



Recommendation to the Minister of Energy and Resources for the endorsement of Gas Distribution Contracts Oversight Scheme

June 2012





About Gas Industry Co.

Gas Industry Co is the gas industry body and co-regulator under the Gas Act. Its role is to:

- develop arrangements, including regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- develop these arrangements with the principal objective to ensure that gas is delivered to existing and new customers in a safe, efficient, reliable, fair and environmentally sustainable manner; and
- oversee compliance with, and review such arrangements.

Gas Industry Co is required to have regard to the Government's policy objectives for the gas sector, and to report on the achievement of those objectives and on the state of the New Zealand gas industry.

Gas Industry Co's corporate strategy is to 'optimise the contribution of gas to New Zealand'.

Executive summary

Gas Industry Co recommends that the Minister of Energy and Resources endorses an industry arrangement for the oversight of gas distribution arrangements (the “Gas Distribution Contracts Oversight Scheme”), covering the non-price contractual (and inferred) terms agreed between gas distribution businesses and gas retail businesses.

In December 2010, Gas Industry Co wrote to the (then) Associate Minister of Energy and Resources regarding our review of industry arrangements for the distribution of gas. We concluded that there were no issues with gas distribution arrangements that warranted regulatory intervention under the Gas Act at this time.¹ However, we considered that current arrangements could be improved by introducing gas distribution contract principles and encouraging gas distribution system owners to complete ongoing updates to their contractual arrangements with reference to those principles. This view remains unchanged.

Gas Industry Co subsequently consulted with industry in developing its overall approach to assessing distribution contracts. Most submitters supported the development of high level distribution principles, and commented on the desirability of standardised and published interconnection agreements.

Gas Industry Co worked with industry to develop a set of Distribution Principles against which gas distribution contracts could be assessed. The Principles are not intended as a model contract for gas distribution services.

While similar to Gas Industry Co’s Retail Contract Benchmarks Scheme, and aligned wherever appropriate, the Principles are less prescriptive than the Retail Contract Benchmarks. This recognises that parties to distribution service arrangements are commercial entities, better able to negotiate mutually acceptable terms than small consumers can with retailers. The Principles are intended to provide a high-level context for commercial negotiations between distributors and retailers.

Having established a set of Principles to guide the content of distribution arrangements, Gas Industry Co then developed a draft assessment framework to measure the alignment of arrangements with those Principles, again using the Retail Contract Benchmark scheme as a template. Gas Industry Co consulted on this framework, which included holding an industry workshop in April 2012 to discuss the draft assessment framework.

Submissions were received from two of the three gas distributors, and three gas retailers. Submitters generally supported the framework. There were some suggested amendments to the Principles themselves, but these are considered settled due to previous industry agreement. Gas Industry Co will

¹ Note that the discussion in this recommendation does not refer to the price-quality regulation that is undertaken by the Commerce Commission.

conduct a planned review following the first assessment and will consider proposals for amendments to the Principles at that time.

Submissions on the timeframe for the initial assessment of gas distribution contracts asked that this timeframe be extended by a few months to allow for new contracts to be fully developed. Gas Industry Co considers this request to be reasonable, and thus proposes to undertake the first assessment in February 2013.

Distributors have been advised that this will be the date of the first assessment, regardless of the progress that has been made on revising their contracts.

The results of the first assessment will be reported anonymously. Gas Industry Co plans to undertake a second assessment 12 months after the first assessment. Individual results will be published with that second assessment. Submitters support this approach. Given the nature of distribution contracts, Gas Industry Co then proposes to undertake further assessments on an exceptions basis (as contracts are further revised or replaced).

Gas Industry Co now seeks the endorsement of the Minister of Energy and Resources for the Gas Distribution Contract Oversight Scheme, as detailed in this paper.

Contents

1	Introduction	1
1.1	Issues with Retailer-Distributor arrangements	1
1.2	Advice to the Minister of Energy and Resources	2
1.3	The Draft Principles	2
<hr/>		
2	Legislative and Strategic Context	3
3	The Principles	6
4	The Assessment Framework	7
4.1	The assessment timetable	8
4.2	Relationship with	9
<hr/>		
5	Industry response to the assessment framework	11
6	Recommendation and Next Steps	13
Appendix A	Distribution Principles	14

1

Introduction

Gas Industry Co has completed an assessment of distribution arrangements for natural gas in New Zealand. We have concluded that at this time, regulation of contract terms and conditions under the Gas Act 1992 (the Act) is not required. However, we consider that improvements could be made to ensure arrangements better meet the objectives of the Act, the Government Policy Statement on Gas Governance (GPS), and the proposed regulatory objective as set out in section 2 of this report. At this time, the focus of these improvements is the contractual arrangements between gas distribution businesses (distributors) and gas retail businesses (retailers).

1.1 Issues with Retailer-Distributor arrangements

In September 2010 Gas Industry Co released the *Gas Governance Issues in Gas Distribution: Issues Paper* (Distribution Issues Paper). The Distribution Issues Paper considered the arrangements² between retailers and distributors. Industry discussions had indicated some concerns with the current arrangements. One such concern was that many arrangements may now be out-of-date or have even expired. Gas Industry Co considers that these out-of-date- and expired contracts matter because:

- failure to re-negotiate replacement network services agreements on expiry implies unresolved issues between distributors and retailers, rather than poor contract management (if each party was satisfied with the contractual terms, the final agreements would by now have been executed);
- retailers consider out-of-date agreements present significant risks to them with liability and cost implications; and
- out-of-date provisions might not properly reflect changes in the regulatory environment.

This lack of contractual certainty means that distributors and retailers may not always act consistently on particular issues due to a lack of understanding over each party's contractual responsibilities.

Other matters raised with respect to current arrangements include:

- a need for parties to recognise that end users also benefit from the agreements between retailers and distributors (through the delivery of gas), despite not being party to those arrangements;

² When we refer to 'distribution arrangements', we mean all documents relevant to the relationship, such as the formal distribution services contract and any policy or informational documents referred to by that contract.

- a need for better alignment between retail contracts and network service agreements so as to avoid creating risks for end users that they cannot mitigate because they have no formal relationship with distributors; and
- concerns held by industry participants at a lack of certainty or commitment to the renewal of these contracts.

1.2 Advice to the Minister of Energy and Resources

In December 2010, Gas Industry Co provided the (then) Acting Minister of Energy and Resources with advice that improvements could be made to the distribution arrangements, but that regulation under the Act was not required at the time. Gas Industry Co described our intention to work with industry participants to develop a set of Distribution Principles.

1.3 The Draft Principles

In June 2011, Gas Industry Co issued a consultation paper *Draft Principles for Arrangements on Distribution Systems*. The paper:

- described the background to the development of the Draft Principles;
- set out the policy context under which Gas Industry Co operates and how it relates to this work;
- presented the Draft Principles and an explanation of each; and
- proposed next steps for developing the Draft Principles.

In October 2011, we issued an analysis of submissions received on that consultation paper. This included some changes to the Draft Principles as a result of submissions.

2

Legislative and Strategic Context

Overall context

The legislative framework for governance of the downstream gas industry in New Zealand primarily comprises the Act and the GPS (issued in April 2008).

The Act provides for co-regulation of the gas industry by the Government and Gas Industry Co, as the approved industry body under section 43ZL(1) of the Act .

The Minister of Energy and Resources is responsible for the energy portfolio, and the Minister receives recommendations and advice from Gas Industry Co on various matters under Part 4A of the Act.

Gas Act and GPS Objectives

The industry body can recommend to the Minister gas governance regulations (or rules) on a range of matters relevant to the gas sector (set out in sections 43F and 43G of the Act). Regulations recommended by Gas Industry Co must pursue the objectives set down in section 43ZN of the Act. The principal objective is to:

...ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner.

The other objectives are:

- the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements;
- barriers to competition in the gas industry are minimised;
- incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced;
- delivered gas costs and prices are subject to sustained downward pressure;
- risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties; and

- consistency with the Government's gas safety regime is maintained.

The Act requires Gas Industry Co to also have regard to objectives and outcomes in the GPS. The GPS expands the principal objectives to include the elements of fairness and environmental sustainability. As well, it sets out the following objectives:

- energy and other resources used to deliver gas to consumers are used efficiently;
- competition is facilitated in upstream and downstream gas markets by minimising barriers to access to essential infrastructure to the long-term benefit of end users;
- the full costs of producing and transporting gas are signalled to consumers;
- the quality of gas services where those services include a trade-off between quality and price, as far as possible, reflect customers' preferences; and
- the gas sector contributes to achieving the Government's climate change, by minimising gas losses and promoting demand-side management and energy efficiency.

Regulatory objective

As with all Gas Industry Co projects, Gas Industry Co must consider whether its approach will meet the objectives of the Act and the GPS. This then becomes the goal for both regulatory and non-regulatory solutions. The Company determines which section of the Act would best empower development of a solution and uses that provision as the basis for a 'regulatory objective'. With respect to the development of the Principles, section 43F(2)(c) states that gas governance regulations may be made 'prescribing reasonable terms and conditions for access to transmission or distribution pipelines'.

Accordingly, Gas Industry Co proposed the following regulatory objective:

To ensure that arrangements for the distribution of gas are safe, efficient, and reliable with particular regard to achieving:

- an efficient market structure for the provision of gas metering, pipeline services, and energy services
- clearly understood roles of gas metering, pipeline, and gas retail to distribution services
- reasonable access by new entrants and existing retailers to distribution services.

Recommendation of industry-led arrangements as an alternative to rules or regulations

Section 43L and sections 43N to 43Q of the Act set out the process when making recommendations on rules and regulations. Section 43N(1)(c) in particular requires that Gas Industry Co:

Ensure that the objective of the regulations [rule] is unlikely to be satisfactorily achieved by any reasonable practicable means other than the making of the regulations [rule] (for example, by education, information, or voluntary compliance ...)

The need to consider alternatives to rules and regulations is also set out in the GPS, as follows:

Gas Industry Co may recommend non-regulatory arrangements, including voluntary codes or multilateral contracts, or that rules or regulations be made under the Gas Act 1992, for the governance of the gas industry, whichever Gas Industry Co considers most practicable to achieve the objectives and outcomes described in the Gas Act 1992 and this policy statement.

After consultation with industry, Gas Industry Co determined that the best approach to resolving the current issues in relation to gas distribution arrangements between a distributor and retailer would be to pursue a non-regulatory approach. As such, Gas Industry Co proposed the introduction of high-level Principles, rather than a voluntary code or model contract.³ In 2011, Gas Industry Co published a consultation paper proposing draft Principles for arrangements on gas distribution systems.⁴ These Principles were then finalised with industry agreement. Following the outcome of the first assessment of distribution contract arrangements against the Principles in 2013, Gas Industry Co will review the Principles to ensure they reflect industry best practice.

³ In considering whether to introduce a more prescriptive scheme in the form of a model distribution contract, Gas Industry Co noted feedback from industry that this would likely create a compliance burden that would outweigh the benefits to industry and ultimately consumers.

⁴

http://gasindustry.co.nz/sites/default/files/consultations/254/discussion_paper_on_the_draft_principles_for_arrangements_on_gas_distribution_systems_169651.4_0.pdf

3

The Principles

The overall purpose of the Principles (and the proposed assessment framework discussed at section 4 of this Recommendation) is to ensure that the core terms and conditions in distribution contracts are clear and reasonable, promote market efficiency, and ultimately enhance consumer outcomes. The Principles set high level objectives that should provide industry participants with the flexibility to agree commercial arrangements while also achieving the outcomes of market efficiency and benefits to consumers as noted above. The Principles also provide a measure against which any improvements in arrangements can be assessed.

The Principles cover the following topics:

- General Principles
- Obligations and rights of the parties
- Pricing including pricing charges
- Commencement and cessation of line charges
- Disconnection and reconnection
- Information exchange and use
- Managing critical contingencies
- Publication of the standard distribution agreement

The detailed Principles, together with explanatory notes, are set out at Appendix A.

4

The Assessment Framework

By its nature, the outcome-based approach of the proposed Oversight Scheme for the oversight of distribution contracts makes it difficult to set quantitative measures. As such, the analysis of contract terms will be based on a qualitative scoring system. The rankings that are to be applied are broadly consistent with those in the Retail Gas Contract oversight scheme.

Table 1 Distribution Contract assessment scores

Rank	Description
Full	Meets the intention of the Principle in all respects.
Substantial	Meets the intention of the Principle in most respects. Only minor changes are needed to meet 'full' ranking.
Moderate	Meets the intention of the Principle in some respects. More substantive changes are needed to improve the ranking.
Low	Little alignment with the intention of the Principle and substantial changes are needed to improve the ranking.
Nil	No alignment with the intention of the Principle.

Fine judgements may need to be made about the degree of alignment with the Principles. A key factor is the extent to which the intention of a Principle is achieved. The ranking scale will score the degree of alignment with the Principles across a contract as a whole. The assessment against any one Principle may at times relate to other clauses as a group.

The assessment is likely to focus on any areas of misalignment that are identified by industry. It is unlikely to be cost effective for the assessment process to comprehensively assess the compliance of every clause in the standard distribution service agreements with the Principles. The descriptions of the proposed rankings reflect this.

The analysis will be carried out by an independent assessor appointed by Gas Industry Co. As with the Retail Gas Contracts scheme, the appointment of an independent assessor gives industry participants a level of assurance of objectivity in the assessment process.

Provision of information by distributors and retailers

Generally, distribution contracts are individually negotiated, and not publicly available. The independent assessor will be asked to focus on the standard distribution service agreements of each distributor rather than each separately negotiated distribution contract. While it is important that existing arrangements are efficient, it is also key that there are no barriers for new entrants to access the market. Gas Industry Co considers assessment of the standard distribution service agreements, which would be offered to a new retailer or to replace expiring contracts, is sufficient in terms of the regulatory objective at this time.

The Scheme relies on the co-operation and willingness of distributors and retailers to participate in this process. If the information provided is incomplete, the independent assessor will note this fact in its final report and comment on the impact this has had on the overall assessment. The assessment process will be designed to allow:

- each retailer to provide feedback to the independent assessor (either in person or in writing) on its views on the alignment of each standard distribution service agreement with the Principles; and
- each distributor an opportunity to respond (either in person or in writing) to any alignment issues that are identified.

Some of the standard distribution agreements are substantial documents and it is recognised that the costs of a comprehensive review process (which identifies each area of misalignment) would likely outweigh the benefits. Accordingly, the independent assessor will assess related clauses as a group against a Principle, where possible.

The assessment against the Principles will be at a global level and it is not anticipated that commercially sensitive information will be relevant to the assessment or the reporting of results. If any issues of confidentiality arise, distributors and retailers can discuss this with the independent assessor.

4.1 The assessment timetable

The results of the first assessment will be reported at a consolidated level. That is, individual distributors will not be publicly identified. Their individual results will, however, be reported to them by the independent assessor, and provided to Gas Industry Co on a confidential basis. The first assessment is scheduled for February 2013.

A second assessment will commence twelve months later, and will be undertaken to determine whether distributors have made any improvements to their arrangements. The results of the second assessment will be published for individual distributors.

Unless the assessments do point to significant ongoing or systemic issues, subsequent assessments are likely to be made on an 'exceptions' basis; that is, when a distributor updates or revises their arrangement. In any event, Gas Industry Co will continue to monitor progress on the stated intention of participants to move to greater standardisation of arrangements.

The steps in the assessment process are expected to be as follows:

Steps
Step 1: Request issued to distributors for the provision of information.
Step 2: Each retailer may provide feedback on alignment of each standard distribution services agreement with the Principles.
Step 3: Distributors may respond to any alignment issues that are identified.
Step 4: Draft assessment for each distributor completed.
Step 5: Draft assessment results for each distributor provided to each distributor and Gas Industry Co, together with an opportunity to respond.
Step 6: Assessment for each distributor finalised. Consolidated report (with all assessment results for all distributors) completed.
Step 7: Final assessment for each distributor issued to each distributor and Gas Industry Co. Consolidated report published by Gas Industry Co.

To focus on the core terms, the assessment will consider how each distributor's most recent standard distribution service agreement aligns with the Principles.

4.2 Relationship with the retail contract benchmark assessment process

In March 2010, Gas Industry Co recommended the introduction of Retail Gas Contract Benchmark Oversight Scheme⁵. The (then) Associate Minister of Energy and Resources endorsed the Scheme in May 2010. The Retail Scheme assesses retail gas supply arrangements for small consumers against a set of outcome based benchmark terms. Two assessments have already been conducted (July 2010 and 2011) and the July 2012 assessment will see results for each individual retailer published.

The approach to the assessment of distribution contracts against Principles is broadly similar to the process for assessing retail contracts against benchmark terms. However there are key differences. Benchmarks are seen as a more 'bright line' set of measures, while Principles are considered more 'aspirational'.

⁵ <http://www.gasindustry.co.nz/work-programme/retail-contracts?tab=1768>

Most retail contracts are publicly available; there is typically no negotiation of the standard terms; and the contracts should be clear to a customer who has no industry knowledge. The assessment only needs to take into account the published contract terms, as the customer may be unable to enforce any other policies or implied terms. Given this, the assessment process is limited to the contract and documents explicitly referred to in the contract. It is possible to complete the assessment process as a paper-based exercise and while each retailer is able to provide feedback, the assessment report can be finalised without any such feedback being received.

Distribution contracts are often individually negotiated; have elements that are commercially sensitive; and build on established industry protocols. The distribution arrangements need to dovetail with industry practices, regulatory requirements, transmission contracts, and retail contracts. Gas Industry Co considers it is appropriate to have input from retailers and distributors to assess whether the terms and conditions align with the Principles; for example, seek input as to whether the terms reasonably represent the interests of the parties (Principle 2), and are current and comprehensive (Principle 3). The arrangements are typically very long, such that a more streamlined assessment process is likely to be more cost effective.

Given the factors above, the extent of detail in the distribution assessment will likely be different. It is envisaged that the process will seek more industry engagement than the retail contract assessment process. The assessment process will also need to be mindful of Gas Industry Co's budget for the assessment.

5

Industry response to the assessment framework

In March 2012, Gas Industry Co issued a consultation document on the proposed assessment framework. Five responses were received from distribution companies Powerco Limited (Powerco) and Vector Limited (Vector), and retail companies Contact Energy Limited (Contact), Genesis Power Limited, trading as Genesis Energy, and Mighty River Power Limited (MRP).

Summary of submissions

All submitters consider the framework has been correctly developed as a high level focus on the alignment of distribution service agreements with the Principles, rather than individual clause – by-clause alignment. This is seen as an essential factor in the future success of assessments, is a cost effect approach, and one that will not impose an increased compliance burden on industry participants.

One retailer also noted its endorsement of the qualitative ranking system, and the publication of consolidated results for the initial assessment, with the identification of individual distributors in subsequent assessments. In its view, and as with the approach taken in the Retail Gas Contract scheme, distributors should be given the opportunity to amend gas agreements before results are made public.

As discussed earlier, two of the distribution companies have advised Gas Industry Co that they are updating and standardising their distribution agreements, and that these will align with the Principles. One distributor notes that this is a complex piece of work, they are currently consulting with industry participants, and are seeking alignment with related work currently being undertaken by the Electricity Authority and Commerce Commission. It further notes that the conclusion of this work will provide them with a robust agreement that will align with the Principles, industry best practice and retailer requirements. With this in mind, they see no benefits spending Gas Industry Co, retailer, distributor or assessor time and resources assessing current, legacy or in-development agreements. Both distributors propose that the first assessment should occur in early 2013 rather than late 2012. They consider this will be sufficient time to have their updated contracts well developed, if not finalised.

One retailer submitted that the first assessment should occur in October 2012, as set out in the original assessment process proposal. The rationale is that this aligns with the gas year, will give dual-fuel distributors sufficient time to align their gas agreements with the electricity model use-of-system agreements, and should incentivise distributors to progress or finalise agreements with retailers.

On balance, Gas Industry Co considers it reasonable and sensible to undertake an assessment against revised contracts which are being aligned with the Principles, rather than those that may be out-of-date. Therefore we propose to undertake the first assessment in February 2013.

One of the retailers has suggested that the assessment be extended to Gas Measurement Services (metering) or that Gas Industry Co establishes a separate workstream to consider issues including switching meters. The issue of arrangements for metering services is outside the scope of the established Principles at this time. Gas Industry Co will include this in the list of issues to be considered following the initial assessment.

It has also been proposed to extend Principle 5 to include a requirement for the Network Operator to publish its compliance with their Standards of Service or the application of penalties for failing to comply with those Standards. This proposal is outside of the scope of the Principles as currently agreed would be applied to the initial assessment. However Gas Industry Co will include this in its list of issues to be considered following the initial assessment. Gas Industry Co does note that the application of penalties is not contemplated within the Distribution Contract Principles assessment scheme.

Alignment to the Electricity Authority Standardisation Work

One distributor noted that retailers have reacted positively to the approach it is undertaking regarding the development of a new standard gas distribution agreement that includes lessons and generic content from the Electricity Authority's Model Use Of System Agreement work. They note, however, that while there is a need to ensure opportunities for alignment are identified for efficiency purposes, it is important to ensure a focus on standardisation does not override the specific needs of the gas industry.

6

Recommendation and Next Steps

As the prepared solution is non-regulatory, Gas Industry Co is not obliged to seek approval for its recommendation. However, in recognition of its role as a nexus between industry and Government, Gas Industry Co considers it appropriate to seek endorsement for voluntary, industry supported market arrangements.

Gas Industry Co accordingly recommends that the Minister endorses the Oversight Scheme for Gas Distribution Contracts.

If approved, Gas Industry Co will appoint the independent assessor, and planning will begin for the initial assessment in February 2013. We expect that the consolidated results of that assessment will be provided to the Minister of Energy and Resources by the middle of 2013.

Appendix A Distribution Principles

Term	Meaning	Explanation (as required)
Consumer	A person who uses gas supplied from a gas distribution system.	The definition includes consumers who are a party to a gas supply arrangement with a retailer.
Distributor	Has the same meaning as 'Gas Distributor' as set out in s 2(1) of the Gas Act 1992.	That is, any person that provides Line Function Services to another. At this time, in line with the decision of the Rulings Panel ⁶ , this definition does not include a participant that provides Line Function Services only to itself.
Distribution Services	Includes Line Function Services	Includes the distribution of gas quantities and may include other services the Distributor agrees to provide to the Retailer.
Distribution Service Arrangement	Includes all documents relevant to the agreed relationship between a Distributor and a Retailer for the provision of Distribution Services over a distribution system.	Contractual arrangements are often the sum of the main written agreement along with other documentation that is referred to in the main agreement. For example, policies and procedures, or other information. This term seeks to encompass all information relevant to the relationship.
Line Function Services	Has the same meaning as set out in s 2(1) of the Gas Act 1992.	
Line Charges	Refers to any charges imposed by a Distributor for the provision of Line Function Services.	
Retailer	Any person who supplies gas and associated services to a Consumer or Consumers.	

⁶ Decision of the Rulings Panel in the matter of alleged breach notice 2009-104, 130, 138 etc (Nova Bypass). See the Gas Industry Co website for more information: http://www.gasindustry.co.nz/sites/default/files/u24/Nova_Bypass_Rulings_Panel_Decision_2.pdf.

General principles

Principle 1	Explanation
<p>All Retailers should receive access to a distribution system on substantially similar terms.</p> <p>Note: As far as possible, and without inhibiting innovation and the need to reflect special circumstances, distribution terms of access should be standardised across all distribution systems and Retailers.</p>	<p>This principle recognises that the nature of the market means Distributors do have a degree of market power. As such, it requires that the terms offered to one Retailer should be substantially similar to those offered to other Retailers.</p> <p>However, Gas Industry Co recognises that some aspects of Distribution Service Arrangements may need to be negotiated between the Retailer and Distributor. To the extent possible, we would like to see standardised terms of access.</p>

Principle 2	Explanation
<p>The Distribution Service Arrangement should reasonably represent the interests of the Retailer and the Distributor (as parties to the agreement).</p>	<p>This principle recognises the tendency towards imbalance in leverage between the parties. It seeks to prevent asymmetrical contractual arrangements.</p>

Principle 3	Explanation
<p>The Distribution Service Arrangement should be current and comprehensive; this can be achieved by establishing a process for regular review of the arrangement.</p>	<p>As industry arrangements change, it is important that these changes are reflected in contractual arrangements to provide protection to both parties. Regularly reviewing contracts will help to ensure any necessary changes are identified and made.</p>

Obligations and rights of the parties

Principle 4	Explanation
<p>The obligations and rights of the parties should be clearly and comprehensively set out in the Distribution Service Arrangement.</p> <p>The Distribution Service Arrangement should be consistent with, and the parties should act in accordance with, the requirements of all relevant legislation, regulations, and rules.</p> <p>Where a Retailer is legally responsible for matters that are physically or practically under the control of the Distributor, or one of the Distributor's service providers, the Distribution Service Arrangement should acknowledge those matters and describe how the Distributor will assist the Retailer to meet the relevant legal responsibilities.</p> <p>Note: An example of this is under <i>NZS 5442: 2008 Specification for reticulated natural gas</i>, where the Retailer is legally responsible – but not physically in control of – the gas specification. In this case the Distribution Service Arrangement should include a 'description' of this responsibility. It may be as simple as noting that the Distributor has an agreement with the TSO regarding the management of the quality of gas entering the distribution system, or something similar.</p> <p>The process for amending or varying the Distribution Service Arrangement should be described. There should be not less than 30 days' notice of the changes.</p> <p>The procedures for dispute resolution regarding the Distribution Service Arrangement, including the levels of escalation for discussion of issues arising out of the contractual relationship, should be clearly set out.</p>	<p>Contracts should be clear, especially in relation to the obligations and rights of parties. We consider this is critical for ensuring that arrangements function as intended.</p> <p>Contracts should be up-to-date with respect to relevant legislation. Gas Industry Co considers that clear identification of legal responsibilities is very important because the consequences of non-compliance can extend beyond the distribution contract.</p> <p>If either party wishes to amend the Distribution Service Arrangements, the contract should specify a process for doing so. The notice period for any such changes should be of a reasonable length to allow both parties to fully consider the proposed changes. Where possible, any such changes should be mutually agreed.</p> <p>A process for resolving disputes is a necessary element of any contract. We consider this process should be clearly set out and accessible to both parties.</p>

Distribution services provided

Principle 5	Explanation
The Distribution Service Arrangement should describe the Distribution Services to be provided by the Distributor and the service standards for those services.	This principle does not name the specific Distribution Services that should be provided. However, it recognises the expectation that the Distributor will clearly identify all of the services it will provide to a Retailer. This principle also provides that the service standards for those services are identified in the contract.

Principle 6	Explanation
The Distribution Services and service standards should include all those aspects that are under the reasonable control of the Distributor, or a service provider to the Distributor.	This principle ensures that the services and service standards required in principle 5 are under the control of the Distributor, or a service provider to the Distributor. For example, it would be unreasonable to set out services for which the TSO is responsible.

Pricing including pricing changes⁷

Principle 7	Explanation
Changes to pricing structures and/or methodology should be subject to meaningful consultation and transparency such that the intention and impact of the proposed changes are easily understood, and responses to Retailers' written comments, including decisions on final structure are transparent and clear to all prior to notification of final prices.	We consider it fair that the Distributor consult with the Retailer on the proposed pricing change.

Principle 8	Explanation
A Distributor's notification of price changes to a Retailer should be accompanied by all of the information required to enable the effective implementation of the price changes by the Retailer.	To ensure the proposed pricing change is fully understood by the Retailer, all supporting documentation should be provided to the Retailer on notification.

⁷ Note: Gas Industry Co recognises that overall pricing levels for Vector and Powerco are controlled by authorisations issued by the Commerce Commission. These authorisations also set out pricing principles. The Electricity Authority has proposed similar principles for electricity distribution. As such, these Principles look only at the reasonable notification of price changes to Retailers and Consumers.

Principle 9	Explanation
The notice period given by a Distributor for changes in pricing structures or levels should take into account the notice period that Retailers must provide to Consumers for consequential changes in retail prices and the time for preparation of that notice. This period should be no less than 40 business days.	Changes should be notified within a reasonable timeframe. The timeframe is consistent with the Retail Benchmarks.

Commencement and cessation of line charges

Principle 10	Explanation
The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the commencement and cessation of line charges for the supply of gas.	The contract should be transparent by providing clear indication of when the Distributor will begin charging line charges and end line charges.

Disconnection and reconnection

Principle 11	Explanation
The Distribution Service Arrangement should clearly describe the Distributor's policy with respect to the disconnection and reconnection of a supply point on its system.	Gas Industry Co is aware of previous issues in relation to disconnection and reconnection between Retailers and Distributors. We consider that the contract should be clear and set out what the expectations are in terms of a Distributor's policy on disconnection and reconnection.

Information exchange and use

Principle 12	Explanation
The Distribution Service Arrangement should set out the amount, type, and format of information required to be exchanged between the parties. Formats should be, as far as possible, standardised and in line with any industry-agreed standard information exchange protocols.	To ensure information is exchanged in the most efficient way, parties should have clearly defined arrangements.

Principle 13	Explanation
Information will only be requested under the Distribution Service Arrangement for the purposes of enabling efficient and effective gas distribution.	Information requested must be reasonable and relate to promoting efficiency in the distribution of gas.

Principle 14	Explanation
Information will only be used for the purpose for which it is provided.	If information is provided to a party for a specific purpose it should not be used for another purpose. This includes confidential and non-confidential information.

Service interruptions

Principle 15	Explanation
The Distribution Service Arrangement should explain, or refer the Retailer to, the Distributor's policy for planned interruptions to Distribution Services. It is expected that the policy would take account of the costs of notification for the retailer and whether other lower-cost alternatives can be adopted. The minimum notice period of a planned shutdown should be no less than 10 business days unless agreed otherwise with the Retailer.	The Distribution Service Arrangement should clearly identify how and when it will interrupt a Retailer's service. This will help to minimise risks to the Retailer and Consumer.

Principle 16	Explanation
The Distribution Service Arrangement should describe how the Distributor will provide the Retailer with timely information when an unplanned service interruption occurs. The information to the Retailer is expected to include the cause(s) of the interruption and progress towards reinstatement of line function services.	The Distribution Service Arrangement should clearly identify how and when it will interrupt a Retailer's service. This will help to minimise risks to the Retailer and Consumer.

Managing critical contingencies

Principle 17	Explanation
<p>Contracts should provide for the effective management of emergencies on the network in accordance with the Gas Governance (Critical Contingency Management) Regulations 2008 where load curtailment is instructed, and coordination of the isolation and restoration of supplies to consumers (and relighting of pilots) to ensure network security and consumer safety is not compromised.</p>	<p>To ensure parties understand their respective roles and responsibilities when a critical contingency event occurs, it is important that contracts align with the Gas Governance (Critical Contingency Management) Regulations 2008.</p> <p>Effective management of critical contingencies could include, where a Retailer contracts a Distributor to perform Consumer usage monitoring and/or disconnection services during a critical contingency, details of these services being specified.</p>

Publication of the standard distribution agreement

Principle 18	Explanation
<p>The Distributor's most recent standard Distribution Service Agreement should be publicly available on the Distributor's website.</p>	<p>Transparency is an important part of providing for efficient arrangements.</p>