Executive Summary of the Report setting out the Response to and Analysis of Submissions on the Consumer Issues Consultation Paper

June 2009

Introduction

The Report referred to above analyses submissions on, and provides a response to, the Consumer Issues Consultation Paper (Consultation Paper) issued by Gas Industry Co in August 2008. The purpose of the Consultation Paper, and the consultation, was to provide a platform for reviewing and renewing work in the consumer issues area. The full Report can be accessed through the following link:

http://www.gasindustry.co.nz/sites/default/files/u12/Consumer_Issues_Response_Document_v2_April_09_149789.3.pdf

A full analysis of submissions is attached to the Report.

The Report provides a response to submissions and sets out conclusions or proposals for future work in the following areas:

- updating of consumer expectations;
- performance measurement, including the assessment of competition and its effectiveness and the performance of specific gas governance measures;
- provision of information to assist consumer choice;
- connections and disconnections; and
- retail contract terms and conditions.

Issues raised and Gas Industry Co response

A set of nine issues is discussed in relation to performance assessment and these broadly include whether a full assessment of competition should be deferred until all gas governance arrangements are in place, whether additional or modified indicators of performance should be developed, whether inter-fuel competition should be included, and avoiding overlap with other agencies. Submissions mainly commented on competition assessment. There was no disagreement with the proposal that the performance of specific gas governance arrangements should be monitored. On competition assessment, Gas Industry Co has decided to defer a report until the 2010/2011 financial year. This is due to a variety of factors including budgetary constraints in the next financial year, a decision to focus on completing some of the existing workstreams, and to allow arrangements already in place to fully bed down.

A set of four issues is discussed in relation to the provision of information to assist consumer choices. The views are mixed. There are doubts about whether measures additional to those already being taken are justified, but conversely some significant support for the idea of providing information from a central source. The Gas Industry Co response is that further arrangements for providing information are justified, but that action on this needs to be taken by agencies other than Gas Industry Co.

Two issues are discussed in regard to connections and disconnections and they are in recognition of the importance of safety and the need to consider distribution aspects as well as retail aspects. Gas Industry Co agrees with both of these points.

Four issues are discussed in regard to retail terms and conditions and they include whether or not any arrangements are required, a general objection to a regulatory solution if arrangements are set in place, and whether distribution contracts should be covered at the same time. Gas Industry Co has set out options for possible further consideration which take account of these industry views. These will be progressed as a medium priority as resources permit.

A set of ten issues on consumer expectations is discussed, under the broad areas of making a choice, business as usual and dealing with problems. Many of the comments are about practical implementation rather than the principles involved.

Update on consumer expectations

The 18 consumer expectations set out in the Consultation Paper have been reviewed against the submissions received and, as a result, some minor wording changes have been made. The minor changes apply to five of the expectations and are underlined in the text in the Report .

Future work on performance measurement

There is a substantial body of past work available on which to base proposals for work on performance measurement and this includes the 2001 ACIL Report, the 2006 Allen Report for Gas Industry Co, and several reports for the Electricity Commission on electricity markets. The experience in selected overseas jurisdictions (Australia and the UK) has also been reviewed.

It is considered that performance measurement should be at two levels – at the higher level of the performance of competition in markets, and in relation to the performance of specific gas governance arrangements. While the whole supply chain may impact on market effectiveness, the focus should be on retail and distribution markets and consumer outcomes.

A set of possible indicators for market assessment is set out but this needs to be further developed for consultation with stakeholders. Because of the complexities, market evaluation should be through periodic review reports rather than the annual measurement of indicators.

For example purposes only at this stage, a trial set of indicators for the recently implemented Gas (Downstream Reconciliation) Rules 2008 is set out. The indicators mostly use readily available information but some indicators require new information which would have to come from an industry survey. An issue for consideration is whether a survey of this sort would be practicable and acceptable.

It is proposed that performance measurement for gas governance arrangements should be implemented as a part of overall implementation, with indicators preferably developed as a part of the policy development process. For market performance, it is recognised that an interim review should ideally be carried out when possible, given the significant changes since the Allen Report in 2006. However, as indicated above, budgetary constraints are unlikely to allow any action in 2009/2010 and other factors such as the higher priority to be given to the completion of existing workstreams also support a delay. A full review should certainly be carried out when all gas governance arrangements are in place.

Future work on information to assist consumer choice

The lack of access to timely, accurate and complete information on available choices for consumers when choosing between fuels or between retailers for gas is cited by consumer agencies as a significant concern for consumers. The major element of concern is pricing, but information on how to switch between retailers has also been raised as an issue at the annual Gas Industry Co consumer forums.

Information is currently available from a number of sources and these are set out in the body of the paper. While some submitters think that the existing sources are sufficient, the general view is that there are deficiencies that need to be addressed.

A range of options is considered in the paper, but the proposed approach is as follows:

- provision directly by the industry occurs already and is the lowest cost option; but better information on deficiencies and improvements, and action accordingly, would be assisted by having a central arrangement for monitoring and setting best practice benchmarks, which would preferably be industry-led;

- in the longer term, or earlier if an industry arrangement proves not to be feasible, an independent central mechanism could be established, particularly for providing information in areas where competitive pressures are unlikely to be sufficient; and

- as a part of this, an option on pricing is to make the gas equivalent of Power Switch (Gas Switch) available to all consumers.

Because Gas Industry Co does not have a mandate for information provision arrangements, the proposals above will be drawn to the attention of the Minister of Energy and Resources for possible action.

Future work on connections and disconnections

Past work by Gas Industry Co on connections and disconnections has identified three key problems: different retailer practices following vacancy; seasonal connection and disconnection; and inefficient retailer-initiated connections following a vacancy. An industry working party was set up to develop solutions but was unable to reach agreement. In mid 2007, Gas Industry Co thus proposed a voluntary solution. The responses led Gas Industry Co to write to the Minister in December 2007 suggesting that a regulatory solution was required.

Gas Industry Co remains of the view that industry wide arrangements are required but further work will be mainly carried out as part of the distribution work stream. However, retail related aspects of connection/disconnection issues will be considered in further work on retail contract terms and conditions.

Future work on retail contract terms and conditions

Work on retail model contracts was initiated by Gas Industry Co in 2005. Recommendations were made to the Minister of Energy in 2006 but for various reasons these were not actioned. The need to restart work in this area was a major motivation for the development of the Consumer Issues Consultation Paper.

It is noted that parallel work is being done jointly with the Electricity Commission on the establishment of a single, dual fuel, consumer complaints scheme. Work on retail contract terms and conditions needs to be linked with this, so that there is complete coverage of consumer issues by the chosen scheme.

It is proposed to position future work in terms of a defined set of minimum terms and conditions, whether these are voluntary or mandated. Reference sources for doing this include especially the existing work by Gas Industry Co, the guidelines in the EGCC Code of Practice, and the Victorian Energy Retail Code.

Actions to be taken will be determined in the context of planning for the 2009/10 financial year. However, an appropriate course of action would be to issue an options paper, for consultation with stakeholders on the most appropriate means for implementing minimum terms and conditions. The options consulted on would be likely to include:

- publication of recommended minimum terms and conditions with voluntary disclosure on the extent of adoption (this is the least cost and least intrusive option) but is also least likely to resolve current concerns over the contracts from some retailers;

- publication of recommended minimum terms and conditions with regulated (mandatory) disclosure of actual practice (this is a relatively low cost option which is likely to cover more consumers); and

- regulation for mandatory minimum terms and conditions (this option will probably provide the most protection for consumers but it comes at a higher cost).

One suggestion has been that if work is done in this area, it should also include or be preceded by work on distribution contracts. Gas Industry Co disagrees with this view and the reasons are set out in the Report.