



Office of the Hon Pete Hodgson

MP for Dunedin North

Minister of Energy

Minister of Fisheries

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Minister for Crown Research Institutes

Minister for Small Business

Minister Responsible for Timberlands West Coast Ltd

Associate Minister for Economic Development

Associate Minister of Foreign Affairs and Trade

Associate Minister for Industry and Regional Development

3 May 2000

Gas information disclosure regulations tightened

The regulations covering the information that gas companies must disclose are being tightened, Minister of Energy Pete Hodgson said today.

Mr Hodgson said Cabinet had approved amendments to the regulations on Monday. The changes were part of an evolutionary process of improvement.

"The information disclosed under the regulations is designed to help gas users monitor and negotiate with pipeline owners," Mr Hodgson said. "It should also promote access to Commerce Act remedies by private parties or the Commerce Commission.

"The regulations are focused on gas transmission and distribution pipeline businesses that have the potential to exercise market power. The purpose is to promote transparency of conduct and performance of pipeline owners.

"There must be curbs on monopoly power and these regulations represent a key component of the regulatory regime for the gas industry.

Mr Hodgson said the Government will consider the need for further regulatory changes in the gas market in the light of the results of the enhanced disclosure regime.

The amendments to the regulations tighten rules for accounting and for calculating performance measures, require the use of a mandatory optimised deprival valuation methodology for valuing pipeline fixed assets, require pipeline owners to disclose asset management planning information, introduce new measures of reliability performance and provide for most disclosed information to be made available on the Internet.

The enhanced regulations will apply to companies' activities for the 2000/01 financial year.

Contact: Graeme Speden (press secretary) 04 471 9707 or 025 270 9055



AMENDMENTS TO THE GAS (INFORMATION DISCLOSURE) REGULATIONS 1997

This paper provides a summary of the amendments being made to the Gas (Information Disclosure) Regulations 1997. The amendments will be effective from the 2000/01 financial year.

This summary is for your information as a guide only and is no substitute for the Regulations themselves. A revised version of the Regulations will be available in the near term.

KEY CHANGES

Mandatory avoidable cost allocation methodology (ACAM) to be introduced

1 The 1997 Regulations did not include guidelines for allocating costs, revenues, etc among the activities of pipeline owners. This made it possible for pipeline owners to conceal monopoly rents. Inconsistent approaches among pipeline owners also made comparison of financial results unreliable.

2 The changes:

- ◇ require pipeline owners to use a mandatory avoidable cost allocation methodology (ACAM), to improve transparency of any monopoly rents (including the source of any cross-subsidies favouring competitive activities);
- ◇ require pipeline owners to disclose full details of how they applied ACAM, to promote high standards in the application of ACAM;
- ◇ where transmission and distribution activities are conducted by individual pipeline owners, require separate stand-alone financial statements for transmission and distribution activities *and* for the combined transmission and distribution activities, to assist identification of whether the charges for each of these services are reasonable.

3 A Gas Information Disclosure Handbook covering ACAM will be issued by the Chief Executive, Ministry of Economic Development. The handbook will include a table listing items required to be separately disclosed in the financial statements. A draft of the Gas Information Disclosure Handbook will be forwarded to you shortly.

Wholesaling and retailing activities no longer subject to disclosure

4 Pipeline owners no longer have to disclose financial statements covering their contestable gas wholesaling and retailing businesses, reflecting the competitive nature of these activities.

Mandatory Optimised Deprivation Valuation (ODV) methodology to be introduced

5 A mandatory ODV methodology for use in calculation of financial performance measures is being introduced to mitigate the risk that pipeline owners could over-inflate their valuations in order to hide monopoly profits and justify higher prices. An ODV Handbook, to be issued by the Chief Executive, Ministry of Economic Development following consultation with industry participants, will outline the methodology to be followed.

6 Under the ODV arrangements:

- ◇ ODV valuation reports are to be completed every 3 years or whenever capacity or system length changes by 10 per cent when compared with the last valuation report;
- ◇ all valuation reports must be publicly disclosed within 5 working days of completion;
- ◇ valuations are to be adjusted annually for depreciation, acquisitions and disposals of assets, revaluations and changes in net working capital; and
- ◇ the completion of a valuation report, together with the date and the amount of the valuation, is to be notified on the Internet.

7 Directors/principals of the pipeline company are to be required to certify the valuation has been undertaken in accordance with the ODV Handbook. Auditors are to be required to give an opinion that the valuation has been made in accordance with the ODV Handbook.

Financial performance measures to be updated and a derivation table included

8 The names of the financial performance measures are being updated and changes made to the equations for calculating return on investment and return on equity to remove anomalies.

9 The Regulations will include a derivation table for calculating financial performance measures from information provided in the financial statements to ensure consistent application of the formulas.

Asset management planning information disclosure to be introduced

10 Pipeline owners are to be required to disclose specified asset management planning information for their gas networks. This is designed to promote good asset management practice by pipeline owners, and enhance discussions between pipeline owners and pipeline users over asset management. The disclosure requirements have been developed to be compatible with industry asset management standards. The Gas Information Disclosure Handbook will outline the requirements relating to asset management planning information disclosure (a draft copy of the Handbook will be available shortly).

Disclosure of service reliability performance measures and targets to be improved

11 The current reliability performance measures for pipeline owners do not give a full picture of reliability performance. Targets for the following year and subsequent 4 years are to be required for the measure of total unplanned interruptions to distribution and transmission systems caused by third parties (SAIDI).

12 The following new reliability performance measures are being introduced:

- ◇ SAIFI (system average interruption frequency index) for distribution interruptions, including targets;
- ◇ incidents of damage requiring repairs to the distribution systems;
- ◇ the number of gas leaks detected by routine survey; and
- ◇ the number of publicly reported escapes of gas on the entire distribution system.

Wholesale contract disclosure by NGC to be discontinued

13 Disclosure of the prices, terms and conditions of NGC's wholesale contracts is being discontinued. Significant competition has developed in the wholesale gas market in the two years since the Regulations came into force, and this disclosure requirement is therefore no longer justified.

Pipeline charge methodologies to be extended

14 Regulation 20, which requires pipeline owners to disclose the methodologies used to set charges for gas distribution and transmission services, is being amended. The enhancements are intended to improve the level of detail disclosed, and to facilitate scrutiny of whether charges are set in an efficient and equitable manner. Disclosures must:

- ◇ describe the methodology used to calculate the charges;
- ◇ include the key components of the revenue required to cover costs and profits of the pipeline owner's pipeline business activities, including cost of capital;
- ◇ state the consumer groups used to calculate the charges, including:
 - i. the rationale for the consumer grouping;
 - ii. the method by which the pipeline owner determines which group consumers are in; and
 - iii. for each of these consumer groups, the statistics relating to that group which were used in the methodology;
- ◇ describe the method by which the pipeline owner allocated the components of the revenue required to cover the costs of its pipeline business activities amongst consumer groups, including the rationale for allocation; and

◇ describe the method by which the pipeline owner determined the proportion of fixed and variable charges, and the rationale for those proportions.

15 Pipeline charge methodologies are to be disclosed when they change and at least 20 working days prior to the change taking effect.

Nova Gas to be exempted

16 The exemption under which Nova Gas Limited is excluded from disclosing its landfill gas pipeline activities is to be extended to all its pipeline activities given that its pipelines compete with other distribution pipes. Consistent policy across telecommunications, electricity and gas is to apply information disclosure only to incumbents on the grounds that only incumbents have market power.

Availability of certain disclosed information on the Internet

17 Pipeline owners are to publish the following information on the Internet, in addition to use of existing disclosure media:

- ◇ financial statements, performance measures (including methodologies) and the completed derivation table for financial performance measures;
- ◇ advice of the completion of new valuation reports and asset management plans; and
- ◇ gas pipeline capacity, excluding maps and diagrams.

Internet disclosure makes access to the information easier, quicker and less expensive for interested parties.

18 Pipeline owners will have to disclose their Uniform Resource Locator of Internet disclosures. The information required to be disclosed on the Internet is to be retained on the Internet site for four years.

OTHER AMENDMENTS

Financial statements to comply with generally accepted accounting practice

19 Technical amendments are being made to ensure that financial statement disclosures made under the Regulations comply with generally accepted accounting practice (GAAP), as is required by section 55 of the Gas Act 1992, from 2000/01. This includes the disclosure of a statement of movements in equity and a cash flow statement as well as several changes to terms and definitions.

20 The Regulations require comparative information. The Gas Information Disclosure Handbook will outline that historic financial statement information need not be adjusted to comply with GAAP. GAAP does not apply to the financial performance measures.

21 Disclosure requirements relating to transfer payments between related parties are being amended to be consistent with GAAP (in particular, SSAP 22 – “Related party disclosure”).

Maui pipeline disclosure requirements to be amended

22 The amendments:

- ◇ introduce a requirement for disclosure of pipeline charges and pricing methodologies for all new Maui contracts; and
- ◇ delete disclosure requirements in relation to performance measures and statistics, and methodologies for cost allocation and transfer payments.

Timing of disclosures to be amended

23 Pipeline owners are to disclose financial statements and performance measures on the Internet, and provide it to the Gazette Office for publication, within 4 months, rather than the present 5 months. (The meaning of “publish” is changing so that pipeline owners will have to provide the information to the Gazette Office within four months, not have it published by the Gazette Office within the timeframe as is required currently.)

Definition of “standard” contract to be amended

24 The threshold used in the definition of a standard contract is being reduced from 5 to 2 persons.

Disclosure of prescribed agreements is being extended

25 Disclosure of operating agreements, side letters and associated documentation relating to any contracts is to be required.

Disclosure of customer names by NGC is being altered

26 NGC is no longer to be required disclose the names of gas customers with which it has transmission or distribution contracts. Instead NGC is to disclose the names of gas retailers with which it has contracts.

Technical amendments are being made to pipeline capacity disclosure

27 Technical amendments are to be made to require more specific information on location of networks and measures of maximum distribution capacity.

Unaccounted for gas ratio is being amended

28 This ratio is to be accurate to 2 decimal places and shown as either positive or negative.

AMENDMENTS PROPOSED IN THE DISCUSSION PAPER THAT ARE NOT PROCEEDING

Disclosure of per consumer pipeline charges to be discontinued

29 Some gas distributors are moving to forms of pricing that make per consumer line charges impossible to calculate accurately, undermining the quality of the information available. In addition, NGC Transmission contracts direct with gas retailers and it is not practicable for NGC Transmission to calculate per consumer pipeline charges. Nor is it appropriate for retailers to calculate these charges – the calculated charges would differ between retailers and policy is that disclosure obligations should not be imposed on competitive parts of the industry.

30 As a result the requirement to disclose per consumer pipeline charges is being discontinued. Other components of the Regulations adequately meet the purposes for which pipeline charge disclosure was designed, including pipeline accounts and performance measures, contracts (tariff schedules and non-standard contracts) and the methodology for calculating pipeline charges.

Common balance date not to be required

31 The discussion paper proposed that a common balance date (March) be used for all gas disclosures. It is now considered that the costs of this proposal outweigh the benefits and the proposal to require a common balance date has been dropped.

Energy Markets Policy Group

Ministry of Economic Development

May 2000

3 May 2000

[Name]

Dear [name]

GAS (INFORMATION DISCLOSURE) REGULATIONS

The Government has agreed to a range of amendments to the Gas (Information Disclosure) Regulations 1997. The document attached provides a summary of the changes in disclosure requirements. Revised regulations will be promulgated in the near term.

The changes to disclosure requirements follow extensive consultation. A discussion paper was issued in October 1999 following approaches to the industry in late 1998 seeking advice on possible amendments. Submissions were received and considered in the development of the amendments. In February 2000 a forum was held with company representatives and auditors who actually prepare disclosures. A number of the amendments are as proposed in the discussion paper, but there are also a number of proposals that have been changed or have not proceeded as a result of consultation. The Government took its decision on these proposals in May 2000. A copy of the Minister's media release dated 3 May 2000 is attached for your information.

The following are the key changes:

- A mandatory avoidable cost allocation methodology will apply to all pipeline owners and will be set out in the Gas Information Disclosure Handbook to be issued by the Chief Executive, Ministry of Economic Development.
- A draft copy of this Handbook will be forwarded to you shortly. It will not be possible to finalise the Handbook until the amended regulations are promulgated, but changes are expected to be cosmetic only (confined to cross-references to specific regulations and the like).
- Financial statements prepared in accordance with the Regulations will have to comply with generally accepted accounting practice.

- A mandatory ODV methodology will apply to all pipeline owners. This methodology is to be described in an ODV Handbook to be issued by the Chief Executive, Ministry of Economic Development following consultation with the industry.
- Where information in the financial statements does not comply with the definitions in the financial performance measures, the financial performance measures will need to include certain prescribed adjustments. These adjustments will be detailed in a derivation table in the Regulations.
- Pipeline owners will be required to disclose asset management planning information before the start of the 2001/02 financial year. The information required to be disclosed will be set out in the Gas Information Disclosure Handbook.
- An extended range of reliability performance measures will need to be disclosed.
- Pipeline owners will be required to publish specific information on the Internet.
- Gas wholesaling and retail businesses will not be subject to the information disclosure regulations.

The proposal to require a common balance date for disclosures by all pipeline owners has been dropped. The existing requirements for disclosure of pipeline charges have also been discontinued.

The new provisions apply to 2000/01 disclosures. If you have enquiries about the Regulations, please contact Ray Deacon on (04) 474-2859. The Ministry's email convention is firstname.lastname@med.govt.nz.

Yours sincerely

Tony Fenwick
Manager
Energy Markets