.3 Sent by facsimile to the nominated facsimile number of the addressee; or

26.1.4 Sent by electronic transmission or any other similar method of electronic communication to the appropriate nominated electronic address of the addressee.

26.2 In the case of an emergency, a person may give notice other than in accordance with rule 26.1, but the person must as soon as practicable, confirm the notice in writing and by a method set out in rule 26.1.

27. When notices taken to be given

In the absence of proof to the contrary, notices are taken to be given,-

27.1 In the case of notices delivered by hand to a person, when actually received at that person's address;

27.2 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;

27.3 In the case of notices sent by fax, at the time indicated on a record of its transmission;

27.4 In the case of notices sent by electronic transmission or any other similar method of electronic communication -

27.4.1 At the time the computer system used to transmit the notice –

(a) Has received an acknowledgment or receipt to the electronic mail address of the person transmitting the notice; or

(b) Has not generated a record that the notice has failed to be transmitted; or

27.4.2 The person who gave the notice proves the notice was transmitted by computer system to the electronic address provided by the addressee.

28. Entering information in the registry

For the purposes of these **rules**, any reference to entering information in the **registry** means an attempt by the **responsible distributor, responsible retailer, or responsible meter owner** to enter information in the **registry** by electronic transmission or any other similar method of electronic communication (for example and without limitation, using a web browser or file batch transfer).

29. Registry acceptance or rejection of information and notices

29.1 For the purposes of these **rules**,-

29.1.1 Any reference to the acceptance of information in the **registry** or the giving of notices to the **registry** means that the attempt to enter information in the **registry** or to give a notice to the **registry** has been successful and the information or the notice is recorded in the **registry**; and

29.1.2 Any reference to the rejection of information by the **registry** or the rejection of a notice by the **registry** means that the attempt to enter information in the **registry** or to give the notice to the **registry** has been unsuccessful and that the information or the notice is not recorded in the **registry**.

29.2 If these **rules** require the **registry** to give a notice to a **distributor, retailer, or meter owner** stating that any information or notice provided by the party concerned has been rejected by the **registry**, the notice must include the time and date that the notice was rejected by the **registry** and the reason for the rejection.

30. Registry notice of changes to ICP parameter values

30.1 For the purposes of these **rules**, if the **registry** is required to give a notice to a **distributor, retailer or meter owner** because a change to an **ICP parameter value** has been accepted in the **registry**, the notice must identify the **ICP** and **ICP parameter** concerned, and include the new value of the **ICP parameter**, the date in respect of which the change was made, and the time and date that the change was made in the **registry**.

30.2 Where the **registry** is required to give notice of the change to an **ICP parameter value**, one notice shall be provided for each **day** in respect of which a change was made to that **ICP parameter value**, meaning that if more than one change was made the notice will provide the net result of the changes to the **ICP parameter value** for that **day**.

Access to the registry

31. Registry access

31.1 Subject to rule 31.3, the following persons shall have **view access** to any of the information accepted in the **registry** in relation to any individual **ICP**:

31.1.1 Every **registry participant**; and

- 31.1.2** Any other person authorised by the **industry body** to have **view access** to the **registry**.
- 31.2** Subject to rule 31.4, every **registry participant** shall have **report access** to current and historical values of all **ICP parameters** for all **ICPs** in the **registry**.
- 31.3** The following persons shall have **write access** to **ICP parameter values** in the **registry** in relation to any individual **ICP**:
- 31.3.1** Every **distributor, retailer, and meter owner** in relation to the initial population of the **registry** as set out in rules 39 and 40;
- 31.3.2** Every **distributor, retailer, and meter owner** in relation to the creation and readying of new **ICPs** as set out in rules 49 to 54;
- 31.3.3** Every **distributor, retailer, and meter owner** in relation to maintaining the values of the **ICP parameter** each **ICP** for which they are responsible as set out in rules 56 to 60; and
- 31.3.4** The **registry operator** as may from time to time be approved by the **industry body**, in consultation with affected **registry participants**.
- 31.4** The **industry body**, in consultation with **registry participants**, must determine:
- 31.4.1** **Report access** restrictions in respect of each the **distributor, retailer, and meter owner**; and
- 31.4.2** The response times required from the **registry** for reports requested by **registry participants**; and
- 31.4.3** The bounds of the information viewed by any party as a result of an address search conducted on **ICPs** in the **registry**.
- 31.5** Subject to rule 31.4, **registry participants** may request the **registry operator** to provide customised reports on any or multiple **ICPs**.

Other provisions relating to the registry and registry participants

32. Obligation of registry participants to act reasonably

- 32.1** In light of the purpose of the **registry** as set out in rule 37, every **registry participant** must act reasonably in relation to its dealings with the **registry** and, in doing so, must use its reasonable endeavours to cooperate with other **registry participants**.
- 32.2** Rule 32.1 does not limit any other obligations a register participant may have under these **rules**.

33. Other obligations of registry participants

33.1 Each **registry participant** must ensure that any software for the **registry** is used in a proper manner by competent employees or by persons under the supervision of those employees.

33.2 No **registry participant** may request, permit, or authorise anyone other than the **registry operator** to provide support services in respect of any software for the **registry**.

33.3 Each **registry participant** must appoint a nominated manager to be responsible for all of that **registry participant's** communications with the **registry**.

34. Use of ICP identifier on invoices

34.1 Every **retailer** must ensure that the relevant **ICP identifier** is printed on any invoice or associated documentation relating to the sale of gas by the **retailer** to a consumer.

34.2 The **ICP identifier** must be clearly labelled "**ICP**" on the invoice.

35. Consumer queries

Every **retailer** and **distributor** must advise any consumer (or any person authorised by the consumer) of the consumer's **ICP identifier** within three **business days** of receiving a request for that information.

DRAFT

Part 2

Gas Registry

Establishing the registry

36. Establishment of registry

The **registry operator** must establish, operate and maintain the **registry** so as to meet the requirements of these **rules**.

37. Purpose of registry

37.1 The purpose of the **registry** is –

37.2 To facilitate efficient and accurate switching of **retailers** by consumers; and

37.3 To provide an authoritative database of current and historical information on all **ICP parameters**, to facilitate accurate billing of consumers and allocation of charges to **retailers**; and

37.4 To provide a mechanism by which the accuracy and timeliness of information provided in relation to an **ICP** is controlled and recorded

38. Requirements of registry

The **registry** must –

38.1 Comply with, and perform in accordance with, the **registry specification**; and

38.2 Fulfil the purpose of the **registry** as set out in rule 37; and

38.3 Subject to the validation requirements set out in these **rules**, accept the information and notices referred to in these **rules**; and

38.4 Maintain a complete audit trail for all information and notices accepted in accordance with these **rules**; and

38.5 Maintain records that enable allocation and reconciliation of energy charges, line charges and metering charges between **retailers**; and

38.6 Facilitate **switches** in accordance with these **rules**; and

38.7 Otherwise perform in accordance with the requirements of these **rules**.

39. Initial population of registry

39.1 Prior to the **go-live date** –

39.1.1 Each **distributor** must enter in the **registry**, values for the **ICP parameters** listed in Part A of Schedule 1, for each **ICP** on its distribution system; and

39.1.2 Each **retailer** must enter in the **registry**, values for the **ICP parameters** listed in Part B of Schedule 1, for each **ICP** for which it supplies gas; and

39.1.3 Each **meter owner** must enter in the **registry**, values for the **ICP parameters** listed in Part C of Schedule 1 in relation to each **ICP** for which it owns the **meter**.

39.2 When entering information in the **registry** under rule 39.1, each **distributor, retailer, and meter owner**, shall only assign a value to an **ICP parameter** in accordance with the **rules** set out in column 2 of each part of Schedule 1.

39.3 Each **distributor, retailer, and meter owner** must use its reasonable endeavours to co-operate with each other to enter information in the **registry** under rule 39.1 having regard to the fact that for each **ICP** there will be a **distributor, retailer, and a meter owner** required to enter information in the **registry** prior to the **go-live date**.

40. Accuracy of initial information

40.1 Prior to the **go-live date**, each **responsible distributor, responsible retailer, and responsible meter owner** must check the accuracy of any information entered in the **registry** in relation to the **ICPs** for which they are responsible.

40.2 If, a **distributor, retailer, or meter owner** becomes aware that any information in the **registry** is incorrect, the **responsible distributor, responsible retailer, or responsible meter owner** must, prior to the **go-live date**, enter the correct information in the **registry**.

Assignment of ICPs to consumer installations

41. Assignment of ICPs

41.1 Each **distributor** must assign an **ICP identifier** for each **consumer installation** that is connected to its distribution system or in respect of which it has been assigned as the **responsible distributor** under rule 42.3.

41.2 An **ICP** must represent a single **consumer installation** that –

41.2.1 May be isolated from the distribution system or transmission system without affecting any other **consumer installation**; and

41.2.2 Has a single **loss factor** and a single network price category; and

41.2.3 Has its gas volume measured directly by a single set of **metering equipment** complying with NZS5259:2004 (or any subsequent replacement standard), or measured indirectly by a method approved by the **industry body** which produces the equivalent of the measurement from a single set of **metering equipment**.

Determination of certain ICP parameter codes

42. The industry body to determine applicable ICP parameter codes

42.1 The **industry body** must determine and **publish** information for the following:

42.1.1 The codes for every **distributor, retailer, meter owner, corrector** owner, datalogger owner and telemetry owner that is, or likely to be, required as a value for any relevant **ICP parameter** on the **registry**; and

42.1.2 The **gas gate** codes for the **gas gates** created by **distributors**; and

42.1.3 The **ICP** types and the code for each **ICP** type; and

42.1.4 The **ICP** status codes; and

42.1.5 The **connection statuses** and the code for each **connection status**; and

42.1.6 The valid combinations of **ICP** status and **connection status** codes for any **ICP**; and

42.1.7 The load shedding categories and the code for each load shedding category; and

42.1.8 The allocation groups and the code used for each allocation group; and

42.1.9 The profiles that may be assigned to **ICPs** and the code for each profile.

42.2 The **industry body** may from time to time amend or revoke any code determined under rule 42.1 and the **industry body** must **publish** any amendment or revocation of a code.

42.3 In the case of a **consumer installation** directly connected to a **transmission system**, the **industry body** must:

42.3.1 assign a unique **gas gate** code to the point of connection between the **transmission system** and the **consumer installation**; and

42.3.2 assign a **distributor** as the **responsible distributor** for **ICPs** supplied gas from that **gas gate**; and

42.3.3 give notice to that **distributor** of its role as **responsible distributor** in relation to the **consumer installation**.

43. Distributors to give notices in relation to gas gates

43.1 If a **distributor** intends to create or decommission a **gas gate**, the **distributor** must, at least twenty **business days** before the creation or decommissioning takes effect, give notice of that **gas gate** creation or decommissioning to –

- 43.1.1 The **industry body**; and
- 43.1.2 The **registry operator**, and
- 43.1.3 All **allocation agents** and **retailers** that will be affected by the **gas gate** creation or decommissioning.

43.2 When a **distributor** gives notice of the creation of a new **gas gate** or decommissioning of a **gas gate**, the notice must include –

- 43.2.1 The **gas gate** code assigned by the **industry body** to the relevant **gas gate**; and
- 43.2.2 The date of creation or decommissioning of the **gas gate**; and
- 43.2.3 If applicable, the **gas gate** code of the **gas gate's parent gas gate**; and
- 43.2.4 The **ICP identifier** of all **ICPs** created or decommissioned or transferred between **gas gates** in association with the creation of the new **gas gate**.

44. **Distributors to determine network price category codes**

Each **distributor** must determine, **publish** and maintain a schedule of its network price categories and the respective network price category codes and, except where the **distributor** requires disclosure on application, the charges associated with each of those codes.

45. **Distributors to determine loss factor codes**

Each **distributor** must determine, **publish** and maintain a schedule of all its **loss factors** and the respective loss factor codes.

46. **Distributors to give notices in relation to loss factor codes**

If a **distributor** intends to add or delete any **loss factor** codes, the **distributor** must, at least twenty **business days** before any such change takes effect, give notice of the impending change to –

- 46.1 The **registry operator**; and
- 46.2 All **allocation agents** and **retailers** that will be affected by the change in **loss factor** codes.

47. **Meter owners to determine metering price codes**

47.1 Each **meter owner** must determine, **publish** and maintain a schedule of its metering price codes applicable to all **ICPs** where it is the **responsible meter owner**.

47.2 Each **meter owner** shall provide all **registry participants** with whom it contracts to provide metering services a schedule of its metering price codes and, except where the **meter owner** requires disclosure on application, the charges associated with each of those codes.

48. Disclosure on application

Where a **distributor** or **meter owner** requires disclosure on application the **registry participant** that requires disclosure of the relevant charges must apply to the **distributor** or **meter owner** directly for disclosure of those charges, such disclosure not to be unreasonably withheld.

Creation of new ICPs

49. Creation of new ICPs

49.1 A **retailer** may request a **distributor** to assign an **ICP** for a new **consumer installation** on the distribution system.

49.2 If the **distributor** receives a request under rule 49.1, the **distributor** must, within three **business days** of receiving that request, assign an **ICP** to the new **consumer installation** or advise the **retailer** of the reason why it is unable to assign an **ICP**.

49.3 Once a **distributor** receives confirmation that a new **consumer installation** is first connected to its distribution system, the **distributor** must within two **business days** of receiving that confirmation enter in the **registry** the following minimum information from Part A of Schedule 1:

49.3.1 The **ICP identifier**; and

49.3.2 The **ICP creation date**; and

49.3.3 The **responsible distributor** code; and

49.3.4 The physical address.

50. Registry validation of ICP creation

50.1 As soon as possible after the **ICP** and the minimum information has been entered in the **registry** under rule 49.3, the **registry** must –

50.1.1 Validate the information entered by confirming –

(a) That the **ICP identifier** is a valid code and does not otherwise exist in the **registry**; and

(b) That the **responsible distributor** code is an available and valid code for the entering **distributor**; and

(c) That the **ICP** creation date is not a future date.

50.1.2 Based on the validation result, accept or reject the **ICP** and the minimum information and give a notice to the entering **distributor** stating that the **ICP** has been accepted or rejected.

50.2 If the **ICP** is accepted in the **registry**, on acceptance denote the **ICP** status as NEW.

50.3 Within one **business day** of having accepted the **ICP** and the minimum information in the **registry**, give a notice to the **distributor** stating the **ICP parameters** accepted in the **registry** for that **ICP**.

51. Readying of NEW ICP and registry validation

51.1 Once a **distributor** has identified the values of the remaining **ICP parameters** listed in Part A of Schedule 1 apart from **ICP status** and **connection status** with respect to a new **ICP**, the **distributor** must, within two **business days** of identifying those remaining **ICP parameters**, enter them in the **registry**.

51.2 As soon as possible after any of the remaining **ICP parameters** have been entered in the **registry**, the **registry** must –

51.2.1 Validate the **ICP parameter values** entered by confirming that they are available and valid values for the **distributor**; and

51.2.2 Based on the validation result, accept or reject any or all the **ICP parameter values** and give a notice to the **distributor** stating the values have been accepted or rejected.

51.3 Within one **business day** of having accepted the full set of values for the **ICP parameters** listed in Part A of Schedule 1 (except **ICP status**), the **registry** must –

51.3.1 change the **ICP status** to **READY**; and

51.3.2 give notice to the **distributor** and the expected **retailer** stating the values of all the **ICP parameters** for the **ICP**.

52. Retailer for READY ICP

52.1 Subject to rule 52.2, within two **business days** of a **retailer** entering into a contract to supply gas to a consumer at a **consumer installation** for which its **ICP** has an **ICP status** of **READY**, the **retailer** must enter in the **registry** values for all of the **ICP parameters** listed in Part B of Schedule 1, including:

52.1.1 A change to the value of the **ICP status** according to rule 57.10; and

52.1.2 The applicable valid value of the **connection status**.

52.2 A **retailer** must not record any information in the **registry** for an **ICP** before the **ICP status** is **READY**.

52.3 To avoid any doubt, the **retailer** that enters information under rule 52.1 may or may not be the expected **retailer** referred to in rule 51.3.2.

53. Registry validation of first retailer information

53.1 As soon as possible after all the **ICP parameter values** referred to in rule 52.1 has been entered in the **registry**, the **registry** must –

53.1.1 Validate the information entered by confirming that they are available and valid values for the entering **retailer**; and

53.1.2 Based on the validation result, accept or reject any or all the **ICP parameter values** and give a notice to the entering **retailer** stating the values have been accepted or rejected.

53.2 Within one **business day** of having accepted the information in the **registry**, the **registry** must give notice to the **responsible distributor**, **responsible retailer**, and **responsible meter owner** stating the **ICP parameter values** accepted in the **registry** for that **ICP**.

54. Meter owner information for new ICP

54.1 Within the timeframe specified in rule 54.2, the **responsible meter owner** for an **ICP** must enter in the **registry** values for all the **ICP parameters** listed in Part C of Schedule 1.

54.2 The timeframe is within two **business days** after the **responsible meter owner** –

54.2.1 Has confirmed that the **metering equipment** has been installed at the new **consumer installation**; and

54.2.2 Has been notified of the information under rule 53.2 in relation to the **ICP**.

55. Registry validation of first meter owner information

55.1 As soon as possible after the **ICP parameters** referred to in rule 54.1 have been entered in the **registry**, the **registry** must –

55.1.1 Validate the information entered by confirming that they are available and valid values for the entering **meter owner**; and

55.1.2 Based on the validation result, accept or reject any or all the **ICP parameter values** and give a notice to the entering **meter owner** stating the values have been accepted or rejected.

55.2 Within one **business day** of having accepted the **ICP parameters** in the **registry**, the **registry** must give notice to the **responsible distributor**, **responsible retailer** and **responsible meter owner** for that **ICP** stating the **ICP parameters** that have been accepted in the **registry** for that **ICP**.

Maintenance of ICP information

56. ICP information to be maintained

Each **distributor**, **retailer**, and **meter owner** must use its reasonable endeavours to maintain current and accurate information in the **registry** in relation to the **ICPs** and the **ICP parameters** for which it has responsibility as set out in Schedule 1.

57. Management of ICP status by distributors and retailers

The **ICP** status recorded on the **registry** is to be managed by **distributors**, **retailers** and the **registry** in accordance with the following rules -

- 57.1** The **ICP** status of NEW may only be assigned by the **registry** in accordance with rule 49.2 and denotes that the **responsible distributor** has not populated all of the **ICP parameters** for which it is **responsible** and the **ICP** is not ready for uplift by a **retailer**.
- 57.2** Subject to the **registry** changing the status in accordance with rule 0, only the **responsible distributor** may change the **ICP** status from NEW.
- 57.3** The **ICP** status of READY may only be assigned by the **registry** in accordance with rule 51.3 and denotes the **ICP** is ready for uplift by a **retailer**.
- 57.4** Subject to the **responsible distributor** changing the **ICP** status from READY to NEW, only the **responsible retailer** may change the **ICP** status from READY.
- 57.5** The **ICP** status of ACTIVE-CONTRACTED may only be assigned by the **responsible retailer** and denotes that the **responsible retailer** has entered into a contract to supply gas to a consumer at the **consumer installation** and that either:
- 57.5.1** gas is able to flow to the installation; or
 - 57.5.2** the gas supply is temporarily disconnected.
- 57.6** The **ICP** status of ACTIVE-VACANT may only be assigned by the **responsible retailer** and denotes that gas is able to flow to the **consumer installation** but the **responsible retailer** does not have a current contract to supply gas to a consumer at the **consumer installation**.
- 57.7** Only the **responsible retailer** may change the **ICP** status from ACTIVE-CONTRACTED or ACTIVE-VACANT.
- 57.8** The **ICP** status of INACTIVE-TRANSITIONAL may only be assigned by the **responsible retailer** and denotes that gas is not able to flow to the **consumer installation** due to a transitional (non-permanent) disconnection of supply.
- 57.9** The **ICP** status of INACTIVE-PERMANENT may only be assigned by the **responsible retailer** and denotes that gas is not able to flow to the **consumer installation** due to a permanent disconnection of supply.
- 57.10** As soon as a **retailer** uplifts an **ICP** in the READY status and assumes the role of **responsible retailer** that **retailer** must change the **ICP** status to one of ACTIVE-CONTRACTED, ACTIVE-VACANT or INACTIVE-TRANSITIONAL as applicable.
- 57.11** Subject to the **responsible distributor** changing the **ICP** status from INACTIVE-PERMANENT to DECOMMISSIONED, only the **responsible retailer** may change the **ICP** status from INACTIVE-TRANSITIONAL or INACTIVE-PERMANENT.
- 57.12** The **ICP** status of DECOMMISSIONED may only be assigned by the **responsible distributor** and denotes that:
-

57.12.1 The **ICP** is removed from future switching and reconciliation processes; and

57.12.2 Any associated **consumer installation** is no longer connected to the **responsible distributor's** distribution system.

57.13 The **ICP** status of DECOMMISSIONED may only be changed by the **responsible distributor** and may only be changed to INACTIVE-PERMANENT.

58. Management of connection status codes by retailers and distributors

58.1 The **connection status** parameter recorded on the **registry** is managed by **distributors** and **retailers**.

58.2 In the event that a **distributor** or **retailer** changes the **ICP** status of an **ICP** that **distributor** or **retailer** must ensure that the **ICP's connection status** for the date of the change is recorded in the **registry** in accordance with the status codes and usage requirements **published** by the **industry body** from time to time.

59. Correction of ICP information in registry and registry validation

59.1 If, in relation to any information in the **registry**, a **responsible distributor**, **responsible retailer**, or **responsible meter owner** becomes aware that such information is incorrect or requires updating, the relevant **responsible distributor**, **responsible retailer**, or **responsible meter owner** must, as soon as practicable, enter the correct or updated information in the **registry**.

59.2 As soon as possible after the information referred to in rule 59.1 has been entered in the **registry**, the **registry** must –

59.2.1 Validate the information entered by confirming that they are available and valid values for the party entering the information; and

59.2.2 Based on the validation result, accept or reject the information in the **registry** by giving a notice to the party entering the information, that the information has been accepted or rejected.

59.3 Within one **business day** of having accepted the information in the **registry**, the **registry** must give notice to the **responsible distributor**, **responsible retailer**, and **responsible meter owner** in accordance with rule 30.

59.4 If the **registry** is required to give a notice under rule 59.3 and a gas switching notice has been given in respect of the **ICP** but the **switch** is not yet complete, in giving notice under rule 59.3 to a **retailer**, the **registry** must give notice to both the **responsible retailer** and the **new retailer**.

60. Distributors, retailers, and meter owners to resolve discrepancies

60.1 In relation to any information for an **ICP** in the **registry**, the **responsible distributor**, **responsible retailer**, and **responsible meter owner** must, to the best of their abilities, resolve any discrepancies between the

information held in the **registry** and the information held elsewhere by them.

60.2 In order to identify and resolve any discrepancies in the information held for an **ICP**, each **distributor**, **retailer**, and **meter owner** must, by 4pm on the fifteenth **business day** of each **month**, review the following relevant reports and enter any information corrections in the **registry**:

60.2.1 The **retailer** report under rule 83; and

60.2.2 The **distributor** report under rule 84; and

60.2.3 The **meter owner** report under rule 85.

60.3 Each **distributor**, **retailer**, and **meter owner** must retain records of the reviews and subsequent changes made under rule 60.2 for any audit that may be conducted by, or on behalf of, the **industry body**.

Switching

61. Switching retailers

Rules 62 to 79 apply to **standard switches** and **move switches**.

62. Codes relevant to switching

62.1 The **industry body** must determine and **publish** codes for the following:

62.1.1 The codes used in the **switch** notice to denote whether the **switch** is a **standard switch** or a **move switch**; and

62.1.2 Register content codes associated with **switch readings** in transfer notices; and

62.1.3 Acceptance codes for gas acceptance notices; and

62.1.4 Reason codes for gas switching withdrawal notices.

62.2 The **industry body** may from time to time amend or revoke any code determined under rule 62.1 and the **industry body** must **publish** any amendment or revocation of a code.

63. Initiation of switch

63.1 A **switch** is initiated by the **new retailer** under the authority of the consumer electing to change **retailers**.

63.2 Before the **new retailer** may initiate a **switch**, the **new retailer** must –

63.2.1 Have entered into a contract with the consumer for the supply of gas to the relevant **consumer installation**; and

63.2.2 Have obtained the consumer's agreement to –

- (a) Effect the **switch**; and
- (b) Establish the date for commencement of supply through communication with the **responsible retailer**; and
- (c) Use an **estimated reading** from the **responsible retailer** to define the split of variable charges between the **responsible retailer** and the **new retailer** at the **switch date**; and
- (d) Collect information relating to the consumer and the **consumer installation** from the **responsible retailer** and elsewhere in order to complete the **switch** and commence gas supply.

63.2.3 Be a party to a valid and subsisting agreement with the owner of the distribution system or transmission system to which the relevant **consumer installation** is connected, allowing the **retailer** to transport and/or sell gas across that distribution system or transmission system; and

63.2.4 Be a party to a valid and subsisting gas sale and purchase agreement providing access to a supply of wholesale gas for distribution; and

63.2.5 Be a party to a valid and subsisting agreement with the owner(s) of the **metering equipment** at the relevant **consumer installation**, for use of that equipment to measure gas consumption for the **ICP**; and

63.2.6 Be a party to a valid and subsisting agreement with an **allocation agent** authorised to allocate gas at the **gas gate** from which gas is supplied to the **ICP**.

64. Gas switching notice

64.1 Within two **business days** after entering into a contract to supply gas to a consumer at the relevant **consumer installation**, the **new retailer** must initiate the **switch** by giving a gas switching notice to the **registry**.

64.2 The effect of giving the gas switching notice to the **registry** is that the **new retailer** –

64.2.1 Warrants that it has complied with rule 63; and

64.2.2 Is then the agent of the consumer and has authority to obtain from the **responsible retailer**, the information specified in these **rules** for the gas acceptance notice and the gas transfer notice.

65. What gas switching notice must contain

65.1 The gas switching notice must state –

65.1.1 The **ICP identifier**; and

65.1.2 Whether or not it is a **standard switch** using the codes defined by the **industry body**; and

65.1.3 In the case of a **move switch** -

(a) The requested **switch date**; and

(b) The physical address of the **ICP**.

65.2 The gas switching notice may state –

65.2.1 The name of the consumer requesting the **switch**; and

65.2.2 Subject to rule 65.4, a request for the last twelve **months** of **register readings** from the **metering equipment** at the **consumer installation**; and

65.2.3 In the case of a **standard switch**, –

(a) Subject to rule 65.3, the requested **switch date**; and

(b) The physical address of the **ICP**.

65.3 If the **new retailer** includes a requested **switch date** for a **standard switch**, that date must not be less than seven **days** after the date the gas switching notice is given to the **registry**.

65.4 If the new retailer requests the last twelve months of register readings from the meter at the consumer installation –

65.4.1 The **new retailer** and the **responsible retailer** must agree as to how the **register readings** shall be provided; and

65.4.2 The **registry** is not obliged to provide any facility to communicate the **register readings** from the **responsible retailer** to the **new retailer**.

66. Registry validation of gas switching notice

66.1 As soon as possible after having received the gas switching notice, the **registry** must –

66.1.1 Validate the information contained in the gas switching notice by confirming–

(a) That the **ICP** status for the **ICP** is;–

(i) ACTIVE-CONTRACTED or

(ii) ACTIVE-VACANT; or

(iii) INACTIVE-TRANSITIONAL; or

(iv) INACTIVE-PERMANENT; and

(b) That any codes used in the notice are available codes; and

(c) That, in the case of a **move switch**, there is a requested **switch date**; and

66.1.2 Based on the validation result, accept or reject the gas switching notice by giving a notice to the **new retailer** stating that the gas switching notice has been accepted or rejected.

66.2 Within one **business day** of having accepted the gas switching notice, the **registry** must give the gas switching notice to the **responsible retailer**.

67. Response to an accepted gas switching notice

67.1 Within two **business days** after receiving a gas switching notice from the **registry**, the **responsible retailer** must give to the **registry** –

67.1.1 A gas acceptance notice that states that the **responsible retailer** intends the **switch** to take place on an expected **switch date**; or

67.1.2 A gas transfer notice that includes all the information required to complete the **switch**; or

67.1.3 A gas switching withdrawal notice that states that the **responsible retailer** believes that the gas switching notice should be withdrawn.

67.2 If the **responsible retailer** gives a gas acceptance notice, it must give a gas transfer notice to the **registry** within twenty-three **business days** after receiving the gas switching notice from the **registry**.

67.3 Except where a gas switching withdrawal request has been given, the **responsible retailer** must give a gas transfer notice within two **business days** of the **switch date** included in the gas transfer notice.

68. What gas acceptance notice must contain

A gas acceptance notice must state –

68.1 The ICP identifier; and

68.2 An expected **switch date** which –

68.2.1 Except as required under rule 70.2, is not limited to any requested **switch date** in the gas switching notice; but

68.2.2 Must be no later than twentythree **business days** after the date the **responsible retailer** received the gas switching notice from the **registry**; and

68.3 An acceptance code, as defined by the **industry body**, to communicate certain information that might be useful to the **new retailer** in deciding whether to proceed with or withdraw the **switch**.

69. Registry validation of gas acceptance notice

- 69.1** As soon as possible after having received the gas acceptance notice, the **registry** must –
- 69.1.1** Validate the gas acceptance notice by confirming that any codes used in the notice are available codes; and
 - 69.1.2** Based on the result of that validation, accept or reject the gas acceptance notice by giving a notice to the **responsible retailer** that the gas acceptance notice has been accepted or rejected.
- 69.2** Within one **business day** of having accepted the gas acceptance notice, the **registry** must give the gas acceptance notice to the **new retailer**.
- 69.3** To avoid any doubt, if a gas acceptance notice is rejected by the **registry**, the **responsible retailer** must still comply with rule 67.

70. What gas transfer notice must contain

- 70.1** A gas transfer notice must state –
- 70.1.1** The **ICP identifier**; and
 - 70.1.2** Subject to rule 70.2, the **switch date**; and
 - 70.1.3** An annualised consumption (in gigajoules) estimate for the **ICP**; and
 - 70.1.4** The **meter** location code; and
 - 70.1.5** The date of the last **actual reading** recorded for the **ICP**; and
 - 70.1.6** The **meter** identifier; and
 - 70.1.7** The **meter** pressure; and
 - 70.1.8** For each register for which information is being conveyed –
 - (a) The **register multiplier**; and
 - (b) The number of dials on the register; and
 - (c) The **switch reading** for the register, which must contain the same number of digits as the number of dials on the register; and
 - (d) Whether the **register reading** is an **actual reading** or an **estimated reading**; and
 - (e) The register content code; and
 - 70.1.9** Any additional information that can be reasonably expected to be important to the accuracy of the **switch** and subsequent consumer billing and allocation processes.
- 70.2** If the gas switching notice included a requested **switch date**, the **responsible retailer** must –

70.2.1 Use the requested **switch date** as the **switch date** and provide **switch readings** applicable to that date; or

70.2.2 If the **responsible retailer** has billed a consumer for the **ICP** up to a date after the requested **switch date**, use the **day** after the billed-to-date as the **switch date** and the billed readings as the **switch readings**.

70.3 If, due to a transitional exemption provided by the **industry body**, an **ICP** has more than one **meter**, the **meter** identifiers of the **meters** not identified as set out in rule 70.1.6 must be included in the gas transfer notice as additional information under rule 70.1.9.

71. Registry validation of gas transfer notice

71.1 As soon as possible after having received the gas transfer notice, the **registry** must –

71.1.1 Validate the information in the gas transfer notice by confirming–

(a) That any codes used in the notice are available codes; and

(b) That the number of digits provided for each **register reading** is equal to the number of dials specified for the relevant register; and

71.1.2 Based on the validation result, accept or reject the notice by giving an acknowledgement to the **responsible retailer** that the notice has been accepted or rejected.

71.2 Within one **business day** of having accepted the gas transfer notice, the **registry** must –

71.2.1 Show the **new retailer** as the **responsible retailer** for the **ICP**, effective on and from the **switch date**; and

71.2.2 Give the gas transfer notice to the **responsible retailer**; and

71.2.3 Give a notice to the former **responsible retailer**, the **responsible retailer**, the **distributor**, and the **meter owner**, confirming the identity of the **responsible retailer** and the **switch date**.

72. Accuracy of switch readings

72.1 In the gas transfer notice, the **responsible retailer** must provide **switch readings** (whether **actual readings** or **estimated readings**) that are as accurate as feasible for the particular method used to collect or derive the readings.

72.2 In order to facilitate the accuracy of **switch readings** for **move switches**

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72.2.1 The **responsible retailer** must continue to take **actual readings** from the **metering equipment** for all **ICPs** where the **ICP** status is ACTIVE-CONTRACTED or ACTIVE-VACANT; and

72.2.2 All relevant **actual readings** must be included in the **responsible retailer's** processes to determine the (actual or estimated) **switch readings** for the gas transfer notice.

72.3 Where an **ICP** is switched while its **ICP** status is INACTIVE-TRANSITIONAL and the **responsible retailer** uses **estimated readings** for the **switch readings**, the **responsible retailer** will comply with rule 72.1 if the **responsible retailer** –

72.3.1 Continued to collect **actual readings** from the **metering equipment** (in accordance with the **responsible retailer's** normal reading schedule) until the physical disconnection of the **ICP's consumer installation**; and

72.3.2 Used those **actual readings** in the derivation of the **estimated readings** for the **ICP**.

72.4 If the **metering equipment** for any **ICP** resets to zero after each **actual reading**, the gas transfer notice may specify that the **switch reading** is zero.

72.5 If the **consumer installation** has its volume of gas consumption determined by the difference between **register readings** at other **consumer installations on gas gates**, the gas transfer notice must specify that the **switch reading** is zero.

73. Withdrawal of switching

73.1 A **switch** may only be withdrawn if –

73.1.1 There has been an error in the **switch** process such that the **switch** is not giving effect to, or has not given effect to, the agreement with the consumer; or

73.1.2 The consumer, exercising his or her contractual or statutory rights, has requested the **switch** to be withdrawn.

73.2 A switching withdrawal may only be initiated by –

73.2.1 In the case of a **switch** that is incomplete (where a **new retailer** has given a gas switching notice to the **registry** but has not received a gas transfer notice), either the **responsible retailer** or the **new retailer**; or

73.2.2 In the case where a **switch** has been completed, by the **responsible retailer** or the former **responsible retailer**.

73.3 A switching withdrawal must be initiated by means of a gas switching withdrawal notice being given to the **registry** and may only be issued in the period between –

73.3.1 The date that the gas switching notice is sent to the **registry** by the **new retailer**; and

73.3.2 The date that a new gas switching notice is received by the same **retailer** who is now the **responsible retailer** for that **ICP**.

74. What gas switching withdrawal notice must contain

74.1 The gas switching withdrawal notice must state –

74.2 The ICP identifier; and

74.3 The reason code for the switching withdrawal.

75. Registry validation of gas switching withdrawal notice

75.1 As soon as possible after having received the gas switching withdrawal notice, the **registry** must –

75.1.1 Validate the information in the gas switching withdrawal notice by confirming –

(a) That any codes used in the notice are available codes; and

(b) That the notice has been given by a **retailer** authorised to give the notice under rule 73.2; and

75.1.2 Based on the validation result, accept or reject the gas switching withdrawal notice by giving notice to the **retailer** that gave the gas switching withdrawal notice that it has been accepted or rejected.

75.2 Within one **business day** of having accepted the gas switching withdrawal notice, the **registry** must give the gas switching withdrawal notice to the other **retailer** involved in the **switch** as set out in rule 73.2.

76. Retailer response to a gas switching withdrawal notice

76.1 Within two **business days** after receiving a gas switching withdrawal notice under rule 74.3, the recipient **retailer** must give the **registry** a gas switching withdrawal response notice.

76.2 The gas switching withdrawal response notice must state whether or not the gas switching withdrawal notice is accepted or rejected. A **retailer** must accept a gas switching withdrawal notice if –

76.2.1 There has been an error in the **switch** process such that the **switch** is not giving effect to, or has not given effect to, the agreement with the consumer; or

76.2.2 The consumer is legally entitled to have the **switch** withdrawn.

76.3 If the gas switching withdrawal response notice accepts the gas switching withdrawal notice, then –

76.3.1 Within one **business day** of having received the gas switching withdrawal response notice, the **registry** must –

- (a) Give the gas switching withdrawal response notice to the other **retailer** involved in the **switch** as set out in rule 73.2; and
- (b) If there has been a change in **responsible retailer** as a result of the acceptance of the gas switching withdrawal, give notice to both **retailers** involved in the switching withdrawal, the **distributor**, and the **meter owner** of the change in **responsible retailer**; and

76.3.2 In the case where rule 73.2.1 applies, the uncompleted **switch** is terminated prior to completion and does not result in a change of **responsible retailer** for the **ICP**; and

76.3.3 In the case where rule 73.2.2 applies, the completed **switch** is reversed and there is a change in **responsible retailer** for the **ICP**, to the **retailer** who was the former **responsible retailer**.

76.4 If the gas switching withdrawal response notice rejects the gas switching withdrawal notice, then –

76.4.1 Within one **business day** of having received the gas **switch** withdrawal response notice, the **registry** must give the gas switching withdrawal response notice to the other **retailer** involved in the **switch** as set out in rule 73.2; and

76.4.2 That particular gas switching withdrawal process is at an end; and

76.4.3 To avoid any doubt, if the gas switching withdrawal notice was given by a **responsible retailer** as a response to a gas switching notice, the **responsible retailer** must still comply with rule 67 but may not give another gas switching withdrawal notice for the same gas switching notice.

77. Renegotiation of switch readings

77.1 This rule applies if a **responsible retailer** disputes the accuracy of a **switch reading** provided by the former **responsible retailer** in a gas transfer notice.

77.2 The **responsible retailer** may request an adjustment to a **switch reading** by giving a **switch reading** renegotiation request notice to the **registry**.

77.3 For a particular **ICP**, a **switch reading** renegotiation request notice may only be given in relation to –

77.3.1 The most recent **switch**; and

77.3.2 One **switch reading**.

77.4 The **switch reading** renegotiation request notice must state –

- 77.4.1 The **ICP identifier**; and
- 77.4.2 The **switch date**; and
- 77.4.3 The **meter identifier**; and
- 77.4.4 The content code for the **switch reading** concerned; and
- 77.4.5 The proposed replacement **switch reading**; and
- 77.4.6 The basis on which the proposed replacement **switch reading** has been determined.

78. Registry validation of switch reading renegotiation request

- 78.1 As soon as possible after having received the **switch reading** renegotiation request notice, the **registry** must –
 - 78.1.1 Validate the information in the **switch reading** renegotiation request notice by confirming that the request has been given by the **responsible retailer** as authorised by rule 77.1; and
 - 78.1.2 On the basis of that validation, accept or reject the request by giving a notice to the **responsible retailer** that the request has been accepted or rejected.
- 78.2 Within one **business day** of having accepted the **switch reading** renegotiation request notice, the **registry** must give the **switch reading** renegotiation request notice to the former **responsible retailer** as referred to in rule 77.1.

79. Retailer response to switch reading renegotiation request

- 79.1 Within two **business days** after receiving the **switch reading** renegotiation request notice, the recipient **retailer** must give to the **registry** a **switch reading** renegotiation response notice stating whether or not the **switch reading** renegotiation request is accepted or rejected.
- 79.2 Within one **business day** of having received the **switch reading** renegotiation response notice, the **registry** must give the **switch reading** renegotiation response notice to the **responsible retailer**.
- 79.3 If the **switch reading** renegotiation request notice is rejected by the recipient **retailer**, the two **retailers** concerned must endeavour to resolve the matter by other negotiation.

80. Bypass

- 80.1 A bypass occurs when the **distributor** providing the connection service to a **consumer installation** is replaced.
 - 80.2 The **registry participants** directly involved in effecting any bypass must process the bypass as either the creation of a new **ICP** or the re-commissioning of an **ICP**, in accordance with these **rules**.
 - 80.3 Not less than ten **business days** before a **retailer** intends giving effect to a bypass, the **retailer** must give notice to the **responsible retailer** and
-

the **responsible distributor** that there is going to be a bypass in relation to the **consumer installation** concerned.

80.4

Reports from the registry

81. Reports from the registry

The **registry operator** must provide or **publish**, the following reports –

- 81.1 The general reports under rule 82; and
- 81.2 The **retailer** report under rule 83; and
- 81.3 The **distributor** report under rule 84; and
- 81.4 The **meter owner** report under rule 85; and
- 81.5 Any other report as may be agreed from time to time between the **registry operator** and the **industry body**.

82. General reports

- 82.1 By 9.00 am on the sixth **business day** of each **month**, the **registry operator** must **publish** a report which states –
 - 82.1.1 The number of **ICPs** (categorised by each **ICP** status and **distributor**) contained on the **registry** as at the last **day** of the previous **month**; and
 - 82.1.2 The number of valid gas switching notices received by the **registry operator** during the previous **month**.
- 82.2 By 4.00 pm on the fifteenth **business day** of each **month**, the **registry operator** must **publish** a report on each **registry participant's** compliance with the timeframes specified in these **rules** during the previous **month**.
- 82.3 The content and format of the report referred to in rule 82.2 will be specified by the **industry body** in consultation with **registry participants** and the **registry operator**.

83. Retailer report

- 83.1 By 9.00 am on the first **business day** of each **month**, the **registry operator** must give each **retailer** a report that shows –
 - 83.1.1 All the **ICPs** for which that **retailer** was identified in the **registry** as **responsible retailer** during the previous **month**; and
 - 83.1.2 For each of those **ICPs**, and for each period that the **retailer** was the **responsible retailer** during that **month**, the values and effective dates of all **ICP parameters** in Schedule 1 Part B.

84. Distributor report

84.1 By 9.00 am on the first **business day** of each **month**, the **registry operator** must give each **distributor** a report that shows –

84.1.1 All the **ICPs** for which that **distributor** was identified in the **registry** as **responsible distributor** during the previous **month**; and

84.1.2 For each of those **ICPs**, the values and effective dates of all **ICP parameters** in Schedule 1 Part A.

85. Meter owner report

85.1 By 9.00 am on the first **business day** of each **month**, the **registry operator** must give each **meter owner** a report that shows –

85.1.1 All the **ICPs** for which that **meter owner** was identified in the **registry** as **responsible meter owner** during the previous **month**; and

85.1.2 For each of those **ICPs**, the values and effective dates of all **ICP parameters** in Schedule 1 Part C.

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Part 3

Transitional provisions

86. Treatment of switches initiated before commencement of rules

86.1 Except if the **switch** is not completed before the expiry date of the transitional functionality provided for in rule 87, where a **switch** between **retailers** has been initiated but not completed before the **go-live date**, the **switch** must be completed in accordance with the arrangements that existed on the date the **switch** was initiated.

86.2 In the event that a **switch** initiated before the **go-live date** is not completed before the expiry date of the transitional functionality provided for in rule 87, the initiating **retailer** shall cancel the **switch** and, if still required by the consumer, initiate a **switch** in accordance with rules 61 to 79.

87. Period of transitional functionality

87.1 In order to facilitate the initial population of the **registry**, and to facilitate completion of switches initiated prior to establishment of the **registry**, the **registry operator** shall provide transitional functionality to the **registry** to enable a change of **responsible retailer** other than through these **rules**.

87.2 The transitional functionality shall have an expiry date which shall be agreed with the **industry body**.

88. Transitional exemption

88.1 A **registry participant** may apply in writing to the **industry body** for a transitional exemption from complying with one or more of these **rules**.

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

88.3 In the application, the **registry participant** must set out in detail the reasons for the exemption, the period for which the exemption should be in effect and what alternative arrangements should apply.

88.4 If, after considering the reasons, the **industry body** is satisfied that a transitional exemption should be granted, the **industry body** may by notice in writing grant the transitional exemption to the **registry participant** which, in addition to stating the alternative arrangements that will apply, may be subject to such other conditions as the **industry body** thinks fit.

89. Transitional provision for reports

Where the **registry operator** is required to give reports under rules 81 to 85 and the time periods to which the reports relate have not yet elapsed since those rules came into force, the **registry operator** must give the reports in accordance with those rules as if the applicable time periods had elapsed.

Schedule 1

Part A

ICP parameters maintained by Distributors

ICP Parameter	Rules governing values assigned
ICP Identifier	The unique 15-character identifier assigned to the ICP by the distributor .
ICP creation date	The date that the distributor deems the ICP to be created, which must be not later than the date that the gas service pipe to the ICP's consumer installation is first livened. It is the earliest date for any event relating to the ICP in the registry .
Responsible Distributor	The code of the responsible distributor and creator of the ICP . Distributor codes are determined and published by the industry body from time to time.
Network Pressure	The value of the nominal operating pressure, expressed numerically in kilopascals, of the distribution system or transmission system to which the ICP's consumer installation is connected.
ICP Altitude	The altitude, expressed in metres above mean sea level, of the meter measuring gas consumption for the ICP's consumer installation , and for use in any required (non-dynamic) correction of the metered gas volume to standard volume.
Gas gate	The code of the gas gate from which the distributor deems gas is delivered to the ICP's consumer installation . Gas gate codes are determined and published by the industry body from time to time.
ICP Type	The code representing the ICP type. ICP types and ICP type codes are determined and published by the industry body from time to time.
ICP Status	The code representing the ICP status. ICP status is maintained by the responsible distributor as set out in rule 57. At ICP creation and ICP readying, the value is assigned by the registry as set out in rule 51.3.
Connection status	The code representing the connection status . Connection status is maintained by the responsible distributor in accordance with the requirements published by the industry body under rule 58.2.
Load Shedding Category	The code representing the load shedding category that identifies the position of the ICP's consumer installation in the hierarchy for emergency shedding of gas load. Load shedding category's and codes are determined and published by the industry body from time to time.
Maximum Hourly Quantity (MHQ)	The value of the maximum quantity of gas, in cubic metres, that the gas-consuming equipment at the consumer installation is capable of drawing per hour. The value is distinct from the capacity of the gas service pipe or metering equipment serving the consumer installation . Mandatory only where MHQ is used to determine the distributor's network charges and maybe conveyed by means of a 'disclosure on application' code in some instances.

Expected Retailer	The code of the retailer that the distributor expects to be the first responsible retailer for the ICP .
Network Price Category	The code of the network price category to which the ICP belongs, as determined and published by the distributor .
Loss factor Code	The code that identifies the loss factor applicable to the ICP's consumer installation , as determined and published by the distributor .
Network Price Details	A free-text parameter to allow the distributor to provide other information relevant to the network pricing of the ICP's consumer installation .
Physical Address	The physical address assigned by the distributor to the ICP's consumer installation , so that the ICP can be unambiguously identified with the consumer installation , in the registry .

With the exception of the **ICP identifier** and **ICP** creation date parameters, each of the parameters in Schedule 1 part A has an associated effective date, being the date from which the current value of the **ICP parameter** became applicable.

Part B

ICP parameters maintained by Retailers

ICP Parameter	Rules governing values assigned
Responsible Retailer	The code of the retailer with current responsibility for the ICP . Retailer codes are determined and published by the industry body from time to time.
ICP status	The code representing the ICP status. ICP status is maintained by the responsible retailer as set out in rule 57.
Connection status	The code representing the connection status . Connection status is maintained by the responsible retailer in accordance with the requirements published by the industry body under rule 58.2.
Allocation Group	The code represents the allocation group to which the ICP belongs, as published by the industry body from time to time.
Profile	The code that identifies the profile assigned to the ICP . Profile codes are determined and published by the industry body from time to time.
Responsible Meter owner	The code, of the responsible meter owner . Responsible meter owner is assigned according to the authority of a service agreement between the responsible retailer and the meter owner providing the meter measuring consumption for the ICP . Meter owner codes are determined and published by the industry body from time to time.

Each of the parameters in Schedule 1 Part B has an associated effective date, being the date from which the current value of the **ICP parameter** became applicable.

Part C

ICP parameters maintained by Meter Owners

ICP Parameter	Rules governing values assigned
Meter Identifier	The serial number or other unique identifier of the meter that measures volume consumption for the ICP's consumer installation , as assigned by the meter owner . However, if the consumption information is being measured by difference, the meter identifier value must be "DIFFERENCE".
Meter Location Code	The code, as defined in a published schedule of meter location codes by the meter owner , that advises the location of the meter used to record consumption at the consumer installation .
Standard Meter	A 'Y'es or 'N'o value to indicate the use or not of a standard meter (being one that is not a prepay meter) for measurement of consumption volume for the ICP's consumer installation .
Prepay Meter	A 'Y'es or 'N'o value to indicate the use or not of a prepay meter for measurement of consumption volume for the ICP's consumer installation .
Logger Owner	The code of the owner of any datalogger included in the metering equipment measuring consumption volume for the ICP's consumer installation metering - whether or not the datalogger is in use at the time. Logger owner codes are determined and published by the industry body from time to time.
Corrector Owner	The code of the owner of any corrector included in the metering equipment measuring consumption volume for the ICP's consumer installation metering - whether or not the corrector is in use at the time. Corrector owner codes are determined and published by the industry body from time to time.
Telemetry Owner	The code of the owner of any telemetry included in the metering equipment measuring consumption volume for the ICP's consumer installation metering - whether or not the telemetry is in use at the time. Telemetry owner codes are determined and published by the industry body from time to time.
Metering Price Category	The code of the metering price category that identifies the charges applicable to the full set of metering equipment currently used to measure and convey the consumption volume information for the ICP's consumer installation . The codes are as defined and made available by the meter owner .

In the case of the 'Y'es and 'N'o values for the 'standard **meter**' and 'prepay **meter**' parameters, there may not be more than one 'Y' value between the two parameters, but there may be two 'N' values to signify that the **consumer installation** is unmetered.

Each of the parameters in Schedule 1 part C has an associated effective date, being the date from which the current value of the **ICP parameter** became applicable.

Appendix E: Responses to Submissions on Compliance Proposal

Appendix E - Response to Submissions to Statement of Proposal for Compliance Arrangements Part 2
(Collated by Question Number)

Question 1: Do submitters agree with this Regulatory Objective? If not, what do you think the regulatory objective should be?		Gas Industry Co Response.
Contact	Contact agrees	
Genesis	<p>No. As set out in its previous submission on this issue, Genesis Energy considers that a more appropriate objective is: “An effective compliance and enforcement regime that provides an appropriate balance between integrity of the rules and efficiency.” In Genesis Energy’s view, this objective is: 1. superior to the objective as stated in paragraph 2.7 of the consultation paper; and 2. appropriate irrespective of whether the mechanism used to implement it is regulations, rules or a industry-based arrangement. Importantly, the cross-reference contained in the proposed objective to: “...and thereby contribute to the better achievement of the Government’s policy objectives for the retail sector of the gas industry.....” while seemingly appropriate, effectively imports into the objective statement any number of unspecified (and potentially conflicting) aspects into it, thereby rendering it so broad as to be effectively meaningless.</p>	<p>Gas Industry Co considers the regulatory objective is appropriate for the compliance arrangements, that the integrity of the rules is the key objective. The integrity of the rules is ensured through a compliance process, the efficiency of which is an assessment criterion against which it is designed.</p> <p>The objectives within the GPS will always need to be balanced with ‘efficient’ being only one of these objectives. Efficiency in the design of the compliance regime will limit the burden and distraction of the compliance regime for switching participants.</p> <p>The concepts of efficiency and cost effectiveness are considered within the design of the compliance regime; this was one of the assessment criteria for determining the regime functions. It has been accommodated by the role of the market administrator and the materiality threshold.</p>
Mighty River Power	<p>Mighty River Power strongly supports the Compliance Regulations focus on corrective actions as opposed to a “breach and fines” regime. In this respect we are eager to see that the regime focuses on achieving the objective of enforcing compliance with the Switching Rules in a manner that keeps the focus on:</p> <ul style="list-style-type: none"> a. improving switching processes; b. benefits to consumers; and c. is least burdensome and distracting for Industry Participants. <p>4Abid, Appendix 2 at paragraph 11.40. Accordingly, Mighty River Powers support for the Compliance Regulations is conditional on the focus remaining on process rather than penalty.</p>	<p>Ensuring the integrity of the rules keeps the focus on ‘improving switching processes, and benefits to consumers.</p> <p>The Board has affirmed that the philosophy of the compliance regime is to provide a pragmatic approach to identifying and resolving breaches, in an efficient manner, rather than focussing on formal processes and penalty.</p> <p>This philosophy is reflected in the regime providing for early resolution and pragmatic</p>

		<p>filtering of immaterial breaches by the Market Administrator (which is Gas Industry Co).</p> <p>Gas Industry Co is also keeping the focus on consumer benefits by a new regulation which will oblige the retailer to advise its consumer of any significant detriment which the consumer has suffered due to the breach.</p>
Mighty River Power (cont)	<p>Mighty River Power agrees that the direct objective of the Compliance Regulations is to provide a high degree of confidence that the proposed Switching Rules will be adhered to, and thereby contribute to the better achievement of the Government's policy objectives for the retail sector of the gas industry.</p> <p>However, as with the Switching Rules, the key objectives of the Compliance Regulations are best described in relation to how the Compliance Regulations will contribute to the regulatory objectives contained in section 43ZN Gas Act.</p> <p>It is critical that the Compliance Regulations are assessed in the context of the above objectives. In our view the objectives of efficiency and promoting competition for the benefit of consumers support a focus on corrective actions rather than recriminations and penalties. We consider the Compliance Regulation's focus on materiality and settlement is fundamental to achieving these objectives.</p>	<p>We consider that efficacy is within the wider policy objectives of the GPS. The Board has affirmed the philosophy of the regulations being for pragmatic early resolution of breaches.</p> <p>We do not consider that the concept of efficiency relies on that expressed in s43ZN as this sections application is limited to wholesale markets, processing facilities, transmission and distribution of gas. The concept of efficiency and fair markets is via the GPS.</p>
GasNet	<p>Yes although GasNet considers that there should be reference to cost effectiveness/efficiency.</p>	<p>Cost effectiveness and efficiency are secondary to the objective of ensuring the integrity of the rules, but are important factors for assessing appropriate design.</p>
Ministry Of Consumer Affairs	<p>We question the need for these regulations and would like the opportunity to discuss this matter further. Our concern is that the regulations may result in unnecessary additional costs for industry that will be passed to consumers.</p>	<p>We have met with representatives of the Ministry of consumer Affairs and Ministry of Economic development to consider the concerns raised by the Ministry of Consumer Affairs. The Ministry considered it important, as a matter of fairness and responsibility, that there be a process for notifying a consumer affected by a switching breach, of the possible implication for them, and their options for redress. This would entail a mechanism whereby a consumer who suffers detriment as a result of a breach of the rules would be notified pursuant to the compliance</p>

		<p>regulations so they are able to redress the situation via the EGCC scheme.</p> <p>The Gas Industry Co considers that the compliance regulations should not be amended in this manner or any other manner to provide for additional consumer rights as it does not consider this necessary or in the interests of achieving the regulatory objective at this point of time.</p> <p>Our reasons for coming to this position areas follows:</p> <ul style="list-style-type: none"> • The types of breaches that will arise in the switching context that have an impact on consumers are likely to include timing of switches and incorrect meter readings. Both these types of complaint are identifiable to the consumer and are the type which is properly dealt with by EGCC who has the expertise and resources to undertake such enquiries on behalf of consumers. Such complaints are commonly dealt with by the EGCC in the comparable electricity sector. • The consumer's right to raise a rule breach under the compliance regulations exists if for some reason the door is shut under the EGCC scheme. <p>To provide for notification to consumers of a rule breach which may affect them would impose additional processes and costs into the compliance regime without any direct benefit to the achievement of the switching rules. For further reasons see section 3 of the Decision paper.</p>
Wanganui Gas	Yes	
Vector	<p>Thank you for inviting Vector to provide input in this area. Unfortunately we are not able to provide a full submission at this time. Please accept our apologies.</p> <p>We note, however, that the structure as described in the consultation paper</p>	<p>We consider some of the flaws of MARIA may be circumvented by mandatory reporting of breaches by the Registry Operator. The introduction of the materiality threshold which provides a fast track</p>

	<p>seems broadly based on the MARIA rules of the electricity sector. Flaws within MARIA were blamed for unforeseen problems that could be repeated in the gas sector if these weaknesses are not addressed.</p> <p>We support the GIC's continued efforts to ensure that the compliance and enforcement arrangements around the switching protocols assist in establishing viable processes for the gas market. When further details of the proposed rules are available we would appreciate the opportunity to comment in greater depth.</p>	<p>process for resolution of immaterial breaches negates the disincentive of reporting breaches if it automatically involves the participant in lengthy investigation processes.</p>
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Question 2: Do submitters agree with the analysis of the Proposal? If not, please state your reasons?		Gas Industry Co Response
Contact	Contact agrees	
Genesis	Genesis Energy supports in the first instance, the implementation of an industry-based arrangement. Having said that, the detailed statement of the proposal as set out on pages 18 – 22 of the consultation paper, with the amendments outlined in the attached letter does not appear to be unreasonable.	Amendments proposed by Genesis addressed in our response to Question 11.
Mighty River Power	Mighty River Power agrees with the analysis in the Compliance Paper Statement of Proposal (Compliance Proposal] and that the Compliance Proposal complies with section 43N of the Gas Act; our only caveat is that section 43G12](c) needs to be amended to include distributors and meter owners (as described above].	The proposed amendment of the Gas Act will address this.
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	Yes, however we continue to have concerns about the cost benefits associated with the proposal.	Gas Industry Co considers that the cost benefits analysis assesses correctly the likely costs of the proposal. The benefits are those identified in the switching proposal, these benefits are realised by ensuring compliance with the switching rules.
Vector	Has not responded in specific.	

Question 3: Do submitters agree this Proposal complies with section 43N of the Gas Act? If not, please state your reasons.		
Contact	Contact agrees	
Genesis	<p>No. Genesis Energy does not consider that the Gas Industry Company have given appropriate consideration to the implementation of an industry-based arrangement, and in not doing so, has over-stated (relative to the Gas Industry Company's preferred regulatory approach) both the likely costs of an industry-based arrangement and the difficulties in implementing such an approach. In general, Genesis Energy considers that the objectives stated as tangible benefits of the regulated approach could uniformly be achieved under a well-crafted industry-based arrangement. For example, paragraph 7.9 states that: "Gas Industry Co considers that consumers should be able to report a breach of the rules and seek to have them enforced"; and "Gas Industry Co considers that the Registry Operator should be required to report any rule breaches it detects when operating the central registry as a means of ensuring comprehensive compliance with the central registry and switching system." Genesis Energy does not understand why the attainment of either of these is specific to a regulated solution and can not be delivered under an industry-based solution.</p>	<p>Gas Industry Co considers that it has given appropriate consideration to a pan industry agreement , which could provide substantially similar functions and bodies as proposed by regulation, however it considers a regulated compliance regime the preferred option for the following reasons:</p> <ul style="list-style-type: none"> • difficulty in participants reaching consensus as to the scope, powers, procedures, funding, governance and execution of a pan-industry compliance agreement which is legally binding; • diverse nature of the parties that would be required to agree the provisions to be included in a pan-industry compliance agreement and the fact that they include direct competitors; • inability to compel new switching participants to execute and join the pan-industry compliance agreement; and • possible Commerce Act risks associated with such an agreement. <p>Gas Industry Co would have no guarantee that such an arrangement would adequately ensure adherence to the switching rules. This is because the rights of enforcement would be restricted to contract signatories and not necessarily extend to consumers (or the Gas Industry Co and its service providers). Nor would the Gas Industry Co (or the Minister) be able to vary the arrangement over time if required or require compliance with it if participants actively colluded to circumvent it.</p> <p>The rights of consumers and Registry Operator to</p>

		<p>report rule breaches cannot be guaranteed in a pan industry agreements.</p> <p>Whilst either a pan industry or regulated arrangement could have substantially the same functions and bodies there are some advantages of a regulated arrangement.</p> <p>The Rulings Panel is provided for under the Gas Act with powers in respect of breaches of gas governance rules or regulations to make certain orders and remedies, including terminating or suspending the rights of any industry participant, with appeal rights and judicial review rights for participants against its decisions. Similarly the investigative powers and obligation are specified under the Gas Act, including rights of entry.</p> <p>These rights and powers are more difficult to achieve under a pan industry agreement e.g. termination or suspension rights may need Commerce Act authorisation, slight legal risk enforcing an award of penalties, appeal rights may be subject to legal thresholds (e.g. high court rules) and judicial review rights may be contestable.</p>
Mighty River Power	Mighty River Power agrees with the analysis in the Compliance Paper Statement of Proposal (Compliance Proposal] and that the Compliance Proposal complies with section 43N of the Gas Act; our only caveat is that section 43G12](c] needs to be amended to include distributors and meter owners (as described above).	See amendment to Gas Act.
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	Yes	

Vector	Has not responded in specific.	
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Question 4: Do submitters have any other information that they consider is relevant to the assessment of the Proposal?		
Contact	Contact agrees	
Genesis	Please see the attached letter for Genesis Energy's views of the appropriateness of an industry-based arrangement as a preferred mechanism to implement a compliance regime for the switching rules.	Refer response to question 3.
Mighty River Power	Mighty River Power agrees with the analysis in the Compliance Paper Statement of Proposal (Compliance Proposal] and that the Compliance Proposal complies with section 43N of the Gas Act; our only caveat is that section 43G12](c] needs to be amended to include distributors and meter owners (as described above).	See response to question 2.
GasNet	No	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	No	
Vector	Has not responded in specific.	

Question 5: Do submitters agree that the benefits relative to the costs of the Proposal are likely to be superior to a voluntary compliance and enforcement regime?		Gas Industry Co Response
Contact	Contact agrees	
Genesis	<p>No. No obvious attempt at a quantitative cost-benefit analysis has been undertaken. To this extent, statements such as: “The Gas Industry Co has concluded that the proposed regulated compliance arrangements will offer a positive net benefit, relative to a voluntary enforcement arrangement...” are highly subjective and can not be relied upon as conclusive evidence. In addition, Genesis Energy is surprised that in support of the regulated approach some reliance is placed on the possibility that, if used as a benchmark model for other arrangements that its establishment costs can somehow be spread over other arrangements, thereby enhancing its net benefit. Genesis Energy has the following observations to make in this regard: 1. there is no mention in the switching rules consultation paper that the development costs associated with those rules will (or even can) be redistributed. The expectation is that existing participants are paying for their development and as such these costs will be considered to be ‘sunk’ and will advantage the cost-benefit analysis of those future arrangements, but not for the switching arrangement – these costs must be fully included; and 2. as the other arrangements have not yet been developed, the Gas Industry Company can only speculate as to the relevance, or not, of the compliance regime that it has developed for the switching rules.</p>	<p>The development costs associated with the compliance regime are paid through the industry levy.</p> <p>From submissions on the NGOCP and Reconciliation Discussion papers Gas Industry Co considers it likely that there will be industry support to utilise the compliance regulations for these arrangements, with amendments as required (e.g. relationship with breaches detected via audits in reconciliation, coverage of service providers).</p> <p>The switching rules provide that the ongoing switching fees include a proportion of ongoing compliance costs, the proportion is to be set by the Board.</p>
Mighty River Power	In respect to questions 5, 6, 7 and 8, Mighty River Power agrees that: The benefits relative to the costs of the Compliance Proposal are likely to be superior to a voluntary compliance and enforcement regime.	
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	WGL agrees with the GIC that a mandatory compliance and enforcement regime is required with regards to switching and other aspects of the gas industry. We would however reserve our judgement with regards to the net benefits verse the cost of this Proposal.	Gas Industry Co has undertaken cost/benefit analysis on ascertainable facts and viable predictions and is comfortable in its assessment of the net benefits of the Switching Rules. It is these benefits which the compliance regime helps

		achieve by ensuring the integrity of the rules.
Vector	Has not responded in specific.	

Question 6: Do submitters agree that the Proposal will lead to a higher level of compliance than a voluntary compliance and enforcement regime?		Gas Industry Co Response
Contact	Contact agrees	
Genesis	No. There is no tangible evidence to suggest such an outcome is more or less likely to be achieved.	The evidence is derived from current lack of compliance with switching arrangements and industry submission in support of introducing a compliance regime. There will be mandatory reporting by the Registry Operator which should raise the level of detection of non compliance, and this transparency should incentivise better compliance by participants.
Mighty River Power	In respect to questions 5, 6, 7 and 8, Mighty River Power agrees that: The Compliance Proposal will likely lead to a higher level of compliance than a voluntary compliance and enforcement regime.	
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	Yes	
Vector	Has not responded in specific.	

Question 7: Do submitters agree that the benefits relative to the costs of the Proposal are likely to be superior to alternative designs? If not, please specify which particular aspects of the design should be amended, stating reasons.		Gas Industry Co Response
Contact	Contact agrees	
Genesis	No. Please see the response to Q5.	See response to Q5.
Mighty River Power	In respect to questions 5, 6, 7 and 8, Mighty River Power agrees that: The benefits relative to the costs of the Compliance Proposal are likely to be superior to alternative designs cited by the GIC in section 7 of its Compliance Proposal.	
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	In general yes but WGL would reserve judgement until the final costs are know.	The final costs can only be known once the compliance regime is in place and operating. Gas Industry Co must rely on predictive cost analysis to determine the best option for compliance.
Vector	Has not responded in specific.	

Question 8: Do submitters agree that the Proposal meets the Regulatory Objective? If not, why?		Gas Industry Co Response
Contact	Contact agrees	
Genesis	Yes, but only to the extent that the Gas Industry Company considers that a regulated solution is more desirable than a non-regulated one.	Refer response to Q3.
Mighty River Power	In respect to questions 5, 6, 7 and 8, Mighty River Power agrees that: The Compliance Proposal meets the Regulatory Objective of providing a high degree of confidence that the proposed Switching Rules will be adhered to, and thereby Objectives of industry body in relation to recommendations for gas governance regulations.	
GasNet	Yes	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	Yes	
Vector	Has not responded in specific.	

Question 9: Do submitters believe the proposed compliance regulations adequately reflect and govern the Proposal? If not, please provide all drafting amendments in mark-up.		Gas Industry Co Response
Contact	Contact agrees	
Genesis	Yes, however, Genesis Energy has, in the attached letter, suggested some improvements that it wishes the Gas Industry Company to consider in its on-going development of the regulated solution.	Some of these suggested improvements have been considered and are set out in response to question 12.
Mighty River Power	Has not responded in specific.	
GasNet	Unable to comment as Appendix 4 not reviewed.	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	Given the time constraints we have not as yet completed our review of Appendix 4.	
Vector	Has not responded in specific.	

Question 10: Do submitters agree with the funding options for the Proposal? If not, please state your reasons.		Gas Industry Co Response
Contact	Contact agrees	
Genesis	Genesis Energy agrees that the costs of the proposed model be recovered by way of a levy. However, Genesis Energy is concerned that this levy may be confused with the current Gas Industry Company levy which is borne by wholesalers and retailers. Any levy imposed should be separate to the current Gas Industry Company levy and be recovered from all participants of the gas switching registry.	<p>Gas Industry Co agrees with Genesis in principle that the beneficiaries of the compliance regime should pay for it.</p> <p>Gas Industry Co has amended the ongoing switching fees to include ongoing compliance costs.</p> <p>The Board will determine what proportion of annual compliance costs will be attributed to switching and other future arrangements.</p> <p>See response to Question 5.</p>
Mighty River Power	Has not responded in specific.	
GasNet	GasNet generally agrees with Clause 8.3 to 8.7 noting that there will be future consultation on the funding mechanism. GasNet welcomes the opportunity to consult in this matter when further details are known.	See above response to Genesis submission.
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	In general yes but we would reserve our judgement until the final details and costings for the proposal are known	See above response to Question 7.
Vector	Has not responded in specific.	

Question 11: Do you have any other comments on the Proposal?		Gas Industry Co Response
Contact	See below.	
Genesis	<p>Genesis Energy has some additional issues it wishes to provide comments on. These are:</p> <ol style="list-style-type: none"> 1. Any decision to appoint or change the Investigator and/or Rulings Panel should be done in consultation with all participants and not by the Gas Industry Company alone. It is important that these positions are occupied by individuals/companies of good standing and knowledge; 2. While the view expressed in 1 above also applies to the position of Market Administrator, Genesis Energy's preference with respect to the role of market Administrator is that it be retained by the Gas Industry Company. Genesis Energy has reached this view on the basis that: <ol style="list-style-type: none"> a. It is a role which requires strong independence and that this is unlikely to be found in any other participant; b. The critical nature of the role is such that a split between accountability for delivery and responsibility for delivery is considered to be highly problematic. Both should rest in one organisation (in this case the Gas Industry Company); and c. The difficulty in aligning the incentives of a third-party service provider appropriately. Ultimately service providers will be incentivised by the form of the payment method. Incentives will vary depending on whether the method of payment is fixed, variable, or some combination. Experience suggests that with these types of services, the transaction costs associated with ensuring the appropriate incentives outweigh the benefits of third-party delivery. Therefore, Genesis Energy recommends that the definition of market administrator be amended to read "means the co-regulatory body"; and 3. Part 3 of the draft Gas Compliance) Regulations 2006 deals with the orders which the Rulings Panel may make while para 49 deals with a monetary penalty of up to \$20,000.00. Genesis Energy would like clarification as to where this penalty would be used. There are, for example, several ways in which this could be distributed: a. to a charitable organisation as agreed to 	<p>Gas Industry Co agrees with some aspects of these submissions and proposes the following changes:</p> <ol style="list-style-type: none"> 1. Gas industry Co considers that the Board has the necessary skills and accountability for appointing the decision making bodies 2. Gas Industry Co will be the Market Administrator but retains the right to contract out the role if required in the future. 3. Penalties will be paid back to Gas Industry Co to offset the costs of compliance and enforcement, which the consumers ultimately pay for.

by industry participants; or b. to off-set the Gas Industry Company's future funding requirements of participants; or c. back to industry participants via some methodology. Genesis Energy would, as an initial suggestion, propose that as any penalty would be punitive as opposed to compensatory it should not therefore in anyway go back to participants (or any subset of participants such as those who may have been adversely affected by the breach).

Genesis included the following submission in its accompanying letter:

4. Genesis Energy is pleased to note the inclusion of an early resolution process into the proposed model. A concern however, still remains regarding the publication of what Genesis Energy would consider alleged breaches but which have been described, in the discussion paper and at the Gas Industry Company's workshop on Thursday 27 September 2006, as breaches. It is Genesis Energy's opinion that for reasons of natural justice, any report of a breach, other than self-reporting, must only be considered to be an "alleged breach". To this end, Genesis Energy would propose that Registry Operator's breach notices to the Market Administrator be renamed to that of "notices of alleged breach";

5. "Notices of alleged breach" must not be published. As discussed at the Gas Industry Company's workshop, Genesis Energy considers that the publication of such notices are:

- a. Simply unproven allegations of breaches that have not been subjected to any independent analysis as to their veracity; and
- b. Not meaningful to either consumers or industry participants to the extent that they do not indicate an actual breach of the rules. As such, the publication of alleged breaches - to the extent that they do not contribute towards providing a high degree of confidence that the rules will be adhered to (the proposed regulatory objective) – will simply create 'white noise' in the process that is unwarranted and a distraction.⁴ Genesis Energy contends that publication should be reserved only for proven breaches of the rules;

6 It is argued that publication of the alleged breaches by the Market Administrator is required in order for the full extent of the parties to the alleged breach to be determined with confidence (paragraph 6.11). Genesis Energy does not consider this to be so. Indeed, Genesis Energy contends that publication of alleged breaches (presumably on the Gas Industry Company's website) is a passive means of communication and that it is more likely for the parties to any alleged breach to be discovered via the

4. Gas Industry Co agrees that all breaches are alleged breaches until proven, this was intended and the regulations have been amended to reflect this.

5. Gas Industry Co agrees that it is not meaningful to consumers for alleged breaches to be published on its website as they are not likely to look at it. Gas Industry Co has decided not to publish alleged breaches, but considers that all switching participants should be made aware of breach allegations. Whilst it may be correct that parties to any alleged breach may be discovered via the Market Administrator initial process of information discovery, there is then no provision for them to join the proceedings. It is a more efficient administrative system if switching participants are given notice of breach allegation. In addition to achieving credibility, there is a need for discourse of breach allegation to incentivise compliance, to allow other participants the right of joinder and to allow participants an opportunity to provide relevant information. An ability to join is particularly desirable if a significant rule breach issue arises which may have wider implications.

There will be publication on Gas industry co website when alleged breach resolved. Publication greatly assists transparency

	<p>Market Administrator's initial processes of information discovery.</p> <p>7. The complexity inherent in determining whether an alleged breach is material.⁵ Genesis Energy notes that there are fifteen criteria proposed as factors to be taken into account when determining materiality. The sheer quantum of potentially conflicting criteria is likely to:</p> <ol style="list-style-type: none"> a. result in uncertainty regarding decisions on materiality – in other words, participants are likely to be unsure how the criteria are being applied in practice; b. lead to participants to game or worst still, litigate the Market Administrator's decisions in an effort to persuade the Market Administrator to weight certain criteria higher than others; and c. create delay in reaching decisions as the Market Administrator seeks to apply the myriad of criteria to real world cases. <p>Rather than the fifteen criteria, Genesis Energy instead proposes that the concept of primary and secondary criteria be implemented. In essence, Genesis Energy considers that the primary criteria should be limited in number (to, for example, no more than two) and be relatively 'black or white' in their application. Such criteria could, for example, be based around a dollar threshold and whether the alleged breach has a direct impact on consumers. Other criteria (such as the fifteen currently proposed or some subset of them) could be applied as the secondary criteria that the Market Administrator could draw on to influence/support its decision based on the primary criteria. Genesis Energy believes that such an approach will avoid the problems outlined above; and</p> <p>8. While rules are undoubtedly an important element in the Gas Industry Company's compliance 'armoury' it is not the only element – the pro-active education of participants is as, if not more, important that the rigorous application of the rules themselves. In light of this, Genesis Energy would find it useful if the Gas Industry Company were to clearly enunciate its overall compliance 'philosophy' or the type of approach it will take with regard to enforcing the rules. For example, that:</p> <ol style="list-style-type: none"> a. the Gas Industry Company will seek to inform and educate industry participants about the rules, their use and applications as a preventative means to avoid enforcement action; b. all parties going through the process can have confidence to disclose full details of any information relevant to the investigation as the Gas Industry Company would ensure that: <ol style="list-style-type: none"> i. any information provided during the investigation phase will be confidential; and ii. the process will be focussed on correcting non-compliance and preventing future non-compliance rather than simply being punitive in nature; 	<p>and also assist industry participants to better understand their obligations.</p> <ol style="list-style-type: none"> 6. Gas Industry Co considers that the criteria need to be weighted and considered for individual cases by the Market Administrator. The two primary thresholds suggested are not necessarily the key criteria, e.g repetitive breaches indicating systemic issues may also give rise to material breaches. 7. Gas Industry Co considers it important that the maximum discretion be granted to the Market Administrator in order to develop pragmatic solutions. It may be helpful if the Market Administrator develops guidelines on this materiality threshold as they are developed. The regulations have been amended to allow for this. 8. Gas Industry Co considers that part of its role of recommending, administering, overseeing then, and reviewing arrangements necessitates a high level of engagement with industry participants both in individual basis when possible, and via industry workshops and seminars. 9. Confidentiality of information is an important aspect of any compliance regime but is balanced against the need for discovery and transparency and proper scope for enquiry into rule breaches. The Market Administrator has power to request information, but no power to require it. The investigator has full powers of information retrieval under the Gas Act. The investigator is bound to keep all information disclosed to them
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	<p>c. The Gas Industry Company will ensure that corrective action is initiated to:</p> <ul style="list-style-type: none"> i. minimise any market consequence that stems from the alleged breach; and ii. seek to minimise the repeat of the non-compliance; and <p>d. Punitive action would only be taken against a participant if:</p> <ul style="list-style-type: none"> i. there was market consequence from the breach that was not resolved by the affected parties; or ii. there was a pattern of repeat 'offending'. 	<p>confidential and participants are to identify any confidential information. The Rulings Panel may request the investigator to obtain any further information and participants must provide any information reasonably requested by the Rulings Panel or the investigator. The Gas Industry Co must publish decisions of the Rulings Panel, however the Rulings Panel may advise the Gas Industry Co not to publish part or all of a decision where there are special circumstances to justify non-publication. This was intended to allow for protection of confidential information.</p>
Mighty River Power	Has not responded in specific.	
GasNet	No	
Ministry Of Consumer Affairs	Has not responded in specific.	
Wanganui Gas	No	
Vector	Has not responded in specific.	

Draft Regulations		Gas Industry Co Response
Clause 4 participant		
Contact	'switching participant" should be "registry participant"	Agreed –inconsistency in defined terms. Definition to include Registry Operator so covered by the compliance regulations.
Clause 6 (2)(a) & (b)		
Contact	<p>(a) 3 years is far too long</p> <p>(b) unsure why this clause is there</p>	<p>These clauses were introduced for legislative consistency, as they appear in the electricity governance regulations (which apply to all compliance arrangements in the electricity sector) and provide a reasonable time limitation for raising breaches.</p> <p>(a) Gas Industry Co used this as a guide and considered that three years was appropriate as some incorrect information breaches may have existed for a considerable length of time before being detected.</p> <p>(b) This clause has been inserted to provide a time limitation for raising a rule breach. The provision is a replica from the electricity governance regulations and is a reasonably standard limitation period.</p>

Appendix F: Draft Compliance Regulations

Draft Gas (Compliance) Regulations 2007

1 Title

These regulations are the Gas (Compliance) Regulations 2007

2 Commencement

These regulations come into force 28 days after the date these regulations are notified in the Gazette.

3 Purpose

These regulations provide for the monitoring and enforcement of the Gas (Switching Arrangements) Rules 2007 made by the Minister of Energy under section 43Q of the Gas Act 1992, as may be amended from time to time.

4 Interpretation

(1) In these regulations, unless the context otherwise requires —

Act means the Gas Act 1992

breach notice means any notice given under regulation 9 , 10 or 11

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

industry body means the industry body approved by the Governor General by Order in Council under section 43ZL of the Act. In the event that the industry body is revoked under section 43ZM of the Act, all references to the industry body shall be replaced with references to the Commission

investigator means any investigator appointed under regulation 25

notifying participant means a participant that gives a breach notice under regulation 9

market administrator means the industry body or the service provider appointed by the industry body under regulation 5 to undertake the role of market administrator

participant means a registry participant as defined in the rules and includes the registry operator

publish means, in relation to a document, to make that document available at no cost —

- (a) on the industry body's website at all reasonable times; and
- (b) in any other manner that the industry body may decide

registry operator means the service provider appointed by the industry body to establish, maintain, and operate the registry

rules means the Gas (Switching Arrangements) Rules 2007 as amended from time to time and includes every schedule to the rules, any code of practice and any technical code and every amendment to, deletion of, or addition to, any of the rules

Rulings Panel or **Panel** means the Panel established by regulation 59.

- (2) Any term that is defined in the rules and used, but not defined, in these regulations has the same meaning as in the rules.
- (3) Any term that is defined in the Act and used in these regulations, but not defined in these regulations or the rules, has the same meaning as in the Act.

5 Role of market administrator

- (1) The role of the market administrator is to —
 - (a) receive breach notices; and
 - (b) provide a filter so that breach allegations that do not raise material issues are not automatically referred to the investigation process and the Rulings Panel; and
 - (c) provide a pragmatic, fast and efficient resolution service for complaints that do not raise a material issue; and
 - (d) refer complaints that do raise material issues to investigators for investigation.
- (2) The industry body may, from time to time, by agreement with a person, appoint that person to undertake the role of market administrator.
- (3) To avoid any doubt, the industry body does not have a conflict of interest by reason of the fact that it may be carrying out the role of market administrator.

6 Breaches

- (1) In these regulations, unless the context otherwise requires, a reference to a participant that has breached a provision of the rules is a reference to a participant that —
 - (a) has contravened the provision; or
 - (b) has attempted to contravene the provision; or
 - (c) has aided, abetted, counselled, or procured any other participant to contravene the provision; or
 - (d) has induced, or attempted to induce, any other participant, whether by threats or promises or otherwise, to contravene the provision; or

- (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by any other participant of the provision; or
 - (f) has conspired with any other participant to contravene the provision.
- (2) In these regulations, unless the context otherwise requires, a reference to a breach (including an alleged breach) of the rules refers only to a breach —
- (a) that was discovered, or ought reasonably to have been discovered, within 3 years of the date of the breach; and
 - (b) that occurred within 10 years of the date of any investigation or other proceedings under these regulations.
- (3) The rules specify which rule breaches are enforceable against the registry operator under these regulations.

7 Relationship between remedies under these regulations or the rules and other remedies

- (1) There is no remedy, other than the remedies provided in these regulations, in respect of a breach of these regulations or the rules.
- (2) In particular, no one can bring an action for breach of statutory duty that is based on a breach of these regulations or the rules by a participant or a service provider.
- (3) However, this regulation does not affect —
- (a) Any right to recover a debt owing under these regulations or the rules by a participant; or
 - (b) Any right to bring any action for any tort other than a breach of statutory duty, for breach of contract, or for any other wrong that arises from any act or omission that is also just happens to be a breach of these regulations or the rules.

Part 1

Reporting and investigation of breaches

Participants must investigate complaints made to them

8 Participants must investigate complaints made to them

- (1) Any person may complain, in writing, to a participant about any business activity of the participant that the person believes might constitute a breach of the rules.
- (2) The participant must ensure that the complaint is promptly, thoroughly, and fairly investigated by the participant, and that appropriate remedial action is taken.

- (3) The participant must promptly notify the person who made the complaint in writing of the result of the investigation and the remedial action (if any) taken by the participant.

Voluntary reporting to market administrator of alleged breaches

9 Participant may notify market administrator of alleged breach

- (1) If any participant believes, on reasonable grounds, that it or another participant has breached the rules, that participant may notify the market administrator as soon as possible of that alleged breach.
- (2) The notice must be in writing and must specify —
 - (a) the participant that is alleged to have breached the rules; and
 - (b) the rule allegedly breached; and
 - (c) the circumstances relating to the alleged breach; and
 - (d) the date and time on which the alleged breach occurred.

10 Voluntary reporting of alleged breaches

- (1) Any consumer or other person (other than a participant) may notify the market administrator if the consumer or other person believes, on reasonable grounds, that —
 - (a) a participant has breached the rules; and
 - (b) that the consumer or other person is affected by that alleged breach.
- (2) The industry body may notify the market administrator of an alleged breach of the rules by a participant of which the industry body becomes aware of by other means.

Mandatory reporting to market administrator of alleged breaches

11 Registry operator must notify market administrator of alleged breach

- (1) If the registry operator believes, on reasonable grounds, that any other participant has breached the rules, then the registry operator must notify the market administrator of the alleged breach as soon as possible.
- (2) The notice must be in writing and must specify —
 - (a) the participant that is alleged to have breached the rules; and

- (b) the rule allegedly breached; and
 - (c) the circumstances relating to the alleged breach; and
 - (d) the date and time on which the alleged breach occurred.
- (3) The registry operator may include notices under subclause (2) in regular reports to the market administrator as agreed between the registry operator and the market administrator.

12 Market administrator must notify participant allegedly in breach

- (1) If the market administrator receives a breach notice, the market administrator must —
- (a) acknowledge receipt of the breach notice by any manner considered appropriate by the market administrator; and
 - (b) notify the participant allegedly in breach of the following:
 - (i) the name of the notifying participant; and
 - (ii) the rule allegedly breached and the circumstances relating to the alleged breach; and
 - (iii) the date and time the alleged breach occurred.
- (2) The market administrator must use reasonable endeavours to give the acknowledgement and notice within 5 working days of receiving the breach notice.

13 Alleged breach must be notified and affected participants may join as parties

- (1) At the same time as the market administrator gives notice under regulation 12(1)(b), the market administrator must notify all other participants of the contents of that notice.
- (2) Within 5 working days after the market administrator notifies the participants of the content of the notice under subclause (1), any participant may notify the market administrator that it considers that it is affected by the alleged breach and wishes to become a party to the breach notice.
- (3) The participant is then joined as a party to the breach notice.

14 Market administrator may request further information

The market administrator may request information about the circumstances of the alleged breach from any of the following:

- (a) the notifying participant or other person that gave the breach notice:
- (b) the participant who is allegedly in breach:

- (c) the registry operator:
- (d) any other participant that has joined as a party to the breach notice.

15 Market administrator must keep information confidential

- (1) The market administrator must keep confidential all information provided or disclosed to it except to the extent that disclosure —
 - (a) is required to enable the market administrator to carry out its obligations and duties under these regulations or the rules; or
 - (b) is otherwise compelled by law.
- (2) Participants that provide or disclose information to the market administrator must identify to the market administrator any information that the participant —
 - (a) considers to be confidential; and
 - (b) considers should not be published under regulation 20 .

Notices and receipt of information

16 Giving of 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 facsimile to the nominated facsimile 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) In the case of an emergency, a person may give notice other than in accordance with subclause (1), but the person must as soon as practicable confirm the notice in writing and by a method set out in subclause (1).

17 When 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;
- (2) In the case of notices sent by electronic transmission or any other similar method of electronic communication -
- (a) At the time the computer system used to transmit the notice –
 - (i) Has received an acknowledgment or receipt to the electronic mail address of the person transmitting the notice; or
 - (ii) Has not generated a record that the notice has failed to be transmitted; or
 - (b) The person who gave the notice proves the notice was transmitted by computer system to the electronic address provided by the addressee.

Market administrator to determine materiality

18 Market administrator to determine materiality

- (1) The market administrator must determine whether an alleged breach raises a material issue on the information provided in the breach notice and any other information obtained in accordance with regulation 14.
- (2) If, in the opinion of the market administrator, the alleged breach does not raise a material issue, the market administrator may, in its discretion,–
 - (a) determine to take no action on the alleged breach; or
 - (b) attempt to resolve the alleged breach with the agreement of the parties in accordance with regulation 21.
- (3) If, in the opinion of the market administrator, the alleged breach raises a material issue, the market administrator must refer the alleged breach to an investigator for investigation.
- (4) If the market administrator is unable to determine whether an alleged breach raises a material issue because the market administrator cannot obtain sufficient information, the market administrator must refer the alleged breach to an investigator for investigation.
- (5) The market administrator may decline to make a determination in respect of an alleged breach that –
 - (a) relates to a matter that has already been referred to; or

(b) the market administrator considers is more properly dealt with by;

the Electricity and Gas Complaints Commission or any other approved complaints resolution system.

19 Factors to be taken into account when determining materiality

(1) The market administrator must, in determining whether or not an alleged breach raises a material issue, take into account the following factors:

- (a) the severity of the alleged breach:
- (b) whether the alleged breach had a material impact on the operation of the market:
- (c) whether the alleged breach appears to have been intentional or malicious:
- (d) whether the participant allegedly in breach took remedial action immediately upon, or soon after, discovery of the breach:
- (e) whether the alleged breach has a potential anti-competitive effect:
- (f) whether the alleged breach has resulted in costs being borne by other participants or persons:
- (g) whether the alleged breach is admitted:
- (h) whether the alleged breach was an isolated event, or indicates a systemic problem with compliance with the rules:
- (i) whether the breach allegation is frivolous or vexatious or is not made in good faith:
- (j) whether, considering the length of time that has elapsed between the date when the alleged breach became known to the participant allegedly in breach and the date when the alleged breach was reported to the market administrator, an investigation of the alleged breach is no longer practicable or desirable:
- (k) whether the participant allegedly in breach is, or has been, subject to any other orders under these regulations:
- (l) the likelihood that the same breach or a similar breach may occur in the future:
- (m) whether the participant allegedly in breach has benefited from the breach:
- (n) whether the complexity of facts warrant investigation:
- (o) any other factors that the market administrator considers relevant.

- (2) The market administrator may publish guidelines from time to time to illustrate how it is weighting and applying these criteria.

20 Decision to be made expeditiously and in a fair and reasonable manner

- (1) The market administrator must make its determination under regulation 18 expeditiously and in a fair and reasonable manner.
- (2) If regulation 18(2)(a) applies, the market administrator must notify the following parties of its determination as soon as practicable:
- (a) the notifying participant or other person that gave the breach notice; and
 - (b) the participant allegedly in breach; and
 - (c) any other participant that has joined as a party to the breach notice under regulation 13.

21 Market administrator to use informal resolution process

- (1) If regulation 18(2)(b) applies, the market administrator must endeavour to resolve the alleged breach with the agreement of the following parties:
- (a) the notifying participant or other person that gave the breach notice; and
 - (b) the participant allegedly in breach; and
 - (c) any other participant that has joined as a party to the breach notice under regulation 13.
- (2) In effecting an agreement, the market administrator may use any process that the market administrator thinks fit.
- (3) Every resolution under regulation 18(2)(b) must —
- (a) be in writing; and
 - (b) specify the details of any breach of the rules that is admitted by a participant; and
 - (c) record the terms of the resolution.
- (4) The persons referred to in subclause (1) must notify their acceptance of the terms of the resolution in writing to the market administrator.

22 Market administrator must publish decisions

The market administrator must —

- (a) notify the industry body in a monthly report to the industry body; and
- (b) subject to regulation 15, publish;

all of its determinations under regulation 18, including the outcome of any resolutions achieved under regulation 21.

Provisions relating to referral of alleged breaches to investigator

23 Market administrator to refer alleged breaches to investigator

- (1) This regulation applies if —
- (a) the market administrator determines under regulation 18(3) that an alleged breach raises a material issue in relation to compliance with the rules and must be referred to an investigator for investigation; or
 - (b) the market administrator determines under regulation 18(4) that the alleged breach will be referred to an investigator for investigation.
- (2) The market administrator must —
- (a) refer the alleged breach to an investigator appointed under regulation 25 selected by the market administrator for the investigation; and
 - (b) notify the following parties that the alleged breach has been referred to an investigator, including the identity of that investigator and contact details:
 - (i) the notifying participant or other person that gave the breach notice; and
 - (ii) the participant allegedly in breach; and
 - (iii) any other participant that has joined as a party to the breach notice under regulation 13; and
 - (c) provide the investigator with all relevant materials provided to, or created by, the market administrator concerning the alleged breach.

24 Right to refer alleged breach to investigator directly

- (1) This regulation applies if —
- (a) the market administrator has determined not to take any action on the alleged breach; or
 - (b) the attempt of the market administrator to resolve the alleged breach with the agreement of the parties in accordance with regulation 21 has been unsuccessful within 35 days after the alleged breach was notified under regulation 13.
- (2) The following parties may require the market administrator to refer the alleged breach to the investigator:

- (a) the notifying participant or other person that gave the breach notice; or
 - (b) the participant allegedly in breach; or
 - (c) any other participant that has joined as a party to the breach notice under regulation 13.
- (3) If subclause (2) applies, regulation 23(2) applies to the market administrator.

Investigation of alleged breaches

25 Appointment and selection of investigators

- (1) The industry body must appoint one or more persons as investigators who have the requisite skills and experience to carry out independent investigations of alleged breaches.
- (2) In selecting an investigator under regulation 23, the market administrator must take reasonable steps to ensure that the investigator selected is free from conflicts of interest in carrying out the investigation.

26 Investigator may appoint other persons to give advice

In carrying out an investigation, the investigator may, subject to the agreement of the market administrator, appoint any external auditor, technical expert, or other persons that the investigator thinks fit to give advice or assistance to the investigator.

27 Investigator must keep information confidential

- (1) The investigator must keep, and must ensure that every person appointed by an investigator under regulation 26 keeps, confidential all information provided or disclosed to them, except to the extent that disclosure —
 - (a) is required to enable the investigator or other person to carry out its obligations and duties under these regulations; or
 - (b) is otherwise compelled by law.
- (2) The investigator must require participants that provide or disclose information to the investigator must identify any information that the participant considers —
 - (a) to be confidential; and
 - (b) should not be included in the investigator's report under regulation 39(3).

28 Funding of market administrator and Investigator

- (1) The industry body must fund the market administrator and any investigators selected by the market administrator.

- (2) The industry body may recover the costs of that funding from industry participants via the ongoing fees in the regulations.
- (3) Nothing in this regulation limits the ability of the Rulings Panel to make orders under section 43X of the Act relating to the reasonable costs of an investigation.

29 Investigator must investigate

The investigator must conduct an investigation of the facts surrounding all alleged breaches notified to it under regulations 21 and 22.

30 Participants must co-operate with investigation

Every participant must co-operate fully with any investigation carried out by the investigator in accordance with section 43U of the Act.

31 Privileges protected

Privileges are protected in accordance with section 43V of the Act.

32 Limits on investigation powers

The investigation powers of the investigator are limited by section 43W of the Act.

Procedures if alleged breach resolved by settlement

33 Settlement process

- (1) The investigator must endeavour to effect a settlement of every alleged breach under investigation by agreement between —
 - (a) the notifying participant or other person that gave the breach notice; and
 - (b) the participant allegedly in breach; and
 - (c) any other participant that has joined as a party to the breach notice under regulation 13.
- (2) In effecting a settlement, the investigator may use any process that the investigator thinks fit, after consultation with the persons referred to in subclause (1).

34 Settlements must be written, etc

- (1) Every settlement must —
 - (a) be in writing; and
 - (b) specify the details of any breach of the rules that is admitted by a participant; and
 - (c) record the terms of the settlement.

- (2) The persons referred to in regulation 33(1) must notify their acceptance of the terms of the settlement in writing to the investigator.

35 Rulings Panel decides whether to approve settlements

- (1) The investigator must provide to the Rulings Panel —
- (a) a copy of the settlement; and
 - (b) a report containing as much of the information specified in regulation 39(3) as the investigator reasonably considers relevant in the circumstances of the matter.
- (2) The investigator may make a recommendation to the Rulings Panel that the Rulings Panel should not approve the settlement on the ground that the settlement is not in the best interests of the gas industry or the public.
- (3) The Rulings Panel must either —
- (a) approve the settlement, in which case the settlement is final and binding on all participants; or
 - (b) reject the settlement.

36 Settlements must be published

- (1) The industry body must publish the terms of every settlement approved by the Rulings Panel under regulation 35.
- (2) However, the Rulings Panel may direct the industry body not to publish any part, or all, of any particular settlement if the Rulings Panel considers that there are special circumstances that justify the non-publication.

37 What happens if Rulings Panel rejects settlement

If the Rulings Panel rejects a settlement under regulation 35(3), it must —

- (a) direct the investigator to further endeavour to effect a settlement under regulation 33; or
- (b) direct the investigator to abandon the investigation; or
- (c) determine the alleged breach itself under regulations 39 to 50.

38 What happens if investigator unable to effect settlement

- (1) If, within the timeframe specified in subclause (2), an investigator is unable to effect a settlement of an alleged breach in accordance with regulation 31, the investigator must refer the alleged breach to the Rulings Panel for determination under regulations 47 to 48.

- (2) The timeframe is —
- (a) within 30 working days (or any longer period that the investigator agrees in writing) of the alleged breach being referred to the investigator under regulation 23; or
 - (b) if applicable, within 10 working days of the investigator further endeavouring to effect a settlement in accordance with a direction given under regulation 37(a).

Process if alleged breach is determined by Rulings Panel

39 Process if Rulings Panel to determine alleged breach

- (1) This regulation applies if the Rulings Panel —
- (a) decides under regulation 37(c) that it will determine an alleged breach itself; or
 - (b) must determine an alleged breach under regulation 38 because an investigator has been unable to effect a settlement between the parties.
- (2) The investigator must provide to the Rulings Panel a report and recommendation sufficient to enable the Rulings Panel to determine the alleged breach.
- (3) The report must, to the extent reasonably practicable, specify or contain the following information:
- (a) the rule allegedly breached; and
 - (b) the participant allegedly in breach; and
 - (c) the estimated date and time the breach allegedly occurred; and
 - (d) the relevant issues raised by the participant allegedly in breach in response to the allegations of breach; and
 - (e) the comments made to the investigator by any other person in response to the relevant issues raised by the participant allegedly in breach; and
 - (f) any additional information that the investigator considers relevant to the decision of the Rulings Panel as to how the matter may be dealt with by the Rulings Panel; and
 - (g) the investigator's assessment of the impact on the other participants of the conduct alleged to constitute the breach; and
 - (h) the investigator's assessment of the likelihood of the alleged breach recurring; and

- (i) details of any similar situations previously dealt with by the Rulings Panel, including any settlement approved by the Rulings Panel under regulation 35(3) in response to those situations (if known by the investigator); and
 - (j) a copy of all correspondence with the investigator or market administrator relating to the alleged breach.
- (4) The investigator must use reasonable endeavours to give the report to the Rulings Panel within 5 working days of —
- (a) the Rulings Panel deciding that it will determine the alleged breach; or
 - (b) the investigator referring the alleged breach to the Rulings Panel for determination under regulation 38.
- (5) The investigator must forward a copy of the report to the following parties as soon as practicable:
- (a) the notifying participant or other person that gave the breach notice; and
 - (b) the participant allegedly in breach; and
 - (c) any other participant that has joined as a party to the breach notice under regulation 13.

40 Rulings Panel to set date for considering alleged breach

- (1) If regulation 39(1) applies, the Rulings Panel must set a date for considering the alleged breach, and must give to the persons referred to in subclause (2) at least 20 working days notice of the place, date, and time at which the Rulings Panel will consider the alleged breach.
- (2) The following persons are entitled to be heard at any hearing or, if there is to be no hearing, to provide written submissions and evidence:
- (a) the notifying participant or other person that gave the breach notice:
 - (b) the participant allegedly in breach:
 - (c) any participant that has joined as a party to the breach notice under regulation 13:
 - (d) the investigator who investigated the alleged breach.

Part 2

Proceedings of Rulings Panel

41 Rulings Panel may regulate own procedures

- (1) The Rulings Panel may regulate its own procedures, except as otherwise provided in these regulations, and subject to the requirements of natural justice.
- (2) The Rulings Panel must provide a summary of its procedures to the industry body and the industry body must publish those procedures.

42 Rulings Panel must conduct hearings

- (1) The Rulings Panel must conduct a hearing in respect of a matter that is being considered by the Rulings Panel —
 - (a) if the Rulings Panel considers that it is appropriate for any participant to be given an opportunity to be heard; or
 - (b) if any participant requests a hearing in respect of the matter.
- (2) Hearings must be in public, unless the Rulings Panel directs otherwise.
- (3) If there is no hearing the Rulings Panel must consider and decide the matter on the basis of the written submissions and evidence provided in accordance with regulation 40(2).

43 Pre-hearing statements and materials

- (1) If there is to be a hearing, the Rulings Panel must ensure that the persons referred to in regulation 40(2) have been provided with —
 - (a) a copy of any report provided by the investigator under regulation 39; and
 - (b) a copy of all relevant material collected or prepared during the course of the investigation of the matter up to the time the statement is provided.
- (2) The Rulings Panel must comply with subclause (1) —
 - (a) not less than 10 working days before the hearing; or
 - (b) if the Rulings Panel, in its discretion, decides that an urgent hearing is desirable, as soon as practicable.

44 Private hearings may be opposed

- (1) If the Rulings Panel decides that a hearing should be held in private, it must advise the industry body, and the industry body must publish the decision of the Rulings Panel and the grounds for that decision.
- (2) Any participant that disagrees with the decision may, within 5 working days of the decision being published, make a written submission to the Rulings Panel setting out the reasons for its disagreement.
- (3) The Rulings Panel must consider the submission and then advise the industry body of its decision in respect of that submission.

- (4) The industry body must publish any further decision of the Rulings Panel and the grounds for that further decision.

45 Urgent hearings

If the Rulings Panel considers that the subject matter of a hearing involves a significant area of dispute, or is a matter of urgency, it must arrange for a hearing to take place as soon as practicable.

46 Evidence not otherwise admissible

- (1) The Rulings Panel may receive in evidence any statement, document, or information that would not otherwise be admissible as evidence that may, in its opinion, assist it to deal effectively with its consideration of a matter.
- (2) This regulation is subject to regulation 31.

47 Rights of persons entitled to be heard at hearing

- (1) Subject to regulations 42 to 44, any person that is entitled to be heard under regulation 40(2) at any hearing of the Rulings Panel, —
- (a) is entitled to be represented:
 - (b) must be given a reasonable opportunity to make written and oral representations:
 - (c) is entitled to call witnesses and to cross-examine any witness called against it:
 - (d) is entitled to make a plea to the Rulings Panel in mitigation of penalties:
 - (e) is entitled to have any other person present to give evidence.
- (2) At any hearing of the Rulings Panel, the investigator who has investigated the alleged breach must, if requested to do so by the Rulings Panel, speak to his or her report and recommendation provided under regulation 39(2).

48 Rulings Panel may request further information

- (1) The Rulings Panel may request the investigator to obtain any further information if the Rulings Panel considers that, in relation to any matter before it, the Rulings Panel does not have sufficient information for it to determine what action to take under regulation 51.
- (2) The Rulings Panel may make the request of its own initiative or following an application by any person referred to in regulation 40(2).
- (3) Participants must provide any information reasonably requested by the Rulings Panel or the investigator under this regulation.
- (4) Subclause (3) is subject to regulation 31.

49 Rulings Panel may seek advice

- (1) The industry body may approve as industry experts any external auditor, technical expert, or other person to give advice or assistance to the Rulings Panel as and when required.
- (2) In determining an alleged breach of the rules, the Rulings Panel may, subject to the agreement of the industry body, employ or otherwise seek advice or assistance from not more than 2 industry experts approved by the industry body.

50 Participant may make written submissions

- (1) Any person referred to in regulation 40(2) may make written submissions to the Rulings Panel on the subject of any order that the Rulings Panel may make, including any penalty.
- (2) Any submission under this regulation must be made by the date set by the Rulings Panel as the closing date for submissions.

Part 3

Decisions of Rulings Panel

51 Rulings Panel may make certain orders

The Rulings Panel may, after considering any allegation that a participant has breached the rules, make any order specified in section 43X(1) of the Act.

52 Offence to breach compliance orders

Every participant commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000, who breaches an order made under section 43X(1) of the Act.

53 Rulings Panel may order payment of civil pecuniary penalty up to \$20,000

- (1) The Rulings Panel may require a participant to pay to the industry body a civil pecuniary penalty of an amount not exceeding \$20,000 in any case where that participant has breached any provision of the rules.
- (2) When ordering payment of a civil pecuniary penalty, the Rulings Panel must —
 - (a) take account of the level of civil pecuniary penalties it has ordered in any similar situations; and
 - (b) seek to order payment of a civil pecuniary penalty that is commensurate with the seriousness of the case.
- (3) In making that assessment, the Rulings Panel must have regard to the following matters:

- (a) the severity of the breach:
- (b) the impact of the breach on other participants:
- (c) the extent to which the breach was inadvertent, negligent, deliberate, or otherwise:
- (d) the circumstances in which the breach occurred:
- (e) any previous breach of the rules by the participant:
- (f) whether the participant disclosed the matter to the market administrator:
- (g) the length of time the breach remained unresolved:
- (h) the participant's actions on learning of the breach:
- (i) any benefit that the participant obtained, or expected to obtain, as a result of the breach:
- (j) any other matters that the Rulings Panel thinks fit.

54 Rulings Panel decisions

- (1) The Rulings Panel must use reasonable endeavours to make its final decision on each matter under its consideration within 40 working days of the date by which it has received all written and oral submissions on the matter.
- (2) The Rulings Panel must give the decision, in writing together with the reasons for the decision, to the persons that were entitled to be heard under regulation 40(2).
- (3) The Rulings Panel must give the decision to the industry body as soon as practicable after the decision is made.

55 Decisions must be published

- (1) The industry body must publish every decision made by the Rulings Panel under this Part, together with the reasons for the Panel's decision, within 10 working days of receiving the decision from the Rulings Panel.
- (2) However, the industry body must not publish any part, or all, of any particular decision if the Rulings Panel advises the industry body that there are special circumstances that justify the non-publication.

56 Participants must comply with orders and directions

- (1) Every participant must comply with every order relating to it, including any direction or arrangement made by the Rulings Panel for the purpose of giving effect to the order.

- (2) Every participant must perform any action, or make any payment, directed by the Rulings Panel within 10 working days of receiving notice of the direction, or any longer period that the Rulings Panel allows.

57 Sums to be paid by party are debt due

- (1) Any sum due to be paid by a participant under these regulations is a debt due by the participant and is recoverable as such in any court of competent jurisdiction..
- (2) A failure by a participant to pay a sum due to be paid under these regulations is a breach of these regulations.
- (3) A sum that is not paid when due bears interest at the prescribed rate (within the meaning of section 87 of the Judicature Act 1908).

58 Liability of registry operator

The registry operator is not liable under these regulations for a sum in excess of –

- (a) \$20,000 in respect of any one event or series of closely related events arising from the same cause or circumstance; or
- (b) \$100,000 in respect of all events occurring in any financial year.

Part 4

Rulings Panel

59 Establishment of Rulings Panel

- (1) A Rulings Panel is established.
- (2) The Rulings Panel is a body corporate with perpetual succession.

Functions of Rulings Panel

60 Functions of Rulings Panel

The functions of the Rulings Panel are to —

- (a) determine, in accordance with these regulations, whether a participant has committed a breach of the rules:
- (b) propose to the industry body that it recommend to the Minister a change to any regulation or rule that the Rulings Panel considers, in the course of considering any matter, to be necessary or desirable:
- (c) exercise any other functions or powers conferred on the Rulings Panel by these regulations.

Membership of Rulings Panel

61 Membership of Rulings Panel

- (1) The industry body must, by written notice, appoint one person with the characteristics described in regulation 69 to be the member of the Rulings Panel.
- (2) A member of the board of the industry body may not be appointed as a member of the Rulings Panel.
- (3) The appointment is effective from the latest of —
 - (a) the date specified in the notice of appointment; or
 - (b) the day that the appointee provides the industry body with written consent to the appointment and a written undertaking to be bound by these regulations.

62 Alternate member

- (1) The industry body may appoint a person with the characteristics described in regulation 69 to act as the alternate of the member of the Rulings Panel in accordance with this regulation.
- (2) The alternate member may act in place of a member of the Rulings Panel, but only if that member of the Rulings Panel is unable by illness, absence, or other reason to so act.
- (3) The alternate member is to be treated as a member of the Rulings Panel for the purposes of the performance or exercise of any function, duty, or power under these regulations.
- (4) Unless the context otherwise requires, a reference to a member of the Rulings Panel in these regulations also includes a reference to the alternate member.
- (5) No appointment of a person under this regulation as the alternate member and no acts done by that person or the Rulings Panel while that person is the alternate member, may in any proceedings be questioned on the ground that the occasion of the person's appointment had not arisen or had ceased.

63 Restrictions on membership of Rulings Panel

The following persons are disqualified from being members of the Rulings Panel:

- (a) a person who is an undischarged bankrupt:
- (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under section 382, 383, or 385 of the Companies Act 1993:

- (c) a person who is subject to a property order made under section 10, 11, 12, 30, or 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act:
- (d) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon or served the sentence or otherwise suffered the penalty imposed on the person:
- (e) a person who has failed to disclose all interests under regulation 69:
- (f) a person who is not a natural person.

64 Term of appointment

- (1) A member of the Rulings Panel —
 - (a) holds office for the term specified in his or her notice of appointment, which may be up to 5 years; and
 - (b) may be reappointed; and
 - (c) continues in office despite the expiry of his or her term of office until—
 - (i) that member is reappointed; or
 - (ii) that member's successor is appointed; or
 - (iii) the industry body informs that member by written notice that he or she is not to be reappointed and no successor is to be appointed.
- (2) This clause is subject to regulation 67.

65 Removal and resignation of member of Rulings Panel

- (1) The industry body must remove a member of the Rulings Panel in the event of his or her serious misconduct, inability to perform the functions of the office, or if he or she becomes a person to whom any of the paragraphs in regulation 63 apply.
- (2) The industry body must state its reasons in any notice of removal.
- (3) The industry body must fill the vacancy created by a removal as soon as possible.
- (4) A member of the Rulings Panel may resign from office by written notice to the industry body signed by him or her.
- (5) The resignation is effective on receipt by the industry body of the notice, or at any later time specified in the notice.

66 No compensation

No member of the Rulings Panel is entitled to any compensation or other payment or benefit relating to his or her removal from office.

67 Member ceasing to hold office

A member of the Rulings Panel ceases to hold office if he or she —

- (a) resigns in accordance with regulation 65; or
- (b) is removed from office in accordance with regulation 65 or any other enactment; or
- (c) becomes disqualified from being a member under regulation 63; or
- (d) otherwise ceases to hold office in accordance with any enactment.

68 Validity of acts

The acts of a person as a member of the Rulings Panel are valid even if —

- (a) the person's appointment was defective; or
- (b) the person is not qualified for appointment.

69 Characteristics of Rulings Panel

A member of the Rulings Panel —

- (a) must have the requisite knowledge, skills, and experience to carry out the functions to be performed by the Rulings Panel; and
- (b) must act impartially in carrying out those functions.

70 Member of Rulings Panel must not be interested

(1) No person may be appointed as a member of the Rulings Panel if that person —

- (a) has a material financial interest in a participant; or
- (b) is a director, officer, member, employee, or trustee of a participant; or
- (c) is otherwise directly or indirectly materially interested in a participant.

(2) A member is "interested" in a matter relating to the Rulings Panel if, and only if, the member —

- (a) is a party to, or will or may derive a material financial benefit from the matter; or
- (b) has a material financial interest in another party to the matter or in a person to whom the matter relates; or

- (c) is a director, officer, member, or trustee of another party to, or a person who will or may derive a material financial benefit from the matter; or
- (d) is the parent, child, or spouse of another party to, or a person who will or may derive a material financial benefit from the matter; or
- (e) is otherwise directly or indirectly materially interested in the matter.

71 Obligation to disclose interest

- (1) Any member of the Rulings Panel who is interested in a matter relating to the Rulings Panel must —
 - (a) disclose the nature of the interest in accordance with regulation 72 as soon as practicable after he or she becomes aware that he or she is interested; and
 - (b) immediately step aside from any deliberations or decision of the Rulings Panel in relation to the matter.
- (2) If subclause (1) applies, the alternate member must act in place of the interested member.

72 Method of disclosure of interest

- (1) If regulation 71 applies, the member must disclose the details listed in subclause (2) in an interests register and to the industry body.
- (2) The details are —
 - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
 - (b) the nature and extent of the interest (if the monetary value cannot be quantified).

73 Remuneration and expenses of Rulings Panel

A member of the Rulings Panel is entitled to receive, from the funds of the Rulings Panel, —

- (a) remuneration and other benefits for services as a member at a rate and of a kind determined by the industry body; and
- (b) reasonable and actual travelling and other expenses relating to the performance of his or her duties and responsibilities as a member.

Other matters relating to Rulings Panel

74 Funding of Rulings Panel

- (1) The industry body must fund the Rulings Panel.
- (2) The industry body may recover the costs of that funding from industry participants through the charging of ongoing fees under the rules.
- (3) Nothing in this regulation limits the ability of the Rulings Panel to make orders under section 43X of the Act relating to the reasonable costs of an investigation.

75 Powers

The Rulings Panel has all the powers necessary to enable it to perform its functions.

Miscellaneous provisions

76 Rulings Panel to keep information confidential

The Rulings Panel must keep confidential all information provided or disclosed to it under these regulations except to the extent that disclosure —

- (a) is required to enable the Rulings Panel to carry out its obligations and duties under these regulations; or
- (b) is necessary for complying with regulations 71 and 72; or
- (c) is otherwise compelled by a law other than these regulations.

77 Rulings Panel may prohibit publication of information

- (1) The Rulings Panel may prohibit the publication or communication of any information or document —
 - (a) that is, or is intended to be, supplied or given or tendered to, or obtained by, the Rulings Panel under these regulations; or
 - (b) in connection with any notification, investigation, report, or procedure under Part 1 or 2 or 3.
- (2) The Rulings Panel may make the prohibition only after it has had regard to the following factors:
 - (a) whether the information or document is confidential, commercially sensitive, or otherwise unsuited to publication or communication; and
 - (b) whether the publication or communication is required to enable the Rulings Panel to carry out its obligations under these regulations; and
 - (c) whether the publication or communication is compelled by a law other than these regulations; and
 - (d) the rules of natural justice.

- (3) The Rulings Panel may make the prohibition —
- (a) on the application of any participant or on its own application; but
 - (b) only after notifying each participant that the Rulings Panel considers would be affected by the publication, communication, or prohibition; and
 - (c) only after having regard to any views that the participant may make known to the Rulings Panel within the time specified by the Panel.

78 Liability of Rulings Panel

No member or employee of the Rulings Panel is personally liable for —

- (a) any liability of the Rulings Panel; or
- (b) any act done or omitted to be done by the Rulings Panel, any member, or any employee of the Rulings Panel, in good faith in pursuance or intended pursuance of the functions, duties, or powers of the Rulings Panel.

79 Rulings Panel costs and performance objectives

- (1) As early as practicable before the beginning of each financial year, the industry body and the Rulings Panel must agree on a budget for the expenses anticipated by the Rulings Panel, and on any performance objectives for the next 12 months.
- (2) Each month, the Rulings Panel must provide the industry body with a written report on actual costs incurred during the month compared with budgeted costs.
- (3) If the Rulings Panel anticipates incurring expenditure in excess of any budgeted amount, it must notify the industry body and apply for a variation to the agreed budget.

80 Rulings Panel reports quarterly on other matters

At the end of each quarter of the financial year, the Rulings Panel must provide the industry body with —

- (a) a summary of the decisions made by the Rulings Panel during that quarter, including details of all awards of costs and compensation; and
- (b) a summary of the current workload of the Rulings Panel, ability to meet performance objectives, and resources; and
- (c) any other matters of concern.

81 Rulings Panel reports annually

At the end of each financial year, the Rulings Panel must provide the industry body with an annual report —

- (a) summarising the performance of the Rulings Panel against budget for the financial year; and
- (b) summarising the decisions of the Rulings Panel during the financial year; and
- (c) summarising the performance of the Rulings Panel during the financial year against agreed performance objectives; and
- (d) commenting on any area of these regulations or the rules where the Rulings Panel considers that a change is required.

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