

# Consultation on exemption application under the Gas (Downstream Reconciliation) Rules 2008

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- Application DR10-02-S regarding gas gate TRC02003

## 1 Introduction

This paper seeks submitters' views on an application from Contact Energy Limited ('Contact') seeking an exemption from the Gas (Downstream Reconciliation) Rules 2008 ('Reconciliation Rules') in respect of customer installations at the Te Rapa Cogeneration Plant (TRC02003) gas gate ('Te Rapa gas gate'). That gas gate is already the subject of an exemption under the Gas (Downstream Reconciliation) Rules 2008 (Exemption: Direct Connect Gas Gates) Notice 2008. This means that if this latest application is granted, the Te Rapa gas gate will need to be removed from the earlier exemption notice.

Submissions are sought no later than Wednesday, 12 May 2010. Submissions can be made by registering on Gas Industry Co's website [www.gasindustry.co.nz](http://www.gasindustry.co.nz) and uploading your submission, preferably in the form of the submissions template attached to the consultation document as Appendix A.

All submissions will be published on the website after the closing date. Submitters should discuss any intended provision of confidential information with Gas Industry Co prior to submitting the information.

A general information paper on the exemptions process and criteria has been issued by Gas Industry Co and can be viewed by downloading from Gas Industry Co's website at the following link: <http://www.gasindustry.co.nz/work-programme/market-administration/exemptions>

## 2 Description and analysis of exemption sought

### Background

The current situation at the Te Rapa gas gate is that there is one consumer (Contact) who operates a cogeneration facility. That facility produces electricity and the waste heat from the gas turbine ('GT') is utilised in a heat recovery steam generator ('HRSG'). The steam from the HRSG is then sold to the dairy factory at Te Rapa.

There is also an auxiliary boiler that can be used to provide the steam for the dairy factory at times when the cogeneration facility is not operating.

All of the above equipment is treated as one consumer installation with the result that the installation is classed as a large user under the Gas Governance (Critical Contingency Management) Regulations 2008 ('Regulations'). Contact wishes to create two ICPs:

- one ICP would relate to the gas turbine and HRSG combination; and
- the second ICP would relate to the auxiliary boiler.

Creation of the two active ICPs would mean the gas gate would no longer meet the criteria under which the initial set of direct connect gas gate exemptions were granted. As a result, Contact is applying for a new exemption.

### Summary of application

The full application is attached as Appendix B. A summary of the application follows:

**GIC Code:** DR10-02-S

**Applicant:** Contact

**Exemption Type:** Standard

**Exemption Sought:** In respect of the Te Rapa Cogeneration (TRC02003) gas gate, an exemption is sought by Contact from the application of rules 29, 31-33, 39-40, 48-53, 78, and 79. The exemption requested is a permanent exemption, to be granted under rule 19, to apply for a duration equal to the existing direct connect gas gate exemptions, that is, until 30 September 2010.

**Summary of Reasons:**

- The exemption is for the Te Rapa Cogeneration Delivery Point (TRC02003) which, although a single site with one end-use customer, will become a single site with two ICPs and the same customer for both ICPs.
- Contact is seeking the application on the basis that the splitting of the site into two ICPs does not change the essential nature of the arrangement and all other direct-feed sites have been exempted from the Gas (Downstream Reconciliation) Rules 2008.
- The impetus for seeking the change is the recent implementation of the Regulations and the classification of the entire site as a large user when, in practice, it is a mixed-use facility.

### Additional information

The direct connect gas gate exemption already covers 39 gas gates. 36 gas gates were identified as fitting the characteristics of direct connect consumption when the Rules went live and were all granted a standard exemption until September 2010. Three new gas gates have been commissioned since then that also feed single consumers directly from the transmission system; these are Stratford 3 (STR00501), Kupe (KUP37503), and Hunua 3 (HUN15303). Exemptions were granted for the three new gas gates under the same terms as the original exemption in February 2009, February 2010, and April 2010 respectively.

## Issues

This application is somewhat different from the existing suite of direct connect gas gate exemptions. Until now the distinction has been clear between those gas gates that are exempted from aspects of the Rules and the remainder for which allocation participants are required to comply with all of the Rules. However, this application seeks an exemption in circumstances where two active-contracted ICPs will exist at the gas gate (whereas there is only one active-contracted ICP at each of the other gas gates for which direct connect exemptions are in effect).

The policy rationales for the existing direct connect gas gates exemptions are as follows:

- In light of the potential additional implementation and compliance costs, the initial benefits of applying the allocation methodology set out in the Rules in respect of direct connect gas gates are reduced.
- For reasons of simplicity and clarity, all direct connect gas gates should be treated the same in any exemption granted. All direct connect gas gates are connected to the transmission system and subject to existing upstream processes.
- There are unlikely to be any detrimental effects on competition for retailers or transmission system owners at direct connect gas gates, and granting the exemption is likely to ensure consumers at these direct connect gas gates are not subject to increased gas costs or prices due to retailer compliance costs with the Rules.

Those same rationales would seem to apply to the situation presented by Contact Energy. Although there will be two ICPs, both of them serve the same customer (Contact) and there would appear to be little or no net benefit in forcing the retailer to submit data to the allocation agent. In this instance, any concerns about a retailer potentially being able to benefit from chronic negative UFG (due to it not being measured or disclosed by the allocation agent) would seem to be ameliorated by the fact that the retailer in this instance is not selling gas but is selling steam and electricity. As Contact states in its application:

All the facilities from the Te Rapa Cogeneration Plant Gas Gate (TRC02003) including the GT/HRSG and the auxiliary boiler are owned and operated by Contact. Contact sells electricity and steam produced from these plants to Fonterra. **No third party could have access to those facilities so that there is no possibility that the exemption would prevent access to the gas gate.** That is not possible because of the ownership of the facilities involved. [emphasis added]

A possible source of concern is the potential for this exemption to be used as a precedent for other gas consumers to use the creation of multiple ICPs as a means of changing their load-shedding classification under the Regulations. In this case the ICPs being created relate to alternate, rather than simultaneous, uses of gas. The GT/HRSG combination is a highly efficient means of maximising the useful energy output from the gas consumed. That efficiency will be reflected in the price that Fonterra pays for the steam supplied by Contact. The auxiliary boiler exists as a standby facility so that, whenever the GT/HRSG combination is unavailable, the dairy factory is able to function continuously. This means that the auxiliary boiler is an alternative to

running the GT/HRSG and would be unlikely to be used simultaneously. Thus, the load-shedding designation for the combined GT/HRSG load will continue to be 1b.

Another issue to consider is that Gas Industry Co has previously declined to exempt single-retailer gas gates from the Rules. Given that the vast majority of submitters on the original package of exemptions from the Rules were opposed to exemptions being granted at single-retailer gas gates, it is appropriate to consider the current application carefully.

In opposing exemptions for single-retailer gas gates the reasons included:

- Exempting single-retailer gas gates from the Rules would have the potential to reduce competition by reducing transparency and creating information asymmetries and, thereby, placing an unnecessary barrier to entry by a new retailer wishing to trade at the gate, particularly once the new switching rules went live.
- The introduction of the Switching Rules would be expected to reduce the incidence of single-retailer gas gates overtime and, therefore, granting such exemptions would be inappropriate.
- If exemptions were granted then such gates could need to be allocated at relatively short notice in the event that one or more switches occurred and the existence of such an exemption would be an unnecessary hindrance.

However, and as noted earlier in this paper, this situation differs markedly from a typical single-retailer gas gate. The difference arises from the fact that the retailer, itself, owns the equipment at both ICPs. This means that there is no opportunity for another retailer to trade at the gate and, therefore, the reasons cited above for not granting an exemption do not apply in this instance.

*Q1: Do submitters support granting the exemption DR10-02-S for the Te Rapa gas gate under equivalent terms to the existing direct connect gas gate exemptions?*

*Q2: If you support granting the exemption, do you also support variation of the existing Gas (Downstream Reconciliation) Rules 2009 (Exemption: Direct connect gas gates) Notice 2008 by removing 'TRC02003 Te Rapa Cogeneration Plant' from the list of gas gates covered by that exemption?*

# Appendix A Recommended Format for Submissions

To assist 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 in the body of this Consultation Paper. Submitters are also free to include other material on the exemption application in their responses.

Submission from:..... (company name and contact)

Question	Comment
<p>Q1: Do submitters support granting the exemption DR10-02-S for the Te Rapa gas gate under equivalent terms to the existing direct connect gas gate exemptions?</p>	
<p>Q2: If you support granting the exemption, do you also support variation of the existing Gas (Downstream Reconciliation) Rules 2009 (Exemption: Direct connect gas gates) Notice 2008 by removing 'TRC02003 Te Rapa Cogeneration Plant' from the list of gas gates covered by that exemption?</p>	



# Appendix B Application DR10-02-S from Contact Energy

**Gas Industry Company Limited**

## **Application for an Exemption from the Gas (Downstream Reconciliation) Rules 2008**

1. Please complete a separate form for each type of exemption sought.
2. Complete sections 1 to 4 of the form for all exemption types. Complete section 5 only in addition for urgent exemptions, and section 6 only in addition for transitional exemptions.
3. Please provide all relevant information. Expand the sections of the form as necessary to provide reasonably full information, but detailed supporting information should be set out in attachments to the form.
4. Gas Industry Co may request additional information after receiving and reviewing the application

### **1. Name and contact details for the participant(s) seeking exemption:**

Company name: Contact Energy Ltd

Phone: (04) 462 1265

Contact Name: Rod Crone

Fax: (04) 463 9295

Email: rod.crone@contactenergy.co.nz

Mailing Address: P O Box 10742, Wellington  
6143

### **2. Type of exemption sought (delete all but one):**

Standard (under rule 19)

### **3. Provisions of the Rules from which the exemption is sought:**

Rules 29, 31-33, 39-40, 48-53, 78-79

### **4. State the reasons on why you are seeking the exemption and why the exemption sought should be granted**

The Te Rapa Cogeneration Plant Gas Gate (TRC02003) is currently exempt from the reconciliation rules on the basis of it being a direct connect gas gate.

Fonterra wishes to have the gas throughput of the Te Rapa Cogeneration Plant Gas Gate (TRC02003) treated differently for the purposes of demand curtailment under the Gas

Governance (Critical Contingency Management) Regulations 2008 depending on its mode of operation.

To achieve this objective and treat the customer fairly as compared to non-cogeneration dairy factory sites Gas Industry Co proposed the creation of two new ICPs reflecting the different modes of operation of the Te Rapa Cogeneration Plant, one ICP for the gas used when the gas turbine (GT) and heat recovery steam generator (HRSG) is operational and producing electricity and steam, the other ICP for the gas used by the auxiliary boiler when Contact cannot run the gas turbine and HRSG combination and electricity is imported from the grid.

It is noted that the gas used by the GT/HRSG and auxiliary boiler are separately metered, and while the GT/HRSG maximum throughput exceeds 15 TJ/day, the auxiliary boiler maximum throughput is less than 15 TJ/day (current maximum 9TJ/day). Both modes of operation are quite discrete.

Without the split, or recognition of the different modes of operation, Gas Industry Co has determined that the whole site should be designated as curtailment band 1b.

The purpose of creating the ICPs is to allow different treatment of the two modes of operation for the purposes of designation of curtailment bands. However, there is no rational reason for processing the separate ICP consumption data through the reconciliation process as there is no distribution system downstream of the gas gate and there is no UFG to be allocated.

All the facilities from the Te Rapa Cogeneration Plant Gas Gate (TRC02003) including the GT/HRSG and the auxiliary boiler are owned and operated by Contact. Contact sells electricity and steam produced from these plants to Fonterra. No third party could have access to those facilities so that there is no possibility that the exemption would prevent access to the gas gate. That is not possible because of the ownership of the facilities involved.

If the consumption associated with the separate ICPs was processed through the reconciliation system it would result in a material reallocation of reconciliation fees to retailers, increasing Contact's allocation by approximately 77% or \$120,000 p.a., for no benefit.

Accordingly exemption is sought to avoid consumption associated with the two ICPs having to be processed through the reconciliation system.

An alternative, that avoids the need for a variation to the current exemption, is for Contact to give a written undertaking to Gas Industry Co (and if necessary the Critical Contingency Operator) that when a critical contingency is declared it would cease taking gas for use by the GT/HRSG as soon as Contact receives a direction to curtail demand of consumers in curtailment band 1b, and cease taking gas for use by the auxiliary boiler as soon as Contact receives a direction to curtail demand of consumers in the curtailment band applicable to the site if the only usage was for the auxiliary boiler.

The alternative is preferred as being less complicated but still resulting in the same outcome as

would be achieved by creating the additional ICPs is to allow the two modes of operation to be treated differently. Effectively it would treat the ICP for the direct connect gas gate as notionally two different ICPs depending on the mode of operation.

**Describe how the exemption sought may affect other participants (including service providers) and any costs and benefits to them:**

The exemption will have no impact on other participants or the allocation agent.

**Specify how long the exemption sought is to be in effect for. Give reasons for the period that you specify:**

Exemption is sought for a period that matches that of the exemptions granted for all the other direct consumer gas gates, i.e. until 30 September 2010, to enable Gas Industry Co to be in a fully informed position to assess the merits and operation of the exemptions of direct connect gas gates and if necessary amend the rules.

**Specify what conditions and/or alternative arrangements relating to the exemption sought are appropriate:**

N/A

**5. Additional information for an urgent exemption:**

If your application is urgent, specify the date(s) by when a decision is needed:

N/A

State the reasons for seeking an urgent exemption rather than a standard exemption:

N/A

**6. Additional information for a transitional exemption**

State the reasons for seeking a transitional exemption rather than a standard exemption:

N/A

**Please email this form to [exemptions@gasindustry.co.nz](mailto:exemptions@gasindustry.co.nz)**



# Appendix C DR10-02-S Exemption

## Gas (Downstream Reconciliation) Rules 2008 (Exemption DR10-02-S: Te Rapa Cogen Gas Gate) Notice 2010

Pursuant to rules 19 and 21 of the Gas (Downstream Reconciliation) Rules 2008, Gas Industry Company Limited ('Gas Industry Co'), as the industry body appointed pursuant to s43ZL of the Gas Act 1992, gives the following notice.

### Notice

#### 1. Title and commencement

- (a) This notice is the Gas (Downstream Reconciliation) Rules 2008 (Exemption DR10-02-S: Te Rapa Cogen Gas Gate) Notice 2010.
- (b) This notice comes into force on the date of this notice.

#### 2. Interpretation

- (a) In this notice, Rules means the Gas (Downstream Reconciliation) Rules 2008 made by the Minister of Energy under sections 43F, 43Q and 43S of the Gas Act 1992 by notice published in the New Zealand Gazette, as may be amended from time to time.
- (b) Any term that is defined in the Rules and used, but not defined, in this notice has the same meaning as in the Rules.

#### 3. Exemption

An exemption from the application of rules 29, 31-33, 39-40, 48-53, 78 and 79 is granted in respect of the Te Rapa Cogen (TRC02003) gas gate subject to the following terms and conditions:

- (a) To avoid doubt, as no quantities of gas will be allocated to a retailer by the allocation agent in an initial allocation under rule 48 in respect of the Te Rapa Cogen (TRC02003) gas gate, ongoing fees payable under rule 16 of the Rules do not apply to the Te Rapa Cogen (TRC02003) gas gate.
- (b) The exemption will expire on 30 September 2010.

#### 4. Reasons for granting the urgent exemption

The reasons for granting the exemption are:

- (a) Contact has applied to Gas Industry Co to exempt the Te Rapa Cogen (TRC02003) gas gate from the application of the Rules.
- (b) On the information provided to Gas Industry Co, the Te Rapa Cogen (TRC02003) gas gate previously supplied a single consumer directly from the transmission system and therefore was considered to be a direct connect gas gate in the context of the *Gas (Downstream Reconciliation) Rules 2008 (Exemption: Direct Connect Gas Gates) Notice 2008*.
- (c) Contact wishes to create two ICPs, both of which will supply gas to the same consumer and has sought the exemption on the basis that the arrangement is, in principle, equivalent to a direct connect gas gate.

## **5. Variation of existing exemption**

The Te Rapa Cogen (TRC02003) gas gate is the subject of an existing exemption and that exemption needs to be varied to remove TRC02003. The Gas (Downstream Reconciliation) Rules 2008 (Exemption: Direct connect gas gates) Notice 2008 is hereby varied by removing the entry 'TRC02003 Te Rapa Cogeneration Plant' from the table in section 2(c) of that notice.

**DATED** at Wellington this [xx] day of [Month] 2010.

For and on behalf of Gas Industry Company Limited:

CHRISTINE SOUTHEY, Chief Executive.

# Appendix D Variation to direct connect gas gates notice

## Gas (Downstream Reconciliation) Rules 2008 (Exemption: Direct connect gas gates) Notice 2008 (as varied)

Pursuant to rule 19 of the Gas (Downstream Reconciliation) Rules 2008, Gas Industry Company Limited ('Gas Industry Co'), as the industry body appointed pursuant to s43ZL of the Gas Act 1992, gives the following notice.

### Notice

#### 1. Title and commencement

- (a) This notice is the Gas (Downstream Reconciliation) Rules 2008 (Exemption: Direct connect gas gates) Notice 2008.
- (b) This notice comes into force on the day after the date this notice is published on Gas Industry Co's website.

#### 2. Interpretation

- (a) In this notice, Rules means the Gas (Downstream Reconciliation) Rules 2008 made by the Minister of Energy under section 43F, 43Q and 43S of the Gas Act 1992 by notice published in the New Zealand Gazette, as may be amended from time to time.
- (b) Any term that is defined in the Rules and used, but not defined, in this notice has the same meaning as in the Rules.
- (c) Direct connect gas gates means the gas gates that supply one or more consumers directly from the transmission system and are either set out below or otherwise determined and published by Gas Industry Co to be direct connect gas gates for the purposes of this notice.

ALF15501 Alfriston;
BAL08201 Ballance Ammonia-Urea
BAL09626 Ballance Ammonia-Urea
BRO36301 Broadlands;
GLB03401 Glenbrook
GLB03401 Glenbrook;
HPS02993 Huntly Powerstation
KAW04410 Kawerau (ex-Caxton);
KAW04411 Kawerau (ex-Tasman);
KIN04310 Kinleith (CHH mill);

KIW34201 Kiwitahi 1 (Peroxide)
KTK23901 Kaitoke;
KUR33601 Kauri;
LCF20010 Lichfield DF
MGK05401 Mangatainoka;
KAP09612 Kapuni
MNG34001 Mangaroa;
Mokau Compressor Station (4001143)
MOK35801 Mokoia
MRV16301 Morrinsville DF
MSD01801 Marsden 1 (NZRC)
MSD01802 Marsden 2;
MUT19001 Maungaturoto DF;
NGA00669 Ngatimaru Road (Delivery)
NPS00530 New Plymouth Power Station
OKW23401 Okaiawa (Taranaki Byproducts)
OTB00301 Otahuhu B Power Station
RAG33401 Rangiuru;
RBM03101 Rainbow Mountain;
SDN00101 Southdown Power Station
TAC31001 Te Awamutu Cogeneration Plant
TAT16401 Tatuanui DF
TCC00201 Taranaki Combined Cycle (TCC)
TIR33501 Tirau DF
<del>TCC02003 Te Rapa Cogeneration Plant (removed on [date])</del>
WKE19201 Waikeria

### 3. Exemption

An exemption from the application of Rules 29, 31, 32, 33, 39, 40, 48, 49, 50, 51, 52, 53, 78 and 79 is granted to direct connect gas gates subject to the following terms and conditions:

- (a) To avoid doubt, as no quantities of gas will be allocated to a retailer by the allocation agent in an initial allocation under rule 48 in respect of direct connect gas gates, ongoing fees payable under rule 16 of the Rules do not apply to direct connect gas gates.
- (b) This exemption expires on 30 September 2010.

### 4. Reasons for granting the transitional exemption

The reasons for granting the exemption are:

- (a) Until recently some allocation participants have not appreciated that direct connect gas gates are subject to the Rules and are therefore unlikely to be in a position to comply with the Rules for those direct connect gas gates.
- (b) In light of the potential implementation and compliance costs, the initial benefits in applying the consumption information obligations and global allocation methodology set out in the Rules are reduced in respect of direct connect gas gates, particularly given the circumstances outlined in clause 4(a) above.
- (c) For consistency and operational reasons, all types of direct connect gas gates (including those with more than one retailer or consumer) have been exempted for the purposes of this exemption.
- (d) There are unlikely to be any detrimental effects on competition for retailers or transmission system owners at direct connect gas gates, and granting the exemption is likely to ensure consumers at these direct connect gas gates are not subject to increased gas costs or prices due to retailer compliance costs with the Rules.
- (e) The exemption is limited to a two year period to ensure Gas Industry Co will be in a fully informed position to assess the merits and operation of this initial exemption.

**DATED** at Wellington this XXth day of [Month] 2010 and as amended on xx [month] 2010.

For and on behalf of Gas Industry Company Limited:

RT HON JAMES BOLGER, O.N.Z, Chair