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Gas Industry Governance Issues

Delivering the GPS – Industry Workshop
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1. Governance – what do we mean?
2. Co-regulation
3. Existing arrangements
4. New Arrangements under development
5. Enforcing rules
6. Commerce Act
7. Possible governance model
8. Some design issues

The 8 Myths Exposed

Gas Industry Co has....

- Focus on market development and infrastructure access
- No power to
 - approve industry agreements/codes or
 - make industry agreements/codes binding
- Constitution which specifies its functions
- Initial view that rules may be better than contracts for mandatory coverage
- Restrictions on use of levy funds
- Power to recommend rules and regulations
- Obligation to follow Gas Act objectives

What is “governance”?

Focus of this presentation is on:

- establishing and changing industry rules
- monitoring and enforcing industry rules

Constitution deals with the:

- process for electing Board members
- decision-making processes of the Board

The co-regulatory model involves:

- An industry owned company
- Working within the parameters set by the Gas Act and GPS
- Developing pan-industry arrangements
- Using industry processes
- Using formal consultation
- Achieving Government objectives
- Meeting industry requirements

Comparison with Electricity Sector Regulation

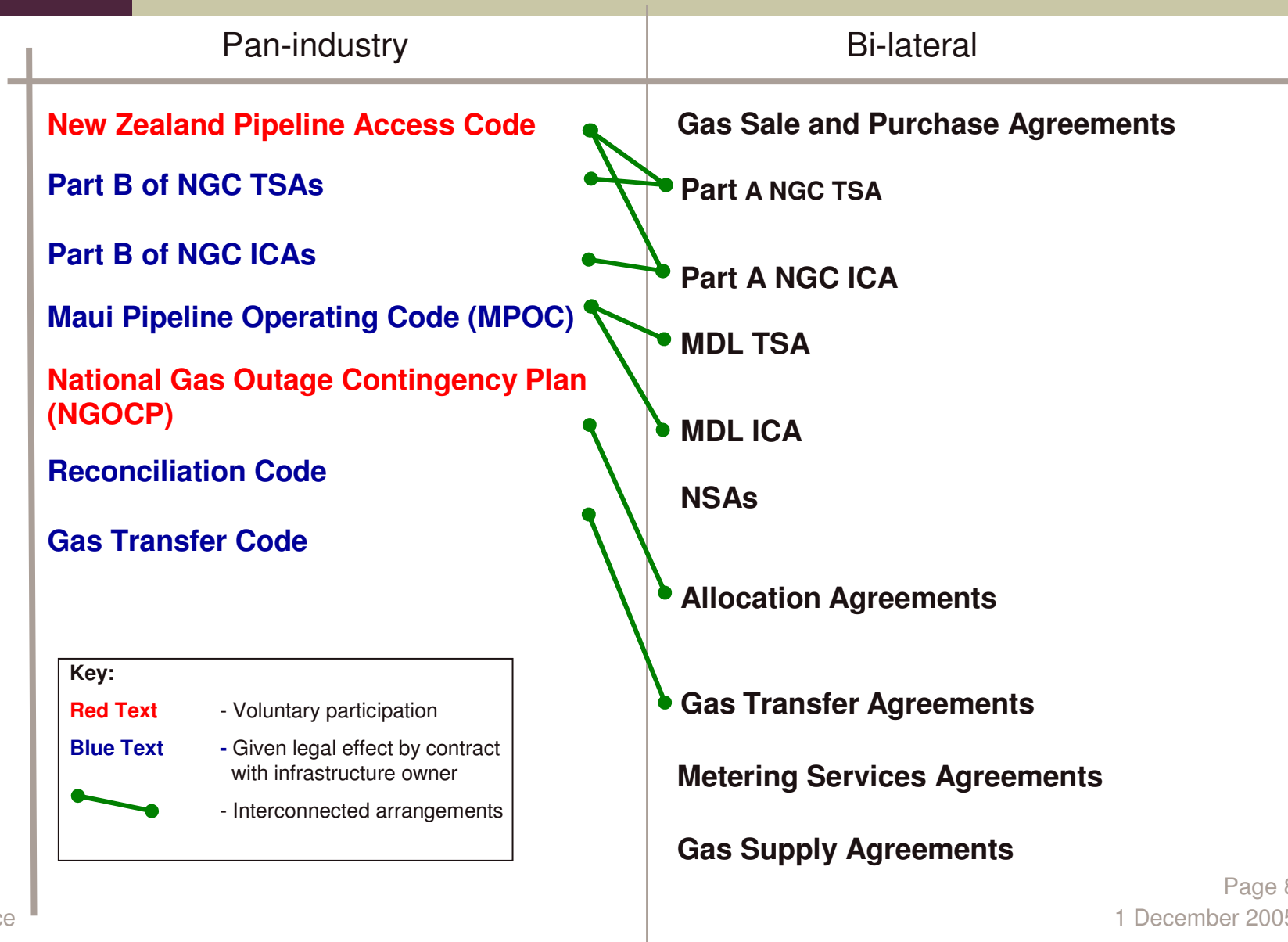
| Electricity – Regulation | Gas – Co-regulation |
|--------------------------------------|--|
| Crown Entity | Private Company |
| Commissioners appointed by Minister | Directors appointed by industry voting |
| All Commissioners independent | Majority of directors independent |
| Initial arrangements primarily rules | Initial arrangements primarily contractual |

However, the Gas Act is almost identical to the Electricity Act

Desirable Characteristics of Co-regulation

- Delivers government policy objectives
- Creates a unified set of industry rules
- Provides authority for rules
- Complies with the law
- Leverages industry expertise
- Limits bureaucratic costs and delays
- Achieves high level of support

Existing Industry Arrangements

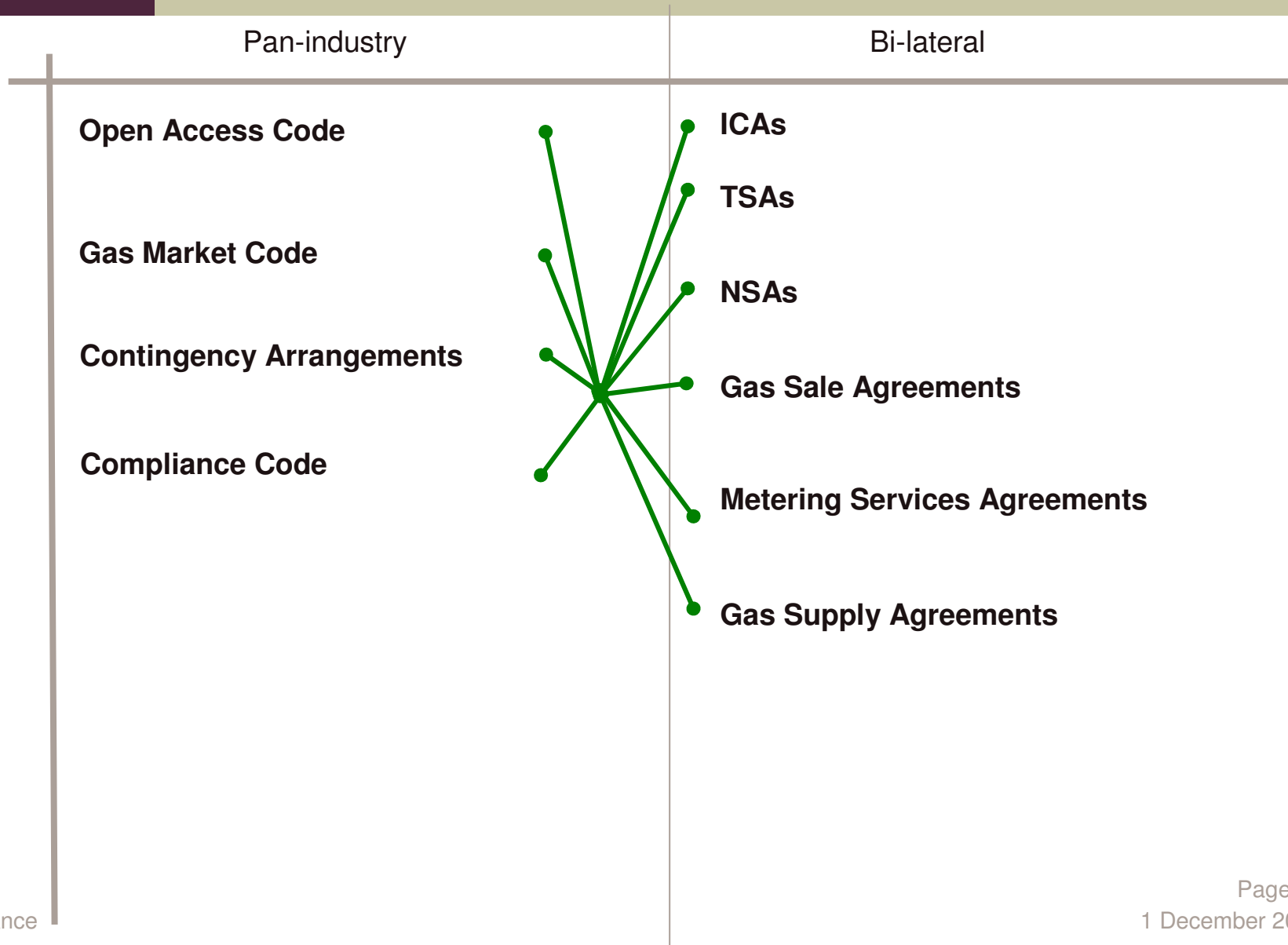


Arrangements Being Developed or Reviewed

| | |
|-------------------------|---|
| Wholesale Market Design | <ul style="list-style-type: none"> • Working Group preparing Market Design paper |
| Gas Specification | <ul style="list-style-type: none"> • Working Group reviewing gas specification |
| Gas Processing | <ul style="list-style-type: none"> • Working Group preparing a technical paper |
| Open Access | <ul style="list-style-type: none"> • Discussions underway about the Company's role |
| NGOCP | <ul style="list-style-type: none"> • An issues paper is being prepared |
| Model Contracts | <ul style="list-style-type: none"> • Discussion paper |
| Switching & Registry | <ul style="list-style-type: none"> • Discussion paper |

These arrangements will need to be set out in rules or in industry contracts

Possible Future Arrangements



Enforcing Rules That Need to be Mandatory

| Option 1: | Option 2: |
|---|--|
| Continue with Contract mechanism | Rules under Gas Act |
| <ul style="list-style-type: none"> • Pipeline owners implement all Gas Industry Co approved arrangements • Participants who refuse to comply are declined access • Contracts would include common systems of enforcement, monitoring and rulings | <ul style="list-style-type: none"> • Gas Industry Co recommends rules to the Minister • Rules are made by the Minister by notice in the Gazette • Rules must be assessed against all practicable alternatives |

Some arrangements will not need mandatory coverage

- Wholesale market trading is a possible example
- Rules would bind only those parties that choose to trade
- Becomes a multi-lateral contract
- Success depends on the benefits relative to the costs

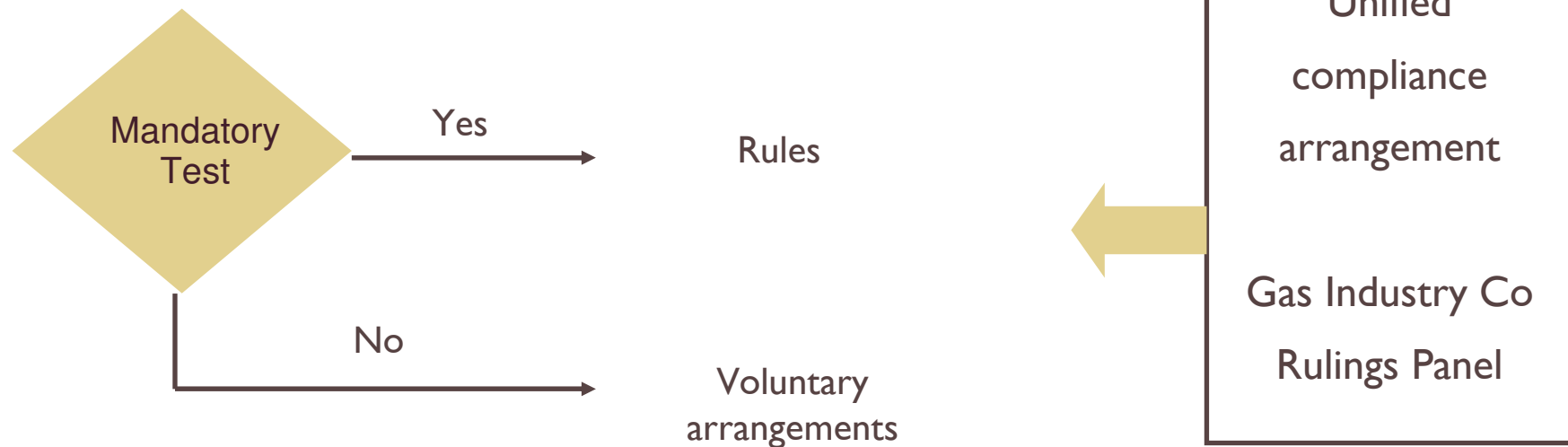
- Arrangements put in place by contracts may require authorisation:
 - If they involve arrangements that influence prices
 - Or if they contain exclusionary provisions
- Commerce Commission has accepted jurisdiction over several cases
- Arrangements are authorised if public benefits outweigh detriments
- Process can be very time and resource intensive

Co-regulatory Governance

- Rules under the Gas Act can be inflexible
- Contract mechanisms may breach the Commerce Act



Possible Governance Model

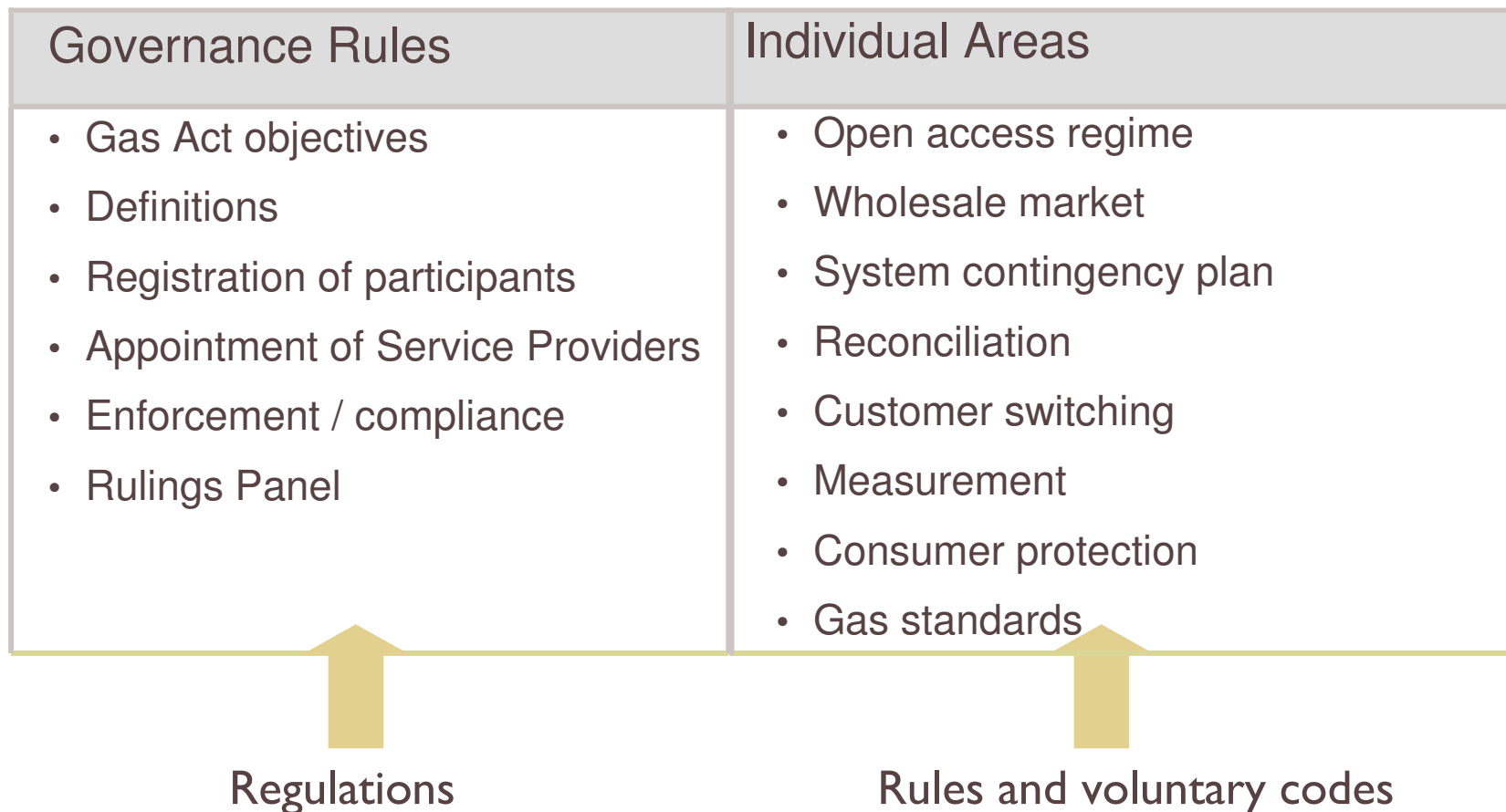


Governance Design Issues

- Efficiency in a common set of compliance arrangements
 - Separation between enforcement and rulings
 - Independent Rulings Panel
 - Gas Act provides for establishment of a Rulings Panel

- Service Provider model
 - Independent Service Providers
 - Contracting and monitoring role for Gas Industry Co?

A Unified Industry Rulebook



Next Steps

- Develop governance discussion paper for consultation
- Board to oversee development
- Formal consultation – March 2006
- Develop detailed governance regulations and rules