

## **Insolvent Retailers Working Group: Meeting 2**

**Date:** Wednesday 27 November 2013

**Time:** 11.00 to 13:15

**Venue:** Gas Industry Co, Level 8, the Todd Building, 95 Customhouse Quay, Wellington

# Minutes

## **Present**

### **Members**

- ❖ Joan Purdie
- ❖ Anna Carrick
- ❖ Andrew Maseyk
- ❖ Mark Hermann
- ❖ Rod Crone
- ❖ Jim Raybould

### **In attendance from Gas Industry Co**

- ❖ Andrew Walker
- ❖ Pamela Caird
- ❖ Marianna Pekar
- ❖ Pip Kerfoot

## **1 Welcome and matters arising from the last meeting**

The meeting opened at 11:00.

Gas Industry Co staff welcomed members of the Insolvent Retailers Working Group (IRWG). Observations were invited on the previous IRWG meeting's minutes; no comments were received.

## 2 Changes to the Switching Rules and GIEP4 file format

### (a) Alignment with Electricity Authority's process

Andrew called for comments on the process outline presented in the draft 'drafting instructions'.

One IRWG member reminded the group of the Electricity Authority's ('EA') arrangements to manage a retailer default situation. Amendments to the Electricity Industry Participation (Managing Retailer Default Situations) Code ('Code') have been gazetted.<sup>1</sup> Since the Code change is finalised, alignment should be sought with the EA's Code regarding the trigger for the retailer default process. According to the amended Code, a regulated process for resolving a retailer default is initiated when a retailer does not fulfil financial obligations to the clearing manager, becomes insolvent, or the retailer's use-of-system agreement ('UoSA') with a distributor is terminated because of a serious financial breach by the retailer.<sup>2</sup> One other retailer pointed out that a defaulting retailer is different from an insolvent retailer.

Other participants found the EA's timeline and the position of the trigger for invoking regulations problematic: the process timeline is compressed and would interrupt a standard gas retailer's insolvency process. A similar arrangement in the gas industry is, for this reason, undesirable.

Pam responded that there are fundamental differences in the regulatory roles of Gas Industry Co and the EA and in the gas and electricity markets themselves which dictate that a unified policy response may not be required. Alignment will be made with the EA's processes within the limitations of what Gas Industry Co is empowered to do; the trigger for invoking insolvency regulations should remain as the point where the liquidator disclaims the contracts.

It was appreciated by members that Gas Industry Co should not aim to align its process with EA's process timeline (a 17-day process) for resolving a default or with any processes described in the Code relating to the clearing manager.

### (b) Changes to the Switching Rules

Gas Industry Co staff indicated that information required to be provided on notification day by clause 6 of the 2010 Regulations will be placed into a separate section of the Gas (Switching Arrangements) Rules 2008 ('Switching Rules'). This will ensure that parties will need to be ready to respond to requests by Gas Industry Co to contribute in order to successfully manage the situation created by the insolvency. Gas Industry Co is seeking legal advice on whether the information request can be

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<sup>1</sup> Code changes were gazetted on 4th November 2013 and will come into effect on 16th December 2013.

<sup>2</sup> and certain other conditions are met

accommodated by the Switching Rules.

### **(c) GIEP4**

Gas Industry Co staff discussed the introduction of a new gas information exchange protocol ('GIEP') designed to standardise the format of information exchange between the insolvent retailer and Gas Industry Co (and recipient retailers). Andrew presented the group with the EIEP4 file format as a starting point to the GIEP4 design and initiated a discussion on headings to be added or removed from that format.

It was pointed out by an IRWG member that EIEP4 is not used for the same purpose as the proposed GIEP4 information exchange protocol, therefore it can be tailored for the specific purpose of information exchange in case of gas industry retailer insolvency. Members pointed Gas Industry Co staff to the latest version (version 10) of the EIEP4 format.<sup>3</sup>

Further, IRWG members discussed whether ICP status is a relevant field in the file format, as this information is already stored in the gas registry. Andrew suggested that comparing ICP status in the insolvent retailer's system and in the gas registry might be a useful tool of data validation for the recipient retailer.

It was suggested by members that instead of 'annual consumption (in GJ)', actual meter read information from the latest available 12 months - converted into an agreed unit of measurement - would provide more reliable information about consumption history for the recipient retailer; annualised consumption changes monthly. Two retailers indicated that they do not use estimated meter reads, only actuals and store six months of data, while all other retailers would probably keep records of 12 months of consumption information.

IRWG members noted that fixed and variable pricing is not necessary to be included in the file format, if the customer adopts the recipient retailer's standard or better pricing.

As a result of the discussion it was agreed that a GIEP4 format should contain the headings as presented in Table 1 below.

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<sup>3</sup> to be published in the next couple of weeks

**Table 1. Proposed GIEP4 headings**

Description	Example
Detail record type	DET – indicates the row is a detail record
ICP identifier	0123456789XXCCC
Customer name	Legal name or the name of the customer. Multiple names to be concatenated into one field, eg MR F DAGG & MRS MARY MUIR
Phone Number Home	Home land line phone number
Phone Number Work	Number person can be contacted at during business hours
Phone Number Mobile	Cell phone number
Fax number	
Email address	
Postal free form	All postal fields can be null. But are mandatory if available.
Postal address unit	Sub dwelling number; Level of sub dwelling
Postal address num	Number issued by government agency or local government authority that identifies a point or location on a street for postal purposes.
Postal address street	Official road name issued by government agency or local government authority.
Postal Box/RD	Number assigned to a postal delivery box or rural delivery number.
Postal address suburb	A bounded locality within a city, town or shire principally of urban character.
Postal address town	An officially recognised and named population centre, defined within a geographic boundary.
Postal address postcode	The post code assigned by NZ post (zip code if outside NZ).
Postal address country	The country for postal information
Event date	In relation to an ICP, means the date on which an arrangement between a customer and a retailer for the supply of gas at the ICP comes into effect, eg 30/12/2000
Customer no.	Retailer’s customer number (the identifier that the retailer assigns to the customer which remains the same across all the connections for the customer)
Consumer no	Retailer’s consumer number – defined as the retailer’s unique ID that links the premises and the customer. If not available, then null.
Customer title	Separated customer title details
Surname	Separated customer surname details (populate with separated company

	name(s) if customer includes a company)
First name	Separated customer first name details
Gas gate code	eg GTA03610
Network price category code	Network price category code to allow the distributor to provide other information relevant to the network pricing of the ICP's consumer installation. eg 4G10
Loss factor code	The code that identifies the loss factor applicable to the ICP's consumer installation.
Maximum Hourly Quantity (MHQ)	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 for the capacity of the gas service pipe or metering equipment serving the consumer installation. Mandatory only, where MQH is used to determine the distributor's network charges. May be conveyed by means of a 'disclosure on application' code.
Dual fuel customer	Y/N
CCM band	Critical contingency management curtailment band as specified in the Gas Governance (Critical Contingency Management) Regulations 2008, eg 1a (more than 15TJ consumption per day, consumers [excluding essential service providers] supplied directly for the transmission system and have an alternative fuel capability.
ICP status	A code representing the ICP status. ICP status is maintained by the responsible distributor, At ICP creation and ICP readying, the value is assigned by the gas registry, eg ACTC
Consumption (GJ)	Actual metered energy quantities in the past available 12 months
Dog notes	Dog on site? Y/N
Locked property	Y/N

Additional rows

IRWG members agreed that a draft GIEP4 file format will be circulated among members for review before public consultation.

**(d) Other topics**

Gas Industry Co members were questioned about the progress of populating metering fields in the gas registry, Andrew assured members that work had already commenced.

**Action:**

- Gas Industry Co to circulate draft GIEP4 file format among IRWG members and to invite comments.

Gas Industry Co staff provided the group with copy of the draft 'drafting instructions' and discussed each paragraph of that draft.

### **(a) Triggers for invoking regulations**

The question was asked whether the disclamation of residual inactive ICPs would trigger the regulations. Andrew explained that the purpose of the pre-trigger being placed in the Switching Rules is to allocate these vacant ICPs to responsible retailers. IRWG members requested this clarification to be made in the drafting instructions.<sup>4</sup>

The question emerged whether any disclamation or only en masse disclamation of customer contracts would trigger regulations. Andrew explained that the drafting instructions should be tailored for each specific case of retailer insolvency.

### **(b) Transfer by industry body of insolvent retailer's customer contracts**

Two members questioned Gas Industry Co's right to transfer customer contracts; it may depend on the customers' terms and conditions whether a contract can be transferred or assigned. Disclaimed contracts should be regarded as terminated and the recipient retailer's responsibility is to form a new contract with the customer. Further, it was discussed that throughout the drafting instructions instead of 'contract transfer', the term 'ICP transfer' should be used.

It was pointed out that providing a transition period during which customers' terms and conditions are unchanged would disincentives large customers to switch during the transition period staying on their – possibly favourable - terms as long as they can. Another member mentioned that these customers being put on the standard terms and conditions of the recipient retailer would better encourage them to shop around for an offer. Andrew pointed out, that large customers – often directly connected to the transmission pipeline – have 'READY' status in the gas registry and have no responsible retailer assigned to them anyway. These customers purchase gas from multiple retailers reducing their supply risk in case of retailer insolvency.

It was agreed among members that large sites consuming gas would be very unlikely to become disowned in case of retailer insolvency because these customers are less likely to have their contracts disclaimed. On the other hand, finding a new retailer and negotiating the terms and conditions of a new contract is more challenging for them.

IRWG members also stressed that there is a significant cost attached to disconnecting customers and no one wants to bear those costs.

### **(c) Process of transferring contracts**

The 2010 Regulations proposed that recipient retailers must be each retailer that – on

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<sup>4</sup> in paragraph 3 of the drafting instructions

the day after the notification day – has more, than 10% of the total number of ICPs for which the registry shows the status ‘active-contracted’, while other retailers can opt in if they wish.

IRWG members sought clarification on how the 10% threshold is applied, eg by allocation groups. Gas Industry Co staff clarified, that while the draft and the 2010 Regulation proposed the 10% threshold to be applied to overall ICP count, a better solution might be that

- retailers with a total volume market share more than 10% would be recipient retailers of AG1-3 customers; and
- retailers with a total ICP market share of more than 10% would receive AG4-6 customers.

One IRWG member suggested that Gas Industry Co adopts a similar methodology to the EA’s proposed approach:<sup>5</sup>

- involving the mandatory assignment of remaining customers to retailers based on market share in a region **without** using a de-minimus threshold; and
- retailers concerned about the risks of accepting customers could object to the allocation on the basis that the assignment would seriously threaten their financial viability.

Members reasoned that in case the recipient retailer is not obligated to supply gas to transferred customers on the terms and conditions set out in the transferred customers contracts, retailers would be willing to cope with no de-minimus threshold, assuming that they can submit a case if they wish to opt out due to concerns about their financial viability.

Gas Industry Co staff presented a worked example of customer transfer:

- customers were classified into non-domestic/domestic groups, then by transmission pipeline, then by load groups and finally by network pricing categories;
- it was indicated that AG1-3 customers were allocated pro rata with their annual consumption, using the latest available 12 months consumption, based most accurate available allocation information,<sup>6</sup>
- AG4-6 consumers were allocated pro rata with their market share of active-contracted ICP within their network pricing category. The same allocation methodology applied to all other ICP statuses (ACTV, INACP, and INACT),

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<sup>5</sup> more information on EA’s approach and submitters’ view, available [here](#)

<sup>6</sup> exact methodology is yet to be established

these ICPs were also allocated pro rata with active-contracted ICP market share.

- The example showed that while considerable (multiple-fold) changes might occur in certain network pricing categories for some retailers, the customer base of recipient retailers will not change as a result of customer allocation.

It was suggested by members that gas gate level allocation might be a good idea to introduce some level of granularity to the allocation methodology. As one retailer pointed out, receiving customers on the same pipeline – but in Whangarei instead of Auckland - could be challenging for retailers. Another member said that for AG1-2 customers, pipeline-level granularity is satisfying.

Members asked Gas Industry Co staff about the format of disclosing a detailed allocation methodology. Marianna answered that Gas Industry Co is aware that the EA proposed to publish a guideline explaining the process and actions of the EA, because keeping the detail of the allocation approach in a guideline would give the EA and the participants more flexibility if the process is ever used. Gas Industry Co probably does not need to produce a separate document, as the proposed format – drafting instructions – already provides enough flexibility.

#### **(d) Transition period**

Gas Industry Co presented IRWG members with two options to consider:

- according to 'Option A' the recipient retailer to whom a customer contract is transferred must supply gas to the transferred customer, on terms and conditions set out in the transferred customer contract during the transition period;<sup>7</sup> and
- in accordance with 'Option B' the transferred customer will be supplied gas on the recipient retailer's standard – or 'better' – terms and conditions during the transition period.

Option B - advocated by IRWG members on the last meeting<sup>8</sup> - was reemphasised by the working group. Retailers argued that in case of a standard insolvency - eg in the telecommunication sector - customers of the insolvent service provider cannot expect to keep the terms and conditions of their previous provider. Retailers are also aware of the difficulties of incorporating tariffs into their system for the transition period and of the losses that incorporating a suboptimal pricing plan can cause.

One member mentioned that the EA now requires recipient retailers to transfer

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<sup>7</sup> as included in the Gas Governance (Insolvent Retailers) Regulations 2010 ('2010 Regulations')

<sup>8</sup> minutes from the 16<sup>th</sup> October 2013 IRWG meeting is available [here](#)



customers on “standard or more advantageous” terms.<sup>9</sup>

Gas Industry Co indicated that legal advice has been sought on whether Gas Industry Co can implement Option B.

Marianna asked retailers about standard terms and conditions for customers in AG4 and larger customers, as this information is usually not displayed on the retailers’ website. Retailers confirmed that they have standard pricing plans for customers who match the size criteria for AG4 (250GJ-10TJ); - depending on their consumption - usually standard domestic terms apply to most AG4 customers.<sup>10</sup>

### **(e) Transmission capacity of insolvent retailer**

One participant suggested changes to the section in the drafting instructions about transmission capacity; these changes are mostly clarifications and wording changes.

#### **Action:**

- Gas Industry Co to incorporate changes to paragraph 15, ‘Transmission capacity of insolvent retailer’; and
- Gas Industry Co to revise the drafting instructions and circulate it among IRWG members before public consultation.

## **4 Wrap up and next steps**

Minutes will be circulated amongst members for comments.

Gas Industry Co will circulate the following IRWG material amongst members for review and comments:

- draft GIEP4 information exchange file format; and
- revised draft ‘drafting instructions’.

The meeting closed at 13:15.

### **Next meetings**

No new meeting has been scheduled.

<sup>9</sup> Electricity Industry Participation (Managing Retailer Default situations) Code Amendment 2013 can be viewed [here](#).(clause 11.15B (b)(ii))

<sup>10</sup> consumer installation where the rolling 12-month actual or expected consumption is between 250GJ-10TJ