

Consultation paper on Guideline Notes for the Gas (Downstream Reconciliation) Rules 2008

- rule 47: force majeure event and annual UFG factor
- rules 44 and 51: correction of allocations by allocation agent and special allocations
- rule 61: guidelines for determinations on profiles
- rule 64: referral to industry body of disputed profile determinations
- rules 65 to 75 and 80: the commissioning and carrying out of performance audits and event audits
- the management of change requests for the allocation system or the provision of services by the allocation agent

1 Introduction

The Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) set out a range of functions that Gas Industry Co, as the industry body, and the allocation agent are required to carry out. There are also functions that Gas Industry Co has to carry out for the effective management of associated downstream allocation and reconciliation processes.

It is in the interests of all parties that sound processes and policies are in place governing these functions and activities. This ensures that issues are examined thoroughly and that there are clear expectations on the part of all those involved.

To assist allocation participants and the allocation agent in interpreting and applying the Rules and understanding Gas Industry Co’s expectations, Gas Industry Co has developed guideline notes in relation to certain provisions of the Rules and other matters related to the downstream allocation and reconciliation process.

Please note that any issued guideline notes are explanatory in nature and do not have any regulatory status under the Rules (with the exception of the rule 61 guidelines for determinations on profiles).

Gas Industry Co has already formally issued four guideline notes following consultation with allocation participants. These four guideline notes can be viewed at http://www.gasindustry.co.nz/Downstream_Reconciliation.php and consist of:

- Guideline note rule 5 – definition of gas gate
- Guideline note rules 34-37 – historic and forward estimates, and seasonal adjustment

- Guideline note rule 52 – annual reconciliation
- Guideline note – the submission of revisions to the allocation agent

This consultation paper discusses and seeks submissions on six additional guideline notes proposed by Gas Industry Co:

- Draft guideline note rule 47 – force majeure event and annual UFG factor (Appendix B)
- Draft guideline note rules 44 and 51 – correction of allocations by allocation agent and special allocations (Appendix C)
- Draft guideline note rule 61 – guidelines for determinations on profiles (Appendix D)
- Draft guideline note rule 64 – referral to industry body of disputed profile determinations (Appendix E)
- Draft guideline note rules 65 to 75 and 80 – the commissioning and carrying out of performance audits and event audits (Appendix F)
- Draft guideline note re the management of change requests for the allocation system or the provision of services by the allocation agent (Appendix G)

This consultation paper provides an outline in section 2 of the consultation requirements; a description in section 3 of each proposed guideline note, any identified issues relevant to each guideline note and a request for comments from submitters; section 4 seeks submitters' views on whether there are any other issues that may require guidance material; and appends the proposed guideline notes.

2 Consultation requirements

Parties who wish to make a submission on the guideline notes are invited to respond by 5pm on Monday, 26 January 2009. Because the consultation package contains a substantial amount of material, a four week consultation period (excluding the holiday break) is being provided.

Please note that submissions received after Monday, 26 January 2009 may not be able to be considered, as it is anticipated that the guidelines notes will be finalised and formally issued in early February 2009.

Gas Industry Co's preference is to receive submissions in the format shown in Appendix A and in electronic form with "*Submission on guideline notes for the Gas (Downstream Reconciliation) Rules 2008*" in the subject header to submissions@gasindustry.co.nz. Marked-up amendments to the proposed guideline notes are also welcomed, and a Microsoft Word version of each proposed guideline note is available for download on Gas Industry Co's website.

Gas Industry Co will acknowledge receipt of all submissions electronically. Please contact Bas Walker if you do not receive electronic acknowledgement of your submission within two business days.

Gas Industry Co values openness and transparency and, therefore, submissions will generally be made available to the public on Gas Industry Co's website. Submitters should discuss any intended provision of confidential information with Gas Industry Co prior to submitting the information.

3 Summary of proposed guideline notes

3.1 Rule 47: force majeure event and annual UFG factor

Under the Rules, a force majeure event is an event or circumstance beyond the reasonable control of an allocation participant and that was not reasonably foreseeable; and which substantially affects the information needed to calculate the annual UFG factor for a gas gate.

Rule 47 of the Rules provides that, where a force majeure event has occurred, Gas Industry Co as the industry body must determine a fair and representative annual UFG factor for the affected gas gate to be applied during the relevant gas year.

The proposed guideline note addresses the circumstances under which the allocation agent may notify Gas Industry Co that a force majeure event has occurred, and the additional information to be provided with the notification; and the approach Gas Industry Co intends to adopt in determining a fair and representative annual UFG factor.

Gas Industry Co would be particularly interested in submitters' views on what types of events might constitute a force majeure event for the purposes of rule 47 and the proposed approaches for determining:

- whether an event has substantially affected the injection/consumption information that would be used to calculate the annual UFG factor; and
- a fair and representative annual UFG factor.

The proposed guideline note is attached as Appendix B.

Q1: Do you have any comments on, or suggested amendments to, the proposed "guideline note re rule 47 – force majeure event and annual UFG factor"?

3.2 Rules 44 and 51: correction of allocations by allocation agent and special allocations

Rule 51 of the Rules sets out when Gas Industry Co may require the allocation agent to perform a special allocation, which amends and replaces the allocation results from the previous allocation of gas quantities. Rule 44 sets out the processes for the notification of errors in

consumption information submitted to the allocation agent and, where such errors would have resulted in a materially different allocation, requires Gas Industry Co consider whether to direct a special allocation.

The purpose of the guideline note is to provide guidance on how rules 44 and 51 are to be given effect by allocation participants and by Gas Industry Co. Under rule 51, Gas Industry Co may also determine any specific procedures that will apply to a special allocation – which are also set out in this note.

Gas Industry Co is particularly interested in submitters’ views on:

- the suggested thresholds and factors to be considered by the allocation agent in determining whether an error would have resulted in a materially different allocation; and
- in terms of a special allocation, what factors should influence Gas Industry Co’s assessment of whether the existing allocation results (based on the error) are sufficiently unfair so that it is not appropriate to wait for the next allocation wash-up (ie interim or final).

The proposed guideline note is attached as Appendix C.

Q2: Do you have any comments on, or suggested amendments to, the proposed “guideline note rules 44 and 51 – correction of allocations by allocation agent and special allocations”?

3.3 Rule 61: guidelines for determinations on profiles

Rule 61 of the Rules requires Gas Industry Co to develop and publish guidelines to assist the determination of whether a static deemed profile or a dynamic deemed profile is, or continues to be, a reasonable representation of the actual consumption profile of the consumer installation or class of consumer installations to which it applies.

The proposed guideline note sets out those guidelines – which, under rule 61, the allocation agent must take into account in making a determination on the approval, review, challenge of static deemed profiles and dynamic deemed profiles under Part 3 of the Rules. It also sets out the information to be provided by allocation participants as part of the determination process.

Specific factors are identified for the allocation agent to consider whether a static or dynamic deemed profile is a reasonable representation of the actual consumption profile for a consumer installation. Comments and/or suggested amendments from submitters on these factors and their application would be welcomed.

The proposed guideline note is attached as Appendix D.

Q3: Do you have any comments on, or suggested amendments to, the proposed “guideline note rule 61 – guidelines for determinations on profiles”?

3.4 Rule 64: referral to industry body of disputed profile determinations

As noted above, Part 3 of the Rules provides for the allocation agent to make various determinations in respect of static or dynamic deemed profiles.

In addition, rule 64 of the Rules allows a retailer to dispute a determination by the allocation agent in respect of a deemed profile by referring it to Gas Industry Co, as the industry body, for review. Gas Industry Co must review the determination, having regard to the requirements of rules 55 to 62, and either confirm the determination by the allocation agent or refer the matter back to the allocation agent for reconsideration.

The proposed guideline note addresses the following matters:

- (a) The form in which a notice of a disputed determination should be given to Gas Industry Co for it to review; and
- (b) The processes and criteria that will be used by Gas Industry Co in carrying out and notifying the review decision.

Gas Industry Co is also interested in whether submitters' consider there are additional criteria to that proposed in the guideline note that should be taken into account in the review of the disputed determination.

The proposed guideline note is attached as Appendix E.

Q4: Do you have any comments on or suggested amendments to the proposed "guideline note rule 64 – referral to industry body of disputed profile determinations"?

3.5 Rules 65 to 75 and 80: the commissioning and carrying out of performance audits and event audits

Rule 65 of the Rules requires Gas Industry Co to commission performance audits of the allocation agent and allocation participants at regular intervals. The purpose of a performance audit is to review the performance of an allocation participant, and its associated systems and processes, in terms of compliance with the Rules.

Rule 66 of the Rules provides that Gas Industry Co may commission event audits, either on its own initiative or in response to a request from an allocation participant. The purpose of an event audit is to ascertain the cause or causes of any particular issue or event that has arisen in relation to the allocation of gas under the Rules.

The proposed guideline note addresses the following matters:

- General provisions, such as the appointment of auditors, setting up of audits, and costs and payment;

- Specific issues applying to performance audits including a regular programme for such audits; and
- Specific issues applying to event audits including what may constitute an event, the triggering of event audits, and the carrying out of event audits for gas gates for which the cap of 1.085 or the floor of 0.985 apply, under rule 80.

The frequency of performance audits is one issue that is being carefully considered by Gas Industry Co. A rolling period of between two and four years is currently being considered, with the proposed guideline note tentatively suggesting a similar initial period for the first round of performance audits for allocation participants. Gas Industry Co notes that, by comparison, under the Electricity Governance Rules reconciliation participants are subject to annual audits and would be interested in submitters' views on whether a similar frequency should be applied for performance audits here.

Other relevant issues that allocation participants may wish to comment on include:

- the expected content of audit reports;
- the apportionment of audit costs to allocation participants; and
- the identified issues or events that may give rise to an event audit being commissioned.

The proposed guideline note is attached as Appendix F

Q5: Do you have any comments on, or suggested amendments to, the proposed "guideline note rules 65 to 75 and 80 – the commissioning and carrying out of performance audits and event audits"?

3.6 Managing change requests for the allocation system and services

Over the course of time, change may be needed or desired to either the allocation system operated by the allocation agent and/or the services provided by the allocation agent under the Rules. The purpose of this guideline note is to set out who can request or initiate changes, the process to be followed and the associated documentation, and the allocation and payment of costs.

The different ways of initiating a change request are set out, processes for handing the requests described and provisions governing the allocations of costs set out. The processes described are separate to the contractual arrangements between Gas Industry Co and the allocation agent for authorising system changes. A proposed "change request form" is also included.

The guideline note seeks to incorporate arrangements which have already been extensively discussed at GRREC meetings and are effectively already in operation.

Q6: Do you have any comments on, or suggested amendments to, the proposed "guideline note re the management of change requests for the allocation system or the provision of services by the allocation agent"?

4 Other issues

Gas Industry Co is currently considering whether further guidance material to assist the effective operation of the Rules should be developed.

At this stage, Gas Industry Co does not plan to develop any further guideline notes for the Rules in the immediate future. However, it is aware of some retailer interest in an issue surrounding the use of "estimate indicator" field in GAS050 to flag any estimated allocation group 1 or 2 consumption data (including permanent estimates) for initial, interim and final submissions. If allocation participants consider there is value in developing a guideline note on this issue or there are other issues that allocation participants would like additional guidance on, Gas Industry Co is willing to consider issuing further guidance material in due course.

Accordingly, allocation participants are invited to indicate other topics or issues for which they consider a guideline note would be desirable.

Q7: Do you have any topics or issues related to the Rules that you would like Gas Industry Co to consider issuing further guidance material on?

Appendix A Recommended Format for Submissions

It would assist the consideration of submissions if comments were provided in accordance with the template below. However, additional comments can also be provided.

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

Question	Comment
<p><i>Q1: Do you have any comments on, or suggested amendments to, the proposed "guideline note re rule 47 – force majeure event and annual UFG factor"?</i></p>	
<p><i>Q2: Do you have any comments on, or suggested amendments to, the proposed "guideline note rules 44 and 51 – correction of allocations by allocation agent and special allocations"?</i></p>	
<p><i>Q3: Do you have any comments on, or suggested amendments to, the proposed "guideline note rule 61 – guidelines for determinations on profiles"?</i></p>	

Question	Comment
<p>Q4: Do you have any comments on, or suggested amendments to, the proposed "guideline note rule 64 – referral to industry body of disputed profile determinations"?</p>	
<p>Q5: Do you have any comments on, or suggested amendments to, the proposed "guideline note rules 65 to 75 and 80 – the commissioning and carrying out of performance audits and event audits"?</p>	
<p>Q6: Do you have any comments on, or suggested amendments to, the proposed "guideline note re the management of change requests for the allocation system or the provision of services by the allocation agent"?</p>	
<p>Q7: Do you have any topics or issues related to the Rules that you would like Gas Industry Co to consider issuing further guidance material on?</p>	

Appendix B Rule 47: force majeure event and annual UFG factor

Subject	Gas (Downstream Reconciliation) Rules 2008 Guideline note rule 47 – force majeure event and annual UFG factor
Version	0.1 for consultation
Date	16 December 2008

1. Introduction

- 1.1 Rule 47 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) provides that where a force majeure event has occurred, Gas Industry Co as the industry body must determine a fair and representative annual UFG factor for the affected gas gate to be applied during the relevant gas year.
- 1.2 The purpose of this guideline note is to assist allocation participants in understanding the processes that will be adopted by Gas Industry Co to give effect to rule 47. This guideline note addresses two matters:
- (a) The circumstances under which the allocation agent may notify Gas Industry Co that a force majeure event has occurred, and the information to be provided with the notification; and
 - (b) The approach Gas Industry Co intends to adopt in determining a fair and representative annual UFG factor.
- 1.3 This note is explanatory in nature and is not legally binding. It needs to be read in conjunction with the Rules and the general approach set out in this note in no way reduces the requirement upon allocation participants to know and comply with their obligations under the Rules.

2. Background

- 2.1 Rule 47 defines a force majeure event as an event or circumstance:
- (a) beyond the reasonable control of an allocation participant and that was not reasonably foreseeable in the circumstances; and

(b) which substantially affects the information relied on to determine the annual UFG factor in rule 46 so that it no longer will result in a fair and representative calculation of the annual UFG factor for a particular gas gate.

2.2 Where the allocation agent considers that a force majeure event has occurred, it may give notice to Gas Industry Co but it must do so at least 10 business days prior to determining and publishing the annual UFG factors in accordance with rule 46.4.2.¹

2.3 On receiving notice of a force majeure event from the allocation agent, under rule 47.3 Gas Industry Co must, after consultation with affected allocation participants, determine the annual UFG factor to be applied for the gas gate for the upcoming gas year. Gas Industry Co must determine an annual UFG factor which it considers will result in a fair and representative calculation of the annual UFG factor for that gas gate.

2.4 Gas Industry Co's determination must be notified to the allocation agent, which then publishes the annual UFG factor in the normal way but with a notation that it has been determined by Gas Industry Co.

3. Determining and notifying a force majeure event

3.1 Calculation of the annual UFG factor relies on aggregate gas injection information and consumption information for a gas gate over a prior 12 month period.² Accordingly, there is the potential for unforeseen events or circumstances, outside the reasonable control of allocation participants, which are so significant that the injection or consumption information provided will be distorted and an unrepresentative annual UFG factor for the relevant upcoming gas year will result.

3.2 Gas Industry Co has identified the following examples of exceptional events or circumstances which are likely to constitute a force majeure event:

- (a) Unforeseen rupture of a distribution system, which materially distorts UFG on the distribution system (eg caused by third parties such as heavy machinery contractors, or by natural disasters such as earthquakes or flooding);
- (b) Other significant malfunctions of the distribution system and/or its connection(s) with the transmission system that had not previously been discovered, which materially distort UFG on the distribution system (eg leakage at an interconnection point or on the distribution system);
- (c) Oil or water contamination of part of the transmission or distribution system such that incorrect metering data at the gas gate and/or consumer installations materially distorts UFG on the distribution system; and

¹ Under rule 46, annual UFG factors are required to be published by the allocation agent on the 1st business day of July each year. Therefore, for the 2009/10 gas year, the allocation agent must give notice of any force majeure event by 17 June 2009.

² For the 2009/10 gas year, the prior 12 month period is the 12 months ended 30 September 2008 – see rule 79.2.2. For all future gas years, the prior 12 month period is the 12 months up to and including February of the previous gas year – see rule 46.3.

- (d) A permanent loss of data required by the allocation agent to calculate annual UFG factors, such that the annual UFG factor for a distribution system would be materially distorted.

3.3 Before the allocation agent notifies Gas Industry Co that it considers a force majeure event has occurred, the allocation agent must be of the opinion that the event or circumstance has substantially affected the information relied on to determine the annual UFG factor, so that it will no longer result in a fair and representative calculation of the annual UFG factor for a particular gas gate. In particular, the effects of the types of events set out in paragraph 3.2 above may have already been remedied through the provision of corrected injection or consumption information for an interim, final or special allocation ie the annual UFG factor will now be fair and representative following the data corrections. In these situations, a force majeure event for the purposes of the Rules will not have occurred and is not to be notified by the allocation agent under rule 47.

3.4 In assessing whether an event or circumstance has substantially affected the information relied on to calculate the annual UFG factor at a gas gate, Gas Industry Co considers that the allocation agent should take account of the following criteria:

- (a) The event or circumstance has resulted in an annual UFG factor at a gas gate that differs by +/- 0.025 from the annual UFG factor that would have otherwise been calculated ie based on the remaining unaffected data in the relevant 12-month period or, if no such information is available, the best information available to the allocation agent (eg the previous gas year's annual UFG factor);
- (b) The event or circumstance has resulted in an additional or reduced level of UFG of more than 1,000GJ at a gas gate for each consumption period in the affected period ie based on the remaining unaffected data in the relevant 12-month period or, if no such information is available, the best information available to the allocation agent (eg the previous gas year's UFG data); and
- (c) Any other matters that, in the particular circumstances surrounding the event or circumstance, are so significant as to substantially affect the information relied on to calculate the annual UFG factor so that a fair and representative calculation of the annual UFG factor is no longer possible in the allocation agent's opinion.

3.5 When forming its opinion on whether it considers a force majeure event has occurred, the allocation agent should also seek information surrounding the event or circumstance from affected allocation participants. In most cases, Gas Industry Co expects affected allocation participants will have already notified the allocation agent and Gas Industry Co of the occurrence of a potential force majeure event. Such information sought would be additional to that held by the allocation agent and would relate to the actual quantitative impact of the event or circumstance to the extent possible (eg estimated/corrected injection quantities from the transmission system owner). Where the impact of the event or circumstance is not known (or will not be known prior to the deadline for publishing the annual UFG factor), the

allocation agent is expected to estimate the impact either by comparison with existing historical data for the affected gas gate, other gas gates which are considered to have similar characteristics, or through such other means as the allocation agent considers to be most appropriate.

3.6 In general, the allocation agent should give notice to Gas Industry Co as soon as practicable after the completion of the February allocations that it considers a force majeure event has occurred ie on completion of the final allocation in February, the 12 months of data needed to calculate the annual UFG factor is available. As noted above, the latest date for a notification is 10 business days before 1 July each year.

3.7 It will be satisfactory for notifications from the allocation agent to Gas Industry Co to be in the form of an email addressed to downstreamreconciliation@gasindustry.co.nz. Notifications should contain the following information:

- (a) The gas gate(s) affected by the force majeure event;
- (b) The nature and cause of the force majeure event;
- (c) The size and nature of the substantial effect on the calculation of the annual UFG factor and, to the extent possible, the allocation participants who would be affected. To the extent that the information is not available, the allocation agent is to provide its best estimate of that information;
- (d) To the extent possible, a preliminary view from the allocation agent on an annual UFG factor (or range) that it considers would be a fair and representative calculation of the annual UFG factor at the affected gas gate(s).

4. Determining and publishing the annual UFG factor as a result of a force majeure event

4.1 Having received notification of a force majeure event from the allocation agent, rule 47.3 sets out the process to be followed by Gas Industry Co in determining and notifying a fair and representative annual UFG factor for an affected gas gate. Details of the process are as follows:

- (a) The determination must be made as soon as is practicable. In general Gas Industry Co will aim to complete the process, including notifying the allocation agent, within 10 business days or, in any event, 2 business days prior to the deadline for publication of the annual UFG factor on 1 July;
- (b) To the extent reasonably practicable in the time available, consultation with affected allocation participants is required before the annual UFG factor is determined. Gas Industry Co will generally take a broad view of which allocation participants might be affected and this will usually mean all of the retailers at the affected gas gate and the relevant transmission system operator. Gas Industry Co will generally aim to initiate the

consultation process within 2 business days of receiving notice of a force majeure event and the consultation period will usually be between 1 and 2 weeks depending on how much time is available. Consultation will generally be done by email;

- (c) The information provided to affected allocation participants for consultation will include the information provided by the allocation agent in the notification to Gas Industry Co (excluding any information that has been identified as confidential or commercially sensitive);
- (d) The information sought from allocation participants will generally relate to additional information on: the nature and extent of the effects of the force majeure event on the annual UFG factor; particular impacts on individual allocation participants of the "unfair and unrepresentative" annual UFG factor; the correct quantities to use for the calculation of the annual UFG factor if that information can be provided; and the most appropriate method of estimation to use if actual quantities cannot be provided; and
- (e) The determination by Gas Industry Co will be notified to the allocation agent as required by rule 47.3.1, but the notification will be copied to all those affected allocation participants that were consulted. The notification will be by email.

4.2 Rule 47.3.2 requires Gas Industry Co to determine an annual UFG factor which it considers will result in a fair and representative calculation of the annual UFG factor for that gas gate for the gas year. The approach that Gas Industry Co will adopt in order to achieve this will be as follows:

- (a) Where corrected gas injection and consumption information is available, that information will be included in the relevant 12-month period used to determine the annual UFG factor;
- (b) Where "estimated corrected" gas injection and consumption information has been provided by affected allocation participants and Gas Industry Co considers that it is reasonably accurate, that information will be included in the relevant 12-month period used to determine the annual UFG factor;
- (c) Where corrected or "estimated corrected" gas injection and consumption information is not available or is considered to be inaccurate, the annual UFG factor calculation will be based on the remaining unaffected data in the relevant 12-month period; or
- (d) If, for each of the above options, insufficient information is available and/or none of the above options are considered to result in a fair and representative annual UFG factor, Gas Industry Co will determine an annual UFG factor based on its own methodology, taking into account the views of the allocation agent and affected allocation participants (eg adjusting the previous year's annual UFG factor based on the best information available to Gas Industry Co).

Appendix C Rules 44 and 51: correction of allocations by allocation agent and special allocations

Subject **Gas (Downstream Reconciliation) Rules 2008**
Guideline note for rules 44 and 51 – correction of allocations by allocation agent and special allocations

Version **0.1 for consultation**

Date **16 December 2008**

1. Introduction

- 1.1 Rule 51 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) sets out when Gas Industry Co may require the allocation agent to perform a special allocation, which amends and replaces the *allocation results* from the previous allocation of gas quantities. Rule 44 sets out the processes for the notification of errors in consumption information submitted to the allocation agent and, where such errors would have resulted in a materially different allocation, requires Gas Industry Co consider whether to direct a special allocation.
- 1.2 The purpose of this note is to provide guidance on how rules 44 and 51 are to be given effect by allocation participants and by Gas Industry Co. Under rule 51, Gas Industry Co may also determine any specific procedures that will apply to a special allocation – which are also set out in this note.
- 1.3 This note is explanatory in nature and is not legally binding. It needs to be read in conjunction with the Rules and the general approach set out for participants in no way reduces the requirement upon participants to know and comply with their obligations under the Rules.
- 1.4 In this guideline note “*allocation results*” means:
- (a) the quantities determined by the allocation agent in accordance with rule 45 and allocated to allocation participants as initial, interim, or final allocations under rules 48 to 50; and

- (b) includes any quantities allocated as a special allocation under rule 51 or corrected quantities allocated under rule 44.3.¹

2. Correction of allocations - application of rule 44

- 2.1 Under rule 44, allocation participants are to advise the allocation agent immediately if they discover a material error in consumption information submitted to the allocation agent. The allocation participant (usually the relevant retailer or transmission system owner) must immediately advise the allocation agent of the nature and extent of the error and provide corrected consumption information.
- 2.2 Where metering equipment at a consumer installation is found to be in error, the affected consumption information is to be corrected in accordance with the Schedule to the Rules. If the period over which the error occurred is unknown, then:
 - (a) for a TOU meter installed at an allocation group 1 or 2 ICP, the allocation agent must estimate the expected period of the error using the best available information; and
 - (b) for any other metering equipment at any ICP, the retailer at that ICP must estimate the expected period of the error using the best available information.²

Errors discovered in the next business day

- 2.3 Up until 1730 hours on the next business day following an initial, interim or final allocation, the allocation agent may amend the *allocation results* using the corrected consumption information. The allocation agent must have amended the *allocation results* and notified affected allocation participants by this time.
- 2.4 If the allocation agent does not to amend the *allocation results* by 1730 hours on the next business day after the *allocation results* were provided, the corrected consumption information is to be resubmitted for the next scheduled allocation for that consumption period (ie included in either the interim or final allocation).

Errors discovered later than the next business day

- 2.5 If an error is discovered later than 1730 hours on the next business day after the original *allocation results* were provided, the allocation agent must consider whether the correction of that error would have resulted in a materially different allocation. If the allocation agent reasonably considers the correction of that error would have resulted in a materially different allocation then:
 - (a) it must notify the affected allocation participants and Gas Industry Co; and

¹ This is the definition of "*allocation results*" in rule 5 of the Rules – which, to avoid doubt, includes the quantities in the gas gate residual profile.

² The estimated correction cannot extend back further than 13 months from when the error was first notified or detected.

- (b) Gas Industry Co must decide in accordance with rule 51 whether a special allocation should occur.

2.6 In determining whether the correction of that error would have resulted in a materially different allocation, the allocation agent must have regard to all of the relevant circumstances surrounding the error and its effect. However, to provide a degree of consistency and certainty, Gas Industry Co has sought to identify some objective thresholds and factors to assist the allocation agent in making this decision. These include where:

- (a) There is a change in a retailer's allocated quantity at a gas gate of more than 500GJ, the correction of that error is generally considered to result in a materially different allocation;³
- (b) There is a change in a retailer's total allocated quantities across all gas gates of more than 1,000GJ, the correction of that error is generally considered to result in a materially different allocation;
- (c) There is a change in a retailer's allocated quantity at a gas gate which will, on the best available information, have a financial impact in excess of \$5,000 on an allocation participant at the gas gate; and
- (d) There are any other matters that, in the particular circumstances surrounding the error and its effect, the correction of that error is reasonably considered to result in a materially different allocation.

2.7 Note that if the allocation agent considers the correction of the error would not have resulted in a materially different allocation or Gas Industry Co decides not to require a special allocation in respect of the error, the corrected consumption information is to be resubmitted in the next scheduled allocation for that consumption period (ie included in either the interim or final allocation). If there is no further scheduled allocation in that situation, the corrected consumption information is not used and the existing *allocation results* stand.

Information on error to be provided by allocation agent to Gas Industry Co

2.8 Gas Industry Co's consideration of whether or not to require a special allocation relies significantly on the information provided by the allocation agent (and the information that has been provided by allocation participants to the allocation agent). To assist Gas Industry Co in making this decision, the allocation agent is expected to provide Gas Industry Co with all relevant information surrounding its knowledge of the error and its effect on the *allocation results*. This information must include as a minimum:

³ Clause 2.19 of Schedule 2 of the Allocation agent service provider agreement provides an initial reference point for determining materiality is a change in a retailer's allocated quantity at a gas gate of more than 500GJ – subject to any other circumstances considered by the allocation agent to be relevant.

- (a) The allocation affected (ie the consumption period(s) in question and whether the allocation is an initial, interim or final allocation);
- (b) The difference between the existing *allocation results* and the *allocation results* that would apply if the corrected information was used;⁴
- (c) Information identifying which of the thresholds set out in paragraph 2.6 above apply and how they have been considered; and
- (d) Any other information relevant to Gas Industry Co's decision on whether to direct a special allocation under rule 51.

2.9 The allocation agent is to also provide the appropriate allocation participants (ie those allocation participants at a gas gate affected by the error) with the same information. This is to assist an allocation participant in understanding the error and any effect it may have on the participant.

3. Directing a special allocation - application of rule 51

3.1 A special allocation is performed by the allocation agent in a similar manner as an initial, interim or final allocation, but:

- (a) it needs to be specifically required by Gas Industry Co in accordance with rule 51; and
- (b) it can occur at any time, rather than at the set times applying to initial, interim or final allocations in rules 48 to 50.

3.2 A special allocation can be performed up to 12 months after a final allocation has been performed (ie up to 25 months after the consumption period affected).

3.3 When deciding whether or not to direct the allocation agent to undertake a special allocation, Gas Industry Co must:

- (a) believe that the current allocation information or *allocation results* are sufficiently unfair that it is not appropriate to wait until the next (if any) scheduled interim allocation or final allocation is performed; and
- (b) balance the unfairness of the current allocation information or *allocation results* against any commercial reasons for retaining the current *allocation results*.

3.4 As noted in paragraph 1.2 above, Gas Industry Co may determine specific procedures applying to a special allocation. These specific procedures may be generic (ie such as those set out in this note that are intended to apply to all special allocations) or they may be case specific (ie to apply to a single particular special allocation). Examples of such procedures would include the process

⁴ Note in order to provide this information, the allocation agent may need to rerun the allocation calculations.

and consultation steps to be taken before reaching a decision or identifying factors to be assessed before reaching any decision. These procedures may also relate to the type of allocation methodology to be used for a particular special allocation – though a departure from the allocation methodology provided in the Rules is likely to be exercised only in exceptional cases.

- 3.5 Gas Industry Co may request a special allocation on its own initiative – for example, in situations where there has been no error or no material error advised by the allocation agent under rule 51. Gas Industry Co does not generally intend to unilaterally investigate situations that might warrant such action. However, any allocation participant is able to request Gas Industry Co to consider initiating a special allocation on the basis that the current allocation information or *allocation results* are sufficiently unfair. Allocation participants are to put any requests for a special allocation to Gas Industry Co in writing. Requests must include detailed reasons, together with full supporting information.
- 3.6 To assist its assessment, Gas Industry Co will generally seek the views of, and additional information from, the allocation agent and the allocation participants likely to be affected by a special allocation – particularly in respect of the degree of unfairness of the current *allocation results* and the commercial considerations for retaining those current *allocation results*. In respect of material errors notified under rule 44, Gas Industry Co will also rely on the information previously provided to it in respect of the error by the allocation agent.
- 3.7 Gas Industry Co will notify all allocation participants of any decision, including reasons, to require the allocation agent to perform a special allocation.

Allocation information/results must be sufficiently unfair

- 3.8 In considering whether the current allocation information or *allocation results* are sufficiently unfair such that it is not appropriate to wait for the next scheduled allocation, Gas Industry Co will have regard to all of the relevant circumstances. In particular, it will consider the following factors:
- (a) The extent to which the objective thresholds and factors described in paragraph 2.5 (in relation to assessing materiality) above have been met or exceeded and the resulting degree of unfairness in the current *allocation results*;
 - (b) The magnitude or nature of any claimed unfairness including, but not limited to, matters such as the effect of letting uncorrected *allocation results* stand until the next allocation on transmission charges, mismatch and imbalance positions, the billing of affected consumers, and any residual negative effects on other commercial or research activities reliant on such information;

- (c) The degree to which any unfairness would be remedied, or the benefits that would be achieved, by directing an immediate special allocation rather than waiting until the next scheduled allocation; and
- (d) Where there are no errors in the current allocation information or *allocation results*, the unfairness resulting from the application of the allocation methodology set out in the Rules – including the extent to which the current *allocation results* attribute UFG to retailers or consumers who, on the best available information, are unlikely to be responsible for that UFG.

Unfairness versus commercial reasons for retaining allocation results

3.9 In balancing any unfairness of the current allocation information or results against the any commercial reasons for retaining those results, Gas Industry Co will have regard to the following factors:

- (a) Whether there are any affected allocation participants that oppose a special allocation occurring. Where unfairness in respect of the current *allocation results* exists and there are no objections, Gas Industry Co will generally direct a special allocation. Where an affected allocation participant does object, Gas Industry Co will only direct a special allocation if it is satisfied that the commercial reasons in the objection are outweighed by the negative effect or unfairness on all other affected allocation participants;
- (b) The quantitative and qualitative aspects of the commercial reasons for retaining or amending the current *allocation results* – including the financial cost to allocation participants, and any negative effects or additional costs on the allocation agent in carrying out the special allocation. Where the financial cost to an allocation participant (in retaining the *allocation results*) is greater than the total financial cost to allocation participants (in amending the *allocation results*), Gas Industry will generally direct a special allocation.

3.10 Gas Industry Co will also endeavour to follow previous decisions on directing special allocations. Given the Rules have only recently come into effect, the approach set out above is, to a degree, ad hoc, but over time, decision making will be able to be based on previous experience and precedent. As such, it is expected that this guideline note will be reviewed and updated in due course.

4. Injection Quantities

4.1 Rule 44 primarily addresses the correction of errors in consumption information rather than errors in injection information. Nevertheless, errors in injection information are able to be dealt with under the Rules.

- 4.2 Where errors in injection information are discovered, Gas Industry Co is able to require the allocation agent to perform a special allocation under rule 51. The same processes outlined above will apply to the consideration of special allocations for errors in injection information.
- 4.3 Gas Industry Co also notes that transmission system owners are required to provide information that is accurate and complete. Where an allocation participant becomes aware of an error in injection information provided by a transmission system owner, the nature and extent of that error is also to be notified to the allocation agent. Corrected injection information is to be provided to the allocation agent by the transmission system owner as soon as possible.
- 4.4 As with errors in consumption information, the allocation agent shall determine whether the correction of that error would have resulted in a materially different allocation, having regard to the matters set out in paragraph 2.5 above. Where the correction of that error would have resulted in a materially different allocation, the allocation agent is to provide Gas Industry Co and the appropriate allocation participants with the information set out in paragraph 2.7 above.

Draft

Appendix D Rule 61: guidelines for determinations on profiles

Subject Gas (Downstream Reconciliation) Rules 2008
Guideline note rule 61 – guidelines for determinations on profiles

Version 0.1 for consultation

Date 16 December 2008

1. Introduction

- 1.1 Rule 61 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) requires Gas Industry Co to develop and publish guidelines to assist the determination of whether a static deemed profile or a dynamic deemed profile is, or continues to be, a reasonable representation of the actual consumption profile of the consumer installation or class of consumer installations to which it applies.
- 1.2 This note sets out those guidelines – which, under rule 61, the allocation agent must take into account in making a determination on the approval, review, or challenge of static deemed profiles and dynamic deemed profiles under Part 3 of the Rules.¹
- 1.3 This note is explanatory in nature and is not legally binding. It needs to be read in conjunction with the Rules and the general approach set out for participants in no way reduces the requirement upon participants to know and comply with their obligations under the Rules.

2. Background

2.1 In this guideline note:

- (a) A *static deemed profile* is a predetermined estimate of daily gas quantities which is used to define the profile of consumption during a *consumption period* for the consumer installation or class of consumer installations to which it applies (see rule 55.1).

¹ This guideline note does not address the processes surrounding the referral to Gas Industry Co under rule 64 of dispute regarding a determination on a profile by the allocation agent. These processes are addressed by a separate guideline note “*Guideline note rule 64 – referral to industry body of disputed profile determinations*”.

- (b) A *dynamic deemed profile* is a consumption profile that changes in accordance with information obtained from TOU meters installed at one or more sample consumer installations that are representative of the daily consumption profile of the consumer installation or class of consumer installations to which it is applied (see rule 56.1).
- (c) A *consumption period* is a month during which gas is supplied to consumers (see rule 5).

2.2 Profiles consist of a set of day by day gas quantities over the relevant *consumption periods* in a gas year.

2.3 It is noted that:

- (a) Deemed profiles are only applicable to the calculation of daily consumption information for consumer installations in allocation groups 3 and 5. These are generally the so-called “mass market” meters or non-TOU meters. Profiles are specifically not required for TOU meters.
- (b) The use of deemed profiles is not mandatory. For non-TOU metered consumer installations without a deemed profile²:
 - (i) when calculating daily consumption quantities, the allocation agent uses the gas gate residual profile (rules 45.2.5 and 45.2.6); and
 - (ii) when calculating historic estimates, retailers can use either a flat straight-line profile or the relevant seasonal adjustment daily shape values (SADSVs) in lieu of a deemed profile (rules 35.1 and 35.3).

3. Determinations in respect of static deemed profiles

3.1 The general process for determinations in respect of the registration of static deemed profiles is as follows.

3.2 *Registration of static deemed profiles (rule 55)*

- (a) **Step 1:** Requests for registering static deemed profiles should be made to the allocation agent in writing, which could be in email form, and should contain the following information:
 - (i) A description of the profile;
 - (ii) The period for which the profile is to be applied, ie how many and which months (a minimum of 12 consecutive months is required);

² Such consumer installations are designated to allocation group 4 or 6. Consumer installations with a registered profile are designated either allocation group 3 (static deemed profile) or allocation group 5 (dynamic deemed profile) – see rules 6 and 29.

- (iii) The consumer installation or class of consumer installations to which the profile will apply, the specific ICP(s) proposed to be covered by the profile, and the gas gate(s) that the ICP(s) are supplied from;
- (iv) The eligibility criteria for consumers to be included in the profile. These criteria must be readily verifiable and must include that all consumers within the profile have similar consumption patterns and/or unit costs (Note a similar consumption pattern across consumers in the profile is considered to be a more important criterion than similar unit costs);
- (v) The information specified in rule 55.2, including as a minimum the elements making up each ICP's consumption quantities, with the documentation provided to the allocation agent to include a description of the inputs, methodology, formula, and results of any calculations for any estimated data; and

By way of example, information provided should include: details of dynamics derived from sources external to the metering installation if appropriate (eg SCADA); details of any TOU metering used as a control or source of input data to the profile; statistical or engineering data that supports the proposed profile shape; relevant consumer operating information such as hours/days of operation; and information on the operating profile including when the plant involved is warming up, is at full load, or warming down during the week)

- (vi) Any relevant additional information which should include any external factors that may affect the predictability of the load (or other information reasonably requested by the allocation agent).
- (b) **Step 2:** As required by rule 55.3, the allocation agent will consider whether the proposed profile is a reasonable representation of the consumer installation or class of installations to which it will apply. The criteria and approach to applying the "reasonable representation" test for static deemed profiles are discussed in section 5 below.
- (c) **Step 3:** The allocation agent must, as soon as practicable and no later than 20 business days after receiving the profile application, determine to either accept or reject the profile application. The allocation agent will advise the applicant in writing of the determination, together with reasons. A suggested format for advising applicants is set out in section 7 below.
- (d) **Step 4:** If the static deemed profile is approved, the allocation agent must record that profile on the register established for this purpose under rule 54.

4. Determinations in respect of dynamic deemed profiles

- 4.1 The general process for determinations in respect of the registration of dynamic deemed profiles is as follows.

4.2 Registration of dynamic deemed profiles (rule 56)

- (a) **Step 1:** If a retailer wishes to register a dynamic deemed profile, that retailer is to advise the allocation agent in writing, which could be in email form, of the following information:
- (i) A description of the profile;
 - (ii) The consumer installation or class of consumer installations to which the profile will apply, the specific ICP(s) proposed to be covered by the profile, and the gas gate(s) that the ICP(s) are supplied from; and
 - (iii) The eligibility criteria for consumers to be included in the profile. These criteria must be readily verifiable and must include that all consumers within the profile have similar consumption patterns and/or unit costs (NB: a similar consumption pattern across consumers in the profile is considered to be a more important criterion than similar unit costs).
- (b) **Step 2:** The allocation agent shall determine a suitable initial sample size from the list of ICPs proposed to be covered by the profile, along with the required sample accuracy. In determining the sample size and sample accuracy, the allocation agent shall ensure that this determination is informed by relevant statistics expertise, which may be internal or external. The allocation agent will also engage in discussions with Gas Industry Co, retailers and consumers. ICPs to be sampled will be selected at random from the proposed profile population.
- (c) **Step 3:** The applicant shall be responsible for ensuring that TOU meters are installed at the sample ICPs and TOU data will be gathered for those ICPs. The sample consumption information is to be analysed by the applicant for sample accuracy against the accuracy level determined by the allocation agent in step two above. A proposed profile must be evaluated over 12 months (ie over all seasons). However, at the discretion of the allocation agent, the profile may be registered after three months of data have been evaluated, and monitored for the following nine months.
- (d) **Step 4:** Having obtained a minimum of three months of sample data, the profile applicant may then seek registration of a dynamic deemed profile. The retailer must provide the allocation agent with the following information (additional to that provided in step 1 above):
- (i) The period for which the profile is to be applied, ie how many and which months (a minimum of 12 consecutive months is required);
 - (ii) The information specified in rule 56.2 including, as a minimum, the consumption information from the sample of TOU meters and the retailer's analysis of that consumption information for sample accuracy;

- (iii) Any relevant additional information which should include any external factors that may affect the predictability of the load (or other information reasonably requested by the allocation agent).
- (e) **Step 5:** As required by rule 56.3, the allocation agent will consider whether the proposed profile is a reasonable representation of the consumer installations or class of installations to which it will apply. The criteria and approach to applying the “reasonable representation” test for dynamic deemed profiles are discussed in section 5 below.
- (f) **Step 6:** The allocation agent must, as soon as practicable and no later than 20 business days after receiving the profile application, determine to either accept or reject the profile application. The allocation agent will advise the applicant in writing of the determination, together with reasons. A suggested format for advising applicants is set out in section 7 below.
- (g) **Step 7:** If the profile is approved, the allocation agent must record that profile on the register established for this purpose under rule 54.

5. Determining whether profiles are reasonable

5.1 This section identifies general and specific considerations when applying the “reasonable representation” test to static deemed profiles and dynamic deemed profiles.

5.2 *General points*

- (a) The allocation agent should make an assessment against each of the tests sets out below, accepting that the assessment may be qualitative rather than quantitative in some instances; and
- (b) It is difficult to recommend specific quantitative reference points. In paragraphs 5.3 and 5.4 below some quantitative references are suggested, but these are intended only as examples of a potential starting point and, if appropriate, other reference points may be used. Should this occur, the allocation agent shall provide in writing the basis for the amended quantitative reference.

5.3 *“Reasonable representation”: static deemed profile*

In determining whether the profile is or will be a representation of the actual consumption profile, the allocation agent shall consider the following factors:

- (a) The eligibility criteria for consumers to be included in the profile;
- (b) That the profile methodology uses recognised engineering principles to calculate the consumption information;

- (c) The average ratio of total gas quantities contained in the profile consumption information to the total gas gate injection quantities (it may be acceptable to have a lower level of accuracy if the profiled quantities are a small percentage of the total injection quantities);
- (d) The extent to which the profile aligns with other profiles for like populations; and
- (e) That the profile can be incorporated into the allocation process.

5.4 *“Reasonable representation”: dynamic deemed profile*

In determining whether the profile is or will be a representation of the actual consumption profile, the allocation agent shall consider the following factors:

- (a) The eligibility criteria for consumers to be included in the profile;
- (b) The profiling methodology used and the sample accuracy or the ‘degree of fit’ between the sample profile population consumption information and the full profile population consumption information (eg a standard of error of 5-10%; a confidence level of 95-99%);
- (c) The accuracy of the profile vis-à-vis the gas gate residual profile (an ‘F-test’³ shall be used to evaluate the difference between the sample data and the gas gate residual profile data at the relevant gas gate(s)). Should the result of this analysis not demonstrate that the proposed profile is an improvement over the gas gate residual profile, then options available to the retailer proposing the profile include increasing the sample size, stratification of the sample, and redrawing the profile population;
- (d) The average ratio of total gas quantities contained in the profile consumption information to the total gas gate injection quantities (it may be acceptable to have a lower level of accuracy if the profiled quantities are a small percentage of the total injection quantities);
- (e) The extent to which the profile aligns with other profiles for like populations; and
- (f) That the profile can be incorporated into the allocation process.

6. **Processes for the review and challenge of registered profiles**

6.1 *Allocation agent review of registered profile (rule 58)*

- (a) **Step 1:** Should the allocation agent decide, at its discretion, to review a registered deemed profile in accordance with rule 58, the allocation agent shall advise the retailer with the profile in writing. The retailer shall provide the information set out in paragraph 3.2(a) or 4.2(a) above (as applicable) within 10 business days of

³ A comparison of two variances or standard deviations

receiving notice of the allocation agent’s review. If the allocation agent considers it necessary, it may also request other information from other allocation participants at the gas gate relevant to the review of the profile in question.

Note for population changes to a dynamic deemed profile, the percentage of sampled ICPs (ie those ICPs with TOU meters) must remain equal to or greater than that determined at profile acceptance and registration. The retailer is responsible for ensuring that this occurs on an ongoing basis – specifically, the profile sample is to be updated when the profile population changes by more than 20% since the sample date. To monitor compliance with this requirement, the allocation agent will review each dynamic deemed profile annually against the acceptance criteria for those profiles. The allocation agent will undertake this review under the auspices of rule 58. At the time of commencing this review the allocation agent shall advise the retailer with the profile in writing, which could be in email form.

- (b) **Step 2:** As required by rule 58.4, the allocation agent will consider whether the profile continues to be a reasonable representation of the consumer installation or class of installations to which it applies. The criteria and approach to applying the “reasonableness” test for static deemed profiles and dynamic deemed profiles are discussed in section 5 above.
- (c) **Step 3:** The allocation agent will make its determination in respect of the profile as soon as practicable, and no later than 30 business days after giving notice under rule 58.2. The allocation agent shall advise the retailer of the allocation agent’s determination in writing together with reasons. A suggested format for advising applicants is set out in section 7 below.
- (d) **Step 4:** If the static deemed profile or dynamic deemed profile is considered to no longer be a reasonable representation of the actual consumption profile, the allocation agent must remove that profile from the register established for this purpose under rule 54.

6.2 *Retailer requested review of registered profile (rule 59)*

- (a) Should a retailer with a static deemed profile or a dynamic deemed profile (as registered) request the allocation agent to review that profile in accordance with rule 59 and either:
 - (i) amend that profile; or
 - (ii) amend the characteristics of the consumer installation or class of consumer installations to which it applies;

then the process described immediately in paragraph 6.1 above for rule 58 shall apply (except that the allocation agent will make its determination no later than 20 business days after receiving the request under rule 59.3).

6.3 Allocation participant challenge of registered profile (rule 60)

- (a) **Step 1:** Should an allocation participant wish to challenge the use by a retailer of a static deemed profile or dynamic deemed profile (as registered) in accordance with rule 60, the allocation participant must advise the allocation agent in writing of the challenge. The allocation participant shall provide full reasons for the challenge and the information set out in paragraph 3.2(a) above relating to the challenge.
- (b) **Step 2:** The allocation agent will advise, in writing, the retailer whose profile is being challenged of the challenge, providing it with an opportunity to respond. If the retailer wishes to respond, it must provide the relevant information set out in paragraph 3.2(a) or 4.2(a) above on why the profile continues to be a reasonable representation of the actual consumption profile of the consumer installation or class of consumers installation. If the allocation agent considers it necessary, it may also request other information from other allocation participants at the gas gate relevant to the review of the profile in question
- (c) **Step 2:** As required by rule 60.4, the allocation agent will consider whether the profile continues to be a reasonable representation of the consumer installation or class of installations to which it applies. The criteria and approach to applying the “reasonableness” test for static deemed profiles and dynamic deemed profiles are discussed in section 5 above.
- (d) **Step 3:** The allocation agent will make its determination in respect of the profile as soon as practicable, and no later than 30 business days after receiving the challenge notice under rule 60.1. The allocation agent shall advise the retailer of the allocation agent’s determination in writing together with reasons. A suggested format for advising applicants is set out in section 7 below.
- (e) **Step 4:** If the static deemed profile or dynamic deemed profile is considered to no longer be a reasonable representation of the actual consumption profile, the allocation agent must remove that profile from the register established for this purpose under rule 54.

7. Determination report by allocation agent

- 7.1 The suggested format for the determination report of the allocation agent is as follows:

Allocation agent profile determination report

Name of retailer:

Date of application:

Date of decision:

Type of profile:

Brief characterisation of situation to which the profile applied for refers:

Profile registration approved/declined or continued/discontinued:

(If approved the profile is attached)

Summary of reasons for decision:

Extent to which the rule 61 guidelines were taken in account and if they were not followed the reasons why:

Results of assessment against each of the points listed above for determining whether or not the profile is reasonable:

Allocation agent signature:

Appendix E Rule 64: referral to industry body of disputed profile determinations

Subject **Gas (Downstream Reconciliation) Rules 2008**
Guideline note rule 64 – referral to industry body of disputed profile determinations

Version **0.1 for consultation**

Date **16 December 2008**

1. Introduction

- 1.1 Rule 64 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) allows a retailer to dispute a determination by the allocation agent in respect of an applied for or registered deemed profile by referring it to Gas Industry Co as the industry body for review.
- 1.2 There is no requirement in the Rules for Gas Industry Co to determine or publish the processes and criteria it intends to use for reviewing a disputed determination. However, this guideline note has been issued to assist the allocation participants and the allocation agent in understanding the processes that will be adopted by Gas Industry Co in considering a disputed determination. This guideline note addresses the following matters:
- (a) The form in which a notice of a disputed determination should be given to Gas Industry Co for it to review; and
 - (b) The processes and criteria that will be used by Gas Industry Co in carrying out and notifying the review decision.
- 1.3 This note is explanatory in nature and is not legally binding. It needs to be read in conjunction with the Rules and the general approach set out for allocation participants in no way reduces the requirement upon participants to know and comply with their obligations under the Rules.

2. Background

- 2.1 Part 3 of the Rules provides for the allocation agent to make the following determinations:
- (a) Whether to accept or reject the registration of a static deemed profile or a dynamic deemed profile requested by a retailer (rules 55 and 56);
 - (b) Following a review of a registered deemed profile by the allocation agent, whether to continue or remove the registration of that deemed profile (rule 58);
 - (c) Following a request from a retailer to amend its registered deemed profile, whether to accept or reject the amendment to that registered deemed profile (rule 59); and
 - (d) Following a challenge by an allocation participant regarding the use of a registered deemed profile, whether to continue or remove the registration of that deemed profile (rule 60).
- 2.2 Under rule 64, a retailer who disputes a determination made by the allocation agent may refer the matter to Gas Industry Co for review. Gas Industry Co must review the determination having regard to the requirements of rules 55 to 62 and either:
- (a) Confirm the determination by the allocation agent; or
 - (b) Refer the matter back to the allocation agent for reconsideration.
- 2.3 Gas Industry Co's decision on its review must be made as soon as practicable and no longer than 20 business days after the referral of the matter to it.
- 2.4 The review power exercised by Gas Industry Co is one of referral only. If Gas Industry Co disagrees with the determination made by the allocation agent, it is not able to replace the allocation agent's determination with one of its own but rather may only refer the determination back for reconsideration by the allocation agent. While Gas Industry Co may provide reasons and directions in its decision, it is still up to the allocation agent to make the determinations.
- 2.5 The decision on the review by Gas Industry Co is final. Under rule 64.3, a retailer may only refer a dispute in regard to an allocation agent's determination once. This is to prevent profile disputes being continually re-litigated and to limit the costs and time spent by the allocation agent on profile disputes.

3. Providing notice of a disputed determination

- 3.1 Rule 64.1 requires that, where a determination in respect of a profile by the allocation agent is disputed, the retailer may by notice in writing refer the matter to Gas Industry Co for review. It is acceptable for a notice to be in the form of an email¹. Emails should be directed to downstreamreconciliation@gasindustry.co.nz.
- 3.2 The notice of referral must contain the following information;
- (a) Details of the profile being disputed;
 - (b) The retailer who “owns” the profile;
 - (c) If applicable, the date of registration of the profile under rule 54 or 55;
 - (d) A copy of the determination issued by the allocation agent that is to be reviewed;
 - (e) Detailed reasons for disputing the determination of the allocation agent, having particular regard to the provisions of rules 55 to 62 as applicable; and
 - (f) Any information or documentation previously provided to the allocation agent in respect of the determination being disputed.
- 3.3 The allocation agent is also to provide any information or documentation it holds in relation to the disputed determination to Gas Industry Co for the purposes of Gas Industry Co’s review.

4. Review process and criteria

- 4.1 Gas Industry Co intends to apply the following process in respect of a disputed profile determination referred to it for review:
- (a) **Step 1:** The receipt of the notice by Gas Industry Co will be acknowledged by return email to the disputing retailer, normally within one business day of receipt;
 - (b) **Step 2:** The notice will be provided to the allocation agent for comment. Where appropriate, Gas Industry Co may also provide the notice to other affected allocation participants for their comment. All comments will be sought within five business days;
 - (c) **Step 3:** The review will be carried out and a decision made and notified to the disputing retailer and the allocation agent within 20 business days as required by rule 64.2; and
 - (d) **Step 4:** As soon as practicable, a brief report on the review decision, with reasons, will be produced (see below) and will be emailed to the disputing retailer, the allocation agent and any affected allocation participants.

¹ See also rules 23 and 24 which set out the general provisions in respect of notices under the Rules.

- 4.2 Gas Industry Co intends to apply the following criteria in respect of a disputed profile determination referred to it for review:
- (a) In reviewing the disputed determination, Gas Industry Co is required to have regard to the requirements of rules 55 to 62 as applicable. Gas Industry Co will have particular regard to the extent to which the information provided to it for the purpose of the review indicates that the deemed profile will be a reasonable representation of the actual consumption profile of the consumer installation or class of consumer installations to which that profile will apply; and
 - (b) Gas Industry Co will also have regard to the extent to which the allocation agent has followed the guidelines issued by Gas Industry Co under rule 61, and where the guidelines have not been followed, the validity of the justification for doing so.
- 4.3 The report provided by Gas Industry Co on its review will:
- (a) Either confirm the allocation agent's determination or refer the matter back to the allocation agent for reconsideration; and
 - (b) Provide reasons for the decision, with reference to the criteria set out above.

Appendix F Rules 65 to 75 and 80: the commissioning and carrying out of performance audits and event audits

Subject **Gas (Downstream Reconciliation) Rules 2008**
Guideline note for rules 65 to 75 and 80: the commissioning and carrying out of performance audits and event audits

Version **0.1 for consultation**

Date **16 December 2008**

1. Introduction

- 1.1 Rule 65 of the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”) requires Gas Industry Co to commission performance audits of the allocation agent and allocation participants at regular intervals¹. The purpose of a performance audit is to review the performance of an allocation participant, and its associated systems and processes, in terms of compliance with the Rules.
- 1.2 Rule 66 of the Rules provides that Gas Industry Co may commission event audits, either on its own initiative or in response to a request from an allocation participant. The purpose of an event audit is to ascertain the cause or causes of any particular issue or event that has arisen in relation to the allocation of gas under the Rules.
- 1.3 There is no requirement in the Rules for Gas Industry Co to determine or publish the processes and criteria it intends to use for dealing with audits. However, this guideline note has been issued to assist the allocation participants in understanding the processes that will be adopted by Gas Industry Co in applying these provisions in the Rules. Once the audit framework has been in operation for a period of time, Gas Industry Co also intends to issue further guidance material to allocation participants on other aspects of the audit process in light of any experience gained. This guideline note addresses the following matters:
- (a) General provisions, such as the appointment of auditors, setting up of audits, and costs and payment;
 - (b) Specific issues applying to performance audits, including a regular programme for such audits; and

¹ For the purposes of this guideline note, any reference to “allocation participant” in this guideline note also includes the allocation agent,

- (c) Specific issues applying to event audits including what may constitute an event, the triggering of event audits, and the carrying out of event audits for gas gates for which the cap of 1.085 or the floor of 0.985 apply, under rule 80.

1.4 This note is explanatory in nature and is not legally binding. It needs to be read in conjunction with the Rules and the general approach set out for participants in no way reduces the requirement upon participants to know and comply with their obligations under the Rules.

2. General provisions to both performance and event audits

Appointment of auditor

- 2.1 Rule 68 sets out the provisions governing who may be appointed as an auditor. In summary, the auditors must be independent, have no conflict of interests and cannot be part of Gas Industry Co. The allocation participants being audited are entitled to recommend one or more auditors for appointment by Gas Industry Co.
- 2.2 In the longer term, Gas Industry Co intends to establish a register of approved persons who can act as auditors, but in the short term appointments will be made on an ad hoc/per audit basis. The appointment of an auditor will generally occur in conjunction with developing and confirming the terms of reference for the audit.
- 2.3 Subject to the requirements of the Rules, the process (ie contestable, tendered or by direct negotiation) to be used for appointing an auditor will be at the discretion of Gas Industry Co. Factors influencing this decision include the size of the audit (a major and relatively costly audit may be subject to a contestable process), the degree of specialisation of skills and background knowledge involved, the availability of the auditor and the urgency of the audit. The appointment of an auditor has been delegated to the Chief Executive by the Board of Gas Industry Co.
- 2.4 In general terms, Gas Industry Co intends to adopt the following steps when appointing an auditor:
 - (a) **Step 1:** Confirmation of the allocation participant that is to be audited, and of the proposed terms of reference for the audit. Decision on whether the selection of the auditor will be contestable or not.
 - (b) **Step 2:** Invitation to the allocation participant being audited to nominate possible auditors.
 - (c) **Step 3:** If applicable, initiation of contestable process through the issuing of a request for proposal. Otherwise, Gas Industry Co identifies, contacts and obtains any relevant information from potential appointees
 - (d) **Step 4:** Review of potential appointees or proposals.

- (e) **Step 5:** Gas Industry Co appoints auditor and notifies the allocation participant being audited.

2.5 Gas Industry Co will have the following expectations of auditors:

- (a) Auditors must ensure that they have sufficient resources to enable them to perform their auditing obligations as set out in the Rules in relation to any audits they agree to carry out;
- (b) Approved auditors may use suitably qualified employees or subcontractors to assist them in carrying out parts of the audit tasks. However, they will be responsible for the accuracy and quality of the final audit; and
- (c) If they are relying on the work of an internal auditor of the allocation participant being audited, they must comply with NZICA Auditing Standard AS-604, or the requirements of the relevant Institute of Internal Auditors Guidance (Practice Advisory 1210.A1).

2.6 The quality of auditors' audit documents may be evaluated and Gas Industry Co may remove auditors from the list of approved auditors in accordance with its auditor approval policy as amended or replaced from time to time.

Carrying out of audits

2.7 Rule 69 covers the provision of information to the auditor. Provided such a request is reasonable and for the purposes of the audit, an auditor may request:

- (a) any information from any allocation participant; and
- (b) to examine any processes, systems and data directly relevant to an allocation participant's compliance with the Rules.

2.8 Allocation participants must comply with any request from an auditor made in accordance with paragraph 2.5, but may indicate certain information to be confidential (ie commercially sensitive) so that such information is not made public when the reports on the audit are published under rules 71 and 72.

2.9 The auditor is restricted to considering actions, circumstances, events or inactions that occurred in the 30 months prior to Gas Industry Co requesting the audit. Under rule 67, actions, circumstances, events or inactions that occurred outside that period cannot form part of the audit.

2.10 Rules 70 and 71 cover the preparation of draft and final audit reports. Draft audit reports are provided to the allocation participants being audited, the allocation agent, Gas Industry Co and any other allocation participant the auditor considers has an interest in the report. Those persons have 10 business days to provide their comments on the draft report, which the auditor must take into account before preparing the final audit report. The final audit report

is provided to those same persons and, under rule 72, Gas Industry Co must also publish the final audit report, subject to any exclusions on the grounds of confidentiality.

2.11 Gas Industry Co requires auditors to ensure that the audit report includes the following information:

- (a) The allocation participant being audited;
- (b) The auditor responsible for the audit;
- (c) All persons used to perform the audit;
- (d) The tasks performed by the allocation participant;
- (e) A summary of the performance of the allocation participant in terms of compliance with the Rules;
- (f) A summary of the systems, processes and procedures of the allocation participant that have been put in place to enable compliance with the Rules;
- (g) A list of all persons or entities the allocation participant uses to perform its information gathering and processing tasks with respect to the allocation process;
- (h) Comments on the extent to which information was made available to the auditor;
- (i) Comments on the extent to which the allocation participant complies with the Rules with clear identification of any alleged rule breaches; and
- (j) Any other matters that the auditor considers relevant to the allocation process.

2.12 The audit report should be arranged in the order presented in the Rules, under the appropriate headings.

2.13 Rule 74 sets out provisions governing the use of final audit reports. Final audit reports may be used for the purposes of any compliance matter under the Gas Governance (Compliance) Regulations 2008 or for considering any amendments to the Rules. In addition, Gas Industry Co may use a final audit report for considering special allocations under rule 51, reviewing the performance of the allocation agent or an auditor or any other purpose it considers necessary.

2.14 All details of an audit report that are not published will remain confidential unless otherwise agreed between the allocation participant and Gas Industry Co. The auditor will keep all information relating to participants obtained in the course of carrying out audits confidential unless;

- (a) the disclosure of the information is required by the Rules, Gas Governance (Compliance) Regulations 2008 or other law; or

- (b) the information is or becomes publicly available.

Audit costs and payment

- 2.15 Rule 75.1 provides for the costs of performance audits to be paid for by the allocation participant being audited.
- 2.16 Rule 75.2 provides different regimes for the payment of event audit costs depending on whether the auditor concludes that a material issue has been raised in relation to compliance with the Rules. The auditor's determination in this regard is final ie not subject to appeal to Gas Industry Co. Where the auditor determines a material issue has been raised, the allocation participant must pay the costs (or where the issue relates to more than one allocation participant, the proportion of that cost determined by the auditor). Where no material issue is raised, the costs will be apportioned to allocation participants as determined by Gas Industry Co.
- 2.17 Rule 75.3 provides for the costs of the audit to be agreed between Gas Industry Co and the auditor. Gas Industry Co intends that these costs will be:
 - (a) At the time that audit costs are agreed (generally expected to be before the audit commences) the expected costs will be advised to those allocation participants who will or might have to pay some or all of the costs;²
 - (b) As soon as possible after the completion of the audit but prior to the issue of formal invoices, the total costs and the allocation of costs to allocation participants, will be advised; and
 - (c) Payment is to be made by the 20th of the month following the month of issue of the invoice.

3. Performance audits

- 3.1 Rule 65 requires Gas Industry Co to arrange performance audits of allocation participants at regular intervals. The carrying out of performance audits is mandatory. However, Gas Industry Co has a degree of discretion in determining the frequency of such audits, ie what constitutes a "regular interval". The intention is for performance audits to occur as follows:
 - (a) The allocation agent will be audited at intervals not exceeding two years, with the first audit to be initiated no later than December 2009.
 - (b) Allocation participants will be initially audited on the basis of a rolling three to four year programme which is designed to ensure that every participant is audited at least once during the first 3 to 4 years of the Rules coming into force. The length of the initial

² Note that given the nature of the audit process, the actual cost of an audit may change as additional matters come to light during the audit. This is expected to be more likely for event audits, given that the work and resources required to ascertain the cause of an event may be difficult to estimate accurately prior to the commencement of the audit.

audit cycle will depend on resource availability. The order of audits will be at Gas Industry Co's discretion but Gas Industry Co intends to notify the allocation participant one month prior to the audit being performed.

- (c) If the initial series of audits raises compliance concerns then Gas Industry Co may choose to increase the frequency of subsequent audits for that particular participant. Follow-up audits of this type will be carried out within the 30 month period set out in rule 67 to ensure that all relevant information is available.
- (d) Please also note if a performance audit raises a particular issue or event that may need further immediate investigation, Gas Industry Co may also commission an event audit subsequent to the completion of the performance audit.

4. Event audits

- 4.1 Rule 66 allows Gas Industry Co to decide whether and when an event audit should occur. An allocation participant can request under rule 66.3 that an audit be carried out, but Gas industry Co has sole discretion to decide whether to commission the event audit. Gas Industry Co must not grant a request if it considers that request to be frivolous, vexatious or not made in good faith – see rule 66.4.
- 4.2 While an “event” is not defined in the Rules, it may cover a broad range of circumstances related direct or indirectly to the allocation of gas under the Rules – including both long-term issues and one-off events. This approach is consistent with the purpose of an event audit, which is to ascertain the causes of a particular issue or event that has arisen in relation to the allocation of gas under the Rules. Rule 80 identifies one such particular issue or event – being the instance of a gas gate which has an annual UFG factor which exceeds 1.035 or is less than 0.985 during the initial two year transitional period³ – in which case Gas Industry Co is directed under the Rules to consider whether to commission an event audit. Particular issues or events that may result in an event audit being commissioned include, without limitation:
 - (a) A significant step change in the total actual level/percentage of UFG at a gas gate in a particular consumption period or series of consumption periods, which might indicate a disruption to the normal pattern of supply and/or significant meter⁴ or meter read errors either at the gas gate or at the consumer installation;
 - (b) A persistently high positive or negative level/percentage of UFG at a gas gate, including during the transitional period, regardless of whether the level of annual UFG falls outside the cap of 1.035 or the floor of 0.985;
 - (c) Any information or incident which indicates that the incorrect assignment of ICPs to gas gates is significantly influencing the allocation of gas at a gas gate; or

³ Under rule 80.1, where the annual UFG factor at a gas gate would have been less than 1.035 or exceeded 0.985 the allocation agent must give notice to Gas Industry Co that this has occurred

⁴ Including corrector register.

(d) Any other information or incident which indicates that inaccurate or incomplete data, whether due to meter or meter read errors, data estimation errors, allocation participant system or process errors, or otherwise, is materially influencing the accurate allocation of gas at a gas gate.

4.3 In relation to other issues or events that may arise but are not mentioned above, Gas Industry Co will generally not consider commissioning an event audit unless specifically requested to do so by an allocation participant under rule 66.4 and the issue or event is having a significantly adverse or unfair effect on the allocation of gas under the Rules.

4.4 In relation to rule 80 situations where, during the transitional period, a gas gate has an annual UFG factor which exceeds 1.035 or is less than 0.985, Gas Industry Co intends to take the following approach:

(a) In consultation with allocation participants, all gas gates which fall outside the 0.985/1.035 limits will be reviewed to identify the circumstances that might have led to this outcome and, for gas gates where an event audit is considered necessary, develop an intended programme of event audits to be given effect to during the transitional period⁵.

(b) These event audits will be commissioned in the gas year to which the annual UFG factors apply but the audits may continue beyond this period up until the conclusion of the transitional period.

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⁵ Please note that the annual UFG factors for gas gates during the transitional period are derived from UFG levels in the gas year two years prior to the gas year in which they are being applied – see rule 79.2. For this reason, a gas gate with a UFG factor that exceeds the limits may no longer have high levels of UFG and therefore an event audit is unlikely to be necessary.

Appendix G Managing change requests for the allocation system and services

Subject Gas (Downstream Reconciliation) Rules 2008
Guideline note for the management of change requests for the allocation system and/or the provision of services by the allocation agent

Version 0.1 for consultation

Date 16 December 2008

1. Introduction

- 1.1 Over the course of time, change may be needed or desired to the allocation system operated by the allocation agent and/or the services provided by the allocation agent under the Gas (Downstream Reconciliation) Rules 2008 (“the Rules”). The purpose of this guideline note is to set out who can request or initiate changes, the process to be followed and the associated documentation, and the allocation and payment of costs.
- 1.2 The processes below are about interaction between allocation participants and Gas Industry Co. A separate set of protocols, and documentation, will apply to the management of changes between Gas Industry Co and the allocation agent. Provisions for this are set out in the allocation agent service provider agreement – which can be viewed at http://www.gasindustry.co.nz/Downstream_Reconciliation.php.
- 1.3 This note is explanatory in nature and not legally binding. It needs to be read in conjunction with the Rules and the general approach set out in this note in no way reduces the requirement upon allocation participants to know and comply with their obligations under the Rules.

2. Process and documentation

- 2.1 Changes to the allocation system and/or the services provided by the allocation agent can be initiated in the following ways and situations:

- (a) **Case A:** By any allocation participant who wishes to obtain services which are specific to that participant, ie not necessary for the effective operation of the Rules and not intended to be available to other allocation participants;
 - (b) **Case B:** By any allocation participant who wishes to propose changes which that participant considers will be beneficial to other allocation participants or to itself and other allocation participants or which that participant considers necessary for the effective operation of the Rules;
 - (c) **Case C:** By Gas Industry Co, in order to achieve the effective operation of the Rules; and
 - (d) **Case D:** By Gas Industry Co, where a change is considered to be beneficial to allocation participants but not necessary for the effective operation of the Rules.
- 2.2 All change requests must initially be referred to Gas Industry Co. Change requests should be submitted in the form attached as Appendix A. Gas Industry Co reserves the right to reject any request if, in its opinion (and generally after consultation with the allocation agent), the implementation of the change request will create any unacceptable risks to the proper and timely operation of the allocation system and/or to the provision of services by the allocations agent, in meeting the requirements of the Rules.
- 2.3 As part of the consideration of the costs of a change, Gas Industry Co considers the cost of a change to be significant if the cost of the change to the allocation system exceeds \$3,000 and/or the increase in ongoing costs exceeds \$2,000 per annum.
- 2.4 Gas Industry Co intends to adopt the following steps in respect of change requests:
- (a) **Case A:** Change requests which are acceptable to Gas Industry Co will be referred for direct negotiation between the allocation agent and the allocation participant;
 - (b) **Case B:** Change requests which Gas industry Co agrees are necessary for the effective operation of the Rules will be dealt with directly by Gas Industry Co and without allocation participant consultation, if the cost is not significant and the change is not expected to have any adverse impacts on other allocation participants. Otherwise, Gas Industry Co will generally consult with allocation participants by issuing the submitted change request form attached as Appendix A (and, where appropriate, include Gas Industry Co's draft assessment of the extent to which the change is beneficial to other allocation participants or is necessary for the effective operation of the Rules) for comment;
 - (c) **Case C:** Change requests will be dealt with directly by Gas Industry Co and without allocation participant consultation, if the cost is not significant and the change is not expected to have any adverse impacts on other allocation participants. Otherwise, Gas Industry Co will consult with allocation participants by issuing the submitted change request form (and, where appropriate, include Gas Industry Co's draft

assessment of the extent to which the change achieves the effective operation of the Rules) for comment; and

- (d) **Case D:** Gas Industry Co will consult with allocation participants over all Case D change requests.

2.5 Consultation is intended to generally occur via email. Where consultation has been undertaken, Gas Industry Co will advise all those consulted about the outcome of the consideration of the proposed change.

3. Allocation and payment of costs

3.1 The allocation agent will be requested to provide a cost estimate for all change requests.

3.2 Gas Industry Co proposes to adopt the following approach to the allocation and payment of costs for proposed changes:

- (a) **Case A:** The costs for all Case A changes which are acceptable to Gas Industry Co will be paid by the allocation participant concerned as a direct arrangement with the allocation agent, ie Gas Industry Co will not be involved;
- (b) **Case C:** For Case C changes, which Gas Industry Co decides should proceed, the cost will be paid by Gas Industry Co and will be a cost covered by the ongoing fee charged to all retailers; and
- (c) **Case B and Case D:** For these proposed changes, the estimated costs will be advised to allocation participants, and a decision will generally be made as follows:
 - (i) If the cost is not significant, then Gas Industry Co will decide whether or not the change should proceed and will also decide the allocation and means for payment of the associated costs, provided retailers do not unanimously oppose payment of any of the cost from the ongoing fee. If this occurs, then it will be up to allocation participants to pay the costs as a direct arrangement with the allocation agent. If they decline to do so, the change will not proceed.
 - (ii) If the cost is significant, then Gas Industry Co will consult with retailers to decide whether or not they are collectively prepared for the cost to be paid from the ongoing fee. A common sense approach will be taken to this, ie if the cost is moderate then Gas industry Co will look to have most but not necessarily all retailers supporting payment from the ongoing fee, but the level of support required will be higher if the cost is higher. Again if there is insufficient support for the cost to be paid from the ongoing fee and other means of payment are not offered, the change will not proceed.

3.3 Where a special arrangement is agreed for payment of the costs for a change, ie paid by a subset of allocation participants (rather than by all allocation participants via the ongoing fee), Gas Industry Co's preference is for one of the allocation participants to take the lead role in making the payment and then to seek reimbursement from the other contributors. If that is not possible, and provided the cost is not too large, Gas Industry Co will consider taking the lead role.

4. Records

4.1 Gas Industry Co will maintain a file of change requests (using the form attached as Appendix A) which will be accessible on request from any allocation participant. A summary of change requests implemented will be periodically prepared and distributed – most probably in conjunction with industry meetings.

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Appendix A Change Control Form

Downstream Reconciliation Change Control form	
Gas Industry Co Code:	Date initiated:
Nature of change: <i>(Delete as appropriate)</i>	To allocation system / To allocation services
Change request initiated by:	
Description of change:	
Reason for change: <i>(State whether change is required so as to be compliant with the Rules)</i>	
Benefits:	
Nature and magnitude:	
Benefits to whom:	
Cost: <i>(Estimated by allocation agent)</i>	
Has consultation with other allocation participants occurred and if so with what outcome?	
Allocation of change costs: <i>(Will either be to Gas Industry Co on behalf of retailers as a whole or to one or more defined allocation participants)</i>	
Decision:	
Authorised for implementation:	
For Gas Industry Co	Date