

17 October 2019

Overview of the Upstream Gas Outage Information Disclosure Code

Background and purpose

- 1 The Upstream Gas Outage Information Disclosure Code (*the Code*) is an industry-formulated response to the increased level of demand for timely release to interested parties of information about gas outages in New Zealand.
- 2 The Code was developed by large gas producers and the Petroleum Exploration and Production Association of New Zealand through an independently facilitated forum, in conjunction with Flexgas Limited as owner and operator of the Ahuroa Gas Storage Facility (together, gas producers and storage owners are referred to as *gas producers*).
- 3 The Code comprises a full set of rules in relation to timely public disclosure of information about both planned and unplanned gas outages. It is hoped that publication of outage information pursuant to the Code will provide greater transparency about outages at gas production facilities and gas storage facilities (including at underlying fields). This should facilitate better functioning of the wider gas and electricity markets in New Zealand, for the benefit of affected stakeholders.
- 4 The Code is not binding in a legal or contractual sense, but has been developed by gas producers as an upstream industry-wide set of rules required to be observed by those acceding to it. Recognising that to be effective the Code needs to have comprehensive coverage, accession is expected to cover the entire upstream industry.
- 5 Following receipt of feedback from interested parties, and finalisation, it is intended that the Code be formally acceded to by all gas producers. It will take effect once the requisite information platform has been developed, a process expected to take two-three months. Development of the platform is expected to be led by Gas Industry Company Limited (*Gas Industry Co*) as platform host.

Outages covered

- 6 The Code requires timely disclosure of specified information to be made by gas producers, either directly or through their relevant operator, about both planned outages and unplanned outages at gas production or storage facilities. First, let us explain a few key terms used.
- 7 A **production facility** is a facility at which gas is produced or processed for domestic export or sale, and includes any associated gas production or other wells. We note this is the same level at which the rules applicable in some Australian states are pitched and it is appropriate that we cover both field issues and processing plant issues. The definition focusses on facilities from which gas enters the market; the Code therefore does not cover any outage that affects only own-use gas.
- 8 A **storage facility** is one at which gas is injected and made available for later withdrawal. The only such facility currently is the Ahuroa Gas Storage Facility, but the definition is wide enough to cover any future storage facility.
- 9 An **outage** at a facility can be either planned or unplanned:
 - (a) a **planned outage** means, for a production facility, any reduction in the supply of gas from that facility that is planned for in advance, over the next rolling 12 month period, in a quantity of 20 TJ or more per

gas day, measured against forecast production for the 14 gas days preceding the start date of the outage. For a storage facility the threshold is essentially the same but focusses on withdrawal capacity for a gas day reducing by 20 TJ or more measured against the total withdrawal capacity of that facility.

- (b) an **unplanned outage** means an outage that is not planned and involves, for a production facility, either a reduction in sales nominations under the applicable gas transmission code of 20 TJ or more measured against the week ahead or other nominations, or a reduction in gas production capacity from the facility of 50TJ per day measured against the maximum production in the immediately preceding 14 gas days. For a storage facility, the focus is again on a reduction in withdrawal capacity of 20 TJ or more.
- 10 Of critical importance to the Code's effectiveness are the disclosure thresholds selected for planned and unplanned outages. The 20/50 TJ thresholds were selected by gas producers as their estimation of the closest proxy for what might reasonably be considered to have an impact on or be of interest to the market. The 20 TJ threshold is similar to that referred to in the Gas Governance (Critical Contingency Management) Regulations 2008 in the context that the energy system in a critical contingency is at a heightened level of distress.
- 11 At no stage have gas producers in formulating the Code discussed pricing or precise output quantities from individual facilities.
- 12 It is important that all parties work with an unambiguous brightline test, such that they can make a decision as to the need for disclosure, in the stipulated timeframes. The threshold also has to be of a magnitude such that short-lived minor outages are not caught, resulting in such over-disclosure that the Code loses its impact.

Required information disclosures

- 13 The aim of the disclosure regime encapsulated in Part C of the Code is that disclosures of information about outages be both relevant and timely, and that the market be kept informed with accurate information as often as is necessary and in any event consistently with disclosures made to contract counterparties. Gas producers are free to disclose more information than the Code requires if they wish.
- 14 The **required disclosures for an unplanned outage** are:
- (a) an initial notification as soon as practicable, and in any event expected to be not later than 12 hours of the outage occurring, providing the facility name, the name of the outage, its date and the relevant outage threshold believed to be met;
 - (b) if the outage continues, a further update within 24 hours and again at daily intervals thereafter, providing a brief description of its nature and cause, its estimated duration (if known), confirming the threshold met and estimating the quantity of the resulting reduction in gas supply;
 - (c) if the outage still continues after seven days, further weekly updates until such time as normal operations resume, providing an estimated date range, a brief description of progress in formulating a plan for return to normal operations and a further update on the likely resulting reduction in gas supply; and
 - (d) disclosure of cessation of the outage and either resumption of normal operations or otherwise as to the final status of the facility following the outage response.
- 15 **Disclosures for planned outages** operate differently, of necessity. Each gas producer is required to make quarterly rolling 12 month forecast disclosures in relation to its facility(ies). These are made on 10 January, and at the beginning of each of April, July and October. Disclosures are to cover, for each facility affected, the name of the facility, name of the outage, brief description of its nature and purpose, estimated quantity of the likely resulting reduction in supply (if due to occur within the next six months) and expected duration (with more specific information as to duration being given if the outage is to occur within the next six months).
- 16 Once disclosure has been made of a planned outage, subsequent disclosures are by way of update only. Fresh disclosure is required to be made if the gas producer becomes aware of a material change to the information previously disclosed.
- 17 Template disclosure forms are set out at the end of the Code.

The information disclosure platform

- 18 All disclosures are to be made by electronic posting to a specially designed web-based information platform. The upstream industry has requested Gas Industry Co to host the underlying on-line information platform to which individual outage disclosures will be made. Gas Industry Co is presently considering this request. A gas producer may in the interim elect to post information about an outage to Gas Industry Co's website notifications page.
- 19 The platform and notification disclosures made on it will be accessible by any registered user. To register, a user will be required to acknowledge and accept the basis on which the information is made available and the platform accessed including, importantly, that producers and Gas Industry Co have no liability for disclosures made or not made or for the platform itself or any use made of information disclosed on it.

Compliance and liability

- 20 The Code incorporates an overriding requirement on a gas producer to act in good faith and as a reasonable and prudent operator. However, a gas producer makes no representation or warranty in relation to information disclosed and attracts no liability for performance under the Code.
- 21 Gas producers have taken it upon themselves to ensure they are not impeded by any contractual duties of confidence from full Code compliance.
- 22 Various measures have been incorporated to ensure compliance by gas producers, which include
- (a) an obligation to ensure all future contracts require compliance by the gas producer with the Code;
 - (b) compliance with the Code to be examined as part of the Code's annual and biennial reviews;
 - (c) a requirement that a gas producer respond to any complaint about compliance, the complainant having the power to elevate the matter to Gas Industry Co if not satisfied with the gas producer's response; and
 - (d) as the ultimate sanction for repeated and wilful material non-performance by a gas producer which brings the Code into disrepute, an ability for remaining gas producers (being not less than 75% in number) to request the offending producer to withdraw from the Code.

Code review

- 23 Finally, recognising the possibility that there may be future room for refinement of the Code, and as a means of ensuring its effectiveness, we have provided for a full Code review after 12 months of operation and again at two yearly intervals thereafter. The results of such review will be shared with Gas Industry Co, who may support the review's findings or may make recommendations for change.